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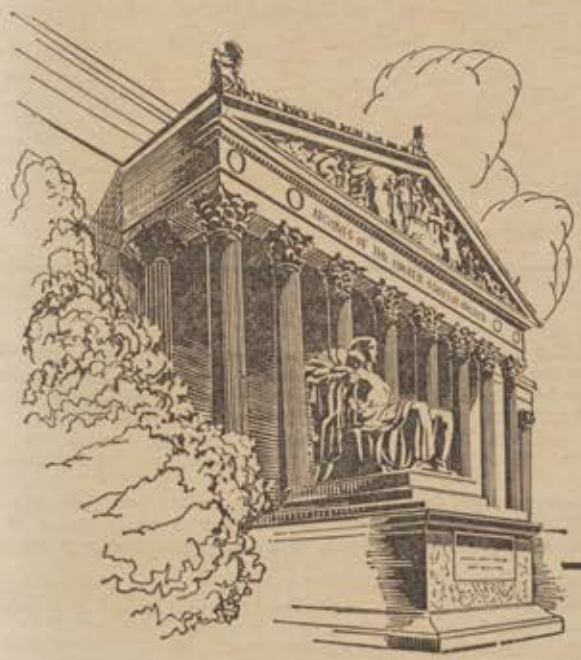

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Title 3—THE PRESIDENT

Proclamation 3916

FLAG DAY AND NATIONAL FLAG WEEK, 1969

By the President of the United States of America

A Proclamation

It has become customary when referring to the flag of the United States of America to concentrate on what it represents. Every American has pledged allegiance to the flag "and to the Republic for which it stands." From time to time, however, it is necessary to remind ourselves not only of what the flag stands for but of what it is.

Our flag is a fragile but infinitely strong piece of cloth. What that piece of cloth stands for we all know. What we sometimes forget, however, is that it is precisely because those things which the flag represents are intangible that we need a flag at all. A flag is meant to be seen. Only when it is displayed does it stir us. Our ideals we can honor with our words and deeds; our flag must be honored by an essentially spiritual reaction to a visual stimulus.

On June 14, 1777, the Congress delineated the present form of the flag. These men gave it form; we give it life by displaying it, honoring it, and meditating on those qualities and attributes it so beautifully and proudly symbolizes.

In commemoration of the adoption of our flag, the Congress, by a joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue annually a proclamation calling for its observance; by a joint resolution approved June 9, 1966 (80 Stat. 194), the Congress has requested the President to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and calling upon all citizens to display the flag of the United States on those days.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning June 8, 1969, as National Flag Week, and I direct the appropriate Government officials to display the flag of the United States on all Government buildings during that week.

I also request the people of the United States to observe Flag Day, June 14, and Flag Week by flying the Stars and Stripes at their homes and other suitable places.

I urge the press, radio, television, and other information media to join in this observance and to promote continuing awareness of our flag and a rededication to the principles which it symbolizes.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of June, in the year of our Lord nineteen hundred sixty-nine, and of the Independence of the United States of America the one hundred ninety-third.

Richard Nixon

[F.R. Doc. 69-6843; Filed, June 6, 1969; 10:55 a.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Treasury

Section 213.3305 is amended to show that the position of Confidential Administrative Assistant to the Treasurer of the United States is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (e) is added to § 213.3305 as set out below.

§ 213.3305 **Treasury Department.**

* * * * *

(e) *Office of the Treasurer of the United States.* (1) One Confidential Administrative Assistant.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-6741; Filed, June 6, 1969; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that the title of the position of Deputy Assistant Secretary of Defense (International Security Affairs) is changed to Principal Deputy Assistant Secretary of Defense (International Security Affairs). Effective on publication in the FEDERAL REGISTER, subparagraphs (10) and (15) of paragraph (a) of § 213.3306 are amended as set out below.

§ 213.3306 **Department of Defense.**

(a) *Office of the Secretary.* * * *

(10) One Principal Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

* * * * *

(15) One private secretary to the Principal Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-6737; Filed, June 6, 1969; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one position of Special Assistant to the Solicitor is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (2) is added to paragraph (b) of § 213.3315 as set out below.

§ 213.3315 **Department of Labor.**

* * * * *

(b) *Office of the Solicitor.* * * *

(2) One Special Assistant to the Solicitor.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-6740; Filed, June 6, 1969; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that the position of Confidential Secretary to the Deputy Under Secretary is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (33) is added to paragraph (a) of § 213.3316 as set out below.

§ 213.3316 **Department of Health, Education, and Welfare.**

(a) *Office of the Secretary.* * * *

(33) One Confidential Secretary to the Deputy Under Secretary.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-6738; Filed, June 6, 1969; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Department of the Treasury

Section 213.3305 is amended to show that two positions of Liaison Officer, Bureau of Customs, are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (2) is added to paragraph (c) of § 213.3305 as set out below.

§ 213.3305 **Treasury Department.**

* * * * *

(c) *Bureau of Customs.* * * *

(2) Two Liaison Officers.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-6787; Filed, June 6, 1969; 8:51 a.m.]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that the position of Deputy Under Secretary for International Labor Affairs is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (27) is added to paragraph (a) as set out below.

§ 213.3315 **Department of Labor.**

(a) *Office of the Secretary.* * * *

(27) Deputy Under Secretary for International Labor Affairs.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-6786; Filed, June 6, 1969; 8:51 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 722—COTTON

Subpart—1970 Crop of Upland Cotton; Acreage Allotments and Marketing Quotas

REFERENDA ON OUT-OF-COUNTY TRANSFERS OF ALLOTMENTS BY SALE OR LEASE

Section 722.474 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). The purpose of § 722.474 is to announce the results of the referenda on out-of-county transfers of allotments by sale or lease which were held by mail ballot during the period May 5–9, 1969, each inclusive, pursuant to the notice published in the FEDERAL REGISTER of March 29, 1969 (34 F.R. 5956).

Since the only purpose of § 722.474 is to announce the results of these referenda, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary. Accordingly, § 722.474 shall be effective upon publication in the FEDERAL REGISTER.

§ 722.474 Results of referenda on out-of-county transfers of 1970 upland cotton allotments by sale or lease.

(a) *Period when referenda held.* The county referenda were held in each county receiving upland cotton allotments for the 1969 crop as set forth in § 722.471 (33 F.R. 17754) by mail ballot during the period May 5–9, 1969, each inclusive, in accordance with the notice published in the FEDERAL REGISTER of March 29, 1969 (34 F.R. 5956) and the referenda regulations in Part 717 of this chapter (33 F.R. 18345; 7 CFR Part 717).

(b) *Results of referenda—(1) Counties approving transfers to other counties within the State.* Two-thirds or more of the producers of upland cotton of the 1969 crop voting in each county referendum in the counties listed in this subparagraph voted to permit the transfer of upland cotton allotments by sale or lease to farms in other counties within the State. Accordingly, it is hereby determined and proclaimed by the Secretary that transfers of upland cotton allotment by sale or lease from the following counties to other counties within the same State to take effect in 1970 may be approved subject to the requirements of section 344a of the act:

ALABAMA

Clay.
Cleburne.
Coffee.
Coosa.
Crenshaw.
Dale.
Pike.
Randolph.
St. Clair.

ARIZONA

Gila.
Maricopa.
Mohave.
Pima.
Santa Cruz.
Yuma.

ARKANSAS

Baxter.
Bradley.
Calhoun.
Cleburne.
Cleveland.
Columbia.
Crawford.
Fulton.
Grant.
Hempstead.
Hot Spring.
Howard.
Izard.
Marion.
Nevada.
Newton.
Perry.
Pike.
Scott.
Searcy.
Sebastian.
Sevier.
Sharp.
Union.
Van Buren.

CALIFORNIA

San Benito.
San Diego.
Stanislaus.

FLORIDA

Alachua.
Bay.
Calhoun.
Clay.
Columbia.
Dixie.
Gadsden.
Lafayette.
Leon.
Liberty.
Okaloosa.
Suwannee.
Taylor.
Union.

GEORGIA

Appling.
Atkinson.
Bacon.
Baker.
Banks.
Ben Hill.
Bibb.
Bleckley.
Brantley.
Bryan.
Butts.
Carroll.
Catoosa.
Chatham.
Chattahoochee.
Cherokee.
Clarke.
Clayton.
Clinch.
Cobb.
Coffee.
Colquitt.
Columbia.
Cook.
Coweta.
Crisp.
Dade.
Dawson.
Decatur.
De Kalb.
Dodge.
Dooly.
Dougherty.
Douglas.
Echols.
Fayette.
Forsyth.
Fulton.
Greene.
Gwinnett.
Habersham.
Hall.
Haralson.
Heard.
Henry.
Irwin.
Jackson.
Jasper.
Jones.
Lamar.
Lanier.
Lincoln.
Long.
Lowndes.
Lumpkin.
McDuffie.
Mitchell.
Monroe.
Montgomery.
Murray.
Newton.
Paulding.
Peach.
Pierce.
Pike.
Pulaski.
Putnam.
Quitman.
Rockdale.
Schley.
Spalding.
Stephens.
Taliaferro.
Tattnall.
Taylor.
Thomas.
Tift.
Troup.
Upson.
Walker.
Ware.
Wayne.
White.
Whitfield.
Wilkes.

KENTUCKY

Calloway.
Fulton.
Graves.
McCracken.

LOUISIANA

Beauregard.
Claiborne.
East Baton Rouge.
East Feliciana.
Iberia.
Jackson.
Jeff Davis.
Lincoln.
Livingston.
Sabine.
Tangipahoa.
Union.
Vernon.
Webster.
West Feliciana.
Winn.

MISSISSIPPI

Adams.
Amite.
Bolivar.
Coahoma.
Forrest.
Franklin.
George.
Jefferson.
Lamar.
Leflore.
Lincoln.
Newton.
Pearl River.
Pike.
Sharkey.
Wilkinson.

MISSOURI

Cape Girardeau.
Howell.
Wayne.

NEVADA

Clark.

NEW MEXICO

Grant.
Harding.
Hidalgo.
Luna.
Sierra.

NORTH CAROLINA

Alamance.
Alexander.
Beaufort.
Bladen.
Brunswick.
Burke.
Cabarrus.
Caldwell.
Camden.
Carteret.
Catawba.
Chatham.

NORTH CAROLINA—Continued

Columbus.
Craven.
Cumberland.
Davidson.
Duplin.
Durham.
Edgecombe.
Forsyth.
Franklin.
Gaston.
Granville.
Greene.
Halifax.
Harnett.
Hyde.
Iredell.
Jones.
Lee.
Lenoir.
Martin.
Mecklenburg.
Montgomery.
Northampton.
Onslow.
Orange.
Pamlico.
Pasquotank.
Perquimans.
Person.
Pitt.
Randolph.
Richmond.
Robeson.
Rowan.
Sampson.
Scotland.
Stanly.
Tyrrell.
Vance.
Wake.
Washington.
Wayne.
Wilkes.
Wilson.
Yadkin.

OKLAHOMA

Atoka.
Beaver.
Grant.
Haskell.
Kay.
Le Flore.
Lincoln.
Mayes.
Murray.
Noble.
Nowata.
Pittsburg.
Pontotoc.
Pottawatomie.
Pushmataha.
Rogers.
Seminole.
Sequoyah.
Tulsa.

SOUTH CAROLINA

Colleton.
Dillon.
Fairfield.
Georgetown.
Horry.
Jasper.
Newberry.
Pickens.
Union.

TENNESSEE

Bedford.
Bradley.
Cannon.
Coffee.
Crockett.
Grundy.
Hamilton.
Humphreys.
Lake.
Lewis.
Marion.
Marshall.
Maury.
Meigs.
Moore.
Perry.
Polk.
Rhea.
Robertson.
Rutherford.
Williamson.
Wilson.

TEXAS

Anderson.
Andrews.
Angelina.
Bianco.
Brewster.
Brown.
Burnet.
Camp.
Carson.
Cass.
Cherokee.
Comal.
Comanche.
Crockett.
Culberson.
De Witt.
Dimmit.
Duval.
Eastland.
Ector.
Erath.
Franklin.
Freestone.
Gaines.
Goliad.
Gonzales.
Gregg.
Hansford.
Harris.
Harrison.
Hartley.
Henderson.
Hood.
Hopkins.
Hudspeth.
Hutchinson.
Jasper.
Jim Hogg.
Kimble.
Kinney.
Lampasas.
La Salle.
Lavaca.
Lee.
Limestone.
Llano.
Loving.
Madison.
Marion.
Maverick.
Montgomery.
Moore.
Morris.
Nacogdoches.
Newton.
Oldham.
Panola.
Pecos.
Polk.
Reagan.
Reeves.
Roberts.

TEXAS—Continued

Sabine.	Tyler.
San Augustine.	Upshur.
San Jacinto.	Val Verde.
San Saba.	Walker.
Shelby.	Ward.
Smith.	Webb.
Stephens.	Wilson.
Sterling.	Wood.
Titus.	Yoakum.
Trinity.	Zapata.

VIRGINIA

Charlotte.	Mecklenburg.
Dinwiddie.	Prince Edward.
Lunenburg.	

(2) *Counties not approving transfers to other counties within the State.* Less than two-thirds of the producers of upland cotton of the 1969 crop voting in each county referendum in the counties receiving upland cotton allotments for the 1969 crop as set forth in § 722.471 (33 F.R. 17754) and not listed in subparagraph (1) of this paragraph voted to permit the transfer of upland cotton allotments by sale or lease to farms in other counties within the State. Accordingly, it is hereby determined and proclaimed by the Secretary that transfers of upland cotton allotment by sale or lease from such counties to other counties within the same State shall not be approved under section 344a of the act.

(c) *Data on which referenda results are based.* The referenda results proclaimed in paragraph (b) of this section are based on data for each county furnished to the Deputy Administrator in accordance with the referenda regulations in Part 717 of this chapter. In addition to the data available for public inspection in the offices of the State and county committees regarding these referenda pursuant to the referenda regulations in Part 717 of this chapter, copies of the State summaries on Form MQ–8 and the following information are available for public inspection in the office of the Director, Policy and Program Appraisal Division, Agricultural Stabilization and Conservation Service, Department of Agriculture, Washington, D.C.:

(1) The number of eligible producers of the 1969 crop of upland cotton who voted in each county.

(2) The number of such producers who voted to permit the transfer of upland cotton allotments by sale or lease to farms outside the county during 1970.

(3) The percentage of producers who voted to permit such transfers.

(Sec. 344a, 79 Stat. 1197, 7 U.S.C. 1344b)

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 3, 1969.

CLARENCE D. PALMBY,
Acting Secretary.

[F.R. Doc. 69–6731; Filed, June 6, 1969; 8:48 a.m.]

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

[Lemon Reg. 377]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.677 Lemon Regulation 377.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such lemons as will provide, in the interest of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in pulic rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held, the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 3, 1969.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period June 8, 1969, through June 14, 1969, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 302,250 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: June 5, 1969.

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

[F.R. Doc. 69–6784; Filed, June 6, 1969; 8:51 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1969 Crop Flaxseed Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1969 Crop Flaxseed Loan and Purchase Program

This annual crop year supplement, together with the General Regulations Governing Price Support for the 1964 and Subsequent Crops (Rev. 1) (31 F.R. 5941), and any amendments thereto, and the 1966 and Subsequent Crops Flaxseed Supplement (31 F.R. 8003), and any amendments thereto, contain the provisions for price support loans and purchases for the 1969 crop of flaxseed.

Sec.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1054; 15 U.S.C. 714 b and c, 7 U.S.C. 1447, 1421.

§ 1421.3065 Availability.

A producer desiring a price support loan must request a loan on his eligible flaxseed on or before April 30, 1970, on

flaxseed stored in Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, and on or before March 31, 1970, on flaxseed stored in all other States. To obtain price support through sales, a producer must execute and deliver to the appropriate county ASCS office a Purchase Agreement (Form CCC–614) indicating the approximate quantity of 1969 crop flaxseed he may sell to CCC. The Purchase Agreement must be delivered to CCC on or before May 31, 1970, for flaxseed stored in the States of Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, and on or before April 30, 1970, for flaxseed stored in all other States.

§ 1421.3066 Warehouse charges.

The following schedule of deductions (gross weight basis) for flaxseed stored in an approved warehouse operating under the Uniform Grain Storage Agreement shall apply as provided in § 1421.3058(b):

SCHEDULE OF DEDUCTIONS FOR STORAGE CHARGES BY MATURITY DATES

Maturity date of Apr. 30, 1970	Deduction (cents per bushel)	Maturity date of May 31, 1970
(1)		(1)
Prior to May 16, 1969	13	Prior to June 16, 1969.
May 16-June 12, 1969	12	June 16-July 13, 1969.
June 13-July 10, 1969	11	July 14-Aug. 10, 1969.
July 11-Aug. 7, 1969	10	Aug. 11-Sept. 7, 1969.
Aug. 8-Sept. 4, 1969	9	Sept. 8-Oct. 5, 1969.
Sept. 5-Oct. 2, 1969	8	Oct. 6-Nov. 2, 1969.
Oct. 3-Oct. 30, 1969	7	Nov. 3-Nov. 30, 1969.
Oct. 31-Nov. 27, 1969	6	Dec. 1-Dec. 28, 1969.
Nov. 28-Dec. 25, 1969	5	Dec. 29, 1969-Jan. 25, 1970.
Dec. 26, 1969-Jan. 22, 1970.	4	Jan. 26-Feb. 22, 1970.
Jan. 23-Feb. 19, 1970	3	Feb. 23-Mar. 22, 1970.
Feb. 20-Mar. 19, 1970	2	Mar. 23-Apr. 19, 1970.
Mar. 20-Apr. 30, 1970	1	Apr. 20-May 31, 1970.

[1] Date storage charges start, all dates inclusive.

§ 1421.3067 Maturity of loans.

Loans mature on demand but not later than: May 31, 1970, on flaxseed stored in the States of Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, and April 30, 1970, on flaxseed stored in all other States.

§ 1421.3068 Support rates, premiums, and discounts.

(a) *Basic support rates (terminals).* Basic support rates for loans and settlement purposes for flaxseed grading No. 1 containing 9.1 to 9.5 percent moisture stored in approved warehouses at the terminal markets listed below are as follows:

Terminal market:	Rate per bushel
Los Angeles, Calif	$3.31
San Francisco, Calif	3.25
Duluth, Minn	3.01
Minneapolis, Minn	3.01
St. Paul, Minn	3.01
Superior, Wis	3.01
Corpus Christi, Tex	2.83
Houston, Tex	2.83

(b) *Basic support rates (counties).* Basic county support rates per bushel for farm-stored and country warehouse-stored flaxseed grading No. 1 containing 9.1 to 9.5 percent moisture are as follows:

ARIZONA

County	Rate per Bushel	County	Rate per Bushel
Maricopa	$3.07	Yuma	$3.09

CALIFORNIA

Fresno	$3.05	San Mateo	$3.09
Imperial	3.12		

IOWA

Audubon	$2.67	Lyon	$2.80
Buena Vista	2.78	Mitchell	2.75
Calhoun	2.71	O'Brien	2.81
Cerro Gordo	2.74	Osceola	2.83
Cherokee	2.79	Palo Alto	2.79
Chickasaw	2.73	Plymouth	2.76
Clay	2.81	Pocahontas	2.72
Dickinson	2.83	Sioux	2.78
Emmet	2.83	Webster	2.72
Franklin	2.73	Winnebago	2.75
Hancock	2.74	Woodbury	2.70
Ida	2.69	Worth	2.75
Kossuth	2.75	Wright	2.73

MINNESOTA

Becker	$2.81	Murray	$2.82
Beltrami	2.83	Nicollet	2.86
Big Stone	2.82	Nobles	2.82
Blue Earth	2.86	Norman	2.78
Brown	2.86	Olmsted	2.86
Carlton	2.88	Otter Tail	2.83
Chippewa	2.85	Pennington	2.78
Clay	2.79	Pipestone	2.80
Clearwater	2.82	Polk	2.79
Cottonwood	2.84	Pope	2.85
Dodge	2.86	Red Lake	2.79
Douglas	2.84	Redwood	2.86
Faribault	2.85	Renville	2.86
Fillmore	2.83	Rice	2.86
Freeborn	2.86	Rock	2.79
Goodhue	2.86	Roseau	2.75
Grant	2.83	St. Louis	2.80
Itasca	2.87	Scott	2.86
Jackson	2.83	Sibley	2.86
Kandiyohi	2.86	Stearns	2.86
Kittson	2.74	Steele	2.86
Koochiching	2.80	Stevens	2.84
Lac Qui Parle	2.84	Swift	2.85
Lake of the Woods	2.77	Todd	2.85
Le Sueur	2.86	Traverse	2.81
Lincoln	2.82	Wabasha	2.86
Lyon	2.84	Waseca	2.86
McLeod	2.86	Watonwan	2.86
Mahnomen	2.79	Wilkin	2.81
Marshall	2.77	Winona	2.86
Martin	2.85	Wright	2.86
Meeker	2.86	Yellow Medicine	2.85
Mower	2.86		

MONTANA

Blaine	$2.40	Liberty	$2.40
Broadwater	2.40	McCone	2.50
Carbon	2.40	Madison	2.22
Carter	2.55	Pondera	2.40
Cascade	2.40	Powder River	2.49
Chouteau	2.40	Prairie	2.52
Custer	2.51	Richland	2.51
Daniels	2.46	Roosevelt	2.50
Dawson	2.53	Rosebud	2.46
Fallon	2.55	Sheridan	2.49
Fergus	2.40	Teton	2.40
Flathead	2.41	Toole	2.40
Glacier	2.40	Valley	2.44
Hill	2.40	Wibaux	2.56
Lewis and Clark	2.40	Yellowstone	2.40

NORTH DAKOTA

Adams	$2.65	Burleigh	$2.68
Barnes	2.74	Cass	2.76
Benson	2.67	Cavalier	2.68
Billings	2.63	Dickey	2.75
Bottineau	2.61	Divide	2.59
Bowman	2.64	Dunn	2.63
Burke	2.60	Eddy	2.70

NORTH DAKOTA—Continued

County	Rate per Bushel	County	Rate per Bushel
Emmons	$2.69	Pembina	$2.73
Foster	2.71	Pierce	2.65
Golden Valley	2.60	Ramsey	2.69
Grand Forks	2.75	Ransom	2.76
Grant	2.66	Renville	2.60
Griggs	2.73	Richland	2.79
Hettinger	2.65	Rolette	2.64
Kidder	2.69	Sargent	2.78
La Moure	2.73	Sheridan	2.66
Logan	2.70	Sioux	2.67
McHenry	2.64	Slope	2.65
McIntosh	2.71	Stark	2.65
McKenzie	2.53	Steele	2.74
McLean	2.64	Stutsman	2.72
Mercer	2.64	Towner	2.65
Morton	2.67	Traill	2.75
Mountrail	2.60	Walsh	2.74
Nelson	2.72	Ward	2.61
Oliver	2.65	Wells	2.69
		Williams	2.59

SOUTH DAKOTA

Aurora	$2.74	Jerauld	$2.75
Beadle	2.77	Jones	2.73
Bennett	2.59	Kingsbury	2.79
Bon Homme	2.75	Lake	2.78
Brookings	2.80	Lawrence	2.65
Brown	2.77	Lincoln	2.77
Brule	2.75	Lyman	2.74
Buffalo	2.75	McCook	2.75
Butte	2.65	McPherson	2.74
Campbell	2.72	Marshall	2.78
Charles Mix	2.73	Meade	2.65
Clark	2.79	Mellette	2.65
Clay	2.76	Miner	2.77
Coddington	2.80	Minnehaha	2.77
Corson	2.68	Moody	2.79
Davison	2.75	Pennington	2.68
Day	2.79	Perkins	2.66
Deuel	2.82	Potter	2.75
Dewey	2.68	Roberts	2.80
Douglas	2.73	Sanborn	2.75
Edmunds	2.75	Shannon	2.58
Fall River	2.51	Spink	2.78
Faulk	2.76	Stanley	2.74
Grant	2.82	Sully	2.75
Gregory	2.66	Todd	2.65
Haakon	2.71	Tripp	2.65
Hamlin	2.80	Turner	2.76
Hand	2.76	Union	2.76
Hanson	3.75	Walworth	2.73
Harding	2.64	Washabaugh	2.70
Hughes	2.75	Yankton	2.76
Hutchinson	2.75	Ziebach	2.67
Hyde	2.75		

WISCONSIN

Ashland	$2.78	Milwaukee	$2.63
Bayfield	2.78	Outagamie	2.67
Brown	2.65	Ozaukee	2.63
Calumet	2.64	Pierce	2.80
Clark	2.73	Portage	2.71
Douglas	2.86	Sauk	2.68
Fond du Lac	2.65	Sheboygan	2.64
Jefferson	2.65	Washington	2.64
Marathon	2.72	Waukesha	2.64
Menominee	2.67	Winnebago	2.65

(c) *Premiums and discounts.* The basic support rate shall be adjusted by premiums and discounts as follows:

	Cents per bushel
(1) Premium for low moisture. (Applicable to Grades No. 1 and No. 2.):	
Moisture content (percent): 9 or less	+1
(2) Discounts:	
(i) Grade No. 2	−6
(ii) Weed Control Law (where required by § 1421.74)	−15

	Cents per bushel
(iii) Other factors: Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of flaxseed, such as (but not limited to) heat damage, musty and sour. Such discounts will be established not later than the time delivery of flaxseed to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at ASCS county offices approximately one month prior to the loan maturity date.	

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C. on June 3, 1969.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 69-6732; Filed, June 6, 1969; 8:45 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

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

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

Section 212.2 is amended to read as follows:

§ 212.2 Consent to reapply for admission after deportation, removal, or departure at Government expense.

Permission to reapply for admission to the United States after deportation or removal by an alien who is applying or will apply to a consular officer for a nonimmigrant visa for a nonresident border crossing card shall be requested through the consular officer and may be granted only in accordance with section 212(d)(3)(A) of the Act and § 212.4; however, if the consular officer finds such applicant inadmissible only under paragraphs (16) or (17) of section 212(a) of the Act and the consular officer will recommend to the appropriate district director that an application for permission to reapply on Form I-212 will be considered, Form I-212 shall be submitted to the consular officer. In all other cases, application for permission to reapply shall be made on Form I-212 as indicated hereafter. If the applicant is abroad, the application shall be filed with the district director having jurisdiction over the place where the deportation or removal proceedings were held; however, an alien who is abroad and is filing Form I-212 in conjunction with a request for a waiver under section 212 (g), (h), or (i), of the Act, shall file Form I-212 and the application for the waiver simultaneously with the American consul. When the applicant is seeking admission to the United States at a port of entry, he shall file the application with the district director having jurisdiction over that port. If the applicant is within the United States and will file an application for waiver under section 212 (g) (h), or (i), with an American consul, he shall file Form I-212 and the application for the waiver simultaneously with the American consul. When the applicant is in the United States and is concurrently applying to the district director for adjustment of status under section 245 of the Act and Part 245 of this chapter, he shall file Form I-212 with the district director having jurisdiction over his application for adjustment of status. If the applicant is in the United States and is seeking to be granted advance permission to reapply prior to his departure from the United States, he shall file Form I-212 with the district director having geographical jurisdiction over the place where the alien resides. An applicant who has submitted Form I-212 shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter. Denial of the application, except in the case of an applicant seeking to be granted advance permission to reapply for admission prior to his departure from the United States, shall be without prejudice to the renewal of the application in the course of proceedings before a special inquiry officer under section 242 of the Act and this chapter. An application on Form I-212, submitted in conjunction with an application for adjustment of status under section 245 of the Act which has been initiated, renewed, or is pending in a proceeding before a special inquiry officer, shall be filed by the applicant at the office of the district director having geographical jurisdiction over the place where the applicant resides, and shall be referred to the special inquiry officer for adjudication. The approval of a Form I-212 application filed by an alien seeking admission to the United States at a port of entry, or by an alien in conjunction with an application for adjustment of status under section 245 of the Act, shall be considered as retroactive to the date on which the alien embarked or reembarked at a place outside the United States or attempted to be admitted from foreign contiguous territory. The approval of an application filed by an alien whose departure will execute an order of deportation shall be conditioned upon his departure from the United States; otherwise, the approval shall not be conditioned or limited. However, the grant of permission to reapply does not waive inadmissibility under section 212(a) (16) or (17) of the Act resulting from exclusion, deportation, or removal proceedings which are instituted subsequent to the date permission to reapply is granted.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

Section 238.4 *Preinspection outside the United States* is amended in the following respects:

1. The listing of transportation lines under "At Montreal" is amended by adding the following transportation line in alphabetical sequence: "Delta Air Lines, Inc."

2. The listing of transportation lines under "At Toronto" is amended by adding the following transportation line in alphabetical sequence to the listing: "British West Indian Airways."

PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

§ 316a.2 [Amended]

Section 316a.2 *American institutions of research* is amended by adding the following institution of research in alphabetical sequence to the listing: "University of Kansas, Office of International Programs."

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

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment to § 212.2 confers benefits upon persons affected thereby by permitting border crossing card applicants to apply for permission to reapply at U.S. consular offices, and by providing, in some instances, for the submission of an application to the district director having jurisdiction over the place of the applicant's residence when the applicant is in the United States, and the amendments to §§ 238.4 and 316a.2 add transportation lines and an American institution of research to the listings, respectively.

Dated: June 4, 1969.

RAYMOND F. FARRELL,
Commissioner of
Immigration and Naturalization.

[F.R. Doc. 69-6742; Filed, June 6, 1969; 8:49 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter X—Office of Foreign Direct Investments, Department of Commerce

PART 1000—FOREIGN DIRECT INVESTMENT REGULATIONS

Miscellaneous Amendments

EDITORIAL NOTE: The Foreign Direct Investment Regulations appear in Title 15, Chapter

X, Part 1000 of the Code of Federal Regulations (CFR). Thus, all sections of the regulations contained in the CFR are preceded by the designation "1000" (e.g., § 1000.201). The "1000" prefix has for convenience been eliminated from the section references contained in this notice. The term "part" when used in the regulations means Part 1000 of the Code of Federal Regulations. References to sections of General Bulletins published by the Office are preceded by the designation "B" (e.g., § B201). The section numbers used in the bulletins correspond to sections of the regulations which are discussed in the bulletins. The terms "DI" and "AFN" are used in the General Bulletins and this notice to refer to "direct investor" and "affiliated foreign national".

Notice is hereby given that the Office of Foreign Direct Investments has promulgated amendments to the Foreign Direct Investment Regulations (the "regulations"). With one substantive exception, and the exception of clarifying and technical changes, these amendments are the same as those proposed in the notice of rule making published in the FEDERAL REGISTER on April 8, 1969 (34 F.R. 6246). An important procedural change is that § 1002 now requires that certificates under that section be filed on Form FDI–106. Copies of that form have been sent to all DIs and additional copies may be obtained from the Program Reports Branch of the Office or from local field offices of the Department of Commerce. Section 312(c)(1) has also been revised to provide that, where a DI acquires an equity interest in an AFN from another DI, it also acquires the direct investment position and allowables of the divesting DI reasonably allocable to that equity interest. That section previously provided that if the divesting DI ceased to be a DI with respect to the AFN, the acquiring DI assumed the direct investment position and allowables of the divesting DI whether or not reasonably allocable to the equity interest acquired. The revision also provides expressly that revised reports must be filed in order for these provisions of § 312(c)(1) to apply. This revision is applicable only to acquisitions occurring on or after June 10, 1969 and will become final 30 days after publication in the FEDERAL REGISTER unless amended in the light of any comments received.

The following is a summary of the principal features of the amendments:

a. Conforming amendments have been made to § 201.

b. Section 312(c)(1) provides that no transfer of capital is made if a DI acquires an interest in an AFN from another DI, and that the acquiring DI assumes the direct investment and earnings position of the divesting DI. It has been amended, as previously stated, to clarify its effects and to conform to revised §§ 503, 504, and 506.

c. Subpart E has been restructured by combining old §§ 501 and 502 and by adding a new § 502 providing that a DI must elect, after the end of each year, whether it wishes to be governed by the minimum allowable under § 503, or the historical allowable under § 504 (a) and (c), or the earnings allowable under § 504(b).

d. Section 503 has been amended to increase to $1,000,000 the previous minimum allowable of $200,000. Further, the provision of § 503 which prohibited the offsetting of positive direct investment in one scheduled area against negative direct investment in another scheduled area is eliminated. Section 503 also now provides that if all AFNs, whether incorporated or unincorporated, when considered together, have aggregate annual losses, such losses shall be disregarded in computing direct investment for purposes of § 503, and therefore cannot be used to offset transfers of capital to AFNs.

e. Section 504(b) has been revised to provide for an earnings allowable in the amount of 30 percent of the immediately preceding year's earnings.

f. DIs electing to be governed by the historical allowable of § 504(a) may have a portion of this historical allowables adjusted "upstream" under § 504(c). The amount of the "upstream" adjustment is limited to the difference between 30 percent of the immediately preceding year's earnings in the "upstream" scheduled area and the historical allowable in that scheduled area. The "upstream" adjustment of historical allowables is automatic. As previously provided, allowables in "upstream" scheduled areas may generally be used in "downstream" scheduled areas without limitation under § 504(d).

g. Certain conforming and clarifying amendments have been made to § 506.

h. Section 602 has been amended to define more clearly reports which may be required and to describe basic reporting forms required of all DI's unless exempted by the instructions to particular forms.

i. Section 805(a) has been amended to clarify information and reports received from direct investors which the Office will treat as confidential. Section 805(b), dealing with where forms may be obtained, has been deleted and a new § 602(c) has been added to take its place.

j. Sections 905(b)(2) and 906(b)(3)(i) have been amended to conform to revised § 503.

k. Conforming amendments have been made in §§ 1002 (b) and (c) and 1003 (b), (c), and (d). The time within which a certificate must be filed under § 1002 (b) has been changed so that such certificates need not be filed until 10 days after the date of a borrowing or guarantee. Certificates mailed after June 9, 1969, must now be filed on Form FDI–106. That certificate will not require the amount and terms of repayment, and § 1002(b) has been amended accordingly. The provisions for reduction of allowables in § 1003(c) have been amended to reflect the new election provisions and the increased emphasis on worldwide allowables. While this amendment applies commencing January 1, 1969, as hereafter noted, applications for specific authorization with respect to reductions in 1969 and incurred prior to the adoption of the amendment will be considered where the change creates substantial hardship.

In addition to the above changes to the proposed regulations, and as described in paragraph 8 of this notice, it is proposed that (with certain exceptions) direct investors who have not made direct investment (whether positive or negative) of $1,000,000 or more in any year, beginning with 1968, be exempt from making quarterly reports on Form FDI–102. For this purpose, direct investment includes direct investment in Canada and transfers of proceeds of long-term foreign borrowing to AFN's and allocations of such proceeds to such transfers.

The amendments are described in greater detail below:

1. *Election of 1969 allowables.* New § 502 requires a DI to elect either the minimum allowable under § 503, the historical allowable under § 504 (a) and (c), or the earnings allowable under § 504(b). Once this election is made, the allowables not elected are inapplicable and unavailable to the DI. The election is made annually on Form FDI–102F (Annual Report) filed for the year with respect to which the election is made. Accordingly, DIs will be required to make their election for 1969 on the FDI–102F presently due April 30, 1970. However, Form FDI–102F for 1968 will require a tentative indication of the allowable which the DI believes it will elect for 1969, and reporters required to file FDI–102 quarterly reports during 1969 will be required to indicate any change in this tentative decision during 1969 on their quarterly reports.

2. *§ 503 minimum allowable.* The revisions to § 503 are intended to give increased investment leeway to small and medium-size firms without substantial historical or earnings allowables by increasing the minimum allowable from $200,000 to $1,000,000. Section 503(a) has also been amended to remove the provisions prohibiting the offset of positive direct investment in one scheduled area against negative direct investment in another scheduled area. Section 503(b), however, now provides that if a DI's AFNs have "aggregate annual losses", such losses shall be disregarded in computing direct investment under § 503. The term "aggregate annual losses" means the excess of the sum of the DI's share of losses of all incorporated and unincorporated AFNs on a worldwide basis (excluding Canadian AFNs) which have losses over the sum of the DI's share of earnings of all AFNs which have earnings. That is, the earning results of all AFNs are, in effect, consolidated, and if those results are negative, that negative amount cannot be used to offset transfers of capital from the DI to AFNs. Formerly, § 503(b) only required that net losses (i.e., "total losses") of incorporated AFNs in Schedule C be disregarded. The effect of these changes in § 503(a) and (b) is largely to eliminate the schedular concept from § 503 and, as a result, the practical relevance of § 505 (transfers between AFNs) except with respect to transfers between Canadian and non-Canadian AFNs. For example, a transfer of funds from a Schedule A AFN to a

Schedule C AFN will "net out" under § 503 since positive direct investment is authorized in all scheduled areas, and therefore § 505 may for all practical purposes be disregarded in calculating direct investment made. A transfer of funds from a Canadian AFN to a non-Canadian AFN, however, continues to be a transfer of capital to the non-Canadian AFN as provided in § 505 and does not "net out" since direct investment in Canada (whether positive or negative) is not included in calculating direct investment in scheduled areas under the provisions of Subpart K.

As previously provided, any § 503 allowable not used in the current year may not be carried forward to a succeeding year and, since an election for 1969 of § 503 makes § 504 inapplicable, there are no § 504 allowables (including those arising from negative direct investment) to be carried forward into 1970 and succeeding years. Also, a DI who elects § 503 for 1969 will lose any § 504 allowable which might otherwise have been carried forward from 1968. However, DIs who made positive direct investment authorized by § 503 in 1968 and who elect either the § 504 earnings allowable or historical allowable for 1969 may carry forward from 1968 unused § 504 allowables into 1969, reduced as provided in § 503(d) by the amount of positive direct investment made under § 503 in 1968. The reduction is first made in the scheduled area where the positive direct investment was made in 1968, and then in the remaining scheduled areas, first in Schedule C and thereafter in Schedules B and A in that order.

The following examples assume that DI has elected the § 503 allowable as provided in § 502(a)(1) and illustrate the provisions of § 503(a) and (b):

Example (1). DI has two AFNs—a corporation (X) in the United Kingdom and a corporation (Y) in Venezuela. During 1969, X has a loss of $50,000, and Y has earnings of $1,050,000 and pays no dividends. There are no other relevant transactions in 1969. DI has made positive direct investment, calculated as provided in § 503(b), of $1,000,000, all of which is authorized by § 503(a).

Example (2). DI has two AFNs, X and Y. X is incorporated in France and Y is incorporated in Argentina. During 1969, DI makes a positive net transfer of capital of $500,000 to X and X has earnings of $1,000,000 and pays no dividends. DI also makes a negative net transfer of capital of $500,000 to Y and Y has losses of $500,000. There are no other relevant transactions during 1969. DI has made positive direct investment, calculated as provided in § 503(b), of $500,000, which is authorized by § 503(a). The $500,000 loss of Y may be offset against the $1,000,000 in earnings of X. The negative net transfer of capital of $500,000 to Y may be offset against either the positive net transfer of capital of $500,000 to X or the earnings of $500,000 of X.

Example (3). During 1969, DI makes a positive net transfer of capital to its wholly owned incorporated AFN (X) of $750,000. X earns $300,000 and pays no dividends. DI also has a branch (Y) which has losses of $500,000 which result in a decrease in net branch assets of $500,000. DI also makes a negative net transfer of capital of $50,000 to a second incorporated AFN (Z). There are no other relevant transactions during 1969. DI's positive direct investment, calculated as provided in § 503(b), of $700,000 during 1969 is authorized by § 503. The positive net transfer of capital to X of $750,000 is offset by the negative net transfer of capital of $50,000 to Z, and the earnings of $300,000 of X are offset by $300,000 of the $500,000 losses of Y. The aggregate annual losses of $200,000 are disregarded in the calculation of direct investment made.

Example (4). DI has a wholly owned incorporated AFN (X) in Schedule C which in turn has a wholly owned incorporated AFN (Y) in Schedule B. During 1969 X has earnings (excluding dividends received from Y) of $2,000,000 and pays a dividend to DI (before withholding taxes) of $1,500,000. Also during 1969, Y has losses of $3,000,000 but nevertheless pays a dividend to X of $250,000 (before withholding taxes). In addition DI makes a positive net transfer of capital of $2,500,000 to a third wholly owned incorporated AFN (Z) in Schedule A. There are no other relevant transactions during 1969. DI has aggregate annual losses of $1,000,000 ($3,000,000 in losses offset against only $2,000,000 in earnings). The $1,000,000 losses are disregarded and may not be offset against the positive net transfer of capital to Z. DI has positive direct investment of $1,000,000 calculated as provided in § 503(b), which is authorized by § 503(a). DI has reinvested earnings in X of $750,000 ($2,000,000 less $1,500,000 plus $250,000) negative reinvested earnings in Y of $3,250,000 ($3,000,000 plus $250,000), and a positive net transfer of capital to Z of $2,500,000. Calculated without regard to § 503(b), this would give DI direct investment of zero. But after the $1,000,000 in aggregate net losses is disregarded—which means in effect adding the aggregate net losses to direct investment calculated first without regard to § 504(b)—DI has positive direct investment of $1,000,000.

Note that since the schedular treatment of direct investment is in effect not applicable to § 503, this result could also have been obtained by ignoring the dividend by Y to X, and simply deducting the dividend of $1,500,000 to DI in calculating consolidated negative reinvested earnings of $2,500,000 for X, Y, and Z combined ($2,000,000 in earnings less $3,000,000 in losses and less $1,500,000 in dividends to DI). These negative reinvested earnings offset the positive net transfer of capital to Z in the amount of $2,500,000, for direct investment of zero before applying the provisions of § 503(b). Disregarding aggregate annual losses of $1,000,000—i.e., adding such losses to direct investment calculated first without reference to § 503(b)—yields positive direct investment of $1,000,000 for § 503 purposes.

Example (5). DI has a wholly owned Schedule B incorporated AFN (B) which has a Schedule A branch (A). During 1969, DI invests $5,000,000 in proceeds of a long-term foreign borrowing in B. B has earnings of $1,500,000, and pays a dividend to DI of $500,000 (before withholding taxes). Also during 1969, A transfers $500,000 to B. A has zero earnings during the year, and A's net assets decrease by $500,000. There are no other relevant transactions during 1969. DI has made positive direct investment, calculated as provided in § 503(b), of $1,000,000 which is authorized by § 503. DI has made a negative net transfer of capital of $500,000 to Schedule A (the decrease in A's net assets of $500,000) which offsets the positive net transfer of capital of $500,000 to Schedule B. The transfer of $5,000,000 to B is reduced in like amount by virtue of § 313(d)(1). This leaves DI with reinvested earnings in B of $1,000,000 after the dividends paid by B to DI of $500,000.

Note again that since the schedular treatment of direct investment is in effect not applicable to § 503, this result could also be obtained by treating A and B on a consolidated basis and ignoring transfers between A and B. So viewed, DI's positive direct investment is still $1,000,000 (consolidated earnings of $1,500,000 less $500,000 in dividends to DI).

The following examples illustrate the provisions of § 503 as applied to § 503 allowables not used in 1968 or 1969, and as applied to the carry forward of § 504 historical allowables by a DI electing § 503 in 1969:

Example (6). In 1969, DI has allowables under § 504 of $50,000 in Schedule C, $500,000 in Schedule B, and $200,000 in Schedule A. A portion of the allowables in Schedule A and B are carry forwards of § 504 allowables not used in 1968. In 1969, DI, in order to make positive direct investment in Schedule C in excess of its § 504 allowable of $50,000, elects § 503 and makes worldwide positive direct investment, calculated as computed in § 503(b), of $600,000. In 1970, DI will have no carry forward of any § 503 allowable not used in 1969 nor will it have any portion of its § 504 allowables carried forward into 1970.

Example (7). In 1968, DI had allowables under § 504 of $50,000 in Schedule C, $50,000 in Schedule B, and $200,000 in Schedule A. During 1968, DI made positive direct investment of $100,000 in Schedule C and $50,000 in Schedule B under § 503 as then in effect. DI also in 1968 made negative direct investment of $50,000 in Schedule A which under § 504(f) may be carried forward to succeeding years together with any other unused Schedule A allowables. While not authorized under § 504, DI's positive direct investment in 1968 was authorized under § 503 since total direct investment in all scheduled areas, when added together, was $200,000 or less (in this case $150,000), and positive direct investment in any one scheduled area did not exceed $200,000. If DI does not elect the § 503 minimum allowable for 1969, DI will carry forward to 1969 § 504 allowables not used in 1968 of $200,000, after the reductions provided for in § 503(d), distributed in the scheduled areas as follows: Zero in Schedule C, zero in Schedule B, and $200,000 in Schedule A. The carry forward of $200,000 is in addition to any § 504 earnings allowables or § 504 historical allowables which DI may have for 1969. The above calculations are set forth in tabular form as follows:

	(000 omitted)		
	Schedule C	Schedule B	Schedule A
(1) 1968 § 504 allowables	50	50	200
(2) Direct investment under § 503 in 1968	100	50	(50)
(3) Reductions to § 504 allowables under § 503(d)	50	50	50
(4) § 504 carry-forwards to 1969	0	0	200

If DI elects to make positive direct investment in 1969 under § 503, DI will lose its $200,000 carry-forward in Schedule A for 1969 and succeeding years under § 503(c).

3. *§ 504 allowables.* Under revised § 504(a), a DI computes its historical allowables for Schedules A, B, and C in the same manner as provided in § 504(a)(1)(i), (2)(i), and (3)(i) of the regulations as in effect for 1968. Section 504(c), however, now provides an "upstream" adjustment of § 504(a) historical allowables (that is, an adjustment of allowables from Schedule B to Schedule C and from

Schedule A to Schedule B and/or C). Section 504(b) is also new and provides for an earnings allowable in each scheduled area in the amount of 30 percent of the immediately preceding year's annual earnings as an alternative to the adjusted historical allowable or the § 503 minimum allowable. These new provisions afford options not available in 1968 to DIs who have unusually low historical allowables in relation to earnings of their AFNs or whose historical allowables are not distributed among the three scheduled areas in amounts proportional to earnings in the three scheduled areas.

Both the "upstream" adjustment of historical allowables in § 504(c) and the earnings allowable in § 504(b) are based on 30 percent of the DI's share of 1968 "annual earnings" in each scheduled area of both incorporated AFNs (subsidiaries) and unincorporated AFNs (such as branches, partnerships and joint ventures). Earnings of Canadian AFNs are excluded in calculating "annual earnings" in Schedule B. To calculate "annual earnings", losses of both incorporated and unincorporated AFNs in any scheduled area should be netted against earnings of both incorporated and unincorporated AFNs in such scheduled area. "Annual earnings" of AFNs in a scheduled area do not include dividends paid to, or earnings remitted to, such AFNs from AFNs in other scheduled areas.

A distinction between § 503 and § 504 allowables should be noted: As already stated, in calculating positive direct investment made under § 503, a DI must disregard aggregate annual losses incurred by AFNs on a worldwide basis. Thus, if one AFN had earnings and another AFN had losses, the losses may be offset up to the amount of the earnings in determining the amount of reinvested earnings under § 503 but may not be offset against transfers of capital from a DI to AFNs. (See examples (3) and (4) supra.) Under § 504, on the other hand, only aggregate losses of incorporated AFNs (i.e., "total losses") in Schedule C are so disregarded. Thus, if the algebraic sum of earnings and losses of all incorporated AFNs in Schedule C is negative, that negative amount may not be offset against positive net transfers of capital to Schedule C or used "downstream" in Schedules A or B to offset positive direct investment in those scheduled areas.

The major features of amended § 504 (b) and (c) are described below:

(a) *30 percent earnings allowable.* A DI may elect under § 502(a)(3) a "30 percent earnings allowable" for 1969 for each of the three scheduled areas in an amount equal to 30 percent of its share of the 1968 annual earnings of its AFNs in each scheduled area. This election, if made, must be made with respect to all three scheduled areas and, if made for 1969, must be made on the annual report for 1969 (Form FDI-102F) filed with the Office on or before April 30 1970.

The following example is illustrative of the "30 percent earnings allowable":

Example (8). DI's share of the 1968 "annual earnings" of its Schedule C AFNs is $1,000,000 and of its Schedule A AFNs is $1,500,000; its Schedule B AFNs incurred in the aggregate losses of $200,000. If DI elects the 30 percent earnings allowable for 1969 under § 502(a)(3), its 1969 § 504(b) allowables will be $300,000 in Schedule C (30 percent of $1,000,000), zero in Schedule B (since DI had losses in Schedule B in 1968), and $450,000 in Schedule A (30 percent of $1,500,000).

(b) *§ 504 Historical allowable after upstream adjustment.* If the DI elects under § 502(a)(2) the historical allowable, § 504 (a) and (c) will govern. A DI with historical allowables in Schedule B and/or A may then be eligible under new § 504(c) to have all or part of those allowables readjusted "upstream". Historical allowables will not, however, be adjusted "upstream" unless, and only to the extent that, 30 percent of the DI's share of 1968 "annual earnings" in the "upstream" scheduled area exceeds the § 504(a) historical allowable in the "upstream" scheduled area. Note that for purposes of § 504(c), a DI may not adjust "upstream" an amount in excess of its downstream historical allowables, and that the amount of historical allowables which may be adjusted "upstream" does not include § 504 allowables carried forward from previous years. Like any other § 504 allowable in an upstream scheduled area, allowables in Schedule B or C which arise from "upstream" adjustment may be used downstream or carried forward into subsequent years under § 504(d).

The following examples are illustrative of the § 504(b) 30 percent earnings allowable and the § 504(c) "upstream" adjustment of § 504(a) historical allowables.

Example (9). In 1969, DI has § 504(a) historical allowables in each of the scheduled areas as shown on line (1) of the table below. DI also has a carry forward of unused allowables from 1968 in Schedule A of $1,000,000 (see line (2) below). In 1968, DI's share of annual earnings of its AFNs in each scheduled area was as shown on line (3) below. If DI elects under § 502(a)(2) for 1969, DI's historical allowables under § 504 (a) are adjusted under § 504(c) to increase its Schedule C allowable by $2,000,000, of which $1,500,000 is moved upstream from Schedule A to Schedule C and $500,000 is moved upstream from Schedule B. Corresponding reductions are made in the Schedule A and B historical allowables.

	(000 omitted)			
	Schedule C	Schedule B	Schedule A	Total
(1) § 504(a) historical allowables	1,000	2,500	1,500	5,000
(2) § 504(f) carryforward allowable	0	0	1,000	1,000
(3) 1968 annual earnings	10,000	4,000	2,000	16,000
(4) 30 percent of line (3)	3,000	1,200	600	4,800
(5) 1969 § 504(a) historical allowables after § 504(c) "upstream" adjustments	3,000	2,000	0	5,000
(6) § 504(f) carryforward allowable	0	0	1,000	1,000

Presumably, DI will elect to use its adjusted historical allowables rather than elect the 30 percent earnings allowable under § 504(b), since the total historical allowables ($5,000,000) under § 504(a) exceed the total allowables available to DI ($4,800,000 as shown on line (4)) if DI elected the 30 percent earnings allowable. While no part of the $1,000,000 carry forward allowable in Schedule A from 1968 can be adjusted upstream, DI may use that $1,000,000 carryforward allowable in Schedule A.

Under § 504(d), DI may use any portion of its Schedule C adjusted historical allowable downstream in Schedule B or A, thereby, in effect, returning those allowables to their original scheduled areas.

Since DI has an unadjusted historical allowable in Schedule C of $1,000,000, the amount moved to Schedule C from Schedules A and B is $2,000,000, i.e., the difference between 30 percent of 1968 earnings in Schedule C and the historical allowable in Schedule C. The total amount of adjusted historical allowable of $3,000,000 can be used in Schedules C, B, or A in 1969 or in Schedules C, B, or A in succeeding years in the same manner as is generally permitted for § 504 allowables in Schedule C.

Example (10). In 1969, DI has § 504(a) historical allowables in each of the scheduled areas as shown on line (1) of the table below, and DI's share of annual earnings in 1968 in each of the scheduled areas is as shown on line (2) of that table. Presumably, DI will elect under § 502(a)(3) the 30 percent earnings allowable (see line (3) below):

	(000 omitted)			
	Schedule C	Schedule B	Schedule A	Total
(1) § 504(a) historical allowables	500	2,000	4,000	6,500
(2) 1968 annual earnings	10,000	8,000	10,000	28,000
(3) 30 percent of line (2)	3,550	2,400	3,000	8,400
(4) 1969 § 504(a) historical allowables after § 504(c) upstream adjustments	3,000	2,400	1,100	6,500

Note that the total allowables available to DI under the 30 percent earnings allowable ($8,400,000) exceed the total historical allowables available to DI ($6,500,000) under § 504 (a) and (c) and that the 30 percent earnings allowables are divided among the scheduled areas to reflect DI's share of 1968 annual earnings in each schedule. Note also that whether the earnings or the adjusted historical allowable is elected, DI may use such allowables "downstream" under § 504(d). Thus, for example, all of the above allowables could be used in Schedule A.

Example (11). DI has no historical allowables under § 504(a) as shown on line (1) of

the table below. In 1968, DI had earnings in each of the scheduled areas as shown on line (2) of that table. Presumably, DI will elect under § 502(a)(3) to compute its 1969 allowables based on the 30 percent earnings allowable under § 504(b) (see line (3) below):

	(000 omitted)			
	Schedule C	Schedule B	Schedule A	Total
(1) § 504(a) historical allowables	0	0	0	0
(2) 1968 annual earnings	10,000	6,000	1,000	17,000
(3) 30 percent of line (2)	3,000	1,800	300	5,100
(4) 1969 § 504(a) historical allowable after § 504(c) upstream adjustments	0	0	0	0

Section 504 (a) and (c) would not be elected since DI has no historical allowable. During 1969, however, DI may (as also provided by previous regulations) make positive direct investment in Schedule B or Schedule A in excess of the amounts indicated in those scheduled areas in line (3) above if DI uses the downstream provisions of § 504(d). In other words, DI may carry down all or part of its Schedule B earnings allowable to Schedule A under § 504(d)(2), and all or part of its Schedule C earnings allowable to Schedules B or A under § 504(d)(3).

4. *Downstream use of allowables in 1969 under § 504.* While there is a limit under § 504(c) on the "upstream" adjustment of § 504(a) historical allowables, § 504(d) (2) and (3) preserve the provisions in the prior regulations for use downstream of the entire amount of § 504 allowables (that is, Schedule B allowables may be used in Schedule A, and Schedule C allowables may be used in Schedules B or A). As in the prior regulations, the one exception is that "total losses" of incorporated AFNs in Schedule C may only be used under § 504 in succeeding years in Schedule C for reinvestment of earnings. However, § 504(f)(3)(i) now permits a positive net transfer of capital to Schedules A, B or C in 1969 if DI had an "excess dividend" carry forward from 1968; under the prior regulations, DI was only authorized to reinvest additional earnings in Schedule C in such circumstances.

5. *Positive direct investment in Schedule C.* Under revised § 504, it is no longer necessary for a DI to have an incorporated AFN in Schedule C in order to make a positive net transfer of capital to Schedule C. During 1968, a DI was not authorized by § 504 to make a positive net transfer of capital to, or to reinvest any part of its shares in the earnings of incorporated AFNs in, Schedule C unless the DI had either incorporated AFNs which had 1968 "total earnings", or incorporated AFNs which had no "total earnings" but which, nevertheless, paid a dividend. In 1969, because of the earnings allowable in § 504(b) and the upstream adjustment of historical allowables in § 504(c), DIs will have greater Schedule C flexibility. Thus, a DI who elects the earnings allowable and whose AFNs had "annual earnings" due to a profitable Schedule C branch in 1968 is authorized by § 504(b) to make a postive net transfer of capital to, or to reinvest earnings of its incorporated AFNs in, Schedule C in an amount equal to 30 percent of the 1968 annual earnings. If it elects the historical allowable, on the other hand, it may shift part or all of its Schedule A or Schedule B historical § 504 allowables to Schedule C up to an amount equal to 30 percent of the 1968 annual earnings in Schedule C.

The following examples are illustrative:

Example (12). DI's sole Schedule C AFN is a branch which had earnings of $100,000 in 1968. DI had no historical allowables under § 504(a)(3). Positive direct investment in the branch was not authorized under § 504 in 1968 since § 504(a)(3), as effective for that year, limited positive direct investment to reinvestment of current earnings of incorporated AFNs except in "excess dividend" cases. In 1969, however, DI is authorized to make a positive net transfer of capital to its Schedule C branch of $30,000 (30 percent of $100,000) under the 30 percent earnings allowable of § 504(b). Alternatively, if DI elects the adjusted historical allowable under § 502(a)(2), it may make a positive net transfer of capital to Schedule C if it has Schedule B or A historical allowables which are moved "upstream" under § 504(c).

Example (13). DI's sole Schedule C AFN is a corporation which had $1,000,000 in earnings 1968 but has $500,000 in losses in 1969. Therefore, DI has no § 504(a)(3) allowable in 1969 because under § 504(a)(3) the Schedule C historical allowable is calculated as the lesser of (a) 35 percent of annual average direct investment in 1965–66, and (b) the annual average percent of earnings reinvested in 1964, 1965, and 1966 times current (i.e., 1969) total earnings of incorporated AFNs, and under the latter test the allowable is zero. In 1969, however, DI is authorized to make a postive net transfer of capital to its Schedule C AFN of $300,000 (30 percent of $1,000,000) under the 30 percent earnings allowable of § 504(b), or, if that allowable is not elected, it may adjust "upstream" under § 504(c) up to $300,000 of Schedule A or B § 504(a) historical allowables. In 1970, DI may use its 1969 "total losses" of $500,000 in Schedule C to reinvest an additional $500,000 of earnings (but for no other purpose) under § 504(e). Note that in 1970, no positive net transfer of capital may be made in Schedule C under the 30 percent earnings allowable nor will any "upstream" adjustment of any Schedule B or A allowable be possible since there are no 1969 earnings upon which such earnings allowable or "upstream" adjustment of historical allowables can be based.

6. *Comparison of "aggregate annual losses" and "total losses;" "annual earnings," "aggregate annual earnings," "total earnings" and "reinvested earnings."* The terms "annual earnings," "aggregate annual earnings and losses," "total earnings and losses," and "reinvested earnings" are related in concept. They differ in that some are schedular calculations ("annual earnings," "total earnings and losses") and others are worldwide calculations ("aggregate annual earnings and losses"). They also differ in that some apply only to incorporated AFNs ("total earnings and losses," "reinvested earnings") and others apply to both incorporated and unincorporated AFNs ("annual earnings," "aggregate annual earnings and losses"). "Reinvested earnings" is both a schedular and worldwide calculation depending upon whether positive direct investment is being calculated under § 504 or under §§ 503 and 506, and differs from the other terms in that it is calculated after payment of dividends to the DI and interschedular dividends and remittances.

Viewed in the context of the regulations, the terms may also be compared as follows: Section 503(b) requires that all "aggregate annual losses" of AFNs be disregarded in computing the amount of direct investment made under the minimum allowable. Sections 504(e) and 506(d) require that "total losses" of incorporated AFNs in Schedule C be disregarded in computing the amount of direct investment made under the allowables provided for in §§ 504 and 506. As illustrated in the example below, the term "aggregate annual losses" in § 503 refers to consolidated losses of all AFNs where losses of AFNs which have losses exceed earnings of AFNs which have earnings whether they are incorporated or unincorporated. "Aggregate annual losses" under § 503 are calculated in the same manner as "aggregate annual earnings" under § 506, except the former is always negative.

The term "total losses," on the other hand, as defined in § 306(c), refers to the excess of the sum of the losses of all incorporated AFNs which had losses over the sum of the earnings of all such AFNs which had earnings in a particular scheduled area. For all practical purposes, DIs need only be concerned with "total losses" in Schedule C, since it is only in Schedule C that "total losses" are disregarded in computing positive direct investment for purposes of §§ 504 and 506.

Example (15). DI has two incorporated AFNs and one unincorporated AFN in Schedule C, an unincorporated AFN in Schedule B and an incorporated AFN in A. (In the table below, "c" indicates an incorporated AFN and "b" indicates an unincorporated AFN.) In 1969, DI's AFNs have the earnings and losses shown on line (1) below. Schedular "total losses" are shown on line (2) below. "Aggregate annual losses" to be disregarded under § 503(b) are shown on line (3). Assuming no other relevant transactions other than the earnings and losses given in the table, and that no earnings are remitted or dividends paid, total positive direct investment under § 503, if elected, is shown on line (4) below. If § 504 earnings or historical allowables were elected, schedular positive direct investment under that section would be computed as shown on line (5) below, again assuming no earnings are remitted or dividends paid:

	(000 omitted)				
	Schedule C			Schedule B	Schedule A
	e	e	b	b	e
(1) 1969 earnings or losses of each AFN	200	(300)	(400)	500	(500)
(2) "Total losses"		(100)			(500)
(3) "Aggregate annual losses" (worldwide)				(500)	
(4) Direct investment under § 503 (worldwide)				0	
(5) Direct investment under § 504		(400)		500	(500)

Section 504 (b) and (c) and § 506 provide for allowables, and adjustment of allowables, calculated as a percentage of "annual earnings" and "aggregate annual earnings". Section 504(a)(3) provides for an historical allowable in Schedule C calculated in part as a percentage of "total earnings" in Schedule C, the percentage itself being calculated by dividing average "reinvested earnings" during the base period years of 1964, 1965, and 1966 by average "total earnings" during those years. "Reinvested earnings" are added to net transfers of capital to determine the amount of direct investment during any year as provided in § 306(a). "Total earnings" are calculated on a schedular basis and in the same manner as "total losses" except, of course, the result is positive rather than negative. "Total earnings" and "total losses" are calculated without regard to dividends paid to the DI and interschedular dividends and remittances while "reinvested earnings" take account of such dividends and remittances. "Total earnings," "total losses" and "reinvested earnings" are defined in § 306 (b) and (c) and are fully explained in General Bulletin No. 1 § B306 (c) and (d). Their application to the computation of the historical allowable in Schedule C is set forth in General Bulletin No. 1 § B504(c). "Annual earnings" is similiar to "total earnings" and "total losses" in that they are all computed on a schedular basis and do not take into account dividends paid to the DI and interschedular dividends or remittances. However, "annual earnings" includes the earnings of unincorporated as well as incorporated AFNs, and unlike "total earnings" it may be a negative amount though for purposes of calculating the earnings allowable under § 504 any negative amount is treated as if it were zero. "Aggregate annual earnings" and "aggregate annual losses" are the same as "annual earnings" except that they are computed on a worldwide and not a schedular basis; that is, they are the positive and negative sum of "annual earnings" in the three scheduled areas.

The following example illustrates the distinctions between "total earnings," "reinvested earnings," "annual earnings," and "aggregate annual earnings":

Example (16). DI has incorporated and unincorporated AFNs in each of the scheduled areas as shown in the table below. (Incorporated AFNs are shown as "c"; incorporated AFNs with branches or subsidiaries in other scheduled areas are shown as "c[1]"; incorporated AFNs which are subsidiaries of other incorporated AFNs are shown as "c[2]"; unincorporated AFNs are shown as "b"; and unincorporated AFNs which are branches of incorporated AFNs in other scheduled areas are shown as "b[2]".) Line (1) of the table shows annual earnings or losses of each of the AFNs calculated without regard to dividends or remittances. Line (2) shows schedular "total earnings". Line (3) shows "reinvested earnings"; that is, line (2) after adjustments for interschedular dividends and remittances and dividends paid to the DI. In this case, "c[1]" paid dividends (calculated before deducting foreign withholding taxes) to DI of $100,000 and received dividends from "c[2]" of $20,000 and remittances from "b[2]" of $50,000 (before deducting foreign withholding taxes). Line (4) shows schedular "annual earnings." Line (5) shows "aggregate annual earnings."

	(000 omitted)						
	Schedule C			Schedule B		Schedule A	
	c[1]	c	b	c	b[2]	c[2]	b
(1) Earnings or losses	500	(100)	50	200	100	40	80
(2) "Total earnings"	400			200		40	
(3) "Reinvested earnings"	370			200		20	
(4) "Annual earnings"		450		300		120	
(5) "Aggregate annual earnings"				870			

7. *Conforming and technical amendments.* Amendments have been made to §§ 201 (a) and (d), 312(c)(1), 506, 602, 805, 905(b)(2), 906(b)(3)(ii), 1002 (b) and (c), and 1003 (b), (c), and (d) in large part to conform those provisions to the amendments to §§ 503 and 504 and the addition of Subpart M.

Section 312(c)(1) provides, in effect, that a DI who acquires an equity interest in an AFN from another DI also acquires the historical and earnings allowables (but not the carry forward allowables) associated with that AFN to the extent reasonably allocable to the acquired equity interest. The acquiring DI also assumes the divesting DI's current direct investment position with respect to the AFN. Because of the amendment to § 312(c)(1), the previous provisions of § 506(e)—passing on incremental allowables to acquiring DIs—is unnecessary and has been deleted.

Sections 1002 and 1003 of Subpart J have been amended to conform to revised § 504 and to Subpart M. (Subpart M is being published in the FEDERAL REGISTER at the same time as the present amendments.) Section 1002(b) has also been revised to allow DIs 10 days after the date of a borrowing or guarantee within which to file certificates under Subpart J and to provide that such certificates mailed after June 9, 1969, shall be made on Form FDI–106. Section 1003(c) has been amended to conform to the election provisions of § 502 and to recognize the greater emphasis given to worldwide allowables by the proposed amendments. As amended, § 1003(c) provides that repayments of long-term foreign borrowing reduce allowables first in the scheduled area to which the proceeds of the borrowing were transferred or allocated and thereafter in all other scheduled areas, beginning in Schedule C and thereafter in Schedules B and A in that order. Where a DI shows that this amendment will work substantial hardship in view of its expectancies with respect to a repayment charge incurred in 1969 prior to the adoption of this amendment, or with respect to borrowing entered into prior to January 1, 1968, the Office will consider applications for specific authorization.

Section 506 (a)(4) and (d) has been amended to conform to amended § 504 (a)(3), (b)(3), and (e) which now permit positive direct investment in Schedule C subject to the qualification that "total losses" of incorporated AFNs in that scheduled area may not be used to offset a positive net transfer of capital. Changes in defined terms also have been made in § 506 to make those terms more descriptive. Finally, a provision has been added to § 506(c) to make clear that where a DI has both §§ 503 and 506 allowables, or both §§ 504 and 506 allowables, and it does not make positive direct investment up to the total amount of those allowables, the unused portion carried forward into succeeding years is considered to be the more usable and desirable § 506 allowable to the extent that such unused portion is not in excess of that allowable.

Former § 504(a)(3) as in effect December 31, 1968 contained a parenthetical statement explaining the calculation of the historical allowable for Schedule C. That provision said, in effect, that no allowable existed in Schedule C if average direct investment or average reinvested earnings in the base period was zero or a negative amount. That provision has been deleted as unnecessary and no change in substance is involved.

8. *Exemptions from quarterly reporting.* The Office proposes to amend the instructions for completing quarterly reports on Form FDI–102 to exempt from filing such reports DIs who meet all of the following requirements:

(a) The DI has not made direct investment (whether positive or negative) in any year, beginning with the year

1968, in excess of $1,000,000. For this purpose, direct investment in Canada will be included and no deduction will be made for proceeds of long term foreign borrowing expended in, or allocated to, transfers of capital to AFNs even though deducted under § 313(d)(1) for purposes of determining compliance under § 201(a).

(b) The DI is and at all times has been in compliance with the program (except for late filing of reports).

(c) The DI has received no specific authorization to make positive direct investment or to hold liquid foreign balances during 1969 or succeeding years in excess of the amounts generally authorized by the regulations.

The exemption will cease to apply if at any time during the year any of the above conditions are not met, and a quarterly report will thereafter be required.

9. *Effect on General Bulletins Nos. 1 and 2.* General Bulletins Nos. 1 and 2, as amended and modified in the notice published in the FEDERAL REGISTER on November 9, 1968 (33 F.R. No. 16441), interpret the regulations as in effect for 1968, and will continue to do so for 1969 to the extent not affected by these amendments. Because of the central importance of the amendments, however, those General Bulletins will need to be used in 1969 with care until such times as a revised General Bulletin is issued.

The text of the amendments is as follows:

§ 1000.201 [Amended]

1. Paragraph (a) of § 1000.201 *Prohibited direct investment in affiliated foreign nationals* is revised to read as follows:

(a) Except as provided in this part, and as otherwise permitted by the Secretary of Commerce (hereinafter referred to as the Secretary) by means of rulings, instructions, authorizations, waivers, exemptions or otherwise, positive direct investment by a direct investor in affiliated foreign nationals of such direct investor in Schedule A, B, or C countries is prohibited during any year (as defined in § 1000.321) commencing with the effective date.

2. Paragraph (d) of § 1000.201 is amended to delete the words "§§ 1000.503 and 1000.504" in the first sentence of that paragraph, and to substitute therefor the words "this part".

3. Subparagraph (1) of paragraph (c) of § 1000.312 is amended to read as follows:

§ 1000.312 Transfers of capital.

* * * * *

(c) * * *

(1) An acquisition by a direct investor described in paragraph (a)(1) of this section if the acquisition is from a person within the United States acting for its own account and such person is, immediately prior to the time of acquisition, a direct investor in the affiliated foreign national. On and after June 10, 1969, if the acquisition is of an equity interest, (i) the direct investment made by the divesting direct investor (calculated without regard to § 1000.313(d)(1)) in the affiliated foreign national in the year of the acquisition and during the years 1965 and 1966 shall be deemed to have been made by the acquiring direct investor, and (ii) the divesting direct investor's share in earnings or losses in the affiliated foreign national prior to the acquisition for purposes of determining annual earnings, total earnings, and reinvested earnings under § 1000.504 (a)(3)(ii) and (b)(4) shall be deemed attributable to the acquiring direct investor: *Provided*, That only that portion of such direct investment and share in earnings or losses reasonably allocable to the interest acquired shall be deemed to have been made by or attributed to the acquiring direct investor: *And provided further*, That revised Forms FDI-101, and revised Forms FDI-102F for the year preceding the year in which the acquisition occurs, are filed by the acquiring and divesting direct investors on or before the end of the month following the close of the calendar quarter during which the acquisition occurs. Any direct investment, or share in earnings or losses, deemed made by or attributed to an acquiring direct investor under this subparagraph shall be excluded in the computation of direct investment or earnings or losses of the divesting direct investor.

* * * * *

4. Sections 1000.501 and 1000.502 are consolidated and revised to read as follows:

§ 1000.501 Exclusion from authorization or exemption.

(a) No authorization or exemption contained in this part, or issued by or under the direction of the Secretary pursuant to this part, shall be deemed to authorize or validate any direct investment made prior to the issuance thereof, unless such authorization or other exemption specifically so provides.

(b) The Secretary reserves the right to exclude transactions or property or classes thereof from the operation of any authorization or exemption or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons. Such action shall be binding upon all persons receiving actual notice or constructive notice thereof.

5. A new § 1000.502 is added to read as follows:

§ 1000.502 Elections with respect to §§ 1000.503 and 1000.504.

(a) A direct investor shall elect for each year, commencing with the year 1969, to be governed by the provisions of

(1) Section 1000.503, or

(2) Section 1000.504 (a) and (c), or

(3) Section 1000.504(b).

(b) The election made pursuant to this paragraph shall be binding and effective as to all (and not less than all) scheduled areas and as to the year for which the election is made, and shall be made on Form FDI-102F timely filed by the direct investor pursuant to § 1000.602(b)(3) for the year for which the election is made.

6. Section 1000.503 is revised to read as follows:

§ 1000.503 Positive direct investment not exceeding $1,000,000; minimum allowable.

(a) If for any year commencing with the year 1969 a direct investor elects under § 1000.502(a)(1), positive direct investment is authorized for such year in all scheduled areas in an aggregate amount not exceeding $1,000,000.

(b) For the purposes of this section, aggregate annual losses of incorporated and unincorporated affiliated foreign national during any year shall be disregarded in calculating direct investment made by a direct investor during such year. The term "aggregate annual losses" means the algebraic sum of a direct investor's annual earnings in all scheduled areas as defined in § 1000.504(b)(4) if such sum is negative.

(c) If a direct investor elects to make positive direct investment during any year commencing with the year 1969 as authorized under this section, no positive direct investment shall be authorized in such year under § 1000.504 and any positive direct investment which would otherwise have been authorized in such year under § 1000.504 (d) or (f) shall, notwithstanding those provisions, not be authorized in such year or succeeding years.

(d) Positive direct investment made during the year 1968 which was authorized by § 1000.503 as in effect for such year shall reduce the amount of positive direct investment authorized to be made in succeeding years under § 1000.504(f). Such reduction shall first be made in the scheduled area in which such positive direct investment was made, and to the extent that the amount of positive direct investment made in such scheduled area exceeds the amount of positive direct investment authorized to be made in such scheduled area under § 1000.504(f), further reductions shall be made in the amount of positive direct investment authorized under § 1000.504(f) in Schedules C, B, and A, in that order, until such reductions shall equal in the aggregate the total amount of positive direct investment made or the total amount of positive direct investment authorized under § 1000.504(f), whichever is less.

7. Section 1000.504 is revised to read as follows:

§ 1000.504 Authorized positive direct investment in scheduled areas; scheduular allowables.

(a) *Historical allowables.* If for any year commencing with the year 1969 a direct investor elects under § 1000.502(a)(2), positive direct investment for such year is authorized as follows:

(1) In Schedule A, in an amount not exceeding 110 percent of the average of direct investment by the direct investor in Schedule A during the years 1965 and 1966;

(2) In Schedule B, in an amount not exceeding 65 percent of the average of direct investment by the direct investor in Schedule B during the years 1965 and 1966;

(3) In Schedule C, in an amount not exceeding the lesser of (i) 35 percent of the average of direct investment by the direct investor in Schedule C during the years 1965 and 1966, or (ii) an amount computed by multiplying the direct investor's share in the total earnings (calculated as provided in § 1000.306(c)) of all incorporated affiliated foreign nationals in Schedule C during such year by a fraction, the numerator of which is the portion of the direct investor's share in the total earnings of all incorporated affiliated foreign nationals in Schedule C which was reinvested during the years 1964, 1965, and 1966, and the denominator of which is the direct investor's share in the total earnings during such years of such incorporated affiliated foreign nationals.

(b) *Earnings allowable.* If for any year commencing with the year 1969 a direct investor elects under § 1000.502(a)(3), positive direct investment for such year is authorized as follows:

(1) In Schedule A, in an amount not exceeding 30 percent of the annual earnings of the direct investor in Schedule A during the immediately preceding year.

(2) In Schedule B, in an amount not exceeding 30 percent of the annual earnings of the direct investor in Schedule B during the immediately preceding year;

(3) In Schedule C, in an amount not exceeding 30 percent of the annual earnings of the direct investor in Schedule C during the immediately preceding year.

(4) The term "annual earnings" means the algebraic sum of a direct investor's share of total earnings or total losses during a year of all the direct investor's incorporated affiliated foreign nationals in a scheduled area (excluding Canadian affiliates as defined in § 1000.1101(a) from Schedule B) determined in accordance with the provisions of § 1000.306(c) and the direct investor's share of net earnings or losses during such year of all the direct investor's unincorporated affiliated foreign nationals in such scheduled area (excluding Canadian affiliates as defined in § 1000.1101(a) from Schedule B) determined in accordance with accounting principles generally accepted in the United States consistently applied: *Provided*, That annual earnings of less than zero shall for purposes of this section be treated as zero.

(c) *Adjustment to historical allowable.* If for any year commencing with the year 1969 a direct investor elects under § 1000.502(a)(2),

(1) The amount of positive direct investment authorized in Schedule C under paragraph (a)(3) of this section shall be increased by the lesser of either the amount by which 30 percent of annual earnings in Schedule C during the immediately preceding year is in excess of positive direct investment authorized in Schedule C under said paragraph (a)(3) during the current year or by the amount of positive direct investment authorized in Schedule A under paragraph (a)(1) of this section: *Provided*, That the amount of positive direct investment authorized in Schedule A under said paragraph (a)(1) shall be reduced by the amount of such increase;

(2) The amount of positive direct investment authorized in Schedule C under paragraph (a)(3) of this section shall be increased by the lesser of either the amount by which 30 percent of annual earnings in Schedule C during the immediately preceding year is in excess of positive direct investment authorized in Schedule C under paragraphs (a)(3) and (c)(1) of this section during the current year or by the amount of positive direct investment authorized in Schedule B under paragraph (a)(2) of this section: *Provided*, That the amount of positive direct investment authorized in Schedule B under said paragraph (a)(2) shall be reduced by the amount of such increase; and

(3) The amount of positive direct investment authorized in Schedule B under paragraph (a)(2) of this section shall be increased by the lesser of either the amount by which 30 percent of annual earnings in Schedule B during the immediately preceding year is in excess of positive direct investment authorized in Schedule B under said paragraph (a)(2) during the current year or by the amount of positive direct investment authorized in Schedule A under paragraph (a)(1) of this section (calculated after the reduction provided in subparagraph (1) of this paragraph): *Provided*, That the amount of positive direct investment authorized in Schedule A under paragraph (a)(1) of this section shall be reduced by the amount of such increase.

(d) *Carryforward allowables and use of schedular allowables in other scheduled areas.* (1) If, during any year commencing with the year 1969, the amount of positive direct investment authorized to a direct investor in Schedule A under paragraphs (a)(1) and (c) of this section or paragraph (b)(1) of this section exceeds the amount of direct investment (whether positive or negative) made by the direct investor during such year in Schedule A, or if no positive direct investment is so authorized to the direct investor in Schedule A during such year but the direct investment by the direct investor in Schedule A during such year is negative, the direct investor is authorized to make additional positive direct investment in Schedule A during succeeding years in an aggregate amount of not more than the amount of such excess, or the amount of such negative direct investment, as the case may be.

(2) If, during any year commencing with the year 1969, the amount of positive direct investment authorized to a direct investor in Schedule B under paragraphs (a)(2) and (c) of this section or paragraph (b)(2) of this section exceeds the amount of direct investment (whether positive or negative) made by the direct investor during such year in Schedule B, or if no positive direct investment is so authorized to the direct investor in Schedule B during such year but the direct investment by the direct investor in Schedule B during such year is negative, the direct investor is authorized to make additional positive direct investment in Schedule A during such year, and, to the extent additional positive direct investment in Schedule A is not made during such year the direct investor is authorized to make additional positive direct investment in Schedules A and B during succeeding years: *Provided*, That the aggregate amount of additional positive direct investment authorized by this subparagraph shall not be more than the amount of such excess, or the amount of such negative direct investment, as the case may be.

(3) If, during any year commencing with the year 1969, the amount of positive direct investment authorized to a direct investor in Schedule C under paragraphs (a)(3) and (c) of this section or paragraph (b)(3) of this section exceeds the amount of direct investment (whether positive or negative) made by the direct investor during such year in Schedule C, or if no positive direct investment is so authorized to the direct investor in Schedule C during such year but the direct investment by the direct investor in Schedule C during such year is negative, the direct investor is authorized to make additional positive direct investment in Schedule A or B during such year, and, to the extent additional positive direct investment in Schedules A or B is not made during such year, the direct investor is authorized to make additional positive direct investment Schedules A, B, or C during succeeding years: *Provided*, That the aggregate of additional positive direct investment authorized by this subparagraph shall not be more than the amount of such excess, or the amount of such negative direct investment, as the case may be.

(e) *Schedule C total losses; reinvestment allowable.* If the incorporated affiliated foreign nationals of a direct investor in Schedule C have total losses during any year commencing with the year 1969 (calculated as provided in § 1000.306(c)), such losses shall, for purposes of this section, be disregarded in calculating the direct investment (whether positive or negative) made by the direct investor in Schedule C for such year: *Provided*, That the direct investor shall be authorized to reinvest additional earnings of incorporated affiliated foreign nationals in Schedule C during succeeding years in an aggregate amount of not more than the direct investor's share of such total losses.

(f) *Carryforward allowables from 1968.* (1) A direct investor authorized under former § 1000.504(b)(1), as in effect on December 31, 1968, to make positive direct investment in Schedule A during 1969 is authorized to make positive direct investment in Schedule A during 1969 and succeeding years in an aggregate amount not to exceed the amount of positive direct investment so authorized to be made during 1969 under said former § 1000.504(b)(1).

(2) A direct investor authorized under former § 1000.504(b)(2), as in effect on December 31, 1968, to make positive direct investment in Schedule B during 1969 is authorized to make positive direct

investment in Schedules A or B during 1969 and succeeding years in an aggregate amount not to exceed the amount of positive direct investment so authorized to be made during 1969 under said former § 1000.504(b)(2).

(3)(i) A direct investor authorized to make positive direct investment, to make a positive net transfer of capital, or to reinvest additional earnings of incorporated affiliated foreign nationals under former § 1000.504(c) (1) and (2), as in effect on December 31, 1968, is authorized to make positive direct investment in Schedules A, B, or C during 1969 and succeeding years in an aggregate amount not to exceed the aggregate amount of positive direct investment, positive net transfer of capital, and additional reinvested earnings so authorized to be made under said former § 1000.504 (c) (1) and (2).

(ii) A direct investor authorized under former § 1000.504(c)(3), as in effect on December 31, 1968, to reinvest earnings of incorporated affiliated foreign nationals in Schedule C during 1969 shall be authorized to reinvest earnings of incorporated affiliated foreign nationals in Schedule C during 1969 or succeeding years in an aggregate amount not to exceed the amount of earnings so authorized to be reinvested during 1969 under said former § 1000.504(c)(3).

8. Section 1000.506 is revised to read as follows:

§ 1000.506 Additional authorized positive direct investment in any one or more scheduled areas; incremental earnings allowable.

(a) For the purposes of this section:

(1) The term "aggregate annual earnings" means the algebraic sum of a direct investor's annual earnings in all scheduled areas as defined in § 1000.504(b)(4).

(2) The term "base period aggregate annual earnings" means an amount equal to 50 percent of the sum of the aggregate annual earnings for the years 1966 and 1967: *Provided*, That the base period aggregate annual earnings shall in no event be less than zero.

(3) The term "incremental earnings" means, with respect to each year beginning with the year 1970, the amount, if any, by which the aggregate annual earnings for such year exceed the base period aggregate annual earnings.

(4) The term "incremental earnings allowable" means, with respect to each year beginning with the year 1970 in which there are incremental earnings, a sum equal to the amount, if any, by which 40 percent of the incremental earnings for such year exceeds the greatest of the following (computed without regard to the reduction provisions of § 1000.1003 and without regard to any election made under § 1000.502 (a)): (i) The amount of positive direct investment authorized to be made by the direct investor during such year in all scheduled areas under § 1000.503, or (ii) the amount of positive direct investment, if any, authorized to be made by the direct investor during such year in all scheduled areas under § 1000.504 (a) (1), (2), and (3), or (iii) the amount of positive direct investment, if any, authorized to be made by the direct investor during such year in all scheduled areas under § 1000.504(b) (1), (2), and (3).

(b) Positive direct investment by a direct investor during any year commencing with the year 1970 is authorized: *Provided*, That the positive direct investment made by the direct investor during such year pursuant to this paragraph in any one scheduled area shall not exceed the incremental earnings allowable for such year: *And provided further*, That the positive direct investment made by the direct investor in each scheduled area during such year pursuant to this paragraph, when added together, shall not exceed the incremental earnings allowable for such year.

(c) If, during any year commencing with the year 1970, the incremental earnings allowable authorized to a direct investor under paragraph (b) of this section exceeds the aggregate of positive direct investment made by the direct investor during such year in all scheduled areas under paragraph (b) of this section, the direct investor is authorized to make additional positive direct investment, during succeeding years, in each scheduled area: *Provided*, That the positive direct investment made by the direct investor during any year pursuant to this paragraph in any one scheduled area shall not exceed the amount of such excess: *And provided further*, That the positive direct investment made by the direct investor in each scheduled area in all years pursuant to this paragraph, when added together, shall not exceed the amount of such excess. To the extent that any positive direct investment made by a direct investor in any year is authorized by § 1000.503 or § 1000.504, it shall be deemed to have been made pursuant to said sections and not pursuant to this section.

(d) If the incorporated affiliated foreign nationals of a direct investor in Schedule C have total losses during any year commencing with 1970 (calculated as provided in § 1000.306(c)), such total losses shall, for purposes of this section, be disregarded in computing the amount of positive direct investment made by the direct investor in Schedule C during the years involved.

9. Section 1000.602 is revised to read as follows:

§ 1000.602 Reports.

(a) Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required by the Secretary, complete information relative to any transaction with respect to which records are required to be kept under this part or information otherwise reasonably related to direct investment or the purposes of Executive Order 11387 or of this part. The Secretary may require that such reports include the production of any books of account, contracts, letters, or other papers, relevant to direct investment or transactions related thereto in the custody or control of persons required to make such reports. Complete information with respect to transactions related to direct investment may be required either before or after such transactions are completed. The Secretary may, through any person or agency, investigate any such transaction or any violation of the provisions of this part, regardless of whether any report has been required or filed in connection therewith.

(b) Unless a direct investor is exempt from filing a report as provided in the instructions to said report, the following reports are required to be filed by direct investors with the Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230, in addition to such other reports as may be required under paragraph (a) of this section:

(1) *Form FDI–101, Base Period Report.* This report must be filed by March 15, 1968, or if the reporter is an acquiring or divesting direct investor as to any affiliated foreign national under § 1000.312(c)(1) after January 1, 1968, such direct investor shall file a Form FDI–101 on or before the end of the month following the close of the calendar quarter during which the acquisition occurred. If a direct investor is exempt from reporting as provided in the instructions to Form FDI–101, and if the exemption subsequently ceases to apply, such direct investor shall file a Form FDI–101 on or before the end of the month following the close of the calendar quarter during which the exemption ceases to apply.

(2) *Form FDI–102, Cumulative Quarterly Report.* Unless an exemption or extension is given, this report must be filed within 45 days after the close of each quarter of a year.

(3) *Form FDI–102F, Annual Report.* Unless an exemption or extension is given, this report must be filed for years commencing with 1968 by April 30 of the year succeeding the year for which the report is made.

(4) *Form FDI–103 series, Survey of Planned Direct Investment.* Unless an exemption or extension is given, this report must be filed on the date given in the instructions to said report and as shall be published in the FEDERAL REGISTER at the time the form is distributed or made available.

(5) *Form FDI–105, AFN Financial Structure and Related Data.* Unless an exemption or extension is given, this report must be filed on the date given in the instructions to said report and as shall be published in the FEDERAL REGISTER at the time the form is distributed or made available.

(c) Applications for extensions of time in which to file reports shall be made to the Office of Foreign Direct Investments and must be received by the Office prior to the time such reports are due. Applications shall contain a statement of reasons for inability to report on time. An extension of time will be given for good cause shown.

(d) Reports mailed to the Office are deemed filed on the date post-marked on

the envelope in which they are mailed. Reports delivered directly to the Office are deemed filed when received as evidenced by the Office's date stamp thereon.

(e) Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230, or from any Field Office of the Department.

10. Section 1000.805 is revised to read as follows:

§ 1000.805 Rules governing availability of information.

Completed Forms FDI–101, –102, –102F, –103, –104, –105, –106 or any other completed forms filed with the Office, applications and requests for specific authorizations exemptions or interpretations, petitions for reconsideration, appeals, materials submitted thereunder, and decisions thereon are considered to be matters covered by 5 U.S.C. 552(b). Other information, records, and material of the Office of Foreign Direct Investments if required by 5 U.S.C. 552 to be made available to the public shall be available in accordance with the provisions of Department Order 64 of the Secretary of Commerce (32 F.R. 9643, July 4, 1967) and in accordance with the provisions of Part 4 of this title (32 F.R. 9643, July 4, 1967).

11. Section 1000.905(b) is amended by deleting the figure "$200,000" in subparagraph (2) thereof and by substituting therefor the figure "$1,000,000" and changing "1968" to "1969". As amended, said subparagraph (2) reads as follows:

§ 1000.905 Associated groups.

* * * * *

(b) * * *

(2) Notwithstanding the provisions of § 1000.503, no positive direct investment made during any year, commencing with the year 1969, by any member of an associated group in a group affiliated foreign national of the associated group shall be authorized by § 1000.503 if the positive direct investments made during the year by all members of the associated group in all such group affiliated foreign nationals, when added together, exceed $1,000,000.

* * * * *

12. Section 1000.906(b)(3)(ii) is revised to read as follows:

§ 1000.906 Ownership of direct investors.

* * * * *

(b) * * *

(3) * * *

(ii) Notwithstanding the provisions of § 1000.503, no positive direct investment made (or deemed to have been made under subdivision (i) of this subparagraph) during any year, commencing with the year 1969, by a consenting owner in an affiliated foreign national of the principal direct investor shall be authorized by § 1000.503 if the positive direct investments made or deemed to have been made during the year by all consenting and nonconsenting owners in all affiliated foreign nationals of the principal direct investor, when added together exceed $1,000,000.

* * * * *

13. Paragraphs (b) and (c) of § 1000.1002 are revised as follows:

§ 1000.1002 Transfers of capital in connection with repayment of borrowings.

* * * * *

(b) The certificate required by subparagraphs (5) and (6) of paragraph (a) of this section shall (after June 9, 1969) be made on Form FDI–106, and shall, except as otherwise provided in paragraph (e)(3) of this section, be delivered to the Secretary within 10 days after the date of the borrowing by the direct investor or the date of the guarantee of the borrowing by the affiliated foreign national, as the case may be. It shall be executed by the direct investor or a duly authorized representative of the direct investor, shall state the amount of the borrowing, and the amount, of the required principal repayment, shall identify the lender (or the managing underwriter, if the borrowing involves a public offering), and shall certify as follows:

* * * * *

(2) If the direct investor believes, on the basis of all facts and circumstances existing when the certificate is delivered to the Secretary, that it will make transfers of capital in connection with repayment of the borrowing within the aforesaid 7-year period, but also believes, on the basis of such facts and circumstances, that no positive direct investment by the direct investor in any scheduled area during any year will result in whole or in part from such transfers, or that any positive direct investment in any scheduled area which does result from such transfers will be authorized by this part (otherwise than by this section), the certificate shall state such beliefs and the reasons therefor.

(c) In determining whether a transfer of capital in connection with the repayment of a borrowing will be made within 7 years from the date of the borrowing or the guarantee thereof, as the case may be, and whether any such transfer will result in unauthorized positive direct investment during any year:

* * * * *

(3) A direct investor must consider, if a guaranteed borrowing by an affiliated foreign national is involved, whether the borrowing affiliated foreign national is reasonably likely to have sufficient financial resources to repay the borrowing after such affiliated foreign national (and all other affiliated foreign nationals in the same scheduled area) have paid all dividends or remittance which they may be required to pay by virtue of the limitations imposed in this part on positive direct investment.

* * * * *

14. Paragraphs (b), (c), and (d) of § 1000.1003 are revised to read as follows:

§ 1000.1003 Effect of transfers of capital in repayment of borrowings.

* * * * *

(b) The amount of positive direct investment authorized to be made by a direct investor under Subparts E and M of this part shall be reduced as provided in paragraphs (c) and (d) of this section until reductions equal in the aggregate to the repayment charge shall have been made.

(c) (1) In any year, commencing with the year 1969, in which a repayment charge is incurred, the amount of positive direct investment authorized to be made by the direct investor shall be reduced as follows: Reduction shall first be made in the amount of positive direct investment authorized under Subparts E and M of this part in the scheduled area in which the positive direct investment under § 1000.1002 was made and to the extent that the repayment charge exceeds the amount of positive direct investment so authorized in such scheduled area, further reduction shall be made in the amount of positive direct investment authorized under Subpart E of this part in Schedules C, B, and A, in that order: *Provided*, That the amount of the reduction shall not exceed the repayment charge and that such reduction shall not reduce authorized positive direct investment under said subparts in any year to an amount less than zero.

(2) Reductions under subparagraph (1) of this paragraph in the amount of positive direct investment authorized in Schedule C pursuant to § 1000.504 shall be made first in the amount of authorized positive direct investment under § 1000.504(a) or (b) and then in the amount of authorized reinvested earnings under § 1000.504(e).

(3) Reductions in the amount of authorized positive direct investment under subparagraph (1) of this paragraph for a repayment charge attributable to transfers of capital primarily related to operations in foreign air transportation by direct investors described in § 1000.1302(a) shall be made first in the amount of authorized positive direct investment under Subpart M of this part and then in the amount of positive direct investment authorized under § 1000.504 (a) or (b).

(d) If the repayment charge incurred in any year exceeds the amount of positive direct investment authorized to be made by the direct investor for such year under Subparts E and M of this part. Reductions shall be made in each succeeding year in the same manner and order as set forth in paragraph (c) of this section.

15. *Effective date.* With the exception of the amendment to § 1000.312(c)(1), the amendments hereby adopted shall be effective as of the date of publication in final form in the FEDERAL REGISTER and shall apply, except as otherwise expressly provided, to all direct investment or other affected transactions occurring during 1969 and succeeding years. The amendment to § 1000.312(c)(1) shall become effective 30 days following the date

of publication in the FEDERAL REGISTER.

(Sec. 5, Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47)

RICHARD P. URFER,
Director, Office of Foreign Direct Investments.

JUNE 3, 1969.

[F.R. Doc. 69-6711; Filed, June 6, 1969; 8:46 a.m.]

PART 1000—FOREIGN DIRECT INVESTMENT REGULATIONS

Affiliated Foreign Nationals of Air Carriers Engaged in Foreign Air Transportation

Notice is hereby given that the Office of Foreign Direct Investments hereby amends Subpart M of the Foreign Direct Investment Regulations to add new §§ 1000.1302 and 1000.1303 as proposed in a notice published April 8, 1969, in the FEDERAL REGISTER (34 F.R. 6254).

The amendments to Subpart M give U.S. flag air carriers a 30 percent of earnings allowable for use in 1969 and succeeding years in their foreign air transport operations analogous to the 30 percent earnings allowable available to all direct investors under § 1000.504(b). Because of the impracticality of segregating foreign air transport earnings on a schedular basis, however, this earnings allowable is worldwide and not on a schedular basis. This allowable is not elective and is in partial substitution for both the historical and earnings allowables provided by § 1000.504. That is, so far as foreign air transport operations are concerned (but not other operations), U.S. flag carriers may not elect to have § 1000.504 (a) and (c) or § 1000.504(b) apply rather than § 1000.1302. If, however, the direct investor elects the worldwide $1,000,000 minimum allowable of § 1000.503, then § 1000.1302 is inapplicable and the minimum allowable applies to all of the direct investor's operations. A U.S. flag carrier's choices are therefore as follows: (1) § 1000.503 minimum allowable for all operations; (2) an adjusted § 1000.504(a) historical allowable for all operations plus a § 1000.1302 allowable for foreign air transport operations only; (3) an adjusted § 1000.504(b) earnings allowable for all operations plus a § 1000.1302 allowable for foreign air transport operations only.

The earnings from which the Subpart M allowable is calculated are defined largely in terms of Civil Aeronautics Board income statement accounts. For this purpose, there is deducted from territorial and international operating profit reported to the Civil Aeronautics Board all related air transport interest and amortization charges, substantially all non-air transport net operating revenues (such as profits or losses from hotels, foreign flag air transport operations, and other corporate investments) and relevant foreign taxes. U.S. flag carriers may make positive direct investment worldwide, without regard to scheduled area, in an amount up to 30 percent of such earnings in the previous year, so long as the investment is in equipment, inventory or facilities primarily related to the carrier's own operations in foreign air transportation.

Carrier investments which are not related to its foreign air transportation operations are treated separately for all years (including the base period years 1964–66). With respect to such operations, a carrier may make positive direct investment, as provided in § 1000.504, in the same manner, and subject to the same limitations, as other direct investors except that the historical and earnings allowables under § 1000.504 are adjusted by § 1000.1302(d) to exclude consideration of the carrier's foreign air transportation operations. While § 1000.1302 allowables may not be used to authorize positive direct investment in non-air transport operations, § 1000.504 allowables may, if the direct investor so chooses, be added to the § 1000.1302 allowables for use in foreign air transport operations.

The amendments also redefine a U.S. flag air carrier's aggregate annual earnings and aggregate annual losses for purposes of computing the incremental allowable provided by § 1000.506 and for purposes of computing the losses which must in effect be added to direct investment under § 1000.503. Positive direct investment authorized under those sections, however, may be used for any investment, not solely air transport related investment, and no separate incremental earnings or minimum allowable is given for foreign air transport.

Each U.S. flag air carrier engaged in foreign air transportation will be required to file on or before June 30, 1969, a revised Form FDI–101, indicating its historical investment in non-air transport ventures. Separate Forms FDI–102 and Forms FDI–102F for air transport investment and earnings and for other investment and earnings will thereafter also be required to be filed by such direct investors.

The following examples are illustrative of the operations of § 1000.1302:

Example (1). During 1968, a U.S. flag airline ("DI") has foreign air transport earnings of $25,000,000 and unrelated, non-air transport, earnings in Schedule A of $5,000,000. DI has historical allowables under § 1000.504(a) of $3,000,000 in Schedule A as a result of equity investment in and loans to hotels, and ground transportation operations associated therewith, in the base period years of 1965 and 1966. Under § 1000.1302, DI would have a worldwide air transport earnings allowable of $7,500,000 (30 percent of $25,000,000) and a non-air transport earnings allowable in Schedule A of $1,500,000 (30 percent of $5,000,000). During 1969, the carrier may make air transport related positive direct investment worldwide of $7,500,000 and, assuming that the historical allowable under § 504(a) is elected, unrelated positive direct investment in Schedule A of $3,000,000. Any unused non-air transport allowable may be used by DI worldwide for air transport related activities as well as on a schedular basis for operations not related to foreign air transport. Any unused carry forward of air transport allowable may only be used in succeeding years for foreign air transportation operations. Any unused carry forward of allowables under § 504(f) may be used either worldwide if devoted to foreign air transportation or in the appropriate scheduled areas if used for other operations.

Example (2). A U.S. flag air carrier has non-air transport allowables under § 1000.504 of zero. For 1969, the carrier elects § 1000.503 and during 1969 it transfers $1,000,000 to Schedule C as a contribution to the capital of its wholly owned hotel corporation in that scheduled area. No other relevant transactions occur. Such investment is authorized by § 1000.503. No further positive direct investment is authorized during 1969 either in air transport or non-air transport activities.

The text of the amendments is as follows:

1. Subpart M is amended to add §§ 1000.1302 and 1000.1303 to read as follows:

Subpart M—Affiliated Foreign Nationals of Air Carriers Engaged in Foreign Air Transportation

§ 1000.1302 Foreign air transport allowable.

(a) Positive direct investment by a direct investor who is an "air carrier" or "supplemental air carrier" engaged in "foreign air transportation" as those terms are defined in the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1301 (3), (21), and (32), and who elects under § 1000.502(a) (2) or (3), is authorized during any year commencing with the year 1969 in an amount not to exceed 30 percent of aggregate annual foreign air transport earnings for the immediately preceding year: *Provided*, That such positive direct investment is primarily related to the direct investor's operations in foreign air transportation.

(b) "Aggregate annual foreign air transport earnings" for any year shall mean operating profit from international and territorial route operations as properly reported by the direct investor for such year for Civil Aeronautics Board (CAB) income statement account number 7999 minus (1) annual net interest expense (including amortization of debt discount less capitalized interest) or amortization charges related to investment in international and territorial route operations as properly reported on and included in CAB Schedule P–3 or comparable nondivisional report; (2) taxes assessed by foreign countries and primarily related to the direct investor's operations in foreign air transportation; and (3) Federal subsidy as properly reported in CAB account number 4100.

(c) (1) If, during any year commencing with the year 1969, the amount of positive direct investment authorized under § 1000.504 to a direct investor governed by this section exceeds the amount of direct investment (whether positive or negative) not primarily related to the direct investor's operations in foreign air transportation made by the direct investor during such year under § 1000.504, the direct investor is authorized to make additional positive direct investment as provided in paragraph (a) of this section during such year or succeeding years: *Provided*, That the aggregate amount of additional positive direct investment authorized by this

subparagraph shall not be more than the amount of such excess, and that the amount of positive direct investment authorized to the direct investor under § 1000.504 shall be reduced by the amount of additional positive direct investment made under this subparagraph.

(2) If, during any year commencing with the year 1969, the amount of positive direct investment authorized to a direct investor under paragraph (a) of this section exceeds the amount of direct investment (whether positive or negative) made by the direct investor during such year under paragraph (a) of this section, the direct investor is authorized to make additional positive direct investment as provided in paragraph (a) of this section during succeeding years in an aggregate amount of not more than the amount of such excess.

(d) A direct investor governed by this section shall recalculate the amount of positive direct investment authorized to be made in any year commencing with the year 1969 under § 1000.504 (a) and (b) to exclude from the calculation of "direct investment", "total earnings", and "reinvested earnings" during the years 1964, 1965, and 1966 under § 1000.504(a), and from the calculation of "annual earnings" during any year under § 1000.504(b)(4), transfers of capital primarily related to the direct investor's operations in foreign air transportation, aggregate annual foreign air transport earnings and all component accounts and charges associated with such earnings, and all reserves or charges against earnings associated with such transfers.

(e) A direct investor governed by this section shall file on or before June 30, 1969, a revised Base Period Report on Form FDI-101 to exclude any direct investment primarily related to foreign air transportation, and shall thereafter file separate Cumulative Quarterly Reports and Annual Reports on Forms FDI-102 and FDI-102F as provided in § 1000.602(b) (2) and (3) with respect to direct investment governed by this section and with respect to direct investment not so governed.

§ 1000.1303 Adjustments to minimum and incremental earnings allowables.

(a) For direct investors governed by § 1000.1302, "aggregate annual earnings" under § 1000.506(a)(1) and "aggregate annual losses" under § 1000.503(b) shall mean the positive or negative sum, respectively, of "aggregate annual foreign air transport earnings" as defined in § 1000.1302(b) plus the algebraic sum of such direct investor's annual earnings (as calculated under §§ 1000.504(b)(4) and 1000.1302(d)) during a year in all scheduled areas.

(b) All reference to § 1000.504 in § 1000.506(a)(4) and (c) shall be deemed to include reference to § 1000.1302(a).

(Sec. 5, Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47)

2. *Effective date.* The amendments hereby adopted shall be effective as of the date of publication in final form in the FEDERAL REGISTER and shall apply to all direct investment occurring during 1969 and succeeding years.

RICHARD P. URFER,
Director, Office of Foreign Direct Investments.

JUNE 3, 1969.

[F.R. Doc. 69-6712; Filed, June 6, 1969; 8:46 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 134—THIRD CLASS

Mailing of Merchandise Samples

In the daily issue of Wednesday, January 8, 1969 (34 F.R. 255), the Department published an amendment to § 134.4 of Title 39, Code of Federal Regulations, which established a detached label procedure respecting mailings of merchandise samples. The cited document stated that the procedure would be mandatory July 1, 1969. It has been decided to change this date to January 1, 1970. Accordingly, the detached label procedure set out in § 134.4(d) of Title 39 CFR (34 F.R. 255) is hereby made mandatory effective January 1, 1970. The procedure continues to be optional with mailers until that date, provided all requirements are met.

(5 U.S.C. 301, 39 U.S.C. 501, 4451-4453)

DAVID A. NELSON,
General Counsel.

JUNE 5, 1969.

[F.R. Doc. 69-6781; Filed, June 6, 1969; 8:51 a.m.]

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 6283 of the FEDERAL REGISTER of April 9, 1969, there was published a notice and text of a proposed amendment to § 7.13 of Title 36, Code of Federal Regulations. The purpose of this amendment is to define one-way roads and the speed limits thereon in § 7.13 of the regulations.

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 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 of Title 36 of the Code of Federal Regulations is amended as follows:

§ 7.13 Yellowstone National Park.

* * * * *

(b) *Traffic control.* (1) * * *

(ii) Twenty-five miles per hour: Upon that portion of a park road which passes through or borders on park road repair or construction; visitor-use developments at Mammoth Hot Springs, Tower Falls, Canyon, Lake Area, Fishing Bridge, West Thumb, and Grant Village; and one-way drives.

* * * * *

(2) Travel shall be restricted to one direction when posted on the following roads:

(i) Virginia Cascades Drive.
(ii) Bunsen Peak Drive.
(iii) Mammoth Terrace Drive.
(iv) Firehole Canyon Drive.
(v) Firehole Lake Drive.
(vi) Fountain Flats Drive.
(vii) Canyon Rim Drive.
(viii) Slide Lake Drive.
(ix) Blacktail Plateau Drive.
(x) Silver Gate Turnout.

* * * * *

JACK K. ANDERSON,
Superintendent, Yellowstone National Park, Wyoming.

[F.R. Doc. 69-6705; Filed, June 6, 1969; 8:46 a.m.]

Title 42—PUBLIC HEALTH

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

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGICAL PRODUCTS

Additional Standards; Rubella Virus Vaccine, Live

On April 3, 1969, a notice of rule making was published in the FEDERAL REGISTER (34 F.R. 6047-6049) proposing to amend Part 73 of the Public Health Service Regulations by prescribing specific standards of safety, purity, and potency for Rubella Virus Vaccine, Live.

Views and arguments respecting the proposed standards were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER, and notice was given of intention to make any amendments that were adopted effective on the date of publication in the FEDERAL REGISTER.

After consideration of all comments submitted, the following amendments to Part 73 of the Public Health Service Regulations are hereby adopted to become effective on the date of publication in the FEDERAL REGISTER.

1. Part 73 is amended by adding to the table of contents in numerical order, the following:

ADDITIONAL STANDARDS: RUBELLA VIRUS VACCINE, LIVE

Sec.
73.190 The product.
73.191 Production.
73.192 Test for safety.
73.193 Potency test.
73.194 General requirements.
73.195 Clinical trials to qualify for license.
73.196 Equivalent methods.

§ 73.74 [Amended]

2. Section 73.74(a)(2) is amended by inserting "Rubella Virus Vaccine, Live" after "Measles Virus Vaccine, Live, Attenuated".

§ 73.86 [Amended]

3. Section 73.86 is amended by inserting after "Rocky Mountain Spotted Fever Vaccine—18 months (5° C., 1 year.)" the following:

Rubella Virus Vaccine, Live—1 year. § 73.84 does not apply.

4. Part 73 is amended by adding the following after § 73.166:

ADDITIONAL STANDARDS: RUBELLA VIRUS VACCINE, LIVE

§ 73.190 The product.

(a) *Proper name and definition.* The proper name of this product shall be Rubella Virus Vaccine, Live, which shall consist of a preparation of live, attenuated rubella virus.

(b) *Criteria for acceptable strains of attenuated rubella virus.* Strains of attenuated rubella virus used in the manufacture of vaccine shall be identified by (1) historical records including origin and manipulation during attenuation and (2) antigenic specificity as rubella virus as demonstrated by tissue culture neutralization tests.

(c) *Extraneous agents.* Seed virus used for vaccine manufacture shall be free of all demonstrable extraneous viable microbial agents.

(d) *Field studies with experimental vaccines.* (1) Strains used for the manufacture of Rubella Virus Vaccine, Live, shall have been shown in field studies with experimental vaccines to be safe and potent in the group of individuals inoculated, which must include at least 10,000 susceptible individuals. Susceptibility shall be shown by the absence of neutralizing or hemagglutination-inhibiting antibodies against rubella virus or by other appropriate methods.

(2) The virus strain used in the field studies shall be propagated in the same cell culture system that will be used in the manufacture of the product.

(3) The field studies shall be so conducted that at least 5,000 of the susceptible individuals must reside when inoculated in areas where health related statistics are regularly compiled in accordance with procedures such as those used by the National Center for Health Statistics. Data in such form as will identify each inoculated person shall be furnished to the Director, Division of Biologics Standards.

(4) Inoculated persons shall be shown not to be contagious for contacts through surveillance of rubella susceptible contacts of the inoculated persons.

(e) *Neurovirulence safety test of the virus seed strain in monkeys—(1) The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated rubella virus used in manufacture of rubella vaccine. For this purpose, vaccine from each of the five consecutive lots used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested in monkeys shown to be serologically negative for rubella virus antibodies by following the procedures prescribed in § 73.140(c)(1) or § 73.162(c), except that histologic examination shall be made of appropriate sections of the brain in addition to such examination of the spinal cord.

(2) *Test results.* The rubella virus seed has acceptable neurovirulence properties for use in vaccine manufacture if for each of the five lots: (i) 80 percent of the monkeys survive the observation period and (ii) there is no clinical or histopathologic evidence of central nervous system involvement attributable to the replication of the virus.

(3) *New seed lots—test for neurovirulence.* The neurovirulence properties of each new seed shall be tested as prescribed in subparagraphs (1) and (2) of this paragraph. Only seed lots which meet the neurovirulence requirement shall be used for rubella vaccine manufacture. The test need not be repeated as long as the same seed lot of virus is used.

§ 73.191 Production.

(a) *Virus cultures.* Rubella virus shall be propagated in duck embryo cell cultures or canine renal cell cultures.

(b) *Virus propagated in duck embryo tissue cell cultures.* Embryonated duck eggs used as a source of duck embryo tissue for the propagation of rubella virus shall be derived from flocks certified to be free of avian tuberculosis, the avian leucosis-sarcoma group of viruses and other agents pathogenic for ducks. Only ducts so certified and in overt good health and which are maintained in quarantine shall be used as a source of duck embryo tissue used in the propagation of rubella virus. Ducks in the quarantined flock that die shall be necropsied and examined for evidence of significant pathologic lesions. If any such signs or pathologic lesions are observed, eggs from that flock shall not be used for the manufacture of Rubella Virus Vaccine, Live. Control vessels shall be prepared, observed and tested as prescribed in § 73.141(g).

(c) *Virus propagated in canine renal tissue cell cultures.* When canine renal cell cultures are used for the propagation of rubella virus the renal tissue shall be obtained from dogs meeting the requirements specified in § 73.141(c). Control vessels shall be prepared, observed and tested as prescribed in § 73.141(g).

(d) *Reference Rubella Virus.* A Reference Rubella Virus, Live, shall be obtained from the Division of Biologics Standards as a control for correlation of virus titers.

(e) *Passage of virus strain in vaccine manufacture.* Virus in the final vaccine shall represent no more than five cell culture passages beyond the passage used as the seed strain for the manufacture of the vaccines used to perform the field studies § 73.190(d), which qualified the manufacturer's vaccine strain for license.

(f) *Cell cultures in vaccine production areas.* Only the cell cultures used in the propagation of rubella virus vaccine shall be introduced into rubella virus vaccine production areas.

(g) *Test samples.* Test samples of rubella virus harvests or pools shall be withdrawn and maintained by following the procedures prescribed in § 73.141(h).

§ 73.192 Test for safety.

(a) *Tests prior to clarification of vaccine manufactured in duck embryo cell cultures.* Prior to clarification, the following tests shall be performed on each rubella virus pool prepared in duck embryo cell cultures:

(1) *Inoculation of adult mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a)(1), and the virus pool is satisfactory only if equivalent test results are obtained.

(2) *Inoculation of suckling mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a)(2), and the virus pool is satisfactory only if equivalent test results are obtained.

(3) *Inoculation of monkey tissue cell cultures.* A rubella virus pool shall be tested for adventitious agents in the volume and following the procedures prescribed in § 73.142(a)(3), except that the virus need not be neutralized by antiserum. The rubella virus pool is satisfactory only if equivalent test results are obtained.

(4) *Inoculation of other cell cultures.* The rubella virus pool shall be tested for adventitious agents in the volume and following the procedures prescribed in § 73.142(a)(3), in rhesus or cynomolgus monkey kidney, in chick embryo, duck embryo, and in human cell cultures, except that the virus need not be neutralized by antiserum. The rubella virus pool is satisfactory only if results equivalent to those in § 73.142(a)(3) are obtained.

(5) *Inoculation of embryonated chicken eggs.* A suspension of each undiluted rubella virus pool shall be tested in the volume and following the procedures prescribed in § 73.142(a)(5) except that the virus need not be neutralized by antiserum. The virus pool is satisfactory only if there is no evidence of adventitious agents.

(6) *Inoculation of embryonated duck eggs.* A suspension of each undiluted rubella virus pool shall be tested in embryonated duck eggs, in the volume and following the procedures prescribed in § 73.142(a)(5) except that the virus need not be neutralized by antiserum. The virus pool is satisfactory only if there is no evidence of adventitious agents.

(7) *Bacteriological tests.* In addition to the tests for sterility required pursuant to § 73.73, bacteriological tests shall be performed on each rubella virus pool for the presence of M. tuberculosis, both avian and human, by appropriate culture

methods. The virus pool is satisfactory only if found negative for M. tuberculosis, both avian and human.

(8) *Test for avian leucosis.* The vaccine shall be tested for avian leucosis, in the volume and following the procedures prescribed in § 73.142(a)(8). The cultures are satisfactory for vaccine manufacture if found negative for avian leucosis.

(9) *Inoculation of cell cultures and embryonated eggs after neutralization of the virus with antiserum.* Each of the tests prescribed in subparagraphs (3), (4), (5), and (6) of this paragraph shall be carried out also with rubella virus that has been neutralized by the addition of high titer antiserum of nonhuman, nonsimian and nonavian origin except that the volume of virus suspension of each undiluted virus pool tested shall be no less than 5 ml. The rubella antiserum shall have been prepared by using a rubella virus propagated in a cell culture system other than that used for the manufacture of the vaccine under test, and the cell culture system shall be free of extraneous agents which might elicit antibodies that could inhibit growth of any known extraneous agents which might be present in the vaccine under test. These tests may be performed either before or after clarification of the virus. The virus pool is satisfactory only if the results obtained are equivalent to those required in those subparagraphs.

(b) *Tests prior to clarification of vaccine manufactured in canine renal cell cultures.* Prior to clarification each rubella virus pool prepared in canine renal cell cultures shall be tested as follows:

(1) *Inoculation of adult mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a)(1), and the virus pool is satisfactory only if equivalent test results are obtained.

(2) *Inoculation of suckling mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(b)(2), and the virus pool is satisfactory only if equivalent test results are obtained.

(3) *Inoculation of monkey tissue cell cultures.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a)(3), except that the virus need not be neutralized by antiserum. The rubella virus pool is satisfactory only if equivalent test results are obtained.

(4) *Inoculation of other cell cultures.* The tests shall be performed in the volume and following the procedures prescribed in § 73.142(a)(3), in rhesus or cynomolgus monkey kidney tissue, canine renal tissue and human tissue cell cultures, except that the virus need not be neutralized by antiserum. The rubella virus pool is satisfactory only if equivalent test results are obtained.

(5) *Inoculation of embryonated chicken eggs.* The tests shall be performed in the volume and following the procedures prescribed in § 73.142(a)(5) except that the virus need not be neutralized by antiserum. The rubella virus pool is satisfactory only if equivalent test results are obtained.

(6) *Bacteriological tests.* In addition to the tests for sterility required pursuant to § 73.73, bacteriological tests shall be performed on each rubella virus pool for the presence of M. tuberculosis, human, by appropriate culture methods. The rubella virus pool is satisfactory only if found negative for M. tuberculosis, human.

(7) *Tests for adventitious agents.* Tests shall be performed for the presence of adventitious agents as prescribed in § 73.142(b)(8), and the rubella virus pool is satisfactory only if equivalent test results are obtained.

(8) *Inoculation of cell cultures and embryonated eggs after neutralization of the virus with antiserum.* Each of the tests prescribed in subparagraphs (3), (4), and (5) of this paragraph shall be carried out also with rubella virus that has been neutralized following the procedures and in the volume prescribed in paragraph (a)(9) of this section. The virus pool is satisfactory only if the results obtained are equivalent to those required by that subparagraph.

(c) *Clarification.* The rubella virus fluids shall be clarified by following the procedures prescribed in § 73.142(c).

(d) *Test after clarification-neurovirulence safety test in monkeys for neurotropic agents.* Before final dilution for standardization for live rubella virus content each lot of rubella vaccine shall be tested for neurotropic agents following the procedures prescribed in § 73.102(e) except that appropriate sections of the brain and spinal cord shall be examined histologically. The test shall be performed before the product is placed in final containers and prior to the addition of an adjuvant. Signs suggestive of any neurotropic agent shall be recorded during the observation period of 17 to 19 days. The lot is satisfactory if the histologic examinations and other studies produce no evidence of changes in the central nervous system attributable to the presence of an extraneous neurotropic agent in the vaccine.

§ 73.193 Potency test.

The concentration of live rubella virus shall constitute the measure of potency. The titration shall be performed in a suitable cell culture system, using either the Reference Rubella Virus, Live, or a calibrated equivalent strain as a titration control. The concentration of live rubella virus contained in the vaccine of each lot under test shall be no less than the equivalent of 1,000 $TCID_{50}$ of the reference virus per human dose.

§ 73.194 General requirements.

(a) *Final container tests.* In addition to the tests required pursuant to § 73.75, an immunological and virological identity test shall be performed on the final container if it was not performed on each pool or on the bulk vaccine prior to filling.

(b) *Dose.* These standards are based on an individual human immunizing dose of no less than 1,000 $TCID_{50}$ of Rubella Virus Vaccine, Live, expressed in terms of the assigned titer of the Reference Rubella Virus, Live.

(c) *Labeling.* In addition to the items required by other applicable labeling provisions of this part, single dose container labeling for vaccine which is not protected against photochemical deterioration shall include a statement cautioning against exposure to light.

(d) *Photochemical deterioration; protection.* Rubella Virus Vaccine, Live, in multiple dose containers, shall be protected against photochemical deterioration in accordance with the procedures prescribed in § 73.144(g).

(e) *Samples; protocols; official release.* For each lot of vaccine, the following shall be submitted to the Director, Division of Biologics Standards, National Institutes of Health, Bethesda, Md. 20014:

(1) A protocol which consists of a summary of the history of the manufacture of each lot including all results of each test for which test results are requested by the Director, Division of Biologics Standards.

(2) A total of no less than 120 ml. in 10 ml. volumes, in a frozen state (−60° C.), of preclarification bulk vaccine containing no preservative or adjuvant, and no less than 100 ml. in 10 ml. volumes, in a frozen state (−60° C.), of postclarification bulk vaccine containing stabilizer but no preservative or adjuvant, taken prior to filling into final containers.

(3) A total of no less than 200 recommended doses of the vaccine in final labeled containers distributed equally between the number of fillings made from each bulk lot, except that the representation of a single filling shall be no less than 30 single dose final containers or six multiple dose final containers.

The product shall not be issued by the manufacturer until notification of official release of the lot is received from the Director, Division of Biologics Standards.

§ 73.195 Clinical trials to qualify for license.

To qualify for license, the antigenicity of Rubella Virus Vaccine, Live, shall be determined by clinical trials that follow the procedures prescribed in § 73.145 except that the immunogenic effect shall be demonstrated by establishing that a protective antibody response has occurred in at least 90 percent of each of the five groups of rubella susceptible individuals, each having received the parenteral administration of a virus vaccine dose which is not greater than that which was demonstrated to be safe in field studies when used under comparable conditions.

§ 73.196 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted as set forth in the additional standards relating to Rubella Virus Vaccine, Live, shall be permitted whenever the manufacturer presents evidence that demonstrates the modification will provide assurances of the safety, purity, and potency of the

vaccine that are equal to or greater than the assurances provided by such standards, and the Director, National Institutes of Health so finds and makes such finding a matter of official record.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216; sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Dated: May 16, 1969.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Approved: June 4, 1969.

JOHN G. VENEMAN,
Acting Secretary.

[F.R. Doc. 69-6780; Filed, June 6, 1969; 8:51 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4665]

[Riverside 1524]

CALIFORNIA

Partial Revocation of National Forest Administrative Site Withdrawal

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Departmental Order of January 18, 1907, withdrawing national forest lands as administrative sites, is hereby revoked so far as it affects the following described land:

SAN BERNARDINO NATIONAL FOREST

SAN BERNARDINO MERIDIAN

Ranger Station No. 10

T. 2 N., R. 3 W.,
Sec. 30, lot 1 and NE¼NW¼.

The areas described aggregate 80 acres in San Bernardino County.

2. At 10 a.m. on July 8, 1969, the land shall be open to such forms of disposition as may by law be made of national forest lands, subject to any existing withdrawals for power or other purposes.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 2, 1969.

[F.R. Doc. 69-6701; Filed, June 6, 1969; 8:46 a.m.]

[Public Land Order 4666]

[Sacramento 1793]

CALIFORNIA

Partial Revocation of Reclamation Withdrawal

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

1. The departmental order of November 4, 1913, withdrawing lands for the Iron Canyon project, is hereby revoked so far as it affects the following described public lands:

MOUNT DIABLO MERIDIAN

T. 29 N., R. 3 W.,
Sec. 8, lot 2;
Sec. 22, lot 5.

The areas described aggregate approximately 31 acres in Tehama County.

The land is located approximately 5 air miles from Cottonwood Creek. Topography is rolling to riverwash land along the Sacramento River.

2. At 10 a.m. on July 8, 1969, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 8, 1969, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands shall be open to location under the United States mining laws at 10 a.m. on July 8, 1969. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, Calif.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 2, 1969.

[F.R. Doc. 69-6702; Filed, June 6, 1969; 8:46 a.m.]

[Public Land Order 4667]

[Nevada 2564]

NEVADA

Withdrawal for Department of the Navy

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for use by the Department of the Navy for a Naval and Marine Corps Reserve Training Center:

MOUNT DIABLO MERIDIAN

T. 20 N., R. 19 E.,
Sec. 27, SE¼NE¼NE¼.

The area described contains 10 acres in Washoe County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MAY 29, 1969.

[F.R. Doc. 69-6703; Filed, June 6, 1969; 8:46 a.m.]

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket 69-15; General Order 14, Amdt. 4]

PART 527—SHIPPERS' REQUESTS AND COMPLAINTS

Reporting Requirements of Two Party Rate-Fixing Agreements

By FEDERAL REGISTER notice of April 17, 1969 (34 F.R. 6602), the Commission proposed to amend its General Order 14 (46 CFR Part 527) to reduce the reporting requirements regarding action taken on shippers' requests and complaints by parties to two-party rate-fixing agreements. The current quarterly reporting requirement would be changed to an annual report.

We received one objection to the proposed change. It was suggested that the change to an annual reporting requirement would subvert the intent of section 15 of the Shipping Act, 1916, which requires that carriers maintain reasonable procedures for promptly hearing and considering shippers' complaints.

Hearing Counsel point out that since the quarterly reporting requirement was adopted nearly 4 years ago, we have received a total of three reports of complaints by two-party rate-fixing combines. We agree with Hearing Counsel that since experience has shown the number of such complaints to be minimal an annual reporting requirement is sufficient. Furthermore, any relaxation of reporting requirements does not relieve carriers of their statutory duty of promptly hearing shippers' complaints. Finally, an annual reporting requirement is more desirable since it will relieve carriers of unnecessary filing tasks.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 15, 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 820, and 841(a)), Part 527 of Title 46 CFR is hereby amended by adding the following sentences at the end of § 527.4:

§ 527.4 Reports.

* * * * *

Any group with rate-fixing authority under an approved agreement which has no more than two signatory parties to the agreement shall be required to file annual reports under this section in lieu of quarterly reports. Such annual reports shall be filed by January 31 of each year covering all shippers' requests

and complaints received during the preceding calendar year or pending at the beginning of such calendar year.

Effective date. Since this amendment merely relieves restrictions currently imposed by the rules of Part 527, it shall be effective upon publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69-6752; Filed, June 6, 1969; 8:49 a.m.]

[Docket 69-14; General Order 7, Amdt. 3]

PART 528—SELF-POLICING SYSTEMS

Exclusion of Two Party Rate-Fixing Agreements

By FEDERAL REGISTER notice of April 17, 1969 (34 F.R. 6602), the Commission proposed to amend its General Order 7 (46 CFR Part 528) to relieve two-party rate-fixing agreements from the self-policing requirements of that General Order. The Commission feels that requirements of including self-policing provisions in the agreement and of reporting actions taken under such provisions have little, if any, benefit to the regulatory process insofar as two-party rate agreements are concerned.

All comments received were favorable and in support of adopting the proposed amendment.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 15, 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 820, and 841(a)), Part 528 of Title 46, CFR is hereby amended by adding a new § 528.4 reading as follows:

§ 528.4 Two party rate-fixing agreements.

Any group with rate-fixing authority under an approved agreement which has no more than two signatory parties to the agreement shall be excepted from all requirements of this part.

Effective date. Since this amendment merely relieves restrictions currently imposed by the rules of Part 528, it shall be effective upon publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69-6753; Filed, June 6, 1969; 8:49 a.m.]

[Docket 69-16; General Order 18, Amdt. 4]

PART 537—CONFERENCE AGREEMENT PROVISIONS RELATED TO CONCERTED ACTIVITIES

Exclusion of Two-Party Rate-Fixing Agreements

By FEDERAL REGISTER notice of April 17, 1969 (34 F.R. 6602), the Commission proposed to amend its General Order 18 (46 CFR Part 537) to relieve two-party rate-fixing agreements from the current requirements of containing a provision outlining the manner in which the joint business of the parties may be carried out, and of reporting to the Commission descriptions of matters discussed at conference meetings.

All comments received were favorable and in support of adopting the proposed amendment.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 15, 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 820, and 841(a)), Part 537 of Title 46 CFR is hereby amended by inserting the words "except two-party rate-fixing agreements and * * *" at the beginning of the parenthetical clauses contained in §§ 537.2 and 537.3(a).

Effective date. Since this amendment merely relieves restrictions currently imposed by the rules of Part 537, it shall be effective upon publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69-6754; Filed, June 6, 1969; 8:50 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 2240]

EXCHANGES

Exchanges Within National Park System or Miscellaneous Areas

The purpose of this amendment is to incorporate into the regulations provisions to implement the new authority to make exchanges which was given to the Secretary of the Interior by the Act of July 15, 1968 (82 Stat. 354), and by other acts passed in the 89th and 90th Congress establishing national parks, monuments, recreation areas, trails and scenic rivers. The regulations are also being amended to state more clearly that they are applicable to lands under the jurisdiction of the Department of the Interior.

Although notice of proposed rule making for rules of agency procedure or practice is not required to be published, it is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Bureau of Land Management, Washington, D.C. 20240, within 30 days of the publication of this notice in the FEDERAL REGISTER.

1. Section 2244.1 is amended to read:

§ 2244.1 Provisions applicable to all exchanges.

Except where otherwise noted in the regulations of this Subpart 2244, the regulations in this § 2244.1 are applicable to all exchanges involving the selection of lands under the jurisdiction of the Department of the Interior.

2. New paragraphs (f), (g), (h), (i), and (j) are added to § 2244.4–4 to read as follows:

§ 2244.4–4 National Park System exchanges.

* * * * *

(f) *Bighorn Canyon Recreation Area.* The Act of October 15, 1966 (16 U.S.C. 460t (Supplement III, 1965–67)) establishes the Bighorn Canyon National Recreation Area. It authorizes the Secretary of the Interior to accept title to any non-Federal property within the area and convey in exchange therefor any federally owned property under his jurisdiction in the States of Montana and Wyoming which he classifies as suitable for exchange or other disposal, notwithstanding any other provision of law. Property so exchanged shall be approximately equal in fair market value, provided that the Secretary may accept cash from, or pay cash to, the grantor in an exchange in order to equalize the values of the properties exchanged.

(g) *Act of July 15, 1968.* (1) The Act of July 15, 1968 (16 U.S.C.A. 460L–22, 1969 Supplement) authorizes the Secretary of the Interior to accept title to any non-Federal property or interest therein within a unit of the National Park System or miscellaneous area under his administration, in exchange for any federally owned property or interest therein under his jurisdiction which he determines is suitable for exchange or other disposal. The selected land shall be located in the same State as the offered land. Timber lands subject to harvest under a sustained yield program shall not be exchanged. Public hearings will be held in the area where the lands to be exchanged are located, if a written request therefor is submitted to the Secretary or his authorized officer prior to such exchange, by a State or a political subdivision thereof or by a party in interest. The value of the properties exchanged shall be approximately equal, or if they are not approximately equal, the values shall be equalized by payment of cash to the grantor or to the Secretary, as circumstances require. Payment of cash by the Secretary shall be made only from funds appropriated for the acquisition of land for the area.

(2) The term "National Park System" means all federally owned or controlled lands which are administered under the direction of the Secretary of the Interior in accordance with 16 U.S.C. sections 1 and 2–4, and which are grouped into the following descriptive categories: (i) National parks, (ii) national monuments, (iii) national historical parks, (iv) national memorials, (v) national parkways, and (vi) national capital parks.

(3) The term "miscellaneous areas" includes lands under the administrative jurisdiction of another Federal agency, or lands in private ownership, and over which the National Park Service, under the direction of the Secretary of the Interior, pursuant to cooperative agreement, exercises supervision for recreational, historical, or other related purposes, and also any lands under the care and custody of the National Park Service other than those described above.

(h) *North Cascades National Park, Washington.* The Act of October 2, 1968 (82 Stat. 926) establishes the North Cascades National Park, the Ross Lake National Recreation Area, and the Lake Chelan National Recreation Area. The act authorizes the Secretary of the Interior to accept title to any non-Federal property within the boundaries of the park and the recreation areas and in exchange therefor to convey to the grantor of such property any federally owned property under his jurisdiction in the State of Washington which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or, if they are not, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(i) *Redwood National Park, Calif.* The Act of October 2, 1968 (82 Stat. 931) establishes the Redwood National Park. The Secretary of the Interior is authorized to accept title to any non-Federal property within the boundaries of the park, and outside of such boundaries within prescribed limits in exchange for any federally owned property under the jurisdiction of the Bureau of Land Management in California, except property needed for public use and management, which he classifies as suitable for exchange or other disposal. Such federally owned property shall also be available for use by the Secretary in payment of just compensation for real property taken pursuant to the act. The values of the properties exchanged either shall be approximately equal or, if they are not, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(j) *Biscayne National Monument, Fla.* The Act of October 18, 1968 (Public Law 90–606) authorizes the Secretary of the Interior to establish the Biscayne National Monument, and to accept title to any non-Federal property within the boundaries of the national monument and outside such boundaries within prescribed areas, in exchange for any federally owned property under his jurisdiction in the State of Florida which he classifies as suitable for exchange or other disposal. The values of the properties exchanged either shall be approximately equal, or, if they are not, shall be equalized by the payment of cash to the grantor or to the Secretary as circumstances require.

3. A new section is added to Subpart 2244 to read as follows:

§ 2244.4–7 National wild and scenic rivers system; national trails system.

(a) *National wild and scenic rivers system.* The Act of October 2, 1968 (82 Stat. 906) institutes a national wild and scenic rivers system, designates the initial components of that system and provides for additional components to be added to the system. The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands within any component of the system administered by him to an average of not more than 100 acres per mile on both sides of the river. The appropriate Secretary is authorized to accept title to non-Federal property within the authorized boundaries of any federally administered component of the system in

exchange for any federally owned property under his jurisdiction within the State in which the component lies and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or, if they are not, shall be equalized by the payment of cash to the grantor or the Secretary as the circumstances require.

(b) *National trails system.* The Act of October 2, 1968 (82 Stat. 919), provides for the establishment and designation of trails by the Secretary of the Interior or the Secretary of Agriculture, each on lands administered by him.

(1) The Act authorizes the Secretary of the Interior to accept title to any non-Federal property within the trail right-of-way in exchange for any federally owned property under his jurisdiction which is located in the State and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not, shall be equalized by the payment of cash to the grantor or the Secretary as the circumstances require.

(2) The Act authorizes the Secretary of Agriculture to use authorities and procedures available to him in connection with exchanges of national forest lands.

(3) When an application involves the selection of public domain land outside of national forests and under the administrative jurisdiction of the Bureau of Land Management, the proponents shall comply with the regulations in § 2244.1.

§ 2244.3–2 [Corrected]

4. In § 2244.3–2 the section referred to in the last sentence is corrected to read "§ 2244.1".

WALTER J. HICKEL,
Secretary of the Interior.

JUNE 2, 1969.

[F.R. Doc. 69–6704; Filed, June 6, 1969; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Approval of Expenses and Fixing of Rates of Assessment for 1969–70 Fiscal Period and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Control Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the provisions thereof:

(a) That expenses that are reasonable and likely to be incurred during the fiscal period from March 1, 1969, through February 28, 1970, will amount to $253,989.

(b) That the rates of assessment for such fiscal period payable by each handler in accordance with § 917.37 be fixed at:

(1) One and one-tenth cent ($0.011) per standard western pear box of pears, or its equivalent in other containers or in bulk;

(2) Four and two-tenths cents ($0.042) per standard four-basket crate of plums, or its equivalent in other containers or in bulk; and

(3) One cent ($0.01) per California peach box of peaches, or its equivalent in other containers or in bulk.

(c) That unexpended assessment funds in excess of expenses incurred during the fiscal period ending February 28, 1969, be carried over in accordance with § 917.38 of said marketing agreement and order.

Terms used in the amended marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and this part.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the 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: June 4, 1969.

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

[F.R. Doc. 69–6733; Filed, June 6, 1969; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

SMALL COSMETIC PACKAGES

Exemption From Certain Requirements

Notice is given that the Toilet Goods Association, 1625 Eye Street NW., Washington, D.C. 20006, has submitted a petition proposing that the regulations for the enforcement of the Fair Packaging and Labeling Act and The Federal Food, Drug, and Cosmetic Act (21 CFR Part 1) be amended to exempt cosmetics of the makeup type (for example, lip, eye, rouge, powder, and cream products) and fragrance products when in packages containing less than ¼ ounce avoirdupois or ⅛ fluid ounce from the requirement of both acts that the label bear a quantity of contents declaration.

Grounds given in support of the proposal are:

1. Many containers such as those for lipstick, mascara, eye liners, and eye brow pencils are too small to accommodate a label of sufficient size for all mandatory information; and

2. Such products are not purchased by weight.

The Commissioner of Food and Drugs concludes that since the subject cosmetics were previously exempt under now obsolete § 1.202(m) from a quantity of contents declaration requirement of the Federal Food, Drug, and Cosmetic Act and these products in small packages are not purchased by weight, it is reasonable to exempt them again from the net contents requirement of that act and also from the same requirements of the Fair Packaging and Labeling Act.

The petitioner also proposed that the subject cosmetics be exempt from the required statement of identity and name and address of the manufacturer, packer, or distributor; however, these are not included in this proposal since reasonable grounds therefor were not given.

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 (secs. 602(b)(2), 701, 52 Stat. 1054–55, as amended; 21 U.S.C. 362(b)(2), 371), and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that § 1.1c be amended by adding thereto a new paragraph, as follows:

§ 1.1c Exemptions from required label statements.

* * * * *

(c) *Cosmetics.* (1) A cosmetic of the makeup or fragrance type shall be exempt from compliance with the requirements of section 602(b)(2) of the Federal Food, Drug, and Cosmetic Act and section 4(a)(2) of the Fair Packaging and Labeling Act if the quantity of contents of the package is less than ¼ ounce avoirdupois or less than ⅛ fluid ounce.

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: May 22, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69–6691; Filed, June 6, 1969; 8:45 a.m.]

[21 CFR Part 19]

GRATED CHEESE

Identity Standard

Notice is given that a petition has been filed by the National Cheese Institute, Inc., 110 North Franklin Street, Chicago, Ill. 60606, proposing the establishment of a definition and standard of identity for grated cheese.

Grounds given in the petition are that: (1) Uniform labeling requirements will enable consumers to make a more intelligent choice from among the grated cheese products available; (2) in addition to the low moisture, free-flowing grated cheeses, large particle-size products are now being marketed; (3) provision for anticaking agents would make possible reduction or elimination of the drying step for such products so that a grated cheese having the characteristics of freshly grated cheese could be packaged; and (4) provision for addition of spices and flavorings to grated cheese would make the product more desirable for certain uses, such as the manufacture of pizza.

Accordingly, it is proposed that a new section be added to Part 19 as follows:

§ 19._____ Grated cheese; identity; label statements of optional ingredients.

(a) (1) Grated cheese is the food prepared by grinding, grating, shredding, or otherwise comminuting cheese of one variety or a mixture of two or more varieties. The cheese varieties that may be used are those for which definitions and standards of identity have been promulgated pursuant to section 401 of the act, except cream cheese, neufchatel cheese, cottage cheese, creamed cottage cheese, cook cheese, and skim milk cheese for manufacturing.

(2) Any cheese ingredient used is made from pasteurized milk or is held at a temperature of not less than 35° F. for not less than 60 days.

(3) Each cheese ingredient used must be present at a level of not less than 1 percent by weight of the finished food.

(4) In the manufacture of the finished food, moisture may be removed from the cheese ingredients but no moisture is added.

(5) (i) The fat content of the solids of grated cheese made from a single variety of cheese is not more than 1 percent below the minimum prescribed by the definition and standard of identity for the variety of cheese used.

(ii) The fat content of the solids of grated cheese made from two or more varieties of cheese is not more than 1 percent below the arithmetical average of the minimum fat content prescribed by the definitions and standards of identity for the varieties of cheese used, but in no case is the fat content less than 31 percent.

(6) Moisture and fat in grated cheese are determined by the methods prescribed in § 19.500(c).

(b) The optional ingredients referred to in paragraph (a) of this section are:

(1) A mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these in an amount not to exceed 0.3 percent by weight of the finished food, calculated as sorbic acid.

(2) An anticaking agent consisting of silicon dioxide (complying with the provisions of § 121.1058 of this chapter), calcium silicate (complying with the provisions of § 121.1135 of this chapter), sodium silicoaluminate, or any combination of two or more of these in an amount not to exceed 2 percent by weight of the finished food.

(3) Spices or safe and suitable flavoring substances other than any which singly or in combination with other ingredients simulate the flavor of cheese of any age or variety.

(c) (1) The name of the food, if it is made with only one variety of cheese is "grated _____ cheese," the blank being filled in with the name of the variety used.

(2) The name of the food, if the only cheese ingredients used are parmesan and romano cheese, each being present at a level of not less than 25 percent by weight of the finished food, is "grated _____ and _____ cheese," the blanks being filled in with the names "parmesan" and "romano" in order of predominance by weight. The variety name "reggiano cheese" may be used for parmesan cheese.

(3) The name of the food, if it is made with a mixture of cheese varieties (not including parmesan or romano cheese) with each of the varieties used being present at a level of not less than 25 percent of the weight of the finished food, is "grated _____ cheese," the blank being filled in with the names of the two or more varieties in order of predominance by weight.

(4) The name of the food, if it is made as specified by subdivisions (i) and (ii) of this subparagraph, is "grated _____ cheese with other grated cheeses," the blank being filled in as specified by subdivision (iii).

(i) One or more varieties of cheese are present which, when taken together, make up not more than 10 percent of the weight of the finished food.

(ii) The remaining variety or varieties (which do not include parmesan or romano cheese) are each present at a level of not less than 25 percent by weight of the finished food.

(iii) The blank in the name of the food is filled in with the name or names of those cheese varieties present at levels of not less than 25 percent by weight of the finished food in order of predominance, in letters not more than twice as high as the letters in the phrase, "with other grated cheeses."

(5) The name of the food, if it is made with a mixture of cheese varieties other than those specified by subparagraphs (2), (3), and (4) of this paragraph, is "grated cheese."

(6) The cheese variety names permitted for use in the name of the food by subparagraphs (1), (2), (3), and (4) of this paragraph are those specified by applicable standard of identity sections of this part, except that the variety name "American cheese" may be used for cheddar, washed curd, colby, or granular cheese. Any mixture of two or more of these varieties may, for the purposes of this section, be considered as a single variety with the name "American cheese."

(7) If the particles of cheese are in the form of cylinders, shreds, or strings, the word "shredded," or if they are in the form of chips, the word "chipped," may be used in lieu of the word "grated" in the specified name of the product.

(d) (1) If grated cheese contains an optional mold-inhibiting ingredient as specified in paragraph (b) (1) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative," the blank being filled in with the common name or names of the mold-inhibiting ingredients used.

(2) If it contains an optional anticaking agent as specified in paragraph (b) (2) of this section, the label shall bear the statement "_____ added to prevent caking," the blank being filled in with the common name or names of the anticaking agents used.

(3) If it contains a spice or flavoring substance as specified in paragraph (b) (3) of this section, the label shall bear the statement "flavoring added," "with added flavoring," or "flavored with _____," the blank being filled in with the common or usual name of the flavoring used. If the flavoring used is artificial, the word "artificial" shall precede the word "flavoring" or the word "artificially" shall precede the statement "flavored with _____."

(4) If the name of one or more varieties of cheese used in grated cheese does not appear as a part of the name of the food, the names of all cheese varieties used shall be listed in order of predominance by weight.

(5) Wherever the name of the food appears on the label so conspicuously as to be seen under customary conditions of purchase, the statements specified in this paragraph showing the optional ingredients used shall immediately and conspicuously precede or follow such name without interevening written, printed, or graphic matter.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), all interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days following the date of publication of this notice in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C.

20201, and may be accompanied by a memorandum or brief in support thereof.

Dated: May 29, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-6692; Filed, June 6, 1969; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 61]

[Docket No. 9631; Notice 69-24]

TYPE RATING FOR PILOTS OF SINGLE PILOT STATION AIRPLANES

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 61 of the Federal Aviation Regulations to provide for the issuance of a type rating not limited to VFR to pilots of certain airplanes that have only a single pilot station.

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 regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before September 5, 1969, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the 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.

Under § 61.17(j), as amended by Amendment 61-5 effective October 22, 1963, an applicant for an original or additional type rating must demonstrate instrument proficiency during the flight test for that rating. If he does not meet this requirement, he may obtain a type rating limited to VFR only. Section 91.21 (b) (3) of the Federal Aviation Regulations prohibits simulated instrument flight in a civil aircraft (except lighter-than-air) not equipped with functioning dual controls. Accordingly, instrument flight tests cannot be administered in an aircraft with a single pilot station. In view of § 91.21(b) (3), only a type rating limited to VFR only may be obtained by the pilot of an airplane with a single pilot station.

Section 61.17(j) (3) allows pilots with instrument ratings to operate aircraft under IFR for which they hold type ratings when both ratings were issued before October 22, 1963. However, the number of pilots who qualify under this provision is diminishing, according to a petition for rule making filed by the California Division of Forestry. The petitioner stated that it uses predominantly single pilot station large airplanes in its firefighting operations, and that a problem arises when a pilot is unable to make an instrument departure because his type rating is restricted to VFR only. This problem, of course, exists as to any other aircraft operator similarly situated.

To ease this situation, it is proposed to provide to an applicant for a type rating for a single pilot station airplane a method of obtaining a rating not limited to VFR only. Since a person acting as pilot in command is required, under § 61.16, to hold a type rating for an airplane only if it is a large one or is small turbojet powered, the proposed amendments would apply only in those cases.

Under the regulations, an applicant for a type rating presently must (1) hold or concurrently obtain an instrument rating; (2) meet the requirements of § 61.17(h) in the type of aircraft for which the type rating is sought (takeoffs and landings, and flight test); and (3) demonstrate proficiency during the flight test for the rating sought solely by reference to instruments under the requirements of § 61.37(c) (2) and (3) (iii), (iv), and (v). An applicant who does not meet these requirements may obtain a type rating limited to VFR only.

The proposed amendments would, in a new paragraph (k) in § 61.17, provide a method of obtaining a type rating without a VFR only limitation, to an applicant who cannot demonstrate instrument proficiency during the flight test for a rating for a particular airplane because there is only a single pilot station. Under these proposals, the applicant would be required to hold an instrument rating applicable to airplanes (although not in the particular airplane involved). Also, the applicant would be required to meet the requirements of § 61.17(h), since this test is given under visual flight rules, and can be accomplished in a single pilot station airplane.

The principal change from the present regulations would be that the applicant could substitute a prior showing of proficiency under § 61.17(j) (1) (iii). If the applicant desires the type rating for a multiengine airplane, he may have previously shown proficiency solely by reference to instruments under § 61.17(j) in an airplane for which he holds a type rating. However, for a single-engine airplane the applicant could instead show this proficiency in any airplane, or meet the recent instrument flight experience requirements of § 61.47(d) pursuant to § 61.17(k).

In order to distinguish the new method of obtaining a type rating from those already provided for, the catchline of present paragraph (j) of § 61.17 would be changed from "Type" to read "Type—except single pilot station airplane not limited to VFR only," and the new paragraph (k) would have the catchline "Type—single pilot station airplane not limited to VFR only."

In consideration of the foregoing, it is proposed to amend § 61.17 of the Federal Aviation Regulations by amending the catchline of paragraph (j), by redesignating paragraph (k) as paragraph (l), and by inserting a new paragraph (k) to read as follows:

§ 61.17 Type ratings and additional aircraft ratings (other than airline transport and lighter-than-air).

* * * * *

(j) *Type: except single pilot station airplane not limited to VFR only.* * * *

* * * * *

(k) *Type: single pilot station airplane not limited to VFR only.* An applicant for an original or additional type rating not limited to "VFR Only" for an airplane with a single pilot station must—

(1) Hold an instrument rating applicable to airplanes;

(2) Meet the requirements of paragraph (h) of this section in the type of airplane for which the type rating is sought; and

(3) Hold a type rating for a multiengine airplane, and have shown proficiency solely by reference to instruments in a multiengine airplane for which a type rating is required under the requirements of § 61.37 (c) (2) and (3) (iii), (iv), and (v). However, in the case of a single-engine airplane, he need not hold a type rating for a multiengine airplane, and he may either show this proficiency in any airplane or meet the recent instrument flight experience requirements of § 61.47(d) when taking the flight test under subparagraph (2) of this paragraph.

* * * * *

These amendments are proposed under the authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1422), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 2, 1969.

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

[F.R. Doc. 69-6709; Filed, June 6, 1969; 8:47 a.m.]

Federal Highway Administration

[49 CFR Part 391]

[Docket No. MC-7; Notice 69-9]

QUALIFICATIONS OF DRIVERS

Notice of Proposed Rule Making

The Federal Highway Administrator is considering a complete revision of Part 391 of the Motor Carrier Safety Regulations, relating to qualifications of drivers of commercial motor vehicles engaged in interstate or foreign commerce.

Accident experience in recent years has demonstrated that reduction of the effects of organic and physical disorders, emotional impairments, and other limitations of the good health of drivers are increasingly important factors in accident prevention. Technological advances in equipment and highway engineering, together with increased knowledge in the areas of highway safety and the various skills that today's commercial motor vehicle drivers must possess, make it necessary that criteria for determining whether individuals are qualified to drive commercial motor vehicles be upgraded. The mobility of the modern labor force requires access to more information by which a potential driver's ability, training, mental attitude, and experience in the operation of commercial motor vehicles can be determined. Medical advances, improved diagnostic techniques, and modern man's increased exposure to physical hazards call for revision of the regulations' physical qualifications for driving commercial motor vehicles. These factors have impelled the Administrator to consider revising Part 391.

The proposed changes to Part 391 fall into five broad, general areas:

The first area relates to the record and history of professional drivers. The driver qualifications under consideration would require every prospective driver to submit information concerning his driving record, his prior employers, his accident experience, and the status of his driver's license to the motor carrier for which he seeks to drive. He must also furnish information concerning his experience in driving motor vehicles. The carrier would be required to test the skill of prospective drivers by giving an adequate road test under controlled conditions, and a written examination to test the applicant's knowledge of the applicable motor carrier safety regulations.

The second general area relates to the minimum physical qualifications for drivers. The proposed revision would substantially tighten the existing regulation by including guidelines for the evaluation of persons in high-risk medical categories and would provide for giving the examining physician full information about the responsibilities of and the exacting demands made on present-day commercial drivers.

The third general area relates to the in-service record of each driver and continued surveillance of his performance while he is on the job. In order to assure continued attention to these factors, the proposal would require an annual review of each driver's record, investigation of the accidents in which he is involved, if any, and more frequent physical reexaminations under the same criteria as apply to the preemployment examination. In addition, the proposal provides a means for resolution of disagreements between medical examiners in special cases.

The fourth area relates to a difficult problem facing both the Administration and the motor carrier industry. That problem is when, and under what circumstances, permitting a driver to continue to drive involves too great a risk to the interests of public safety. Therefore, the proposed revision would establish rules requiring removal from service of any driver who is convicted of serious offenses involving a motor vehicle or alcohol or drugs, or whose license to operate a motor vehicle has been suspended or revoked. The rules would also require motor carriers to consider, on an annual basis, whether the driving record of each driver in their employ indicates that the driver has exhibited a disregard for public safety. These rules are intended not only to promote safety in the public's interest, but also to protect the lives of drivers who are subject to them.

The fifth area relates to revisions of an editorial nature. A large number of changes have been proposed for the purpose of increasing the clarity of Part 391. In addition, the proposal would transfer two provisions which relate to the driving of motor vehicles from Part 391 to Part 392.

During the past year, particularly while revision of Part 391 was under consideration, the Administrator received a number of suggestions that the minimum age for drivers (now set at 21) be lowered. The Administrator realizes that the present age limit applies only to drivers of commercial motor vehicles engaged in interstate or foreign commerce. He recognizes the complex mechanical characteristics and the demanding operational requirements of modern commercial vehicles. Most of such vehicles in intercity service are articulated trucks which have sophisticated air, electrical, and mechanical systems, such as complex transmissions. Operating these vehicles safely requires both experience and an unusual degree of judgment. These vehicles frequently operate under all conditions including wet and otherwise slippery pavements, adding to the need for experience and judgment on the part of those who drive them to avoid serious and costly accidents. However, in order to give the fullest possible consideration to the views of those who favor reducing the existing minimum age, the Administrator particularly invites interested persons to comment on this issue.

Interested persons are invited to submit written data, views, or arguments, pertaining to the proposed rule. Comments must identify the docket (No. MC–7) and must be submitted in three copies to the Federal Highway Administration, Sixth and D Streets SW., Washington, D.C. 20591, Attention: Bureau of Motor Carrier Safety, Room 302A. All comments received before the close of business 90 days after this notice is published in the FEDERAL REGISTER will be considered by the Administrator. All comments will be available for examination in the docket at the above address before and after the closing date for comments.

In consideration of the foregoing, the Administrator proposes to revise Part 391 of Title 49, CFR to read as set forth below and to amend Part 392 of Title 49, CFR as set forth below.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegation of authority by the Secretary of Transportation in 49 CFR 1.4(c).

Issued: June 2, 1969.

F. C. TURNER,
Federal Highway Administrator.

I. Part 391 of Title 49, CFR is revised to read as follows:

PART 391—QUALIFICATIONS OF DRIVERS

Subpart A—General

Subpart B—Qualification and Disqualification of Drivers

Subpart C—Background and Character

Subpart D—Examination and Tests

Subpart E—Physical Qualifications and Examinations

Subpart F—Files and Records

Subpart G—Exemptions

AUTHORITY: The provisions of this Part 391 issued under sec. 204, Interstate Commerce Act, as amended (49 U.S.C. 304); sec. 6, Department of Transportation Act (49 U.S.C. 1655); delegation of authority by the Secretary of Transportation in 49 CFR 1.4(c).

Subpart A—General

§ 391.1 Scope of rules in this part; additional qualifications.

(a) The rules in this part establish minimum qualifications for persons who drive motor vehicles as, for, or on behalf of motor carriers. The rules in this part also establish minimum duties of motor carriers with respect to the qualifications of their drivers.

(b) The rules in this part, and in other parts of this subchapter, do not prevent a motor carrier from imposing

more stringent or additional qualifications, requirements, examinations, or certificates than the qualifications, requirements, examinations, or certificates that are imposed by those rules.

§ 391.3 Definitions.

As used in this part—

(a) The term "motor carrier" includes a motor carrier and the agents, officers, representatives, and employees of a motor carrier who are responsible for or concerned with the driving of a motor vehicle or the hiring, supervision, training, assignment, or dispatching of drivers.

(b) The term "Director" means the Director of the Bureau of Motor Carrier Safety.

§ 391.5 Familiarity with rules.

Each motor carrier shall know, and be familiar with, the rules in this part.

§ 391.7 Aiding or abetting violations.

No person shall aid, abet, encourage, or require a motor carrier or a driver to violate any provision of this part.

Subpart B—Qualification and Disqualification of Drivers

§ 391.11 General qualifications for all drivers.

(a) A person shall not drive a motor vehicle unless he is qualified to drive a motor vehicle. A motor carrier shall not require or permit a person to drive a motor vehicle unless that person is qualified to drive a motor vehicle.

(b) A person is qualified to drive a motor vehicle if he—

(1) Is at least 21 years old;

(2) Can read, write, and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to understand oral and written directions in the English language, to respond to official inquiries, and to make entries in the English language on reports and records;

(3) Can, by reason of experience, training, or both, safely drive the type of motor vehicle he drives;

(4) Can, by reason of experience, training, or both, insure that the cargo he transports (including baggage in a passenger-carrying motor vehicle) has been properly located and distributed in or on the motor vehicle he drives;

(5) Is familiar with blocking, bracing, chains, cables, boomers, dogs, and other methods of securing cargo in or on the motor vehicle he drives;

(6) Is physically qualified to drive a motor vehicle in accordance with § 391.41;

(7) Has in his possession a medical examiner's certificate issued pursuant to § 391.43;

(8) Knows the current rules and regulations of the Federal Highway Administration pertaining to safe operation of motor vehicles and the statutory provisions pertaining to safe operation of motor vehicles which are administered by the Federal Highway Administration (including the Transportation of Explosives and Other Dangerous Articles Act, if he is, or may be, assigned to handle or transport explosives or other dangerous articles as defined in that Act);

(9) Has prepared and furnished the motor carrier that employs him with the list of violations or the certificate required by § 391.27; and

(10) Is not disqualified to drive a motor vehicle pursuant to § 391.15.

§ 391.13 Special qualifications for drivers hired after December 31, 1969.

(a) A person who has not been continuously employed by a motor carrier as a driver for a period which began before January 1, 1970, shall not drive a motor vehicle unless he is specially qualified to drive a motor vehicle. After December 31, 1969, a motor carrier shall not require or permit such a person to drive a motor vehicle unless that person is specially qualified to drive a motor vehicle.

(b) A person is specially qualified to drive a motor vehicle if he—

(1) Is qualified to drive a motor vehicle pursuant to § 391.11;

(2) Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with § 391.31, or has presented an operator's license or certificate of driver's road test which the motor carrier that employs him has accepted as equivalent to a road test in accordance with § 391.33;

(3) Has successfully completed a written examination and has been issued a certificate of written examination in accordance with § 391.35, or has presented a certificate of written examination which the motor carrier that employs him has accepted as equivalent to a written examination in accordance with § 391.37; and

(4) Has completed and furnished the motor carrier that employs him with an application for employment in accordance with § 391.21.

§ 391.15 Disqualification of drivers.

(a) A driver who is disqualified shall not drive a motor vehicle. After December 31, 1969, a motor carrier shall not require or permit a driver to drive a motor vehicle if that driver is disqualified.

(b) After December 31, 1969, a driver is disqualified if—

(1) He has, within the preceding 3 years, been convicted of or forfeited bond or collateral upon any of the following charges;

(i) A felony, the commission of which involved the use of a motor vehicle;

(ii) A crime involving the manufacturing, knowing transportation, knowing possession, sale, or habitual use of amphetamines, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug;

(iii) Operating a motor vehicle under the influence of alcohol, amphetamine, a narcotic drug, a formulation of an amphetamine or a derivative of a narcotic drug;

(iv) Leaving the scene of an accident which resulted in personal injury or death; or

(v) Three or more moving traffic violations.

(2) Any license, permit, or privilege to operate a motor vehicle which he has held has been suspended, revoked, withdrawn, or denied and has not been reinstated or reissued by the authority that suspended, revoked, withdrew, or denied it; or

(3) He fails to comply with the Motor Carrier Safety Regulations or Hazardous Materials Regulations of the Federal Highway Administration.

Subpart C—Background and Character

§ 391.21 Application for employment.

(a) No person, other than a person who has been continuously employed by a motor carrier as a driver for a period which began before January 1, 1970, may drive a motor vehicle unless he has completed and furnished the motor carrier with an application for employment that meets the requirements of paragraph (b) of this section.

(b) The application for employment shall be made on a form furnished by the motor carrier. Each application form must be completed by the applicant, must be signed by him, and must contain the following information:

(1) The name and address of the motor carrier;

(2) The applicant's name, address, date of birth, and social security number;

(3) The addresses at which the applicant has resided during the 3 years preceding the date on which the application is submitted;

(4) The date on which the application is submitted;

(5) The issued State, number, and expiration date of each unexpired motor vehicle driver's, chauffeur's, or operator's license or permit that has been issued to the applicant;

(6) The issuing State of each expired motor vehicle driver's, chauffeur's, or operator's license or permit that has been issued to the applicant during the 3 years preceding the date the application is submitted;

(7) The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment (such as straight trucks, tractors, and semitrailers, or tractors, and full trailers) which he has operated;

(8) A list, in reverse chronological order, of the date and nature of any motor vehicle accidents specifying fatalities or personal injuries, in which the applicant was involved during the 3 years preceding the date the application is submitted;

(9) A list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the 3 years preceding the date the application is submitted;

(10) A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to

the applicant, or a statement that no such denial, revocation or suspension has occurred;

(11) A statement certifying that the applicant holds a valid license which entitles him to operate a motor vehicle;

(12) A list, in reverse chronological order, of the names and addresses of the applicant's employers during the 3 years preceding the date the application is submitted, together with the dates he was employed by, and his reason for leaving the employ of, each employer; and

(13) The following certification and signature line, which must appear at the end of the application form and must be signed by the applicant:

This certifies that this application was completed by me and that all entries on it and information in it are true and complete to the best of my knowledge.

(Date)	(Applicant's signature)

(c) A motor carrier may require an applicant to provide information in addition to the information required by paragraph (b) of this section on the application form.

(d) Before an application form is submitted, the motor carrier shall inform the applicant that the information he provides in accordance with subparagraph (12) of paragraph (b) of this section may be used, and the applicant's prior employers may be contacted, for the purpose of investigating the applicant's background as required by § 391.23.

§ 391.23 Investigations and inquiries.

(a) Each motor carrier shall make the following investigations and inquiries with respect to each driver it employs, other than a driver who has been continuously employed as a driver by the motor carrier for a period which began before January 1, 1970, at the time it employs him:

(1) An inquiry into the driver's driving record during the preceding 3 years, including an inquiry to the appropriate agency of every State in which the driver held a motor vehicle operator's license or permit during those 3 years; and

(2) An investigation of the driver's employment record during the preceding 3 years.

(b) The inquiry to State agencies required by subparagraph (1) of paragraph (a) of this section shall be made in the form and manner those agencies prescribe. A copy of the response by each State agency, showing the driver's driving record or certifying that no driving record exists for that driver, shall be retained in the carrier's files as part of the driver's personnel file.

(c) The investigation of the driver's employment record required by subparagraph (2) of paragraph (a) of this section must be made within 30 days of the date the driver is employed. The investigation may consist of personal interviews, telephone interviews, letters, or any other methods of obtaining information that the motor carrier deems appropriate. Each motor carrier must make a written record with respect to each past employer who was contacted. The record must include the past employer's name and address, the date he was contacted, the method by which he was contacted, and his comments with respect to the driver. The record shall be retained in the motor carrier's files as part of the driver's personnel file.

(d) The motor carrier's findings resulting from its investigation of every recordable accident, as defined in § 394.2 (a) of this subchapter, in which the driver was involved shall be retained in the motor carrier's files as part of the driver's personnel file.

§ 391.25 Annual review of driving record.

At least once in each year, each motor carrier must review the driving record of each driver it employs to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive a motor vehicle pursuant to § 391.15. In reviewing a driving record, the motor carrier must consider any evidence that the driver has violated applicable provisions of the Motor Carrier Safety Regulations. The motor carrier must also consider any evidence that the driver has violated laws governing the operation of motor vehicles, and must give great weight to violations, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public.

§ 391.27 Record of violations.

(a) After December 31, 1969, each motor carrier shall require each driver it employs annually to prepare and furnish it with a list of all violations of motor vehicles laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he forfeited bond or collateral during the preceding year.

(b) Each driver shall prepare and furnish the list required in accordance with paragraph (a) of this section. If the driver has not been convicted of or forfeited bond or collateral on account of any violations which must be listed, he shall so certify.

(c) The form of the driver's list or certificate shall be prescribed by the motor carrier. The following form may be used to comply with this section:

MOTOR VEHICLE DRIVER'S CERTIFICATION

I certify that the following is a true and complete list of traffic violations (other than parking charges) for which I have knowingly been convicted or forfeited bond or collateral during the last 12 months.

Date	*Offense*

Location	*Type of vehicle operated*

If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violations required to be listed during the last 12 months.

(Date of certification)	(Driver's signature)
(Motor carriers name)	(Motor carrier's address)
(Checked by: signature)	(Title)

(d) Each motor carrier shall retain the list or certificate required by this section in its files as part of the driver's personnel file.

Subpart D—Examinations and Tests

§ 391.31 Road test.

(a) Except as provided in §§ 391.33 and 391.61, no person, other than a person who has been continuously employed by a motor carrier as a driver for a period which began before January 1, 1970, may drive a motor vehicle unless he has completed a road test and has been issued a certificate of driver's road test in accordance with this section.

(b) The road test shall be given by the motor carrier, or a person designated by it. The test shall be conducted by a person who is competent to evaluate and determine whether the person who takes the test has demonstrated that he is capable of safely operating the motor vehicle, and associated equipment, which the motor carrier intends to assign to him.

(c) The road test must be of sufficient duration to enable the person who conducts it to evaluate the skill of the person who takes the test at handling the motor vehicle and associated equipment which the motor carrier intends to assign to him. At a minimum, the person who takes the test must be tested while driving the type of motor vehicle the motor carrier intends to assign to him on his skill at performing each of the following operations:

(1) The pretrip inspection required by § 392.7 of this subchapter;

(2) Coupling and uncoupling of combination units;

(3) Placing the vehicle in operation;

(4) Use of the vehicle's controls;

(5) Operating the vehicle in traffic and while passing other vehicles;

(6) Turning the vehicle;

(7) Braking, and slowing the vehicle by means other than braking; and

(8) Backing and parking the vehicle.

(d) The motor carrier shall provide a road test form on which the person who conducts the test shall rate the performance of the person who takes the test at each operation or activity which is a part of the test. After he completes the form, the person who conducted the test shall sign it. The original of the signed form shall be retained in the carrier's files as part of the personnel file of the person who took the test.

(e) After the road test is completed, the person who conducted it shall complete a certificate of driver's road test in substantially the form prescribed in paragraph (f) of this section. The original of the certificate shall be retained in

the motor carrier's files as part of the personnel file of the person who took the test. One copy of the certificate shall be given to the person who took the test.

(f) The form for the certificate of driver's road test is substantially as follows:

Driver's name_____
Social Security No_____
Operator's or chauffeur's license No_____
State_____
Examining motor carrier_____
Date tested_____
Type of power unit_____
Type of trailer(s)_____
If passenger carrier, type of bus_____

This is to certify that the above-named driver was given a road test under my supervision on _____ 19__ consisting of approximately _____ miles of driving.

It is my considered opinion that this driver Does ☐, Does Not ☐, possess sufficient driving skill necessary to operate safely the type of motor vehicle listed above.

_____ _____
(Signature of examiner) (Title)

_____
(Address of examiner)

§ 391.33 Equivalent of road test.

(a) In place of, and as equivalent to, the road test required by § 391.31, a person who seeks to drive a motor vehicle may present, and a motor carrier may accept—

(1) A valid operator's license which has been issued to him by a State that licenses drivers to operate specific categories of motor vehicles and which, under the laws of that State, licenses him to drive motor vehicles of the type that the motor carrier intends to permit him to drive; or

(2) A copy of a valid certificate of driver's road test issued pursuant to § 391.31 within the preceding 3 years.

(b) If a driver presents and a motor carrier accepts a license or certificate as equivalent to the road test, the motor carrier shall retain a legible copy of the license or certificate in its files as part of the driver's personnel file.

(c) A motor carrier may require any person who presents a license or certificate as equivalent to the road test to take a road test or any other test as a condition to his employment as a driver.

§ 391.35 Written examination.

(a) Except as provided in §§ 391.37 and 391.61, no person, other than a person who has been continuously employed by a motor carrier as a driver for a period which began before January 1, 1970, may drive a motor vehicle unless he has successfully completed a written examination and has been issued a certificate of written examination in accordance with this section.

(b) The written examination shall be given by the motor carrier or a person designated by it on a form prescribed by the motor carrier. The examination shall be administered by a competent person.

(c) The examination shall consist of questions designed to test the examinee's knowledge of Parts 390–397 of this subchapter. At least 30 questions, which can be answered in either multiple-choice or true-or-false form, shall be asked. A person who correctly answers at least 70 percent of the questions has successfully completed the examination.

(d) If the examinee successfully completes the examination, the person who administered it shall advise the examinee of the correct answers to any questions he failed to answer correctly and shall complete a certificate of written examination in substantially the following form:

This is to certify that the driver whose signature appears below, has successfully completed the written examination under my supervision in accordance with the provisions of section 391.35 of the Motor Carrier Safety Regulations.

_____ _____
(Signature of driver taking examination) (Date of examination)

_____
(Location of examination)

_____ _____
(Signature of examiner) (Title)

_____
(Address of examiner)

(e) A copy of the certificate required by paragraph (d) of this section shall be given to the person who was examined. The motor carrier shall retain in the personnel file of the person who was examined—

(1) The original of the certificate required by paragraph (d) of this section;

(2) The questions asked on the examination; and

(3) The person's answers to those questions.

§ 391.37 Equivalent of written examination.

(a) In place of, and as equivalent to, the written examination required by § 391.35, a person who seeks to drive a motor vehicle may present, and a motor carrier may accept, a valid certificate of written examination issued pursuant to paragraph (d) of that section within the preceding 3 years.

(b) If a motor carrier accepts a certificate as equivalent to the written examination, it shall retain a legible copy of the certificate in its files as part of the driver's personnel file.

Subpart E—Physical Qualifications and Examinations

§ 391.41 Physical qualifications for driving.

(a) No person may drive a motor vehicle unless he is physically qualified to do so and has on his person a medical examiner's certificate, issued pursuant to § 391.43, that he is physically qualified to drive a motor vehicle.

(b) A person is physically qualified to drive a motor vehicle if he—

(1) Has no loss of a foot, a leg, a hand, a finger, or an arm, or has been granted a waiver pursuant to § 391.49;

(2) Has no impairment of the use of a foot, a leg, a hand, a finger, or an arm and no other structural defect or limitation which is likely to interfere with his ability to control and safely drive a motor vehicle, or has been granted a waiver pursuant to § 391.49;

(3) Has no established medical history or clinical diagnosis of diabetes mellitus that requires insulin for control, or has required insulin treatment within the preceding 12-month period;

(4) Has no clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;

(5) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his ability to control and safely drive a motor vehicle;

(6) Has blood pressure no higher than 160/90 mm. Hg.;

(7) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle;

(8) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, or muscular disease which interferes with his ability to control and safely operate a motor vehicle;

(9) Has no mental, nervous, organic, or functional disease or psychoneurotic disorder likely to interfere with his ability to drive safely;

(10) Has visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, form field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;

(11) Has hearing not less than 10/20 in his better ear at whispered voice tones without a hearing aid, or a similar level as shown by an audiometric testing device (25–30 decibel loss at 500, 1,000, and 2,000 c.p.m.);

(12) Does not use an amphetamine or a narcotic or other habit-forming drug; and

(13) Does not consume alcoholic beverages to excess.

§ 391.43 Medical examination; certificate of physical qualification.

(a) Except as provided in paragraph (b) of this section, the medical examination shall be performed by a licensed doctor of medicine or osteopathy.

(b) A licensed optometrist may perform so much of the medical examination as pertains to visual acuity, form field of vision, and the ability to recognize colors as specified in subparagraph (1) of § 391.41(b).

(c) The medical examination shall be performed, and its results shall be recorded, substantially in accordance with the following instructions and examination form:

INSTRUCTIONS FOR PERFORMING AND RECORDING PHYSICAL EXAMINATIONS

The examining physician should review these instructions before performing the

physical examination. Answer each question yes or no where appropriate.

The examining physician should be aware of the rigorous physical demands and mental and emotional responsibilities placed on the driver of a commerical motor vehicle. In the interest of public safety the examining physician is required to certify that the driver does not have any physical, mental, or organic defect of such a nature as to affect the driver's ability to operate safely a commercial motor vehicle.

Medical history. The purpose of this physical examination is to detect the presence of physical, mental, or organic defects of such a character and extent as to affect the applicant's ability to operate a motor vehicle safely. The examination should be made carefully and at least as complete as indicated by the attached forms. Careful and detailed inquiry regarding past illness may reveal the cause of defects found upon physical examination. Knowledge concerning the etiology of certain defects may result in the rejection for employment or continued employment of a driver. Such data may also indicate the need for making certain laboratory tests or a further, and more stringent, examination. Defects may be recorded which do not, because of their character or degree, indicate that certification of physical fitness should be denied. However, these defects should be discussed with the applicant and he should be advised to take the necessary steps to insure correction, particularly of those which, if neglected, might lead to a condition likely to affect his ability to drive safely.

If, in the opinion of the examining physician, the defects are of such nature as to require additional physical examination, it shall be specified on the certification.

General appearance and development. Note marked overweight, or obesity. Note any posture defects, perceptible limp, anemia, tremor, or other form of nervousness, such as might be caused by chronic or excessive alcoholism, thyroid intoxication, or other illnesses. The Motor Carrier Safety Regulations provide that no driver shall use a narcotic or other habit-forming drug or consume alcoholic beverages to excess.

Head-eyes. When other than the Snellen chart is used, the results of such test must be expressed in values comparable to the standard Snellen test. If the applicant wears corrective lenses, these should be worn while applicant's visual acuity is being tested. If appropriate, indicate on the Doctor's Certificate by checking the box, "Qualified only when wearing corrective lenses." In recording distance vision use 20 feet as normal. Report all vision as a fraction with 20 as numerator and the smallest type read at 20 feet as denominator. Note ptosis, discharge, visual fields, ocular muscle imbalance, color blindness, corneal scar, exophthalmos or strabismus, uncorrected by corrective lenses. Monocular or aphacic drivers are not qualified to operate commercial motor vehicles under existing Motor Carrier Safety Regulations.

Ears. Note evidence of mastoid or middle ear disease, discharge, symptoms of aural vertigo or Meniere's Syndrome. In recording hearing, record 20 feet as normal distance for conversational voice and record deviation from normal as fraction with 20 feet as denominator and actual distance as numerator.

Mouth. Note evidence of any disease or infection.

Throat. Note evidence of disease, irremediable deformities of the throat likely to interfere with eating or breathing, or any laryngological condition which could interfere with the safe operation of a motor vehicle.

Thorax-heart. Stethoscopic examination is required. Note murmurs and arrhythmias, and any past or present history of cardiovascular disease, attacks, or seizure of a variety known to be accompanied by syncope, dyspnea, collapse, enlarged heart, or congestive heart failures.

Electrocardiogram is required when findings so indicate.

Blood pressure. Record with either spring or mercury column type of sphygmomanometer. If the blood pressure is consistently above 160/90 mm. Hg, fixed hypertension must be considered to be present and the driver would not be qualified to operate a motor vehicle.

Lungs. If any lung disease is detected, state whether active or arrested; if arrested, your opinion as to how long it has been quiescent.

Gastrointestinal system. Note any diseases of the gastrointestinal system.

Abdomen. Wounds, injuries, scars, or weakness of muscles of abdominal walls sufficient to interfere with normal function. Any hernia should be noted; if present, state how long and whether it is retained by an adequate truss.

Abnormal masses. If present, note location, if tender, and whether or not applicant knows how long they have been present. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Tenderness. When noted, state where most pronounced, and suspected cause. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Genito-urinary. Urinalysis is required. Acute infections of the genito-urinary tract, as defined by local and State public health laws, indications from urinalysis of uncontrolled diabetes, symptomatic albumen in the urine, or other findings indicative of health conditions likely to interfere with the control and safe operation of a motor vehicle, will disqualify an applicant from operating a motor vehicle.

Reflexes. If positive Rhomberg is reported indicate degrees. Pupillary reflexes should be reported for both light and accommodation. Knee jerks are to be reported absent only when not obtainable upon reinforcement and as increased when foot is actually lifted from the floor following a light blow on the patella; otherwise as normal.

Extremities. Carefully examine upper and lower extremities. Record the loss or impairment of a leg, a foot, a toe, an arm, a hand, or a finger. Note any and all deformities, the presence of atrophy, semiparalysis or paralysis, or varicose veins. If a hand deformity exists, determine whether sufficient grasp is present to enable the driver to secure and maintain a grip on the steering wheel. If a leg deformity exists, determine whether sufficient mobility and strength exists to enable the driver to operate properly the various pedals. Pay particular attention to and record any impairment or structural defects which may impair the driver's ability to operate a motor vehicle safely.

Spine. Note deformities, limitation of motion, or any history of pain, injuries, or disease, past or presently experienced in the spine and the lumbar region of the spine. If findings so dictate, X-ray examination should be used to diagnose such conditions as herniated lumbar discs, spondylolisthesis, scoliosis.

Hemorrhoids and back trouble. Hemorrhoids, back trouble, or other conditions causing discomfort should be evaluated carefully to determine the extent to which the condition might be handicapping while lifting, pulling or during periods of prolonged driving that might be necessary as part of the driver's duties.

Laboratory findings. Urinalysis is required, as well as such other tests as the medical history or findings upon physical examination may indicate are necessary. A seriological test must always be made if the applicant has a history of luetic infection or present physical findings indicate the possibility of latent syphilis.

Diabetes. If insulin is necessary to control a diabetic condition, the driver is not qualified to operate a motor vehicle. If mild diabetes is noted at the time of examination and it is stabilized by use of a hypoglycemia drug, and a diet that can be obtained while the driver is on duty, it should not be considered disqualifying. However, the driver must remain under adequate medical supervision.

The physician must date and sign his findings upon completion of the examination.

EXAMINATION TO DETERMINE PHYSICAL CONDITION OF DRIVERS

Driver's name _____
Address _____
Social Security No. _____
Date of birth _____ Age _____
☐ New certification.
☐ Recertification.
☐ Interim certification.

HEALTH HISTORY

Yes	*No*	
☐	☐	Head or spinal injuries.
☐	☐	Seizures, fits, or convulsions.
☐	☐	Extensive confinement by illness or injury.
☐	☐	Cardiovascular disease.
☐	☐	Tuberculosis.
☐	☐	Syphilis.
☐	☐	Gonorrhea.
☐	☐	Diabetes.
☐	☐	Gastrointestinal ulcer.
☐	☐	Nervous stomach.
☐	☐	Rheumatic fever.
☐	☐	Asthma.
☐	☐	Kidney disease.
☐	☐	Muscular disease.
☐	☐	Suffering from any other disease.
☐	☐	Permanent defect from illness, disease, or injury.
☐	☐	Psychoneurotic disorder.
☐	☐	Any other nervous disorder.

If answer to any of the above is yes, explain:
_____
_____

PHYSICAL EXAMINATION

General appearance and development:
Good _____ Fair _____ Poor _____
Vision: For distance: Right 20/ _____
Left 20/ _____
☐ Without corrective lenses.
☐ With corrective lenses if worn.
Evidence of disease or injury: Right _____
Left _____
Color Test _____ Horizontal field of vision:
Right _____ Left _____°
Hearing:
Right ear at 20 ft. _____ Left ear at 20 ft. _____
Disease or injury _____
Audiometric Test (complete only if audiometer is used to test hearing):
_____ decibel loss at 500 c.p.m. _____ at 1,000 c.p.m. _____ at 2,000 c.p.m.
Mouth: _____
Throat: _____
Thorax:
Heart _____
If organic disease is present, is it full compensated? _____
Blood pressure:
Systolic _____ Diastolic _____
Pulse:
Before exercise _____
Two minutes rest after exercise _____
Lungs: _____

Abdomen:
Scars _____ Abnormal masses _____
Tenderness _____
Hernia: Yes _____ No _____
If so, where? _____
Is truss worn? _____
Gastrointestinal:
Ulceration or other disease: Yes _____
No _____
Genito-Urinary:
Scars _____ Urethral discharge _____
Reflexes:
Rhomberg _____
Pupillary _____ Light R _____ L _____
Accommodation R _____ L _____
Knee Jerks:
Right: Normal _____ Increased _____
Absent _____
Left: Normal _____ Increased _____
Absent _____
Extremities:
Upper _____
Lower _____
Spine _____
Laboratory findings:
Urine: Spec. Gr._____Alb._____Sugar____
Blood serology_____
Chest X-ray_____
Electrocardiograph _____

(Date of examination)	(Address of examining doctor)
(Name of examining doctor (Print))	(Signature of examining doctor)

NOTE: This section to be completed only when visual test is conducted by a licensed optometrist.

(Date of examination)	(Address of optometrist)
(Name of optometrist (Print))	(Signature of optometrist)

(d) If the medical examiner finds that the person he examined is physically qualified to drive a motor vehicle in accordance with § 391.41(b), he shall complete a certificate in the form prescribed in paragraph (e) of this section and furnish one copy to the person who was examined and one copy to the motor carrier that employs him.

(e) The medical examiner's certificate shall be substantially in accordance with the following form:

DOCTOR'S CERTIFICATE

I certify that I have personally examined _____ in accordance with the Motor Carrier Safety Regulations (49 CFR §§ 391.41–391.49) and with knowledge of his duties, I find him qualifed under the regulations.

☐ Qualified only when wearing corrective lenses.

A completed examination form for this person is on file in my office at:_____

(Address)

(Date of examination)	(Name of examining doctor (Print))

(Signature of examining doctor)

(Signature of driver)	(Address of driver)

NOTE: The following section of the form is to be completed only when visual examination is conducted by a licensed optometrist.

(Name of optometrist (Print))	(Date)
(Signature of optometrist)	(Address of optometrist)

NOTE: Stocks of doctor's certificates in the possession of carriers or their suppliers as of the effective date of this order may be used until Jan. 1, 1972, provided the information required by § 391.43 is entered thereon.

§ 391.45 Persons who must be medically examined and certified.

The following persons must be medically examined and certified in accordance with § 391.43 as physically qualified to drive a motor vehicle:

(a) Any person who has not been medically examined and certified as physically qualified to drive a motor vehicle;

(b) Any driver who has not been medically examined and certified as physically qualified to drive a motor vehicle during the preceding 12 months; and

(c) Any driver who incurs a physical or mental injury or impairment which affects his ability to perform his normal duties.

§ 391.47 Conflict of medical evaluations.

(a) If, having performed medical examinations of a person pursuant to § 391.43, two or more medical examiners disagree as to whether that person is physically qualified to drive a motor vehicle, the Director, on application of that person or a motor carrier, may determine whether that person is physically qualified to drive a motor vehicle.

(b) An application under this section must be supported by a finding that the person is physically qualified to drive made by—

(1) A medical officer of the U.S. Government;

(2) The medical advisory committee to the motor vehicle administrator of the State in which the person is licensed to drive; or

(3) An advisory committee established by the medical association of the State in which the person is licensed to drive.

(c) An application under this section must demonstrate to the Director's satisfaction that, before the finding required by paragraph (b) of this section was made, the medical officer or committee was fully aware of the person's complete medical history and of the nature of the work the person would perform if he were found physically and otherwise qualified to drive a motor vehicle. At a minimum, the medical officer or committee must have been informed of the type, size, and weight of the vehicles the person would drive, the distances he would traverse, the number of hours he would spend in an on-duty status, and the related duties (such as loading, unloading, climbing onto and descending from vehicles, and making repairs en route, if he would be required to do so) that the person would perform.

(d) If the Director determines that the person is physically qualified to drive a motor vehicle, a medical examiner's certificate may be issued to that person pursuant to § 391.43.

§ 391.49 Waiver of certain physical defects.

(a) A person who is physically qualified to drive under § 391.41(b) (1) or (2) only if a waiver of a defect specified in those paragraphs is granted, and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle, other than a motor vehicle which transports passengers or must be placarded or marked in accordance with § 177.823 of this title (relating to placards or markings upon vehicles which transport explosives or other dangerous articles), if the Director has granted an application for a waiver with respect to that person.

(b) An application for a waiver must be submitted jointly by the person who seeks a waiver of his physical disqualification (the individual applicant) and by the motor carrier that will employ him if the application is granted. The application must be addressed to the Director, Bureau of Motor Carrier Safety, Sixth and D Streets SW., Washington, D.C. 20591.

(c) An application for a waiver must contain—

(1) A description of the type, size, and special equipment (if any) of the vehicles the individual applicant intends to drive, the general area and type of roads he intends to traverse while driving, the distances over which he intends to drive, the periods of time he will be on duty while driving, the nature of the commodities or cargo he intends to transport, the methods he will use to load and secure those commodities or cargo, and the nature and extent of his experience at operating motor vehicles of the type he intends to drive;

(2) An agreement by both applicants that the motor carrier will promptly file with the Director such reports as he may require, including reports about the driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the individual applicant; and

(3) An agreement that, if a waiver is granted, it authorizes the individual applicant to drive in interstate commerce only when employed by the motor carrier that joined in his application.

(d) An application for a waiver must be accompanied by—

(1) At least two reports of medical examinations made pursuant to § 391.43, at least one of which was conducted by a medical examiner selected and compensated by the motor carrier, each of which includes the medical examiner's opinion concerning the individual applicant's ability to operate safely a motor vehicle of the type he intends to drive;

(2) A copy of the certificate of driver's road test that was issued to the individual applicant pursuant to § 391.31;

(3) A copy of the certificate of written examination that was issued to the individual applicant pursuant to §391.35; and

(4) A copy of any certificate of a medical examiner that was issued to the individual applicant pursuant to § 391.43.

(e) Each application for a waiver shall be signed by both the individual applicant and the motor carrier. If the motor carrier is a corporation, the application shall be signed by an officer of the corporation. If the motor carrier is a partnership, the application shall be signed by a partner. If the motor carrier

is an individual proprietorship, the application shall be signed by the proprietor.

(f) The Director may deny the application or he may grant it in whole or in part and issue a waiver subject to such terms, conditions, and limitations as he deems consistent with safety and the public interest. A waiver is valid for a period not in excess of 2 years, and it may be renewed upon submission of an application pursuant to this section.

(g) If the Director grants a waiver, he will notify each applicant by a letter which sets forth the terms, conditions, and limitations of the waiver. The motor carrier shall retain the letter (or a legible photographic copy of it) in its files as long as the individual applicant is employed by that motor carrier and for 3 years thereafter. The individual applicant shall have the letter (or a legible photographic copy of it) in his possession whenever he drives a motor vehicle or is otherwise on duty.

(h) The Director may suspend a waiver at any time. The Director may revoke a waiver after the persons to whom it was issued are given notice of the proposed revocation and a reasonable opportunity to be heard.

Subpart F—Files and Records

§ 391.51 Personnel files.

(a) Each motor carrier shall keep a complete personnel file for each driver it employs.

(b) The personnel file for each driver must include—

(1) The medical examiner's certificate of his physical qualification to drive or a legible photographic copy of the certificate;

(2) The Director's letter granting a waiver of his physical disqualification to drive, if a letter was issued under § 391.49(g);

(3) The motor carrier's findings resulting from each recordable accident in which he was involved, as required by § 391.23(d); and

(4) The list or certificate relating to violations of motor vehicle laws and ordinances required by § 391.27.

(c) In addition to the matters referred to in paragraph (b) of this section, the personnel file for each driver who has not been continuously employed by the motor carrier for a period that began before January 1, 1970, must include—

(1) The form on which his performance on the driver's road test was evaluated, as required by § 391.31(d), if he took a road test;

(2) The certificate of driver's road test, issued to him pursuant to § 391.31(e), if a certificate was issued to him;

(3) The license or certificate which the motor carrier accepted as equivalent to the driver's road test, if a license or certificate was so accepted pursuant to § 391.33;

(4) The questions asked and the answers he gave upon the written examination required by § 391.35, if he took a written examination required by § 391.35;

(5) The certificate of written examination, issued pursuant to § 391.35(e), if he took a written examination;

(6) The certificate accepted as equivalent to a written examination, if a certificate was so accepted pursuant to § 391.37;

(7) His application for employment completed in accordance with § 391.21;

(8) The responses of State agencies to the motor carrier's inquiries concerning his driving record pursuant to § 391.23(b);

(9) The record of the motor carrier's investigation of his employment record pursuant to § 391.23(c); and

(10) Any other matter which relates to his qualifications or ability to drive a motor vehicle safely.

(d) Except as provided in paragraph (e) of this section, each driver's personnel file shall be kept at the motor carrier's principal place of business for as long as the driver is employed by that motor carrier and for 3 years thereafter.

(e) Upon a request in writing to, and with the approval of, the Director, a motor carrier may keep one or more of its drivers' personnel files or parts of files at a regional or terminal office that the Director approves.

Subpart G—Exemptions

§ 391.61 Single trip drivers.

(a) A motor carrier may employ a person to drive a motor vehicle for one round trip having a duration of 7 days or less without complying with the rules in this part if, with respect to that person, the carrier has in its files—

(1) A copy of his driver's medical examiner's certificate issued pursuant to § 391.43;

(2) A copy of his certificate of driver's road test issued pursuant to § 391.31 or a license that, pursuant to § 391.33, may be accepted as equivalent to the road test; and

(3) A copy of his certificate of written examination issued pursuant to § 391.35 within the preceding 3 years.

(b) A motor carrier that employs a driver referred to in paragraph (a) of this section need not comply with Subpart C of this part with respect to that driver. Before it permits that driver to drive a motor vehicle, the motor carrier must obtain his name, his social security number, and the identification number, type, and issuing State of his motor vehicle operator's license. The motor carrier must retain that information and the copies of certificates specified in paragraph (a) of this section in its files for 3 years.

§ 391.63 Drivers furnished by other motor carriers.

(a) A motor carrier may use a driver without complying with the rules in this part with respect to that driver if—

(1) The driver is regularly employed by another motor carrier who is subject to the rules in this part; and

(2) The motor carrier who employs the driver furnishes a certificate that the driver is fully qualified to drive a motor vehicle under the rules in this part.

(b) A motor carrier that obtains a certificate in accordance with subparagraph (2) of paragraph (a) of this section shall retain that certificate in its files for 3 years.

II. Part 392 of Title 49, CFR is amended—

1. By adding the following new section to Subpart A:

§ 392.9 Eyeglasses to be worn.

A driver whose visual acuity meets any of the minimum requirements of § 391.41 of this subchapter only when he wears corrective lenses shall wear properly prescribed eyeglasses at all times while he is driving.

2. By amending the title of Subpart E to read: "Subpart E—Accidents and License Revocations; Duties of Driver"; and

3. By adding the following new section to Subpart E:

§ 392.42 Notification of license revocation.

A driver who receives a notice that his license, permit, or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn shall notify the motor carrier that employs him of the contents of the notice before the end of the business day following the day he received it.

[F.R. Doc. 69-6674; Filed, June 6, 1969; 8:45 a.m.]

[49 CFR Part 392]

[Docket No. MC-7; Notice 69-10]

DRIVING OF MOTOR VEHICLES

Notice of Proposed Rule Making

The Federal Highway Administrator is considering a revision of §§ 392.1–392.5 and 392.10(a) Part 392 of the Motor Carrier Safety Regulations in Title 49, CFR relating to the rules for operating commercial motor vehicles in interstate or foreign commerce.

Only minor changes have been proposed in §§ 392.1, 392.2, and 392.3.

A proposed amendment to § 392.4 deals with amphetamine, narcotics, and other dangerous drugs. These substances can affect a user's behavior and his ability to operate a motor vehicle safely. Therefore, their use presents a hazard to the public. Recent information indicates that the use of these dangerous drugs has increased sharply and may be a factor in a number of motor vehicle accidents. These considerations prompted the Administrator to propose this amendment.

Recent experimental work indicates that alcohol impairs certain skills and aspects of behavior which are considered relevant to the safe operation of a motor vehicle. This conclusion is substantiated by investigations which show that immoderate use of alcohol is a major cause of highway crashes. These considerations lead the Administrator to propose that

§ 392.5 be amended to regulate consumption of alcoholic beverages more explicitly by prohibiting frequent or habitual users from operating motor vehicles and by prohibiting a driver from going on duty or operating a motor vehicle if he has consumed an alcoholic beverage within the preceding 8 hours. Further, possession of alcohol would be regulated by prohibiting a driver from having an alcoholic beverage in his possession while he is on duty or operating a motor vehicle.

A proposed amendment to § 392.10(a) deals with railroad grade crossings and drivers' actions after coming to a stop.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposed rule. Comments must identify the docket (No. MC–7) and Notice No. 69–10 and must be submitted in three copies to the Federal Highway Administration, Sixth and D Streets SW., Washington, D.C. 20591, Attention: Bureau of Motor Carrier Safety, Room 302A. All comments received before the close of business 90 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator. All comments will be available for examination in the docket at the above address before and after the closing date for comments.

In consideration of the foregoing, the Administrator proposes to revise §§ 392.1–392.5 and to amend § 392.10(a) of Part 392 of Title 49, CFR as set forth below.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 1655, and the delegation of authority by the Secretary of Transportation in 49 CFR 1.4(c).

Issued on June 2, 1969.

F. C. TURNER,
Federal Highway Administrator.

§ 392.1 Compliance required.

(a) Every motor carrier, its officers, agents, representatives, and employees responsible for the management, maintenance, operation, or driving of motor vehicles or the hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in, comply with, and know the rules in this part and any Acts, rules, or regulations which this part incorporates.

(b) Nothing contained in Parts 390–397 of this subchapter prohibits a motor carrier from requiring and enforcing more stringent rules and regulations relating to safety of operation.

§ 392.2 Applicable operating rules.

Every motor vehicle must be operated in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated. However, if a regulation of the Federal Highway Administration imposes a higher standard of care than that law, ordinance, or regulation the Federal Highway Administration regulation must be complied with.

§ 392.3 Ill or fatigued operator.

No driver shall operate a motor vehicle, and a motor carrier shall not require or permit a driver to operate a motor vehicle while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him to begin or continue to operate the motor vehicle. However, in a case of grave emergency where the hazard to occupants of the vehicle or other users of the highways would be increased by compliance with this section, the driver may continue to operate the motor vehicle to the nearest place at which that hazard is removed.

§ 392.4 Narcotics, amphetamine, and other dangerous substances.

(a) No person shall operate, or be in physical control of, a motor vehicle if he possesses, is under the influence of, or is a habitual user of, any of the following substances:

(1) A narcotic drug or any derivative thereof;

(2) An amphetamine or any formulation thereof (including, but not limited to, "pep pills" and "bennies");

(3) Any other substance, to a degree which renders him incapable of safely operating a motor vehicle.

(b) No motor carrier shall knowingly require or permit a driver to violate paragraph (a) of this section.

(c) A person may not violate paragraph (a) of this section even though he is or has been entitled by law to use any substance specified in that paragraph unless that substance was administered to him by or under the instruction of a physician who has advised him that the substance will not affect his ability to operate a motor vehicle.

(d) As used in this section, "possession" does not include possession of a drug which is manifested and transported as part of an intransit shipment.

§ 392.5 Intoxicating liquor.

(a) No person shall—

(1) Consume an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor within 8 hours before going on duty, or operating, or having physical control of a motor vehicle; or

(2) Consume an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor while on duty, or operating, or in physical control of a motor vehicle; or

(3) Operate a motor vehicle, if he frequently or habitually consumes intoxicating liquor in amounts that render him under the influence of an intoxicating liquor; or

(4) Be on duty or operate a motor vehicle while he possesses an intoxicating liquor regardless of its alcoholic content. However, this subparagraph does not apply to possession of an intoxicating liquor which is manifested and transported as part of an intransit shipment.

(b) No motor carrier shall require or permit a driver to—

(1) Violate any provision of paragraph (a) of this section; or

(2) Be on duty or operate a motor vehicle if, by his general appearance or by his conduct or by other substantiating evidence, he appears to have consumed an alcoholic beverage within the preceding 8 hours.

§ 392.10 Railroad grade crossings: stopping required.

(a) Except as provided in paragraph (b) of this section, the driver of a motor vehicle specified in subparagraphs (1) through (6) of this paragraph, shall not cross a railroad track or tracks at grade unless he first: Stops the vehicle at least 50 feet from and not closer than 15 feet to the tracks; thereafter listens, and looks in each direction along the tracks for an approaching train; and ascertains that no train is approaching. When it is safe to do so, the driver may drive the vehicle across the tracks in a gear that permits the vehicle to complete the crossing without a change of gears. The driver must not shift gears while crossing the tracks.

* * * * *

[F.R. Doc. 69–6675; Filed, June 6, 1969; 8:45 a.m.]

[49 CFR Part 393]

[Docket No. MC–5; Notice 69–11]

TIRES

Notice of Proposed Rule Making

The Federal Highway Administrator published in the FEDERAL REGISTER of June 12, 1968 (33 F.R. 8604), a notice of proposed rule making proposing amendment to § 393.75 *Tires* (formerly § 293.75), of the Motor Carrier Safety Regulations, and inviting responses from interested persons desiring to participate in the rule-making procedure. Responses from 257 persons have been received, evaluated, and given full consideration.

After studying all the comments and test data, it is concluded that tire tread groove depth is a major factor in insuring effective traction on wet surfaces and that it is in the interest of the public safety to require a minimum tread pattern groove depth for tires used on the wheels of commercial vehicles.

A number of comments submitted by truckers and retreaders argued that the proposed prohibition on the use of recapped and retreaded tires on front wheels should be deleted. These parties assert that (1) as a matter of industry practice recapped or retreaded tires are generally not used on the front wheels of commercial vehicles; and (2) in those instances where it is the practice to use recapped or retreaded tires on the front wheels the proposed prohibition would increase operating costs. The position of these parties is that the proposal is both unnecessary and unfair because, in most instances, industry voluntarily does not use recapped or retreaded tires on front wheels but those truck operators that do so would suffer an economic hardship.

The argument is also made that there is no support for the position that retreaded and recapped tires are unsafe when used on the front wheels of trucks.

It is indeed difficult to categorically state and fully support the proposition

that the use of such tires on the front wheels is unsafe. On the other hand, the fact that it is the general practice not to use such tires on front wheels of trucks is certainly a strong indication that they are less safe than new tires when used in that position. The prohibition has not been included in this regulation, however, the matter is considered of great importance and is still under serious consideration and investigation.

A large number of persons involved in the retreading industry requested that regrooved tires and retreaded tires be controlled by separate regulations. The fact that the prohibition of the use of regrooved, recapped, or retreaded tires on the front wheels of buses is contained within the same section of the regulation does not indicate a lack of understanding of the substantial differences among these processes.

Section 393.75(e) of the proposed regulations spelled out specific requirements for regrooved tires used on the wheels of commercial vehicles. Because the Federal Highway Administration has issued regulations setting forth the conditions under which regroovable and regrooved tires may be sold, offered for sale, or introduced for sale or delivered for introduction into interstate commerce, 49 CFR Part 369 (34 F.R. 1149), and the requirements of § 393.75 of this regulation as amended herein apply to all tires used on the wheels of commercial vehicles, including regrooved tires, it was considered unnecessary to provide a separate subsection setting forth requirements for regrooved tires within the Motor Carrier Safety Regulations. The regulations issued as Part 369 establish criteria under which tires may be regrooved; they are not inconsistent, or in conflict, with the regulations issued herein.

In view of the above, § 393.75 of the Motor Carrier Safety Regulations (49 CFR Part 393) is amended as set forth below, effective July 1, 1969. This amendment is made under the authority of section 204 of the Interstate Commerce Act, as amended (49 U.S.C. 304), section 6, of the Department of Transportation Act (49 U.S.C. 1655), and the delegation of authority contained in § 1.4(c) of Part 1 of the regulations of the Office of the Secretary (49 CFR 1.4(c)).

§ 393.75 Tires.

(a) No motor vehicle shall be operated on any tire that has fabric exposed through the tread or sidewall.

(b) Any tire on the front wheels of a bus, truck, or truck-tractor shall have a tread groove pattern depth of at least four thirty-seconds of an inch when measured at any point on a major tread groove. The measurements shall not be made where tie bars, humps, or fillets are located.

(c) Except as provided in paragraph (b) of this section, tires shall have a tread groove pattern depth of at least two thirty-seconds of an inch when measured in a major tread groove. The measurement shall not be made where tie bars, humps, or fillets are located.

(d) No bus shall be operated with regrooved, recapped, or retreaded tires on the front wheels.

(e) No truck or truck tractor shall be operated with regrooved tires on the front wheels which have a load carrying capacity equal to or greater than that of 8.25–20 8-ply-rating tires.

Issued in Washington, D.C., June 2, 1969.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 69-6676; Filed, June 6, 1969; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 63]

[Docket No. 18509]

COMMUNITY ANTENNA TELEVISION SYSTEMS

Order Extending Time for Filing Comments

In the matter of applications of telephone companies for section 214 Certificates for channel facilities furnished to affiliated Community Antenna Television Systems, Docket No. 18509.

1. The Commission has before it motions, filed May 28, 1969, by certain General Telephone System companies [1] and United Telephone System companies [2] requesting that the time for filing comments in the above-captioned matter be extended until 30 days after the Commission has acted upon certain pending matters as set forth below or, alternatively, until July 2, 1969. Comments are presently due on June 2, 1969.

2. In support, it is stated that both movants previously filed with the Commission motions to consolidate the subject proceeding either with the tariff investigation in Dockets Nos. 16928, 19643, and 17098, or with requested evidentiary hearings on individual applications that propose service to an affiliated CATV company. It is argued that "if the Commission acts favorably on either or both of those requests for consolidation, comments in this proceeding will be unnecessary."

3. Movants further allege that "in view of the importance of the questions presented by this proceeding, and the large number of issues upon which the Commission invited comments," they desire and require another 30 days to have sufficient time "adequately to prepare comments for this proceeding."

4. We reject the argument that an extension of time is warranted by the pendency before the Commission of motions to consolidate certain dockets with the captioned proceeding. Comments on the basic legal, economic, and policy issues raised by our notice in this proceeding will be necessary and desirable irrespective of whether the Commission consolidates the proceedings herein with other proceedings.

5. However, for the reasons referred to in the preceding paragraph 3 hereof, we believe that all interested parties should be granted additional time for filing their comments. Hopefully, such comments will effectively assist the Commission with the expeditious and complete resolution of the issues in the inquiry. Consequently, it appears that the public interest would be served by a grant of the requested extension.

6. *Accordingly, it is ordered,* Pursuant to authority delegated by § 0.303(c) of the Commission's rules, that the time for filing comments and reply comments to the above-captioned proceedings is hereby extended, respectively, to July 2, 1969, and July 18, 1969.

Adopted: May 29, 1969.

Released: June 4, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] FRANK PALIK,
Chief, Domestic Services and Facilities Division for Chief, Common Carrier Bureau.

ATTACHMENT A

UNITED UTILITIES, INC.

Subsidiary Telephone Companies

1. California-Oregon Telephone Co., Hood River, Oreg.
2. Capital City Telephone Co., Jefferson City, Mo.
3. Columbia-United Telephone Co., Columbia, Pa.
4. Consolidated Telephone Co., Inc., Burrton, Kans.
5. Frankston Corp., Tyler, Tex.
6. Greenwood - United Telephone Co., Greenwood, S.C.
7. Gulf States-United Telephone Co., Tyler, Tex.
8. Midstate Telephone Co., Jefferson City, Mo.
9. Navasota Telephone Co., Tyler, Tex.
10. New Jersey Telephone Co., Flemington, N.J.
11. Palestine Telephone Co., Tyler, Tex.

[1] The movants are the companies in the General System which are respondents in the proceedings in Dockets Nos. 16928, 16943, and 17098: General Telephone Co. of California; General Telephone Co. of Indiana, Inc.; General Telephone Co. of Michigan; General Telephone Co. of Ohio; General Telephone Co. of Pennsylvania; General Telephone Co. of the Southwest; Bethel & Mount Aetna Telephone & Telegraph Co.; Brazil Telephone Co., Inc.; General Telephone Co. of the Midwest; Delaware Valley Telephone Co.; General Telephone Co. of Alabama; General Telephone Co. of Florida; General Telephone Co. of Georgia; General Telephone Co. of Illinois; General Telephone Co. of Kentucky; General Telephone Co. of North Carolina; General Telephone Co. of the Northwest, Inc.; General Telephone Co. of the Southeast; General Telephone Co. of Upstate New York, Inc.; General Telephone Co. of Wisconsin; Mutual Telephone Co., Inc.; Northern Ohio Telephone Co.; Pee Dee Telephone Co., Inc.; Princeton Telephone Co.; Wattsburg Telephone Corp.; Woodburn Telephone Co., Inc.; York Telephone & Telegraph Co.; and Hawaiian Telephone Co.

[2] Named in Attachment A of this order.

12. Peoples-United Telephone Co., Butler, Pa.
13. Pioneer - United Telephone Co., Waconia, Minn.
14. United Inter-Mountain Telephone Co., Bristol, Tenn.
15. United Telephone Co. of Arkansas, Shawnee Mission, Kans.
16. United Telephone Co. of the Carolinas, Inc., Southern Pines, N.C.
17. United Telephone Co. of Florida, Fort Myers, Fla.
18. United Telephone Co. of Indiana, Inc., Warsaw, Ind.
19. United Telephone Co. of Iowa, Newton, Iowa.
20. United Telephone Co. of Kansas, Inc., Shawnee Mission, Kans.
21. United Telephone Co. of Missouri, Shawnee Mission, Kans.
22. United Telephone Co. of New Jersey, Newton, N.J.
23. United Telephone Co. of the Northwest, Hood River, Oreg.
24. United Telephone Co. of Ohio, Mansfield, Ohio.
25. United Telephone Co. of Pennsylvania, Carlisle, Pa.
26. United Telephone Co. of the West, Scottsbluff, Nebr.
27. Carolina Telephone & Telegraph Co., Tarboro, N.C.

[F.R. Doc. 69-6759; Filed, June 6, 1969; 8:50 a.m.]

[47 CFR Part 73]

[Docket No. 18453]

VHF TELEVISION BROADCAST CHANNEL, MOUNT VERNON, ILL.

Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.606 (b) of the Commission's rules and regulations to add a VHF Television Broadcast Channel to Mount Vernon, Ill., Docket No. 18453, RM-1372:

1. The Commission has before it for consideration a request, filed on May 27, 1969, by Soillcom, Inc., the proponent of the above-captioned proposal to allocate VHF Channel 13 to Mount Vernon, Ill., for an extension of time for filing reply comments herein from June 2, 1969, to June 17, 1969. The time for filing comments herein expired April 30, 1969.

2. Soillcom, Inc., in support of this request for an extension of time in which to file reply comments, states that it is actively preparing its reply comments but that a brief additional time is necessary to complete the preparation thereof, which include an economic analysis and an engineering statement. Soillcom, Inc., points out that five of the seven initial comments contained detailed engineering statements and one contained a 36-page economic analysis of the area. Also, on May 28, 1969, counsel for Soillcom informally notified the Commission of an unexpected illness in his family that will prevent him from devoting all his time to the reply comments for a few days.

3. It appears that good cause exists for the requested extension of time and the public interest would be served thereby. *Accordingly, it is ordered*, That the time for filing reply comments in this proceeding is extended to June 17, 1969.

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

Adopted: May 29, 1969.

Released: June 4, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
JAMES O. JUNTILLA,
Acting Chief,
Broadcast Bureau.

[F.R. Doc. 69-6760; Filed, June 6, 1969; 8:50 a.m.]

[47 CFR Part 74]

[Docket No. 18397; FCC 69-612]

COMMUNITY ANTENNA TELEVISION SYSTEMS

Order Extending Time for Filing Comments

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 rulemaking and/or legislative proposals, Docket No. 18397.

1. The Commission has received requests for extension of the times for filing comments and reply comments in Docket No. 18397, filed by the Association of Maximum Service Telecasters, Inc. (AMST); the American Civil Liberties Union (ACLU); and Columbus Broadcasting Co., Inc., Cosmos Broadcasting Corp., Cox Broadcasting Corp., Newchannels Corp., Mid-America Television, Inc., Radio Medford, Inc., McClatchy Newspapers, Midcontinent Broadcasting Co., Palmer Broadcasting Co., and WOC Broadcasting Co. (the Companies).

2. Such comments and reply comments are presently scheduled to be filed as follows:

A. Comments on further notice of proposed rule making, issued on May 16, 1969, (FCC 68-1176)	June 6, 1969
B. Comments on Part V of the notice of proposed rule making and notice of inquiry issued on December 13, 1968 (FCC 68-1176)	June 16, 1969
C. Reply comments on Part III (pars. 21-22, 26-30) of the December 13th notice	July 2, 1969
D. Reply comments on Part IV of the December 13th notice and on the further notice of May 16th	July 18, 1969
E. Reply comments on Part V of the December 13th notice	Aug. 14, 1969

3. AMST requests that the filing times under A and C above be extended to July 18, 1969, and D to August 22, 1969. ACLU requests that B be extended to August 1, 1969. The Companies request a 6 weeks extension for A, B, and part of D (reply comments on Part IV), and appropriate extension of the times for filing reply comments on A and B.

4. As ground for the requested extensions, AMST and the Companies point to the numerous, lengthy and complex comments already filed, the hearings before the Subcommittee on Communications and Power of the House Commerce Committee (scheduled to be resumed in June), the issuance of an Executive Branch Task Force Report on Telecommunications, and the fundamental policy questions involved in Part V of the rule making. AMST also notes that two previous extensions have been granted at the request of the National Cable Television Association. ACLU states that in view of the complexity of the issues in Part V, additional time is required to complete its study and to present its well-considered views.

5. Under the circumstances, and particularly in light of the importance and complexity of the numerous issues and the bulk of the record already on file, we believe that with one exception some extension is warranted and would serve the public interest. The exception pertains to paragraphs 27-28 of the December 13th notice, the proposed reporting requirement. Since the Commission lacks comprehensive and current official information about CATV systems, and since such information might assist in a resolution of the rule making as well as the Congressional consideration, we believe that the proposed reporting requirement should be implemented as promptly as possible. We note also that ACLU and the Companies have not sought extension of this aspect. Thus, reply comments on paragraphs 27-28 of Part III will be due on or before July 2, 1969.

6. Under the extensions granted below, reply comments on Part IV and on the further notice will be due on or before September 5, 1969. We recognize that this date comes at the end of the summer after the vacation period. However, in view of the generous time that has been and is now being afforded, no further extension based on such factors is contemplated. We expect to adhere to the September 5th deadline for reply comments on these aspects.

7. *Accordingly, it is ordered*, That the times for filing the remaining comments and reply comments in Docket No. 18397 are extended as follows:

	On or before
Comments on further notice of proposed rule making (FCC 69-516)	July 18, 1969
Comments on Part V of the notice issued on December 13, 1968 (FCC 68-1176)	Aug. 1, 1969
Reply Comments on Part III (paragraphs 21-22, 26, 29-30) and Part IV of the December 13th notice (FCC 68-1176) and on the further notice of May 16, 1969 (FCC 69-516)	Sept. 5, 1969
Reply Comments on Part V of the December 13th notice (FCC 68-1176)	Oct. 1, 1969

It is further ordered, That reply comments on paragraphs 27–28 of Part III of the December 13th notice (FCC 68–1176) are due on or before July 2, 1969, as previously scheduled.

Adopted: June 3, 1969.

Released: June 4, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-6761; Filed, June 6, 1969; 8:50 a.m.]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 22, 864]

FEDERAL SAVINGS AND LOAN SYSTEM

Indemnification of Federal Savings and Loan Association Personnel

MAY 29, 1969.

Resolved, that the Federal Home Loan Bank Board, upon the basis of consideration by it of the desirability of prescribing rights and obligations of persons to indemnification for expenses incurred as a result of claims against them based on their conduct as a director, officer or employee of a Federal savings and loan association and of permitting such associations to obtain insurance in connection therewith, hereby proposes to amend Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) by adding a new undesignated center head and a new § 545.25, immediately after § 545.24 thereof, to read as follows:

INDEMNIFICATION OF ASSOCIATION PERSONNEL

§ 545.25 Indemnification of directors, officers and employees.

(a) *General provisions.* Subject to the provisions of paragraph (b) of this section, any person against whom any action is brought by reason of the fact that such person is or was a director, officer, or employee of a Federal association shall be indemnified by such association for:

(1) Reasonable costs and expenses, including reasonable attorney's fees, actually paid or incurred by such person in connection with the defense or settlement of such action;

(2) Any amount for which such person becomes liable by reason of any judgment in such action; and

(3) Reasonable costs and expenses, including reasonable attorney's fees, actually paid or incurred in any action, to enforce his rights under this section, which results in a judgment in favor of such person.

(b) *Requirements.* Indemnification provided for in paragraph (a) of this section shall be made to such director, officer, or employee if, but only if, the requirements of this paragraph are met.

(1) *Favorable adjudication on merits.* A Federal association shall make the indemnification provided by paragraph (a) of this section in connection with any such action which results in a final adjudication on the merits in favor of such director, officer, or employee.

(2) *Settlement, adverse judgment, or judgment other than on the merits.* A Federal association shall make the indemnification provided by paragraph (a) of this section in case of settlement of such action, final judgment against such director, officer, or employee, or judgment in favor of such director, officer, or employee other than on the merits, if a majority of the disinterested directors of the association determines that such director, officer, or employee acted

(i) In good faith,

(ii) Within the scope of his authority,

(iii) In the best interest of the association, and

(iv) Without negligence or in a manner not otherwise wrongful.

However, no indemnification shall be made pursuant to this subparagraph unless such association first gives the Board not less than 60 days' advance notice of its intention to make such indemnification. Such notice shall contain a statement of the facts out of which such action arose, the terms of any settlement, and the disposition of the action by the court. Such notice, together with a certified copy of the resolution of the board of directors containing the determination referred to above, shall be filed with the Board by transmitting the executed original and one copy to the Supervisory Agent. The 60-day notice period shall begin to run from the date of receipt of such notice by the Supervisory Agent, who shall promptly acknowledge such receipt in writing. No such indemnification shall be made prior to the expiration of such 60-day notice period, and no such indemnification shall be made if the Board, acting through the Supervisory Agent, advises the association in writing, within such 60-day notice period, of its objection to such indemnification.

(3) *Exceptions.* Indemnification shall not be made by a Federal association under the provisions of subparagraph (2) of this paragraph with respect to any action brought by the Board, the Federal Savings and Loan Insurance Corporation, or any other governmental agency or instrumentality, or with respect to any action brought by or on behalf of the association seeking to establish liability to such association, unless such action results in a judgment in favor of the defendant director, officer, or employee.

(c) *Insurance.* A Federal association may obtain insurance to protect it, its directors, officers, and employees from potential liabilities, expenses, and costs arising from claims against it, or its directors, officers, or employees made by reason of alleged wrongful acts committed in their capacity as directors, officers, or employees. However, no such association may obtain insurance which provides for payment of costs, expenses, liabilities, and other losses of any person incurred as a consequence of his willful or criminal misconduct.

(d) *Applicability of provisions.* The provisions of this section shall not be applicable with respect to any action pending on or terminated prior to the effective date of this section.

(e) *Exclusiveness of provisions.* The provisions of this section shall be exclusive with respect to the duty or authority of a Federal association to indemnify any person referred to in paragraph (a) of this section.

(f) *Definitions and rules of construction.* (1) As used in this section—

(i) "Action" means any action, suit, or other judicial proceeding, whether civil, criminal, or otherwise, including any appeal or other proceeding for review;

(ii) "Court" includes, without limitation, any court to which or in which any appeal or any proceeding for review is brought;

(iii) "Judgment" means any judgment, decree, order, fine, or penalty;

(iv) "Settlement" includes the entry of a judgment by consent or by confession or upon a plea of guilty or of nolo contendere; and

(v) "Supervisory Agent" means the President of the Federal Home Loan Bank of which a Federal association is a member, or any other officer or employee of such Bank designated by the Board as its agent as provided by § 501.11 of Subchapter A of this chapter.

(2) References in this section to any individual or other person, including any association, shall include legal representatives, successors, and assigns thereof.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–1948 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552 by July 10, 1969, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[F.R. Doc. 69-6729; Filed, June 6, 1969; 8:48 a.m.]

[1] Commissioner Bartley and H. Rex Lee dissenting; Commissioner Johnson concurring in the result.

FEDERAL RESERVE SYSTEM

[12 CFR Part 204]

[Reg. D]

RESERVES OF MEMBER BANKS

Certain Cash Items in Process of Collection

The Board of Governors is considering amending the last sentence of § 204.1(h) to read: "Items handled as noncash collections and items the amounts of which are credited to any account with or in a foreign branch of the member bank may not be treated as 'cash items in process of collection' within the meaning of this part."

In conjunction with such amendment, the last sentence of § 204.2(b) would be amended to read: " 'Balances due from other banks' do not include balances due from Federal Reserve Banks, balances (payable in dollars or otherwise) due from foreign banks or branches thereof wherever located or from foreign branches of other domestic banks," or balances representing checks received or forwarded for collection and not yet paid by the drawee the amounts of which are credited to any account with or in a foreign branch of the member bank." (Footnote 6 would remain unchanged.)

The purpose of these proposed amendments is to disallow as a deduction from deposits in computing a member bank's reserve requirements any "cash item in process of collection" or "balance due from other bank" that is credited to any account with or in a foreign branch of such bank.

The effect of the proposal relates principally to the practice of bidding for Euro-dollar deposits by foreign branches of member banks. For example, when a foreign depositor in a domestic office of a U.S. bank instructs that bank to transfer funds to another U.S. bank for his account in the latter's foreign branch, the transfer is sometimes effected by a cashier's check. Upon its receipt by the second bank, that check has been treated as a "cash item in process of collection" that is credited to the depositor's account in the foreign branch. Such accounts are not subject to reserve requirements under Regulation D.

A major reason for permitting deduction of cash items in process of collection in computing deposits subject to reserves is to avoid duplication of reserves against the same funds. In a purely domestic situation of the kind described, a member bank issuing a cashier's check maintains reserves against the funds involved while the check is in process of collection. The receiving bank is normally permitted, during the collection process, to deduct the item from its deposits subject to reserve requirements in order to avoid duplication of reserves in such instances. In the case of Euro-dollar transactions, however, the receiving bank credits the funds to an account that is not subject to reserve requirements, and therefore there appears to be no reason to permit items credited to a foreign branch account to be deducted from the parent bank's deposits in the calculation of reserve requirements under Regulation D.

This notice is published pursuant to section 553(b) of title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 15, 1969.

Dated at Washington, D.C., the 29th day of May 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-6716; Filed, June 6, 1969; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

[Rev. 8]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Business Concern for Purpose of Bidding on Government Procurements for Rebuilding of Machinery or Equipment on Factory Basis

Notice is hereby given that the Administrator of the Small Business Administration proposes to adopt a detailed definition of a small business concern for the purpose of bidding on Government procurements for the rebuilding of machinery or equipment on a factory basis.

The rebuilding of machinery and equipment on a factory basis is considered as manufacturing. However, the present SBA size regulation does not have a specific definition of small business for the purpose referred to above. It has been brought to the attention of the SBA that many persons do not realize that the rebuilding of machinery or equipment on a factory basis is classified within the manufacturing industries. Therefore, SBA proposes to establish a detailed definition of a small business for the purpose of bidding on Government contracts for the rebuilding of machinery or equipment on a factory basis.

Interested persons may file with the Small Business Administration within thirty (30) days after publication of this proposal in the FEDERAL REGISTER, written statements of facts, opinions or arguments concerning the proposal.

All correspondence shall be addressed to:

Associate Administrator for Procurement and Management Assistance, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, Attention: Size Standards Staff.

It is proposed to amend the regulation as follows:

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by adding new subparagraph (6) to § 121.3-8(b) thereof to read as follows:

§ 121.3-8 Definition of small business for Government procurement.

* * * * *

(b) *Manufacturing.* * * *

(6) Rebuilding on a factory basis or equivalent. As small if it is bidding on a contract for rebuilding machinery or equipment on a factory basis, the purpose of which is to restore such machinery or equipment to as serviceable and as like new condition as possible and its number of employees does not exceed the number of employees specified for the classification code applicable to the manufacturer of the original item. The term "rebuilding on a factory basis" as used in this subsection does not include ordinary repair services such as those involving minor repair and/or preservation operations.

* * * * *

Dated: May 27, 1969.

HILARY SANDOVAL, JR.,
Administrator.

[F.R. Doc. 69-6728; Filed, June 6, 1969; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 12790]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

JUNE 2, 1969.

The Forest Service, U.S. Department of Agriculture, has filed application Montana 12790 for the withdrawal of national forest lands described below from mineral location and entry under the mining laws but not from leasing under the mineral leasing laws, subject to existing valid claims.

The applicant desires the land to expand the existing Sula Ranger Station and to protect the existing improvements of the Trapper Creek Job Corps Conservation Center and the recreation areas.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, Mont. 59101.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

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

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

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

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

BITTERROOT NATIONAL FOREST

Camp Creek Ranger Station

T. 1 N., R. 19 W.,
Sec. 21, E½SE¼NE¼SE¼ and E½NW¼SE¼NE¼SE¼.

Total area—6.25 acres.

Trapper Creek Administrative Site

T. 2 N., R. 21 W.,
Sec. 26, W½NE¼SW¼NW¼ and NW¼SW¼NW¼;
Sec. 27, E½NE¼NE¼ and NE¼SE¼NE¼.

Total area—45 acres.

Black Bear Campground

T. 5 N., R. 19 W.,
Sec. 24, S½S½SE¼SW¼, SW¼SW¼SE¼, E½SW¼SE¼, W½SE¼SE¼, and unsurveyed, but which will be when surveyed:
T. 5 N., R. 19 W.,
Sec. 25, that part in the N½NW¼, more particularly described as:
Beginning at the section corner common to secs. 23, 24, 25, and 26, T. 5 N., R. 19 W., P.M.M., Corner No. 1; thence due south 15 chains to a ¾" x 18" iron pin set in the ground for Corner No. 2; thence due east 20 chains to a ¾" x 18" iron pin set in the ground for Corner No. 3; thence due north 5 chains to a ¾" x 18" iron pin set in the ground for Corner No. 4; thence due east 15 chains to a ¾" x 18" iron pin set in the ground for Corner No. 5; thence due north 10 chains to a ¾" x 18" iron pin set in the ground for Corner No. 6; thence S. 89°49' W. along the section line between secs. 24 and 25, T. 5 N., R. 19 W., P.M.M., to Corner No. 1, the point of beginning.

Total area—105 acres.

Sleeping Child Picnic Ground

T. 4 N., R. 19 W.,
Sec. 7, W½SW¼NE¼SE¼ and E½SE¼NW¼SE¼.

Total area—10 acres.

The area described aggregates 166.25 acres in Ravalli County, Mont.

EUGENE H. NEWELL,
Land Office Manager.

[F.R. Doc. 69-6723; Filed, June 6, 1969; 8:48 a.m.]

Fish and Wildlife Service

[Docket No. G-433]

JAMES J. ROBINSON, JR.

Notice of Loan Application

JUNE 3, 1969.

James J. Robinson, Jr., 2603 St. Joseph Street, Houma, La. 70360, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 53.6-foot registered length wood vessel to engage in the fishery for shrimp.

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.

RUSSELL T. NORRIS,
Assistant Director for Resource Development.

[F.R. Doc. 69-6724; Filed, June 6, 1969; 8:48 a.m.]

National Park Service

[Order 1]

ADMINISTRATIVE OFFICER AND GENERAL SUPPLY ASSISTANT, SOUTHERN UTAH GROUP

Delegation of Authority Regarding Execution of Contracts for Supplies, Equipment, or Services

1. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of $50,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations.

2. *General Supply Assistant.* The General Supply Assistant may execute, approve, and administer contracts not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations.

3. The authorities stated herein are applicable to the Southern Utah Group in its entire jurisdiction.

(National Park Service Order No. 34 (31 F.R. 4255), as amended; 39 Stat. 535; 16 U.S.C., sec. 2; Southwest Region Order No. 4 (31 F.R. 8134))

Dated: May 4, 1969.

KARL T. GILBERT,
General Superintendent, Southern Utah Group.

[F.R. Doc. 69-6706; Filed, June 6, 1969; 8:47 a.m.]

[Order 5]

ADMINISTRATIVE OFFICER ET AL., BLUE RIDGE PARKWAY, VA., AND N.C.

Delegation of Authority

SECTION 1. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of $100,000 for construction, supplies, equipment, and services, in conformity with applicable regulations and statutory authority and subject to availability of allotted funds; and he may execute and approve revocable special use permits for use of Government-owned lands and facilities. Construction contracts shall be entered into only with the advice and consent of the concerned Chief, Office of Design and Construction. This authority may be exercised by the Administrative Officer in behalf of any office or area administered by Blue Ridge Parkway.

SEC. 2. *General Supply Officer.* The General Supply Officer may execute, approve, and administer contracts not in excess of $25,000 for construction, supplies, equipment, and services, in conformity with applicable regulations and statutory authority and subject to availability of allotted funds. Construction contracts shall be entered into only with the advice and consent of the concerned Chief, Office of Design and Construction. This authority may be exercised by the General Supply Officer in behalf of any office or area administered by Blue Ridge Parkway.

SEC. 3. *General Supply Specialist.* The General Supply Specialist may execute, approve, and administer contracts not in excess of $10,000 for construction, supplies, equipment, and services, in conformity with applicable regulations and statutory authority and subject to availability of allotted funds. Construction contracts shall be entered into only with the advice and consent of the concerned Chief, Office of Design and Construction. This authority may be exercised by the General Supply Specialist in behalf of any office or area administered by Blue Ridge Parkway.

SEC. 4. *Construction and Maintenance Representative, Foreman III, and Clerk.* The Construction and Maintenance Representative, Foreman III, and Clerk of Districts 1, 2, 3, and 4 of the Blue Ridge Parkway may issue purchase orders not in excess of $500 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 5. *Revocation.* This order supersedes Order No. 4 dated August 23, 1967 (32 F.R. 13013).

(National Park Service Order No. 34 (31 F.R. 4255), as amended; 39 Stat. 535, 16 U.S.C. sec. 2; Southeast Region Order No. 4 (31 F.R. 3135))

Dated: May 5, 1969.

JOHN H. DAVIS,
Acting Superintendent,
Blue Ridge Parkway.

[F.R. Doc. 69-6707; Filed, June 6, 1969; 8:47 a.m.]

[Order 6]

ASSISTANT SUPERINTENDENT (OPERATIONS) ET AL.; YELLOWSTONE NATIONAL PARK, WYO.

Delegation of Authority Regarding Execution of Contracts for Construction, Supplies, Equipment, or Services

1. *Assistant Superintendent (Operations).* The Assistant Superintendent (Operations) may execute, approve, and administer contracts not in excess of $200,000 for construction, supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations: *Provided,* That construction contracts will be entered into only with the advice and consent of the design and construction office chief. This authority may be exercised by the Assistant Superintendent (Operations) in behalf of any coordinated areas.

2. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of $50,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations. This authority may be exercised by the Administrative Officer in behalf of any coordinated area.

3. *General Supply Officer.* The General Supply Officer may execute and approve contracts not in excess of $25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations. This authority may be exercised by the General Supply Officer in behalf of any coordinated area.

4. *Procurement Agent.* The Procurement Agent may execute and approve contracts not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations. This authority may be exercised by the Procurement Agent in behalf of any coordinated area.

5. *Supervisory Park Ranger.* The Supervisory Park Ranger, West Yellowstone Subdistrict may issue purchase orders not in excess of $100 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

6. *Supervisory Park Ranger.* The Supervisory Park Ranger, Bechler Ranger Station may issue purchase orders not in excess of $100 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

7. *Supervisory Park Ranger.* The Supervisory Park Ranger, South Entrance, Snake River Subdistrict may issue purchase orders not in excess of $100 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of funds.

8. *Supervisory Park Ranger.* The Supervisory Park Ranger, East Entrance, Lake Subdistrict may issue purchase orders not in excess of $100 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

9. *Supervisory Park Rangers and Park Rangers.* Supervisory Park Rangers and Park Rangers, while on assignment as liaison officers for Indian firefighters, may issue purchase orders not in excess of $300 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

10. *Supervisory Research Biologist.* The Supervisory Research Biologist, Office of Natural Science Studies may issue purchase orders not in excess of $300 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

11. *Management Assistant.* The Management Assistant, Big Hole National Battlefield may issue purchase orders not in excess of $300 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

12. *Revocation.* This order supersedes Order No. 5 issued March 21, 1963, and Amendment No. 1 issued April 8, 1965.

(National Park Service Order No. 34 (31 F.R. 4255), as amended; 39 Stat. 535; 16 U.S.C., sec. 2; Midwest Region Order No. 4 (31 F.R. 5768))

Dated: May 16, 1969.

JACK K. ANDERSON,
Superintendent,
Yellowstone National Park.

[F.R. Doc. 69-6708; Filed, June 6, 1969; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

IMPORT QUOTAS

Submission of Applications for Licenses To Import "Other" Cheese From New Zealand

In accordance with Part 3 of the Appendix to the Tariff Schedule of the United States (19 U.S.C. 1202), hereinafter referred to as TSUS, as amended by Proclamation 3884 of January 6, 1969 (34 F.R. 235), the following described cheese subject to the import quota provided for in TSUS item 950.10D may be entered from New Zealand on and after July 1, 1969, only pursuant to licenses issued under the authority of the Secretary of Agriculture.

Cheese and substitutes for cheese provided for in items 117.75 and 117.85, part 4C, schedule 1 of the TSUS (except cheese not containing cow's milk; cheese, except cottage cheese, containing no butterfat or not over 0.5 percent by weight of butterfat, and articles within the scope of other import quotas provided for in Part 3 of the Appendix to the TSUS); if shipped otherwise than in pursuance to a purchase or if having a purchase price under 47 cents per pound.

(Such a requirement has heretofore been placed in effect with respect to the entry of such cheese from all other countries.)

Notice is hereby given that persons who were, by reason of base period imports, licensees in the first 6 months of the 1969 quota year for the importation from New Zealand of cheese subject to the quotas provided for in TSUS items 950.08A and 950.08B (Cheddar and American cheese other than Cheddar) may apply for licenses to import from New Zealand cheese subject to the quota provided for in TSUS 950.10D.

A person who is not eligible upon the above basis to receive a license for the importation of such cheese from New Zealand may apply for a new business license to import such cheese upon the submission of satisfactory evidence that, during the preceding quota year, he was operating an independent business of importing cheese or cheese products and had made commercial importations in his own name of such cheese and cheese products and who certifies that he is not a part of or an affiliate of the business of any other person eligible for a license to import from New Zealand cheese subject to the quota provided for in TSUS 950.10D, and is not an officer, member, partner, associate, or employee of such business.

Applications and, in the case of new business licenses, supporting evidence should be sent to the Chief, Import Branch, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, and be postmarked not later than July 1, 1969.

Issued at Washington, D.C., this 3d day of June 1969.

RAYMOND A. IOANES,
Administrator,
Foreign Agricultural Service.

[F.R. Doc. 69-6734; Filed, June 6, 1969; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

COMBINATION DRUG SODIUM SULFIDE, UREA, AND TRIETHANOLAMINE FOR TOPICAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Onixol; contains per milliliter 0.0091 gram of sodium sulfide, 0.0907 gram of urea, and 0.0907 gram of triethanolamine; marketed by the Scholl Manufacturing Co., Inc., 213 West Schiller Street, Chicago, Ill. 60610 (NDA 4-229).

The Academy has evaluated this drug as ineffective in the treatment of ingrown toenails and the Food and Drug Administration concludes that there is a lack of substantial evidence that it is effective for the claim made in its labeling. Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the new-drug application for Onixol.

Prior to initiating such action, however, the Commissioner invites the holder of the new-drug application for Onixol and any interested person who may be adversely affected by its removal from the market to submit any pertinent data bearing on the proposal within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

This announcement of the proposed action and implementation of the NAS-NRC report for this drug is made to give notice to persons who might be adversely affected by its withdrawal from the market. Promulgation of an order withdrawing approval of the new-drug application will cause any such drug on the market to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

The above-named holder of the new-drug application for this drug has been mailed a copy of the NAS-NRC report, and any interested person may also obtain a copy on request from the office named below.

Communications forwarded in response to this announcement should be directed to the following appropriate office and addressed to the Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204:

Requests for NAS-NRC report: Press Relations Office (CE-300).
Comments or data regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (MD-16), Bureau of Medicine.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1969.

HERBERT L. LEY, JR.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-6693; Filed, June 6, 1969; 8:45 a.m.]

SULFAGUANIDINE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Sulfaguanidine Tablets; 0.5 gram of sulfaguanidine per tablet; marketed by Lederle Laboratories, Division of American Cyanamid Co., Pearl River, N.Y. 10965 (NDA 3-911).

The Academy evaluated this drug as ineffective:

1. For the treatment of acute bacillary dysentry and commented that the majority of the strains of Shigella are now sulfonamide-resistant and that sulfaguanidine is in the group of least active sulfonamide preparations.

2. As a preoperative and postoperative measure in colonic resection to reduce postoperative sequelae and shorten the period of hospitalization.

The Academy commented: (a) On the commonly offending organisms fecal streptococci, coliforms, and bacteroides as being inadequately suppressed and staphylococci and clostridia as responding unpredictably to sulfaguanidine; (b) that sulfaguanidine is very limited in antiseptic activity; (c) that it is readily inhibited in the presence of ulcerating lesions of the gastrointestinal tract; (d) that it is slow in its action; (e) that it is absorbed in appreciable quantities so that toxic reactions characteristic of sulfonamide therapy are common; and (f) that adequate documented evidence that the drug lowers the incidence of morbidity following colon surgery and reduces postoperative sequelae and shortens the period of hospitalization is lacking.

The Food and Drug Administration concludes that there is a lack of substantial evidence that the drug is effective for the claims made in its labeling. Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the new-drug application for this drug.

Prior to initiating such action, however, the Commissioner invites the holder of the new-drug application for this drug, and any interested person who may be adversely affected by removal of this drug from the market, to submit any pertinent data bearing on the proposal within 30 days after publication of this announcement in the FEDERAL REGISTER.

This announcement of the proposed action and implementation of the NAS-NRC report for this drug is made to give notice to persons who might be adversely affected by withdrawal of this drug from the market. Promulgation of an order withdrawing approval of the new-drug application will cause any such drug on the market to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

The above-named holder of the new-drug application for this drug has been mailed a copy of the NAS-NRC report, and any interested person may also obtain a copy on request from the office named below.

Communications forwarded in response to this announcement should be directed to the following appropriate office and addressed to the Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204:

Requests for NAS-NRC report: Press Relations Office (CE-300).
Comments or data regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (MD-16), Bureau of Medicine.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355)

and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-6694; Filed, June 6, 1969; 8:45 a.m.]

[Docket No. FDC-D-126; NDA No. 8-639, 9-067, 9-317]

DRUGS FOR VETERINARY USE CONTAINING RUMEN BACTERIA

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Applications

In an announcement published in the FEDERAL REGISTER of March 8, 1969 (34 F.R. 5038), holders of new-drug applications for drugs containing rumen bacteria, and other interested persons, were invited to submit data that might be pertinent to the question of effectiveness of the drugs. The information received, considered with the other available information, does not provide substantial evidence of effectiveness of such drugs for their recommended use as rumen stimulators in animals.

Therefore, notice is given to the applicants listed below, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the following new-drug applications and all amendments and supplements thereto with respect to any drugs included in such applications that contain rumen bacteria on the grounds that: Information before the Commissioner with respect to such drugs, evaluated together with the evidence available to him when the applications were approved, does not provide substantial evidence that these drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

NDA No.	Drug name	Applicant's name and address
8-639	Bovinoculum Cap-Tabs and Powder.	Fort Dodge Laboratories, Inc., Fort Dodge, Iowa 50501.
9-067	Ru-Bac	Haver-Lockhart Laboratories, Post Office Box 676, Kansas City, Mo. 64141.
9-317	Rufis Super Bio-Concentrate.	Poul-An Laboratories, Inc., 207 Westport Road, Kansas City, Mo. 64111.

In accordance with the provisions of section 505 of the act and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicants, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the subject new-drug applications should not be withdrawn. Promulgation of the order will cause any drug for animal use containing rumen bacteria and recommended for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days from the date of publication of this notice in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug applications. Failure of such persons to file such a written appearance of election within 30 days following the date of publication of this notice in the FEDERAL REGISTER will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process that the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-6696; Filed, June 6, 1969; 8:45 a.m.]

[Docket No. FDC-D-129; NDA No. 8-203 and 8-389V]

DRUGS FOR VETERINARY USE CONTAINING PENTOBARBITAL SODIUM AND MEPHENESIN

Notice of Opportunity for Hearing

In an announcement published in the FEDERAL REGISTER of February 14, 1969 (34 F.R. 2212), holders of new-drug applications for drugs containing pentobarbital sodium and mephenesin and other interested persons were invited to submit pertinent data on the effectiveness of such drugs. The information received evaluated with other available information does not provide substantial evidence of effectiveness of such drugs for their recommended use as a muscle relaxant in animals.

Therefore, notice is given to the applicants listed below, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the following new-drug applications and all amendments and supplements thereto with respect to any drugs included in such applications which contain pentobarbital sodium and mephenesin on the grounds that:

Information before the Commissioner with respect to such drugs, evaluated with the evidence available to him when the applications were approved, does not provide substantial evidence that these drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

NDA No.	Drug name	Applicant's name and address
8-203	Myotal	Warren-Teed Pharmaceuticals Inc., 582 West Goodale St., Columbus, Ohio 43216.
8-389V	Thesant	Norden Laboratories Inc., 601 West Oak, Lincoln, Nebr. 68501.

In accordance with the provisions of section 505(e) of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicants, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new-drug applications No. 8-203 and No. 8-389V should not be withdrawn. Promulgation of the order will cause any drug for animal use containing pentobarbital sodium and mephenesin and recommended for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after the date of publication of this notice in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application. Failure of such persons to file a written

appearance of election within such 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-6695; Filed, June 6, 1969; 8:45 a.m.]

AMDAL 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 (41-955V) has been filed by Amdal Co., Agricultural Division, Abbott Laboratories, North Chicago, Ill. 60064, proposing that a food additive regulation (21 CFR Part 121, Subpart C) be promulgated to provide for the safe use in swine feed of erythromycin as erythromycin thiocyanate for growth promotion and feed efficiency.

Dated: May 29, 1969.

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

[F.R. Doc. 69-6697; Filed, June 6, 1969; 8:45 a.m.]

[Docket No. FDC-D-128; NDA No. 8-668V]

NORDEN LABORATORIES, INC.

Vetistat; Notice of Opportunity for Hearing

In an announcement published in the FEDERAL REGISTER of February 1, 1969 (34 F.R. 1613), the holder of the new-drug application for Vetistat (a drug containing 0.5 percent of oxalic acid and 0.25 percent of malonic acid) and any other interested person were invited to submit pertinent data on the drug's effectiveness. The available information does not provide substantial evidence of effectiveness of the drug for its recommended use in the control of internal or external hemorrhage in animals.

Therefore, notice is given to Norden Laboratories, Inc., Lincoln, Nebr. 68501, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application No. 8-668V and all amendments and supplements thereto held by Norden Laboratories, Inc. for the drug Vetistat on the grounds that:

Information before the Commissioner with respect to such drug, evaluated with the evidence available to him when the application was approved, does not provide substantial evidence that this drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new-drug application No. 8-668V should not be withdrawn. Promulgation of the order will cause any drug for animal use containing oxalic acid and malonic acid and recommended for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after the date of publication of this notice in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application. Failure of such persons to file a written appearance of election within such 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-6698; Filed, June 6, 1969; 8:46 a.m.]

[Docket No. FDC-D-130; NDA No. 4-673]

JOHN B. STRIBLING & SON

Stribling's Pink Eye Powder; Notice of Opportunity for Hearing

In an announcement published in the FEDERAL REGISTER of February 6, 1969 (34 F.R. 1782), the holder of the new-drug application for Stribling's Pink Eye Powder (a drug containing 0.25 percent aspirin, 0.25 percent calomel (a mercury preparation), 2.50 percent azosulfamide, 1.0 percent sulfathiazole, 1.0 percent sulfanilamide, 20.0 percent sulfathiazole sodium, and 75.0 percent powdered charcoal) and any interested persons were invited to submit pertinent data on the drug's effectiveness. The information received, considered with the other available information, does not provide substantial evidence of effectiveness of the drug for its recommended use in animals (treatment of "pink-eye" in cattle, sheep, and goats).

Therefore, notice is given to John B. Stribling & Son, 1507 South Oakes, San Angelo, Tex. 76901, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application No. 4-673 and all amendments and supplements thereto held by John B. Stribling & Son for the drug Stribling's Pink Eye Powder on the grounds that:

Information before the Commissioner with respect to such drug, evaluated with the evidence available to him when the application was approved, does not provide substantial evidence that this drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling; or that powders should be used in the eyes.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new-drug application No. 4-673 should not be withdrawn. Promulgation of the order will cause any eye

powder for animal use containing a mixture of aspirin, calomel, azosulfamide, sulfathiazole, sulfanilamide, sulfathiazole sodium, and charcoal and recommended for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after the date of publication of this notice in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application.

Failure of such persons to file a written appearance of election within such 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1969.

HERBERT L. LEY, JR.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-6699; Filed, June 6, 1969; 8:46 a.m.]

[Docket No. FDC-D-131; NDA No. 9-654V]

WARREN-TEED PHARMACEUTICALS

Klot Stainless; Notice of Opportunity for Hearing

In an announcement published in the FEDERAL REGISTER of March 18, 1969 (34 F.R. 5342), the holder of the new-drug application for Klot Stainless and other interested persons were invited to submit pertinent data on the drug's effectiveness. The information received, considered with the other available information, does not provide substantial evidence of effectiveness of the drug for its recommended use in animals (as an aid in controlling hemorrhage).

Therefore, notice is given to Warren-Teed Pharmaceuticals, Subsidiary of Rohm & Haas Co., 582 West Goodale Street, Columbus, Ohio 43215, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application No. 9-654V and all amendments and supplements thereto held by Warren-Teed Pharmaceuticals for the drug Klot Stainless on the grounds that:

Information before the Commissioner with respect to such drug, evaluated with the evidence available to him when the application was approved, does not provide substantial evidence that this drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new-drug application No. 9-654V should not be withdrawn. Promulgation of the order will cause any drug for animal use containing *n*-butyl alcohol and recommended for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after the date of publication of this notice in the FEDERAL REGISTER, such persons are require to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application.

Failure of such persons to file the written appearance of election within said 30 days will be construed as an election not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: June 2, 1969.

HERBERT L. LEY, JR.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-6700; Filed, June 6, 1969; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

GULF TIRE & SUPPLY CO.

Withdrawal of Approved Code Mark; Extension of Effective Date

On April 24, 1969, the Director of the National Highway Safety Bureau issued a notice that the approved code mark assigned to Gulf Tire & Supply Co. pursuant to paragraph S4.3 of Motor Vehicle Safety Standard No. 109 had been withdrawn, effective with respect to tires manufactured after May 15, 1969, following a determination that Gulf Tire & Supply Co. is not a tire manufacturer within the meaning of Standard No. 109 (34 F.R. 7253).

Thereafter, the Director received a request to extend the effective date of his determination for a period of 60 days. Upon consideration of that request, it appears that good cause has been shown for permitting an additional, 60-day, period for changing the molds in which Gulfbrand tires are produced so that those tires will be labeled with the approved code mark assigned to their manufacturer. Therefore, the Director has granted the request for an extension of time and has notified Gulf Tire & Supply Co. that all tires bearing its trademark manufactured after July 14, 1969, must be labeled with either the name of the manufacturer or with the manufacturer's brand name and its approved code mark.

This notice is issued under the authority of sections 103, 119, and 201 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407, 1421).

Issued on June 2, 1969.

ROBERT BRENNER,
Acting Director,
National Highway Safety Bureau.

[F.R. Doc. 69-6710; Filed, June 6, 1969; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-208]

TRUSTEES OF COLUMBIA UNIVERSITY IN CITY OF NEW YORK

Extension of Completion Date

The trustees of Columbia University in the city of New York having filed a request for extension of the latest completion date specified in Construction Permit No. CPRR-78, and good cause having been shown for extension of said date pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55 of the Commission's regulations:

It is hereby ordered, That the latest completion date is extended to December 31, 1969.

Date of issuance: June 2, 1969.

For the Atomic Energy Commission.

F. SCHROEDER,
Acting Director,
Division of Reactor Licensing.

[F.R. Doc. 69-6713; Filed, June 6, 1969; 8:46 a.m.]

[Docket No. 50-223]

LOWELL TECHNOLOGICAL INSTITUTE

Extension of Completion Date of Construction Permit

The Lowell Technological Institute having filed a request dated May 16, 1969, for extension of the latest completion date specified in Construction Permit No. CPRR-87, which authorizes construction of a nuclear research reactor on its campus in Lowell, Mass., and good cause having been shown for extension of said date, pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and 10 CFR § 50.55 of the Commission's regulations:

It is hereby ordered, That the latest completion date for Construction Permit No. CPRR-87 is extended from June 30, 1969, to October 31, 1970.

Date of issuance: June 2, 1969.

For the Atomic Energy Commission.

ROBERT J. SCHEMEL,
Acting Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 69-6714; Filed, June 6, 1969; 8:46 a.m.]

[Docket No. 50-156]

UNIVERSITY OF WISCONSIN

Notice of Issuance of Facility License Amendment

The Atomic Energy Commission has issued Amendment No. 9, set forth below, to Facility License No. R-74. The license authorizes The University of Wisconsin to possess, use, and operate its TRIGA nuclear reactor on the university's campus at Madison, Wis.

This amendment, effective as of the date of issuance, increases from 3.75 kilograms to 7.50 kilograms the total quantity of uranium-235 which the licensee may receive, possess, and use under this license.

Within 15 days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the issuance of this amendment may file a petition for leave to intervene. A request for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this amendment, see the application dated May 6, 1969, and a related Safety Evaluation prepared by the Division of Reactor Licensing, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Safety Evaluation may be obtained from the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 23d day of May 1969.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Acting Assistant Director for Reactor Operations, Division of Reactor Licensing.

AMENDMENT TO FACILITY LICENSE

[License R-74, Amdt. 9]

The Atomic Energy Commission ("the Commission") has found that:

1. The University of Wisconsin application for amendment dated May 6, 1969, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

2. Operation of the reactor in accordance with the license, as amended, will not be inimical to the common defense and security or to the health and safety of the public; and

3. Prior public notice of proposed issuance of this amendment is not required, since the amendment does not involve significant hazards considerations different from those previously evaluated.

Accordingly, Facility License No. R-74, as amended, is hereby further amended by revising paragraph No. 2.B. thereof in its entirety to read as follows:

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material" to receive, possess, and use (1) up to 7.50 kilograms of contained uranium-235, (2) up to 16 grams of plutonium contained in plutonium-beryllium neutron sources, and (3) 135.4 grams of contained uranium-235 in MTR type fuel elements all in connection with the operation of the reactor.

This amendment is effective as of the date of issuance.

Date of issuance: May 23, 1969.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Acting Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 69-6715; Filed, June 6, 1969; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20884]

AIR PANAMA INTERNATIONAL, S.A.

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled matter now assigned to be held on June 10, 1969, is hereby postponed to June 25, 1969, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C., June 3, 1969.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[F.R. Doc. 69-6746; Filed, June 6, 1969; 8:49 a.m.]

[Docket No. 18650; Order 69-6-11]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority on June 3, 1969.

By Order 69-5-95, dated May 21, 1969, action was deferred, with a view toward eventual approval, on certain resolutions adopted by the International Air Transport Association (IATA), relating to specific commodity rates. The Board, in deferring action on the agreement, granted 10 days in which interested persons may file petitions in support of or in opposition to the Board's proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 69-5-95 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 20806, R-23 through R-25, be, and it hereby is, approved: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-6747; Filed, June 6, 1969; 8:49 a.m.]

[Docket No. 18650; Order 69-6-12]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority on June 3, 1969.

By Order 69-5-98, dated May 22, 1969, action was deferred, with a view toward eventual approval, on certain resolutions adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring

action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 69–5–98 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 20745, R–74 through R–77, be, and it hereby is, approved: *Provided,* That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69–6748; Filed, June 6, 1969; 8:49 a.m.]

[Docket No. 18650; Order 69–6–6]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority on June 3, 1969.

By Order 69–5–77, dated May 19, 1969, action was deferred, with a view toward eventual approval, on certain resolutions adopted by the International Air Transport Association (IATA), relating to specific commodity rates. The Board, in deferring action on the agreement, granted 10 days in which interested persons may file petitions in support of or in opposition to the Board's proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 69–5–77 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 20806, R–21 and R–22, be, and it hereby is, approved: *Provided,* That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69–6749; Filed, June 6, 1969; 8:49 a.m.]

[Docket No. 18650; Order 69–6–5]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority on June 3, 1969.

By Order 69–5–76, dated May 19, 1969, action was deferred, with a view toward eventual approval, on certain resolutions adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 69–5–76 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 20745, R–68 through R–73, be, and it hereby is, approved: *Provided,* That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69–6750; Filed, June 6, 1969; 8:49 a.m.]

[Docket No. 18381, etc.; Order 69–6–13]

CERTAIN MAIL RATE CASES

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of June 1969.

Nonpriority Mail Rate Case, Docket 18381; Domestic Service Mail Rate Case, Docket 16349; Latin American Service Mail Rate for Priority Mail, Docket 20415.

The Postmaster General, on January 29[1] and 30, 1969, filed a petition and an amendment thereof requesting amendments of the domestic mail rate and nonpriority mail rate orders (E–25610 and E–17255) to extend their application to the transportation of such mail between points within the 48 contiguous States, on the one hand, and Merida, Mexico, on the other. Order E–25610 established the current rates for the movement of priority mail by Pan American World Airways, Inc. (Pan American), inter alia, between points within the 48 contiguous States, and certain other points outside them, including Mexico City, Mexico. Merida, Mexico, a point on Pan American's Route 136, is an intermediate point for certain Pan American flights from the United States to Mexico City, Mexico, and priority mail (airmail) is dispatched to Pan American, at a domestic point, destined for both Merida and Mexico City. However, Merida was not a point named in the domestic (priority) mail rate order and mail carried to Merida has been subject to the Latin American mail rate order. Thus, even on the same flights payments for mail dispatched to the intermediate point Merida would be at a rate different from that for mail dispatched to Mexico City. In addition, the POD has requested that Merida be included within the scope of the Nonpriority Mail Rate Investigation (Docket 18381) which is currently in process.

The Postmaster General believes that it was simply an inadvertence that Merida was omitted from Order E–25610, in the first instance, but recognizes nevertheless the obligation to pay the 42.09 cent Latin American rate established by Order E–23753, for service to Merida up to October 28, 1968.[2]

The Department did not specifically request the inclusion of Merida within the terms of the order extending temporary nonpriority mail rates to points in Mexico (Order E–26938, dated June 19, 1968), which merely incorporates by reference the Mexican points subject to Order E–25610. The nonpriority mail rates have been open since April 6, 1967, and the Postmaster General desires to include Merida, Mexico, as a point to which nonpriority mail is dispatched at the rates to be fixed in that proceeding (Docket 18381) and to apply the current temporary rates to such service pending issuance of a final order therein.

By letter of February 7, 1969, Pan American answered that it has no objection to the relief sought by POD insofar as the domestic priority mail rate order (E–25610) should control the compensation received by Pan American for the transportation of priority mail from a domestic point to Merida, Mexico, on and after October 28, 1968. Prior to that date the carrier states that compensation for Merida priority mail service should be governed by the Latin American mail rate order (E–23753).[3] Pan American also states that it has no objection to including Merida in the nonpriority mail rate order (Order E–17255 as amended by Order E–26938) as a point to which this class of mail may be dispatched. The carrier requests further that this amendment should be made retroactive to June 30, 1968, the effective date of Order E–26938.

The Board has determined to grant the requests of POD, as supported by Pan American, and will amend the domestic (priority) mail rate order (E–25610) to include the point Merida, Mexico. Since the final rate established in the Latin American service mail rate order was applicable to these services until it was opened on October 28, 1968, the domestic rate will be applicable to Merida services from and after that date. We will similarly extend the application of the domestic nonpriority mail rate order by amending Order E–26938 to include Merida, Mexico as a point to which the existing temporary nonpriority mail rates apply. Since Pan American's mail rates to this point were closed until opened by POD on October 28, 1968, this rate will also be effective for the carriage of this class of mail on and after that date and will be subject to such retroactive adjustment to that date as may be determined in the Nonpriority Mail Rate Investigation in Docket 18381.

The instant requests of the POD do not involve the changing of a rate for part of an entire rate making unit for which a final mail rate is uniformly applicable. The rates for mail services between points in the United States and

[1] At the same time the Postmaster General submitted a motion for leave to file an unauthorized document in the event the petition was in contravention of Rule 303(b).

[2] On this date the Latin American rate was opened pursuant to a petition filed by the Postmaster General in Docket 20415.

[3] Docket 15381, May 31, 1966.

Merida, Mexico, are currently open as are all other Pan American mail rates under investigation in the Latin American Service Mail Rate Proceeding (Docket 20415). There is no other final mail rate or part of a final mail rate which would be opened by the POD petition. Under these circumstances the request to extend the final domestic priority and temporary domestic nonpriority mail rate orders to include Merida does not contravene the provisions of Rule 303(b) or otherwise involve the filing of an unauthorized document.

Therefore, the Board proposes to issue an order to include the following findings and conclusions:

(1) There is presently in effect a final service mail rate for the transportation of priority mail by aircraft which was established by Order E–25610, August 28, 1967, as amended.

(2) The fair and reasonable final rate of compensation to be paid Pan American Airways, Inc., for the transportation of priority mail by aircraft between points within the 48 contiguous States and the District of Columbia, on the one hand, and Merida, Mexico, on the other hand, the facilities used and useful therefor, and the services connected therewith effective October 28, 1968, is the final service mail rate established by Order E–25610, as amended.

(3) There are presently in effect temporary service mail rates for the transportation of nonpriority mail which were established by Order E–17255, as amended.

(4) The fair and reasonable temporary rates of compensation to be paid Pan American Airways, Inc., for the transportation of nonpriority mail on a space available basis between the 48 contiguous States, on the one hand, and Merida, Mexico, on the other, the facilities used and useful therefor, and the services connected therewith effective October 28, 1968 are the service mail rates established by Order E–17255, as amended.

(5) The findings and conclusions regarding the transportation of priority and nonpriority mail by aircraft shall be implemented by the following amendments to Board orders:

(A) Order E–25610, dated August 28, 1967, shall be amended by adding "Merida, Mexico," on page 2, line 6 of the text following "Acapulco, Mexico".

(B) Appendix No. 1 to Order 69–4–48, April 9, 1969, shall be amended by adding "Merida, Mexico" to the Class Z stations there listed for airmail service only.

(C) Paragraph B of Order E–17255, July 31, 1961, as amended by Order E–26938, June 19, 1968, shall be amended to read as follows:

B. The rates fixed and determined herein shall be applicable only to the transportation by air of nonpriority mail, i.e., such first-class mail, other than airmail and air parcel post, which may be tendered from time to time by the Post Office Department and carried on a voluntary, space available basis, between any points within the 48 contiguous States and between any point within them and Agana, Anchorage, Cordova, Fairbanks, Hilo, Honolulu, Juneau, Ketchikan, Kodiak, Pago Pago, San Juan, St. Croix, St. Thomas, Wake Island, Yakutat, and points in Canada and points in Mexico for which mail rates were established in the Domestic Service Mail Rate Investigation (Order E–25610, Aug. 28, 1967, as amended), and between Honolulu, Hawaii, on the one hand, and Agana, Guam, Pago Pago, and Wake Island, on the other.

(D) Appendix No. 2 to Order 69–4–48, April 9, 1969, shall be amended by adding "Merida, Mexico" to the Class B stations there listed for nonpriority mail service only.

(6) The temporary rates of compensation established herein shall be subject to such adjustment, retroactive to October 28, 1968, as may be determined in the final decision in the Nonpriority Mail Rate Investigation, Docket 18381.

(7) The service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof:

It is ordered, That:

1. All interested persons and particularly the Postmaster General and the parties to the investigation in this docket are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final and temporary rates specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and, if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days after the date of service of this order, and if notice is filed, written answer and supporting documents shall be filed within 15 days after date of service of this order;

3. If notice of objection is not filed within 10 days, or if notice is filed and if answer is not filed within 15 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 temporary rates specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307;

5. Notwithstanding the fixing and determining of the temporary rate for nonpriority mail as set forth above, this proceeding shall remain open as to such rate pending the entry of an order fixing the final rate in Docket 18381; and

6. This order shall be served upon the parties to the investigation in this docket.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69–6751; Filed, June 6, 1969; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 69–611]

CERTAIN CONTESTS AND MERCHANDISE SALES PROMOTIONS

Applicability of Lottery Statute

JUNE 3, 1969.

Contests and other promotional schemes which have recently come to the Commission's attention have made it advisable that we remind licensees of their responsibility to avoid the broadcast of matter regarding lotteries, and that we clarify the construction of section 1304, title 18, United States Code, which provides criminal penalties for such broadcasts. The principal purposes of this notice are to set forth our interpretation of section 1304 with respect to the availability of free chances in certain promotional schemes and to remind licensees of their responsibility to assure themselves of the accuracy of advertisements for such schemes.

Although the statute does not undertake to define a lottery, it is well settled that the necessary elements of such a scheme are (1) the awarding of a prize, (2) upon a contingency determined by chance, (3) to a person who has paid or agreed to pay a valuable consideration for the chance to win the prize. Ordinarily there is less trouble in determining the presence of the elements of prize and chance than in determining whether a particular promotion involves the giving of consideration.

Clearly, consideration is present when the contestant is required to pay money or give something else of value for the chance to win a prize. Therefore, the promotional scheme must not require a purchase or the risking of money or other things of value. The mere acts of appearing, registering, and securing free paraphernalia, standing alone, do not constitute sufficient consideration to support a finding of a lottery. See Federal Communications Commission v. American Broadcasting Company, Inc., 347 U.S. 284 (1954); Caples Co. v. United States, 243 F. 2d 232 (1957), and Garden City Chamber of Commerce v. Wagner, 110 F. Supp. 769. However, the availability of free chances must be real and not illusory; i.e., free chances must be available on a basis which is reasonably equal to that on which contestants who purchase a product may obtain them.

Thus, in a scheme in which bottle caps constitute the chances, free chances are not available on a reasonably equal basis if it is necessary to obtain them from a

bottling plant or the local route salesman, since chances are available to purchasers at all places of business selling the bottled drink. In general, if free chances may be obtained from most or all customary outlets, such as grocery stores and supermarkets, the element of lottery consideration would be eliminated. Equal availability means at least this. However, efforts should be made to insure that the nonpurchasing contestant is able to obtain free chances at all places where the product is sold.

Some promotional schemes have come to the Commission's attention in which provision was made for distributing free chances at stores selling the product, but the supply of free chances was often exhausted long before the distributor made his next delivery of them. Although the adequacy of supply may be difficult to foresee, it is the responsibility of the sponsor of the promotion to deliver a sufficient quantity of chances to insure that everyone who asks will be able to obtain them. Although a few isolated instances of unavailability of free chances will not result in a finding that the scheme involves a lottery, licensees must not lose sight of the fact that repeated failure of the sponsor or retail outlets to supply free chances will, in fact, turn the scheme into a lottery.

It has also come to the Commission's attention that nonpurchasing contestants are being disadvantaged in some schemes by a rule that only one free chance will be given to each person applying for it, whereas each of the products of the sponsor of the contest contains a chance; e.g., caps on soft-drink bottles and coupons in the wrappers of loaves of bread. Thus, although the nonpurchasing contestants may obtain only one chance, the purchaser may obtain as many chances as the number of product units he purchases, plus one free chance. In order to eliminate the element of consideration, nonpurchasing and purchasing contestants must be accorded an approximately equal opportunity in the number of chances to be obtained; otherwise, the scheme amounts to a lottery.

Finally, licensees are reminded of their responsibility to exercise reasonable diligence to make sure that promotions advertised over their facilities are not lotteries. The broadcaster may not always rely solely on the wording of the proposed advertisements or on other representations of the advertiser. In order to assure himself that his facilities are not being used for unlawful purposes, he should take all reasonable steps to learn whether the promotion in its actual operation is being conducted as a lottery. Licensees also are responsible for assuring themselves that announcements regarding such schemes are not otherwise false or misleading, and that the advertisements provide an accurate description of the contest and set forth the pertinent rules so that the public will not be misled.

One other aspect of this matter warrants mention at this time. Any announcement of a promotional scheme which depends upon the reasonably equal availability of free chances should adequately describe the availability of such free chances and the locations, times and manner in which they may be obtained. Such cryptic messages as "No purchase necessary" or "Nothing to buy" do not meet this requirement.

In addition to the criminal sanctions provided by section 1304 of the Criminal Code, sections 312 and 503 of the Communications Act of 1934, as amended, authorize revocation of broadcast licenses and imposition of monetary forfeitures for violation of section 1304.

Action by the Commission May 28, 1969.[1]

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

[F.R. Doc. 69-6762; Filed, June 6, 1969; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

AKTIEBOLAGET SVENSKA ATLANT LINIEN ET AL.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. R. J. Finnan, Analyst Rates & Tariffs, Lykes Bros. Steamship Co., Inc., Post Office Box 50998, New Orleans, La. 70150.

Agreement No. 9798, between Aktiebolaget Svenska Atlant Linien, S.A. Wilhelmsens Dampskibsaktieselskab, and Lykes Bros. Steamship Co., Inc., provides for the interchange of cargo containers and/or related equipment between points in the Gulf/United Kingdom-North European Trade, in accordance with the terms and conditions set forth therein.

Dated: June 4, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69-6757; Filed, June 6, 1969; 8:50 a.m.]

MARSEILLES/NORTH ATLANTIC U.S.A. FREIGHT CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Guy L. Retournat, Secretary, Marseilles/North Atlantic U.S.A. Freight Conference, 10, Place de la Joliette, Marseille 2, France.

Agreement No. 5660-13, between the member lines of the Marseilles/North Atlantic U.S.A. Freight Conference, amends the Preamble and Articles 1 and 12 of the basic agreement to provide for (1) deletion of the clause specifically excluding passenger ships calling off Cannes, Monte Carlo, and Villefranche from the jurisdiction of the Conference, and (2) the addition of the words "by water" to the phrase "direct or with transhipment."

Dated: June 4, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69-6758; Filed, June 6, 1969; 8:50 a.m.]

[Docket No. 69-24]

SEATRAIN LINES, INC.

General Increases in Rates in U.S. Atlantic/Puerto Rico Trade

First Supplemental Order and Special Permission No. 5040.

By the original order in this proceeding served May 14, 1969, the Commission placed under investigation a 10 percent general rate increase of the subject carrier, and suspended to and including,

[1] Commissioners Hyde (Chairman), Robert E. Lee, Cox, Wadsworth, Johnson and H. Rex Lee.

September 15, 1969, Supplements Nos. 47 and 22 to the Seatrain Lines, Inc., Freight Tariffs FMC–F No. 1 and FMC–F No. 3. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 179 filed by Seatrain Lines, Inc., authority is sought under the provisions of section 2 of the Intercoastal Shipping Act, 1933, to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to the extent necessary to permit the filing, upon less than statutory notice, of new reduced rates as enumerated, which will change tariff matter continued in effect by reason of suspension in this proceeding.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 69–24 to make changes in rates and provisions held in effect by reason of suspension in said docket, said changes to become effective on less than statutory notice upon the individual dates requested by Special Permission Application No. 179, be and it is hereby granted.

2. Publications issued and filed under this authority shall bear the following notation: "Authority to issue and file on not less than (show notice corresponding to rate change in Special Permission Application No. 179) _____ days' notice and to depart from the terms of the order in I&S Docket No. 69–24 granted under Federal Maritime Commission Special Permission No. 5040."

3. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned reduced rates to become effective, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69–6755; Filed, June 6, 1969; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP69–319]

FLORIDA GAS TRANSMISSION CO.

Notice of Application

JUNE 2, 1969.

Take notice that on May 26, 1969, Florida Gas Transmission Co. (Applicant), Post Office Box 44, Winter Park, Fla. 32789, filed in Docket No. CP69–319 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 for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to install and operate a skid-mounted field compressor unit in East Lochridge Field in Brazoria County, Tex., to enable it to continue to receive natural gas from said field when Shell Oil Co. (Shell) exercises its contractual rights to reduce delivery pressure of gas delivered to Applicant to not in excess of 500 p.s.i.g.

Applicant states that under the contract for the sale of such gas to it, Shell has the right to reduce the pressure at which gas is delivered to Applicant to pressures not in excess of 500 p.s.i.g. during the last 10 years of the contract term, which right becomes effective on August 1, 1969. Applicant further states that Shell has advised Applicant that it plans to exercise its right to reduce delivery pressure at an early date, in which event it will be necessary for Applicant to install the requested compressor facilities to maintain continuity of deliveries of gas by Shell to Applicant from the East Lochridge Field.

The total estimated cost of the proposed facilities is $74,000, which will be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on 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. 69–6688; Filed, June 6, 1969; 8:45 a.m.]

[Docket No. CP69–315]

LOUISIANA-NEVADA TRANSIT CO.

Notice of Application

JUNE 2, 1969.

Take notice that on May 21, 1969, Louisiana-Nevada Transit Co. (Applicant), Post Office Box 398, Ada, Okla. 74820, filed in Docket No. CP69–315 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(c) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the period June 1, 1969, through May 31, 1970, and operation of certain natural gas facilities for the sale of natural gas to direct consumers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct during the budget period a maximum of three metering and regulating installations for the sales to direct consumers. Applicant states that natural gas deliveries to any one consumer through the proposed facilities will not exceed 100,000 Mcf annually and that such gas will not be used for boiler fuel purposes.

The total estimated cost of the proposed facilities under this application will not exceed $4,500, which cost will be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 27, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on 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. 69-6689; Filed, June 6, 1969; 8:45 a.m.]

[Docket No. CP69-317]

SHENANDOAH GAS CO.

Notice of Application

JUNE 2, 1969.

Take notice that on May 26, 1969, Shenandoah Gas Co. (Applicant), 1100 H Street NW., Washington, D.C. 20005, filed in Docket No. CP69-317 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(c) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing with the issuance date of the requested authorization and operation of certain natural gas facilities for the sale of natural gas to direct consumers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct during the budget period taps on its certificated pipeline system to service direct consumers in Virginia and West Virgina. Applicant states that natural gas deliveries to any one consumer through the proposed facilities will not exceed 100,000 Mcf annually and that such gas will not be used for boiler fuel purposes.

The application indicates that the total estimated cost of the proposed facilities will not exceed $100,000, which cost will be financed through open account advances from Applicant's parent, the Washington Gas Light Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on 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. 69-6690; Filed, June 6, 1969; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

BARNETT NATIONAL SECURITIES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Barnett National Securities Corp., which is a bank holding company located in Jacksonville, Fla., for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of North Tallahassee Bank, Tallahassee, Fla., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 29th day of May 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-6717; Filed, June 6, 1969; 8:47 a.m.]

CHARTER BANKSHARES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Charter Bankshares Corp., which is a bank holding company located in Jacksonville, Fla., for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of The Harbor City National Bank of Eau Gallie, Eau Gallie, Fla.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 29th day of May 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL, *Assistant Secretary.*

[F.R. Doc. 69-6718; Filed, June 6, 1969; 8:47 a.m.]

CHARTER BANKSHARES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Charter Bankshares Corp., which is a bank holding company located in Jacksonville, Fla., for the prior approval of the Board of the acquisition by Applicant of 51 percent or more of the voting shares of First National Beach Bank, Jacksonville, Fla.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 29th day of May 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL, *Assistant Secretary.*

[F.R. Doc. 69-6719; Filed, June 6, 1969; 8:47 a.m.]

CHARTER BANKSHARES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Charter Bankshares Corp., which is a bank holding company located in Jacksonville, Fla., for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of The First National Bank in St. Petersburg, St. Petersburg, Fla.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighted in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 29th day of May 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL, *Assistant Secretary.*

[F.R. Doc. 69-6720; Filed, June 6, 1969; 8:47 a.m.]

COLORADO CNB BANKSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Colorado CNB Bankshares, Inc., which is a bank holding company located in Denver, Colo., for the prior approval of the Board of the acquisition by Applicant of at least 80 percent of the voting shares of Lakewood Colorado National Bank, Lakewood, Colo.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisiton or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

Dated at Washington, D.C., this 29th day of May 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL, *Assistant Secretary.*

[F.R. Doc. 69-6721; Filed, June 6, 1969; 8:47 a.m.]

DOMINION BANKSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Dominion Bankshares Corp., Roanoke, Va., for approval of acquisition of 80 percent or more of the voting shares of Security National Bank, Baileys Cross Roads, Falls Church, Va.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Dominion Bankshares Corp., Roanoke,

Va., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Security National Bank, Baileys Cross Roads, Falls Church, Va.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on March 22, 1969 (34 F.R. 5567), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

Dated at Washington, D.C., this 29th day of May 1969.

By order of the Board of Governors.[2]

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-6722; Filed, June 6, 1969; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3909]

BSF CO.

Order Suspending Trading

JUNE 3, 1969.

The capital stock (66⅔ cents par value) and the 5¾ percent convertible subordinated debentures due 1969 of BSF Co. being listed and registered on the American Stock Exchange, and such capital stock being listed and registered on the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934; and all other securities of BSF Co. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in the said capital stock on such exchanges and in the debentures on the American Stock Exchange, and trading otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 4, 1969, through June 13, 1969, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 69-6726; Filed, June 6, 1969; 8:48 a.m.]

CAPITOL HOLDING CORP.

Order Suspending Trading

JUNE 3, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading otherwise than on a national securities exchange in the common stock and all other securities of Capitol Holding Corp. is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 4, 1969, through June 13, 1969, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 69-6727; Filed, June 6, 1969; 8:48 a.m.]

TELSTAR, INC.

Order Suspending Trading

JUNE 3, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Telstar, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 4, 1969, through June 13, 1969, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 69-6725; Filed, June 6, 1969; 8:48 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Richmond.

[2] Voting for this action: Chairman Martin and Governors Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Governors Robertson and Daane.

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 4, 1969.

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. 41646—*Lime to points in southern territory*. Filed by Southwestern Freight Bureau, agent (No. B-36), for interested rail carriers. Rates on lime, common, hydrated, quick or slaked, in carloads, as described in the application, from specified points in Arkansas, Louisiana, Missouri, Oklahoma, and Texas, to points in southern territory, including Mississippi River crossings, Memphis, Tenn., and south.

Grounds for relief—Market competition.

Tariff—Southwestern Freight Bureau, agent, tariff ICC 4852.

FSA No. 41647—*Iron or steel articles to Zacarter, La.* Filed by Southwestern Freight Bureau, agent (No. B-44), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from specified points in Alabama, Colorado, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, West Virginia and Wisconsin, to Zacarter, La.

Grounds for relief—Market competition.

Tariff—Supplement 106 to Southwestern Freight Bureau, agent, tariff ICC 4753.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-6743; Filed, June 6, 1969; 8:49 a.m.]

[Notice 844]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 4, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest

must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1756 (Sub-No. 16 TA), filed May 23, 1969. Applicant: PEOPLES EXPRESS CO., a corporation, 497 Raymond Boulevard, Newark, N.J. 07105. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *Containers*, metal, on automated trailers, not more than 1 gallon in capacity, from Paterson, Bayonne, and Pennsauken, N.J., and Maspeth and Menands, N.Y., to Coca-Cola Co., Elmsford, N.Y., for 180 days. Supporting shipper: Continental Can Co., Inc., 633 Third Avenue, New York, N.Y. 10017. Send protests to: Robert S. H. Vance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 20872 (Sub-No. 13 TA), filed May 27, 1969. Applicant: LIME CITY TRUCKING COMPANY, INCORPORATED, 1455 Swan Street, Huntington, Ind. 46750. Applicant's representative: Alki E. Scopelitis, 816 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and glassware and articles used in the manufacture, sale, or distribution thereof*, between Huntington, Ind., and the plant and warehouse sites of Corning Glass Works at or near Bluffton, Ind., limited to shipments having immediately prior or subsequent interstate transportation by rail, for 180 days. Supporting shipper: Corning Glass Works, Corning, N.Y. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, Ind. 46802.

No. MC 30844 (Sub-No. 276 TA), filed May 23, 1969. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, 2125 Commercial Boulevard, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Aquariums and household pet cages*, loose or in cartons, and *aquarium accessories, supplies, and equipment*, in straight or mixed shipments, from Maywood, Paterson, and Mahwah, N.J., to points in Pennsylvania, Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Missouri, Alabama, Texas, Louisiana, West Virginia, Kentucky, and Tennessee; and (2) *raw materials and supplies*, used in the manufacture of aquariums and household pet cages, from Maywood, Paterson, and Mahwah, N.J., to Mountain View and Gardena, Calif., for 180 days. Supporting shipper: Metaframe Corp., 87 Route 17, Maywood, N.J. 07607. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 39871 (Sub-No. 3 TA), filed May 28, 1969. Applicant: EDWARD M. HOWEY, doing business as HOWEY'S EXPRESS, 666 Tatum Street, Woodbury, N.J. 08096. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail and wholesale department and hardware stores, and in connection therewith, *equipment, materials, and supplies* used in the distribution and sale of such commodities, except commodities in bulk, between points in Pennsylvania, Delaware, New Jersey, and New York, for 180 days. Supporting shipper: Cotter & Co., 2740 Clybourn Avenue, Chicago, Ill. 60614. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 41951 (Sub-No. 7 TA), filed May 27, 1969. Applicant: WHEATLEY TRUCKING, INC., Brohawn Avenue, Cambridge, Md. 21613. Applicant's representative: Robert Bromwell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet foods* in containers (not bulk or frozen), from plant and warehouse site, Cambridge, Md., to points in Maryland, Delaware, Pennsylvania, New Jersey, New York, Ohio, Michigan, and that part of Virginia lying on and east of Highway 1 and points in North Carolina and Connecticut, for 180 days. Supporting shipper: Bumble Bee Seafoods, Cambridge, Md. 21613, O. D. Howell, Assistant Plant Manager. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 41951 (Sub-No. 8 TA), filed May 27, 1969. Applicant: WHEATLEY TRUCKING, INC., Brohawn Avenue, Cambridge, Md. 21613. Applicant's representative: Robert Bromwell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet foods, canned seafood*, in containers (not bulk or frozen), from plant and warehouse site Cambridge, Md., to points in Alabama, Georgia, Florida, Tennessee, South Carolina, for 180 days. Supporting shipper: Bumble Bee Seafoods, Cambridge, Md. 21613, O. D. Howell, Assistant Plant Manager. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 95540 (Sub-No. 743 TA), filed May 22, 1969. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33802. Applicant's representative: Clyde W. Carver, Suite 527, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned preserved foodstuffs* (not coldpack or frozen), from Waterloo, Red Creek, Rushville, Egypt, Penn Yan, Lyons, Newark, Fairport, and Syracuse, N.Y., to Jacksonville, Tampa, and Miami, Fla.; Orangeburg, Charleston, Greenville, and Columbia, S.C.; Albany and Forest Park, Ga.; Nashville, Chattanooga, Knoxville, and Memphis, Tenn.; Birmingham, Montgomery, Mobile, and Dothan, Ala.; Dallas, Fort Worth, Lubbock, Houston, Abilene, Beaumont, Austin, Corpus Christi, San Antonio, and Weslaco, Tex.; Shreveport, La.; Tulsa and Oklahoma City, Okla.; Little Rock, Ark.; Lexington and Louisville, Ky.; Raleigh, Kinston, Charlotte, Greensboro, and Winston-Salem, N.C.; Bluefield and Huntington, W. Va.; and Richmond, Roanoke, Bristol, and Norfolk, Va.; for 180 days. Supporting shippers: Borden, Inc. Foods Division Comstock-Greenwood Foods, 1000 South Main Street, Newark, N.Y. 14513. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 97825 (Sub-No. 5 TA), filed May 21, 1969. Applicant: LOUISIANA MIDLAND TRANSPORT COMPANY, 3679 Florida Street, Baton Rouge, La. 70806. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in packages, and in bulk, in tank or other bulk-type carrying vehicles, restricted to ex-rail traffic having a prior movement by rail from Selma (Jefferson County), Mo., from Anchorage, La., approximately 2 miles west of the Mississippi River across from the city of Baton Rouge, La., to points in the following Louisiana Parishes: West Baton Rouge, East Baton Rouge, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. John the Baptist north of U.S. Highway 90 and Louisiana Highway 1, St. James, Ascension, Assumption, St. Martin, St. Mary, Iberia, Lafayette, St. Landry, Pointe Coupee, West Feliciana, and Iberville, for 180 days. Supporting shippers: River Cement Co., 10 South Brentwood Boulevard, St. Louis, Mo. 63105. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-40001 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 97904 (Sub-No. 9 TA), filed May 26, 1969. Applicant: KNOXVILLE-MARYVILLE MOTOR EXPRESS, INC., 2335 Texas Avenue, Knoxville, Tenn. 37921. Applicant's representative: Clarence Evans, Third National Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) *Hosiery and hosiery products*, between Loudon and Lenoir

City, Tenn., and Knoxville, Tenn., over U.S. Highway 11 (also over Interstate Highway 75), and (2) *automotive tail pipes, mufflers, clamps, hangers, and accessories*, between Loudon, Tenn., and Knoxville, Tenn., over U.S. Highway 11 (also over Interstate Highway 75), for 180 days. NOTE: Applicant proposes to Interline with all carriers at Knoxville, Tenn. Supporting shippers: Marement Corp., 168 North Michigan Avenue, Chicago, Ill. 60601; and Charles H. Bacon Co., Inc., Lenoir City, Tenn. 37771. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 110264 (Sub-No. 38 TA), filed May 28, 1969. Applicant: ALBUQUERQUE PHOENIX EXPRESS, INC., Post Office Box 3459, Albuquerque, N. Mex. 87110. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, those of unusual value, household goods as defined by the Commission, and those requiring special equipment), between Albuquerque, N. Mex., and Phoenix, Ariz. (1) from Albuquerque over U.S. Highway 66 (Interstate Highway 40) to Flagstaff, Ariz., thence over Arizona Highway 79 (Interstate Highway 17) to Phoenix, and return over the same route, serving all intermediate points; (2) from Flagstaff, Ariz., over U.S. Highway 66 (Interstate Highway 40) to Ashfork, Ariz., thence over U.S. Highway 89 to Prescott, Ariz., thence over Arizona Highway 69 to junction of Arizona Highways 79 and 69 (Interstate Highway 17), thence over Arizona Highway 69 (Interstate Highway 17) to Phoenix, Ariz., and return over the same route, serving all intermediate points; (3) from Gallup, N. Mex., joining Route No. (1) above, to Quemado, N. Mex., over New Mexico Highway 32 to junction of U.S. Highway 60 just west of Quemado, N. Mex., and return over the same route, serving all intermediate points; (4) from Fence Lake, N. Mex., located on New Mexico Highway 32 to Quemado, N. Mex., over New Mexico Highway 36 to junction New Mexico Highway 117, thence over New Mexico Highway 117 to Quemado, N. Mex., and return over the same route, serving all intermediate points; and (5) from Milan, N. Mex., over New Mexico Highway 53 to junction New Mexico Highway 509, thence over New Mexico Highway 509 to Ambrosia Lake, N. Mex., and from junction New Mexico Highway 53 and New Mexico Highway 509 to San Mateo, N. Mex., and return over the same route, serving all intermediate points, for 180 days. NOTE: Applicant states it does intend to tack or interline at all points on the proposed routes including but not restricted to Phoenix, Adobe, Holbrook, Winslow, Flagstaff, Ashfork, and Prescott, Ariz., and Albuquerque, Quemado, Grants, and Gallup, N. Mex. Supporting shippers: There are approximately 21 supporting statements from supporting shippers attached to the application, which may be examined here at Washington, D.C., or at the field office named below. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, 10515 Federal Building, U.S. Courthouse, Albuquerque, N. Mex. 87101.

No. MC 110789 (Sub-No. 4 TA), filed May 28, 1969. Applicant: JOHN MARSHALL PHILLIPS, doing business as J. MARSHALL PHILLIPS, R.F.D. No. 3, Laurel, Del. 19956. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural lime*, from points in Lancaster County, Pa., to points in Delaware and Maryland east of the Susquehanna River and Chesapeake Bay, for 180 days. Supporting shippers: Raymond E. Townsend & Sons, Frankford, Del. 19945; Warner Co., Philadelphia, Pa. 19103; Ivan M. Martin, Inc., Blue Ball, Lancaster County, Pa. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 111434 (Sub-No. 76 TA), filed May 28, 1969. Applicant: DON WARD, INC., 241 West 56th Avenue, Denver, Colo. 80216. Applicant's representative: Peter J. Crouse, 1700 Western Federal Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestone and limestone products*, from Fort Morgan, Colo., to points in Wyoming, points in Nebraska and Kansas on and west of U.S. Highway 281, points in Texas and New Mexico north of Interstate Highway 40, and points in Cimarron, Tex., and Beaver Counties, Okla., for 180 days. Supporting shipper: J. C. Jensen, General Traffic Manager, The Great Western Sugar Co., Post Office Box 5308, Denver, Colo. 80217. Send protests to: C. W. Buckner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 113678 (Sub-No. 351 TA), filed May 22, 1969. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Oscar Mandel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Those commodities normally used by and dealt in by restaurants* (except meats, meat products, meat byproducts, and articles distributed by meat packinghouses), from the distribution warehouse of Mr. Steak, Inc., and shipping facilities used by Mr. Steak at Denver, Colo., to points in Alabama, Kentucky, North Carolina, Tennessee, Virginia, Florida, South Carolina, and Mississippi, for 180 days. Supporting shipper: National Marketing & Leasing Corp., a division of Mr. Steak, Inc., 5100 Race Court, Denver, Colo. Send protests to: Herbert C. Rouff, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo.

No. MC 114106 (Sub-No. 74 TA), filed May 29, 1969. Applicant: MAYBELLE TRANSPORT COMPANY, 1820 South Main Street, Lexington, N.C. 27292. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potato starch*, dry, in bulk, from Greer, S.C., to points in North Carolina, for 180 days. Supporting shipper: A. E. Staley Manufacturing Co., Post Office Box 151, Decatur, Ill. 62525. Send protests to: Jack K. Huff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building), Charlotte, N.C. 28202.

No. MC 114969 (Sub-No. 29 TA), filed May 26, 1969. Applicant: PROPANE TRANSPORT, INC., Post Office Box 232, 1734 State Route 131, Milford, Ohio 45150. Applicant's representative: James M. Roudebush (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Oregon, Ohio, to points in Hillsdale and Lenawee Counties, Mich., and points in that part of Monroe County, Mich., on and west of U.S. Highway 23, for 180 days. Supporting shipper: Sun Oil Co., 1819 Woodville Road, Post Office Box 920, Toledo, Ohio 43601. Send protests to: Emil P. Schwab, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1010 Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 119315 (Sub-No. 10 TA), filed May 27, 1969. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Road, Toledo, Ohio 43612. Applicant's representative: Paul F. Beery, Suite 1650, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiber glass tub and shower stalls*, from the plantsite of the Kohler Co. at Toledo, Ohio, to points in Michigan and West Virginia; and *refused, damaged, and rejected shipments*, from the above-destination States to the plantsite of the Kohler Co. at Toledo, Ohio, for 180 days. Supporting shipper: Kohler Co., Kohler, Wis. 53044. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 119917 (Sub-No. 24 TA), filed May 27, 1969. Applicant: DUDLEY TRUCKING COMPANY, INC., 717 Memorial Drive SE., Atlanta, Ga. 30316. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products, and candy and confectionery;* and *advertising and printed matter, store display racks and stands, and related equipment and supplies*, when moving in conjunction with and as a part of the same shipment with bakery products and candy and confectionery, from Macon, Ga., to points in Florida, for 180 days. Supporting shipper: Keebler Co., 677 Larch Avenue, Elmhurst, Ill. 60126. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 124816 (Sub-No. 2 TA), filed May 28, 1969. Applicant: N & N TRANSPORTATION CO., INC., 827 Ridgewood Avenue, North Brunswick, N.J. 08902. Applicant's representative: William J. Augello, Jr., 36 West 44th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal culvert pipe, conduit pipe, iron or steel articles, and accessories* incidental to the installation of pipe, from South Brunswick Township, Middlesex County, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Virginia, and Washington, D.C., for 180 days. NOTE: Applicant intends to tack with MC 124816 and (Sub 1). Supporting shipper: Wheeling Corrugating Co., a division of Wheeling Steel Corp., General Offices, Wheeling, W. Va. 26003. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, N.J. 07102.

No. MC 133302 (Sub-No. 2 TA), filed May 26, 1969. Applicant: WICHITA-SOUTHEAST KANSAS TRANSIT, a corporation, 624 East Morris, Wichita, Kans. 67211. Applicant's representative: Paul V. Dugan, 1400 Wichita Plaza, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, from Wichita, Kans., to points in Southeast Kansas, and return, as follows: Between Wichita, Kans., and points beginning at Beaumont, Kans., on Kansas Highway 96 to junction Kansas Highway 96 and Kansas Highway 99 and U.S. Highway 54 to Eureka, Kans., thence over U.S. Highway 54 to Kansas-Missouri State line east of Fort Scott, Kans., also, from Severy, Kans., 1 mile south of junction of Kansas Highway 96 and Kansas Highway 99 over Kansas Highway 99 and Kansas Highway 96 to junction Kansas Highway 96 and U.S. Highway 196 east of Independence, Kans., thence over U.S. Highway 196 to Kansas-Oklahoma line south of Coffeyville, Kans., serving to, from, and between all points in Sedgwick, Butler, Greenwood, Allen, Woodson, Bourbon, Wilson, Neosho, Crawford, Montgomery, Labette, and Cherokee Counties, Kans., between Wichita, Kans., and Eureka, Kans., from Wichita, Kans., over Kansas Turnpike to El Dorado Exchange, thence over Kansas Highway 254 to junction Kansas Highway 254 and U.S. Highway 54 to Eureka, and return over the same route, serving no intermediate points, for operating convenience only.

Between Wichita and points on following highway routes and return over same, serving following towns and cities on Kansas Highway 96, Beaumont, Piedmont, Fall River Dam Site, Fall River, Fredonia, Neodesha, Sycamore, Altamont, Oswego, Hallowell, and Columbus, Kans. Serving the following towns and cities on Kansas Highway 47, Fredonia, Altoona, thence over Kansas Highway 47 to junction of Kansas Highway 47 and U.S. Highway 59, thence over U.S. Highway 59 to junction of U.S. Highway 59 and Kansas Highway 57, serving the following towns and cities on Kansas Highway 57, St. Paul, Greenbush, Girard, and Ringo, thence to junction Kansas Highway 57 and U.S. Highway 69, serving the following towns and cities on Kansas Highway 54, Eureka, Neal, Batesville, Yates Center, Iola, Gas, La Harpe, Moran, Bronson, Uniontown, and Fort Scott. Serving the following towns and cities on Kansas Highway 105, Toronto and Toronto Dam Site. Also using Kansas Highway 37 as an alternate route between U.S. Highways 75 and 160. Serving the following towns and cities on U.S. Highway 160, Independence, Parsons, Service (Kansas Gas & Electric Plant), Strauss, and Cherokee, to junction of U.S. Highways 160 and 69. Serving the following towns and cities on U.S. Highway 169, Iola, Bassett, Humboldt, Chanute, Earlton, Thayer, Morehead, Cherryvale, Coffeyville, serving following towns and cities on U.S. Highway 166, Coffeyville, Valeda, Bartlett, Chetopa, Melrose, and Baxter Springs, Kans. Serving McCune, Kans., on Kansas Highway 126. Serving the following towns and cities on U.S. Highway 75, Yates, Center, Buffalo, Altoona, Buffville, Neodesha, Sycamore, and Independence at the junction of U.S. Highways 160 and 96. Serving Mound Valley, Kans., on Kansas Highway 222, Dennis, Kans., on Kansas Highway 133, Edna, Kans., on Kansas Highway 101, Weir, Kans., on Kansas Highway 103, Roseland and West Mineral, Kans., on Kansas Highway 102.

Serving the following towns and cities on U.S. Highway 69, Fort Scott, Arma, Franklin, Frontenac, and Pittsburg, then on the junction of U.S. Highway 69, Kansas Highways 96 and 26 to serve the city of Crestline, then Kansas Highway 26 to junction of Kansas Highway 26 and U.S. Highway 66 to serve cities of Galena and Riverton, then to junction of U.S. Highways 66 and 166, then on U.S. Highway 166 to junction of U.S. Highways 166 and 69 to serve city of Treece. Serving Galesburg, Urbana, and Shaw, Kans., on unnumbered county road, Elsmore on Kansas Highway 203, Erie, on Kansas Highway 108, South Mound on unnumbered county road, Montana and Labette on unnumbered county road, Walnut on Kansas Highway 146, Brazilton and Helper on Kansas Highway 3, Farlington, Girard, Beulah, Cherokee, and Scammon on Kansas Highway 7, thence on to junction of Kansas Highways 7 and 96, and serving Sherman, Redfield, Englevale, Sherwin, Monmouth, Capaldo, Odense, Brooks, Arden, and Skidmore, Kans., on unnumbered county roads, for 180 days. NOTE: Applicant states it will interline with numerous other carriers at Wichita, Kans. Supporting shippers: Cameo Industries, Inc., Post Office Box 150, Columbus, Kans. 66725, Humboldt Packaging, Inc., 824 Bridge Street, Humboldt, Kans. 66748, Independent Manufacturing Co., Inc., Neodesha, Kans. 66757, Iola Marine Co., 513 North State, Iola, Kans., Kansas Bank Note Co., Fifth and Jefferson Streets, Fredonia, Kans. 66736, Mid-America Dairymen, Inc., Erie, Kans. 66534, Superior Concrete Accessories, Inc., Post Office Box 768, Parsons, Kans. 67357, and Vallis-Wngroll Business Forms Co., Inc., Cherryvale, Kans. 67335. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 133615 (Sub-No. 2 TA), filed May 27, 1969. Applicant: RAYMOND R. NELSON AND PATRICK D. FITZMORRIS, a partnership, doing business as BRICK CARTAGE CO., 882 East 52d Place North, Tulsa, Okla. Applicant's representative: Raymond L. Nelson, 882 East 52d Place North, Tulsa, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick, tile and related masonry items*, from points in Missouri, Oklahoma, Texas, Arkansas, and Kansas to points in Missouri, Oklahoma, Texas, Arkansas, and Kansas, for 180 days. Supporting shipper: Chandler Materials Co., 1723 South Boston, Tulsa, Okla. 74101; Elgin-Butler Brick Co., Post Office Box 1947, Austin, Tex. 78767. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 240 Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 133685 (Sub-No. 1 TA), filed May 27, 1969. Applicant: CARROLL TRUCKING, INC., 8001 Douglas Avenue, Gaithersburg, Md. 20760. Applicant's representative: Martin Sterenbuch, 1120 Connecticut Avenue, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plumbing supplies and fixtures, and electrical supplies*, from Frederick Junction, Md., to points in Maryland, the District of Columbia, points in Adams, Cumberland, Franklin, and York Counties, Pa., points in Arlington, Clarke, Fairfax, Fauquier, Frederick, Loudoun, Prince William, and Warren Counties, Va., and Alexandria, Va., and points in Berkeley, Grant, and Jefferson Counties, W. Va.; and returned shipments of the above-specified commodities, from the above-described destination points to Frederick Junction, Md. Restriction: The operations herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the Wickes Lumber and Building Supplies Division of the Wickes Corp., Frederick Junction, Md., for 150 days. Supporting shipper: Wickes Lumber and Building Supplies Division, Wickes Corp., Frederick Junction, Md. 21701. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 133739 TA, filed May 19, 1969. Applicant: KINGSVILLE MOVING & STORAGE, INC., 517 South Sixth Street, Kingsville, Tex. Applicant's representative: Mert Starnes, The 904 Lavaca Building, Austin, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, restricted to shipments having a prior or subsequent movement beyond Texas, in specially designed containers, and further restricted to pickup

and delivery service incidental to and in connection with the packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments, between Kingsville, Tex., on the one hand, and, on the other, points within a 25-mile radius of Kingsville, for 150 days. Supporting shippers: Astron Forwarding Co., Post Office Box 161, Oakland, Calif.; and MTMTS, Washington, D.C. Send protests to: Richard B. Dawkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 301 Broadway, Room 206, San Antonio, Tex.

No. MC 133756 (Sub-No. 1 TA), filed May 28, 1969. Applicant: BEAVER TRANSPORT COMPANY OF INDIANA, INC., 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs*, from Fort Wayne, Ind.; to Dale, New Albany, and Richmond, Ind.; East Bernstadt, Fort Knox, Greenville, Lexington, Nicholasville, and Louisville, Ky., for 150 days. Supporting shipper: The Pillsbury Co., 608 Second Avenue South, Minneapolis, Minn. 55402 (Paul Stepner, General Traffic Manager—Operations). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

MOTOR CARRIER OF PASSENGERS

No. MC 129524 (Sub-No. 2 TA), filed May 27, 1969. Applicant: MALVERN JOHN REID, doing business as REID BUS LINE, 1107 Seventh Street, Harlan, Iowa 51537. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers; (1) between Defiance and Irwin, Iowa; and (2) between all points located on and within the following territory, beginning, from junction of Iowa Highway 64 and Iowa Highway 83, 1 mile north of Neola, Iowa, eastward over Iowa Highway 83 to junction of unnumbered road approximately 4 miles east of Marne, Iowa, thence northward over unnumbered road to Elk Horn, Iowa, thence over Iowa Highway 173 to junction of Iowa Highway 64, thence over Iowa Highway 64 westward to junction of U.S. Highway 59, thence northward over U.S. Highway 59 to junction of Iowa Highway 37, thence over Iowa Highway 37 to junction of Iowa Highway 191, thence over Iowa Highway 191 to junction of Iowa Highway 64, thence over Iowa Highway 64 to starting point junction of Iowa Highway 83, 1 mile north of Neola, Iowa. Applicant also requests permission to conduct special or chartered party service from all points on it's regular route (between Omaha and Harlan, Nebr.), and points on the above-referred to routes to all points in the United States, except Alaska and Hawaii, for 150 days. Supported by: There are supporting statements from some 23 potential customers, which statements may be examined here at the Commission's offices in Washington, D.C., or at the field office named below. Send protests to: Keith P. Kohrs, District Supervisor, Interstate Commerce Commission, 705 Federal Office Building, Omaha, Nebr. 68102.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-6744; Filed, June 6, 1969; 8:49 a.m.]

[Notice 358]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 4, 1969.

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-71163. By order of May 27, 1969, the Motor Carrier Board approved the transfer to Abb's Moving Service, Inc., 554 South Royal Street, Mobile, Ala. 36601, of the operating rights in certificates Nos. MC-110475 and MC-110475 (Sub-No. 1) issued June 6, 1949, and March 13, 1951, to H. Abb Wooldridge, Jr., doing business as Abb's Moving Service, 554 South Royal Street, Mobile, Ala. 36601, authorizing the transportation of household goods, over a regular route, between New Orleans, La., and Mobile, Ala., serving all intermediate points and certain off-route points, and, over irregular routes, between points within 200 miles of Mobile, Ala., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Louisiana, Mississippi, and Tennessee; and new furniture, and new office, hospital, and store fixtures, uncrated and unpacked, over irregular routes, between Mobile, Ala., and points within 50 miles thereof, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Louisiana, Mississippi, and Tennessee.

No. MC-FC-71141. By order of May 27, 1969, the Motor Carrier Board approved the transfer to Matthew C. Zima, doing business as R and M Trucking Co., Goodwin Road, Manitowoc, Wis. 54220, the operating rights of Matthew C. Zima and Richard A. Zima, doing business as R. & M. Trucking Co., Goodwin Road, Manitowoc, Wis. 54220, authorizing the transportation of homing pigeons, in seasonal operations during April 15 to October 15, both inclusive, of each year, between Sheboygan, Manitowoc, Two Rivers, Green Bay, Kaukauna, Appleton, Menasha, Neosho, Oshkosh, and Fond du Lac, Wis., on the one hand, and, on the other, Britt, Iowa, Winona, Red Wing, Rochester, Mankato, and New Ulm, Minn., Norfolk, Nebr., Chilton, Omro, New Libson, Sparta, and Wisconsin Rapids, Wis., and Huron, Mitchell, Webster, and Pierre, S. Dak.

No. MC-FC-71230. By order of May 27, 1969, the Motor Carrier Board approved the transfer to Edward Vesely and Frances Vesely, a partnership, doing business as Vesely Brothers "The Movers," Post Office Box 455, Fayette City, Pa. 15438, of the operating rights in certificates Nos. MC-51518 and MC-51518 (Sub-No. 1) issued August 9, 1966, and May 13, 1969, respectively, to Peter Vesley, Edward Vesely, and Frances Vesely, a partnership, doing business as Vesely Brothers "The Movers," Post Office Box 455, Fayette City, Pa. 15438, authorizing the transportation, over irregular routes, of household goods between points in that part of Pennsylvania bounded by a line beginning at Pittsburgh, Pa., and extending along U.S. Highway 30 to Greensburg, Pa., thence along U.S. Highway 119 to Uniontown, Pa., thence along U.S. Highway 40 to Washington, Pa., thence along U.S. Highway 19 to Pittsburgh, including points on said highways, on the one hand, and, on the other, points in West Virginia, Ohio, New York, New Jersey, Michigan,, Maryland, Delaware, Indiana, Illinois, Massachusetts, Virginia, Vermont, Rhode Island, Connecticut, and the District of Columbia; and toilet preparations, soap, cosmetics, and related advertising materials from points in Washington Township (Fayette County), Pa., to points in Allegheny, Fayette, Greene, Washington, and Westmoreland Counties, Pa.

No. MC-FC-71338. By order of May 27, 1969, the Motor Carrier Board approved the transfer to Alvarez Shipping Co., Inc., New York, N.Y., of the operating rights in certificate No. MC-77094 issued on August 6, 1942, to Francis J. Helfrich, New York, N.Y., authorizing the transportation of: household goods, as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, Delaware, New Jersey, New York, Pennsylvania, Maryland, and the District of Columbia, traversing Rhode Island for operating convenience only. Alvin Altman, Brodsky, Linett, and Altman, 1776 Broadway, New York, N.Y. 10019, attorney for applicants.

No. MC-FC-71342. By order of May 27, 1969, the Motor Carrier Board approved the transfer to Jopa, Inc., Lexington, Mass., of the operating rights in certificate No. MC-1845 issued March 18, 1949, to E. Hammond & Sons, Inc., Burlington,

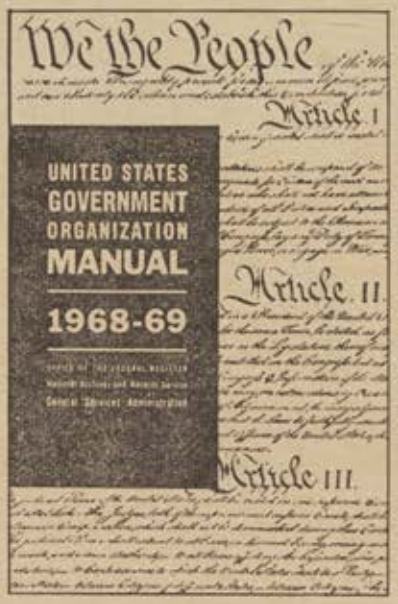
Mass., authorizing the transportation of household goods, as defined by the Commission, between points in Middlesex County, Mass., on the one hand, and, on the other, points in Connecticut, New Hampshire, Vermont, Rhode Island, New York, Maine, New Jersey, Pennsylvania, Maryland, Delaware, and the District of Columbia; and between Boston, Mass., on the one hand, and, on the other, points in Maine, New Jersey, Pennsylvania, Maryland, Delaware, and the District of Columbia. Frank J. Weiner, 536 Granite Street, Braintree, Mass. 02184, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-6745; Filed, June 6, 1969; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—JUNE

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during June



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