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PART I

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List of CFR Parts Affected

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1969, and specifies how they are affected.

Rules and Regulations

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Import Reg. 1, Rev. 5]

PART 6—IMPORT QUOTAS AND FEES

Subpart—Section 22 Import Quotas

Import Regulation 1, Revision 4, as amended (7 CFR 6.20 to 6.32), governing the manner in which licenses may be obtained and used for the importation of certain articles subject to import restrictions proclaimed pursuant to section 22 of the Agricultural Adjustment Act, as amended, is revised to read as set forth below.

The regulation as herein revised incorporates, with changes indicated below, provisions similar to those contained in Import Regulation 1, Revision 4, as amended. It also provides for the issuance of licenses for the importation of articles subject to import quotas provided for in TSUS items 950.10A (Italian-type cheese, made from cow's milk, not in original loaves), 950.10D ("other" cheese imported from New Zealand), and 950.14 (milk chocolate crumb); licenses will be required by Presidental Proclamation 3884, dated January 6, 1969, for the importation of such articles beginning July 1, 1969. No portion of the quotas provided for in TSUS items 950.10A and 950.15 will be set aside for the issuance of licenses on a nonhistorical basis until the next quota year beginning January 1, 1970. Prior thereto, notice will be given to enable persons to apply for nonhistorical licenses for the importation of such articles.

Minor changes have been made in the wording of Import Regulation 1 for the purpose of clarification, and the provision has been omitted previously contained therein which limited the historical quota share of a person for any type of cheese to 30 percent of the amount which may be imported during any quota year from a particular country of origin. Form FAS 65 will no longer be required. In lieu thereof a copy of Custom Forms 7501 or 7505 will be used.

Sec.

AUTHORITY: The provision of this subpart issued under sec. 3, 62 Stat. 1248, as amended; 7 U.S.C. 624; Proclamations 3548, 3558, 3562, 3597, 3709, 3790, 3822, 3856, 3870, and 3884 and sec. 88 of the Tariff Schedules Technical Amendments Act of 1965 (79 Stat. 950); Part 3 of the Appendix to the Tariff Schedules of the United States, 19 U.S.C. 1202.

§ 6.20 Determination.

Part 3 of the Appendix to the Tariff Schedules of the United States, which contains the quantitative limitations on certain articles imported into the United States proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act, as amended, provides that articles which are listed in appendix 1 to this regulation may be entered only by or for the account of a person or firm to which a license has been issued by or under the authority of the Secretary of Agriculture and only in accordance with the terms of such license. It is further provided that such licenses shall be issued under regulations of the Secretary of Agriculture which he determines will, to the fullest extent practicable, result in (a) the equitable distribution of the respective quotas for such articles among importers or users and (b) the allocation of shares of the respective quotas for such articles among supplying countries, based upon the proportion supplied by such countries during previous representative periods, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned and that no licenses shall be issued which will permit any of the cheese or substitutes for cheese to be entered during the first 6 months of a quota year in excess of more than one-half of the annual import quotas specified for such articles. It is hereby determined that the regulations will, to the fullest extent practicable, accomplish this result.

§ 6.21 Definitions.

Except where the context otherwise requires, the following terms shall have the meanings set forth in this section:

(a) "Annual quota" means the quantity of an article which may be imported in a quota year as provided in appendix 1.

(b) "Appendix 1" means appendix 1 to the regulation in this Subpart.

(c) "Article" means an article referred to in appendix 1.

(d) The meaning of the terms "butter," "dried cream," "malted milk," "dried whole milk," "dried skim milk," "dried buttermilk," "dried whey," "milk chocolate crumb," and "cheese" shall be that as provided in appendix 1.

(e) The terms "Country of origin" and "Supplying country" mean the country in which the article was produced and from which it was exported under a through bill of lading.

(f) "Date of entry" means the date the formal consumption entry or withdrawal from warehouse for consumption is accepted by the Bureau of Customs.

(g) "Eligible applicant" means a person applying for a license to import an article who has established, to the satisfaction of the Licensing Authority, his eligibility to import such commodity.

(h) "Import or enter" means to enter, or withdraw from warehouse, for consumption in the customs territory of the United States.

(i) "Licensee" means any person to whom an import license has been issued pursuant to the regulation.

(j) "Licensing Authority" means the Chief, Import Branch, Foreign Agricultural Service, U.S. Department of Agriculture, and any other officer or employee of the Department designated in writing as Acting Chief in the absence of the Chief.

(k) "Other Countries" shall refer to those countries as shown in appendix 1 as sharing a common quota and for the purpose of the regulation, shall be deemed to be one country of origin.

(l) "Person" includes any individual, firm, corporation, partnership, association, or other legal entity. It also includes any government (other than the Government of the United States and any agency thereof).

(m) "Quota share" means that part of the annual quota of an article listed in appendix 1 for which a person is eligible.

(n) "Quota year" means the 12-month period beginning on January 1 of any year.

(o) "The regulation" means the regulation contained in this subpart.

(p) "United States" means the United States, the District of Columbia, and Puerto Rico.

§ 6.22 Prohibitions and restrictions on imports.

(a) No person shall import or cause to be imported any article listed in Appendix 1, except as provided in § 6.23 or as authorized by an import license issued pursuant to the regulation.

(b) The issuance of an import license does not relieve any person from compliance with any requirement of the regulation or any other applicable laws and regulation.

§ 6.23 Exceptions.

The requirements of the regulation shall not apply to—

(a) Articles imported by or for the account of any agency of the U.S. Government.

(b) Articles with an aggregate value not over $10 in any shipment, if imported as samples for taking orders, for the personal use of the importer, or for research.

(c) Articles imported for exhibition, display, or sampling at a trade fair, or for research, if written approval of the Licensing Authority is obtained.

§ 6.24 Applications for licenses.

Applications to the Licensing Authority for the issuance of licenses to import articles shall be addressed to the Chief, Import Branch, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, Ref. IR–1 (Agricultural Imports). Each application must state the article (including type thereof in the case of cheese), the country of origin from which importation is to be made, and the port or ports of entry at which importations are to be made.

§ 6.25 Eligibility.

(a) *Historical eligibility.* Any person shall be eligible for a license to import a quota share of any article who imported such article during the specified base period or has been recognized by the Licensing Authority as a successor-in-interest of such person: *Provided,* That any person shall be eligible for a license to import from New Zealand a quota share of cheese subject to the quota provided for in TSUS 950.10D if such person was by reason of base period imports, a licensee 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). Eligibility shall be established upon the submission of evidence, satisfactory to the Licensing Authority, of such importations and that such person is actively operating an individual business of importing such article.

(b) *Nonhistorical eligibility.* Any person who is not eligible under paragraph (a) of this section to receive a license to import a particular article listed in Groups II through VI of appendix I and who meets the requirements of this paragraph shall be eligible to obtain a license to import a quota share of such article for which nonhistorical set-asides have been established as shown in appendix 1, except that a person may establish such eligibility for only one of the types of cheese listed under Group II of the appendix. Eligibility shall be established upon submission of (1) evidence satisfactory to the Licensing Authority that such person during the quota year preceding that for which application for license is made, was and continues to be actively engaged in the commercial importation in his own name of cheese or cheese products, and (2) a certification by such person that he is not a part of or an affiliate of the business of any other person eligible for an import license for the cheese for which application for license is made and is not an officer, member, partner, associate, or employee of such business.

(c) *Establishment of eligibility.* Evidence required to establish the eligibility of a person making application to receive an article must be received and approved by the licensing authority no later than 30 days preceding the quota year for which the license to import such commodity is first requested, except as may otherwise be provided by notice published in the FEDERAL REGISTER or approved by the Administrator for good cause shown.

(d) *Continuation of eligibility.* The eligibility of a person to receive a license to import a quota share of any article established under the regulation will be continued for subsequent quota years unless suspended or revoked pursuant to § 6.29.

(e) *Transfer of eligibility.* Upon receipt of evidence acceptable to the Licensing Authority that the entire dairy products and milk chocolate crumb business of a person who has established eligibility for a quota share has been sold or otherwise transferred to a person who is assuming the operation of the entire business involving dairy products and milk chocolate crumb, the Licensing Authority will recognize the successor-in-interest as having eligibility for such quota share: *Provided, however,* That, in the event of the merger of the businesses of two or more persons, the successor-in-interest, with the historical eligibility of all persons for whom he is successor-in-interest, shall be considered only as one person for the purpose of determining eligibility for non-historical quota shares.

§ 6.26 Allocation of annual quota and issuance of licenses.

(a) *Nonhistorical licensees.* There shall be set aside for allocations to nonhistorical eligible applicants the amounts specified under nonhistorical set-aside in appendix 1. The initial maximum annual nonhistorical quota share for such article shall be as follows:

Article	TSUS Item No.	Quantity
		Pounds
Blue-mold cheese	950.07	2,500
Italian type cow's milk cheese in original loaves	950.10	5,000
Natural Edam and Gouda cheese	950.09A	10,000
Processed Edam and Gouda cheese	950.09B	5,000
Swiss or Emmenthaler cheese with eye formation	950.10B	5,000
Swiss or Emmenthaler cheese other than with eye formation	950.10C	5,000
Cheddar cheese	950.08A	20,000
American type cheese	950.08B	20,000
"Other" cheese (not from New Zealand)	950.10D	5,0000
"Other" cheese (from New Zealand)	950.10D	20,000

Subject to these maximum quota quantities, the amount set aside for nonhistorical licensees shall be allocated proportionately among eligible applicants for such licenses; *Provided,* That the quota share of any person for any type of such cheese shall not exceed the quantity of such cheese for which he requested an import license; *Provided, further,* That any unallocated amounts shall be made available for distribution to historical licensees.

(b) *Historical licensees.* The annual quota amounts, less the quantities allocated to nonhistorical licensees, shall be allocated among historical eligible applicants on the basis of their average imports during the respective base periods as shown in appendix 1, *Provided,* That the annual quota quantity for cheese from New Zealand specified in TSUS Item 950 10D, less the quantity allocated for nonhistorical licensees, shall be allocated first to historical licensees in an amount equivalent to that net total quantity of cheese for which they formerly received licenses and for which they are no longer eligible due to the elimination of the 30 percent rule previously provided in section 6.26, Revision 4 of the regulation, and the remainder of such quota shall be allocated among eligible applicants therefor (as provided in § 6.25) on the basis of their historical licensed quota shares of cheese from New Zealand subject to the quotas provided for in TSUS Items 950.08A and 950.08B (Cheddar and American cheese other than Cheddar). The quantity of an article imported during the base period by a person who is not as of the beginning of a quota year actively operating an independent business of importing such articles shall, for the purpose of determining the quota shares of eligible applicants, be deemed to have been imported by his successor-in-interest, if any, to whom such business has been sold or otherwise transferred (which transfer has been recognized by the licensing authority) and who is actively operating such business as of the beginning of the quota year.

(c) *Reduction of quota share.* The quota share of a person or firm, who has imported during each of the preceding 2 quota years less than 85 percent of his authorized quota share, shall be reduced in the following quota year to 110 percent of his average imports during the preceding 3 quota years, unless the licensee establishes that he was unable to import the quota share either due to the lack of supply in the country of origin or other reasons acceptable to the licensing authority: *Provided,* (1) That once such reduced quota share has been established the quota share of the licensee in each of the following quota years shall be no less than 110 percent of his imports during the quota year immediately preceding; (2) That a reduced quota share of an article shall not be less than one-half of the initial maximum nonhistorical quota share for that article except that such minimum shall not apply in case of further failures to import the quota share; (3) That once a reduced quota share has again reached 85 percent of the average of the quota shares during the quota years on which the reduced quota share was based, the original quota base shall be reestablished.

(d) *Licenses.* (1) Annual basis. Licenses to import quota shares of articles, other than cheese and milk chocolate crumb, may be issued on an annual basis.

(2) *Semiannual basis.* In the absence of specific circumstances which the licensing authority determines would warrant an annual quota share license, quota shares of cheese and milk chocolate crumb shall be divided into two parts, as nearly equal as practicable, each to be covered by a license valid on the first day of the first and seventh month

of each calendar year: *Provided*, That licenses shall not be issued which would permit the importation of any such article during the first 6 months of the quota year in excess of one-half the annual quota therefor.

(e) *Advance against next period license.* Notwithstanding any other provision herein, any person eligible for a license to import a quota share of any article may be given an advance against his next period license in order to permit him to import an additional quantity of such article upon a determination by the licensing authority that not to grant the advance against his next period license would result in an undue hardship to such person: *Provided*, That no advance may be given which would permit the total quantity of any such article to be imported in excess of the quota therefor, as set forth in Part III of appendix 1 to the TSUS.

§ 6.27 Use of licenses.

(a) The article imported must be a product of the country of origin specified in the license under which it is entered.

(b) Notwithstanding any other rules, regulations, or procedures for the importation of goods, the article entered under license shall be accompanied by a through bill of lading from the country of origin named in the license and may be entered or withdrawn from warehouse only in the name of the licensee either by him or by his agent acting in the licensee's name under power of attorney, and the quantity so entered must be charged against the license in effect on the date of entry.

(c) In the event of a sale in transit, an article may be entered as a consumption entry under a license issued to an authorized person to whom the sale has been made against a properly endorsed through bill of lading and a certified copy of the bill of sale from the original consignee showing the amount paid and the date of purchase;

(d) In the event of the loss of the original through bill of lading, an article may be entered as a consumption entry under a license issued to the authorized person named as consignee on a carrier's certificate which certifies the shipment is a through shipment;

(e) An article may be entered as a warehouse entry under bond only in the manner prescribed above for consumption entries. Withdrawal of goods from bond may be made only under license issued to the authorized person who made the entry; or, in the event of a sale in bond, under license issued to an authorized person or firm to whom the sale has been made and only upon the presentation of a properly endorsed Customs Form 7505 and a certified copy of the bill of sale, showing the amount and date of sale.

(f) Consolidated entries or withdrawals from bond may not be made except with the written approval of the licensing authority.

(g) Entries or withdrawals from bond may be made only at the port of entry designated on the license, except when the licensing authority has, upon prior request of the licensee, authorized entry at another port.

(h) Each entry or withdrawal from bonded warehouse for consumption must be accompanied by a copy of Customs entry Form 7501 or Customs warehouse withdrawal Form 7505. The Bureau of Customs will stamp the copy with the "duty paid" stamp, the date of entry and the Customs entry or withdrawal number and submit it to the Import Branch.

§ 6.28 Records and inspection.

Any person making an importation, except as provided in § 6.23 of an article listed in appendix 1 shall retain all records, including invoices, of all purchases, entries, withdrawals, sales, and deliveries of such articles for a period of not less than 2 years subsequent to the end of the quota year during which importation was made. The licensing authority or his designee shall be entitled to make such audit and inspection of such records, to inspect the premises and stocks of articles of such person, and to make such other investigations as may be necessary or appropriate in the enforcement or administration of the regulation.

§ 6.29 Suspension or revocation of eligibility.

(a) *Failure to import quota share.* (1) The eligibility of a person for a quota share of an article shall, upon his failure to import any of such article in any quota year, be suspended for the following quota year unless application to receive a license to import such article is received and approved by the licensing authority no later than 6 months after the beginning of such following quota year.

(2) The eligibility of a person for a quota share of an article shall, upon his failure to import any of such article during 2 consecutive quota years be revoked unless the licensee establishes that he was unable to import such article due to reasons acceptable to the licensing authority.

(b) *Violation of regulations* — (1) *Charge against licenses.* Any quantity of an article imported by any person contrary to this regulation may be charged against any unused import license held by, or to be issued to, such person for such article.

(2) *Civil and criminal liability.* Any person who violates any provision of the regulation may be prosecuted under any and all applicable laws. Civil action may also be instituted to enforce any liability or duty created by, or enjoin any violation of any provision of the regulation or requirements pursuant hereto.

(3) *Withholding of licenses.* The Administrator, Foreign Agricultural Service, upon reasonable cause to believe that a licensee has violated the provisions of the regulation or has furnished false or incomplete information in connection therewith, may, after notice to the licensee, withhold for a period of not to exceed 6 months, the issuance of further licenses to the licensee for a quota share of an article.

(4) *Suspension and revocation.* The Administrator, Foreign Agricultural Service, may suspend or revoke the eligibility of a person for a quota share of an article or article upon written notice to such person and with opportunity for a hearing, if he determines on the basis of information available to him and the records of the administrative hearing, if one is held, that such person has violated the provisions of the regulation or has furnished false or incomplete information in connection therewith.

§ 6.30 Delegation of authority.

(a) The administration of the regulation is vested in the Administrator, Foreign Agricultural Service, or his designee, who may promulgate interpretative rules and procedures and issue statements of policy which he determines necessary for the efficient administration thereof, taking due account of any special factors which may have affected or may be affecting the trade in the article. This authority may include transfer of quota shares to other countries of origin but may not permit the total quantity of any article to be imported in excess of the quota therefor.

(b) The powers vested in the Administrator, FAS, insofar as such powers relate to the functions vested in the licensing authority by the regulation are hereby delegated to the licensing authority.

The regulation shall become effective July 1, 1969, and, except as herein provided, shall supersede the provisions of Import Regulation 1, Revision 4, as amended, heretofore in effect. With respect to violations, rights accrued, liabilities incurred, or appeals taken concerning Import Regulations, as amended and revised, prior to the effective date hereof, all provisions of said Import Regulation 1, as amended and as revised, in effect at the time when such violations occurred, rights accrued, liabilities incurred, or appeals taken shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

It is hereby determined that the foregoing revision of Import Regulation 1, Revision 4, is necessary and must be made effective July 1, 1969, since on such date licenses for the first time are required for the importation of cheese from New Zealand described in TSUS item 950.10D and articles described in TSUS items 950.10A and 950.15 and licenses for the second half of the 1969 quota year are required for other commodities covered by this regulation. Therefore, it is found upon good cause that compliance with the notice, public procedure, and 30-day effective date requirements of section 4 of the Administrative Procedure Act (5 U.S.C. 553) is impracticable, unnecessary, and contrary to the public interest and that the revision shall be effective July 1, 1969.

Proposals for amendment or modification of this revision are invited. They may be addressed to the Chief, Import

Branch, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250. All proposals should be accompanied by a written statement in explanation and support of such proposal.

Issued at Washington, D.C., this 19th day of June 1969.

RAYMOND A. IOANES,
Administrator,
Foreign Agricultural Service.

APPENDIX 1—ARTICLES [1] SUBJECT TO IMPORT REGULATION 1, REVISION 5, AND ANNUAL IMPORT QUOTAS FOR EACH QUOTA YEAR

Articles [1] by TSUS item numbers	Base period [2]	Annual import quota (pounds)	Non-historical set aside (pounds)
Group I:			
(a) Butter (Item 950.05)	Jan. 1, 1961, to Dec. 31, 1965		
New Zealand		332,000	
Denmark		212,000	
Other countries as follows: Argentina, Australia, Canada, Netherlands, Norway, Sweden, and Switzerland.		168,000	
(b) Dried cream (Item 950.04)	Jan. 1, 1951, to Dec. 31, 1952	500	
(c) Malted milk (Item 950.11)	July 1, 1951, to June 30, 1952	6,000	
(d) Dried whole milk (Item 950.03)	Jan. 1, 1961, to Dec. 31, 1962	7,000	
(e) Dried skimmed milk (Item 950.02)	July 1, 1950, to Aug. 8, 1951	1,807,000	
(f) Dried buttermilk and whey (Item 950.01)	Jan. 1, 1951, to Dec. 31, 1952	496,000	
Group II: [3]	Jan. 1, 1968, to Dec. 31, 1970 [4]		
Edam and Gouda cheese (Item 950.09A)		9,200,400	920,000
Blue-mold cheese (except Stilton), and cheese and substitutes for cheese containing or processed from Blue-mold cheese (Item 950.07).		5,016,999	200,000
Italian-type cheeses made from cow's milk, in original loaves. Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz (Item 950.10).		11,500,100	1,150,000
Group III: [5]	Jan. 1, 1961, to Dec. 31, 1965		[6] 1,508,100
Cheddar cheese, and cheese and substitutes for cheese containing or processed from Cheddar cheese (Item 950.08A):			
Australia		1,696,150	
Canada		612,352	
Ireland		562,250	
New Zealand		5,502,498	
Sweden		130,650	
Other countries as follows: Austria, Belgium, Bulgaria, Denmark, Israel, Italy, Netherlands, Portugal, Switzerland, United Kingdom, and West Germany.		398,400	
American-type cheese, including Colby washed curd, and granular cheese (but not including Cheddar) and cheese and substitutes for cheese containing, or processed from, such American-type cheese (Item 950.08B):			
Australia		1,680,000	420,000
Ireland		360,000	140,000
New Zealand		3,360,000	840,000
Sweden		125,000	31,250
Other countries as follows: Austria, Belgium, Bulgaria, Italy, Denmark, Israel, Netherlands, Portugal, Switzerland, United Kingdom, and West Germany.		371,600	92,900
Group IV: [5]	Jan. 1, 1965, to Dec 31, 1967		
Cheese and substitutes for cheese containing, or processed from Edam and Gouda cheese (Item 950.09B):			
Denmark		1,714,000	171,400
Ireland		331,000	33,100
Netherlands		169,000	16,900
Norway		368,000	36,800
West Germany		513,000	51,300
Other countries		56,000	5,600

See footnotes at end of table.

APPENDIX 1—ARTICLES [1] SUBJECT TO IMPORT REGULATION 1, REVISION 5, AND ANNUAL IMPORT QUOTAS FOR EACH QUOTA YEAR—Continued

Articles [1] by TSUS item numbers	Base period [2]	Annual import quota (pounds)	Non-historical set aside (pounds)
Group V: [5]	Jan. 1, 1967, to Dec. 31, 1967		
Swiss or Emmenthaler cheese with eye formation; Gruyere-process cheese; and cheese and substitutes for cheese containing, or processed from, such cheese; all the foregoing, if shipped otherwise than in pursuance to a purchase, or if having a purchase price under 47 cents per pound.			
Swiss or Emmenthaler cheese with eye formation (Item 950.10B):			
Austria		972,000	97,200
Denmark		609,000	60,900
Finland		1,843,000	184,300
Norway		367,000	36,700
Switzerland		200,000	20,000
West Germany		124,000	12,400
Other countries		156,000	15,600
Other than Swiss or Emmenthaler with eye formation (Item 950.10C):			
Austria		483,000	48,300
Denmark		119,000	11,900
Finland		1,516,000	151,600
Switzerland		10,000	1,000
West Germany		1,078,000	107,800
Other countries		83,000	8,300
Cheese and substitutes for cheese provided for in items 117.75 and 117.85, part 4C, schedule 1 of the Tariff Schedules of the United States (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 Tariff Schedules of the United States); all the foregoing, if shipped otherwise than in pursuance to a purchase, or if having a purchase price under 47 cents per pound (Item 950.10D):			
Belgium		207,000	20,700
Denmark		966,000	896,600
Finland		1,124,000	112,400
France		931,000	93,100
Iceland		560,000	56,000
Ireland		151,000	15,100
Netherlands		56,000	5,600
Norway		222,000	22,200
Poland		2,064,000	206,400
Sweden		1,535,000	153,500
Switzerland		34,000	3,400
United Kingdom		274,000	27,400
West Germany		989,000	98,900
New Zealand		7,500,000	1,875,000
Other countries		288,000	38,800
Group VI: [5]	Jan. 1, 1965, to Dec. 31, 1967		
Italian-type cheeses, made from cow's milk, not in original loaves (Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, and Sbrinz), and cheese and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Item 950.10A):			
Argentina		1,347,000	[6]
Italy		104,500	[6]
Australia		13,700	[6]
Other countries		28,900	[6]
Group VII: [5]			
(Chocolate provided for in item 156.30, of part 10, schedule 1, if containing over 5.5 percent by weight of butterfat (except articles for consumption at retail as candy or confection) (Item 950.15):	Jan. 1, 1965, to Dec. 31, 1967		

APPENDIX 1—ARTICLES [1] SUBJECT TO IMPORT REGULATION 1, REVISION 5, AND ANNUAL IMPORT QUOTAS FOR EACH QUOTA YEAR—Continued

Articles [1] by TSUS item numbers	Base period [2]	Annual import quota (pounds)	Non-historical set aside (pounds)
Ireland		9,450,000	(6)
United Kingdom		7,450,000	(6)
Netherlands		100,000	(6)
Other Countries		None	None

[1] Each time a particular TSUS Item No. is referred to in this appendix it includes all the articles classified under that item number in Part III of the Appendix to the Tariff Schedules of the United States except where specifically otherwise provided in the article description.
[2] Importers of record during following periods have historical eligibility; each importer's quota share is prorated on basis of his historical imports from each country of origin.
[3] Annual quota allocated 2 times annually on Jan. 1 and July 1 of each quota year.
[4] Importer's allocation based on 1050 imports or base period averages, whichever are higher.
[5] Up to 307,400 pounds may be set aside from the amount allocated to "Other" countries. Not more than 25 percent of the amounts allocated to each of the individual countries, New Zealand, Australia, Ireland, and Sweden, may be set aside.
[6] To be announced prior to Jan. 1, 1970.

[F.R. Doc. 69-7420; Filed, June 23, 1969; 8:48 a.m.]

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 53—LIVESTOCK, MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION AND STANDARDS)

Subpart A—Regulations

FEES FOR GRADING SERVICE

Pursuant to the authority of sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the provisions of 7 CFR 53.29(a) prescribing fees in connection with the performance of Federal meat-grading services are hereby amended by changing the phrases "$8.60 per hour," "$10.40 per hour," and "$17.20 per hour" to "$9.80 per hour," $11.80 per hour," and "$19.60 per hour," respectively.

The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be to the cost of the services, such as Federal meat-grading services rendered under its provisions. The Postal Revenue and Federal Salary Act of 1967 (Public Law 90-206) has required increases in salaries paid to Federal employees engaged in the performance of Federal meat-grading services. It has been determined that in order to cover the increased cost of the service resulting from the salary increase to be effective the first pay period after July 1, 1969, and other increased costs of operation, the hourly fee charges in connection with the performance of the services must be increased as provided for herein. The need for the increase and the amount thereby are dependent upon facts within the knowledge of the Consumer and Marketing Service. Therefore, under the provisions of 5 U.S.C. 553 it is found that notice and other public procedure with respect to this amendment are impractical and unnecessary.

This amendment shall become effective July 27, 1969, with respect to all Federal meat-grading services rendered on and after that date, including service under commitment agreement whether heretofore or hereafter made.

(Secs. 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624)

Done at Washington, D.C., this 19th day of June 1969.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 69-7421; Filed, June 23, 1969; 8:48 a.m.]

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

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Increase in Expenses for 1968-69 Fiscal Period

Notice was published in the June 6, 1969, issue of the FEDERAL REGISTER (34 F.R. 9035), that consideration was being given to a proposal regarding an increase in the expenses and rate of assessment previously approved for the fiscal period August 1, 1968, through August 31, 1969, pursuant to the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments, with respect to the proposal. None were submitted within the prescribed time.

The Cranberry Marketing Committee has found the amount of money allocated for expenses and rate of assessment for the 1968-69 fiscal period to be insufficient because the costs of establishing the producer allotment program were greater than originally anticipated. Thus, the committee has recommended amending the budget and assessment rate so that the additional expenses resulting from the producer allotment program can be met. The budget would be increased from $64,500 to $77,106.26 and the assessment rate from 4½ cents to 5½ cents.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice and the recommendation thereof which was submitted by the Cranberry Marketing Committee (established pursuant to the said marketing agreement and order): *It is hereby ordered*, That the provisions pertaining to expenses and rate of assessment in paragraph (a) and (b) of § 929.208 *Expenses and rate of assessment* (33 F.R. 18228) be, and hereby are, amended to read as follows:

§ 929.208 Expenses and rate of assessment.

(a) Expenses: The expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the fiscal period August 1, 1968, through August 31, 1969, will amount to $77,106.26.

(b) Rate of assessment: The rate of assessment for said period, payable by each handler in accordance with § 929.41, is fixed at five and one-half cents ($0.055) per barrel of cranberries, or equivalent quantity of cranberries.

(c) Terms used in said marketing agreement and order shall, when used herein, have the same meanings as given to the respective terms in said marketing agreement and order.

It is hereby found that good cause exists for not postponing the effective time hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) It is necessary for the committee to incur expenses during the current fiscal period in excess of that previously thought likely to be incurred; (2) the relevant provisions of said marketing agreement and order require that the rate of assessment herein fixed shall be applicable to all assessable cranberries handled during the aforesaid fiscal period; and (3) such period began August 1, 1968, and said rate of assessment will automatically apply to all such cranberries beginning such date.

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

Dated: June 19, 1969.

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

[F.R. Doc. 69-7422; Filed, June 23, 1969; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 69-WE-12-AD; Amdt. 39-786]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707/720 Series Aircraft

Pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), an airworthiness directive was adopted on June 6, 1969, and made effective immediately by telegram as to all known U.S. operators of Boeing 707/720 series aircraft. This directive incorporated the provisions of Boeing Alert Service Bulletin 2903, dated June 2, 1969, and the telegraphic revision 1 thereto, dated June 4, 1969. This directive requires inspection and modification of the rudder hydraulic actuator support fitting.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Boeing 707/720 series aircraft by individual telegrams dated June 6, 1969. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

BOEING. Applies to Model 707/720 series airplanes listed in Boeing Service Bulletin 2903 dated June 2, 1969.

Compliance required as indicated unless already accomplished.

To prevent cracks and failures in the rudder hydraulic power actuator support fitting, accomplish the following:

a. Within 75 hours' time in service after the effective date of this AD, perform a visual inspection with magnification, or dye penetrant, or eddy current inspection of the rudder hydraulic support fitting for cracks in accordance with the instructions in Boeing Service Bulletin 2903, telegraphic revision 1, dated June 4, 1969, or later FAA approved revision or an equivalent method approved by the Chief, Aircraft Engineering Division, Western Region.

1. If cracks are found within the oversizing limits specified in Part II—Bushing Replacement, of Boeing ASB No. 2903, rework the fittings to remove the cracks and replace the steel bushing per the instructions in Part II—Bushing Replacement, prior to further flight.

2. If cracks are found and cannot be removed by rework to the limits specified in Part II—Bushing Replacement, of Boeing ASB No. 2903, replace the existing fitting with a fitting made of 7075–T73 material, or a serviceable spare fitting with aluminum-nickel-bronze bushings per the instructions of Part II—Bushing Replacement, of Boeing ASB No. 2903, dated June 2, 1969, prior to further flight.

3. If no cracks are found, repeat the inspection identified in paragraph (a) of this AD, above, at intervals not to exceed 325 hours' time in service up to a maximum total of 1,400 hours' time in service after the effective date of this AD. If any inspection reveals cracks, accomplish (a)(1) or (a)(2), above, as appropriate.

b. Within 1,400 hours' time in service after the effective date of this AD, remove the flush steel bushings and install flanged aluminum-nickel-bronze bushings, per the instructions of paragraph C and Part II—Bushing Replacement, Boeing ASB No. 2903, dated June 2, 1969.

c. After accomplishment of (b), of this AD, inspect the fitting assembly for cracks in the fitting, at intervals not to exceed 1,200 hours' time in service, until a replacement of the support fitting made of 7075–T73 material which has flanged aluminum-nickel-bronze bushings installed has been accomplished, per paragraph C of Boeing ASB No. 2903. This modification will constitute terminating action for this AD.

The airplane may not be ferried under the provisions of FAR 21.197 (b) and (c). Airplanes may be ferried after issuance of individual special flight permits under the provisions of FAR 21.197(a)(1) and FAR 21.199 after a pretakeoff determination that the rudder operates normally in the boost-on mode. Pursuant to FAR 21.199(a)(6), the limitations in the special flight permit will prohibit flights over congested areas or which may otherwise endanger persons or property on the ground.

This amendment becomes effective upon publication in the FEDERAL REGISTER for all persons except those to whom it was made effective immediately by telegram dated June 6, 1969.

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Co., Renton Branch, Post Office Box 3707, Seattle, Wash. 98124, Attention: Mr. H. P. Hemke, manager, Field Service. These documents may also be examined at FAA Western Region, 5651 West Manchester Avenue, Los Angeles, Calif. 90045, and FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20553. A historical file on this airworthiness directive which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at FAA Western Region.

Issued in Los Angeles, Calif., on June 16, 1969.

LEE E. WARREN,
Acting Director, Western Region.

The incorporation by reference provisions in this document were approved by the Director of the FEDERAL REGISTER on June 23, 1969.

[F.R. Doc. 69-7391; Filed, June 23, 1969; 8:46 a.m.]

[Docket No. 69-EA-75; Amdt. 39-785]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA–23 and PA–30 Type airplanes.

There have been reports of carbon monoxide contamination of the ventilating air in various Piper model aircraft due to failure of the Stewart-Warner model 940 aircraft heaters installed in Piper PA–23 and PA–30 type airplanes. These reports indicate that failures have been occurring in the Stewart-Warner P/N 486238 heater exhaust extension and heat-exchanger walls, which will permit exhaust gases to move into and contaminate the cabin air system. Since these failures are likely to occur on airplanes of the same type design, an airworthiness directive is being issued requiring the installation of a stainless steel exhaust extension and periodic overhaul of the complete heater assembly in accordance with the heater manufacturer's instructions.

Since expeditious action is required in the interest of safety, notice, and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

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

PIPER: Applies to Piper PA–23, PA–23–160, PA–23–235, PA–23–250, Pa–E23–250, and PA–30 airplanes equipped with Stewart-Warner "Southwind" model 940 series heater.

To prevent carbon monoxide from entering the airplane cabin, accomplish the following:

(a) Within 25 hours' time-in-service after the effective date of this airworthiness directive, unless already accomplished, remove the heater exhaust tube shroud and by means of a magnet determine if Stewart-Warner P/N 486238 exhaust extension (Piper P/N 754708) is mild steel (magnetic) or stainless steel (nonmagnetic). Mild steel extensions, regardless of condition, must be replaced with stainless steel extensions, when available.

(b) If stainless steel extensions are not available, a mild steel extension may continue to be used but must be visually inspected for deterioration at intervals not to exceed 25 hours time-in-service. If inspection reveals deterioration in the form of cracks, corrosion, rust, or flaking, the exhaust tube must be replaced and if with a new or nondeteriorated mild steel P/N 486238 tube, it must continue to be inspected in accordance with this paragraph.

(c) (1) For heaters having 900 or more hours' time in service, unless already accomplished within the last 400 hours' time in service after the effective date of this airworthiness directive, overhaul the heater assembly within the next 100 hours' time in service and every 500 hours thereafter in accordance with Stewart-Warner Service Manual PM–10035 dated July 1966, or an

equivalent procedure approved by the Chief, Engineering & Manufacturing Branch, FAA Eastern Region. An overhaul consists of a complete disassembly, cleaning, repair, reassembly, and test as described in the above service manual.

(2) Heaters having less than 900 hours' time in service on the effective date of this AD shall be overhauled in accordance with paragraph (1) prior to the accumulation of 1,000 hours' time in service and every 500 hours thereafter.

(3) In complying with (1) and (2) above, if the owner or operator cannot document heater operating time, aircraft time should be used.

This amendment becomes effective July 2, 1969.

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

Issued in Jamaica, N.Y., on June 16, 1969.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 69-7392; Filed, June 23, 1969; 8:46 a.m.]

[Airspace Docket No. 69-EA-28]

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

Alteration of Transition Area

On page 7287 of the FEDERAL REGISTER for May 3, 1969, the Federal Aviation Administration published proposed regulations which would alter the Cambridge, Md., transition area (34 F.R. 4658).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received. In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., August 21, 1969.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), DOT Act; 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on June 12, 1969.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Cambridge, Md., transition area, the last period and add the following: "and within 2 miles each side of the Salisbury, Md. VORTAC 295° radial, extending from the 5-mile radius area to 25 miles northwest of the VORTAC."

[F.R. Doc. 69-7393; Filed, June 23, 1969; 8:46 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 69-142]

PART 1—GENERAL PROVISIONS

Ports of Entry; Tulsa, Okla.

It has been determined that less costly, and more timely Customs service can be provided to the importing public through extending the present limits of the port of Tulsa, Okla. The extension will provide a larger geographical area through which the importing public can be served, by the inclusion of the area known as the port of Catoosa Industrial Park in Rogers County, Okla.

Accordingly, under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623 (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authorization given to me by Treasury Department Order No. 190, Rev. 6 (34 F.R. 6298), the present geographical limits of the Tulsa, Okla., port of entry in the Houston, Tex., Customs district (Region VI), are extended to include a portion of Rogers County north of State Highway 33, west of State Highway 88, and south of State Highway 20.

The geographical limits of the extended port of Tulsa, Okla., are described as follows:

All of the area lying within the outer boundaries of the city of Tulsa, Okla., including any independent cities, towns, political subdivisions, or unincorporated areas lying within the said boundaries and that part of Rogers County, Okla., lying within the area bounded on the north by State Highway 20; on the east by State Highway 88; on the south by the southern boundary of Rogers County; and on the west by the western boundary of Rogers County.

Section 1.2(c) of the Customs Regulations is amended by deleting from the column headed "Ports of Entry" in the Houston, Tex., Customs district (Region VI), "(T.D. 69-108)" which appears after "Tulsa, Okla.," and inserting in lieu thereof "(T.D. 69-142)."

(80 Stat. 379, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 1, 2, 66, 1624)

This Treasury decision shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

JUNE 12, 1969.

[F.R. Doc. 69-7409; Filed, June 23, 1969; 8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl S-[2-(Ethylthio)Ethyl] Phosphorodithioate

A petition (PP9F0808) was filed with the Food and Drug Administration by Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, Mo. 64120, proposing that § 120.183 be amended by increasing the tolerance level for residues of *O,O*-diethyl *S*-[2-(ethylthio) ethyl] phosphorodithioate in or on the raw agricultural commodity sorghum grain from 0.1 part per million to 0.75 part per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purpose for which the tolerance is being increased.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that:

1. Since there is no reasonable expectation for such residues to occur in eggs, meat, milk, or poultry from the proposed and established uses, tolerances regarding these items are unnecessary. The usage is classified in the category specified in § 120.6(a)(3).

2. The tolerance increased by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 120 is amended as follows:

1. Section 120.3(e)(5) is amended to make editorial changes by revising the items "Demeton * * *" and "*O,O*-Diethyl *S*-2- * * *" to read as follows:

§ 120.3 Tolerances for related pesticide chemicals.

* * * * *

(e) * * *

(5) * * *

Demeton (a mixture of *O,O*-diethyl *O*-(and *S*-)[2-(ethylthio)ethyl] phosphorothioates).

* * * * *

O,O-Diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate and its cholinesterase-inhibiting metabolites.

* * * * *

2. Section 120.183 is amended by revising the section heading, the introductory paragraph, and the paragraphs "0.75 part per million * * *" and "0.1 part per million * * *" to read as follows:

§ 120.183 *O,O*-Diethyl *S*-[2-(ethylthio) ethyl] phosphorodithioate; tolerances for residues.

Tolerances for residues of the insecticide *O,O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate and its cholinesterase-inhibiting metabolites, calculated as demeton, in or on raw agricultural commodities are established as follows:

* * * * *

0.75 part per million in or on barley grain, beans (dry), beans (lima), beans (snap), broccoli, brussels sprouts, cabbage, cauliflower, cottonseed, lettuce, oat grain, peanuts, peas, pecans, pineapples, potatoes, rice, sorghum grain, spinach, and tomatoes.

* * * * *

0.1 part per million in or on soybeans.

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

of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: June 17, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-7399; Filed, June 23, 1969; 8:46 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 612—NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8, of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., P. 1004), and by means of Administrative Order No. 606 (34 F.R. 5434), the Secretary of Labor appointed and convened Industry Committee No. 81–D for the needlework and fabricated textile products industry in Puerto Rico, referred to the Committee the question of the minimum wage rate or rates to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor a report containing its findings of fact and recommendation with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 81–D are hereby published, to be effective July 10, 1969, in this order amending § 612.2 of Title 29, Code of Federal Regulations. The recommendations are carried out in paragraph (b) of § 612.2. As revised, § 612.2 reads as follows:

§ 612.2 Wage rates.

(a) *Requirement.* Wages at rates not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the industry who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(b) *Pre 1961 coverage classifications.* The classifications in this paragraph (a) apply to all activities in the needlework and fabricated textile products industry in Puerto Rico to which section 6 of the Act would have applied before the Fair Labor Standards Amendments of 1961.

(1) *Knit gloves classification.* (i) The minimum wage for the knit gloves classification is $1.48 an hour.

(ii) This classification is defined as the manufacture of knit or crocheted gloves and mittens, slipper socks, mukluks, and similar types of footwear.

(2) *Hand-crocheting and hand-embroidery of crocheted hats classification.* (i) The minimum wage for this classification is $1.15 an hour.

(ii) This classification is defined as the operations of hand-crocheting, hand-knitting, and hand-embroidery of crocheted or knitted headwear for women, misses, girls, and infants 3 years of age or under.

(3) *Other operations on crocheted hats classification.* (i) The minimum wage for this classification is $1.45 an hour.

(ii) This classification is defined as any operation on crocheted or knitted headwear for women, misses, girls, and infants 3 years of age or under, other than the hand-crocheting and hand-embroidery operations, as defined above.

(4) *General classification.* (i) The minimum wage for this classification is $1.52 an hour.

(ii) This classification is defined as the manufacture from any material of all apparel and apparel furnishings and accessories, and all textile products and like articles in which a synthetic material in sheet form is the basic component, which are not included in any other classification of the needlework and fabricated textile products industry in Puerto Rico nor in the new coverage classifications; the outlining or embroidery of lace by machine and embroidery of any article or trimming on a bonnaz embroidery machine, or by a crochet beading process, or with bullion thread, and all operations immediately incidental thereto; the manufacture of crocheted slippers; and the manufacture of slacks, pedal pushers, culottes, dungarees, shorts, and similar apparel for women, misses, and girls.

(c) *1961 coverage classification.* (1) The minimum wage for this classification is $1.60 an hour.

(2) This classification is defined as all activities of employees covered by section 6 of the Act, only by reason of the Fair Labor Standards Amendments of 1961 who are not included in any other classification of this industry or any other industry in Puerto Rico.

(d) *1966 coverage classification.* (1) The minimum wage for this classification is $1.15 an hour for the period ending January 31, 1969, $1.30 per hour for the period beginning February 1, 1969, and ending January 31, 1970, and $1.45 an hour thereafter.

(2) This classification is defined as all activities in the needlework and fabricated textile products industry in Puerto Rico to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Signed at Washington, D.C., this 19th day of June 1969.

FRANCIS J. COSTELLO,
Acting Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.

[F.R. Doc. 69-7417; Filed, June 23, 1969; 8:48 a.m.]

PART 614—CORSETS, BRASSIERES, AND ALLIED GARMENTS INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8, of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 606 (34 F.R. 5434), the Secretary of Labor appointed and convened Industry Committee No. 81–B for the corsets, brassieres, and related garments industry in Puerto Rico, referred to the Committee the question of the minimum wage rate or rates to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor a report containing its findings of fact and recommendation with respect to the matters referred to it.

Acordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 81–B are hereby published, to be effective July 10, 1969, in this order amending § 614.2 of Title 29, Code of Federal Regulations, by revising paragraph (a)(1). As amended, § 614.2 reads as follows:

§ 614.2 Wage rates.

* * * * *

(a) *Pre-1961 coverage classification.*

(1) The minimum wage for this classification is $1.52 an hour.

* * * * *

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Signed at Washington, D.C., this 19th day of June, 1969.

FRANCIS J. COSTELLO,
Acting Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.

[F.R. Doc. 69-7418; Filed, June 23, 1969; 8:48 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

Crater Lake National Park, Oreg.; Fishing and Boating

A proposal was published at page 14710 of the FEDERAL REGISTER of October 2, 1968, to revise § 7.2 of Title 36 of the Code of Federal Regulations. The effect of the revision is to establish a uniform fishing season throughout the park; and to clarify restrictions on private vessels and boat motors.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed revision. No comments, suggestions, or objections have been received and the proposed revision is hereby adopted without change and is set forth below. The revision shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3; 32 Stat. 202; 16 U.S.C. 122)

Section 7.2 of Title 36 of the Code of Federal Regulations is revised to read as follows:

§ 7.2 Crater Lake National Park.

(a) *Fishing.* Fishing in Crater Lake and park streams is permitted from May 20 through October 31.

(b) *Boating.* No private vessel or motor may be used on the waters of the park.

DONALD M. SPALDING,
Superintendent, Crater Lake National Park.

[F.R. Doc. 69-7382; Filed, June 23, 1969; 8:45 a.m.]

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Natchez Trace Parkway, Tennessee-Alabama-Mississippi; Animal-Drawn Vehicles, Animals, and Speed

A proposal was published at pages 10803 and 10804 of the FEDERAL REGISTER of July 30, 1968, to revise § 7.43 of Title 36 of the Code of Federal Regulations. The effect of the revision is to eliminate material which is duplicated in the general regulations, to prohibit the launching of boats and other water equipment on waters of the Ross Barnett reservoir from the Natchez Trace Parkway; to prohibit the parking of motor vehicles on parkway lands for the purpose of hunting on lands outside of the parkway; and to restrict the use of parkway motor roads by farm vehicles and implements and other vehicles exceeding three-fourths of a ton rated capacity. Animal-drawn vehicles are also prohibited from using parkway motor roads.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed revision. No comments, suggestions, or objections have been received and the proposed revision is hereby adopted without change and is set forth below. This revision shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3; 52 Stat. 407; 16 U.S.C. 460)

Section 7.43 of Title 36 of the Code of Federal Regulations is revised to read as follows:

§ 7.43 Natchez Trace Parkway.

(a) *Boating.* No vessel shall be launched on waters of the Ross Barnett Reservoir from the lands of the Natchez Trace Parkway.

(b) *Parking.* No motor vehicle shall be parked on lands of the parkway for the purpose of hunting on lands adjacent to the parkway right-of-way.

(c) *Vehicles*—(1) *Trucks, Pickup* trucks and other vehicles not exceeding three-fourths ton rated capacity are permitted to travel on the parkway when used solely for transportation of persons or for recreational purposes.

(2) *Animal-drawn vehicles.* Animal-drawn vehicles or implements are prohibited on the main parkway road.

(3) *Farm vehicles.* Farm vehicles, including agricultural implements, with or without load carrying capacity, and whether or not self-propelled, are prohibited on the parkway, except when such travel is authorized by the Superintendent or when such travel is in connection with the construction, operation, or maintenance of the parkway.

(4) *Recreational vehicles.* Recreational vehicles, including but not limited to, campers, boat trailers, housetrailers, and vehicles up to 1½-ton rated capacity, when such recreational vehicles are used solely to carry persons for recreational purposes together with their personally owned baggage, camping equipment, and related articles for vacation or recreational purposes, are permitted on the parkway.

KEITH E. MILLER,
Acting Superintendent, Natchez Trace Parkway.

[F.R. Doc. 69-7383; Filed, June 23, 1969; 8:45 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

SUBCHAPTER A—POST OFFICE SERVICES, DOMESTIC

PART 143—METERED STAMPS

PART 146—SPECIAL CANCELLATION

Miscellaneous Amendments

I. Section 143.1(d) is updated to show the manufacturers presently authorized to lease postage meters to mailers.

§ 143.1 Postage meters.

* * * * *

(d) *Meter manufacturers.* Postage meters may be leased from authorized manufacturers who are held responsible by the Post Office Department for the control, operation, maintenance, and replacement, when necessary, of meters manufactured by them. The following manufacturers are presently authorized to lease meters to mailers:

(1) National Cash Register Co., Dayton, OH 45409.

(2) Pitney-Bowes, Inc., Pacific and Walnut Streets, Stamford, CT 06904.

(3) Postalia Corp., 32-31 57th Street, Woodside, Flushing, NY 11377.

(4) The Singer Co., Friden Division, 2350 Washington Avenue, San Leandro, CA 94577 (for the following-named meters):

Commercial Controls Corp.
Friden, Inc.
International Postal Supply Co.
The Singer Co., Friden Division.

NOTE: The corresponding Postal Manual section is 143.14.

II. In § 143.2 paragraph (a) is revised for clarification.

§ 143.2 Meter license.

(a) *Application.* A patron may obtain a "License to Use a Postage Meter" by submitting "Application for a Postage Meter License, Form 3601-A" (or a form supplied by the manufacturer) to the post office where his metered mail will be deposited. No fee is charged. The application must specify the make and model of the meter. On approval, the postmaster will issue a license.

NOTE: The corresponding Postal Manual section is 143.21.

§ 143.6 [Amended]

III. In § 143.6 *Mailings* make the following changes.

1. In paragraph (a) *Preparation* strike out "Form 1835—Record of Call or Visit" and insert in lieu thereof "Form 3749—Irregularities in the Preparation of Mail Matter".

2. In paragraph (c) *Wrong date* strike out "Form 3611—Notice of Improperly Prepared Meter Mail" and insert in lieu thereof "Form 3749—Irregularities in the Preparation of Mail Matter".

NOTE: The corresponding Postal Manual sections are 143.61 and 143.63.

In § 146.2 paragraphs (c)(2) and (d) are amended, respectively, to change 2 months to 3 months in order to allow manufacturers more time to make die hubs; and to clarify instructions on ordering special cancellation die hubs.

Accordingly, in § 146.2 *How sponsors obtain special cancellations*, make the following changes:

1. Amend paragraph (c)(2) and (d) to read as follows:

§ 146.2 How sponsors obtain special cancellations.

* * * * *

(c) * * *

(2) *When to apply.* The application should be submitted to the postmaster at least 3 months before the date the cancellation die hub is to be placed in operation.

* * * * *

(d) *Referral by postmaster.* The postmaster will forward the application to the Classification and Special Services Division, Bureau of Operations, Post Office Department, Washington, D.C. 20260. The postmaster must furnish with the application the name of the manufacturer and model of the canceling machine on which the special die hub will be used, and must specify whether the machine is new or old (square- or round-type ring die). If the canceling machine is a Model Flier, M or G, the postmaster must state the correct die hub part number from the Operating Instruction Book (1207 or 1207-G for Flier and M Machines, and 218 or 218-E for G Machines). The base of the ring die on parts 218 and 1207 is round. The base of the ring die on part 218-E and 1207-G is square. No die hub part number is required for Models D, K, H.D.2, and Mark II. The postmaster must also state the effect the approval would have on the use of special cancellations already approved for his office.

NOTE: The corresponding Postal Manual sections are 146.232 and 146.24.

(5 U.S.C. 301, 39 U.S.C. 501, 2508, 4025, 4053)

DAVID A. NELSON,
General Counsel.

JUNE 18, 1969.

[F.R. Doc. 69-7389; Filed, June 23, 1969; 8:45 a.m.]

PART 156—RURAL SERVICE

Rural Boxes

TYPES OF BOXES MANUFACTURED; CORRECTION

In the daily issue of Wednesday, June 18, 1969 (34 F.R. 9487), the Department published a revision of paragraph (a)(5) of 39 CFR 156.5 to update the list of authorized manufacturers and suppliers of rural mailboxes. The following footnote material explaining the types of boxes manufactured, which appears between the companies, "Hermitage Stamping Co.," and "Jackes-Evans Manufacturing Co.,", should appear at the end of the paragraph following the listing of the company "Waterloo Industries":

1 Traditional Rural Box Size No. 1.
1A Traditional Rural Box Size No. 1A.
2 Traditional Rural Box Size No. 2.
C Contemporary Style Suburban Box (also approved for use on rural routes).

(5 U.S.C. 301, 39 U.S.C. 501)

DAVID A. NELSON,
General Counsel.

JUNE 18, 1969.

[F.R. Doc. 69-7386; Filed, June 23, 1969; 8:45 a.m.]

SUBCHAPTER C—INTERNATIONAL MAIL

APPENDIX—DIRECTORY OF INTERNATIONAL MAIL

In the Appendix to Subchapter C the following changes are made:

1. In the country item *Bahamas*, under Parcel Post, amend the table showing limits of indemnity which appears under the item *Insurance* to read as follows:

Insurance. The following insurance fees and limits of indemnity apply:

Limit of indemnity:	
Not over $15	$0.35
$15.01 to $50	.45
$50.01 to $100	.55

* * * * *

2. In the country item *Great Britain and Northern Ireland*, under Parcel Post, make the following changes:

a. Amend the second and fourth paragraphs under *Prohibitions* to read as follows:

Arms, etc. Firearms (except shotguns with barrels at least 24 inches long) and other deadly weapons and parts thereof, including guns for throwing liquid or gas and munitions therefor; accessories for reducing the sound or flash of firearms. The foregoing are admitted, however, if the addressee possesses an import license issued by the competent British authorities.

To Northern Ireland: Airguns, and shotguns with barrels 24 inches or more in length in addition to the above.

b. Amend the paragraph headed *Import restrictions* to read as follows:

Import restrictions. The attention of senders should be called to the following requirements, which are to be met by addressees:

Certain hallucinogenic, narcotic, and stimulant drugs; vaccines, antigens, antitoxins, and sera; antibiotics for parenteral injection; salvarsan and similar substances; enzyme and harmone preparations; and certain surgical material for human use require import authorization from the competent British authority.

Foods or beverages to which any preservative or other substance has been added must comply with the British regulations for importation.

Many categories of merchandise require import licenses from the British Board of Trade, except when sent as bona fide unsolicited gifts (see "Observations") or as trade samples.

3. In the country item *India*, under Parcel Post in the paragraph *Prohibitions*, amend the paragraph headed *Arms, etc.* to read as follows:

Arms, etc.: Arms (offensive and defensive weapons of all kinds) and military equipment, except for the Indian Government.

Appliances (including pistols, pistol pencils, etc.) for discharging gas, except on behalf of the Government.

4. In the country item *Malaysia* make the following changes:

a. Under Postal Union Mail, amend the paragraph *Prohibitions* to read as follows:

Prohibitions. To the States of Malaya only: Paper money exceeding 100 Malaysian dollars ($32.60 U.S. currency) in value. Malaysian, Indian or Indonesian paper money in any amount unless authorized by the Malaysian Exchange Control.

Coins; manufactured or unmanufactured platinum, gold or silver; jewelry and other precious articles.

Radioactive materials.

Articles prohibited or restricted as parcel post are prohibited or restricted in the postal union mail.

See also § 221.3 of this chapter.

b. Under Parcel Post, in paragraph *Prohibitions*, amend the paragraph headed "For other reasons" to read as follows:

For other reasons: Coins or ingots of a value higher than 50 Malaysian dollars ($16.30 U.S. currency), except coins for ornament. Paper money of Malaysia, Singapore or Brunei unless authorized by the Exchange Control Department, Bank Negara Malaysia at Kuala Lumpur.

4. In the country item *New Caledonia and Dependencies* make the following changes:

a. Amend country heading to read as follows: *New Caledonia. (Including Isle of Pines, Loyalty Islands, Huan Islands, and the Wallis and Futuna Islands.)*

b. Under Parcel Post, the paragraph *Prohibitions* is amended to read as follows:

Prohibitions. Saccharine and similar substances unless addressed to pharmacists. Tobacco leaves or manufactured tobacco. Weights and measures not of the decimal system. Also see § 231.2(a)(4) of this chapter.

c. Also under Parcel Post, at the end, add new paragraph *Import restrictions* reading as follows:

Import restrictions. The attention of senders should be called to the following: Addressees are required to obtain government permission to import firearms.

5. In the country item *Nepal*, under Postal Union Mail, in the paragraph *Classifications, weight limits and dimensions*, delete the sentence: "Small packets not accepted."

6. In the country item *Spain*, under Parcel Post, make the following changes:

a. Amend the paragraph headed *Prohibitions* to read as follows:

Prohibitions. Tobacco (admitted only to the Canary Islands, Couta and Melilla). Playing cards. Foodstuffs containing saccharine in any amount. Weapons of all kinds.

b. Under *Import restrictions* delete the last sentence.

7. In the country item *Sweden*, under Postal Union Mail, amend the paragraph *Observations* to read as follows:

Observations. Customs clearance of articles of merchandise will be expedited if a commercial invoice, signed by the sender, is enclosed in the package.

As books, periodicals and newspapers are often subject to import charges, a completed Form 2976 should be marked "Gift" in appropriate cases.

Combination mailings as defined in § 222.8(a) of this chapter are accepted.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

DAVID A. NELSON,
General Counsel.

JUNE 18, 1969.

[F.R. Doc. 69-7385; Filed, June 23, 1969; 8:45 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER E—LOAD LINES

[CGFR 68-126]

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

Miscellaneous Amendments

Correction

In F.R. Doc. 69-6510 appearing at page 9010 in the issue of Thursday, June 5, 1969, the following changes should be made:

1. In the last line of § 42.20-3(e)(4), the word "foot" should read "feet".

2. The line preceding amendment 52 on page 9016 reading "§ 42.20-60 [Amended]" should read "§ 42.20-65 [Amended]".

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 10]

FOREIGN-BUILT CONTAINERS IN INTERNAL TRAFFIC

Proposed Use

Resolution No. 24 adopted on May 23, 1968, by the Working Party on Customs Questions affecting Transport of the Inland Transport Committee of the United Nations Economic Commission for Europe, of which the United States is a participating member, recommends that governments authorize the use of containers which have been admitted under any temporary importation procedure for the transport of goods in internal traffic with the understanding that the internal journey may be limited to one which will bring the container by a reasonably direct route to, or nearer to, the place where export cargo is to be loaded or where the container is to be reexported empty.

Notice is hereby given that to implement the recommendation, it is proposed to amend paragraph (f) of § 10.41a, Customs Regulations, which describes the uses in the United States of instruments of international traffic which do not constitute a diversion to unpermitted point-to-point local traffic or a withdrawal of such instrument from its use as an instrument of international traffic, under authority of section 251 of the Revised Statutes (19 U.S.C. 66), section 322 of the Tariff Act of 1930 (19 U.S.C. 1322), and section 301 of title 5, United States Code, to read as follows:

§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic.

* * * * *

(f) Except as provided in paragraph (h) of this section, no part of this section precludes (1) the use of an instrument in picking up and delivering loads at intervening points in the United States while en route between the port of arrival and the point of destination of its imported cargo or (2) such use of the instrument while en route from such point of destination of imported cargo to a point where export cargo is to be loaded or to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure, provided such point-to-point traffic is incidental to the efficient and economical utilization of the instrument in the course of its use in international traffic. Such use does not constitute a diversion to unpermitted point-to-point local traffic within the United States or a withdrawal of an instrument in the United States from its use as an instrument of international traffic under this section.

* * * * *

Before action is taken on this proposed amendment, consideration will be given to all relevant data, views, or arguments which may be submitted in writing to the Commissioner of Customs, Washington, D.C. 20226, not later than 30 days from the date of the publication of this notice in the FEDERAL REGISTER. No hearing will be held.

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

Approved: June 13, 1969.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 69-7408; Filed, June 23, 1969; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-369]

HANDLING OF ORANGES GROWN IN INTERIOR DISTRICT IN FLORIDA

Notice of Hearing With Respect to Proposed Marketing Agreement and Order

Correction

In F.R. Doc. 69-6520, appearing at page 8705 of the issue for Tuesday, June 3, 1969, the second paragraph under the heading for sec. 64 should be preceded by the following:

Sec. 65 Separability.

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 519]

EMPLOYMENT OF FULL TIME STUDENTS AT SPECIAL MINIMUM WAGES

Proposed Change in Conditions for Certificates

The notice of proposed rulemaking which was published in the FEDERAL REGISTER at 34 F.R. 9345 is amended by providing that interested persons may submit data, views, or argument in writing to the Administrator of the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, Washington, D.C. 20210, on the proposal, within 30 days from the date of publication of this amendment in the FEDERAL REGISTER.

Signed at Washington, D.C., this 19th day of June 1969.

FRANCIS J. COSTELLO,
Acting Administrator, Wage and Hour and Public Contracts Division.

[F.R. Doc. 69-7419; Filed, June 23, 1969; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 45]

[CGFR 69-68]

GREAT LAKES VESSELS

Load Lines

1. Notice is hereby given that the Commandant, U.S. Coast Guard, under authority contained in sec. 2, 45 Stat. 1493, sec. 2, 49 Stat. 888, sec. 6(b), 80 Stat. 937; 46 U.S.C. 85a, 88a, 49 U.S.C. 1655(b); 49 CFR 1.4(a)(2), is considering the addition of a new § 45.15-100 to Subchapter E, Title 46 of the Code of Federal Regulations, as set forth below.

2. Interested persons are invited to submit written data, views, arguments or comments regarding the proposed new section to the Commandant (CMC), U.S. Coast Guard, Washington, D.C. 20591, within 30 days after publication of this notice in the FEDERAL REGISTER.

3. To expedite the handling of submissions regarding this proposal, it is requested that each submission state: the subject and paragraph number to which it is directed; the specific wording recommended; the reason for the recommended change, and the name, address and firm or organization, if any, of the person making the submission.

4. In addition to publication in the FEDERAL REGISTER, copies of the printed document will be mailed to persons and organizations who have previously requested that they be furnished with copies of proposed changes in the regulations. Also, copies of the printed document will be furnished upon request to the Commandant (CMC), as long as they are available. Copies will in any event be available for examination at the office of the Commandant (CMC), as well as at the offices of the Coast Guard District Commanders. Attached to the printed copies of this document are some copies of Form CG-3287 which may be used for the submittal of comments. This form may be reproduced, if desired.

5. No hearing is contemplated on the proposal in this document. However, arrangements may be made for informal conferences with cognizant Coast Guard personnel by contacting Commandant (CMC), Room 4211, U.S. Coast Guard Headquarters, Washington, D.C. 20591. Any data or views presented during such informal conferences should also be submitted in writing in accordance with this notice, in order to become a part of the record.

6. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. Copies of all written communications received will be available for examination by interested persons in Room 4211, U.S. Coast Guard Headquarters, Washington, D.C., both before and after the closing date for the receipt of comments. The proposal contained in this document may be changed in the light of the communications received.

7. The existing loadline regulations for Great Lakes vessels do not contain a freeboard table for vessels over 750 feet in length. See Table 45.15–97(a). Vessels over 750 feet in length are presently under construction for use on the Great Lakes. Sometime ago the extension of the table to cover vessels over 750 feet in length was considered by the United States/Canadian Joint Technical Committee for Great Lakes Load Lines. This Committee is sponsored jointly by the U.S. Coast Guard and by the Department of Transportation of the Canadian Government and is composed of representatives from industry, ship operators, classification societies and the two Governments. The Committee recommended the adoption of a freeboard table for vessels from 750 to 1,000 feet in length that satisfy four specified construction requirements. This recommendation duplicated the Type B Table of the 1966 International Load Line Convention for vessels from 800 to 1,000 feet in length. A straight line interpolation was employed between the end of the existing Great Lakes Table at 750 feet and the 1966 Convention figure at 800 feet.

8. Amendments to the existing regulations to implement the recommendation of the Joint Technical Committee was included in a notice of proposed rule making published in the FEDERAL REGISTER of February 7, 1969 (34 F.R. 1831) and as Item PH 6b–69 of the Merchant Marine Public Hearing Agenda (CG–249) dated March 24, 1969. This original proposal, as distinguished from the present one, proposed to amend Table 45.15–97 to include vessels from 760 to 1,000 feet and to add § 45.15–105 which provided four specified construction requirements to be applied only to vessels over 750 feet in length. The Merchant Marine Council favorably considered these amendments in the executive session which followed the public hearing on March 24, 1969.

9. Almost immediately after this executive session, various shipping interests in the United States and Canada pointed out that a number of existing vessels under 750 feet in length already comply with the four construction requirements and requested that the loadline marks for these vessels be determined on the basis of the Type B Table of the 1966 International Load Line Convention. Study reveals that the freeboards required by the Type B Table of the International Load Line Convention is less than the freeboards required by the Great Lakes Table for vessels between 440 to 750 feet in length. The difference in freeboard varies from .3 inch for a vessel of 440 feet in length to 5.8 inches for a vessel of 750 feet in length. This matter was referred for study to the working group of the Joint Technical Committee. This group reported unanimously that vessels between 440 and 750 feet in length which comply with the four construction requirements, originally imposed on vessels over 750 feet in length, would not suffer a loss of safety at the slightly deeper drafts resulting from the application of the Type B Table of the 1966 International Load Line Convention, provided they were structurally suitable for the resulting load draft in all operating conditions.

10. In consonance with the report of the working group, it is now proposed to add to Part 45 of Subchapter E a new § 45.15–100. This new section contains Table 45.15–100(R) which specifies the basic minimum summer freeboards for vessels from 440 to 1,000 feet on Great Lakes voyages. This Table has been determined on the basis of the Type B Table of the 1966 International Load Line Convention and is made applicable only to vessels which comply with the five construction requirements specified in the proposed section. If § 45.15–100 as now proposed is ultimately promulgated in substantially the form set forth below, the amendments to the regulations proposed in Item PH 6b–69 will not be adopted and the existing § 45.15–97 will remain unchanged. In short, § 45.15–100, as now proposed renders the changes originally proposed in Item PH 6b–69 unnecessary.

11. It is proposed to amend Part 45 of Subchapter E, Title 46 Code of Federal Regulations by adding a new § 45.15–100 to read as follows:

§ 45.15–100 Reduced freeboards for steamers having superior design and operational features engaged on Great Lakes voyages.

(a) Subject to compliance with the additional conditions in paragraph (b) of this section but otherwise in accordance with the usual conditions of assignment, freeboards of steamers over 440 feet in length engaged on Great Lakes voyages, may be computed from the lesser tabular values given by the Table 45.15–100(a) in lieu of those given by Table 45.15–97(a).

TABLE 45.15–100(a)—REDUCED BASIC MINIMUM SUMMER FREEBOARDS FOR STEAMERS ON GREAT LAKES VOYAGES

Length of ship (feet)	*Freeboard (inches)*
440	78.2
450	80.7
460	83.1
470	85.6
480	88.1
490	90.6
500	93.1
510	95.6
520	98.1
530	100.6
540	103.0
550	105.4
560	107.7
570	110.0
580	112.3
590	114.6
600	116.8
610	119.0
620	121.1
630	123.2
640	125.3
650	127.3
660	129.3
670	131.3
680	133.3
690	135.3
700	137.1
710	139.0
720	140.9
730	142.7
740	144.5
750	146.3
760	148.1
770	149.8
780	151.5
790	153.2
800	154.8
810	156.4
820	158.0
830	159.6
840	161.2
850	162.8
860	164.3
870	165.9
880	167.4
890	168.9
900	170.4
910	171.8
920	173.3
930	174.7
940	176.1
950	177.5
960	178.9
970	180.3
980	181.7
990	183.1
1000	184.4

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation.

(b) In order to be eligible for the reduced freeboards permitted by this section, vessels shall comply with following supplementary conditions:

(1) Vessels shall be built of steel complying with the amended classification society specifications issued in 1948, or thereafter.

(2) Hatch covers shall be one piece weathertight steel or equivalent material.

(3) A protected underdeck fore and aft passage shall be provided.

(4) Deck houses and superstructures shall be of steel or equivalent material.

(5) Vessels shall be structurally suitable for the resulting load draft in all operating conditions.

Dated: June 18, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 69–7371; Filed, June 23, 1969; 8:45 a.m.]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69-WE-37]

TRANSITION AREA AND CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the description of the Pocatello, Idaho control zone and transition area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

Subsequent to the designation of the original Pocatello, Idaho, control zone and transition area, the criteria for such areas has been changed. Accordingly, it is necessary to alter this airspace to comply with the new criteria.

In consideration of the foregoing, the FAA proposes the following airspace actions.

In § 71.171 (34 F.R. 4557) the Pocatello, Idaho, control zone is amended to read as follows:

POCATELLO, IDAHO

Within a 5-mile radius of Pocatello Municipal Airport (lat. 42°54'35" N., long. 112°35'25" W.), and within 3 miles each side of the Pocatello VORTAC 252° radial, extending from the 5-mile radius zone to 8.5 miles west of the VORTAC.

In § 71.181 (34 F.R. 4637) the Pocatello, Idaho, transition area is amended to read as follows:

POCATELLO, IDAHO

That airspace extending upward from 700 feet above the surface within 4.5 miles southeast and 11 miles northwest of the Pocatello VORTAC 048° radial, extending from the VORTAC to 28 miles northeast of the VORTAC; within 9.5 miles north and 4.5 miles south of the 252° radial extending from 18.5 miles west to 1.5 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 43°11'30" N., longitude 112°10'00" W., thence to latitude 42°52'00" N., longitude 112°11'45" W., thence clockwise via a 23-mile radius arc centered on the Pocatello VORTAC to longitude 113°00'00" W., thence to 43°20'30" N., longitude 112°-45'00" W., thence to point of beginning.

These amendments are proposed under the authority of sec. 307(a), of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on June 13, 1969.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 69-7394; Filed, June 23, 1969; 8:46 a.m.]

Federal Railroad Administration

[49 CFR Part 231]

[Docket No. FRA-SA-1]

RAILROAD SAFETY APPLIANCE STANDARDS

Notice of Proposed Rule Making

Notice is hereby given that the Federal Railroad Administration has under consideration proposed amendments to §§ 231.10 and 231.11 of its Railroad Safety Appliance Standards to eliminate the present requirements for running boards, roof handholds, and end ladders on caboose cars with or without end platforms and to make a number of incidental changes in associated safety appliances.

The proposed amendments would remove regulatory requirements which impede the free movement of caboose cars between Canada and the United States and would bring our Railroad Safety Appliance Standards into closer harmony with comparable regulations of the Canadian Transport Commission.

Running boards and associated appliances are no longer required on box and other house cars without roof hatches and they no longer appear to be necessary or desirable on caboose cars for safety in modern railroad operations.

Accordingly, it is proposed to amend Part 231 of the Railroad Safety Appliance Standards as follows:

1. By striking paragraphs (b), (c), (d), and (e) of § 231.10. All caboose cars with end platforms built and placed in service after October 1, 1969, except those under construction on that date, must comply with this amendment. Caboose cars built and placed in service before October 1, 1969, or under construction on that date must comply with this amendment by October 1, 1974; they may, however, be equipped in accordance with this amendment as soon as it becomes effective.

2. By striking paragraphs (c) and (i) of § 231.11; and making incidental changes in paragraphs (a), (f), (h), (j), and (l) to provide specifications for associated ladders, roof handholds and other end safety appliances similar to those contained in § 231.27. All caboose cars without end platforms built and placed in service after October 1, 1969, except those under construction on that date, must comply with this amendment. Caboose cars built and placed in service before October 1, 1969, or under construction on that date must comply with this amendment by October 1, 1974; they may, however, be equipped in accordance with this amendment as soon as it becomes effective.

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 triplicate to the Federal Railroad Administration, Office of Hearings and Proceedings, Attention: Docket No. FRA-SA-1, Washington, D.C. 20591. All written submissions should be received before July 21, 1969. Since the Safety Appliance Act requires a hearing, an oral hearing will also be held. The hearing will be held in the offices of the Federal Railroad Administration, Conference Room 2B, beginning at 9:30 a.m., July 23, 1969. It will be a fact-finding, nonadversary type hearing. All interested parties are also invited to participate in the oral hearing.

Written submissions and oral presentations made at the hearing 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 and the testimony received. The Docket in this proceeding will be available for examination by interested persons at any time during normal working hours, at the Office of Public Affairs, Room 206, Federal Railroad Administration, 400 Sixth Street SW., Washington, D.C. 20591.

This amendment is proposed under the authority of sections 2, 4, and 6, 27 Stat. 531, as amended, sections 1 and 3, 32 Stat. 943, as amended, sections 1-6, 36 Stat. 298-299, as amended, of the Safety Appliance Acts (45 U.S.C. 2, 4, 6, 8, 10, 11-16), and of section 6(e) and (f), 80 Stat. 939, of the Department of Transportation Act (49 U.S.C. 1655).

Issued in Washington D.C., on June 18, 1969.

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

[F.R. Doc. 69-7406; Filed, June 20, 1969; 1:30 p.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[24 CFR Part 1710]

LAND REGISTRATION

State Filings

Notice is hereby given that the Acting Assistant Secretary for Mortgage Credit, Department of Housing and Urban Development, having determined that filings made under the Illinois Installment Land Sales Act of August 13, 1965, would satisfy certain requirements under the Federal Interstate Land Sales Full Disclosure Act (15 U.S.C. 1718), proposes to amend the regulations of the Office of Interstate Land Sales Registration (24 CFR Part 1710, § 1710.25) to add Illinois to the list of acceptable filing States. Prior to the final adoption of such amendment, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, Washington, D.C. 20411, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed amendment reads as follows:

§ 1710.25 State filings.

(a) Except as provided in paragraph (b) of this section, if a developer complies with the requirements of § 1710.115 with respect to the property report and the requirements of § 1710.120 with respect to the statement of record, a copy of material filed with State authorities and allowed to become effective by such authorities shall be an effective statement of record, an amendment thereto, or an effective consolidation of a subsequent statement of record into an earlier statement of record, as of the date of filing such copy together with the required fee with the Secretary, as follows:

(1) With respect to a subdivision located in California, Florida, Hawaii, Illinois, or New York, where the material is filed in full compliance with the laws and requirements of the authorities of such State, with the exception that material filed with the State of Hawaii will not be acceptable if it was filed with that State prior to the enactment of Act 223, Session Laws of Hawaii 1967, and material filed with the State of Florida will not be acceptable if it was filed with that State prior to the enactment of section 478, Florida Statutes, effective August 1, 1967.

(2) With respect to a subdivision located outside of California, Florida, Hawaii, Illinois, or New York and covered by material filed with any such State, if all lots and tracts in such subdivision have been made the subject of the State filing and if there has been full compliance with the laws and requirements of the authorities in such State, with the exception that material filed with the State of Hawaii will not be acceptable if it was filed with that State prior to the enactment of Act 223, Session Laws of Hawaii 1967, and material filed with the State of Florida will not be acceptable if it was filed with the State prior to the enactment of section 478, Florida Statutes, effective August 1, 1967.

(b) A statement of Record or similar instrument filed in a State which is not named in paragraph (a) (1) or (2) and which has been allowed to become effective as a filing by the authorities in a State named in paragraph (a) (1) or (2) may not be filed with the Secretary for the purpose of complying with this section.

Issued at Washington, D.C., June 18, 1969.

[SEAL] WILLIAM B. ROSS,
Acting Assistant Secretary for Mortgage Credit.

[F.R. Doc. 69-7403; Filed, June 23, 1969; 8:47 a.m.]

Notices

FEDERAL POWER COMMISSION

[Docket No. G-2793 etc.]

ATLANTIC RICHFIELD CO.

Order Amending Orders Issuing Certificates of Public Convenience and Necessity, Accepting Notices of Succession for Filing, Redesignating FPC Gas Rate Schedules, Substituting Respondent, Redesignating Proceedings, and Dismissing in Part Petition To Amend

JUNE 12, 1969.

On March 17, 1969, Atlantic Richfield Co. (Petitioner) filed in Docket No. G-2793, et al., a petition to amend the orders issuing certificates of public convenience and necessity to Sinclair Oil Corp. (Sinclair) pursuant to section 7(c) of the Natural Gas Act by substituting Petitioner in lieu of Sinclair as certificate holder, all as more fully set forth in the petition to amend and in the appendix hereto.

Petitioner merged Sinclair effective March 4, 1969, and proposes to continue the sales of natural gas heretofore authorized by the Commission to be made by Sinclair. Petitioner has filed notices of succession to the FPC gas rate schedules of Sinclair and a motion to be substituted as respondent in Sinclair's rate proceedings. Petitioner has heretofore filed a general agreement and undertaking to assure the refund of amounts collected in excess of amounts determined to be just and reasonable in proceedings under section 4(e) of the Natural Gas Act.

The Commission's staff has reviewed the petition to amend and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention, or protests to the granting of the petition to amend have been received.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the orders issuing certificates to Sinclair should be amended as hereinafter ordered, that the notices of succession to the FPC gas rate schedules of Sinclair should be accepted for filing, that the related FPC gas rate schedules should be redesignated, that Petitioner should be substituted in lieu of Sinclair as respondent in the latter's rate proceedings, that said proceedings should be redesignated accordingly, and that the petition to amend should be dismissed in part.

The Commission orders:

(A) The orders issuing temporary and permanent certificates of public convenience and necessity to Sinclair are amended by substituting Petitioner as certificate holder, and in all other respects said orders shall remain in full force and effect.

(B) Petitioner is substituted in lieu of Sinclair as applicant in all pending certificate proceedings, including those in which temporary certificates have been issued.

(C) The notices of succession to the FPC gas rate schedules of Sinclair are accepted for filing effective as of March 4, 1969, and the FPC gas rate schedules are redesignated as those of Petitioner as set forth in the appendix hereto.

(D) Petitioner is substituted in lieu of Sinclair as respondent in the latter's rate proceedings, and said proceedings are redesignated accordingly. Petitioner shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(E) Sales authorized to be continued from the Southern Louisiana area are subject to the orders accompanying Opinion Nos. 546 and 546-A and all other orders which have been or which hereafter may be issued in Docket No. AR61-2, et al., including those orders relating to rate reductions, refunds, reports and compliance filings.

(F) The petition to amend is dismissed as moot with respect to the sales authorized in Docket Nos. G-4882 and CI64-1500 which have been permitted to be abandoned in Docket Nos. CI65-1271 and CI69-820.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX

Certificate Docket No.	Sinclair R.S. No.	Atlantic R.S. No.	Rate suspension Docket No.
G-2887	1	330	
G-2888	2	331	
G-2889	3	332	
G-2890 and G-10282	4	333	RI64-3, RI66-85, and RI69-383.
G-2891	5	334	RI64-3, RI66-85, and RI69-383.
G-2892	6	335	RI64-3, RI66-85, and RI69-383.
G-2893	7	336	G-14060, RI65-75, and RI68-502.
G-2894, G-14350, and G-14889	8	337	RI64-3, RI65-75, and RI68-502.
G-2895	9	338	RI66-321.
G-2896	10	339	RI67-281.
	[1] 13		G-14060 and G-16534.
	[1] 15		RI60-215.
	[1] 16		RI60-215.
G-2903	17	340	RI60-215 and RI64-645.
G-2904	18	341	
G-2905	19	322	RI66-86 and RI68-585.
G-2913	27	343	
G-2914	28	344	G-14060, RI65-75, and RI68-530.
G-2916	30	345	RI66-86 and RI68-240.
G-2921	35	346	
G-2927	39	347	RI66-93.
G-2930	42	348	
G-4676	44	349	
G-4677	45	350	
G-7310	46	351	
G-7674	47	352	
G-8539	50	353	
G-8733 and G-14888	*51	*354	RI64-463.
G-8788	**52	**355	
G-8801	53	356	
G-8836 and G-13568	55	357	RI66-93.
G-9077	59	358	
G-8493, G-10456, and G-13020	61	[2] *359	RI64-395.[3]
G-8493	**62	**360	RI64-395.[3]
G-8493	*63	*361	RI64-256.[3]
G-8493	64	362	
G-8493	65	363	RI64-3, RI65-75, and RI68-520.
G-8493	66	364	
G-8493	67	365	
G-8493	68	366	
G-8493	70	367	
G-8493	71	368	RI64-3, RI65-38, and RI68-530.
G-8493	73	369	
G-8493	75	370	
G-5395	77	371	
G-9424	78	372	RI66-165 and RI68-286.
G-8493	82	373	
	[1] 83		RI64-3 and RI65-38.
G-10119	86	274	RI66-178 and RI67-28.
G-10179	87	375	
G-11414	*90	*376	RI64-465.
G-11551 and G-13567	92	377	G-14060, RI65-38, and RI68-520.
G-11587	93	378	RI66-177 and RI68-245.
G-11744 and G-15291	*94	*379	RI66-177 and RI67-250.
G-11229	*95	*380	
G-11229	*96	*381	
G-11229	97	382	RI66-119.
G-11229	99	383	
G-11229	101	384	

APPENDIX—Continued

Certificate Docket No.	Sinclair R.S. No.	Atlantic R.S. No.	Rate suspension Docket No.
G-11229	102	385	
G-11229	105	386	
G-11229	106	387	
G-11229	116	388	
G-11229	128	389	
G-12134	135	390	RI66-178 and RI67-251.
G-12311	136	391	
G-12332	137	392	
G-12352	138	393	
G-12464	139	394	RI66-165.
G-12465	140	395	RI66-165.
G-12642	141	396	RI68-103.
G-12806	142	397	RI66-86.
G-10269	**143	**398	RI64-314 [8]
G-13850	144	399	RI67-430.
	[1] 145		RI65-38.
G-13128	146	400	
G-13220	147	401	RI66-321.
G-13263	148	402	
G-13330	149	403	
G-13383	150	404	
G-13701	152	405	RI66-178 and RI68-99.
G-13805	153	406	
G-13807	154	407	RI68-103.
G-14401	155	408	RI67-127 and RI68-103.
G-14397	156	409	RI67-127.
G-14628	*157	*410	RI66-97 and RI67-462
	[1] 158		RI65-38.
G-14791	161	411	RI66-86 and RI68-240.
G-16000	163	412	
G-16029	164	413	RI66-165.
G-13299	*165	*414	RI66-305.
G-16370	166	415	RI64-463.
	[1] 168		RI65-38.
G-17308	169	416	RI68-103.
G-17309	170	417	RI64-3 and RI65-38.
G-17836	171	418	RI66-165.
G-17917	*172	*419	
G-2922	173	420	
	[1] 174		RI65-38.
G-18919	177	421	RI69-38.
G-19222	178	422	RI68-627.
G-18747	180	423	RI64-3, RI66-86, and RI69-383.
G-19036	181	424	RI66-165.
G-20057	182	425	RI65-165.
G-19083	*183	*426	RI66-166.
G-17917	*184	*427	
G-20297	185	428	
G-20146	186	429	RI66-165 and RI66-627.
G-19661	188	430	
G-18745	189	431	RI66-162.
C160-129	*190	*432	RI66-166.
G-20938	***192	[2] 433	RI60-231, RI61-172, RI61-530, RI62-152, RI63-131, RI64-257, RI65-219, and RI66-77.
G-17979	*193	*434	RI66-166.
C160-460	195	435	RI68-240.
C160-593	*196	[2] 436	
G-11229	197	437	RI68-304.
C161-76	198	438	RI68-108.
C161-220	199	439	RI64-341 and RI68-320.
C161-334	*201	*440	RI68-13.
C161-390	202	441	
C161-408	203	442	
C161-691	*204	*443	RI67-316, RI68-70, RI68-636, RI69-295, and RI69-602.
C161-949	*205	*444	RI66-166.
C161-1032	206	445	
C161-1073	207	446	
C161-1137	208	447	RI68-103.
C161-1210	**212	**448	
C161-1257	213	449	
C161-1401	214	450	RI64-341, RI68-240, and RI68-320.
C161-1393	215	451	RI64-3 and RI65-38.

See footnotes at end of table.

APPENDIX—Continued

Certificate Docket No.	Sinclair R.S. No.	Atlantic R.S. No.	Rate suspension Docket No.
C161-1500	216	452	
G-2923, G-2924, G-2925, and G-2926	*217	*453	
C161-1766	218	454	RI66-165.
C162-34	219	455	RI65-152.
C162-33	*220	*456	
C162-96	221	457	RI65-39 and RI65-626.
	[1] 222		
C162-287	223	458	RI65-38.
C162-296	224	459	
C162-297	225	460	
G-2897, G-2898, and G-2900	226	461	RI66-86.
C162-531	227	462	RI68-103.
C162-530	*228	*463	
G-2906 and G-2907	*230	*464	
G-2930	232	465	
C162-1070	233	466	RI67-317.
C162-1388	234	467	RI67-430.
C161-670	235	[2] ***468	
C163-463	***236	***469	
C163-538	*237	*470	RI66-83.
C163-576	238	471	
C163-603	*239	*472	RI66-86 and RI68-624.
C163-1104	240	473	RI65-219 and RI68-627.
C163-1025	243	474	RI67-79.
C163-1026	244	475	RI69-103.
C163-1408	*245	*476	RI69-163.
C163-1486	*246	*477	
C164-12	*248	*478	
C164-11	**249	**479	RI65-28.
G-14127	*250	[2] ***480	
C162-1184	*251	*481	RI69-20.
G-3207	254	482	RI64-305 and RI64-753.
C160-112	256	483	RI65-14.
C160-113	257	484	RI69-57.
C160-114	*258	*485	RI69-95.
C161-686	*259	*486	RI65-466.
C163-121	*260	*487	
C164-420	*261	*488	RI65-40.
C164-545	262	489	RI69-377.
C164-546	263	490	
G-4550	*264	*491	
G-4537	*265	[2] ***492	RI61-437, RI64-108, RI65-108, and RI68-503.
G-4536	266	493	
G-4535	267	494	
G-4545	268	495	
G-4543	270	496	
G-4548	*271	*497	
G-4547	272	498	RI64-108, RI64-463, and RI69-383.
G-4546	273	499	
G-4542	*274	*500	
G-4541	275	501	
G-4540	76	502	RI64-106, RI64-403, and RI69-383.
G-4539	*277	*503	
G-4538	278	504	
	[1] 279		RI69-213.
G-4551	*280	*505	
G-8880	*281	*506	
G-12041	***282	***507	
G-15300	283	508	RI68-290.
G-13904	*284	*509	
G-16760	***285	***510	
G-16099	286	511	RI64-119 and RI68-502.
C161-1249	***288	***512	RI64-107.
C161-1454	*289	*513	RI64-106, RI64-489, and RI69-383.
C164-438	290	514	
C164-621	291	515	RI68-541.
G-4319	***294	***516	
G-3056	***295	***517	
G-2829	296	518	
G-2793	297	519	RI66-394.
G-2831	*298	[2] 520	
G-2828	299	521	RI64-631.
G-2880	300	522	
G-8783	301	523	RI64-637.
G-10228	302	524	RI69-137.

APPENDIX—Continued

Certificate Docket No.	Sinclair R.S. No.	Atlantic R.S. No.	Rate suspension Docket No.
G-10355	303	525	RI66-345 and RI68-286.
	[1] 304		RI66-346.
G-10849	305	526	
G-12128	306	527	RI66-345.
G-12449	307	528	
G-3146	308	529	RI66-345.
G-3010	309	530	RI66-345.
G-3009	310	531	RI66-345.
G-4288	311	532	
CI64-54	312	533	RI69-692.
G-12308 [4]	313	534	RI66-345.
G-14832	314	535	RI66-345.
CI63-772	315	536	
CI63-27	316	537	RI68-716.
G-13138	**317	**538	RI64-219 and RI69-165.
CI64-1461	318	539	
G-7256	320	540	
G-7258	321	541	
G-7272	322	542	
G-7272	323	543	
G-10963	325	544	
G-20016	*326	*545	
CI65-76	327	546	
CI64-1511	328	547	
CI65-335	329	548	
CI65-371	330	549	
G-2931	331	550	
CI65-421	332	551	
CI65-461	333	552	RI69-383.
CI65-587	334	553	
G-14582	*335	*554	G-16669,[5] G-19821, RI61-120, RI63-126, RI63-113, RI64-155, and RI65-244.
CI65-1174	*337	*555	
CI65-1275	338	556	
CI65-1267	*339	*557	
CI65-1150	340	558	RI69-449.
CI66-572	341	559	
CI66-404 [4]	342	560	
CI66-635	*343	*561	
CI65-543	344	562	RI69-602.
CI66-832	345	563	
CI66-422 [4]	346	564	
CI66-806	347	565	
CI66-410	*348	*566	
CI66-1004	349	567	
CI66-1126	*350	[2] ***568	RI67-316.
CI61-468 [4]	351	569	RI66-208.[5a]
CI66-1234	352	570	RI69-307.
CI66-1272	353	571	
CI66-1292	354	572	
CI67-55	355	573	
CI66-1166	***356	***574	RI67-252.
CI67-182	357	575	
CI67-209	358	576	RI69-21.
G-4544	360	577	
G-2826 and G-4544	361	578	
CI67-363	362	579	
CI67-332	363	580	RI69-383.
CI67-385	364	581	
CI67-561	365	582	
CI67-173	366	583	
CI67-690	*367	*584	
CI67-753	*368	*585	
CI67-792	369	586	RI69-21.
CI67-786	370	587	RI69-127.

See footnotes at end of table.

APPENDIX—Continued

Certificate Docket No.	Sinclair R.S. No.	Atlantic R.S. No.	Rate suspension Docket No.
CI67-867	*371	*588	
CI67-928	372	589	RI65-319.
CI67-1082	373	590	
CI67-1205	374	591	
CI67-1042	375	592	RI69-146.
CI65-269	*376	*593	
CI65-1332	***377	***594	RI68-703.
CI67-1599 [6]	*378	*595	
CI67-955	379	596	RI68-671.
CI68-55	380	597	RI69-21.
CI68-139	381	598	RI68-378.
CI68-121 [4]	*382	*599	
G-2909 and G-2911	383	600	
CI68-195 [4]	384	601	
CI68-196 [4]	385	602	
CI68-197 [4]	*386	*603	
CI68-672	387	604	
CI68-757	388	605	
CI68-667 [4]	389	606	
CI68-1007	390	607	
CI68-691	391	608	RI69-457.
CI68-690	392	609	RI69-457.
CI68-1058 [4]	393	610	
CI68-1240	394	611	
CI69-110	*395	*612	
CI68-1352 [4]	396	613	
CI69-30	397	614	
CI67-680	398	615	
CI69-581	399	616	
CI69-663	400	617	
G-20182 [4]	401	618	
CI69-812	402	619	RI68-2.
CI69-835 [4]	403	620	
CI69-662 [4]	[7]	[7]	

AREA RATE AND OTHER PROCEEDINGS

William Harvey Denman, trustee et al., Docket No. RI67-113 et al.[8]
Sinclair Oil Corp. et al., Docket No. G-16760 et al.[8]
Johnson & McCurdy (operator) et al., Docket No. G-18077 et al.[8,9]
Union Texas Petroleum et al., Docket No. G-13221 et al.
Michigan Wisconsin Pipe Line Co., Docket No. RP66-20.
Area Rate Proceeding Docket No. AR61-1[8]
Area Rate Proceeding Docket No. AR61-2, et al.
Area Rate Proceeding Docket No. AR64-1, et al.
Area Rate Proceeding Docket No. AR64-2, et al.
Area Rate Proceeding Docket No. AR64-1, et al.

*(Operator), et al.
**(Operator)
***et al.
[1] Sale abandoned, certificate terminated and rate schedule canceled but rate suspension proceeding still pending.
[2] Rate schedule designation changed pursuant to letter from Sinclair dated Dec. 19, 1968.
[3] Proceeding terminated by order of Dec. 5, 1968, accepting offer of settlement, etc.; however, required refunds for period prior to June 1, 1965, remain commingled pending further order of the Commission.
[4] Temporary certificate.
[5] Proceeding terminated by order of Jan. 25, 1966, accepting offer of settlement, requiring notice of change, etc.; however, required refunds remain commingled pending further order of the Commission.
[5a] Sinclair is successor in interest to Oil Reserves Corp. (Operator) et al., respondent in Docket No. RI66-208. Atlantic Richfield Co. is made co-respondent in said proceeding.
[6] No certificate issued.
[7] Has not been assigned a rate schedule number.
[8] Proceedings terminated as to Sinclair, awaiting Commission's order directing disposition of refundable amounts.
[9] Formerly designated H.L. Hawkins & H.L. Hawkins, Jr., (Operator) et al., Docket No. G-18077 et al.

[F.R. Doc. 69-7311; Filed, June 23, 1969; 8:45 a.m.]

[Docket No. G-4930 etc.]

PERMEATOR CORP. ET AL.

Findings and Order After Statutory Hearing

JUNE 16, 1969.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, making successor co-respondent, redesignating proceeding, requiring filing of agreement and undertaking, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, add to, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's Statement of General Policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from areas for which area rates have been determined are authorized to be made at or below the applicable area base rates, adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

Bachus Oil Co., Applicant in Docket No. CI69-902, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-10073 to be made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 192. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of Applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI68-2. Therefore, Applicant will be made a co-respondent in said proceeding; the proceeding will be redesignated accordingly; and Applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on June 11, 1969, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates in Docket Nos. G-4930, G-4931, G-10073, G-17795, CI60-61, CI61-100, CI61-121, CI61-1142, CI61-1523, CI62-511, CI63-234, CI64-1314, CI65-387, CI66-67, CI66-1297, CI 68-1110 and CI68-1163 should be amended as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the sale heretofore authorized to be made in Docket No. CI63-1556 should hereafter be made pursuant to the authorization granted in Docket No. CI61-1523 and the certificate in Docket No. CI63-1556 should be terminated.

(7) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(8) The abandonments proposed by Applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to Applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Bachus Oil Co. should be made a co-respondent in the proceeding pending in Docket No. RI68-2, that said proceeding should be redesignated accordingly, and that Bachus should be required to file an agreement and undertaking.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of Section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the

Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on certain applications filed after July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d)(3) of the Commission's Statement of General Policy No. 61–1, as amended, shall be filed prior to the applicable date indicated in the tabulation herein.

(E) The certificates issued herein and the amended certificates are subject to the following conditions:

(a) The initial rates for sales authorized in Dockets Nos. G–17795, CI69–965 and CI69–970 shall be the applicable area base rates prescribed in Opinion No. 468, as modified by Opinion No. 468–A, as adjusted for quality of gas, or the contract rates, whichever are lower. If the quality of the gas delivered by Applicants deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468–A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to section 4 of the Natural Gas Act; provided, however, that adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rates.

(b) Within 90 days from the date of initial delivery Applicants in Docket Nos. CI69–965 and CI69–970 shall file rate schedule quality statements in the form prescribed in Opinion No. 468–A.

(c) Applicants in Docket Nos. CI69–965 and CI69–970 shall advise the Commission of any contemplated processing of the gas under the subject contracts.

(d) Sales authorized in Docket Nos. CI69–807 and CI69–808 shall be made at the initial rate of 17 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward B.t.u. adjustment. Further, the certificates are conditioned by limiting the buyer's daily take-or-pay obligation to a 1 to 3,650 ratio of takes to reserves for the first 2 years and to a 1 to 7,300 ratio of takes to reserves thereafter.

(e) The certificate in Docket No. CI69–866 is conditioned by limiting buyer's daily take-or-pay obligation to a 1 to 7,300 ratio of takes to reserves.

(f) The sale authorized in Docket No. CI69–982 shall be made at the initial rate of 15.0 cents per Mcf at 14.65 p.s.i.a.

(F) The rate schedule related to the certificate in Docket No. CI68–1163 is redesignated from FPC Gas Rate Schedule No. 1 to FPC Gas Rate Schedule No. 2.

(G) The orders issuing certificates in Docket Nos. G–17795, CI61–100, CI61–1523, CI63–234, CI64–1314, CI66–1297, CI68–1110 and CI68–1163 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(H) The sale heretofore authorized to be made in Docket No. CI63–1556 shall be made pursuant to the authorization granted in Docket No. CI61–1523 in paragraph (G) above and the certificate heretofore issued in Docket No. CI63–1556 is terminated.

(I) The authorization granted in Docket No. CI63–234 in paragraph (G) above shall not be construed to relieve Applicant of any refund obligation which may be incurred in the related rate suspension proceeding pending in Docket No. RI69–57.

(J) The orders issuing certificates in Docket Nos. G–10073 and CI61–121 are amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicants in Docket Nos. CI69–902 and CI64–1314, respectively.

(K) The orders issuing certificates in Docket Nos. G–4930, G–4931, CI60–61, CI61–1142, CI62–511, CI65–387 and CI66–67 are amended by substituting the successors in interest as certificate holders.

(L) The authorization granted in Docket No. CI66–67 involving the sale of gas by Horizon Oil & Gas Co. of Texas to its affiliate, Baca Gas Gathering System, Inc., determines the rate which legally may be paid by the buyer to the seller, but is without prejudice to any action which the Commission may take in any rate proceeding involving either company.

(M) Permission for and approval of the abandonment of service by Applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(N) Permission for and approval of the abandonment in Docket No. CI69–977 shall not be construed to relieve Applicant of any refund obligations in the related rate proceedings pending in Dockets Nos. G–20546 and RI65–541.

(O) The certificate heretofore issued in Docket No. G–4616 is terminated only with respect to Texaco, Inc., FPC Gas Rate Schedule No. 23.

(P) The certificates heretofore issued in Dockets Nos. G–10488, G–14677, G–20220, CI66–1095 and CI67–1497 are terminated.

(Q) Bachus Oil Co. is made a corespondent in the proceeding pending in Docket No. RI68–2, and said proceeding is redesignated accordingly.

(R) Within 30 days from the issuance of this order Bachus Oil Co. shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking to assure the refund of any amounts collected by it, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in Docket No. RI68–2. Unless notified to the contrary by the Secretary of the Commission within 30 day from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

(S) Bachus Oil Co. shall comply with the refunding and reporting procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder, and the agreement and undertaking filed by it shall remain in full force and effect until discharged by the Commission.

(T) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G–4930 ..... E 4–21–69	Permestor Corp. (Operator) et al. (successor to Westates Petroleum Co.).	United Fuel Gas Co., Elk District, Kanawha County, W. Va.	Westates Petroleum Co., FPC GRS No. 6.	2	.....
			Supplement Nos. 1–3	2	1–3
			Notice of succession (undated).		.....
			Assignment 9–30–68 [1]	2	4
			Assignment 9–30–68 [2]	2	5
			Effective date: 9–30–68		.....
G–4931 ..... E 4–21–69	do	Pennzoil United, Inc., Elk District, Kanawha County, W. Va.	Westates Petroleum Co., FPC GRS No. 5.	3	.....
			Supplement Nos. 1–2	3	1–2
			Notice of succession (undated).		.....
			Assignment 9–30–68 [1]	3	3
			Assignment 9–30–68 [2]	3	4
			Effective date: 9–30–68		.....
G–17795 ..... C 2–24–69	Continental Oil Co. (Operator).[3]	El Paso Natural Gas Co., Ramsey Plant, Reeves and Culberson Counties, Tex.	Supplement agreement 2–3–69.	168	7
			Letter agreement 4–7–69 [4]	168	1 to 7
			Quality statement, 2–3–69 [4]	168	2 to 7
CI60–61 ..... E 4–21–69	Permestor Corp. (Operator) et al. (successor to Westates Petroleum Co.).	Consolidated Gas Supply Corp., Big Sandy District, Kanawha County, W. Va.	Westates Petroleum Co., FPC GRS No. 7.	4	.....
			Supplement No. 1	4	1
			Notice of succession (undated).		.....
			Assignment 9–30–68 [1]	4	2
			Assignment 9–30–68 [2]	4	3
			Effective date: 9–30–68		.....
CI61–100 ..... D 4–18–69	Horizon Oil & Gas Co. of Texas (partial abandonment).	Transwestern Pipeline Co., East Farnsworth Field, Ochiltree County, Tex.	Notice of partial cancellation 4–16–69.[5] [7]	16	3

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
CI61-1142 ..... E 4-21-69	Permeator Corp. (Operator) et al. (successor to Westates Petroleum Co.).	Pennzoil United, Inc., Big Sandy District, Kanawha County, W. Va.	Westates Petroleum Co., FPC GRS No. 8.	5	.....
			Supplement Nos. 1-4	5	1-4
			Notice of succession (undated).		
			Assignment 9-30-68 [1]	5	5
			Assignment 9-30-68 [2]	5	6
			Effective date: 9-30-68		
CI61-1523 ..... (CI63-1556) C 4-2-69 [3]	McCulloch Oil Corp. of California (successor to Rufus G. Poole and Suzanne H. Poole).	El Paso Natural Gas Co., Basin-Dakota Field, San Juan County, N. Mex.	Assignment 1-31-64 [4]	14	4
			Assignment 12-28-66 [5]	14	5
			Effective date: 12-1-66		
CI62-311 ..... E 4-21-69	G. N. Rupe, agent (Operator) et al. (successor to Pentagon Corp., Inc. (Operator) et al.).	Cities Service Gas Co., acreage in Barber County, Kans.	Pentagon Corp., Inc. (Operator) et al., FPC GRS No. 2.	1	.....
			Supplement No. 1	1	1
			Notice of succession (undated). [11] [12]		
CI62-234 ..... D 5-20-68	Mobil Oil Corp. (Operator) et al.	Arkansas Louisiana Gas Co., Red Oak Area, Le Flore County, Okla.	Notice of partial cancellation 5-16-68. [7] [13]	333	25
CI64-1314 ..... (CI61-121) F 3-19-69 [14]	Houston Natural Gas Production Co. (Operator) et al.	Valley Gas Transmission, Inc., Sejita Field, Duval County, Tex.	Assignment 9-30-68 [15]	14	7
			Effective date: 4-1-68		
			Amendment 3-11-69 [16]	14	8
			Effective date: 4-19-69		
CI65-387 ..... E 4-21-69	Permeator Corp. (Operator) et al. (successor to Westates Petroleum Co.).	United Fuel Gas Co., Elk District, Kanawha County, W. Va.	Westates Petroleum Co., FPC GRS No. 9.	1	.....
			Supplement No. 1	1	1
			Notice of succession (undated).		
			Assignment 9-30-68 [1]	1	2
			Assignment 9-30-68 [2]	1	3
			Effective date: 9-30-68		
CI66-67 ..... E 4-9-69	Horizon Oil & Gas Co. of Texas (successor to Shell Oil Co.).	Baca Gas Gathering System, Inc., Flank and Midway Fields, Baca County, Colo.	Shell Oil Co., FPC GRS No. 330.	27	.....
			Supplement Nos. 1-2	27	1-2
			Notice of succession 4-8-69.		
			Assignment 2-14-69 [17]	27	3
			Effective date: 3-1-69		
CI66-1297 ..... C 4-15-69 [18]	Thomas A. Dugan	El Paso Natural Gas Co., Twin Mounds Area, San Juan Basin, San Juan County, N. Mex.	Supplemental agreement 4-11-69. [8]	6	6
CI68-1110 ..... C 4-21-69 [19]	Cleary Petroleum Corp. (Operator) et al.	Northern Natural Gas Co., North Salon Area, Ellis County, Okla.	Agreement 2-10-69	5	1
CI68-1163 ..... C 4-17-69 [18]	W. M. Gallaway et al.	El Paso Natural Gas Co., Ignacio Blanco Field, La Plata County, Colo.	Supplement agreement 3-27-69 [18]	[20] 2	1
			Supplement agreement 3-27-69. [5] [18]	2	2
CI69-807 ..... A 2-28-69 [18]	Edwin L. Cox	Northern Natural Gas Co., Kiowa Creek (Upper Morrow Oil) Field, Lipscomb County, Tex.	Contract 2-10-69	74	.....
			Compliance 4-21-69 [3] [21]	74	1
CI69-808 ..... A 2-27-69 [18]	Phillcon Development Co.	do	Contract 2-10-69	2	.....
			Compliance 4-1-69 [3] [21]	2	1
CI69-853 ..... A 3-10-69 [18]	Cecil Townsend	Equitable Gas Co., Union District, Ritchie County, W. Va.	Contract 2-24-69 [1]	1	.....
CI69-963 ..... A 4-16-69	Steteo '68, Ltd. [3]	Transwestern Pipeline Co., Crawford Field, Eddy County, N. Mex.	Contract 4-8-69 [1]	2	.....
CI69-866 ..... A 3-13-69 [18]	Stonehenge Oil Co., Inc. (Operator) et al. [22]	Kansas-Nebraska Natural Gas Co., Inc., Madden Field, Fremont and Natrona Counties, Wyo.	Contract 12-10-68	1	.....
			Letter of Agreement 11-20-68. [1] [23]	1	1

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
CI69-902 ..... (G-10073) F 3-24-69	Bachus Oil Co. (successor to Humble Oil & Refining Co).	Cities Service Gas Co., Harditner Field, Barber County, Kans.	Contract 1-17-56 [24]	8	.....
			Letter agreement 1-19-65	8	1
			Letter agreement 12-6-67	8	2
			Assignment 2-25-69 [25]	8	3
			Effective date: 3-1-69		
CI69-942 ..... (G-4616) [26] B 4-11-69	Texaco, Inc.	El Paso Natural Gas Co., West Big Lake Field, Reagan County, Tex.	Notice of cancellation 4-8-69 [9] [7].	23	14
CI69-964 ..... A 4-17-69 [18]	Stuarco Oil Co., Inc.	Kansas-Nebraska Natural Gas Co., Inc., Red Lion Area, Sedgwick County, Colo.	Ratified 10-18-68 [27]	5	.....
			Contract 7-19-68 [5]	5	1
			Ratified 10-20-68 [28]	6	.....
			Contract 7-19-68 [5]	6	1
CI69-968 ..... A 4-18-69 [18]	John H. Hill (Operator) et al.	Northern Natural Gas Co., Mocane Field, Beaver County, Okla.	Contract 2-6-69 [1]	9	.....
CI69-969 ..... (CI67-1497) B 4-17-69	Mobil Oil Corp.	Transwestern Pipeline Co., South Goodwin Field, Ellis County, Okla.	Notice of cancellation 4-14-69 [9] [7].	399	1
CI69-970 ..... A 4-17-69	Pennzoil United, Inc. [3] ...	Transwestern Pipeline Co., Crawford Field, Eddy County, N. Mex.	Contract 4-8-69 [1]	23	.....
CI69-975 ..... A 4-21-69 [18]	Harry A. Holtom	United Fuel Gas Co., Rocky Fork Field, Poca District, Kanawha County, W. Va.	Contract 3-19-69 [1] [29]	1	.....
CI69-976 ..... (CI66-1095) B 4-21-69	Cleary Petroleum Corp. (Operator) et al.	Panhandle Eastern Pipe Line Co., Kismet Field, Seward County, Kans.	Notice of cancellation 4-18-69. [9] [7]	20	3
CI69-977 ..... (G-10488) (G-14677) B 4-21-69	Bachus Oil Co. (Operator) et al.	Cities Service Gas Co., Driftwood Field, Barber County, Kans.	Notice of cancellation 4-17-69. [9] [7]	1	3
			Notice of cancellation 4-17-69. [9] [7]	2	3
CI69-978 ..... (G-20220) B 4-21-69	Cities Service Co.	Texas Eastern Transmission Corp., South Cottonwood Creek Field, De Witt County, Tex.	Notice of cancellation 4-17-69. [9] [7]	33	13
CI69-980 ..... A 4-21-69 [18]	Beacon Resources Corp. (Operator) et al.	Cities Service Gas Co., acreage in Barber County, Kans.	Contract 4-3-69	1	.....
			Agreement 4-23-69 [1] [30]	1	1
CI69-982 ..... A 4-22-69 [18]	Jake L. Hamon [31]	Arkansas Louisiana Gas Co., Red Oak Field, Latimer County, and Kinta Field, Sequoyah County Okla.	Contract 4-3-69 [1]	55	.....

[1] From Westates Petroleum Co. to The Wolf Corp.
[2] Assignment of interest from The Wolf Corp. to Permeator Corp.
[3] Applicant has agreed to accept permanent authorization conditioned as Opinion No. 468, as modified by Opinion No. 468-A.
[4] Amends the contract to delete the impermissible pricing provision and substitute a provision in accord with section 154.93 (b-1) of the regulations with regard to the production dedicated by the Feb. 3, 1969 agreement.
[5] Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).
[6] Source of gas depleted.
[7] Effective date: Date of this order.
[8] Adds acreage acquired from Suzanne H. Poole in Docket No. CI63-1556. Applicant and assignors are signatory parties to the same contract and each owned interests in the acreage involved.
[9] Rufus G. Poole assigns interest in certain leases to his wife, Suzanne H. Poole.
[10] Suzanne H. Poole assigns all her interest in certain leases to McCulloch Oil Corp. of California (complete succession to interest covered by Rufus G. Poole and Suzanne H. Poole, FPC GRS No. 1; therefore, the certificate in Docket No. CI63-1556 will be terminated).
[11] Rupe has succeeded Pentagon as operator but not as interest owner. Pentagon's interests transferred to "et al." parties.
[12] Effective date: Date Rupe became operator (Rupe shall advise the Commission of the date that he became operator).
[13] Production of gas no longer economically feasible.
[14] By letter filed Mar. 19, 1969, Glen A. Martin requested that Houston Natural as operator in the field, cover

See footnotes at end of table.

Martin's interests acquired from Richard M. Finder doing business as Texkan Oil Co., the acreage is covered under Texkan's FPC GRS No. 10 (effective rate thereunder is 14 cents).

[3] Assigns Texkan's interests in two leases to Martin. Houston also has interests in these leases.

[4] Provides for 15-cents settlement rate for Martin's interests. By letter dated Mar. 13, 1969, Houston stated it has no objection to inclusion of Martin's interests in the settlement.

[5] From Shell Oil Co. to Horizon Oil & Gas Co. of Texas.

[6] Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.

[7] For gas produced from Ben Ute Well No. 2 (Mesa Verde) Supplement No. 1 and for gas produced from Ben Ute Well No. 3 (Dakota) Supplement No. 2, respectively.

[8] Applicant's rate schedule was erroneously designated as FPC GRS No. 1 by order dated May 31, 1968 issuing a certificate in Docket No. CI68-1163.

[9] Complies with temporary certificate issued Mar. 28, 1969; Applicant stated willingness to accept a permanent certificate conditioned to a take-or-pay obligation limited to a 1 to 3,650 ratio of reserves for the first 2 years and a 1 to 7,300 ratio of reserves thereafter.

[10] By letter filed May 13, 1969, Applicant agreed to accept a permanent certificate conditioned to the buyer not being required to take-or-pay for a daily quantity of more than 1 to 7,300 Mcf of reserves.

[11] Between Stonehenge and North Central Oil Corp., whereby North Central agrees to assume the cost of drilling the Madden No. 5 Well or other wells on specified acreage in return for the assignment of a portion of Stonehenge's interest.

[12] Currently on file as Humble Oil & Refining Co., FPC GRS No. 192.

[13] From Humble Oil & Refining Co. to Bachus Oil Co.

[14] Other sales covered under Docket No. G-4616; therefore, the certificate in said docket will be terminated only with respect to Texaco, Inc., FPC GRS No. 23.

[15] Ratifies contract dated July 19, 1968, between Continental Oil Co. and Kansas-Nebraska Natural Gas Co., Inc.

[16] Ratifies contract dated July 19, 1968, between E. Lyle Johnson and Kansas-Nebraska Natural Gas Co., Inc.

[17] Covers the sale of gas from the Newburg Formation.

[18] Corrects description of acreage dedicated under the contract (filed May 26, 1969).

[19] Contract rate is 16 cents; by letter filed May 7, 1969, Applicant stated willingness to accept a permanent certificate at 15 cents Mcf.

Suggested general undertaking in accordance with Order No. 377

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent ----------)

GENERAL UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees to comply with the refunding and reporting provisions of section 154.102 of the Commission's Regulations under the Natural Gas Act insofar as they are applicable to any present and future rate increases suspended under section 4(e) of the Natural Gas Act and collected subject to refund thereunder and has caused this undertaking to be executed and sealed in its name by a duly authorized officer this ------ day of ------, 196---.

(Name of Respondent)

By ----------

Attest:

[F.R. Doc. 69-7312; Filed, June 23, 1969; 8:45 a.m.]

[Docket No. G-4820 etc.]

TEXACO INC. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JUNE 16, 1969.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 10, 1969, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56 of the Commission's General Policy and Interpretations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed for filing protests or petitions to intervene, the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price Per Mcf	Pressure base
G-4820 ..... C 6-2-69	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Raymondville Field, Willacy County, Tex.	[1] 17.0	14.65
G-7241 ..... C 6-2-69	Aztec Oil & Gas Co. (Operator) et al., 2000 First National Bank Bldg., Dallas, Tex. 75202.	El Paso Natural Gas Co., Aztec Pictured Cliffs Field, San Juan County, N. Mex.	13.0	15.025
G-7726 ..... E 5-20-69	Koch Development Corp. (successor to Fred C. Koch), Post Office Box 2256, Wichita, Kans. 67201.	El Paso Natural Gas Co., San Juan Basin Area, San Juan County, N. Mex.	[2] 14.0	15.025
G-8949 ..... E 5-9-69	R. P. Isaacs (successor to Eustace Gas Co.), West Hamlin, W. Va. 25571.	Pennzoil United, Inc., Sheridan District, Lincoln County, W. Va.	12.0	15.325
G-8958 ..... E 5-9-69	R. P. Isaacs (successor to Wiley Gas Co.).	....do.....	12.0	15.325
G-12366 ..... E 5-20-69	Koch Development Corp. (successor to Fred C. Koch).	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	12.0	15.025
G-16146 ..... D 5-23-69	MAPCO Production Co., 800 Oil Center Bldg., Tulsa, Okla. 74119 (partial abandonment).	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Hugoton Field, Haskell County, Kans.	Depleted	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price Per Mcf	Pressure base
G-17548 C 3-13-69 [2] 5-26-69 [4]	Skelly Oil Co., Post Office Box 1650, Tulsa, Okla. 74102.	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	13.0	15.025
G-20933 E 5-23-69	Texas Oil & Gas Corp. (successor to Cities Service Oil Co.), 2520 Fidelity Union Tower, Dallas, Tex. 75201.	United Gas Pipe Line Co., North LaWard Field, Jackson County, Tex.	[3] 14.1792	14.65
C169-383 E 5-26-69	Clinton Oil Co. (successor to James A. Wood, Trustee (Operator) et al.), 6810 West Highway 54, Wichita, Kans. 67209.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South La Reforma Field, Starr County, Tex.	17.2437	14.65
C162-861 E 5-20-69	Koch Development Corp. (successor to Fred C. Koch).	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	[3] 14.0	15.025
C162-910 E 5-29-69	Union Texas Petroleum, a division of Allied Chemical Corp. (successor to Neches Petroleum Corp.), Post Office Box 2120, Houston, Tex. 77001.	Texas Gas Pipe Line Corp., North Big Hill Field, Jefferson County, Tex.	15.0	14.65
C164-1481 D 5-26-69	Atlantic Richfield Co. (successor to Sinclair Oil Corp.), Post Office Box 521, Tulsa, Okla. 74102 (partial abandonment).	Cities Service Gas Co., Groendyke Area, Barber County, Kans.	(7)	.....
C165-739 D 5-26-69	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020 (partial abandonment).	Michigan Wisconsin Pipe Line Co., Kings Bayou Field, Cameron Parish, La.	Uneconomical	.....
C166-543 E 5-20-69	Koch Development Corp. (successor to Fred C. Koch).	El Paso Natural Gas Company Basin-Dakota Field, Rio Arriba and San Juan Counties, New Mexico.	[3] 13.0	15.025
C166-1213 C 5-29-69	J. Gregory Merrion (Operator) et al., Box 1541, Farmington, N. Mex. 87401.	El Paso Natural Gas Company Ballard Pictured Cliffs Field, Sandoval County, New Mexico.	13.0	15.025
C167-193 4-21-69 [1]	Esson Oil Co. (Operator) et al., c/o Robert J. Emery, attorney, Lytle, Soule & Emery, 2210 First National Bldg., Oklahoma City, Okla. 73102.	Northern Natural Gas Company West Sharon Field, Woodward County, Oklahoma.	[3] 17.0	14.65
C167-266 4-21-69 [1]	Evelynn M. Windolph, c/o Robert J. Emery, attorney, Lytle, Soule & Emery, 2210 First National Bldg., Oklahoma City, Okla. 73102.	do	[3] 17.0	14.65
C167-267 4-21-69 [1]	Robert J. Shorney, c/o Robert J. Emery, attorney, Lytle, Soule & Emery, 2210 First National Bldg., Oklahoma City, Okla. 73102.	do	[3] 17.0	14.65
C167-268 4-21-69 [1]	Floyd Blaine, c/o Robert J. Emery, attorney, Lytle, Soule & Emery, 2210 First National Bldg., Oklahoma City, Okla. 73102.	do	[3] 17.0	14.65
C167-280 4-21-69 [1]	Ben J. Shaw, c/o Robert J. Emery, attorney, Lytle, Soule & Emery, 2210 First National Bldg., Oklahoma City, Okla. 73102.	do	[3] 17.0	14.65
C167-286 C 5-23-69	Monsanto Co. (Operator) et al., 1300 Main St., Houston, Tex. 77002.	Arkansas Louisiana Gas Co., Arkoma Area, Pittsburg County, Okla.	[10] 15.0	14.65
C167-286 C 5-26-69	do	Arkansas Louisiana Gas Co., Arkoma Area, Latimer County, Okla.	[10] 15.0	14.65
C167-751 C 5-27-69	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	Northern Natural Gas Co., Southwest Fort Supply Field, Woodward County, Okla.	[3] 17.0	14.65
C167-1193 5-23-69 [11]	Sue Trammell Whitfield and W. B. Trammell, Jr., Houston Natural Gas Bldg., Houston, Tex. 77002.	Natural Gas Pipeline Co. of America, Old Ocean Field, Brazoria and Matagorda Counties, Tex.	14.0	14.65
C168-650 D 5-26-69	Texas Oil & Gas Corp. (Operator) et al.	Cities Service Gas Co., Mocane-Laverne Area, Beaver County, Okla.	(12)	.....
C168-848 [13] E 5-26-69	Clinton Oil Co. (successor to Wood Brothers (Operator) et al.).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Lockhart Field, Starr County, Tex.	16.0	14.65
C168-909 [13] (C169-1127) C 6-2-69	L. O. Ward (Operator and Agent) et al., 1420 Lahoma Road, Enid, Okla. 73701.	Arkansas Louisiana Gas Co., Enid Area, Garfield County, Okla.	15.0	14.65
C168-1164 E 5-26-69	Clinton Oil Co. (successor to James A. Wood, Trustee (Operator) et al.).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., La Reforma Field, Starr County, Tex.	[10] 15.6	14.65
C168-1407 C 6-2-69	J. C. Baker & Son, Inc., Gassaway, W. Va. 26624.	Equitable Gas Co., Otter District, Braxton County, W. Va.	27.0	15.325
C169-103 E 5-26-69	Clinton Oil Co. (successor to James A. Wood, Trustee (Operator) et al.).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Hargill Field, Hidalgo County, Tex.	[10] 15.6 [17] 16.0	14.65
C169-107 E 5-26-69	do	Tennessee Gas Pipeline Co., a division of Tenneco Inc., San Salvador Field, Hidalgo County, Tex.	[10] 15.6	14.65
C169-501 C 5-23-69	J. C. Baker & Son, Inc.	Equitable Gas Co., Collins Settlement District, Lewis County, W. Va.	27.0	15.325
C169-1094 (C168-63) F 5-23-69	Edwin G. Staats (successor to H. H. Champlin et al.), 700 First National Bank Bldg., Enid, Okla. 73701.	Oklahoma Natural Gas Gathering Corp.,[9] Ringwood Field, Major County, Okla.	12.0	14.65
C169-1095 A 5-23-69	Greenbrier 68 Limited et al., Post Office Box 297, Dallas, Tex. 75221.	South Texas Natural Gas Gathering Co., Jeffress Field, Hidalgo County, Tex.	17.8	14.65
C169-1096 A 5-23-69	Cities Service Oil Co., Post Office Box 300, Tulsa, Okla. 74102.	Michigan Wisconsin Pipe Line Co., Block 206, Ship Shoal Area, Offshore Louisiana.	21.25	15.025
C169-1097 A 5-5-69	Signal Oil & Gas Co. (Operator) et al., 1010 Wilshire Blvd., Los Angeles, Calif. 90017.	Southern Natural Gas Co., Blocks 273, 305, and 306, Main Pass Area, Gulf of Mexico.	[3] 21.25	15.025
C169-1098 A 5-26-69	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Grand Isle Blocks 33 and 34, and West Delta Blocks 95 and 96, Offshore Louisiana.	21.25	15.025
C169-1099 A 5-26-69	do	Natural Gas Pipeline Co. of America, Grand Isle Blocks 33 and 34, and West Delta Blocks 95 and 96, Offshore Louisiana.	21.25	15.025
C169-1100 B 5-26-69	Edwin L. Cox, 3800 First National Bank Bldg., Dallas, Tex. 75202.	Kansas-Nebraska Natural Gas Co., Inc., acreage in Texas County, Okla.	Depleted	.....
C169-1102 A 5-23-69	Chester Board, agent, Box 41, Dunbar, W. Va. 25064.	United Fuel Gas Co., Contrary Creek Field, Lawrence County, Ky.	16.0	15.325
C169-1107 (G-18933) F 5-26-69	Texas Oil & Gas Corp. (Operator) et al (successor to Apache Corp.).	Michigan Wisconsin Pipe Line Co., Mocane Field, Beaver County, Okla.	[3] 17.0	14.65
C169-1108 A 5-26-69	Deephole Gas Co., c/o James S. Ray, coowner, 718 Kanawha Valley Bldg., Charleston, W. Va. 25301.	United Fuel Gas Co., Stonewall District, Wayne County, W. Va.	20.0	15.325
C169-1109 (G-10083) F 5-26-69	Herman Geo. Kaiser (successor to Texaco, Inc.), 909 Palace Bldg., Tulsa, Okla. 74103.	Northern Natural Gas Co., Hugoton Field, Finney County, Kans.	[10] 12.0	14.65
C169-1110 A 5-26-69	Beech Creek Gas Co., c/o James S. Ray, coowner, 718 Kanawha Valley Bldg., Charleston, W. Va. 25301.	United Fuel Gas Co., Magnolia District, Mingo County, W. Va.	22.0	15.325
C169-1112 B 5-26-69	Marathon Oil Co.	Natural Gas Pipeline Co. of America, Camrick Southeast Gas Pool, Beaver County, Okla.	Depleted	.....
C169-1114 A 5-27-69	Paul F. Barnhart et al., 600 Post Oak Bank Bldg., Houston, Tex. 77027.	Natural Gas Pipeline Co. of America, Frost (Smackover) Field, Cass County, Tex.	15.0	14.65
C169-1115 A 5-27-69	Southland Royalty Co., c/o Bernard A. Foster, III, Ross, Marsh & Foster, 725 15th St. NW., Washington, D.C. 20005.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Seabreeze Pass Field, Terrebonne Parish, La.	21.25	15.025
C169-1117 A 5-28-69	Cities Service Oil Co.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., West Delta Blocks 95 and 96, and Grand Isle Blocks 33 and 34, Offshore Louisiana.	21.25	15.025
C169-1124 A 5-29-69	Edwin L. Cox, Operator, 3800 First National Bank Bldg., Dallas, Tex. 75202.	Cimarron Transmission Co., acreage in Love County, Okla.	[3] 17.0	14.65

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price Per Mcf	Pressure base
CI69-1125..... A 6-2-69	Atlantic Richfield Co.....	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Grand Isle Blocks 33 and 34 and West Delta Blocks 95 and 96, Offshore Jefferson and Plaquemines Parishes, La.	21.25	15.025
CI69-1126..... A 6-2-69	Brad's Petroleum Co., Suite 211, 4040 North Lincoln, Oklahoma City, Okla. 73105.	El Paso Natural Gas Co., acreage in Beaver County, Okla.	17.0	14.65
CI69-1128..... A 6-2-69	King Resources Co., c/o Hayden J. Upchurch, 700 Houston Natural Gas Bldg., Houston, Tex. 77002.	Florida Gas Transmission Co., Port Allen Field, West Baton Rouge Parish, La.	20.0	15.025
CI69-1129..... B 6-2-69	Jake L. Hamon (Operator) et al., c/o Wm. Taylor LaGrone, attorney, Post Office Box 663, Dallas, Tex. 75221.	Texas Eastern Transmission Corp., North Riverside Field, San Patricio County, Tex.	Depleted	
CI69-1130..... A 6-3-69	Paul M. Toce, c/o J.A. Dykes, attorney, 1500 Beck Bldg., Shreveport, La. 71101.	Texas Gas Transmission Corp., South Bell City Field, Calcasieu Parish, La.	21.25	15.025
CI69-1131..... B 6-3-69	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	Texas Eastern Transmission Corp., North Mission Valley Field, De Witt County, Tex.	Depleted	
CI69-1132..... A 6-2-69	Atlantic Richfield Co.....	Michigan Wisconsin Pipe Line Co., Ship Shoal Block 200 Field, Offshore Terrebonne Parish, La.	21.25	15.025
CI69-1134..... A 5-27-69	W.R. Smith et al., c/o W. R. Smith, trustee, Hindman, Ky. 41822.	United Fuel Gas Co., acreage in Knott County, Ky.	16.0	15.325

[1] Contract provides for rate of 17 cents per Mcf; however, Applicant states its willingness to accept certificate at 16 cents per Mcf.
[2] Rate in effect subject to refund in Docket No. RI65-630 (includes 1 cent per Mcf minimum guarantee for liquids). An increase in rate to 14 cents (excluding minimum guarantee for liquids) has been suspended in Docket No. RI69-536, but not yet made effective.
[3] Application previously noticed Mar. 26, 1969 in Docket No. G-8785 et al. at a total initial rate of 12.0495 cents per Mcf.
[4] Amendment to application filed to reflect a total initial rate of 13 cents per Mcf in lieu of 12.0495 cents.
[5] Subject to upward and downward B.t.u. adjustment.
[6] Rate in effect subject to refund in Docket No. RI65-630 (includes 1 cent per Mcf minimum guarantee for liquids).
[7] Well is no longer capable of producing gas in commercial quantities.
[8] An increase in rate to 14 cents per Mcf has been suspended in Docket No. RI69-536, but not yet made effective.
[9] Amendment to certificate filed to add low-pressure gas.
[10] Subject to reduction for compression and/or treating costs, if required.
[11] Application to amend certificate to revise average daily contract quantity, extend the contract term and provide for new price schedule to apply during extended term.
[12] Deletes Sec. 24-T5N-R27ECM which was inadvertently included in amendatory agreement dated Jan. 24, 1969 (Supp. No. 1 to Applicant's FPC GRS No. 82).
[13] Pending—temporary authorization granted only.
[14] Application was erroneously assigned Docket No. CI69-1127. Docket No. CI69-1127 is cancelled and application will be processed as a petition to amend the certificate in Docket No. CI68-909.
[15] Rate in effect subject to refund in Docket No. RI67-273.
[16] Gas well gas.
[17] Casinghead gas.
[18] Rate in effect subject to refund in Docket No. RI67-272.
[19] National Fuels Corp. purchases liquids extracted from Applicant's gas at the Ringwood Gasoline Plant.
[20] Subject to B.t.u. adjustment.

[F.R. Doc. 69-7313; Filed, June 23, 1969; 8:45 a.m.]

[Docket No. RI68-259 etc.]

HUNT OIL CO. ET AL.

Order Requiring Refunds and Terminating Proceedings in Part

JUNE 16, 1969.

Hunt Oil Co., Docket No. RI68-259, Hassie Hunt Trust, Docket No. RI68-263, H. L. Hunt, Docket No. RI68-264, Texas Gas Transmission Corp., Docket No. RP69-38.

On November 20, 1968, each of the above-named respondents filed a motion to terminate its respective above-docketed section 4(e) proceeding. On November 16, 1967, each of the respondents filed an increase in rate from the certificated initial rate of 18.25 cents to 19.75 cents per Mcf of natural gas at 15.025 p.s.i.a. under its respective rate schedules for sales made to Texas Gas Transmission Corp. in North Louisiana.[1]

By Commission order issued December 8, 1967, the proposed increased rates were suspended until June 1, 1968, and, thereafter, were made effective, subject to refund, upon expiration of the suspension period.

On October 10, 1968, the respondents filed notice of change in rate reducing the effective rates from 19.75 cents to 18.25 cents per Mcf at 15.025 p.s.i.a. under each of its respective rate schedules. By letter order issued November 1, 1968, the proposed reductions in rate were made effective as of October 1, 1968.

In the instant motion, each respondent proposed to refund the monies collected subject to refund under each of its rate schedules for June 1, 1968 to October 1, 1968, and requests that the Commission thereafter terminate the above-docketed proceeding applicable to it.

Since each respondent proposes to refund all monies collected subject to refund by it, with applicable interest, good cause exists to terminate these proceedings.

On May 3, 1968 (while the rates here involved were still under suspension) we issued our Opinion No. 540 in Texas Eastern Transmission Corp., Docket No. RP66-12 (34 FPC 630). In that opinion we announced the general policy that refunds accruing to any pipeline subsequent to the date of that opinion would have to be flowed through in appropriate portion to the pipelines jurisdictional customers. That opinion also stated that it was the pipeline's responsibility to protect its rights by filing a tracking rate increase.

We conclude that Texas Gas is obligated to flow through the proportionate amount of the refunds accruing hereunder to its jurisdictional customers. Therefore, we are impleading Texas Gas Transmission Corp. on our own motion and instituting in Docket No. RP69-38 a new proceeding concerning Texas Gas' flow through obligations as determined herein.

It appears that these refunds aggregate the nominal amount of approximately $3,400, and are of insufficient size to effectuate a distribution to the jurisdictional customers. We shall, therefore, require Texas Gas to retain these amounts until the amounts available to it for refund equal $50,000 as provided in its settlement agreement in Docket No. RP67-10 approved by our order issued November 8, 1966 (36 FPC 835).

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act and the regulations thereunder, that the above-docketed section 4(e) proceedings be terminated as hereinafter provided.

The Commission orders:

(A) The motions filed by each of the respondents in the above-docketed proceedings on November 20, 1968, are granted.

(B) Each of the respondents shall compute the difference between the rate of 19.75 cents collected subject to refund in the above-entitled proceedings from June 1, 1968 to October 1, 1968, and the presently effective rate of 18.25 cents per Mcf of natural gas at 15.025 p.s.i.a., under each of its subject rate schedules, with applicable interest to the date of this order, and shall, within 15 days from the date of issuance of this order, submit a report to this Commission of the amount of refunds related to each of said rate schedules for the period specified, showing separately the principal and applicable interest.

(C) A copy of each of the refund reports required by ordering Paragraph (B) hereof shall be served on Texas Gas Transmission Corp. and within 10 days from receipt of such reports it shall file with the Commission its written concurrence or disagreement thereto, and if it disagrees the reason therefor, and shall serve a copy thereof on each of the respondents herein.

(D) If Texas Gas Transmission Corp. files a concurrence in the refund reports with the Commission, the respondents shall 10 days thereafter pay to Texas Gas Transmission Corp. such refund monies involved, and each shall forthwith file with the Commission a receipt and discharge therefor.

(E) Upon compliance by the respondents with the terms and provisions of this order the section 4(e) proceedings

[1] The sales are made under the following rate schedules: Hunt Oil Co., FPC Gas Rate Schedules Nos. 47 and 53; Hassie Hunt Trust, FPC Gas Rate Schedule No. 25, and H. L. Hunt, FPC Gas Rate Schedule No. 31.

in Dockets Nos. RI68-263 and RI68-264 shall terminate, and the proceeding in Docket No. RI68-259 shall terminate only insofar as Hunt's FPC Gas Rate Schedules Nos. 47 and 53 are concerned, all without further order of the Commission.

(F) Texas Gas Transmission Corp. shall retain the refunds received hereunder until such time as the total amount it has available for refund to its customers aggregates $50,000, and thereupon it shall flow through the proportionate share applicable to each jurisdictional customer in accordance with the procedures in its stipulation in RP 67-10 and our order thereon issued November 8, 1966 (36 FPC 835).

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-7377; Filed, June 23, 1969; 8:45 a.m.]

[Docket No. RI69-405]

NATIONAL COOPERATIVE REFINERY ASSOCIATION

Order Accepting Notice of Change in Rate and Terminating Proceeding

JUNE 16, 1969.

On November 29, 1968, National Cooperative Refinery Association (National) filed a notice of change in rate, designated as Supplement No. 3 to its FPC Gas Rate Schedule No. 6, proposing a rate increase from 12 cents to 12.5727 cents per Mcf of natural gas at 15.025 p.s.i.a., for its jurisdictional sale to Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska) in Natrona County, Wyo. The justification for the proposed increase in rate was stated to be contractually provided for tax reimbursement. National made the proposed increased rate effective, subject to refund, on January 2, 1969.

Although the proposed increased rate did not exceed the applicable area increase rate ceiling of 13 cents per Mcf (section 2.56, rules of practice and procedure, general policy and interpretations under the Natural Gas Act) it was suspended for 1 day in Docket No. RI69-405 because Kansas-Nebraska protested the stated contractual basis for the proposed increase. National now proposes to decrease its rate to 12 cents per Mcf of natural gas at 15.025 cents, and requests that Docket No. RI69-405 be terminated. National in support of its request avers that it has not collected any portion of the rate increase involved in Docket No. RI69-405.

The proposed decrease in rate to 12 cents per Mcf for this sale, designated as Supplement No. 4 to National's FPC Gas Rate Schedule No. 6, shall be accepted for filing, and the proceeding in Docket No. RI69-405 shall be terminated.

The Commission orders: Supplement No. 4 to National's FPC Gas Rate Schedule No. 6 is accepted for filing effective as of January 2, 1969, and the proceeding in Docket No. RI69-405 is terminated.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-7378; Filed, June 23, 1969; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Bureau Order No. 701, Amdt. 8]

LANDS AND RESOURCES

Redelegation of Authority

Bureau Order No. 701, dated July 23, 1964, is further amended as follows:

1. The heading of Part IV is amended to read:

PART IV—REDELEGATION OF SPECIFIC AUTHORITY TO MANAGER, EASTERN STATES LAND OFFICE AND MANAGERS, OUTER CONTINENTAL SHELF OFFICES

2. Section 4.5 is amended to read:

Section 4.5—The Manager, Outer Continental Shelf Office, New Orleans, La., is authorized to take all actions on the following matters as listed in Part I of this order.

3. A new Section 4.6 is added as follows:

Section 4.6—The Managers of the Outer Continental Shelf Offices are authorized to take all actions in their respective areas of responsibility in connection with the following: *

(a) The making of determinations respecting the compliance or noncompliance of mineral leases issued by a State with the requirement of Section 6 of the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331 et seq.): *Provided*, That such determinations shall be submitted to the Solicitor for concurrence.

(b) Mineral leases pursuant to the Act of August 7, 1953 (67 Stat. 462; 43 U.S.C. 1331 et seq.), and the regulations under 43 CFR Part 3380, except the issuance of calls for the submission of requests for oil and gas or other mineral lease offerings pursuant to 43 CFR 3382.1 and the publication of notices of the offer of lands for lease pursuant to 43 CFR 3382.3.

4. Paragraph (a) of section 4.10 is amended to read:

§ 4.10 Designation of Acting Officials.

(a) The Managers of the Outer Continental Shelf Offices, may be written order, designate any qualified employee of the office to perform the functions of the manager in his absence.

* The New Orleans Outer Continental Shelf Office has responsibility for the Gulf of New Mexico and the Atlantic coast. The Los Angeles Outer Continental Shelf Office has responsibility for the Pacific coast.

5. Part VIII is amended to read as follows:

PART VIII—REVOCATION

Part VIII, Bureau of Land Management Orders Nos. 575 and 684, as amended, are revoked. Any redelegation of authority pursuant to these orders not inconsistent with the delegations herein made, shall continue in force until revoked or suspended.

JOHN O. CROW, *Associate Director.*

JUNE 18, 1969.

[F.R. Doc. 69-7381; Filed, June 23, 1969; 8:45 a.m.]

CALIFORNIA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

JUNE 16, 1969.

Notice of a Bureau of Land Management, U.S. Department of the Interior application, Riverside 06638, for withdrawal and reservation of lands for the protection of Indian Petroglyphs and related artifacts, was published as F.R. Doc. 65-4542, on page 6123 of the issue for Friday, April 30, 1965. The applicant agency has canceled its application involving the lands described in the FEDERAL REGISTER publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2311, such lands at 10:00 a.m. on July 21, 1969, will be relieved of the segregative effect of the above mentioned application.

WALTER F. HOLMES, *Assistant Land Office Manager.*

[F.R. Doc. 69-7380; Filed, June 23, 1969; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

BALL BEARINGS FROM JAPAN

Antidumping Proceeding Notice

JUNE 10, 1969.

On February 28, 1969, information was received in proper form pursuant to §§ 53.26 and 53.27, Customs Regulations (19 CFR 53.26, 53.27) indicating a possibility that precision miniature and instrument ball bearings from Japan, are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a), et seq.).

Precision miniature ball bearings includes all ball bearings whose outside diameters are less than 0.3543 inches (9mm). Precision instrument ball bearings are those with outer diameters between 9 and 30mm (0.3543" to 1.1811"), manufactured to specified (ABEC 5 or better) tolerances.

The information was submitted by MPB Corp., Keene, N.H.

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 53.29 of the Customs Regulations (19 CFR 53.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices for home consumption are higher than the prices of the merchandise sold for exportation to the United States.

This notice is published pursuant to § 53.30 of the Customs Regulations (19 CFR 53.30).

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

[F.R. Doc. 69-7407; Filed, June 23, 1969; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

PALO ALTO AIR TRAFFIC CONTROL TOWER, CALIF.

Notice of Commissioning

Notice is hereby given that on June 15, 1969, the Airport Traffic Control Tower at Palo Alto, Calif., 1909 Embarcadero Road, will be operationally commissioned. This information will be reflected in the FAA Organization Statement the next time it is reissued. Communications to the Palo Alto Airport Traffic Control Tower should be addressed as follows:

Palo Alto Airport Traffic Control Tower, Department of Transportation, Federal Aviation Administration, 1909 Embarcadero Road, Palo Alto, Calif. 94303

Issued in Los Angeles, Calif., on June 11, 1969.

LEE E. WARREN,
Acting Director,
Western Region.

[F.R. Doc. 69-7395; Filed, June 23, 1969; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20882]

SERVICE TO FORT MYERS, SARASOTA-BRADENTON AND ORLANDO CASE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 17, 1969, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Hyman Goldberg.

Evidence requests, motions, statements of positions, and proposed procedural dates shall be filed with the Examiner and all parties before July 10, 1969.

Dated at Washington, D.C., June 18, 1969.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 69-7414; Filed, June 23, 1969; 8:47 a.m.]

[Docket No. 19255; Order 69-6-108]

EAST COAST POINTS-EUROPE SERVICE INVESTIGATION

Order Separating Proceeding Into Two Phases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of June 1969.

By Order E-25991 (Nov. 17, 1967) and Order E-26731 (May 1, 1968), the Board instituted the subject investigation and defined its scope.

The issues involved in the case, as in any international route proceeding, may be separated into two general categories: (1) the need for service on the routes (including the number of carriers); and (2) the selection of a carrier or carriers to provide the service.

Not to be regarded as a precedent in other proceedings, the Board has decided to divide this proceeding into two phases. The first phase will be solely concerned with the question of whether there is a need for first or competitive single-plane and single-carrier U.S. flag service from points in the United States through the east coast coterminals previously put in issue in this proceeding to the foreign points designated in Order E-25991; and if so, how many carriers should be selected to provide it.

We are directing the Examiner to proceed with the first phase of the case through prehearing conference and hearing and to recommend a decision to the Board. In the trial of such first phase, the applicants will, of course, be permitted to support the need for the routes they propose with the evidence customarily produced in prosecuting applications for foreign air transportation certificates. The Board will then decide the case on the questions specified above and submit its decision to the President for approval.

The second phase of the case, involving selection of carrier issues (as to those routes found by the President to be required) will not be processed until after the President has returned his decision in the first phase to the Board.

Selection of carrier issues will be tried only as to those routes found by the President to be required; and the carriers open for selection may be limited by conditions, if any, which have been prescribed by the President in the course of the first phase.

Such second phase will proceed through the normal hearing procedures to final Board decision. Section 801 of the Federal Aviation Act will require that the Board's decision on this phase as well be submitted to the President for approval, but the President's task at this stage will involve the choice between or among carriers, and therefore, it seems unlikely that significant international relations or national defense problems will exist.

Accordingly, it is ordered, That:

1. The instant proceeding be divided into two phases to be hereinafter designated "The Need for Service Phase" and "The Carrier Selection Phase".

2. The Need for Service Phase be set for hearing promptly at a time and place to be hereafter determined.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-7415; Filed, June 23, 1969; 8:48 a.m.]

[Docket No. 20084; Order 69-6-98]

AMERICAN AIRLINES, INC., ET AL.

Order Denying Temporary Exemptions and Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of June 1969.

Applications of American Airlines, Inc., Northwest Airlines, Inc., and Trans-World Airlines, Inc., for an exemption under section 416(b) of the Federal Aviation Act of 1958, as amended, Dockets Nos. 20084, 20153, 20154, 20200; Chicago-Baltimore Nonstop Service Investigation, Docket 21101.

American Airlines, Inc. (American),[1] Northwest Airlines, Inc. (Northwest),[2]

[1] In Docket No. 20084, filed August 7, 1968, American seeks an exemption from condition (3) of its certificate for route 25, which prohibits, inter alia, the conduct of nonstop flights between Chicago and Baltimore, in order to permit it to utilize Friendship Airport in providing authorized nonstop service between Chicago and Washington. In the alternative, American requests that the Board affirm that an Airport Notice, filed by American on December 10, 1958, is sufficient to authorize service to the Washington/Baltimore area through Friendship Airport.

[2] In Docket No. 20153, filed August 27, 1968, Northwest seeks an exemption permitting it to operate nonstop flights between Chicago and Baltimore, pending final decision on its application for the same authority by certificate amendment in Docket No. 20149. Northwest's present certificate for route 3 authorizes it to operate between Chicago and Washington, but requires a stop at either Cleveland or Detroit, which are segment junction points.

and Trans-World Airlines, Inc. (TWA),[3] have applied for authority by exemption to provide unrestricted nonstop service between Chicago and the Washington/Baltimore area through Friendship International Airport. In addition, Northwest has applied for an exemption permitting it to serve the Washington/Baltimore area through Friendship Airport on flights serving segments 2 and 9 of its route 3.[4]

In support of their applications, both American and Northwest assert that increasing traffic demands and the present saturation of the facilities of Washington National Airport require that they be permitted to accommodate additional Washington area traffic through Friendship Airport, in the interest of avoiding further congestion at National.[5] Each argues that of the two alternative Washington airports to National, Dulles, and Friendship, Friendship is a more convenient alternative outlet than Dulles for many Washington metropolitan area passengers, and that the present demand for service at Dulles does not warrant the addition of additional schedules at that airport at this time.

In addition, American argues that both of its nonstop competitors in this market, TWA and United, are free to choose between each of the three area airports in providing Chicago-Washington service; that there is no longer any justification for retention of condition (3) of American's certificate;[6] and that American's inability to provide service through Friendship is not in the public interest and is an undue burden upon the carrier.

Northwest asserts that the economic soundness of its proposal in Docket 20153 is demonstrated by the size of the Baltimore-Chicago market (528 O&D passengers per day in the fourth quarter of 1967), as contrasted with the relatively limited volume of service now being provided, and that its proposed service in Docket 20154 between Friendship Airport and Cleveland, Detroit, Milwaukee, and Minneapolis-St. Paul is needed in view of existing inadequate service in each of these markets. Northwest contends that, under these circumstances, enforcement of the Act and the Board's regulations to prevent the operation of its proposed services would constitute an undue burden on Northwest and is not in the public interest.

In support of its application in Docket 20200, TWA asserts that no need for retention of its long-haul restriction still exists, since it was originally imposed to protect Capital which has since been absorbed by United; and that grant of its limited request would permit it to achieve cost savings and added flexibility without adverse impact on any other carrier.

Answers supporting and opposing the foregoing requests were filed by a number of parties,[7] and replies to the answers submitted were filed by Northwest in Dockets 20153 and 20154, and by American in Docket 20084.

Upon consideration of the pleadings and all of the relevant facts, we have decided to deny each of the applications before us.

None of the applicants have demonstrated a need for additional unrestricted nonstop service in the Chicago-Baltimore (or Chicago-Washington) market sufficient to justify resort to our extraordinary exemption power.[8]

With respect to Northwest's application in Docket 20154 seeking an exemption permitting it to serve this area through Friendship Airport in providing service to and from Cleveland, Detroit, Milwaukee, and Minneapolis-St. Paul, we are not persuaded that a sufficient showing of public need for the proposed services, or undue burden on the carrier, has been made to warrant grant of the requested exemption. In addition, service in the Baltimore-Milwaukee/Minneapolis-St. Paul markets is presently at issue in the pending Twin Cities-Milwaukee Long Haul Investigation, Docket 19097.

We have concluded, however, that several factors appear to warrant institution of an investigation into the need for additional unrestricted nonstop service in the Baltimore-Chicago market. At this time, United is the only carrier holding unrestricted nonstop authority in the subject market. As noted earlier, TWA, the only other Baltimore-Chicago nonstop carrier, is subject to a long-haul restriction requiring that it serve Kansas City, or a point west thereof, on all nonstop flights conducted between Chicago and Baltimore.[9] In our view, the size of the Baltimore-Chicago market, which amounted to 135,310 passengers in 1967 (approximately 185 passengers per day in each direction), is sufficient to justify consideration of additional unrestricted nonstop authority in this market. We wish to emphasize, however, that it is our desire to focus attention upon the need for additional service between Baltimore and Chicago, and, to this end, we will not entertain applications for authority to provide service between Chicago and Washington, notwithstanding that the particular application may propose to serve Washington through Friendship Airport.[10]

Accordingly, in order to limit the scope of the proceeding, and thereby to avoid undue complication of the issues and delay, we will consolidate only those applications which seek new or improved Chicago-Baltimore authority.

Accordingly, it is ordered, That:

1. The applications of American Airlines, Inc., in Docket 20084, Northwest Airlines, Inc., in Dockets 20153 and 20154, and Trans World Airlines, Inc., in Docket 20200 be and they hereby are denied;

2. The applications of Northwest Airlines, Inc., in Docket 20149 and Trans-World Airlines, Inc., in Docket 19655, to the extent that they conform to the issues as delineated above, be and they hereby are set for consolidated hearing

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[3] In Docket No. 20200, filed September 6, 1968, TWA seeks unrestricted Chicago-Baltimore nonstop authority through exemption from condition (6) of its certificate for route 2, which requires, inter alia, that all nonstop flights conducted by TWA between Chicago and Baltimore must originate or terminate at Kansas City, or a point west thereof, pending final decision on its application for this authority by certificate amendment in Docket No. 19655.

[4] In Docket No. 20154, filed August 27, 1968, as amended on August 28, 1968, Northwest seeks exemption authority permitting it to provide service between Friendship Airport, on the one hand, and Cleveland, Detroit, Milwaukee, and Minneapolis-St. Paul, on the other. It presently possesses certificate authority between Washington, D.C. (through Dulles and National) and each of these points.

[5] Northwest also urges that grant of the the exemption would avoid some further congestion at Chicago's O'Hare Airport, since four of its six proposed daily flights would serve Chicago through Midway Airport.

[6] Condition (3) was placed on American's certificate for route 25 in the Middle Atlantic Area Case, 9 CAB 131 (1948) in the interest of protecting Capital Airlines' predecessor, Pennsylvania Central Airlines. Capital has since been absorbed by United Air Lines, United-Capital Merger Case, 33 CAB 307 (1961).

[7] American's application in Docket 20084 is opposed by Allegheny, TWA, and United. The Baltimore and Maryland parties support American's request.

Northwest's application in Docket 20153 is opposed by Allegheny, American, TWA, and United. Its request in Docket 20154 is opposed by Allegheny, TWA (in part), United, the Metropolitan Washington Board of Trade, and the Virginia Airports Authority et al. The Baltimore and Maryland parties, and the Commission support the application.

TWA's application in Docket 20200 is opposed by American.

[8] We also disagree with American's suggestion that use of the airport notice procedure may be an appropriate means of permitting it to institute service at Friendship Airport, notwithstanding the existence of condition (3) of its certificate barring Chicago-Baltimore nonstop authority. Airport notices are designed to permit the implementation of authority authorized by the Board, and constitute an entirely inappropriate vehicle for circumventing restrictions on operating authority presently in force.

We are cognizant that, in Order E-24132, Aug. 29, 1966, the Board granted approval of an airport notice filed by Eastern Air Lines, Inc., proposing to provide its Washington, D.C.-Bermuda service through Friendship Airport instead of National. The Board noted, however, that Eastern was the only U.S. carrier providing Bermuda service to this area; that Eastern was urged by the FAA to shift some of its service out of National because of congestion at that airport; and that the approval of service to Washington through Friendship is temporary in nature. Because of the special circumstances involved in that case, we do not view it as supporting American's contention. See also, Order E-25324, June 20, 1967.

[9] As of Jan. 1, 1969, United and TWA were offering a total of 11 daily schedules in each direction between Chicago and Baltimore, including nine eastbound nonstop flights, and eight nonstops westbound.

[10] With five carriers presently providing Chicago-Washington service (American, Eastern, Northwest, TWA, and United), we are unable to perceive any need for consideration of additional authority in this market.

in a proceeding to be known as the Chicago-Baltimore Nonstop Service Investigation, Docket 21101;

3. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed no later than 20 days after the date of service of this order, and answers to such pleadings shall be filed not later than 10 days thereafter; and

4. This proceeding shall be set down for hearing before an examiner of the Board at a time and place hereafter designated.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-7416; Filed, June 23, 1969; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18385, 18386; FCC 69R-273]

HARRY D. AND ROBERT E. STEPHENSON AND CHINA GROVE BROADCASTING CO.

Memorandum Opinion and Order Modifying and Enlarging Issues

In re applications of Harry D. Stephenson and Robert E. Stephenson, Lexington, N.C., Docket No. 18385, File No. BP-17021; China Grove Broadcasting Co., China Grove, N.C., Docket No. 18386, File No. BP-17686; for construction permits.

1. This proceeding involves the mutually exclusive applications of Harry D. Stephenson and Robert E. Stephenson (Stephensons) and China Grove Broadcasting Co. (China Grove) for authorizations to construct new standard broadcast stations at Lexington and China Grove, N.C., respectively. It was designated for hearing by memorandum opinion and order, 15 FCC 2d 335, 14 RR 2d 945, released December 5, 1968, on various issues, including a § 1.65 issue as to both applicants and a limited financial issue to determine the manner in which the Stephensons will obtain additional funds to construct and operate their proposed station. Presently before the Review Board is a petition to delete/modify and enlarge issues, filed December 26, 1968, by China Grove.[1] The petition requests the Review Board to delete the § 1.65 issue insofar as it relates to China Grove and to enlarge the issues against the Stephensons by the inclusion of inquiries into compliance with §§ 1.526 and 1.580(f)(10) of the rules, cost of construction, and various matters relating to the Stephensons' technical proposal. Also before the Review Board is a further petition to enlarge issues, filed March 17, 1969, by China Grove,[2] requesting the addition of the following issue to this proceeding:

To determine with respect to Harry D. Stephenson and Robert E. Stephenson, the circumstances surrounding the information originally supplied the Commission as to the size, location and cost of the proposed transmitter-studio site and whether in light thereof, the Stephensons failed to reveal or otherwise attempted to conceal facts pertinent to their application.[3]

Deletion of § 1.65 issue. 2. The petitioner contends that the specification of a § 1.65 issue as to its application was based on a mistake of fact. It notes that the issue was designated against it for its apparent failure to disclose in its application that Ray A. Childers, then a principal of China Grove, was also a principal in a pending application for Eden, N.C. (BP-17493). However, China Grove requests the Review Board to take official notice of the fact that its application, as originally filed, made reference to Mr. Childers' interest in an application for Spray, N.C. (BP-17493); that, subsequent to the filing of the Spray application, Spray and two other communities were consolidated into the city of Eden, N.C.; that, on November 2, 1967, the Spray application was amended to specify Eden, N.C., as the proposed station's location; and that the Spray-Eden application retained the same file number. On this basis, the petitioner concludes that the Commission was under the misapprehension that the Spray application was different from the Eden application when, in fact, they were identical. The Broadcast Bureau, in its comments, supports China Grove's factual allegations and petitioner's request for deletion of the § 1.65 issue.[4] The circumstances set forth by the petitioner reveal that the Commission was indeed under a misapprehension concerning the identity of the Spray and Eden applications and that the § 1.65 issue was specified on the basis of factual error. Such circumstance warrant departure from our usual practice of refusing to delete issues on the basis of post-designation pleadings or amendments. Therefore, the Board will modify existing Issue 5 in this proceeding, as requested, in order to delete the § 1.65 inquiry directed against China Grove. See Salter Broadcasting Co., 8 FCC 2d 212, 10 RR 2d 14 (1967).

Sections 1.526 and 1.580(f)(10) issue. 3. China Grove asserts that a review of the public notice which the Stephensons published concerning the filing of their Lexington application reveals the absence of any identification of the location of a public inspection file. It is petitioner's position that this failure not only illustrates the fact of the Stephensons' noncompliance with the publication requirements of § 1.580(f)(10) of the rules, but also raises a question as to whether the Stephensons have ever maintained a local public file, pursuant to the provisions of § 1.526, since the tender of their application to the Commission. On this basis, the petitioner requests an issue to determine whether the Stephensons have complied with the requirements of these rules. The Broadcast Bureau, in commenting on this request, notes the following facts: (1) The Stephensons' application was originally tendered for filing on April 12, 1965; (2) a notice of publication, pursuant to § 1.580, was submitted on April 12, 1965; (3) the notice did not disclose the existence or the location of a local public inspection file; (4) on September 15, 1965, the Commission returned the Stephensons' application as unacceptable for filing for its failure to support a requested § 1.569 waiver; (5) the application was retendered for filing on November 22, 1965; and (6) no other notice of publication concerning the filing of the Lexington application could be found in the application or associated papers. The Bureau also points out that the requirement to maintain a local public file, by the terms of § 1.526, is not applicable to applications tendered for filing on or before May 13, 1965, or to applications tendered for filing after that date which contain major amendments to applications tendered on or before May 13, 1965. Although the Bureau notes that the retendered Stephensons' application was not an amendment of the first application and that, therefore, it appears that the Stephensons have violated the provisions of both §§ 1.526 and 1.580(f)(10), it concedes that the exceptions to § 1.526, noted above, are possibly ambiguous and that the noncompliance appears to have been unintentional and not to have prejudiced any person. Ultimately, the Bureau recommends denial of petitioner's request if the Stephensons, in their responsive pleading, demonstrate such an unintentional omission and a present willingness to comply with the requirements of the rules in question.

4. In their opposition to China Grove's request, the Stephensons deny any conscious attempt to keep the existence of a local public file a secret and attribute their noncompliance to confusion stemming from the belief that republication of the retendered application was unnecessary. They also point out that the public notice of designation for hearing,

[1] Related pleadings before the Review Board are: (a) Comments, filed Feb. 7, 1969, by the Broadcast Bureau; (b) opposition, filed Feb. 24, 1969, by the Stephensons; (c) reply, filed Mar. 17, 1969, by China Grove; and (d) petition for leave to accept late reply, filed Mar. 17, 1969, by the Stephensons. In item (d), noted above, Stephensons' counsel indicate that they had volunteered to file China Grove's reply pleading on Mar. 12, 1969, after service of said pleading on them by China Grove, but that, through inadvertence, the reply was not filed until Mar. 17, 1969. Since "good cause" has been shown for the delay in the filing of China Grove's reply, the pleading will be accepted by the Board for consideration herein.

[2] Related pleadings before the Board are: (a) Opposition, filed Apr. 1, 1969, by the Stephensons; (b) comments, filed Apr. 4, 1969, by the Broadcast Bureau; and (c) reply, filed Apr. 23, 1969, by China Grove.

[3] In its Mar. 17, 1969, petition, China Grove also requested a zoning issue; however, it withdrew its request in its reply pleading, filed Apr. 23, 1969.

[4] In the final paragraph of its comments, the Broadcast Bureau states that it "* * * oppose the deletion of the section 1.65 issue as it relates to China Grove Broadcasting * * *." A reading of the pleading, taken as a whole, makes it clear that the Bureau supports the deletion of the section 1.65 issue as to China Grove and that the contrary language in its final paragraph is the result of an error.

published by them on January 16, 17, 23, and 24, 1969, did set forth existence and location of a local public inspection file, and they argue that, therefore, they have complied with Commission requirements. China Grove, in its reply, disagrees with the Bureau that either the intent of the applicant or the existence of prejudice is a relevant consideration in this situation; in any event, the petitioner alleges that both it and the public have been prejudiced by the Stephensons' noncompliance. Finally, China Grove notes that the Stephensons' responsive pleading fails to support its allegations of intention with an appropriate affidavit of a person with knowledge of the facts.

5. The Review Board agrees with the Broadcast Bureau that, given the possible ambiguity of the note to § 1.526(a)(1) and given the Stephensons' establishment of a local public file and publication of a notice of the file's location, the applicant's original failure to comply with the requirements of §§ 1.526 and 1.580(f)(10) can be considered to be the result of unintentional and excusable error which, contrary to China Grove's bare allegations, has not been shown to have prejudiced the parties or the public. Even though China Grove correctly points out that the Stephensons have not provided the proper documentation of their contention of unintentional omission, we do not find that such a defect is fatal to our conclusion to deny the request in these circumstances. The chronology of events in this proceeding, the language of the note to § 1.526(a)(1) and the Stephensons' voluntary compliance with the requirements of both § 1.526 and § 1.580(f)(10) are adequate support for the conclusion that the original noncompliance was due to unintentional omission. Since the Stephensons have admitted their earlier failure to comply with the requirements of these rules, which admission is readily accepted by the petitioner, and since we can accept the allegations concerning the nature of said noncompliance, we can see no value in adding the requested issue or an issue inquiring into the effects of noncompliance where, as here, we fail to see how any decisional significance can attach to the matter in terms of the Stephensons' requisite or comparative qualifications. We must point out, however, that our action here is prompted by the factual considerations noted above and should not be interpreted to mean that we will condone the failure of parties to support factual allegations with appropriate documentation in the context of other proceedings.

Issues relating to technical proposal. 6. Petitioner requests the addition of the following issues to this proceeding which relate to the Stephensons' technical proposal:

(a) The exact location and boundaries of the proposed transmitter site and antenna system.

(b) The exact size of the antenna ground system which the applicant proposes and which the property will allow.

(c) The exact nature of irregular[ly] terrain features on or within the immediate vicinity of the proposed transmitter site.

(d) Whether, in light of the evidence adduced pursuant to (a), (b), and (c) above, and in view of the short spacing between towers proposed, the proposed antenna system will meet minimum RMS and can be adjusted and maintained.

In support of these requested issues, China Grove submits the verified statement of its consulting engineer who notes the following alleged deficiencies in the Stephensons' engineering proposal: (1) The plat of the Stephensons' proposed transmitter site on the topographic map does not agree with the geographic coordinates, a difference of approximately 0.25 mile; (2) the sketch of the antenna ground system does not show reference to roads or other markings which would delineate the site; and (3) the ground elevation of the proposed towers does not agree with either of the sites shown by the application. Petitioner claims that the inaccuracy in the location of the site raises numerous questions as to where the actual site is located, what the terrain features are at the actual site, whether there is an FAA clearance problem because of a higher ground elevation, whether the proposed contours are affected, and whether the varying elevations at the site, the limited ground system and the short-spaced towers 60° will affect the tunability of the directional antenna system, i.e., whether the array can be adjusted and maintained as proposed, and will permit the array to meet minimum antenna efficiency of 175 mv/m (RMS).

7. The Broadcast Bureau supports the request for a site location issue on the theory that site location is critical to a determination of contours under the areas and populations issue and to the question of FAA clearance. The Bureau also is of the opinion that the petitioner has raised significant questions as to the suitability of the Stephensons' site which would warrant an appropriate issue unless the Stephensons satisfactorily respond to the points made by China Grove's consulting engineer. In opposition to the petitioner's request, the Stephensons admit that the proposed site has been incorrectly identified but state that it was through an "honest mistake" and that a corrective amendment is being concurrently filed which indicates the actual transmitter site proposed by them. The Stephensons also attach affidavits of their consulting engineer who asserts that the proposed change in site does not result in any interference problems and does not significantly alter any contour locations, service areas or population data. The Stephensons contend further, through their consulting engineer, that the 10-foot difference in elevation between towers is considered to be negligible; that the ground system would cover 90 percent of the area that would normally be used with the type of array proposed here and will not affect the operation or efficiency of the antenna system; and that the proposed antenna system will not cause any problems in adjustment allowing a RMS well above the minimum efficiency of 175 mv/m. In reply to the responsive pleadings, China Grove's engineer contends that the Stephensons' property will allow for only 78.5 percent of the area of a normal 0.25 wave length ground system and that there still exists a substantial question as to whether the proposed antenna system will meet the minimum RMS value based upon the less than normal ground system, the use of less than 0.25 wave length towers and the short-spacing between the towers.

8. The Stephensons' amendment of February 24, 1969, noted above, which was accepted by the Hearing Examiner by memorandum opinion and order, FCC 69M–331, released March 18, 1969, effectively moots those questions which have been raised by China Grove concerning the Stephensons' site location. In addition, we do not believe that petitioner has adequately supported its contentions concerning the suitability of the site and whether the proposed antenna system will meet minimum antenna efficiency and can be adjusted and maintained as proposed. Petitioner has not satisfactorily responded to the major points raised by Stephensons' engineer that: (1) The shortened radials will not affect the operation or efficiency of the directional array; (2) the area enclosed by the proposed ground system is 90 percent of the area that would normally be used with this type of antenna system; (3) a 10-foot variation in terrain elevation between the towers is negligible; and (4) the antenna system will allow a calculated RMS of 186 mv/m, well above the minimum efficiency of 175 mv/m. It should be noted that even a reduction of as much as 10 mv/m in expected RMS as a result of the shortened ground system, as the petitioner urges, would still result in the Stephensons' proposal meeting minimum RMS. Without further substantiation of the petitioner's claims in this regard, therefore, we are not persuaded that the remaining issues relating to the Stephensons' technical proposal should be added to this proceeding.

Lack of candor issue. 9. In support of of its request for an issue to determine whether the Stephensons attempted to conceal information from the Commission concerning the size, location and cost of their proposed transmitter site, China Grove first notes that the Stephensons' original application listed $12,000 for the acquisition of land, while their amendment of February 24, 1969, states that land is "on hand" and allocates $5,000 towards the remodeling of a building. Petitioner asserts that, in investigating this apparent discrepancy and in searching the land records in Lexington, N.C., its co-counsel discovered a lease agreement, dated March 31, 1965, and a deed of trust, dated March 31, 1966, both involving the Stephensons. China Grove contends that it appears certain that the 3 acres which are the subject of the lease agreement and the deed of trust is the property intended by the Stephensons to be used as their proposed transmitter site since:

(1) Petitioner's engineer has found that the 3 acres correspond exactly to the eastern two-thirds of the amended plat of the Stephensons' proposal; and (2) an option to purchase the land involved in the lease agreement is identical in amount ($12,000) to the estimated cost of land acquisition in the Stephensons' original application. In view of these facts and the contention of its engineer that the 3 acres are totally insufficient to contain an adequate ground system, China Grove argues that the Stephensons must have been aware that the land was inadequate and that their estimate of $12,000 to acquire sufficient land for the proposal was unrealistic. Thus, the petitioner contends that the "above noted facts provide at least an explanation for the failure of [the Stephensons' original application] to contain the precise boundaries of the transmitter site".

10. In their opposition to this request, the Stephensons, through the attached affidavit of Robert E. Stephenson, confirm that the land which is the subject of the lease agreement and the deed of trust is the land which they intend to use as their transmitter site. They reiterate their contention that the error as to site location in the original application was innocent, and they state that the actual transmitter site which they intended to use from the time of the filing of their original application is the same site which is specified in their amendment of February, 1969. In addition, the Stephensons point out that, at the time they obtained the lease and the option to purchase the 3 acres, they were advised that the ground system could be adequately provided for either by acquiring an easement on adjoining property to bury certain of the radials of the system, or by adding extra copper ground screens at the tower bases and additional stub radials and that, therefore, the 3 acres were sufficient to contain an adequate ground system. Finally, the Stephensons reveal that they obtained a $4,500 option on January 20, 1969, for an additional 1½ acres of land contiguous to the original 3 acres in order to make certain that sufficient land is available. The Broadcast Bureau also opposes the petitioner's request and contends that China Grove has failed to allege facts which would establish that the Stephensons failed to reveal or sought to conceal information regarding the location or size of their site. The Bureau also notes that China Grove alleges that the land owned by the Stephensons comprises only two-thirds of the land indicated by their amended plat whereas the Stephensons' opposition indicates they have an option to purchase an additional 1½ acres.

11. In reply, China Grove points to the Stephensons' admission that it was their intention to either acquire easements on adjoining property or add copper ground screens and stub radials; the petitioner notes that these facts were not contained in the engineering exhibits submitted with the Stephensons' application. Petitioner argues that the $12,000 land acquisition estimate was known by the Stephensons to be unrealistic since they were aware that additional land purchases, easements or equipment would be necessary. China Grove notes that the February 1969, amendment shows land "on hand", with 1½ acres merely on option; that, according to the deed of trust, the eastern boundary of the site corresponds to the middle of Raleigh Road which means that the Stephensons cannot use the full 3 acres for their ground system; and that neither the Stephensons' original application nor their amendment describes the eastern boundary of the site with respect to Raleigh Road. Finally, China Grove notes that an aerial photograph, attached to the Stephensons' opposition, shows at least two buildings within the confines of the proposed transmitter site and that the deed of trust also refers to a "building", but that the plat of the proposed site, as originally filed or as amended, fails to indicate the presence of obstructions which, petitioner contends, would further restrict the employment of the ground system.

12. The Review Board is of the opinion that the requested issue should be added to this proceeding. A serious question of whether the Stephensons have been lacking in candor concerning the cost of their proposed transmitter site is raised by a key discrepancy in their February 24, 1969, amendment. That amendment indicates that the land for the transmitter site is "on hand", and the revised plat of the site in the same amendment indicates that it consists of approximately 4½ acres. However, the Stephensons admit in their opposition to the further petition to enlarge issues that they actually have purchased 3 acres, which represents the land originally option for $12,000 and noted in their original application. It is apparent, therefore, that 1½ acres of the proposed 4½ acre site were not on hand at the time of the February 1969, amendment. It is revealed for the first time in their opposition to the further petition to enlarge issues, filed April 1, 1969, that the Stephensons obtained an option on the additional 1½ acres on January 20, 1969. No mention is made of this new option in the February 24th amendment. Moreover, the failure of the Stephensons to fully inform the Commission of the cost of their proposed transmitter site extends back to the time of the filing of their original application. In his affidavit attached to the Stephensons' opposition, Robert E. Stephenson states that the site specified in the February 24th amendment is the actual site which he and his brother intended to use at the time of the filing of the original application on November 22, 1965. Yet, in their original application, the Stephensons allocated only $12,000 for the acquisition of land, which represented the option price on the 3 acres subsequently purchased and which sum was obviously inadequate for the purchase of the entire 4½ acres indicated in the February 24, 1969, amendment and, by their own admission, the site that the Stephensons intended to specify in their original application. In view of the foregoing, an issue will be added to this proceeding to determine whether the Stephensons have been lacking in candor in regard to their apparent failure to disclose information in their application concerning the cost of land acquisition for their proposed transmitter site.

Cost of construction issue. 13. In its initial petition to the Review Board, China Grove also requests an enlargement of the limited financial issue presently specified against the Stephensons in order to determine whether the cost of construction of the proposed station, as estimated in the Stephensons' application, is realistic. In support of this request, China Grove submits the affidavit of its consulting engineer who asserts that the Stephensons will require an additional $10,000 in order to construct the proposed station. More specifically, petitioner's engineer is of the opinion that the estimate for technical equipment (transmitter, antenna system and monitors) is currently understated by about $5,000;[5] that the required proof of performance of the directional antenna system will result in an additional expense of $2,100; and that the clearing and leveling (if necessary) of the proposed transmitter site will require an additional $2,000. Considering these factors plus other miscellaneous expenses,[6] the petitioner contends that the Stephensons who originally estimated total construction costs of $35,212, will need an additional $10,000, excluding such items as wiring, furniture, fixtures, and records, in order to construct their proposed station.

14. The Broadcast Bureau, in its comments, states that China Grove's allegations are sufficient to warrant the requested enlargement of the financial issue unless satisfactorily rebutted by the Stephensons. In their opposition to the petitioner's request, the Stephensons contend that the request is premature in view of their subsequent tendering of a petition for leave to amend their application with the Hearing Examiner. The amendment, which modifies the Stephenson's financial proposal, reflects a new estimate of $30,300 for technical

[5] China Grove's engineer offers the following comparison between his projection and the estimate for technical equipment contained in the Stephensons' application:

	Stephensons' proposal	China Grove's projection
Transmitter	$5,295.00	$5,795.00
Antenna System	10,867.00	14,382.00
Frequency and Modulation Monitors	1,550.00	1,745.00
Studio Technical Equipment	3,000.00	3,795.00
Total	20,712.00	25,717.00

[6] Other miscellaneous expenses are estimated at $610 and include such items as out-of-pocket expenses for conducting the proof of performance, reproduction of maps, filing fee, etc.

equipment, a $5,000 estimate for acquiring, remodeling or constructing buildings, an estimate of $5,000 for preair expenses and a projection of $70,000 for first-year operating expenses. The amendment also includes substantiation of a proposed bank loan of $100,000 with appropriate endorsements and a letter of credit from a proposed equipment supplier in the total amount of $30,300. The Stephensons contend that these commitments resolve any question concerning their financial ability to construct and operate the proposed facility. Petitioner, in its reply, disputes the contentions that the request for an expanded financial issue is premature and that the financial amendment resolves the question of the Stephensons' financial qualifications. Even accepting the Stephensons' revised estimates for the purpose of argument, China Grove points out that approximately $97,000 of the $100,000 in available funds will be required to cover the equipment down payment and first-year payments on principal and interest, the cost of remodeling or constructing a building, preair expenses and first-year operating costs. In addition, the petitioner notes that a question still exists as to whether the Stephensons' proposed transmitter site is large enough to contain an adequate ground system. Finally, China Grove questions whether the new estimate of $5,000 for other preair expenses is sufficient to cover the costs estimated by its consulting engineer as necessary, as well as the costs of such items as freight, furniture, fixtures, etc.

15. By memorandum opinion and order, FCC 69M–331, released March 18, 1969, the Hearing Examiner granted the Stephensons' petition for leave to amend their financial proposal. The amendment, which contains a revised estimate of $30,300 for technical equipment and a total construction cost estimate of $40,300, effectively moots China Grove's objections to the Stephensons' original projections for technical equipment. Since we have already declined to include an inquiry in this proceeding concerning the suitability of the Stephensons' transmitter site, we must also reject petitioner's attempt to supplement its showing in support of an expanded financial issue on speculative assertions regarding the suitability of the proposed site. Nevertheless, we are of the opinion that an inquiry into the basis of the Stephensons' estimates for construction costs is warranted. Petitioner's assertion that the Stephensons' estimate of $5,000 for preair expenses is insufficient to cover the costs estimated by its consulting engineer as necessary as well as the costs of such items as freight, furniture, fixtures, etc., is well taken and has not been adequately answered by the Stephensons. Even though the recent amendment to the Stephensons' application reflects an increase in the budgeted amount for miscellaneous expenses from $2,500 to $5,000, we must note the items claimed by petitioner as necessary expenses (proof of performance, clearing and leveling of transmitter site, etc.) amount to $5,000, exclusive of the costs of items such as freight, furniture, fixtures, and the like. In addition, as our discussion concerning the request for a lack of candor issue indicates, the Stephensons rely on a transmitter site of 4½ acres (on which basis we declined to include a site suitability issue in this proceeding), and, yet, the option price of $4,500 for the additional 1½ acres of land apparently has not been included in the recent projection of construction costs by the Stephensons. We also note that the Stephensons do not dispute the petitioner's allegations concerning additional expenses but merely state that their recent amendment answers all questions of financial ability. Since these additional expenses noted by the petitioner and by the Board exceed the small cushion that now exists over and above estimated construction and operating costs (approximately $3,500)[7] and since there is no indication in the amendment or the opposition pleading that repayments of principal and interest under the equipment credit arrangement are included in projected operating costs, we cannot dismiss or discount the effect that such higher construction costs may have upon the Stephensons' financial qualifications. We will, therefore, grant petitioner's request, and we will expand the financial issue in this proceeding to include an inquiry into the basis of the Stephensons' estimates for construction costs.

16. *Accordingly, it is ordered,* That the petition for leave to accept late reply, filed March 17, 1969, by Harry D. Stephenson and Robert E. Stephenson, is granted, and the reply, filed March 17, 1969, by China Grove Broadcasting Co., is accepted; and

17. *It is further ordered,* That the petition to delete/modify and enlarge issues, filed December 26, 1968, by China Grove Broadcasting Co., and the further petition to enlarge issues, filed March 17, 1969, by China Grove Broadcasting Co., are granted to the extent indicated below and are denied in all other respects; and

18. *It is further ordered,* That Issues 3 and 5 in this proceeding are modified to read as follows:

3. To determine, with respect to the application of Harry D. and Robert E. Stephenson:

(a) The basis of the applicant's estimated construction costs and whether such estimates are reasonable.

(b) The manner in which the applicant will obtain additional funds to construct and operate the proposed station for 1 year.

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

5. To determine whether Harry D. Stephenson and Robert E. Stephenson have submitted complete and accurate information in response to the Commission's Form 301, and have continued to keep the Commission advised of substantial and significant changes as required by § 1.65 of the Commission's rules; and

19. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether Harry D. Stephenson and Robert E. Stephenson were lacking in candor in failing to reveal facts pertinent to their application concerning the cost of their proposed transmitter site and, if so, what effect such conduct has on the requisite and comparative qualifications of the Stephensons to be a Commission licensee; and

20. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issue added in paragraph 19 above will be on China Grove Broadcasting Co. and the burden of proof under such issue will be on Harry D. Stephenson and Robert E. Stephenson.

Adopted: June 18, 1969.

Released: June 19, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[8]

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

[F.R. Doc. 69-7410; Filed, June 23, 1969; 8:47 a.m.]

[7] Our use of $3,500 as the anticipated financial cushion assumes that the Stephensons are able to meet the limited financial issue (availability of funds) now outstanding against them.

[8] Board Member Stone absent and Board Member Berkemeyer concurring.

FEDERAL RESERVE SYSTEM

FIRST AT ORLANDO 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 First at Orlando Corp., which is a bank holding company located in Orlando, Fla., for the prior approval of the Board of the acquisition by Applicant of 100 percent of the voting shares (less directors' qualifying shares) of Central Park First National Bank, Orange County, 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 17th day of June 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-7379; Filed, June 23, 1969; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2546]

AMOSKEAG CO.

Notice of Filing of Application for Order of Exemption

JUNE 16, 1969.

Notice is hereby given that Amoskeag Co. ("Applicant"), Suite 4500, Prudential Center, Boston, Mass. 02199, a closed-end, nondiversified, management investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application for an order pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act the proposed acquisition from Applicant by persons who may be deemed affiliated persons of Applicant or affiliated persons of affiliated persons of Applicant (other than the persons referred to below as "The Dumaines Group") of securities and cash in connection with the proposed invitation by Applicant to holders of its common stock ("Shares") for tenders of Applicant's Shares as described below. Tenders will be invited from all Shareholders of the Applicant, including Shareholders who are affiliated persons of Applicant under section 2(a)(3) of the Act by virtue of being directors thereof, as well as Shareholders who are otherwise affiliated persons of Applicant as defined in section 2(a)(3) of the Act or who are affiliated persons of such persons. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Section 17(a) of the Act, as here pertinent, makes it unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person from purchasing from such registered investment company any security or other property, unless the Commission upon application grants an exemption from the provisions of section 17(a) pursuant to section 17(b) of the Act after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and with the general purposes of the Act.

Applicant proposes to invite holders of Applicant's Shares to tender Shares for acquisition by Applicant in exchange for a package of securities now in the portfolio of Applicant plus cash, if required, to produce an aggregate market value of securities delivered in exchange amounting, with any such cash, to approximately 95 percent of the net asset value (after provision for estimated taxes on unrealized appreciation) of the Shares tendered. The determination of net asset value (after provision for estimated taxes on unrealized appreciation) is to be made on the last practicable trading day before the invitation for tenders is mailed. Such invitation will not be made unless and until the Commission issues the order for which this application has been filed.

The package of securities proposed to be distributed consists of shares of the common stock, par value $7.50 per share, of Baystate Corp., shares of the Series A $1.70 Cumulative Convertible Preference Stock of International Industries, Inc., shares of the common stock, par value 15 cents per share, of Louisiana Land & Exploration Co. and shares of the common stock, par value $6.25 per share, of Standard Oil Company of California. All tenders of Shares of Applicant will be irrevocable. Tenders must be in lots of 10 Shares each except that holders of fewer than 100 Shares may tender their entire holdings. Tenders may be made only by holders of record at the close of business June 13, 1969. Applicant will not accept tenders of more than 200,000 Shares in the aggregate; if more than that number are tendered, Applicant will accept in full all tenders made by holders of fewer than 100 Shares each and will accept other tenders on a pro rata basis.

Applicant asserts that it has 1,100,000 Shares authorized, of which 1,016,176 have been issued and are outstanding. Of the shares outstanding, 456,594 Shares are held by certain affiliated persons of Applicant and associates of such persons (referred to herein collectively as "The Dumaines Group"). The Dumaines Group includes Dumaines, a private trust, which holds 321,055 Shares and is deemed to control Applicant. The other persons in The Dumaines Group are other private trusts, the holdings of which may be deemed to be owned beneficially by F. C. Dumaine, Jr., president and director of Applicant, and members of Mr. Dumaine's immediate family and other private trusts which may be deemed associates of Mr. Dumaine. The Dumaines Group has advised Applicant that they will not tender. Consequently, Applicant has not requested an exemptive order applicable to The Dumaines Group. An additional 100,122 Shares are held beneficially by other directors of Applicant, some of whom have indicated to Applicant that they may tender some part or all of their holdings.

Applicant represents that as of May 29, 1969, the net asset value of one Share, after provision for estimated taxes as above-stated, was $76.76, 95 percent of which would be $72.92 and that on said date the bid and asked prices for Shares on the over-the-counter market were 62 and 65 respectively, on a dealer-to-dealer basis, such asked price representing a discount of 15.3 percent under such net asset value. Applicant also states that at December 31 in the years 1964–68, inclusive, the asked prices for Shares represented discounts under the net asset values, after provision for estimated taxes as above-stated, on such dates as follows: 1964, 35.51 percent; 1965, 30.31 percent; 1966, 28.30 percent; 1967, 24.98 percent; 1968, 7.89 percent.

Applicant asserts that the terms of the proposed invitation are reasonable and fair in that Shareholders whose Shares are acquired will receive a package of securities more readily marketable than such Shares and having a fair market value, with any cash which may be included, not less than and perhaps more than the market value of their Shares and of a value representing a higher percentage of the net asset value of Shares than the market price of such Shares has offered, being also a greater value than holders of Shares could presently obtain other than in complete liquidation of Applicant. Applicant further asserts that such terms are reasonable and fair in that Shareholders who do not tender or whose tenders are not accepted in full will hold Shares the net asset value and earnings per share of which will be somewhat increased as a result of the tender transaction. Applicant also asserts (1) that its acquisition of 200,000 Shares on the proposed basis would allow Applicant to distribute the portfolio securities in question without itself realizing, and being taxed upon, the appreciation in market value of such securities over the tax basis of Applicant therefor; and (2) that subject to certain possible exceptions, Applicant's Shareholders who tender Shares and receive securities in return therefor will realize and recognize capital gain (or loss) in their tax years in which their tenders are accepted.

Applicant alleges that in the period commencing November 27, 1968, the date when, according to the application, the management of Applicant first gave consideration to inviting tenders, through December 23, 1968, the day before the proposed tender transaction was initially authorized by the Board of Directors of Applicant, Dumaines purchased a total of 2,270 Shares from dealers in nine separate transactions at prices ranging from a low of 75, paid on December 23, to 80,

paid on December 5, 1968. Applicant further alleges that on December 12, 1968, it purchased seven Shares at 78, that on January 20, 1969, Dudley Dumaine, an officer, purchased 10 shares at 75, both purchases being from dealers, that on May 20, 1969, the wife of F. C. Dumaine, Jr., purchased 100 Shares at 62 from a dealer, and that it has no knowledge of any other purchases or sales of Shares from November 27, 1968, to date by it, any of its officers, directors, or employees, Dumaines or any of the trusts mentioned in connection with F. C. Dumaine, Jr.

Notice is further given that any interested person may, not later than July 1, 1969, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, That Applicant shall cause a copy of this notice to be mailed to each dealer from whom each of the persons mentioned hereinabove purchased Shares of Applicant since November 27, 1968, and to each person from whom such dealer obtained Shares of Applicant in connection with the dealer's sale of Shares to such purchasers.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69–7387; Filed, June 23, 1969; 8:45 a.m.]

BARTEP INDUSTRIES, INC.

Order Suspending Trading

JUNE 18, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Bartep Industries, 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 19, 1969 through June 28, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69–7388; Filed, June 23, 1969; 8:46 a.m.]

PHOTO MARK COMPUTER CORP.

Order Suspending Trading

JUNE 18, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Photo Mark Computer Corp., New York, N.Y., and all other securities of Photo Mark Computer Corp. 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 19, 1969 through June 28, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69–7389; Filed, June 23, 1969; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

SMALL BUSINESS ASSISTANCE CORP.

Notice of Surrender of License

Notice is hereby given that the Small Business Administration (SBA) accepted, on June 11, 1969, the surrender of the license issued to Small Business Assistance Corp (Licensee), New York, N.Y. (incorporated in New York).

SBA published a notice in the FEDERAL REGISTER on March 18, 1969, inviting comments regarding the request of the Licensee to surrender its license. SBA received no comments. The licensee repaid its debt to SBA and satisfied all other conditions for the surrender of its license.

The corporation no longer is licensed to operate as a small business investment company.

Dated: June 13, 1969.

A. H. SINGER,
Associate Administrator for Investment.

[F.R. Doc. 69–7390; Filed, June 23, 1969; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 853]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 19, 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 30837 (Sub-No. 372 TA), filed June 12, 1969. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Kenosha, Wis. 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potato harvesters* (mounted on trailers other than those designed to be drawn by passenger automobiles) from Lansing, Mich., to points in New York, Maine, Wisconsin, Pennsylvania, Ohio, New Jersey, Minnesota, and North Dakota, for 180 days. Supporting shipper: FMC Corp., John Dean Division, 1305 South Cedar Street, Box 9490, Lansing, Mich. 48909. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 41406 (Sub-No. 25 TA), filed June 13, 1969. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, Ind. 48323. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from (a) Ashland, Ky., to points in Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, Wisconsin and (b) between Ashland, Ky., and Middletown, Ohio, for 180 days. Supporting shipper:

Armco Steel Corp., Ashland, Ky. Send protests to: District Supervisor Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 112801 (Sub-No. 94 TA), filed June 13, 1969. Applicant: TRANSPORT SERVICE CO., Post Office Box 50272, Chicago, Ill. 60650. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Soy syrup*, in bulk, in tank vehicles, from Remington, Ind., to Taylorville, Ill., for 150 days. Supporting shipper: Allied Mills, Inc., 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 113514 (Sub-No. 105 TA), filed June 12, 1969. Applicant: SMITH TRANSIT, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: Wm. D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molecular sieves*, in bulk, from Fort Worth, Tex., to Michigan City, Ind., for 180 days. NOTE: Product is a dry chemical compound akin to catalytics. Applicant does not intend to tack with existing authority. Supporting shipper: American Cyanamid Co., Wayne, N.J. 07470. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 113678 (Sub-No. 354 TA), filed June 12, 1969. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, 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: *Canned meats*, from Waterloo, Iowa, and Trenton, Mo., to Los Angeles and San Francisco, Calif., for 180 days. Supporting shipper: Cudahy Co., 5014 South 33d Street, Omaha, Nebr. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 114533 (Sub-No. 191 TA), filed June 13, 1969. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Indianapolis, Ind., on the one hand, and, on the other, Milwaukee, Wis., for 150 days. Supporting shippers: The Service Bureau Corp., 1923 North Meridian Street, Indianapolis, Ind. 46202; Blue Cross and Blue Shield Co., 110 North Illinois Street, Indianapolis, Ind. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604

No. MC 116073 (Sub-No. 99 TA), filed June 12, 1969. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Post Office Box 601, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, and *buildings*, complete or in sections, in initial movement, from Tekamah, Nebr., to points in South Dakota, North Dakota, Iowa, Montana, Colorado, Oklahoma, Wyoming, Minnesota, Missouri, and Kansas, for 180 days. Supporting shipper: Shar-Lo Homes Tekamah, Nebr. 68061. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

No. MC 116073 (Sub-No. 99 TA), filed June 12, 1969. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Post Office Box 601, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, and *buildings*, complete or in sections, in initial movement, from Tekamah, Nebr., to points in South Dakota, North Dakota, Iowa, Montana, Colorado, Oklahoma, Wyoming, Minnesota, Missouri, and Kansas, for 180 days. Supporting shipper: Shar-Lo Homes, Tekamah, Nebr. 68061. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

No. MC 118989 (Sub-No. 30 TA), filed June 13, 1969. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53211. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and related parts*, from Valparaiso, Ind., to points in Iowa, Michigan, Wisconsin, and Ohio, for 150 days. Supporting shipper: The Coca-Cola Co., Foods Division, East Highway 30, Post Office Box 188, Valparaiso, Ind. 46383. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 118989 (Sub-No. 30 TA), filed June 13, 1969. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, Wis. 53211. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and related parts*, from Valparaiso, Ind., to points in Iowa, Michigan, Wisconsin, and Ohio, for 150 days. Supporting shipper: The Coca-Cola Co., Foods Division, East Highway 30, Post Office Box 188, Valparaiso, Ind. 46383. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 123283 (Sub-No. 4 TA), filed June 12, 1969. Applicant: CITY BEVERAGES, INC., 725 Saar Street, Kent, Wash. 98031. Applicant's representative: F. M. Basel (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mayonnaise, salad dressing and syrup*, from Kent, Wash., to points in Oregon, for 180 days. Supporting shipper: Blue Banner Foods, Post Office Box 348, 806 West Meeker, Kent, Wash. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 125788 (Sub-No. 2 TA) (correction), filed June 2, 1969, published FEDERAL REGISTER, issue of June 11, 1969, and republished as corrected this issue. Applicant: RAYMOND A. HARSCH, INC., 53 Evans Avenue, Elmont, N.Y. 11003. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from Odenton and Savage, Md., to points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, District of Columbia, and Virginia, and *returned shipments* in the opposite direction, under contract with National Industries, Inc., for 180 days. NOTE: The purpose of this republication is to correct the "commodity description". Supporting shipper: National Industries, Inc., Odenton, Md. 21113. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 126276 (Sub-No. 17 TA), filed June 13, 1969. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, Ill. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes transporting: *Glass containers and closures*, from Mudelein, Ill., to Terre Haute, Ind., for 180 days. Supporting shipper: Ball Brothers, Co., Inc., Muncie, Ind. 47302. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 127834 (Sub-No. 34 TA), filed June 12, 1969. Applicant: CHEROKEE HAULING & RIGGING, INC., 540–42 Merritt Avenue, Nashville, Tenn. Applicant's representative: M. Bryan Stanley, 540–42 Merritt Avenue, Nashville,

Tenn. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Iron and steel articles*, from Nashville, Tenn., to points in North Carolina, South Carolina, Georgia, Alabama, and Mississippi, and from points in Mississippi to Nashville, Tenn., for 180 days. Supporting shipper: Production Steel Co., Inc., Nashville, Tenn.; Mid-State Steel, Inc., Nashville, Tenn.; Mitchell Steel, Inc., Nashville, Tenn.; Justice Steel, Inc., Nashville, Tenn. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 128774 (Sub-No. 2 TA), filed June 13, 1969. Applicant: RICE TRUCKING, INC., 151 St. James Street, Mansfield, Pa. 16933. Applicant's representative: John D. Lewis, 19 Central Avenue, Wellsboro, Pa. 16901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from plantsite of Armco Steel Corp., Mansfield, Pa., to points in New Jersey, for 150 days. Supporting shipper: Armco Steel Corp., Mansfield, Pa. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 129445 (Sub-No. 7 TA), filed June 13, 1969. Applicant: DIXIE TRANSPORT CO. OF TEXAS, 3840 IH 10 South, Post Office Box 5447, Beaumont, Tex. 77706. Applicant's representative: Archie L. Wilson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in chunks, in bulk, from Port Neches, Tex., to Garden City, La., for 180 days. NOTE: Applicant does not intend to tack authority with presently authorized routes. Supporting shipper: Texaco, Inc. (Mr. Harry E. Colwell, traffic manager), 1111 Rusk Avenue, Post Office Box 52332, Houston, Tex. 77052. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-7411; Filed, June 23, 1969; 8:47 a.m.]

[S.O. 1002; Car Distribution Direction No. 57]

SEABOARD COAST LINE RAILROAD CO. ET AL.

Car Distribution

Pursuant to section 1 (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 1002.

It is ordered, That:

(1) Each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions:

(a) The Seaboard Coast Line Railroad Co. shall deliver to the St. Louis-San Francisco Railway Co. a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exceptions: Canadian ownerships.

(b) The St. Louis-San Francisco Railway Co. shall deliver to the Missouri Pacific Railroad Co. a weekly total of 175 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exceptions: Canadian ownerships.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(c) The carriers delivering the empty boxcars as described above must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(d) The carriers receiving the cars described above must advise Agent R. D. Pfahler each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) *Regulations suspended.* The operation of all rules and regulations insofar as they conflict with the provisions of this direction, is hereby suspended.

(3) *Effective date.* This direction shall become effective at 12:01 a.m., June 19, 1969.

(4) *Expiration date.* This direction shall expire at 11:59 p.m., July 13, 1969, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 18, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 69-7412; Filed, June 23, 1969; 8:47 a.m.]

[S.O. 1002; Car Distribution Direction No. 56-A]

SEABOARD COAST LINE RAILROAD CO., AND ST. LOUIS-SAN FRANCISCO RAILWAY CO.

Car Distribution

Upon further consideration of Car Distribution Direction No. 56, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 56 be, and it is hereby vacated.

It is further ordered, That this order shall become effective at 11:59 p.m., June 18, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., June 18, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 69-7413; Filed, June 23, 1969; 8:42 a.m.]

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FEDERAL REGISTER

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Tuesday, June 24, 1969 • Washington, D.C.

PART II

Department of Health, Education, and Welfare

Social and Rehabilitation Service

•

Institutional Services in Intermediate Care Facilities

Amount, Duration and Scope of Medical Assistance

Standards for Payment for Skilled Nursing Home Care

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

Institutional Services in Intermediate Care Facilities

Interim Policy Statement No. 23 which sets forth regulations to implement section 1121 of the Social Security Act, as amended, with respect to assistance in the form of institutional services in intermediate care facilities was published in the FEDERAL REGISTER of September 12, 1968 (33 F.R. 12925). After consideration of views presented by interested persons, the following changes in the regulations were made: (1) interim policy paragraph 3.A.(3)(a) has been revised in the final policy under paragraph (a)(3)(i) to mention State agencies for mental retardation; (2) interim policy paragraph 3.A.(3)(b) has been revised in the final policy under paragraph (a)(3)(ii) to provide for certification of need by a Christian Science practitioner, rather than a physician, in the case of services provided in a Christian Science sanatorium; (3) interim policy paragraph 3.A.(4) has been revised to add the requirement in the final policy under paragraph (a)(4) that a registered professional nurse participate in the regular periodic review of care being received by recipients in intermediate care facilities; (4) interim policy paragraph 3.A.(5) was revised to add the clarifying phrase "with respect to social and related problems" under paragraph (a)(5) of the final policy; (5) the definition of "institutional services" under interim policy paragraph 3.D. has been revised in the final policy under paragraph (d)(1) to provide that Christian Science sanatoria operated, or listed and certified, by the Church are not required to provide the range or level of care defined under paragraph (d)(4) of the final policy; (6) the requirement under interim policy paragraph 3.D., "Intermediate care facility" (1), with respect to licensing of an intermediate care facility has been reworded in the final policy under paragraph (d)(3)(i) to provide that Christian Science sanatoria need only be operated, or listed and certified, by the Church and recognized under State law; (7) interim policy paragraph 3.D., "Range of level of care and services", (3), has been revised in the final policy under paragraph (d)(4)(iii) to provide that services to assist residents in dealing with social and related problems may be provided by caseworkers on the staff of the facility or through other arrangements; (8) interim policy paragraph 3.D., "Range of level of care and services", (7) Health services, (a), has been revised in the final policy under paragraph (d)(4)(vii)(a) to provide that where a State establishes two or more classifications of intermediate care facilities, the employment of a nurse is not required of institutions in classifications serving only residents determined by their physicians not to need supervision by a licensed nurse; (9) physician supervision provided for under 3.D., "Range of level of care and services", (7) Health services, (b) of the interim policy has been revised in the final policy under paragraph (d)(4)(vii)(b) to provide that residents be seen by their physician as needed; (10) interim policy paragraph 3.D. "Range of level of care and services", (7) Health services, (c), has been revised in the final policy under paragraph (d)(4)(vii)(c) to clarify the point that the nurse in charge of the facilities' health services gives general supervision to the individual's personal health program and that the facility is not required to employ additional nurses on their staffs to provide such services. Accordingly, the regulations as so amended are hereby codified by adding a new § 234.130 to part 234 of Chapter II of Title 45 of the Code of Federal Regulations as set forth below.

§ 234.130 Assistance in the form of institutional services in intermediate care facilities.

(a) *State plan requirements.* If a State plan under title I, X, XIV, or XVI of the Social Security Act includes benefits in the form of institutional services in intermediate care facilities, it must:

(1) Provide that such benefits will be provided only to individuals who:

(i) Are entitled (or would, if not receiving institutional services in intermediate care facilities, be entitled) to receive assistance, under the State plan, in the form of money payments; and

(ii) Because of their physical or mental condition (or both) require living accommodations and care which, as a practical matter, can be made available to them only through institutional facilities; and

(iii) Do not have such an illness, disease, injury, or other condition as to require the degree of care and treatment which a hospital or skilled nursing home (as that term is employed in title XIX of the Act) is designed to provide.

(2) Provide that, in determining financial eligibility for benefits in the form of institutional services in intermediate care facilities, available income will be applied, first, for personal and incidental needs including clothing, and that any remaining income will be applied to the costs of care in the intermediate care facility.

(3) Provide methods of administration that include

(i) Placing of responsibility, within the State agency, with one or more staff members who devote full time to direction and guidance of the agency's activities with respect to services in intermediate care facilities including arrangements for consultation and working relationships with the State standard-setting authority and State agencies responsible for mental health and for mental retardation;

(ii) Provisions for evaluation by a physician of the individual's physical and mental condition and the kinds and amounts of care he requires; evaluation by the agency worker of the resources available in the home, family, and community; and participation by the recipient in determining where he is to receive care, except that, in the case of services being provided in a Christian Science sanatorium, certification by a qualified Christian Science practitioner that the individual meets the requirements specified in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section may be substituted for the evaluation by a physician;

(iii) Provisions that assure that such evaluations will be made immediately prior to authorization of the benefits originally, and that reevaluations will be made as indicated by changes in the conditions or circumstances of the recipient and, in no case, at intervals longer than quarterly.

(4) Effective July 1, 1969, provide for regular, periodic review and reevaluation (by or on behalf of the State agency administering the plan and in addition to the activities described in subparagraph (3) of this paragraph) of recipients in intermediate care facilities to determine whether their current physical and mental conditions are such as to indicate continued placement in the intermediate care facility, whether the services actually rendered are adequate and responsive to the conditions and needs identified, and whether a change to other living arrangements, or other institutional facilities (including skilled nursing homes) is indicated. Such reviews must be followed by appropriate action on the part of the State agency administering the plan. They must be conducted by or under the supervision of a physician with participation by a registered professional nurse and other appropriate medical and social service personnel not employed by or having a financial interest in the facility, except that, in the case of recipients who have elected care in a Christian Science sanatorium, review by a physician or other medical personnel is not required.

(5) Describe the services with respect to social and related problems that the agency will make available to applicants and recipients and provide for extending the full scope of such services to all applicants for and recipients of benefits in the form of institutional services in intermediate care facilities.

(6) Include copies of (i) the State's requirements for licensing of facilities, however described, that will qualify under the State plan for participation as intermediate care facilities; (ii) any requirements imposed by the State in addition to licensing and to definition of intermediate care facilities and the definition of the range or level of care and services set forth in paragraph (d)(4) of this section; and (iii) a description of the manner in which such requirements are applied and enforced including copies of agreements or contracts, if any, with the licensing authority for this purpose.

(7) Provide for and describe methods of determining amounts of vendor payments to intermediate care facilities which systematically relate amounts of the payment to the kinds, levels, and quantities of services provided to the recipients by the institutions and to the cost of providing such services.

(b) *Other requirements.* Except when inconsistent with purposes of section 1121 of the Act or contrary to any provision therein, any modification, pursuant thereto, of an approved State plan shall be subject to the same conditions, limitations, rights, and obligations as obtain with respect to such approved State plan. Included specifically among such conditions and limitations are the provisions of titles I, X, XIV, and XVI of the Act relating to payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution).

(c) *Federal financial participation.* Beginning with the effective date of approval of amendments to the State plan pursuant to section 1121 of the Act, Federal financial participation is available, under this section of the Act, in vendor payments for institutional services provided to individuals who are eligible under the respective State plan and who are residents in intermediate care facilities. The rate of participation is the same as for money payments under the respective title or, if the State so elects, at the rate of the Federal medical assistance percentage as defined in section 1905(b) of the Act.

(d) *Definition of terms.* For purposes of section 1121 of the Social Security Act, the following definitions apply:

(1) *Institutional services.* The term, "institutional services," means those items and services furnished by the institution in connection with providing the required range or level of care and services as defined in subparagraph (4) of this paragraph; and other services provided by or under the auspices of the institution which contribute to the health, comfort, and well-being of the residents thereof; or, in the case of a Christian Science sanatorium operated or listed and certified by the First Church of Christ, Scientist, Boston, Mass., the institutional services deemed appropriate by the State; except that the term, "institutional services," does not include allowances for clothing and incidental expenses for which money payments to recipients are made under the plan, nor does it include medical care, in a form identifiable as such and separable from the routine services of the facility, for which vendor payments may be made under a State plan approved under title I, X, XIV, XVI, or XIX of the Act.

(2) *Distinct part of an institution.* A "distinct part" of an institution is defined as a part which meets the definition of an intermediate care facility and the following conditions:

(i) *Identifiable unit.* The "distinct part" of the situation is an entire unit such as an entire ward or contiguous wards, wing, floor, or building. It consists of all beds and related facilities in the unit and houses all residents, except as hereafter provided, for whom payment is being made for intermediate care. It is clearly identified and is approved, in writing, by the agency applying the definition of intermediate care facility herein.

(ii) *Staff.* Appropriate personnel are assigned and work regularly in the unit. Immediate supervision of staff is provided in the unit at all times by qualified personnel.

(iii) *Shared facilities and services.* The distinct part may share such central services and facilities as management services, building maintenance and laundry, with other units.

(iv) *Transfers between distinct parts.* In a facility having distinct parts devoted to skilled nursing home care and intermediate care, which facility has been determined by the appropriate State agency to be organized and staffed to provide services according to individual needs throughout the institution, nothing herein shall be construed to require transfer of an individual within the institution when in the opinion of the individual's physician such transfer might be harmful to the physical or mental health of the individual.

(3) *Intermediate care facility.* An intermediate care facility is an institution or a distinct part thereof which

(i) Is licensed under State law to provide the residents thereof, on a regular basis, the range or level of care and services, defined in subparagraph (4) of this paragraph, which is suitable to the needs of individuals who

(*a*) Because of their physical or mental limitations or both, require living accommodations and care which, as a practical matter, can be made available to them only through institutional facilities, and

(*b*) Do not have such an illness, disease, injury, or other condition as to require the degree of care and treatment which a hospital or skilled nursing home (as that term is employed in title XIX of the Act) is designed to provide;

(ii) Does not provide the degree of care required to be provided by a skilled nursing home furnishing services under a State plan approved under title XIX of the Act;

(iii) Meets such standards of safety and sanitation as are applicable to nursing homes under State law; and

(iv) Regularly provides a level of care and service beyond board and room.

The term "intermediate care facility" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass.

(4) *Range or level of care and services.* The range or level of care and services suitable to the needs of individuals described in subparagraph (3)(i) (*a*) and (*b*) of this paragraph is defined as including, as a minimum, the following items.

(i) *Admission, transfer, and discharge of residents.* The admission, transfer, and discharge of residents of the facility are conducted in accordance with written policies of the institution that include at least the following provisions.

(*a*) Only those persons are accepted into the facility whose needs can be met within the accommodations and services the facility provides;

(*b*) As changes occur in their physical or mental condition, necessitating service or care not regularly provided by the facility, residents are transferred promptly to hospitals, skilled nursing homes, or other appropriate facilities;

(*c*) The resident, his next of kin, and the responsible agency if any, are consulted in advance of the discharge of any resident, and casework services or other means are utilized to assure that adequate arrangements exist for meeting his needs through other resources.

(ii) *Personal care and protective services.* The types and amounts of protection and personal service needed by each resident of the facility are a matter of record and are known to all staff members having personal contact with the resident. At least the following services are provided.

(*a*) There is, at all times, a responsible staff member actively on duty in the facility, and immediately accessible to all residents, to whom residents can report injuries, symptoms of illness, or emergencies, and who is immediately responsible for assuring that appropriate action is taken promptly.

(*b*) Assistance is provided, as needed by individual residents, with routine activities of daily living including such services as help in bathing, dressing, grooming, and management of personal affairs such as shopping.

(*c*) Continuous supervision is provided for residents whose mental condition is such that their personal safety requires such supervision.

(iii) *Social services.* Services to assist residents in dealing with social and related problems are available to all residents through one or more caseworkers on the staff of the facility; and/or, in the case of recipients of assistance, through caseworkers on the staff of the assistance agency; or through other arrangements.

(iv) *Activities.* Activities are regularly available for all residents, including social and recreational activities involving active participation by the residents, entertainment of appropriate frequency and character, and opportunities for participation in community activities as possible and appropriate.

(v) *Food service.* At least three meals a day, constituting a nutritionally adequate diet, are served in one or more dining areas separate from sleeping quarters, and tray service is provided for residents temporarily unable to leave their rooms.

(vi) *Special diets.* If the facility accepts or retains individuals in need of medically prescribed special diets, the menus for such diets are planned by a professionally qualified dietician, or are reviewed and approved by the attending physician, and the facility provides supervision of the preparation and serving of the meals and their acceptance by the resident.

(vii) *Health services.* Whether provided by the facility or from other sources, at least the following services are available to all residents:

(*a*) Immediate supervision of the facility's health services by a registered professional nurse or a licensed practical nurse employed full-time in the facility and on duty during the day shift except that, where the State recognizes and describes two or more distinct levels of institutions as intermediate care facilities such personnel are not required in any level that serves only individuals who have been determined by their physicians not to be in need of such supervision and whose need for such supervision is reviewed as indicated, and at least quarterly as provided in paragraphs (a)(3)(iii) and (d)(4)(vii)(*b*) of this section.

(*b*) Continuing supervision by a physician who sees the resident as needed and, in no case, less often than quarterly;

(*c*) Under direction by the resident's physician and (where applicable in accordance with subdivision (vii)(*a*) of this subparagraph) general supervision by the nurse in charge of the facility's health services, guidance and assistance for each resident in carrying out his personal health program to assure that preventive measures, treatments, and medications prescribed by the physician are properly carried out and recorded;

(*d*) Arrangements for services of a physician in the event of an emergency when the resident's own physician cannot be reached;

(*e*) In the presence of minor illness and for temporary periods, bedside care under direction of the resident's physician including nursing service provided by, or supervised by, a registered professional nurse or a licensed practical nurse;

(*f*) An individual health record for each resident including

(*1*) the name, address, and telephone number of his physician;

(*2*) a record of the physician's findings and recommendations in the preadmission evaluation of the individual's condition and in subsequent reevaluations and all orders and recommendations of the physician for care of the resident;

(*3*) all symptoms and other indications of illness or injury brought to the attention of the staff by the resident, or from other sources, including the date, time, and action taken regarding each.

(viii) *Living accommodations.* Space and furnishings provide each resident clean, comfortable and reasonably private living accommodations with no more than four residents occupying a room, with individual storage facilities for clothing and personal articles, and with lounge, recreation and dining areas provided apart from sleeping quarters.

(ix) *Administration and management.* The direction and management of the facility are such as to assure that the services required by the residents are so organized and administered that they are, in fact, available to the residents on a regular basis and that this is accomplished efficiently and with consideration for the objective of providing necessary care within a homelike atmosphere. Staff are employed by the facility sufficient in number and competence, as determined by the appropriate State agency, to meet the requirements of the residents.

(Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302)

Effective date: The regulations in this section shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: May 6, 1969.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: June 18, 1969.

JOHN G. VENEMAN,
Acting Secretary

[F.R. Doc. 69-7400; Filed, June 23, 1969; 8:45 a.m.]

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Amount, Duration and Scope of Medical Assistance

Interim Policy Statement No. 19 which sets forth regulations with respect to the amount, duration, and scope of medical assistance under title XIX of the Social Security Act, including recent amendments to sections 1902(a)(10) and (13), 1905(a)(4)(B), and 1907, was published in the FEDERAL REGISTER of November 5, 1968 (33 F.R. 16165). After consideration of views presented by interested persons, the following changes in the regulations were made: (1) the effective date of the requirement of transportation under section A(4) of the Interim Policy Statement has been postponed to July 1, 1970 (see § 249.10(a)(4) of this part); (2) section B(4)(a)(viii) of the Interim Policy Statement relating to skilled nursing home services has been revised under § 249.10(b)(4)(i)(*h*) of this part to incorporate by reference the standards for skilled nursing homes issued pursuant to section 1902(a)(28) of the Social Security Act; (3) section B(4)(a)(xii) of the Interim Policy Statement has been revised under § 249.10(b)(4)(i)(*l*) of this part to provide that State regulations on the correction of deficiencies for State licensure will govern for the provisions of section 234(c) of the Social Security Amendments of 1967; (4) section B(14)(d) of the Interim Policy Statement has been revised under § 249.10(b)(14)(iv) of this part to postpone to July 1, 1970 the date by which institutions for mental diseases under subdivision (*b*) must meet the standards of title XVIII, section 1861(f), and a new provision has been added that, effective October 1, 1969, in the case of such an institution the single State agency must have on file a written plan describing steps which the institution will take for meeting such standards by July 1, 1970; (5) provision of whole blood as an item of medical care which was previously in section B(15)(c) of the Interim Policy Statement has been deleted because it is included in services provided under § 249.10(b)(1) of this part; (6) provision of the services of Christian Science Practitioners under section B(15)(d) of the Interim Policy Statement has been deleted and services of Christian Science nurses have been added to § 249.10(b)(15)(iii) of this part; and (7) provision of personal care services in the recipient's home under § 249.10(b)(15)(vii) of this part will be eliminated, effective July 1, 1969. Accordingly, the regulations as so amended are hereby codified by adding a new § 249.10 in part 249 of Chapter II of Title 45 of the Code of Federal Regulations as set forth below.

§ 249.10 Amount, duration, and scope of medical assistance.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Specify that at least the first five items of medical and remedial care and services, set forth in paragraph (b)(1) through (5) of this section, will be provided to the categorically needy.

(2) Specify that, if the plan includes the medically needy, at least the following items of medical and remedial care and services will be provided to the medically needy:

(i) The first five items set forth in paragraph (b)(1) through (5) of this section; or

(ii) (*a*) Any seven of the items set forth in paragraph (b)(1) through (14) of this section; and

(*b*) If the plan includes inpatient hospital services or skilled nursing home services, physicians' services to eligible individuals when they are patients in a hospital or skilled nursing home, even though physicians' services as defined in paragraph (b)(5) of this section are not otherwise included for the medically needy.

(3) Effective July 1, 1970, provide for the inclusion of home health services for any eligible individual who, under the plan, is entitled to skilled nursing home services.

(4) Specify the amount and/or duration of each item of medical and remedial care and services that will be provided to the categorically needy and to the medically needy, if the plan includes this latter group. Such items must be sufficient in amount, duration, and scope to reasonably achieve their purpose. Effective July 1, 1970, specify that there will be provision for assuring necessary transportation of recipients to and from providers of services and describe the methods that will be used.

(5) Provide that the medical and remedial care and services made available to any categorically needy individual included under the plan will not be less in amount, duration, or scope than those made available to other individuals included under the program, except that:

(i) Skilled nursing home services may be limited to persons 21 years of age or older;

(ii) Services to persons in institutions for tuberculosis or mental diseases may be limited to persons 65 years of age or over;

(iii) Benefits under part B of title XVIII of the Social Security Act made available to individuals 65 years of age or over through a "buy-in" agreement or payment of the premiums, or the payment of part or all of the deductibles, cost sharing or similar charges under part B, may be limited to such individuals; and

(iv) Early and periodic screening and diagnosis for individuals, and treatment of conditions found, as provided in section 1905(a)(4)(B) of the Act, may be limited to individuals under 21 years of age.

(6) Provide that the medical and remedial care and services made available to a group (i.e., either the categorically needy or the medically needy) will be equal in amount, duration, and scope for all individuals within the group, with the permissible exceptions specified in subparagraph (5) of this paragraph.

(7) Include a description of the methods that will be used to assure that the medical and remedial care and services are of high quality, and a description of the standards established by the State to assure high quality care.

(8) Provide for broadening the scope of the medical and remedial care and services made available under the plan, to the end that, by July 1, 1975, comprehensive medical and remedial care and services will be furnished to all eligible individuals.

(9) If the State plan includes medical and remedial care and services in relation to family planning, as defined in paragraph (b)(15)(ii) of this section, provide that there shall be freedom from coercion or pressure of mind and conscience, and freedom of choice of method, so that individuals can choose in accordance with the dictates of their consciences.

(b) *Federal financial participation.* Subject to the limitations in paragraph (c) of this section, Federal financial participation is available in expenditures for medical or remedial care and services under the State plan which meet the following definitions:

(1) *Inpatient hospital services (other than services in an institution for tuberculosis or mental diseases).* "Inpatient hospital services" are those items and services ordinarily furnished by the hospital for the care and treatment of inpatients provided under the direction of a physician or dentist in an institution maintained primarily for treatment and care of patients with disorders other than tuberculosis or mental diseases and which is licensed or formally approved as a hospital by an officially designated State standard-setting authority and is qualified to participate under title XVIII of the Social Security Act, or is determined currently to meet the requirements for such participation; and which has in effect a hospital utilization review plan applicable to all patients who receive medical assistance under title XIX of the Act.

(2) *Outpatient hospital services.* "Outpatient hospital services" are those preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to an outpatient by an institution which is licensed or formally approved as a hospital by an officially designated State standard-setting authority and is qualified to participate under title XVIII of the Social Security Act, or is determined currently to meet the requirements for such participation.

(3) *Other laboratory and X-ray services.* The term "other laboratory and X-ray services" means professional and technical laboratory and radiological services ordered by a physician or other licensed practitioner of the healing arts within the scope of his practice as defined by State law, and provided to a patient by, or under the direction, of a physician or licensed practitioner, in an office or similar facility other than a hospital outpatient department or a clinic, and provided to a patient by a laboratory that is qualified to participate under title XVIII of the Social Security Act, or is determined currently to meet the requirements for such participation.

(4)(i) *Skilled nursing home services (other than services in an institution for tuberculosis or mental diseases) for individuals 21 years of age or older.* "Skilled nursing home services" means those items and services furnished by a skilled nursing home maintained primarily for the care and treatment of inpatients with disorders other than tuberculosis or mental diseases which are provided under the direction of a physician or other licensed practitioner of the healing arts within the scope of his practice as defined by State law. A "skilled nursing home" is a facility, or a distinct part of a facility, which meets the following conditions:

(*a*) The facility is constructed, equipped, maintained, and operated in compliance with all applicable State and local laws and regulations affecting the health and safety of the patients and their protection against the hazards of fire and other disaster, and there is a written, rehearsed disaster plan.

(*b*) The administrator is qualified by training and experience for successful operation of a nursing home and has the necessary authority and responsibility for management of the facility.

(*c*) The facility employs staff sufficient in number and qualifications to meet the requirements of the patients accepted for care or remaining in the facility for care.

(*d*) Food is prepared and served under competent direction, at regular and appropriate times. Professional consultation is available to assure good nutritional standards and that the dietary needs of the patients are met.

(*e*) Patient care is provided in accordance with written policies formulated with the advice of one or more professional registered nurses.

(*f*) Constructive care directed toward restoring and maintaining each patient at his best possible functional level is provided, including activities designed to encourage self-care and independence provided as a part of the patient's treatment program.

(*g*) Patients in need of nursing care are admitted to a facility only upon recommendation by a physician of the need for the level of care provided by that facility. The care of such patients is continuously under the supervision of a physician; and the facility maintains arrangements that assure that the services of a physician who can act in case of emergency are continuously available.

(*h*) Effective July 1, 1969, the facility has been determined by the single State agency to meet all of the standards established under section 1902(a)(28) of the Act, as evidenced by an agreement between the single State agency and the facility for the provision of skilled nursing home care and the making of payments under the plan. The predecessor condition relating to nursing service staff as stated in Interim Policy Statement No. 19, paragraph B.(4)(a)(viii), published in the FEDERAL REGISTER on November 5, 1968 (33 F.R. 16165), and in the Handbook of Public Assistance, Supplement D, section D-5141.4.1(h), is revoked as of July 1, 1968.

(*i*) All drugs and medications are prescribed, handled, stored, and administered in accordance with accepted professional practices.

(*j*) An individual record is maintained for each patient covering his medical, nursing, and related care in accordance with accepted professional standards.

(*k*) Effective arrangements are maintained through which services required by the patients but not regularly provided within the facility can be obtained promptly when needed. This includes laboratory, X-ray, and other diagnostic services, and regular and emergency dental care. It includes, also, provisions for recognition of need for social services and for prompt reporting of such need to the local welfare department or other appropriate source.

(*l*) Effective July 1, 1968, the facility is licensed or formally approved as a nursing home by an officially designated State standard-setting authority and has not been determined by such authority not to meet fully all requirements of the State for licensure as a nursing home except as provided in the next sentence. Payments to a nursing home which formerly met fully all requirements of the State for licensure as a nursing home, but is currently determined not to meet fully all such requirements, may be recognized for a period specified by the State standard-setting authority, if during such period such home promptly takes all necessary steps to again meet such requirements.

(ii) *Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.* Effective July 1, 1969 (or earlier at the option of the State), early and periodic screening and diagnosis of individuals under the age of 21 who are eligible under the plan to ascertain their physical or mental defects, and health

care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby.

(5) *Physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled nursing home or elsewhere.* "Physicians' services" are those services provided, within the scope of practice of his profession as defined by State law, by or under the personal supervision of an individual licensed under State law to practice medicine or osteopathy.

(6) *Medical care and any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law.* This term means any medical or remedial care or services other than physicians' services, provided within the scope of practice as defined by State law, by an individual licensed as a practitioner under State law.

(7) *Home health care services.* "Home health care services" in addition to the services of physicians, dentists, physical therapists, and other services and items available to patients in their homes and described elsewhere in these definitions, are any of the following items and services when they are provided on recommendation of a licensed physician to a patient in his place of residence, but not including as a residence a hospital or a skilled nursing home:

(i) Intermittent or part-time nursing services furnished by a home health agency;

(ii) Intermittent or part-time nursing services of a professional registered nurse or a licensed practical nurse under the direction of the patient's physician, when no home health agency is available to provide nursing services;

(iii) Medical supplies, equipment, and appliances recommended by the physician as required in the care of the patient and suitable for use in the home;

(iv) Services of a home health aide, who is an individual assigned to give personal care services to a patient in accordance with the plan of treatment outlined for the patient by the attending physician and the home health agency which assigns a professional registered nurse to provide continuing supervision of the aide on her assignment. The term "home health agency" means a public or private agency or organization, or a subdivision of such an agency or organization, which is qualified to participate as a home health agency under title XVIII of the Social Security Act, or is determined currently to meet the requirements for such participation.

(8) *Private duty nursing services.* "Private duty nursing services" are nursing services provided by a professional registered nurse or a licensed practical nurse, under the general direction of the patient's physician, to a patient in his own home or in a hospital, skilled nursing home, or extended care facility when the patient requires individual and continuous care beyond that available from a visiting nurse or that routinely provided by the nursing staff of the hospital, nursing home, or extended care facility.

(9) *Clinic services.* "Clinic services" are preventive diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient by or under the direction of a physician or dentist in a facility which is not part of a hospital but which is organized and operated to provide medical care to outpatients.

(10) *Dental services.* "Dental services" are any diagnostic, preventive, or corrective procedures administered by or under the supervision of a dentist in the practice of his professon. Such services include treatment of the teeth and associated structures of the oral cavity, and of disease, injury, or impairment which may affect the oral or general health of the individual. The term "dentist" means a person licensed to practice dentistry or dental surgery.

(11) *Physical therapy and related services.* "Physical therapy and related services" means physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders, and the use of such supplies and equipment as are necessary.

(i) "Physical therapy" means those services prescribed by a physician and provided to a patient by or under the supervision of a qualified physical therapist. A "qualified physical therapist" is a graduate of a program of physical therapy approved by the Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association, or its equivalent, and where applicable, is licensed by the State.

(ii) "Occupational therapy" means those services prescribed by a physician and provided to a patient and given by or under the supervision of a qualified occupational therapist. A "qualified occupational therapist" is registered by the American Occupational Therapy Association or is a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association and is engaged in the required supplemental clinical experience prerequisite to registration by the American Occupational Therapy Association.

(iii) "Services for individuals with speech, hearing, and language disorders" are those diagnostic, screening, preventive or corrective services provided by or under the supervision of a speech pathologist or audiologist in the practice of his profession for which a patient is referred by a physician. A speech pathologist or audiologist is one who has been granted the Certificate of Clinical Competence in the American Speech and Hearing Association, or who has completed the equivalent educational requirements and work experience necessary for such a certificate, or who has completed the academic program and is in the process of accumulating the necessary supervised work experience required to qualify for such a certificate.

(12) *Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select.* (i) "Prescribed drugs" are any simple or compounded substance or mixture of substances prescribed as such or in other acceptable dosage forms for the cure, mitigation, or prevention of disease, or for health maintenance, by a physician or other licensed practitioner of the healing arts within the scope of his professional practice as defined and limited by Federal and State law. With respect to "prescribed drugs", Federal financial participation is available in expenditures for drugs dispensed by licensed pharmacists and licensed authorized practitioners in accordance with the State Medical Practice Act. When dispensing, the practitioner must do so on his written prescription and maintain records thereof.

(ii) "Dentures" are artificial structures prescribed by a dentist to replace a full or partial set of teeth and made by, or according to the directions of, a dentist.

(iii) "Prosthetic devices" means replacement, corrective, or supportive devices prescribed for a patient by a physician or other licensed practitioner of the healing arts within the scope of his practice as defined by State law for the purpose of artificially replacing a missing portion of the body, or to prevent or correct physical deformity or malfunction, or to support a weak or deformed portion of the body.

(iv) "Eyeglasses" are lenses, including frames when necessary, and other aids to vision prescribed by a physician skilled in diseases of the eye, or by an optometrist, whichever the patient may select, to aid or improve vision.

(13) *Other diagnostic, screening, preventive, and rehabilitative services.* (i) "Diagnostic services", other than those for which provision is made elsewhere in these definitions, include any medical procedures or supplies recommended for a patient by his physician or other licensed practitioner of the healing arts within the scope of his practice as defined by State law, as necessary to enable him to identify the existence, nature, or extent of illness, injury, or other health deviation in the patient.

(ii) "Screening services" consist of the use of standardized tests performed under medical direction in the mass examination of a designated population to detect the existence of one or more particular diseases or health deviations or to identify suspects for more definitive studies.

(iii) "Preventive services" are those provided by a physician or other licensed practitioner of the healing arts, within the scope of his practice as defined by State law, to prevent illness, disease, disability and other health deviations or their progression, prolong life and promote physical and mental health and efficiency.

(iv) "Rehabilitative services", in addition to those for which provision is made elsewhere in these definitions, include any medical remedial items or services prescribed for a patient by his physician or other licensed practitioner

of the healing arts, within the scope of his practice as defined by State law, for the purpose of maximum reduction of physical or mental disability and restoration of the patient to his best possible functional level.

(14) *Inpatient hospital services and skilled nursing home services for individuals 65 years of age or over in an institution for tuberculosis or mental diseases.* For purposes of this subparagraph:

(i) "Inpatient hospital services" are those items and services ordinarily furnished by the hospital to inpatients, which are provided to an inpatient in the institution or to a patient who is receiving care in the institution under a day-care or a night-care plan, and which are furnished under the direction of a physician to a patient in an institution for tuberculosis or an institution for mental diseases.

(ii) "Skilled nursing home services" are those items and services given in a skilled nursing home, as defined in subparagraph (4)(i) of this paragraph, when these items and services are furnished to patients who would not have been discharged from, or would be admitted to, an institution for tuberculosis or mental diseases if skilled nursing home services were not available to them.

(iii) An "institution for tuberculosis", qualified to carry out the provisions of the Act in respect to the care and treatment of individuals 65 years of age or over is one that (*a*) meets the requirements for a tuberculosis hospital under title XVIII, section 1861(g), of the Social Security Act; or (*b*) effective only until July 1, 1969, is licensed, or formally approved, by an officially designated State standard-setting authority as a hospital or medical institution operated primarily to provide diagnosis, treatment and rehabilitation to inpatients with tuberculosis.

(iv) An "institution for mental diseases", qualified to carry out the provisions of the Act in respect to the care and treatment of individuals 65 years of age or over is one that (*a*) meets requirements for a psychiatric hospital under title XVIII, section 1861(f), of the Social Security Act; or (*b*) effective only until July 1, 1970, is approved by appropriate State standard-setting authorities as a hospital established for the care of the mentally ill and as being physically safe and as having staff adequate in number and qualifications to carry out an active program of diagnostic, treatment and rehabilitative services for its patients; and specifically provides psychiatric supervision, medical services, including 24-hour nursing services under the supervision of a registered nurse, and the social services necessary to assure a continuous plan of treatment and care for all of its patients. Effective October 1, 1969, in the case of any institution for mental diseases which qualifies for Federal Financial Participation through subdivision (*b*) the single State agency must have on file a written plan which describes the steps which the institution will take for meeting the requirements of title XVIII, section 1861(f) of the Act by July 1, 1970.

(15) *Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary.* This term includes the following items in those States in which they are recognized under State law and under the circumstances, and to the extent to which, they are so recognized:

(i) Transportation, including expenses for transportation and other related travel expenses, necessary to securing medical examinations and/or treatment when determined by the agency to be necessary in the individual case. "Travel expenses" are defined to include the cost of transportation for the individual by ambulance, taxicab, common carrier or other appropriate means; the cost of outside meals and lodging en route to, while receiving medical care, and returning from a medical resource; and the cost of an attendant to accompany him, if medically or otherwise necessary. The cost of an attendant may include transportation, meals, lodging, and salary of the attendant, except that no salary may be paid a member of the patient's family.

(ii) Family planning services, including drugs, supplies, and devices, when such services are under the supervision of a physician.

(iii) Services of Christian Science nurses who are listed and certified by the First Church of Christ Scientist, Boston, Mass., when these services have been requested by the patient and are provided (*a*) by, or under the supervision of, a Christian Science visiting nurse organization listed and certified by the First Church of Christ Scientist, Boston, Mass.; or (*b*) as private duty services to an individual in his own home or in a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ Scientist, Boston, Mass., when the patient requires individual and continuous care beyond that available from a visiting nurse or that routinely provided by the nursing staff of the sanatorium.

(iv) Care and services provided in Christian Science sanatoria operated by, or listed and certified by, the First Church of Christ Scientist, Boston, Mass.

(v) Skilled nursing home services, as defined in subparagraph (4)(i) of this paragraph, provided to patients under 21 years of age.

(vi) Emergency hospital services which are necessary to prevent the death or serious impairment of the health of the individual and which, because of the threat to the life or health of the individual, necessitate the use of the most accessible hospital available which is equipped to furnish such services, even though the hospital does not currently meet the conditions for participation under title XVIII of the Social Security Act, or definitions of inpatient or outpatient hospital services set forth in subparagraphs (1) and (2) of this paragraph.

(vii) Effective only until July 1, 1969, personal care services in a recipient's home prescribed by a physician in accordance with a plan of treatment and rendered by an individual, not a member of the family, certified by a physician as being qualified to perform such services.

(c) *Limitations.* Federal financial participation in expenditures for medical and remedial care and services listed in paragraph (b) of this section is not available with respect to any individual who is an inmate of a public institution (except as a patient in a medical institution), or any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

(d) *General provisions.* (1) In all the items listed in paragraph (b) of this section, the following definitions apply, except to the extent the context otherwise requires:

(i) "Patient" is an individual who is in need of and receiving professional services directed by a licensed practitioner of the healing arts toward maintenance, improvement, or protection of health or alleviation of disability or pain.

(ii) "Inpatient" is a patient who has been admitted to a hospital, skilled nursing home, or other medical institution on recommendation of a physician or dentist and is receiving room, board, and professional services in the institution on a continuous 24-hour a day basis.

(iii) "Outpatient" is a patient who is receiving his professional services at an organized medical facility, or distinct part of such facility, which is not providing him with room and board and professional services on a continuous 24-hour-a-day basis.

(2) Nothing in the Social Security Act or Federal policies thereunder will be construed to require any State to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under its approved State plan if such person objects, or in the case of a child, his parent or guardian objects, to such care on religious grounds. An individual may not be found eligible unless he undergoes such physical examination as is necessary to establish his eligibility, e.g., an examination must be made of an individual applying for medical assistance on the basis of his disability (as disabled under the AFDC, AB, APTD, or AABD program).

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date: The regulations in this section shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: May 6, 1969.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: June 18, 1969.

JOHN G. VENEMAN,
Acting Secretary.

[F.R. Doc. 69-7401; Filed, June 23, 1969; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

STANDARDS FOR PAYMENT FOR SKILLED NURSING HOME CARE

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below (made pursuant to sections 1102 and 1902(a)(28) of the Social Security Act, 42 U.S.C. 1302 and 1396a(a)(28)) prescribed certain interim policies and requirements for Social and Rehabilitation Service programs which are binding on States on the date of their publication in the FEDERAL REGISTER:

Federal financial assistance extended under the regulations herein is subject to the Regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

Interested persons who wish to submit comments, suggestions, or objections pertaining thereto may present their views in writing to the Administrator, Social and Rehabilitation Service Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication in the FEDERAL REGISTER. The final regulations will be codified in Title 45 of the Code of Federal Regulations.

Dated: May 6, 1969.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: June 18, 1969.

/s/ JOHN G. VENEMAN,
Acting Secretary.

INTERIM POLICY STATEMENT

1. Subject: Standards for payment for skilled nursing home care under title XIX of the Social Security Act

2. Purpose: To implement section 1902(a)(28) of the Social Security Act.

3. Regulations:

SEC. 249.33 *Standards for Payment for Skilled Nursing Home Care*—(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Provide that any skilled nursing home receiving payments under the plan must:

(i) Supply to the licensing agency of the State full and complete information, and promptly report any changes which would affect the current accuracy of such information, as to the identity

(*a*) Of each person having (directly or indirectly) an ownership interest of 10 percentum or more in such skilled nursing home,

(*b*) In case a skilled nursing home is organized as a corporation, of each officer and director of the corporation, and

(*c*) In case a skilled nursing home is organized as a partnership, of each partner;

(ii) Have and maintain an organized nursing service, as defined in paragraph (b) of this section, for its patients which is under the direction of a professional registered nurse who is employed full-time by such skilled nursing home, and which is composed of sufficient nursing and auxiliary personnel to provide adequate and properly supervised nursing services for such patients during all hours of each day and all days of each week;

(iii) Make satisfactory arrangements, as defined in paragraph (b) of this section, for professional planning and supervision of menus and meal service for patients for whom special diets or dietary restrictions are medically prescribed;

(iv) Have satisfactory policies and procedures, as defined in paragraph (b) of this section:

(*a*) Relating to the maintenance of medical records on each patient of the skilled nursing home;

(*b*) Relating to dispensing and administering of drugs and biologicals;

(*c*) To assure that each patient is under the care of a physician;

(d) To assure that adequate provision is made for medical attention to any patient during emergencies;

(v) Have arrangements, as defined in paragraph (b) of this section, with one or more general hospitals under which such hospital or hospitals will provide needed diagnostic and other services to patients of such skilled nursing home, and under which such hospital or hospitals agree to timely acceptance, as patients thereof, of acutely ill patients of such skilled nursing home who are in need of hospital care. The single State agency, however, may waive this requirement wholly or in part with respect to any skilled nursing home which meets all other requirements and is unable to effect such an arrangement with a hospital, as provided in paragraph (c) of this section;

(vi) Meet conditions relating to environment and sanitation, as specified in paragraph (b)(9) of this section, applicable to extended care facilities under title XVIII of the Act. The single State agency, however, may waive for such periods and under such conditions as the approved plan provides any requirement imposed by paragraph (b)(9) in accordance with the regulations set forth in paragraph (c) of this section;

(vii) Meet (after December 31, 1969) such provisions of the Life Safety Code of the National Fire Protection Association (21st Edition, 1967) as are applicable to nursing homes; except that the State agency may waive in accordance with regulations of the Secretary, for such periods as it deems appropriate, specific provisions of such code which, if rigidly applied, would result in unreasonable hardship upon a nursing home, but only if such agency makes a determination (and keeps a written record setting forth the basis of such determination) that such waiver will not adversely affect the health and safety of the patients of such skilled nursing home; and except that the requirements of this subdivision need not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in nursing homes.

(2) Provide and specify the methods and procedures which assure that:

(i) The single State agency will, prior to execution of an agreement with any facility for provision of skilled nursing home care and making payments under the plan,

(*a*) Obtain sufficient evidence of compliance through survey arrangements with the State licensing authority or with the agency of the State designated pursuant to section 1864 of the Social Security Act, that the facility

(*1*) Meets the requirements of subparagraph (1) of this paragraph; or

(2) Is a participating provider of extended care under title XVIII of the Social Security Act, and in addition meets the requirements of subdivisions (i) and (v) of such subparagraph (1); or

(*b*) Otherwise obtain sufficient evidence that the facility meets the requirements of such subparagraph (1); provided, however, that if the single State agency elects not to use the services of the State licensing authority or the agency of the State designated pursuant to section 1864 of the Social Security Act, a written justification is submitted to the Administrator that such election is not inconsistent with efficiency and economy of administration.

(ii) Beginning July 1, 1969, the single State agency shall:

(*a*) Review information contained in reports of medical review teams on inspections made pursuant to State plan provisions under section 1902(a)(26) of the Social Security Act;

(*b*) Review statements obtained by appropriate State agencies from each skilled nursing home, on forms provided by such agencies, setting forth the average numbers and types of personnel (full-time and full-time equivalents) employed daily during the quarter in which the report was made;

(*c*) Evaluate such statements to determine that requirements relating to personnel were or were not met during any quarter in which payment is being requested.

(iii) Beginning January 1, 1970, at least one onsite inspection by qualified personnel will be made during the term of an agreement with a skilled nursing home and the single State agency will review the information thus obtained, except that this requirement may be deemed to be met for skilled nursing homes also certified to participate as extended care facilities under title XVIII of the Act;

(iv) The single State agency agreement with a facility for payments under the plan may not exceed a period of 1 year. Execution of a new agreement or renewal of an agreement shall be contingent upon a determination of compliance with the provisions of subparagraph (1) of this paragraph except that:

(a) In the case of any skilled nursing home determined or certified to be in substantial compliance (i.e., is in compliance except for deficiencies) with the requirements of such subparagraph (1), the single State agency may enter into an agreement with such skilled nursing home for the provision of services and making of payments under the plan for a period not to exceed 6 months provided:

(1) There is a reasonable prospect that the deficiencies can be corrected within 6 months and the skilled nursing home provides in writing a plan acceptable to the single State agency for so doing;

(2) The deficiencies noted, individually or in combination, do not jeopardize the health and safety of the patients and a written justification of such a finding is maintained on file by the appropriate State agency;

(3) No more than two successive agreements for 6 months are executed with any skilled nursing home having deficiencies, and no second agreement is executed if any of the deficiencies existing are the same as those which occasioned the prior agreement;

(b) Notwithstanding the foregoing provisions, in the case of skilled nursing homes certified as extended care facilities under the provisions of title XVIII of the Social Security Act, the term of agreements may extend until 90 days after the next inspection performed, as required for extended care facility certification.

For the purposes of this subdivision (iv), waivers granted pursuant to paragraph (a)(1)(v)–(vii) and paragraph (c) of this section are not considered deficiencies.

(v) All information and reports used in determining whether a skilled nursing home meets the requirements set forth in subparagraph (1) of this paragraph are maintained on file for a period of at least 3 years by the appropriate State agency for ready access by the Department of Health, Education, and Welfare; and

(a) Copies of reports of inspection made on or after January 1, 1970, are completed by the inspector(s) surveying the premises with notations indicating whether each requirement for which inspection is made, is or is not satisfied, with documentation of deficiencies;

(b) Copies of official notices of waiver of any requirement imposed pursuant to subparagraph (1)(vii) of this paragraph and regulations pertaining thereto are on file.

(vi) Facilities which do not qualify under this section are not recognized as skilled nursing homes for purposes of payment under title XIX of the Act.

(b) *Definition of terms.* For purposes of paragraph (a)(1) of this section the following definitions apply:

(1) *Organized nursing service.* The term "organized nursing service" means that:

(i) Nursing services are under the direction of a director of nursing service who is a professional registered nurse and who:

(a) Is employed full-time in the facility, devotes her full-time to supervising the nursing service, and is on duty during the day shift;

(b) Is qualified by education, training or experience for supervisory duties;

(c) Is responsible to the administrator for the selection, assignment, and direction of the activities of nursing service personnel;

(d) Is responsible to the administrator for development of standards, policies, and procedures governing skilled nursing care and for assuring that such standards, policies and procedures are observed;

(ii) There is at least one professional registered nurse or licensed practical (or vocational) nurse on duty at all times and in charge of the nursing activities during each tour of duty;

(iii) (a) No later than July 1, 1970, there is on duty at all times and in charge of nursing activities at least one professional registered nurse or licensed practical (or vocational) nurse who is a graduate of a State-approved school of practical nursing, or who is found by the appropriate State licensing authority on the basis of the individual's education and formal training to have background considered to be equivalent to graduation from a State-approved school of practical nursing;

(b) By December 31, 1969, any State which has not adopted the standards of subdivision (iii)(a) shall submit to the Secretary by that date a specific plan for achieving it;

(iv) Lines of administrative and supervisory responsibility are clearly established in writing, and are known to all members of the nursing staff and to appropriate personnel in other units of the facility;

(v) Duties are clearly defined and assigned to staff members competent to perform them in accordance with written standards;

(vi) There are written patient-care policies and procedures governing skilled nursing care and related services, and staff members are familiar with them.

(2) *Nursing and auxiliary personnel.* Nursing and auxiliary personnel includes professional registered nurses and licensed practical (or vocational) nurses holding valid and current licenses as required by State law; and also nurse aides, orderlies, attendants, and ward clerks.

(3) *Adequate . . . nursing services.* The phrase "adequate nursing services" means that:

(i) Numbers and categories of personnel are determined by the number of patients and their particular need in accordance with accepted policies of effective nursing care.

(ii) Nursing and auxiliary personnel are employed and assigned on the basis of their experience or qualifications to perform designated duties.

(iii) The amount of nursing time is sufficient to assure that each patient:

(a) receives treatments, medications, and diet as prescribed.

(b) receives proper care to prevent decubiti and is kept comfortable, clean, and well-groomed.

(c) is protected from accident and injury by the adoption of appropriate safety measures.

(d) is encouraged to perform out-of-bed activities, as permitted.

(e) receives assistance to maintain optimal physical and mental functions.

(4) *Professional planning and supervision of menus and meal service.* The phrase "professional planning and supervision," when used in relation to menus and meal service for patients for whom special diets or dietary restrictions are medically prescribed means that:

(i) Menus are planned and supervised by professional personnel meeting the following qualifications:

(a) A dietitian who meets the American Dietetic Association's standards for qualification as a dietitian; or

(b) A graduate holding at least a bachelor's degree from a university program with major study in food and nutrition; or

(c) A trained food-service supervisor, an associate degree dietary technician, or a professional registered nurse, with frequent and regularly scheduled consultation from a dietitian or nutritionist meeting the qualifications stated in subdivisions (a) and (b) of this subparagraph (4)(i);

(ii) Special and restricted diet menus are kept on file for at least 30 days, notations are made of any substitutions or variations in the meal actually served, and the patients to whom the diets were actually served are identified in the dietary records;

(iii) Procedures are established and regularly followed which assure that the serving of meals to patients for whom special or restricted diets have been medically prescribed is supervised and their acceptance by the patient is observed and recorded in the patient's medical record.

(5) *Satisfactory policies and procedures relating to maintenance of medical records.* Satisfactory policies and procedures relating to the maintenance of medical records means the standards set forth in 20 CFR 405.1132 pertaining to extended care facilities under title XVIII of the Social Security Act.

(6) *Satisfactory policies and procedures relating to dispensing and administering of drugs and biologicals.* Satisfactory policies and procedures relating to dispensing and administering of drugs and biologicals means the standards set forth in 20 CFR 405.1127 pertaining to extended care facilities under title XVIII of the Social Security Act.

(7) *Satisfactory policies and procedures relating to physician coverage.* Satisfactory policies and procedures relating to physician coverage and emergency medical attention means the standards set forth in 20 CFR 405.1123 pertaining to extended care facilities under title XVIII of the Social Security Act.

(8) *Arrangement with one or more general hospitals.* Arrangements with one or more general hospitals means:

(i) Written agreements providing a basis for effective working arrangements under which inpatient hospital care is available promptly to the skilled nursing home's patients when needed, which include as a minimum:

(*a*) procedures for transfer of acutely ill patients to the hospital ensuring timely admission,

(*b*) provisions for continuity in the care of the patient and for the transfer of pertinent medical and other information between the skilled nursing home and the hospital.

(ii) Written agreements containing provisions for the prompt availability of diagnostic and other out-patient services.

(9) *Conditions relating to environment and sanitation.* Conditions relating to environment and sanitation applicable to extended care facilities under title XVIII of the Act means standards set forth in 20 CFR 405.1125(i) and 405.1134–405.1136.

(c) *Conditions Under Which the Single State Agencies May Waive Certain Requirements.* (1) The requirement for arrangements with one or more general hospitals may be waived wholly or in part if by reason of remote location or other good and sufficient reason a skilled nursing home is unable to effect such an arrangement with a hospital. However, this requirement may not be waived in whole if it can be satisfied in part. A finding of remote location or other good and sufficient reason may be made when:

(i) there is no general hospital serving the area in which the skilled nursing home is located; or

(ii) there are one or more general hospitals serving the area and the skilled nursing home has attempted in good faith and has exhausted all reasonable possibilities to enter into an agreement with such hospital or hospitals, and

(*a*) the nursing home has provided copies of letters, records of conferences, or other evidence to support its claim that it has attempted in good faith to enter into an agreement, and

(*b*) hospitals in the area have, in fact, refused to enter into an agreement with the skilled nursing home in question.

(2) The single State agency may waive the application to skilled nursing homes of one or more specific provisions of 20 CFR 405.1125(i), 405.1134, 405.1135, or 405.1136 if after consultation with the surveying agency it finds that such provision(s), if rigidly applied, would result in unreasonable hardship upon a skilled nursing home and that:

(i) The waiver of the specific provision(s) does not adversely affect the health and safety of the patients in the facility and a written justification of such determination is maintained on file;

(ii) Where structural changes in the skilled nursing home are necessary to meet a provision, the change is of such magnitude as to be infeasible, or economically impracticable; delay in making such changes would not adversely affect the health and safety of patients; and an explanation of this finding is maintained on file;

(iii) The conditions of waiver in subdivisions (i) and (ii) of this subparagraph are redetermined at the time of each survey and written evidence of such redetermination is maintained on file;

(iv) The waiver of requirements is rescinded at any time any of the conditions of subdivisions (i) and (ii) of this subparagraph are found to no longer apply.

(d) *Federal financial participation.* (1) Federal financial participation is available at 75 per centum in expenditures of the single State agency for compensation (or training) of its skilled professional medical personnel and staff directly supporting such personnel, which are necessary to carry out these regulations.

(2) Federal financial participation at applicable rates is also available for the single State agency to enter into a written contract (under the supervision of the Medical Assistance Unit) with the State licensing authority, the agency of the State designated pursuant to section 1864 of the Social Security Act or other appropriate State agencies providing for at least:

(i) On-site surveys and resurveys of skilled nursing homes applying to participate or participating as providers of service under the medical assistance plan to be performed at appropriate intervals by properly qualified personnel,

(ii) Timely furnishing to the single State agency of all information and records herein required, and

(iii) Methods and procedures acceptable to the Secretary for determining an agency's expenditures in which Federal financial participation is available.

Such Federal financial participation is available only for those expenditures of the State licensing authority or other appropriate State agencies which are not attributable to the overall cost of meeting responsibilities under State law and regulations for establishing and maintaining standards but which are necessary and proper for carrying out these regulations.

[F.R. Doc. 69–7402; Filed, June 23, 1969; 8:45 a.m.]