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Title 3—THE PRESIDENT

Reorganization Plan No. 1 of 1969

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, July 22, 1969, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.[1]

INTERSTATE COMMERCE COMMISSION

SECTION 1. *Transfer of functions to the Chairman.* (a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Interstate Commerce Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) Requests for regular, supplemental, or deficiency appropriations for the Commission (prepared by or under the Chairman in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) and as affected by this reorganization plan) shall require the approval of the Commission prior to the submission of the requests to the Bureau of the Budget by the Chairman.

(5) There are hereby reserved to the Commission its functions with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

SEC. 2. *Performance of transferred functions.* The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

[1] Effective in part on January 1, 1970, under the provisions of section 3 of the plan, and also in part on October 11, 1969, under the provisions of 5 U.S.C. 906.

SEC. 3. *Designation of Chairman.* (a) The function of the Commission of choosing the Chairman from among the commissioners composing the Commission is hereby transferred to the President of the United States.

(b) Nothing in this reorganization plan shall preclude the Commission from designating a commissioner to be the acting chairman of the Commission and to perform the functions of the Chairman during any period of time when (by reason of death, resignation, or other cause) no Presidentially designated Chairman is available to perform them.

SEC. 4. *Taking effect.* Section 3 of this reorganization plan shall take effect on the first day of January, 1970, and the other sections hereof shall take effect on the date determined under section 906(a) of title 5 of the United States Code.

[F.R. Doc. 69-12301; Filed, Oct. 13, 1969; 8:50 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 25]

PART 5—DETERMINATION OF PARITY PRICES

Chickens

The regulations of the Secretary of Agriculture with respect to the determination of parity prices (21 F.R. 761, as amended; 7 CFR 5.1–5.6) are amended as hereinafter specified, effective January 1, 1970, in order to delete chickens from the list of commodities for which parity prices shall be calculated.

In § 5.4, the paragraph under the centerhead "Other Commodities" is amended to read as follows:

§ 5.4 Commodities for which parity prices shall be calculated.

* * * * *

OTHER COMMODITIES

Beef cattle; hogs; lambs; calves; sheep; turkeys; eggs; beeswax; potatoes; hops; peppermint oil; popcorn; spearmint oil; tobacco, Types 61 and 62; barley; beans, dry edible; cottonseed; peas, dry field; flaxseed; hay, all baled; oats; rye; sorghum grain; soybeans; sweetpotatoes; and crude pine gum.

* * * * *

(Sec. 301, 52 Stat. 38, as amended; 7 U.S.C. 1301)

Done at Washington, D.C., this 8th day of October 1969.

CLIFFORD M. HARDIN,
Secretary.

[F.R. Doc. 69-12274; Filed, Oct. 13, 1969; 8:50 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[Amdt. 1]

PART 855—MAINLAND CANE SUGAR AREA

Proportionate Shares for Farms; 1970 Crop

Pursuant to the provisions of the Sugar Act of 1948, as amended, Part 855 (34 F.R. 14201) is amended in the following respects:

1. In the table of contents, the last listed reference "855.67 Acreage for experimental use" is deleted and in the Authority following the table of contents "855.67" is changed to read "855.66".

2. Section 855.59 is amended by inserting a period after the word "errors" and deleting the words "and under § 855.67 for increasing shares for old-producer farms to cover experimental plantings of cane".

3. In § 855.61(b) the second sentence is amended by deleting the comma between "§§ 855.65, 855.66" and inserting in lieu thereof the word "and" and by deleting "and 855.67".

4. In § 855.62(b)(1) the first sentence is amended by deleting the comma between "§ 855.64, § 855.66" and inserting in lieu thereof the word "or" and by deleting, "or § 855.67".

5. Section 855.64(b) is amended by revoking subparagraph (4).

6. Section 855.64(h) is amended by deleting "or § 855.67".

7. Section 855.67 is revoked.

8. In the statement of bases and considerations under the subheading "Regulation", the fifth paragraph is deleted.

Statement of bases and considerations. The original regulation made available 75 acres and 50 acres for Louisiana and Florida, respectively, for use by the State committees to increase shares of producers who grow sugarcane for experimental uses in conjunction with publicly owned agricultural experimental stations.

The Department has been informed that several thousand acres have been devoted to experimental uses each year on a few hundred farms. It is expected that for the 1970 crop the same level of acreage will be devoted to such use. Because of the very limited number of acres available for increasing shares to cover experimental plantings in relation to the acreage that will be actually used for such purposes for the 1970 crop, it is believed that the distribution of such acreage to a very few producers would not be equitable to the sizeable number of other producers participating in an experimental program. Accordingly, this amendment eliminates from the regulation the acreage set aside for experimental use and makes such acreage available for reallotment to old producer farms.

Accordingly, I hereby find and conclude that the foregoing amendment will effectuate the applicable provisions of the Act.

(Secs. 301, 302, 403, 61 Stat. 929, 930 as amended, 932; 7 U.S.C. 1131, 1132, 1153)

Effective date: Date of publication.

Signed at Washington, D.C., on October 7, 1969.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 69-12235; Filed, Oct. 13, 1969; 8:47 a.m.]

Chapter XVI—Consumer and Marketing Service (Food Stamp Program), Department of Agriculture

PART 1602—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

Miscellaneous Amendments

Sections 1602.4 and 1602.7, relating to the procedure for redeeming coupons, are amended to broaden the authority of the Consumer Food Programs Officers-In-Charge to approve the redemption of coupons accepted by firms prior to authorization. The limitation that gave the Officers-In-Charge the authority to approve redemption only within 90 days of the opening of a project area, has been removed. As amended, §§ 1602.4 and 1602.7 read as follows:

§ 1602.4 Procedure for redeeming coupons.

(a) Coupons accepted by a retail food store or a wholesale food concern prior to the receipt by such firm of an authorization card from C&MS shall not be presented for redemption under the procedure set forth in this section, except that the Consumer Food Programs Officer-In-Charge, in accordance with procedures set forth in § 1602.7, may approve such redemption if the criteria in § 1602.7(b) are met.

* * * * *

§ 1602.7 Determination and disposition of claims—retail food stores and wholesale food concerns.

* * * * *

(b) The Consumer Food Programs Officer-In-Charge may approve the redemption of coupons accepted by firms prior to the receipt of an authorization card from C&MS if the following conditions exist: (1) The coupons were received in accordance with the provisions of this part governing acceptance of coupons except the provisions requiring that the firm be authorized before acceptance; (2) the coupons were accepted by the firm in good faith, and without any intent to circumvent the provisions of this part; and (3) the firm applies for and receives authorization to participate in the program. Firms seeking to redeem coupons as provided in this paragraph shall present a claim in writing for redemption of such coupons to the local Consumer Food Programs Field Office. This claim shall be accompanied by a notarized affidavit containing a full statement of the circumstances surrounding the acceptance of the coupons. The affidavit shall also include a certification that the coupons were accepted in good faith, and without any intent to circumvent the requirements of this part.

* * * * *

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

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

CLIFFORD M. HARDIN,
Secretary.

OCTOBER 9, 1969.

[F.R. Doc. 69-12272; Filed, Oct. 13, 1969; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 69-CE-61]

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

Alteration of Transition Area

On page 12595 of the FEDERAL REGISTER dated August 1, 1969, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Charles City, Iowa.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change: The Charles City Municipal Airport recited in the Charles City, Iowa transition area designations as "latitude 43°04'25" N., longitude 93°36'35" W." are changed to read "latitude 43°04'15" N., longitude 92°36'15" W.".

This amendment shall be effective 0901 G.m.t., December 11, 1969.

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

Issued in Kansas City, Mo., on September 23, 1969.

ROBERT I. GALE,
Acting Director, Central Region.

In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

CHARLES CITY, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Charles City Municipal Airport (latitude 43°04'15" N., longitude 92°36'15" W.); and within 3 miles each side of the 311° bearing from Charles City Muncipal Airport, extending from the 5-mile radius area to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northeast and 9½ miles southwest of the 131° and 311° bearings from Charles City Municipal Airport, extending from 6 miles southeast to 18½ miles northwest of the airport excluding the portion which overlies the Waterloo, Iowa, transition area.

[F.R. Doc. 69-12222; Filed, Oct. 13, 1969; 8:46 a.m.]

[Airspace Docket No. 69-SO-82]

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

Alteration of Transition Area

On August 29, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 13877), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Laurel, Miss., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 11, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the Laurel, Miss., transition area is amended to read:

LAUREL, MISS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Laurel Municipal Airport (lat. 31°40'10" N., long. 89°10'20" W.); within 9.5 miles southwest and 4.5 miles northeast of the Laurel VOR 330° radial, extending from the 7-mile radius area to 18.5 miles northwest of the VOR.

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

Issued in East Point, Ga., on October 7, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-12223; Filed, Oct. 13, 1969; 8:46 a.m.]

[Airspace Docket No. 69-SO-83]

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

Alteration of Transition Area

On August 28, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 13749), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Rocky Mount, N.C., transition area.

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

Subsequent to publication of the notice, a request to Coast and Geodetic Survey for the geographic coordinate for the new Rocky Mount-Wilson Airport was unsuccessful because they were unable to determine the correct position of this airport. The refined geographic coordinate (lat. 35°58'00" N., long. 77°47'35" W.) for Rocky Mount Municipal Airport was obtained from Coast and Geodetic Survey. It is necessary to alter the description by inserting the refined geographic coordinate for Rocky Mount Municipal Airport and adding the geographic coordinate obtained from the Airport Layout Plan (lat. 35°51'16" N., long. 77°53'26" W.) for the Rocky Mount-Wilson Airport.

Since these amendments are editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 11, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the Rocky Mount, N.C., transition area is amended to read:

Rocky Mount, N.C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Rocky Mount Municipal Airport (lat. 35°58'00" N., long. 77°47'35" W.); within 4.5 miles each side of the Rocky Mount VORTAC 083° radial, extending from the 7-mile radius area to 8.5 miles east of the VORTAC; within an 8.5-mile radius of Rocky Mount-Wilson Airport (lat. 35°51'16" N., long. 77°53'26" W.)

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

Issued in East Point, Ga., on October 7, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-12224; Filed, Oct. 13, 1969; 8:46 a.m.]

[Airspace Docket No. 69-CE-47]

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

Designation of Transition Area

On pages 12104 and 12105 of the FEDERAL REGISTER dated July 18, 1969, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Madison, Ind.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change: The Madison Municipal Airport coordinates recited in the Madison, Ind., transition area designations as "latitude 38°45'30" N., longitude 85°28'00" W." are changed to read "latitude 38°45'40" N., longitude 85°27'50" W.".

This amendment shall be effective 0901 G.m.t., December 11, 1969.

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

Issued in Kansas City, Mo., on September 25, 1969.

ROBERT I. GALE,
Acting Director, Central Region.

In § 71.181 (34 F.R. 4637), the following transition area is added:

MADISON, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Madison Municipal Airport (latitude 38°-45'40" N., longitude 85°27'50" W.); and within 3 miles each side of the 206° bearing from Madison Municipal Airport, extending from the 5-mile radius area to 8 miles southwest of the airport, excluding the portion which overlies Restricted Area R-3403.

[F.R. Doc. 69-12225; Filed, Oct. 13, 1969; 8:46 a.m.]

[Airspace Docket No. 69-CE-55]

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

Designation of Transition Area

On pages 12290 and 12291 of the FEDERAL REGISTER dated July 25, 1969, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Sheldon, Iowa.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change: The Sheldon Municipal Airport coordinates recited in the Sheldon, Iowa, transition area designations as "latitude 43°12'30" N., longitude 95°50'00" W." are changed to read "latitude 43°12'35" N., longitude 95°50'05" W.".

This amendment shall be effective 0901 G.m.t., December 11, 1969.

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

Issued in Kansas City, Mo., on September 25, 1969.

ROBERT I. GALE,
Acting Director, Central Region.

In § 71.181 (34 F.R. 4637), the following transition area is added:

SHELDON, IOWA

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Sheldon Municipal Airport (latitude 43°12'35" N., longitude 95°50'05" W.); and within 3 miles each side of the 163° bearing from Sheldon Municipal Airport, extending from the 5½-mile radius area to 8 miles south of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the 163° and 343° bearings from Sheldon Municipal Airport, extending from 6 miles north to 18½ miles south of the airport; and within 5 miles each side of the 343° bearing from Sheldon Municipal Airport, extending from the airport to 12 miles north of the airport.

[F.R. Doc. 69-12226; Filed, Oct. 13, 1969; 8:46 a.m.]

[Airspace Docket No. 69-WE-56]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On September 19, 1969, F.R. Doc. 69-11187, was published in the FEDERAL REGISTER (34 F.R. 14576) and, in part, designated the "Controlling Agency" of the Platteville, Colo., Restricted Area R-2604 as "FAA, Denver, Colo., Approach Control." This action is to become effective November 13, 1969. Subsequent to publication of the document, it was determined that the "FHA, Flight Service Station, Denver, Colo." would be more appropriate as the Controlling Agency. Such action is taken herein.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, F.R. Doc. 69-11187 (34 F.R. 14576) is amended effective upon publication in the FEDERAL REGISTER as hereinafter set forth: In the Controlling Agency: "FAA, Denver, Colo., Approach Control." is deleted and "FAA, Flight Service Station, Denver, Colo." is substituted therefor.

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

Issued in Washington, D.C., on October 3, 1969.

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

[F.R. Doc. 69-12227; Filed, Oct. 13, 1969; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter VI—Business and Defense Services Administration, Department of Commerce

PART 602—INSTRUMENTS AND APPARATUS FOR EDUCATIONAL AND SCIENTIFIC INSTITUTIONS

On July 17, 1969, a notice of proposed rule making was published jointly by the Department of Commerce and the Department of the Treasury in the FEDERAL REGISTER (34 F.R. 12043) stating that the two Departments were considering new regulations amending the existing regulations (15 CFR Part 602 (1969)) implementing section 6(c) of Public Law 89-651, the Educational, Scientific, and Cultural Materials Importation Act of 1966. The purpose of the proposed regulations, as stated in the notice of proposed rule making, was to prescribe new simplified procedures relating to duty-free entry of certain kinds of instruments and apparatus for nonprofit scientific and educational institutions. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of written comments.

After consideration of the comments received, the Departments have decided to amend the existing regulations (15 CFR Part 602 (1969)) by replacing them with the new regulations set forth below. These amendments, which replace the existing regulations, are to be effective 30 days after publication in the FEDERAL REGISTER.

Sec.
602.1 General provisions.
602.2 Application for duty-free entry of foreign instruments.
602.3 Review of the application by the Commissioner of Customs.
602.4 Public notice of application and opportunity to present views.
602.5 Review and findings of the Department of Commerce.

AUTHORITY: The provisions of this Part 602 issued under Public Law 89-651, 80 Stat. 897 (1966); Department of Commerce Order No. 152, as revised July 11, 1968.

§ 602.1 General provisions.

(a) *Introductory provisions.* The regulations in this part are issued under the authority of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897; see particularly section 6(c) thereof and headnote 6(f) to part 4, of Schedule 8, Tariff Schedules of the United States, section 1202, title 19, United States Code, as added by said section 6(c)). The Act provides, inter alia that any nonprofit institution (whether public or private) established for educational or scientific purposes may obtain duty-free treatment of certain instruments and apparatus entered for its use, if the Secretary of Commerce determines that no instrument or apparatus of equivalent scientific value to such article, for the purposes for which the instrument or apparatus is intended to be used, is being manufactured in the United States. A public or private nonprofit institution established for educational or scientific purposes desiring to obtain free entry of an instrument or apparatus under item 851.60, Tariff Schedules of the United States, shall file an application for such entry in accordance with the requirements of 19 CFR 10.115 and § 602.2. (All references in this part to items, headnotes, schedules or parts, unless otherwise indicated, are references to items, headnotes, schedules or parts of the Tariff Schedules of the United States.) If the application is made in accordance with applicable regulations, notice and opportunity to present views will be provided in accordance with § 602.4, subject to § 602.5(e). Thereafter the application shall be reviewed, and a decision made thereon and published in the FEDERAL REGISTER, in accordance with § 602.5. An appeal from any such decision may be taken, in accordance with headnote 6(e) to part 4 of Schedule 8, Tariff Schedules of the United States, only to the U.S. Court of Customs and Patent Appeals and only on a question

or questions of law, within 20 days after publication of the decision in the FEDERAL REGISTER. If at any time while its application is under consideration by the Secretary of Commerce or by the Court of Customs and Patent Appeals on an appeal from a finding by him, an institution cancels an order for the instrument or apparatus to which the application relates or ceases to have a firm intention to order such instrument or apparatus, the institution shall promptly notify the Administrator or such court, as the case may be.

(b) *Definitions.* (1) "Instruments and apparatus" shall embrace only instruments and apparatus classifiable under the tariff items specified in headnote 6(a) of part 4 of Schedule 8. A combination of a basic instrument or apparatus and additional components shall be treated as a single instrument or apparatus hereunder provided that, under normal commercial practice, such combination is considered to be a single instrument or apparatus and provided further that the applicant has ordered or, upon favorable action on its application, firmly intends to order the combination as a unit.

(2) "Accessory" shall have the meaning which it has under normal commercial usage. An accessory for which duty-free entry is sought under item 851.60 shall be the subject of a separate application when it is not an accompanying accessory.

(3) "Foreign instrument" shall mean an instrument, apparatus or accessory for which duty-free entry is sought under item 851.60. However, "foreign instrument" does not include repair components, which enter under item 851.65.

(4) "Accompanying accessory" shall mean an accessory for a foreign instrument that accompanies it in the same shipment and that is necessary for accomplishment of the purposes for which the foreign instrument is intended to be used. Only one application shall be required for a foreign instrument and its accompanying accessories.

(5) Unless context indicates otherwise, "article" shall mean a foreign instrument and its accompanying accessories.

(6) "Domestic instrument" shall mean an instrument, apparatus or accessory which is produced in the United States.

(7) "Pertinent specification" of an instrument, apparatus or accessory shall mean those structural, operational, performance, and other characteristics specified for the instrument, apparatus, or accessory that are necessary for the accomplishment of the purposes described by the applicant in response to Question 7 of form BDSAF-768, "Request for Duty-Free Entry of Scientific Instruments or Apparatus," excluding from consideration those purposes excluded by headnotes 1 or 6(a) to Part 4, Schedule 8, Tariff Schedules of the United States (TSUS). The term does not extend to such characteristics as size, durability, complexity, or ease of operation, ease of maintenance and versatility, unless the applicant can demonstrate that they are necessary for accomplishing the purposes for which the article is intended to be used. The term does not include cost differences between the domestic and foreign instrument, apparatus or accessory.

(8) "Guaranteed specifications" shall mean those pertinent specifications for the foreign article and comparable domestic instruments, whereby the respective manufacturers define as an explicit part of the contractual agreement with the purchaser, for each related capability, the minimum performance level that the user may routinely expect to achieve as well as the conditions under which the specified minimum level was established by the manufacturer.

(9) "Administrator" shall mean the Administrator, Business and Defense Services Administration of the Department of Commerce, or such official as may be designated to act in his behalf in this matter.

(c) *Applications and comments.* Applications (19 CFR 10.115 and § 602.2) and comments (§ 602.4) shall be written, typed or printed, in the English language and legible. Copies of relevant documents, such as manufacturers' specifications, advertisements for bids, correspondence relating to availability of instruments or apparatus or the like, should be made a part of an application or comments, and be fully identified. Each copy should be permanent and legible, and shall be attached as part of the response to the question to which it relates. A document in a foreign language shall be accompanied by an accurate translation.

(d) *Exclusion from duty-free entry under Headnote 6(a).* Certain articles will be excluded from duty-free entry as prescribed in 19 CFR 10.114(c).

(e) *Scientific equivalency.* The determination of scientific equivalency shall be based on a comparison of the pertinent specifications of the foreign instrument with similar pertinent specifications of the most closely comparable domestic instrument. The guaranteed specifications for the foreign article will be considered in the comparison, including any amendments to the guaranteed specifications which have been inserted in the record. Similarly, the guaranteed specifications for the most closely comparable domestic instrument will be considered including any amendments to the guaranteed specifications which have been inserted in the record. In the comparison, the Administrator may consider any reasonable combination of domestic instruments and accessories as being comparable to a foreign instrument that combines two or more functions in an integrated unit, if the combination of domestic instruments and accessories is capable of accomplishing the purposes for which the foreign instrument is intended to be used. If the Administrator finds that at least one domestic instrument or reasonable combination of domestic instruments does possess all the pertinent specifications of the foreign article, he shall find that there is being manufactured in the United States an instrument of equivalent scientific value to the foreign instrument for such purposes as described in the response to Question 7 of form BDSAF-768. Otherwise, he shall find to the contrary.

(f) *Domestic manufacturer.* An instrument, apparatus, or accessory shall be considered as being manufactured in the United States if they are customarily produced for stock in anticipation of a sale, produced according to manufacturer's specifications only after receipt of order, or custom-made. Produced for stock, produced on order, and custom-made shall have the following meanings:

(1) *Produced for stock.* An instrument, apparatus, or accessory shall be considered to be produced for stock if it was manufactured in the United States, is on sale and available from a stock in the United States.

(2) *Produced on order.* An instrument, apparatus, or accessory shall be considered to be produced on order if a domestic manufacturer lists it in a current catalog and is able and willing to produce the instrument, apparatus or accessory within the United States and have it available without unreasonable delay to the applicant. In determining whether a U.S. manufacturer is able and willing to produce such instrument, apparatus, or accessory and have it so available, the Administrator shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category.

(3) *Custom-made.* An instrument, apparatus or accessory shall be considered to be custom-made if it is an instrument, apparatus, or accessory made to purchaser's specifications. In determining whether a domestic manufacturer is able to produce a custom-made instrument, apparatus, or accessory as defined herein, the Administrator shall take into account the production experiences of the domestic manufacturer with respect to the types and complexity of products, the extent of the technological gap between the instrument, apparatus or accessory to which the application relates and the manufacturer's customary products, and the availability of the professional and technical skills, as well as manufacturing experience, essential to bridging the gap and the time required by the domestic manufacturer to produce an instrument, apparatus or accessory to purchaser's specifications.

(g) *Excessive delivery time.* Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus or accessory of equivalent scientific value for the purposes described in response to Question 7, if the delay in obtaining such domestic instrument, apparatus or accessory (as indicated by the difference between the delivery times quoted respectively by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the difference in delivery times is excessive, the Administrator shall take into account the relevancy of the applicant's program to other research programs with respect to

timing, the applicant's need to have such instrument, apparatus or accessory available at the scheduled time for the course(s) in which the article is intended to be used, and other relevant circumstances.

(h) *Entry and liquidation.* Entry and liquidation procedures are prescribed in 19 CFR 10.114(d).

§ 602.2 Application for duty-free entry of foreign instrument.

(a) *Additional requirements applicable to applications.* Business and Defense Services Administration Form 768 (BDSAF–768), "Request for duty-free entry of scientific instruments and apparatus," a sample of which is set forth as Appendix A hereto and is hereby made a part hereof, shall be used in the preparation of an application. Seven copies of the form shall be completed in accordance with paragraph (b) of this section. Questions 1, 2, 3, 4, 6, and 10 of the form shall be answered by an authorized fiscal officer of the applicant institution; Questions 5, 7, 8, and 9 shall be answered by the person in the applicant institution under whose direction and control the foreign instrument will be used and who is thoroughly familiar with the specific program requiring an instrument, apparatus or accessory having the pertinent specifications of the foreign instrument. Two of such forms shall be executed in original by the aforementioned persons; five shall be conformed copies. The seven completed copies of the form, with the attachments required to complete the form fully should be filed with the Commissioner of Customs, Attention: Tariff Classification Rulings, Washington, D.C. 20226.

(b) *BDSAF–768.* The applicant should answer all applicable questions appearing on BDSAF–768. The instructions set forth below are to be followed in completing the form. Unless otherwise indicated from context, terms used in the form have the meanings defined in § 602.1(b).

(1) *Question 5 (Description of article).* A single application (in the required number of copies) may be submitted for any quantity of the same type or model of the foreign instrument, apparatus or accessory, provided that all of that quantity are intended to be used for all of the purposes described in the response to Question 7. If the purchase order includes different types or models of the same category of instrument, apparatus or accessory, a separate application shall be submitted for each type or model although all may be intended for the same purposes. The specifications of the foreign manufacturer or facsimile thereof shall be included in the response to Question 5. These specifications shall be in a form that permits comparison with customary specifications for comparable domestic instruments, apparatus, or accessories. If the technical nature of the foreign instrument, apparatus, or accessory is such that the specifications for a performance capability may vary according to variations in test procedures, sample material, sample size, and other parameters, the specifications for the article shall identify the relevant parameters. In the case of produced-on-order or custom-made instruments, apparatus or accessories, the response to Question 5 shall include a statement from the foreign manufacturer attesting to the degree of compliance with purchaser's specifications.

(2) *Question 6 (Serial number(s)).* If the serial numbers of the foreign instrument and accompanying accessories are not known when the application is submitted, they shall be supplied in writing to the Administrator promptly when they become known to the applicant.

(3) *Question 7 (Intended purposes).* The response to this question shall describe the intended purposes of the article in sufficient detail to permit identifying each specification of the article that is alleged to be pertinent with the particular purpose(s) and the related objective(s) for the accomplishment of which the specification is claimed to be necessary. If the article is intended to be used in both research and educational programs, the purposes and relevant objectives of each program shall be described separately. Programs that may be undertaken in some unspecified future period shall not be considered in the comparison.

(4) *Question 8 (Justification for duty-free entry)*—(i) *No instrument, apparatus, or accessory of the same general category is being manufactured in the United States.* The term "same general category" shall mean the category in which an instrument, apparatus or accessory is customarily classified in trade directories and product-source lists (electron microscope, mass spectrometers, light microscopes, X-ray spectrometers, and the like). If any instrument, apparatus or accessory of the same general category is being manufactured in the United States, without regard to the degree of comparability with the article, the applicant shall justify the nonequivalency of such instrument, apparatus or accessory in accordance with subdivision (ii) of this subparagraph.

(ii) *No instrument, apparatus, or accessory being manufactured in the United States is of equivalent scientific value to the article for such purposes as described in respsone to Question 7.* The comparison of the alleged pertinent specifications of the article shall be made with similar specifications of the most closely comparable instrument being manufactured in the United States. The term "most closely comparable instrument" shall mean the domestic instrument(s) or apparatus and accessories that most closely fulfill the applicant's technical requirement described in response to Question 7, without regard to differences in cost, design or structural characteristics. In making the comparison only the article and accompanying accessories described in response to Question 5 and the purposes described in response to Question 7 shall be considered. The planned purchase of additional accessories or the planned conversion of the article at some unspecified future time, for programs that may be undertaken in some unspecified future period, shall not be considered in the comparison.

(iii) *Excessive delivery time.* The applicant should set forth the shortest delivery times quoted respectively by the manufacturer of the foreign article and the manufacturer(s) of the equivalent domestic instrument or apparatus from the place of shipment to the site where the instrument or apparatus is to be delivered. The applicant should also state how the difference in the delivery times quoted respectively by the foreign manufacturer and domestic manufacturer(s) will seriously impair the purposes described in response to Question 7.

(5) *Question 9 (Basis for response to Question 7).* The response to this question should indicate the efforts made by the applicant to ascertain whether there was being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value to the foreign article for the purposes described in response to Question 7, as well as the reasons for the applicant's selection of the particular type or model for comparison with the article in response to Question 6b when more than one type or model of the same manufacturer was available. If domestic manufacturers were afforded an opportunity to bid, the response to Question 9 should indicate the manner in which such opportunity was offered, such as formal invitation to bid that included a description of applicant's technical requirements. Copies of any correspondence between the applicant and domestic manufacturers (including invitations to bid and replies thereto) should be appended to Form BDSAF–768.

(6) *Question 10 (Information on entry of article).* If the required information regarding the entry of the article is not available to the applicant at the time form BDSAF–768 is prepared, this information shall be transmitted promptly to the Administrator as soon as it becomes known to the applicant.

§ 602.3 Review of the application by the Commissioner of Customs.

Applications will be processed by the Commissioner of Customs as set forth in 19 CFR 10.116. Applicants shall inform the Administrator of entry number, date of entry, port of entry, and the customs district through which the foreign instrument has been entered and the application number to which such entry relates, as prescribed in 19 CFR 10.116 (c).

§ 602.4 Public notice of application and opportunity to present views.

(a) *Publication of notice.* Upon receipt from the Commissioner of Customs of an application that has been found by him to be in accordance with applicable regulations, the Administrator shall assign it a docket number, subject to § 602.5(e), cause an appropriate notice to be published in the FEDERAL REGISTER to afford reasonable opportunity for presentation of views with respect to the question "whether an instrument or apparatus of

equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States." (Headnote 6(c) to part 4 of Schedule 8.) The complete notice shall include the date on which the Commissioner of Customs received the application, the docket number and applicant's answer to Questions 1, 2, 5, and 7. The date of the last day of the period for comment shall be 20 days after the date on which the notice of the application is published unless a later date for such last day is published in the notice. As soon as the notice of an application is filed with the FEDERAL REGISTER, the Administrator shall make a copy of the application available for public review during ordinary business hours.

(b) *Additional requirements applicable to comments.* Persons who are authorized by Headnote 6(c) to appeal an adverse finding to the Court of Customs and Patent Appeals (hereinafter called "parties") and who wish to comment must submit their views and comments in one of the formats stated in paragraph (c) of this section. Views and comments from other interested persons and Government agencies will be received in any written form complying with § 602.1(c); however, one of the formats of paragraph (c) of this section should be used if feasible. Any comment, to be placed upon the record, must be submitted in three (3) copies and must state the name and address of the person submitting the comment and the docket number of the application to which the comment applies. Since each application file must be complete in itself, a separate set of copies of a comment must be furnished for each application to which the comment pertains, even through the sets of copies pertaining to two or more applicatons may be identical. Comments should be addressed to the Administrator.

(c) *Formats for comments.* Comments favoring the granting of an application should be in the form of supplementary answers to pertinent questions in § 602.2, and should avoid duplication of the content of the application insofar as is practicable. Comments opposing the granting of an application should be in the following form:

(1) State name and address of the party commenting.

(2) State the docket number of the application to which the comment applies.

(3) List instruments or apparatus considered by the party to be scientifically equivalent to the foreign instrument and its accompanying accessory(ies) and to be presently manufactured in the United States. Provide pertinent specifications for instruments or apparatus manufactured by the party.

(4) Direct the comments to the applicant's response to Question 8 and, with respect to each specification of the article (accompanying accessories) listed as pertinent therein demonstrate—

(i) That the specification can be equaled or exceeded with the instrument or apparatus (accompanying accessories) described in subparagraph (3) of this paragraph; or

(ii) That although the instrument or apparatus (accompanying accessory) differs in design, it is nonetheless functionally equivalent (superior) because it is as capable as or better than the article in fulfilling the purpose(s) relevant to the specification; or

(iii) The specification is not pertinent because it does not relate to one or more purposes described by the applicant in response to Question 7, being rather a convenience or representing personal preferences, cost factors and the like.

(5) Where the comments regarding subparagraph (4) (i) or (ii) of this paragraph, relate to a particular accessory or optional device offered by the domestic manufacturer, cite the type, model, or other catalog designation of the accessory or device and include the specifications therefor in the comments.

(6) Where the justification for duty-free entry is based on excessive delivery time, show whether

(i) Such instruments or apparatus are as a general rule either manufactured for stock, produced on order, or are custom-made; and

(ii) An instrument or apparatus of equivalent scientific value to the article, for the purposes described in response to Question 7 could have been produced and delivered to the applicant within a reasonable time following the receipt of the order.

(7) Indicate whether the applicant afforded the domestic manufacturer an opportunity to furnish an instrument or apparatus (accessories) of equivalent scientific value to the article for the purposes described in response to Question 7 and, if such be the case, whether the applicant submitted a formal invitation to bid that included the technical requirements of the applicant.

§ 602.5 Review and findings of the Department of Commerce.

(a) *Effect of expiration of the period for comment.* The Administrator shall assemble the application, and those comments meeting the requirements of § 602.4(b), into a record. After the period, for comment, (§ 602.4(a)), has ended, he shall not place explanations, arguments, or recommendations, other than those obtained from any selected Federal agency(ies) pursuant to paragraph (b) of this section, in the record in any form. He shall treat written comments received after the period for comment has ended as offers to provide additional information (see paragraph (c) of this section) to the extent that they contain factual information, as contrasted with arguments, explanations or recommendations.

(b) *Administrator's additions to the record.* The Administrator may add to the record such additional written factual information available within the Executive Branch of the Government, and such printed information generally available to the public, as he deems appropriate and pertinent. He may also obtain for the record an opinion on any issue before him and reasons therefor from any agency of the Government which he regards as having particular competency in the field in question.

(c) *Additional information from parties.* If it appears to the Administrator that the information in the record is not sufficient to enable him to render a decision, if the action of denial without prejudice (paragraph (e) of this section) appears to be inappropriate, and if it further appears that certain additional specific factual information will cure the insufficiency of the record, the Administrator in his discretion may request and place in the record such additional factual information as he feels will enable him to render a decision, from that party or those parties that appear best suited to provide the information. The Administrator may attach appropriate conditions and time limitations upon the provision of such information, and may draw appropriate inferences from the failure of a party to provide the information requested from him. The Administrator shall not, under this procedure, place arguments, explanations or recommendations upon the record. The Administrator may also, in his discretion, request from any party or parties to a proceeding hereunder, and place in the record, such additional affirmations as he deems necessary to enable him to render a decision.

(d) *Decision on the application.* The Administrator shall prepare a written decision granting or denying the application in whole or in part. The decision shall be in the form of one or more findings stating whether an instrument or apparatus of equivalent scientific value to the article for which duty-free entry is sought, for the purposes for which it is intended to be used, is or is not being manufactured in the United States, and it shall include a statement of his reasons for the finding(s). He shall transmit the decision to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant. At the same time, he shall make a copy of the record available for public review. (Copies of materials received pursuant to paragraphs (a) and (c) of this section which were not entered in the record pursuant to this section shall also be made available for public review. The Administrator may dispose of such materials at any time after final disposition of the application.) Pursuant to 19 CFR 10.117, the Administrator shall notify the district director of customs for the district in which entry of the merchandise in question was made, or the Commissioner of Customs if the district of entry is not known to the Administrator, of the final disposition of each application. If the Administrator thereafter receives notice from the applicant in accordance with 19 CFR 10.116(c), he shall then notify said district director of the final disposition of the application. For purposes of this subsection, disposition of an application shall be deemed final (1) when 20 days have elapsed after publication of the decision in the FEDERAL REGISTER and no appeal has been taken pursuant to § 602.1, or (2) if such appeal has been taken, when final judgment is made

and entered by the U.S. Court of Customs and Patent Appeals.

(e) *Denial without prejudice to resubmission.* The Administrator may deny an application without prejudice to its resubmission but otherwise in accordance with paragraph (d) of this section, if the application contains a deficiency which, in his opinion, prevents its consideration on its merits. The Administrator shall state the deficiencies of the application in writing when making such a denial. A copy of the notice of such denial shall be transmitted to the Secretary of Health, Education, and Welfare and the Commissioner of Customs. A copy shall also be transmitted to the district director of Customs for the port of entry concerned, if the information requested in Question 10 of form BDSAF-768 has been furnished by the applicant by the time the notice of denial without prejudice to resubmission was being prepared. The applicant shall on or before the 20th day following the date of such notice, inform the Administrator whether it intends to resubmit another application for the same article to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Administrator in writing prior to the expiration of the 90-day period. The resubmitted application shall indicate in the space provided therefor in form BDSAF-768 the docket number of the original application. If the applicant fails, within the applicable time periods specified above, to either (1) inform the Administrator whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (2) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Administrator on the application within the context of paragraph (d) of this section. In such a case, the Administrator shall transmit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant. At the same time, he shall make a copy of the record available for public review.

(f) *Outstanding denials with prejudice to resubmission.* An applicant whose application has been denied without prejudice to resubmission prior to the effective date of the regulations in this part, and who has not formally withdrawn the application shall on or before the twentieth day following the effective date of the regulations in this part inform the Administrator whether it intends to submit another application for the same article to which the denied application relates. The applicant shall then resubmit the new application on or before the ninetieth day following the effective date of the regulations in this part. The resubmitted application shall indicate in the space provided therefor in form BDSAF-768 the docket number of the the original application. If an applicant fails, within the applicable time periods specified above, to either (1) inform the Administrator whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (2) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Administrator on the application within the context of paragraph (d) of this section.

In such cases, the Administrator shall transmit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant. At the same time, he shall make a copy of the record available for public review.

Done at Washington, D.C., this 6th day of October 1969.

Dated: September 12, 1969.

FORREST D. HOCKERSMITH,
Acting Administrator, Business and Defense Services Administration.

Dated: September 17, 1969.

KENNETH N. DAVIS, Jr.,
Assistant Secretary, Domestic and International Business.

Dated: October 6, 1969.

EUGENE T. ROSSIDES,
Assistant Secretary, Department of the Treasury.

APPENDIX A—SAMPLE FORM BDSAF-768

U.S. DEPARTMENT OF COMMERCE, BUSINESS AND DEFENSE SERVICES ADMINISTRATION, AND TREASURY DEPARTMENT BUREAU OF CUSTOMS

Request for Duty-Free Entry of Scientific Instruments or Apparatus

Mail application to: Bureau of Customs, Washington, D.C. 20226.

For use only by Bureau of Customs:
Date received by Customs _____
Customs' application number _____
For use only by Department of Commerce:
Docket number _____

TO BE COMPLETED BY APPLICANT

NOTE: To avoid delays in processing this application due to omission of essential information, study the section of the regulations cited for each item. Where detailed information is indicated, this should be furnished on separate sheets of paper. In addition to numbering the item to which the information is related, the applicant should identify each sheet with the name of the institution and the article for which duty-free treatment is requested.

1. Name of applicant institution _____
2. Address _____
(Street, City, State, Zip Code)
3. This is a nonprofit institution established for (check appropriate box):
☐ Scientific purposes.
☐ Educational purposes.
4a. This application is (check appropriate box):
☐ An original application.
☐ A resubmission of Docket No. _____.
4b. Applicant has (check appropriate box):
☐ Already placed a bona fide order for the article _____
(Date of order)
☐ A firm intention, in event of favorable action on this application to place a bona fide order for the article within the time specified by law:

5. Description of the article and accompanying accessories, for which duty-free entry is requested (section 602.2(b)(1)).

a. Commercially standard catalogued instrument or apparatus (accessories):

(1) Identify the article and each accompanying accessory, according to the foreign manufacturer's type or model number.

(2) Attach the foreign manufacturer's literature, or facsimiles thereof, which describe the article (accessories) and specifies the structural, operational, performance and other characteristics of the article (accessories).

b. Special-order variant of standard catalogued instrument or apparatus, which has been significantly modified according to applicant's specifications, with respect to structural, functional, and/or performance characteristics.

(1) Identify the article according to its standard nomenclature and foreign manufacturer's type or model number.

(2) Attach a copy of the applicant's specifications describing the required modifications.

(3) Attach a copy of the literature describing the foreign article when sold as a standard instrument or apparatus.

(4) Indicate the extent to which each of the performance specifications applicable to the standard instrument or apparatus have been increased or decreased, if the modifications resulted in a change in the original performance parameters.

c. Article custom-made entirely to applicant's specifications.

(1) Attach a copy of applicant's specifications.

(2) Attach a statement from foreign manufacturer indicating whether the article fulfills applicant's specifications described in (1) above, or the extent to which the article deviated from these specifications.

6. If known at the time the application is submitted, furnish the serial number of the article and each accompanying accessory described in item 5. If the serial numbers are not furnished with the application, they shall be supplied to the Administrator as soon as they become known to the applicant, identifying the docket number of the application to which the article (accessories) relate (section 602.2(b)(2)).

7. Purposes for which article (accessories) is intended to be used.

a. Description of research purposes should include (section 602.2(b)(3)):

(1) The identity of the materials or phenomena to be studied.

(2) The properties of the materials or phenomena to be investigated.

(3) The experiments to be conducted.

(4) The objectives pursued in the course of the investigations.

(5) The techniques used in employing the article (accessories) in achieving the objectives.

b. Description of educational purposes should include:

(1) Name and content of course(s) in which article (accessories) will be used.

(2) Objectives of the course(s).

(3) Techniques used in employing article (accessories) in achieving educational objectives.

8. Justification for duty-free entry of article.

a. No instrument or apparatus of the same general category as the article is being manufactured in the United States (section 602.2(b)(4)(i)).

b. No instrument or apparatus in the same general category as the article, which is being manufactured in the United States, is of equivalent scientific value to the article for the purposes described in item 7 (section 602.2(4)(ii)).

(1) Identify the domestic manufacturer(s) and the respective type or model number(s) of the instrument(s) or apparatus with which the article has been compared.

(2) List the structural, performance and other characteristics of the article which are not possessed by the most closely comparable domestic instrument(s) or apparatus.

(3) Relate each characteristic listed in (3) above to one or more purposes described in item 7, by explaining why either (a) the availability of the characteristic permits you to accomplish the relevant purpose(s) that otherwise could not be achieved without the characteristic or, (b) the characteristic permits you to carry the relevant purpose(s) further than can possibly be carried with the similar characteristic of the domestic instrument(s) or apparatus.

c. Excessive delivery time, without regard to scientific equivalency of available domestic instrument(s) or apparatus (section 602.2(b)(4)(iii)).

(1) State the shortest delivery time quoted by any domestic manufacturer of an instrument or apparatus comparable to the foreign article, from place of shipment to site where instrument or apparatus is to be delivered.

(2) State the delivery time quoted by the foreign manufacturer, from place of shipment to site where article is to be delivered.

(3) Explain why the delay in receiving a domestic instrument or apparatus of equivalent scientific value to the foreign article for the purposes described in item 7, shown by the difference between (1) and (2) above, would seriously impair the achievement of these purposes.

9. Description of efforts made by applicant to ascertain the availability of a domestic instrument or apparatus of equivalent scientific purposes to the foreign article, for the purposes described in item 7 (section 602.2(b)(5)).

a. List names of domestic manufacturers contacted and indicate whether:

(1) Domestic manufacturer(s) was (were) furnished with a description of your technical requirements, such as presented in item 7.

(2) Domestic manufacturer(s) was (were) requested to bid on an instrument or apparatus in the same technologically competitive class as the article (i.e., one capable of fulfilling the performance and other relevant specifications of the article) without reference to cost limitations, instructed to bid with reference to stipulated limitations on the cost of the instrument or apparatus.

(3) Domestic manufacturer(s) replied to the invitation to bid with an offer to furnish either (a) a standard catalogued instrument or apparatus, or (b) to modify a standard catalogued instrument or apparatus to the extent necessary to meet the applicant's technical requirements.

b. If no domestic manufacturers were contacted prior to deciding to purchase the article, indicate the basis for concluding that none of the instruments or apparatus in the same general category as the article, which were being manufactured in the United States, was scientifically equivalent to the article for the purposes described in item 7.

10. Entry of article (section 602.2(b)(6)).

a. If article had been entered prior to submitting this application, indicate—

(1) Port of entry.
(2) Date of entry.
(3) Entry number.

b. If firm order has been placed for article subsequently to submitting this application, the information regarding port of entry, date of entry and entry number should be transmitted immediately following entry of the article to the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, U.S. Department of Commerce, Washington, D.C. 20230.

CERTIFICATION

The applicant is informed and believes that no instrument or apparatus of equivalent scientific value, for the purposes stated in reply to question 7 above, is being manufactured in the United States.

The above named applicants requests that this application for duty-free importation under Public Law 89-651 be approved and certifies that all statements in this application are true or believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any duty-free importation entered thereon.

Typed name and title of authorized fiscal officer:

(Signature)

Area code_____
Telephone number_____
Date_____
Typed name and title of official under whose direction and control the foreign article will be used:

(Signature)

Area code_____
Telephone number_____
Date_____

[F.R. Doc. 69-12259; Filed, Oct. 13, 1969; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Use of "Made in U.S.A." Label

§ 15.372 Use of "Made in U.S.A." label.

(a) The Commission rendered an advisory opinion to a manufacturer of optical lens systems in regard to the labeling of its products as "Made in U.S.A."

(b) Specifically, the company wanted to know what percentage of imported components a product could contain and still be properly labeled as "Made in U.S.A."

(c) In the advisory opinion which was rendered, the Commission stated that it would construe a "Made in U.S.A." mark as an affirmative representation that the product is entirely of domestic origin. Concluding its opinion, the Commission said that it would be improper to use such a mark where the finished product contains imported components without clearly disclosing the foreign country of origin of the imported parts.

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

Issued: October 13, 1969.

By direction of the Commission.[1]

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

[F.R. Doc. 69-12169; Filed, Oct. 13, 1969; 8:45 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Trade Association Code of Conduct Found Unobjectionable

§ 15.373 Trade association code of conduct found unobjectionable.

(a) The Commission advised a trade association of shippers' agents that the aims of its proposed Code of Conduct appear unobjectionable and that adherence by members to its provisions should not operate to effect any unreasonable restraints of trade so long as it is implemented in a fair and nondiscriminatory manner.

(b) A "shippers' agent", as defined in the Interstate Commerce Act (49 U.S.C.A. 1002(c)(2)) and the proposed Code, is one whose operation consists solely of "consolidating or distributing pool cars, [and] whose services and responsibilities to shippers in connection with such operations are confined to the terminal area in which such operations are performed." Under this provision of law a shippers' agent's responsibility is confined to the consolidation of freight for proper shipment. He does not "break bulk" nor is he responsible for the ultimate distribution of freight. Were he to engage in this latter activity he would, by definition, no longer be a shippers' agent eligible for association membership. According to the requesting party the Code is intended primarily as a preventive measure to assure that members will conduct their business operations within the Act's limitations.

(c) One provision of the code requires that members indicate, in advertising and elsewhere, that their services and responsibilities to shippers are confined to the terminal area in which they operate. This follows the limitation of the Act and if adhered to by members, will serve to truthfully inform shipper-customers concerning this status.

(d) Another provision requires that a member shall avoid any action or statement which could be construed as imputing to him a common carrier status or a status other than that embodied in the Act. This assures that members do not falsely imply to shippers that they take a greater responsibility for the shipment and distribution of freight than is permitted by their status under the Act.

(e) Other provisions provide in general terms that the members conduct shall be characterized by "candor and

[1] Dissenting opinions of Commissioners Elman and Nicholson filed as part of original document.

fairness" in their relationships among themselves and with the public, and that they shall properly discharge their obligations and duties to the shippers who employ them.

(f) It is a condition to membership in the Association that a shippers' agent agrees to subscribe to and abide by the Code. Repeated failure to discharge his obligations thereunder will, upon notice and a probationary period, constitute cause for expulsion of an offending member by the Board of Directors of the Association. Such expelled member may, however, exercise his right of appeal before the full membership.

(g) While the Code contains provisions restricting the business operations of members, it appears from the materials submitted that the purpose of these restrictions is to insure that members remain within the Act's limitations and respect the confidential agency status created in their dealings with shipper-customers. The purpose is also to encourage Association members voluntarily to refrain from unfair or deceptive practices. In this context there is a greater public interest in protecting shippers from dishonest shippers' agents than there is in condemning the minimal restraints that might result from application of the Code.

(h) Undoubtedly, unreasonable and therefore unlawful restraints might result if an Association member is arbitrarily or improperly expelled from membership, but the Commission believes that there is ample public interest in effectively encouraging Association members to refrain from the clearly pernicious practices condemned by the Code. On the assumption that the Code will be administered in such a way as to promote this end, and not so as to place unreasonable restraint on the ability of members to do business, the provision permitting the Association to expel nonconforming members is approved.

(i) The Commission also noted that it had confined itself in its opinion to so much of the request as falls within its jurisdiction. The extent, if any, to which another governmental agency may be concerned with the Association's activity is a matter to be determined by reference to that agency.

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

Issued: October 13, 1969.

By direction of the Commission.

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

[F.R. Doc. 69-12170; Filed, Oct. 13, 1969; 8:45 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 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

CARBARSONE (NOT U.S.P.), ZOALENE

The Commissioner of Food and Drugs, having evaluated the information submitted in an application (38-879V) filed by Whitmoyer Laboratories, 19 North Railroad Street, Meyerstown, Pa. 17067, and other relevant material, concludes that the regulations pertaining to carbarsone (not U.S.P.) and zoalene should be amended to provide for their safe and effective use in the feed of turkeys for specified conditions. Pending recodification of previously established regulations in Part 121 under regulations to be established under the provisions of section 512(i) of the Federal Food, Drug, and Cosmetic Act, this order is in accordance with § 3.517 *New animal drugs; transitional provisions re section 512 of the Act.*

Therefore, pursuant to the provisions of the act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517 (34 F.R. 13413), and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. Section 121.207(c) is amended by redesignating item 1 in the table as item 1.1 and by adding thereafter item 1.2, as follows:

§ 121.207 Zoalene.

* * * * * * *

(c) * * *

ZOALENE IN COMPLETE FEEDS FOR CHICKENS AND TURKEYS

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indication for use
1.1 Zoalene	* * *	* * *	* * *	* * *	* * *
1.2 Zoalene	113.5–170.3 (0.0125%–0.01875%)	Carbarsone (not U.S.P.)	227–340.5 (0.025%–0.0375%)	For turkeys grown for meat purposes only; feed continuously beginning 2 weeks before blackhead and coccidiosis are expected and continue as long as prevention of blackhead and prevention and control of coccidiosis is needed; withdraw 5 days before slaughter; as sole source of organic arsenic.	Prevention and control of coccidiosis; aid in the prevention of blackhead.
* * *	* * *	* * *	* * *	* * *	* * *

* * * * * * *

2. Section 121.310(b) is amended by revising the table, as follows:

§ 121.310 Carbarsone (not U.S.P.).

* * * * * * *

(b) * * *

CARBARSONE IN COMPLETE TURKEY FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. Carbarsone	227–340.5 (0.025%–0.0375%)			For turkeys; feed continuously beginning 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; as sole source of organic arsenic.	For use as an aid in the prevention of blackhead.
2. Carbarsone	227–340.5 (0.025%–0.0375%)	Zoalene	113.5–170.3 (0.0125%–0.01875%)	For turkeys grown for meat purposes only; feed continuously beginning 2 weeks before blackhead and coccidiosis are expected and continue as long as prevention of blackhead and prevention and control of coccidiosis are needed; withdraw 5 days before slaughter; as sole source of organic arsenic.	Prevention and control of coccidiosis; aid in the prevention of blackhead.

* * * * * * *

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. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 6, 1969.

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

[F.R. Doc. 69-12215; Filed, Oct. 13, 1969; 8:45 a.m.]

PART 121—FOOD ADDITIVES

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

POLYURETHANE RESINS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 9B2419) filed by The Goodyear Tire & Rubber Co., 142 Goodyear Boulevard, Akron, Ohio 44316, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of 4,4'-methylenebis(cyclohexyl isocyanate) as a reactant and 4,4'-methylenedianiline as a curing agent in the preparation of polyurethane resins for use in contact with dry bulk food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2522 is amended by alphabetically inserting a new item in paragraph (a)(1) and another in paragraph (b), as follows:

§ 121.2522 Polyurethane resins.

* * * * *

(a) * * *

(1) Isocyanates:

* * * * *

4,4'-Methylenebis(cyclohexyl isocyanate).

* * * * *

(b) * * *

List of substances	*Limitations*
* * *	* * *
4,4'-Methylenedianiline.	As a curing agent.
* * *	* * *

* * * * *

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

Dated: October 3, 1969.

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

[F.R. Doc. 69-12216; Filed, Oct. 13, 1969; 8:45 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER B—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS NOT DIRECTLY RELATED TO REGULATIONS

PART 788—FORESTRY OR LOGGING OPERATIONS IN WHICH NOT MORE THAN EIGHT EMPLOYEES ARE EMPLOYED

Part 788 of Title 29 of the Code of Federal Regulations is hereby revised as set forth below in order to adapt it to the requirements for exemption of forestry or logging operations from the minimum wage and overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) as amended by the Fair Labor Standards Amendments of 1966 (sec. 208, 215, 80 Stat. 836, 837). The revision consists principally of clarification of statutory references in order to conform to the legislative changes made in the provision of the Act establishing this exemption, and other changes of an editorial nature.

The provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553) which require notice and opportunity for public participation in proposed rule making and delays in effective date in applying rules, are not applicable because the revision contains only interpretative rules. Moreover, such procedures would serve no useful purpose here. This revision shall become effective immediately.

The revised 29 CFR Part 788 reads as follows:

Sec.

AUTHORITY: The provisions of this Part 788 issued under secs. 1–19, 52 Stat. 1060, as amended; 29 U.S.C. 201–219.

§ 788.1 Statutory provisions.

Section 13(a)(13) of the Fair Labor Standards Act of 1938, as amended, provides an exemption from the minimum wage and overtime requirements of the Act, as follows:

> The provisions of sections 6 and 7 shall not apply with respect to * * * any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight.

This exemption, formerly section 13(a)(15) of the Act, was amended by the Fair Labor Standards Amendments of 1966 (80 Stat. 830) to change the number of employees limitation from 12 to eight, and to redesignate it as section 13(a)(13).

§ 788.2 Matters not discussed in this part.

The exemption in section 13(a)(13) of the Act need not be considered unless the employee is "engaged in commerce or 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 words are defined in the Act, so as to come within the general scope of sections 6 and 7. The principles of coverage are discussed in Part 776 of this chapter and the discussion will not be repeated in this part. Neither does this part discuss the exemptions provided in sections 13(a)(6) and 13(b)(12), or section 3(f) which includes in the definition of agriculture forestry or lumbering operations performed by a farmer or on a farm as an incident to or in conjunction with certain farming operations. (See Part 780 of this chapter.)

§ 788.3 Purpose of this part.

The purpose of this part is to make available in one place the views of the Department of Labor with respect to the application and meaning of the provisions of section 13(a)(13) of the Act which will provide "a practical guide to employers and employees as to how the office representing the public interest in enforcement of the law will seek to apply it" (Skidmore v. Swift & Co., 324 U.S. 134).

§ 788.4 Significance of official interpretations.

The interpretations contained in this part indicate, with respect to section 13(a)(13) of the Act which refers to small forestry or lumbering operations, the construction of the law which the Secretary of Labor and the Administrator believe to be correct and which will guide them in the performance of their duties under the Act unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect.

§ 788.5 Reliance on official interpretations.

Under section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259), official interpretations issued under the Fair Labor Standards Act of 1938 may, under certain circumstances, be controlling in determining the rights and liabilities of employers and employees. The interpretations of the law contained in this part are official interpretations on which reliance may be placed as provided in section 10 of the Portal-to-Portal Act so long as they remain effective and are not modified, rescinded, or determined by judicial authority to be incorrect. However, the failure to discuss a particular problem in this part or in the interpretations supplementing it should not be taken to indicate the adoption of any position by the Secretary of Labor or the Administrator with respect to such problem or to constitute an administrative interpretation or practice or enforcement policy.

§ 788.6 Scope of the section 13(a)(13) exemption.

Employees will not be held exempt under section 13(a)(13) unless they are clearly shown to come within its terms. (Wirtz v. F. M. Sloan Co., 411 F. (2d) 56 (C.A. 3), 18 WH Cases 878; Gatlin Lumber Co. v. Mitchell, 287 F. (2d) 76 (C.A. 5) cert. denied, 366 U.S. 963.) By its terms, the exemption is limited to those employed in the named operations by an employer who employs not more than eight employees therein. The named operations are described in terms of ordinary speech and mean what they mean in ordinary intercourse in this context. These operations include the incidental activities normally performed by persons employed in them, but do not include mill operations.

§ 788.7 "Planting or tending trees."

Employees employed in "planting or tending trees" include those engaged in "seeding, planting seedlings, pruning, weeding, preparing firebreaks, removing rot or rusts, spraying, and similar operations when the object is to bring about, protect, or foster the growth of trees." "Tending trees" would also include watching the timberland to guard against thefts and fire (Gatlin Lumber Co. v. Mitchell, 287 F. (2d) 76, cert. den. 366 U.S. 963).

§ 788.8 "Cruising, surveying, or felling timber."

Employees engaged in "cruising * * * timber" include all those members of a field crew whose purpose is to estimate and report on the volume of marketable timber. Employees engaged in "surveying * * * timber" include the customary members of a crew accomplishing that function such as the chainmen, the transit men, the rodmen, and the axmen who clear the ground of brush or trees in order that the transit men may obtain a clear sight. Similarly, the usual members of a crew which go to the woods for the purpose of felling timber and preparing and transporting logs are engaged in operations described in the exemption. Typically included, when members of such a crew, are fellers, limbers, skidders, buckers, loaders, swampers, scalers, and log truck drivers.

§ 788.9 "Preparing * * * logs."

Preparing logs includes, where appropriate, removing the limbs and top, cutting them into lengths, removing the bark, and splitting or facing them when done at the felling site, but does not include such operations when done at a mill. Employees engaged in sawmill, tie mill, and other operations in connection with the processing of logs, such as the production of lumber, are not exempt.

§ 788.10 "Preparing * * * other forestry products."

As used in the exemption, "other forestry products" mean plants of the forest and the natural properties or substances of such plants and trees. Included among these are decorative greens such as holly, ferns and Christmas trees, roots, stems, leaves, Spanish moss, wild fruit, and brush. Gathering and preparing such forestry products as well as transporting them to the mill, processing plant, railroad, or other transportation terminal are among the described operations. Preparing such forestry products does not include operations which change the natural physical or chemical condition of the products or which amount to extracting as distinguished from gathering, such as shelling nuts, or mashing berries to obtain juices.

§ 788.11 "Transporting [such] products to the mill, processing plant, railroad, or other transportation terminal."

The transportation or movement of logs or other forestry products to a "mill, processing plant, railroad, or other transportation terminal" is among the described operations. Loading and unloading, when performed by employees employed in the named operations, are included as exempt operations. Loading logs or other forestry products onto railroad cars or other transportation facilities for further shipment if performed as part of the exempt transportation will be considered a step in the exempt transportation (Woods Lumber Co. v. Tobin, 199 F. (2d) 455 (C.A. 5)). However, any other loading, transportation, or other activities performed in connection with the logs or other forestry products after they have been unloaded at one of the described destinations is not exempt. "Other transportation terminal" refers to any place where there are established facilities or equipment for the shipment or transportation of logs or other forestry products. Motor carrier yards, docks, wharves, or similar facilities are examples of other transportation terminals, but the place where logs are picked up by contract motor carriers or haulers at the site of the woods operations for transportation to the mill, processing plant, or railroad is not such a terminal.

§ 788.12 Limitation of exemption to specific operations in which "number of employees * * * does not exceed eight."

Regardless of his duties, no employee is exempt under section 13(a)(13) unless "the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight."

§ 788.13 Counting the eight employees.

The determination of the number of employees employed in the named operations is to be made on an occupational and a workweek basis. Thus the exemption will be available in one workweek when eight or less employees are employed in the exempt operations and not in another workweek when more than that number are so employed. For a discussion of the term "workweek" see Part 778 of this chapter. The exemption will not be defeated, however, if one or more of the eight employees so engaged is replaced during the workweek, for example, by reason of illness. But if additional employees are employed during the workweek in the named operations, even if they work on a different shift, the exemption would no longer be available if the total number exceed eight. Similarly, all of an employer's employees employed in any workweek in the named operations must be counted in the eight

regardless of where the work is performed or how it is divided. Thus if an employer employs four employees in felling timber and preparing logs at one location and five at another location in those operations, the exemption would not be available. Similarly, if he employs six employees in such operations and three other employees in transportation work as discussed in § 788.11, the exemption could not apply. Under such circumstances he would be employing more than eight employees in the named operations. The fact that some of these employees may not be engaged in commerce or the production of goods for commerce or may be engaged in other exempt operations will not affect these conclusions (Woods Lumber Co. v. Tobin, 199 F. (2d) 455 (C.A. 5)). Except for replacements, therefore, all of an employer's employees employed in the named operations in a workweek must be counted, regardless of where they perform their work or in which of the named operations or combinations of such operations they are employed. The length of time an employee is employed in the named operations during a workweek is also immaterial for the purpose of applying the numerical limitation. Thus, even if an employee would not himself be exempt because he is engaged substantially in nonexempt work (see § 788.17), nevertheless, if, as a regular part of his duties, he is also engaged in the operations named in the exemption, he must be counted in determining whether the eight employee limitation is satisfied.

§ 788.14 Number employed in other than specified operations.

The exemption is available to an employer, however, even if he has a total of nine or more employees, if only eight of them or less are employed in the named operations. Thus if such an employer employs only eight employees in the named operations and others in operations not named in the exemption, such as sawmill operations, the exemption is not defeated because of the fact that he employs more than eight employees altogether. It will not apply, however, to those engaged in the operations not named in the exemption.

§ 788.15 Multiple crews.

In many cases an employer who operates a sawmill or concentration yard will be supplied with logs or other forestry products by several crews of persons who are engaged in the named operations. Frequently some or all of such crews, separately considered, do not employ more than eight persons but the total number of such employees is in excess of eight. Whether the exemption will apply to the members of the individual crews which do not exceed eight will depend on whether they are employees of the sawmill or concentration yard to which the logs or other forestry products are delivered or whether each such crew is a truly independently owned and operated business. If the number of employees in such a truly and independently owned and operated business does not exceed eight, the exemption will apply. On the other hand, the Secretary and the Administrator will assume that the courts will be reluctant to approve as bona fide a plan by which an employer of a large number of woods employees splits his employees into several allegedly "independent businesses" in order to take advantage of the exemption.

§ 788.16 Employment relationship.

(a) The Supreme Court has made it clear that there is no single rule or test for determining whether and individual is an employee or an independent contractor, but that the "total situation controls" (see Rutherford Food Corp. v. McComb, 331 U.S. 722; United States v. Silk, 331 U.S. 704; Harrison v. Greyvan Lines, 331 U.S. 704; Bartels v. Birmingham, 332 U.S. 126). In general an employee, as distinguished from a person who is engaged in a business of his own, is one who "follows the usual path of an employee" and is dependent on the business which he serves. As an aid in assessing the total situation the Court mentioned some of the characteristics of the two classifications which should be considered. Among these are: The extent to which the services rendered are an integral part of the principal's business, the permanency of the relationship, the opportunities for profit or loss, the initiative, judgment or foresight exercised by the one who performs the services, the amount of investment, and the degree of control which the principal has in the situation. The Court specifically rejected the degree of control retained by the principal as the sole criterion to be applied.

(b) At least in one situation it is possible to be specific: (1) Where the sawmill or concentration yard to which the products are delivered owns the land or the appropriation rights to the timber or other forestry products, (2) the crew boss has no very substantial investment in tools or machinery used, and (3) the crew does not transfer its relationship as a unit from one sawmill or concentration yard to another, the crew boss and the employees working under him will be considered employees of the sawmill or concentration yard. Other situations, where one or more of these three factors is not present, will be considered as they arise on the basis of the criteria mentioned in paragraph (a) of this section. Where all of these three criteria are present, however, it will make no difference if the crew boss receives the entire compensation for the production from the sawmill or concentration yard and distributes it in any way he chooses to the crew members. Similarly, it will make no difference if the hiring, firing, and supervising of the crew members is left in the hands of the crew boss. (See Tobin v. LaDuke, 190 F. (2d) 677 (C.A. 9); Tobin v. Anthony-Williams Mfg. Co., 196 F. (2d) 547 (C.A. 8).)

§ 788.17 Employees employed in both exempt and nonexempt work.

The exemption for an employee employed in exempt work will be defeated in any workweek in which he performs a substantial amount of nonexempt work. For enforcement purposes nonexempt work will be considered substantial in amount if more than 20 percent of the time worked by the employee in a given work-week is devoted to such work. Where the two types of work cannot be segreated, however, so as to permit separate measurement of the time spent in each, the employee will not be exempt.

(52 Stat. 1060, as amended; 29 U.S.C. 201–219 and Secretary's Order No. 19–67 (32 F.R. 12980))

Signed at Washington, D.C. this 8th day of October 1969.

ROBERT D. MORAN,
Administrator, Wage and Hour and Public Contracts Divisions.

[F.R. Doc. 69–12269; Filed, Oct. 13, 1969; 8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER F—PERSONNEL

PART 577—MEDICAL AND DENTAL ATTENDANCE

Dependents' Medical Care

Section 577.71 is revised to read as follows:

§ 577.71 Civilian facilities which have been identified by the Department of Defense as practicing discrimination in the admission and/or treatment of patients.

Hospital	Effective date of ineligibility	Effective date eligibility restored
Choctaw County General Hospital, Butler, Ala.	Oct. 16, 1968	Nov. 19, 1968
Fifth Avenue General Hospital, Huntsville, Ala.	Oct. 16, 1968	
St. Francis Hospital, Monroe, La.	Oct. 16, 1968	Nov. 4, 1968
Greenwood Leflore Hospital, Greenwood, Miss.	Oct. 16, 1968	Apr. 9, 1969
Covington County Hospital, Collins, Miss.	Oct. 16, 1968	
East Bolivar County Hospital, Cleveland, Miss.	Oct. 16, 1968	Oct. 25, 1968
Tuomey Hospital, Sumter, S.C.	Oct. 16, 1968	Dec. 16, 1968
Hampton General Hospital, Varnsville, S.C.	Nov. 16, 1968	Jan. 6, 1969

[C 2, AR 40–121, Sept. 9, 1969] (Sec. 3012, 70A Stat. 157, secs. 1071–1085, 72 Stat. 1445–1450; 10 U.S.C. 1071–1085, 3012)

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Management Division, TAGO.

[F.R. Doc. 69–12210; Filed, Oct. 13, 1969; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Gulf Intracoastal Waterway, Tex.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.187 governing the operation of the Brazos River Floodgates and the Colorado River Locks on the Gulf Intracoastal Waterway, Tex., are hereby amended revoking paragraph (c)(5) effective upon publication in the FEDERAL REGISTER as follows:

§ 207.187 Gulf Intracoastal Waterway, Tex.; special floodgate, lock and navigation regulations.

* * * * *

(c) *Operation of floodgates and locks.* * * *

(5) *Information signs.* [Revoked]

* * * * *

[Regs., Sept. 30, 1969, 1507-32(GIWW-Brazos and Colorado Rivers, Tex.)-ENGCW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Management Division, TAGO.

[F.R. Doc. 69-12209; Filed, Oct. 13, 1969; 8:45 a.m.]

Title 42—PUBLIC HEALTH

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

SUBCHAPTER D—GRANTS

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUATIONAL IMPROVEMENT AND SCHOLARSHIPS

Subpart K—Grants To Improve Quality of Nursing Education

Notice of proposed rule making, public rule making procedures, and postponement of effective date have been omitted in the issuance of the following new Subpart K—Grants To Improve Quality of Nursing Education, which relates solely to grants.

The following new Subpart K shall become effective upon the date of publication in the FEDERAL REGISTER, but only with respect to appropriations for fiscal years ending after June 30, 1969.

Part 57 is amended by adding at the end thereof a new Subpart K as follows:

Subpart K—Grants To Improve Quality of Nursing Education

Sec.
57.1001 Definitions.
57.1002 Eligibility.
57.1003 Application.
57.1004 Assurances required.
57.1005 Determination of number of students and number of graduates.
57.1006 Grant awards.
57.1007 Amount of grants.
57.1008 Expenditure of grant funds.
57.1009 Nondiscrimination.
57.1010 Payments.
57.1011 Records, reports, inspection.
57.1012 Termination of grants or withholding of payments.

AUTHORITY: The provisions of this Subpart K issued under secs. 215, 806(c)(1), Public Health Service Act as amended, 58 Stat. 690, 82 Stat. 782; 42 U.S.C. 216, 296e(c)(1).

Subpart K—Grants To Improve Quality of Nursing Education

§ 57.1001 Definitions.

As used in this subpart, the following terms shall have the following meanings:

(a) *Act.* The Public Health Service Act, as amended.

(b) *Secretary.* The Secretary of Health, Education, and Welfare or any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) *School.* A public or other nonprofit school of nursing as defined in section 843 of the Act.

(d) *Full-time student.* A student who is enrolled in a school of nursing and pursuing a course of study which constitutes a full-time academic work load as determined by the school, leading to a diploma in nursing, an associate degree in nursing or an equivalent degree, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing.

(e) *Council.* The National Advisory Council on Nurse Training (established by section 841(a) of the Act).

(f) *Construction.* (1) The construction of new buildings or the expansion of existing buildings (including related costs such as architects' fees, acquisition of land, off-site improvements, and the initial equipping of such buildings); and (2) the remodeling, alteration, and repair of existing buildings.

(g) *Fiscal year.* The Federal fiscal year beginning July 1 and ending on the following June 30.

(h) *Budget year.* The 12-month period specified in the grant award document.

(i) *Project period.* The time for which support for a special project has been approved, as specified in the grant award document.

§ 57.1002 Eligibility.

To be eligible for a special project or institutional grant under the Act, the applicant shall:

(a) Meet the applicable requirements of section 807(c) of the Act;

(b) File an application as required by § 57.1003; and

(c) Be located in a State, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

§ 57.1003 Application.

Each school desiring a special project grant or an institutional grant shall submit an application in such form and at such time as the Secretary may require. Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(a) *Special project grants.* An application for a special project grant shall specify the purposes for which the application is made, in accordance with the provisions of section 805(a) of the Act, and shall include a plan describing the manner and method by which all funds granted will be utilized to carry out the specified purposes.

(b) *Institutional grants.* An application for an institutional grant shall include a description of the manner and method by which all funds granted will be utilized by the applicant.

§ 57.1004 Assurances required.

(a) In connection with applications for both special project and institutional grants, with respect to the assurances required by section 807(c)(2) of the Act (relating to the expenditure of non-Federal funds), the determination of the amount of non-Federal funds expended during the fiscal year in which the grant is made shall exclude costs of construction as defined in § 57.1001(f), and the determination of the amount of non-Federal funds expended during the three fiscal years immediately preceding such fiscal year shall exclude all expenditures of a nonrecurring nature, including costs of construction as so defined.

(b) In connection with applications for institutional grants for fiscal years beginning after June 30, 1970, with respect to the assurance required by section 806(b) of the Act (relating to increased enrollment), the school shall, except as otherwise provided in this paragraph, furnish such reasonable assurances as the Secretary may require that for the first school year beginning after the fiscal year in which a grant is made and each school year thereafter during which such a grant is made the first-year enrollment of full-time students in such school will exceed the average of the first-year enrollments of such students in such school for the 2 school years having the highest such enrollment during the 5 school years during the period July 1, 1963, through June 30, 1968, by at least 2½ percentum of such highest first-year enrollment, or by five students, whichever is greater. Where the applicant has given assurance under section 802(b)(2)(D) of the Act with respect to a construction grant application, this increase shall be in addition to the increase of 5 percentum or five students required thereunder. Where any school desires that the Secretary shall waive, in whole or in part (in accordance with the last sentence of section 806(b) of the Act), the assurance of

increased enrollment, it shall so indicate in its application and shall in its application state the reasons why the required increase in first-year enrollment of full-time students in such school cannot, because of limitations of physical facilities available to the school for training, be accomplished without lowering the quality of training for such students.

(c) The Secretary may in individual cases require additional assurances where he finds that such additions are necessary to carry out the purposes of the Act.

§ 57.1005 Determination of number of students and number of graduates.

(a) For purposes of this subpart, the number of full-time students enrolled in a school, or the number of full-time first-year students enrolled in a school, as the case may be, for any year, shall be the number which the Secretary, on the basis of information relating to the school's past and anticipated enrollment, determines to be the number of such students enrolled or to be enrolled, as the case may be, in such school on October 15 of such year.

(b) For purposes of determining the relative number of graduates under section 806(a)(B) of the Act, the number of graduates of any school for the fiscal year in which any such grant is made shall be the number which the Secretary, on the basis of information relating to such school's enrollment and expected rate of attrition, determines to be the number of students to whom such school will, during such year, award diplomas or degrees specified in § 57.1001(d).

(c) For purposes of determining the relative increase in enrollment of full-time students under section 806(a)(A)(ii) of the Act:

(1) Where a school had an enrollment of full-time students during all of the 5 school years preceding the year in which the grant is made, the increase in enrollment of full-time students shall be the number by which the school's enrollment for the year in which the grant is made exceeds the average enrollment of the school for the 5 preceding school years.

(2) Where a school had an enrollment of full-time students during at least one but not all of the 5 school years preceding the year in which the grant is made, the increase in enrollment of full-time students shall be the number by which the school's enrollment for the year in which the grant is made exceeds the average enrollment of the school for such of the 5 preceding school years as it had an enrollment.

(3) Where a school had no enrollment of full-time students during any of the 5 school years preceding the year in which the grant is made, the increase in enrollment of full-time students shall equal the number of full-time students enrolled in the school in the year in which the grant is made.

(d) For purposes of the assurance required by section 806(b) of the Act relating to increased first-year enrollment:

(1) Where a school had a first-year class in at least 2 of the 5 school years during the period July 1, 1963, through June 30, 1968, the increase in enrollment of full-time first-year students shall be the number by which the school's first-year enrollment for the first school year beginning after the year in which the grant is made exceeds the average of the first-year enrollments in such school for the 2 school years having the highest such enrollment during such period.

(2) Where a school had a first-year class in only 1 of the 5 school years during such period, the increase in enrollment of full-time first-year students shall be the number by which the school's first-year enrollment for the first school year beginning after the year in which the grant is made exceeds the first-year enrollment in such school for such single year.

(3) Where a school had no first-year class in any of the 5 school years during such period, the increase in enrollment of full-time first-year students shall equal the school's first-year enrollment for the first school year beginning after the year in which the grant is made.

(e) The classification of a full-time student as a first-year student or as a student in a particular year-class in a school shall be in accordance with the policies of the particular school, except that any student who is required to repeat one or more first-year courses after having been enrolled as a full-time student during a previous school year shall not be considered a first-year student.

§ 57.1006 Grant awards.

(a) *Special project grants.* The Secretary may award a special project grant to any applicant where the Secretary determines, after consultation with the Council, that such grant will be utilized by the applicant in accordance with one or more of the purposes specified in section 805(a) of the Act. In determining priority of special project grants, the Secretary shall give priority, in the following order, to:

(1) The relative need of the applicant (if a school of nursing) for financial assistance to continue in operation or avoid curtailing enrollment or reduction in the quality of training provided;

(2) The special need of the applicant for financial assistance in connection with its merger with a school of nursing;

(3) The relative need of the applicant for financial assistance to maintain or provide for accreditation as a school of nursing; and

(4) The extent to which the project will increase enrollment of full-time students receiving nursing training.

(b) *Institutional grants.* After consultation with the Council, the Secretary shall award an institutional grant to each applicant whose application is found by the Secretary to meet the applicable requirements of the Act and of this subpart.

§ 57.1007 Amount of grants.

(a) *Special project grants.* Within the limits of available funds, the amount of each special project grant shall be an amount which the Secretary deems to be reasonably necessary to carry out the applicant's approved special project.

(b) *Institutional grants.* The amount of each institutional grant shall be an amount computed in accordance with section 806 of the Act.

§ 57.1008 Expenditure of grant funds.

(a) Special project grants: Special project grant funds may be expended only to carry out the purposes of the special project plan set forth in the school's application as approved by the Secretary after consultation with the Council, but may not be expended for the purposes listed in paragraph (c) of this section. Any unobligated special project funds remaining in the grant account at the close of a budget year will be carried forward and will be available for obligation during subsequent budget years of the project period. The amount of the subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget year of the project period any unobligated special project funds remaining in the grant account must be refunded to the Public Health Service.

(b) Institutional grants: Institutional grant funds may be obligated by the school at any time before the end of the 12-month period following the budget year for any purpose related to the educational program of the school, but may not be expended for the purposes listed in paragraph (c) of this section. Any funds not so obligated must be refunded to the Public Health Service.

(c) Special project and institutional grant funds may not be expended for the following purposes:

(1) Construction (as defined in § 57.1001(f)): *Provided, however,* That the recipient of any such grant may expend grant funds not in excess of $50,000 during a budget year for remodeling, alteration, and repair of existing buildings: *And, provided further,* That the Secretary may in particular cases approve the expenditure of institutional or special project grant funds for remodeling, alteration, and repair of existing buildings in excess of $50,000 for a budget year where he finds that such expenditure is necessary in order to accomplish the purposes of the Act;

(2) Research (except for research in the various fields of nursing education);

(3) Research training;

(4) Student assistance;

(5) Patient care; or

(6) Operation of teaching or other hospitals.

§ 57.1009 Nondiscrimination.

(a) Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 78 Stat. 252) which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, which is applicable to grants made under this subpart, has been issued by the Secretary of Health, Education, and

Welfare with the approval of the President (45 CFR Part 80).

(b) Each grant for remodeling, alterations, or repairs shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246 (Sept. 24, 1965), relating to nondiscrimination in construction contract employment, and with the applicable rules, regulations and procedures prescribed pursuant thereto.

§ 57.1010 Payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 57.1011 Records, reports, inspection.

(a) *Records and reports.* Each grant awarded pursuant to this subpart shall be subject to the condition that the grantee shall maintain such progress and fiscal records, and file with the Secretary such progress and fiscal reports relating to the use of grant funds, as the Secretary may find necessary to carry out the purposes of the Act and regulations. No such record shall be destroyed or otherwise disposed of until audit by or on behalf of the Department of Health, Education, and Welfare or for 5 years after the end of the budget year, whichever comes first, except that where audit questions have arisen before the expiration of such 5-year period, records shall be retained until resolution of such questions.

(b) *Inspection and audit.* Any application for a grant award under this subpart shall constitute the consent of the applicant to inspections at reasonable times by persons designated by the Secretary of the facilities, equipment and other resources of the applicant and to interviews with principal staff members to the extent that such resources and personnel will be, or are, involved in the project. In addition, the acceptance of any grant award under this subpart shall constitute the consent of the grantee to inspections and fiscal audit by such persons of the supported activity and of progress and fiscal records relating to the use of grant funds.

§ 57.1012 Termination of grants or withholding of payments.

Whenever the Secretary finds that a grantee has failed in a material respect to comply with the Act or the regulations of this subpart he may, on reasonable notice to the grantee, withhold further payments, and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of the Act and regulations. In such case no further expenditure shall be made from the grant until the Secretary determines that there is no longer any such failure of compliance.

Dated: June 30, 1969.

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

Approved: October 8, 1969.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 69-12248; Filed, Oct. 13, 1969; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Kesterson National Wildlife Refuge, Calif.

Whereas, the Bureau of Reclamation has acquired certain lands in Merced County, Calif., to establish the Kesterson Reservoir as a part of the Central Valley Project, West San Joaquin Division, San Luis Unit, under authority of the Act of June 30, 1960, Public Law 86-488 (74 Stat. 156), and

Whereas, under the authority of section 4 of the Fish and Wildlife Coordination Act as amended (16 U.S.C. 661-666c), the Secretary of the Interior on April 4, 1969, approved a general plan declaring that certain lands of the reservoir have value to the National Migratory Bird Management Program administered by the Bureau of Sport Fisheries and Wildlife, and

Whereas, under the said Act an interim cooperative agreement was approved July 18, 1969, pending the execution of a long-term management agreement between the Bureau of Reclamation and the Bureau of Sport Fisheries and Wildlife, authorizing the Bureau of Sport Fisheries and Wildlife to assume management of the area within the Reclamation take-line as shown on the Bureau of Reclamation drawing 805-208-1373, dated July 15, 1968, and to manage the said area in accordance with the preliminary interim plan dated June 26, 1969.

Now, therefore, under the authority of the Endangered Species Act of October 15, 1966 (80 Stat. 929, 16 U.S.C. 668aa) and in accordance with said cooperative agreement, an area comprising approximately 5,900 acres of land and water at Kesterson Reservoir as shown on Bureau of Reclamation drawing 805-208-1373, has been made available by the Bureau of Reclamation to the Bureau of Sport Fisheries and Wildlife for administration and for the conservation and management of migratory birds and of fish and other wildlife.

Pursuant to the authority vested in the Secretary of the Interior by the Endangered Species Preservation Act of October 15, 1966 (80 Stat. 926, 16 U.S.C. 668aa), 50 CFR 32.11 is herewith amended by the addition of Kesterson National Wildlife Refuge, Calif., to the list of areas open to the hunting of migratory game birds as legislatively permitted.

It has been determined that regulated hunting of migratory game birds may be permitted as designated on the Kesterson National Wildlife Refuge without detriment to the objectives for which the area was established.

Notice and public procedure on this amendment are deemed contrary to the public interest because of the proximity of the waterfowl season in the State of California. Since the amendment benefits the public by relieving existing hunting restrictions on the Kesterson National Wildlife Refuge, it shall become effective upon publication in the FEDERAL REGISTER.

Section 32.11 is amended by the following addition:

§ 32.11 List of open areas; migratory game birds.

* * * * *

CALIFORNIA

Kesterson national wildlife refuge.

* * * * *

JOHN S. GOTTSCHALK,
Director, Bureau of
Sports Fisheries and Wildlife.

OCTOBER 8, 1969.

[F.R. Doc. 69-12245; Filed, Oct. 13, 1969; 8:48 a.m.]

PART 32—HUNTING

Bombay Hook National Wildlife Refuge, Del.

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

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Public archery hunting of deer on Bombay Hook National Wildlife Refuge, Del., is permitted only on the Deer Hunting Area and Upland Hunting Area designated by signs as open to hunting. These open Deer Hunting Areas are delineated on maps available at refuge headquarters, Smyrna, Del. 19977 and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Hunting shall be in accordance with all applicable State regulations covering archery hunting of deer subject to the following special conditions:

(1) Hunting by bow and arrow on the Deer Hunting Area is permitted only on Saturdays.

(2) The number of hunters admitted to the opened area at any one time will be restricted to 400 and a User Fee of $1 per hunter will be charged.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1969.

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

OCTOBER 7, 1969.

[F.R. Doc. 69-12211; Filed, Oct. 13, 1969; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[9 CFR Part 327]

MEAT INSPECTION

Monthly Supervisory Visits by Foreign Officials to Approved Foreign Export Meat Plants

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the Federal Meat Inspection Act (34 Stat. 1260, as amended by the Wholesome Meat Act of 1967, 81 Stat. 584, 21 U.S.C. 601 et seq.), the Consumer and Marketing Service proposes to amend the Federal Meat Inspection Regulations in 9 CFR Part 327 to require supervisory visits by foreign officials to foreign meat plants if the plants are to be eligible to have their products imported into the United States, and to provide for reports by such officials.

Statement of considerations. The Federal Meat Inspection Act requires that the Secretary of Agriculture shall each year report to the appropriate committees of the Congress with respect to administration of the section of the Act dealing with importation of livestock carcasses, meats and meat products. The Act specifies that this report shall include a certification that foreign plants exporting such carcasses or meat or meat products for importation into the United States have complied with requirements at least equal to all provisions of the Act and regulations issued thereunder. It appears that such certification can only be made if the supervisory inspection exercised by the national governments of the countries in which such foreign plants are located is adequate to maintain standards and operating procedures equivalent to those established by the United States meat inspection program. Therefore it is proposed to add the following new subdivision to § 327.2(a)(1) of said regulations:

§ 327.2 Eligibility of foreign countries for importation of product into the United States.

(a) * * *

(1) * * *

(iv) The foreign inspection system must maintain a program of periodic supervisory visits to each certified establishment to assure that requirements referred to in (*a*) through (*f*) of subdivision (ii) of this subparagraph, at least equal to those of the Federal system of meat inspection of the United States are being met. A representative of the foreign inspection system shall make at least one such supervisory visit each month to each such establishment and prepare a written report of his findings, copies of which shall be made available to the representative of the Department at the time of his review or when requested.

* * * * *

Any interested persons who desire to present any views, arguments, or data concerning the proposed amendment of the regulations set forth above may do so by filing their comments in writing, in duplicate, with the Office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after the publication hereof in the FEDERAL REGISTER. All such written submissions will be made available for public inspection at said office during regular office hours in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., on October 9, 1969.

ROY W. LENNARTSON,
Administrator.

[F.R. Doc. 69-12273; Filed, Oct. 13, 1969; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 74]

CLINICAL LABORATORIES

Hearings

Notice is hereby given that the Secretary of Health, Education, and Welfare proposes to amend Part 74 by adding a new "Subpart I—Hearings" as set out below. This subpart will apply to hearings and administrative review conducted under the Clinical Laboratories Improvement Act of 1967 (42 U.S.C. 263a).

Interested persons may submit written comments, suggestions, or objections in triplicate to the Director, National Communicable Disease Center, 1600 Clifton Road, Northeast, Atlanta, Ga. 30333. All relevant material received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered.

Notice is also given that it is proposed to make the regulations which are adopted effective upon publication in the FEDERAL REGISTER.

The proposed Subpart I would read as follows:

Subpart I—Hearings

GENERAL RULES

AUTHORITY: The provisions of this Subpart I issued under sec. 215, 58 Stat. 690; 42 U.S.C. 216.

GENERAL RULES

§ 74.70 Applicability.

The provisions of this subpart apply to hearings and administrative review conducted under section 353 of the Act.

§ 74.71 Filing.

The original and two copies of documents required or permitted to be filed in, and correspondence relating to proceedings governed by the regulations in this subpart shall be filed with the Hearing Clerk, Room 159, Building No. 1, National Communicable Disease Center, 1600 Clifton Road NE., Atlanta, Ga. 30333. This office is open Monday through Friday from 8 a.m. to 4:30 p.m., local time, except on national legal holidays.

§ 74.72 Service.

(a) Any document or correspondence from an official of the Department to a party, or from a party to such official relating to a proceeding commenced under this subpart shall be served on all parties to the proceeding and the original and two copies filed with the Hearing Clerk.

(b) The original of every document filed and required to be served upon parties to a proceeding shall be endorsed by a certificate or service signed by the party making service or by his attorney or representative stating that such service has been made, the date of service and the manner of service.

(c) Service shall be made by personal delivery of one copy to each person to be served or by mailing one copy by first class mail properly addressed with postage prepaid. When a party has appeared by counsel, service upon such counsel shall be deemed service upon the party.

(d) The date of service shall be the day of delivery in person or the deposit in the United States mail except that the date of service of the initial notice of opportunity for hearing shall be the date of delivery.

§ 74.73 Parties.

(a) The term party includes the owner or operator of a laboratory with respect to which notice has been given pursuant to § 74.11 or § 74.60 that it is proposed to deny the issuance of an initial or renewal license or to revoke, suspend or limit a laboratory license or letter of exemption.

(b) The General Counsel of the Department of Health, Education, and Welfare shall be deemed a party to all proceedings under this subpart.

(c) Upon application and good cause shown, the presiding officer may permit any interested person, agency or organization to appear and participate in the proceedings as a party, to such extent and upon such terms as he shall determine to be proper.

(d) Any party may appear in person or by counsel or other representative.

(e) An individual acting in a representative capacity in any proceeding may be required by the Secretary or the presiding officer to show his authority to act in such capacity.

§ 74.74 Conduct at hearings.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, continued use of dilatory tactics or refusal to adhere to reasonable standards or orderly and ethical conduct at any hearing before the Secretary or a hearing examiner shall constitute grounds for the immediate exclusion from the hearing of an individual acting in a representative capacity: *Provided*, That, the presiding officer shall suspend the hearing for a reasonable time to permit the party affected to obtain other representation.

§ 74.75 Form of documents to be filed.

(a) Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and the title, if any, and address of the signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible, shall be typewritten or printed, and shall not be more than 8½ inches wide and 12 inches long. Reproduced copies will be accepted as typewritten, provided all copies are clearly legible.

(b) All documents filed in any proceeding subject to the regulations in this part, except exhibits, shall be signed by a party, or his authorized officer, employee, or attorney. The address of the party or attorney shall be stated on the document. The signature of a party, authorized officer, employee or attorney constitutes a certificate that he has read the document, that to the best of his knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.

§ 74.76 Computation of time.

In computing any period of time under the rules in this part or under an order issued by the Secretary or the presiding officer hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the State of Georgia. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 74.77 Extension of time or postponement.

Requests for extension of time shall be served on all parties and shall set forth the reasons for the application. Applications may be granted upon a showing of good cause by the applicant. After the designation of a presiding officer (see § 74.90), until the issuance of his decision, such requests shall be addressed to him.

§ 74.78 Inspection of records.

Subject to the provisions of law and regulations restricting public disclosure of information, all documents filed in the docket in any proceeding may be inspected and copied in the office of the Hearing Clerk.

§ 74.79 Waiver or modification of rules.

The Secretary or the presiding officer (with respect to matters pending before him) may waive or modify any rule in this subpart by announcement at the hearing or by notice in advance of the hearing, if he determines that no party will be unduly prejudiced thereby and the ends of justice will thereby be served.

PROCEEDINGS PRIOR TO HEARING

§ 74.80 Commencement of proceedings; notice of proposed action.

Proceedings are commenced by service on the owner or operator of a laboratory of a notice of opportunity for hearing on proposed action to deny an application for the issuance or renewal of a license, or to revoke, suspend or limit a license or letter of exemption which shall set the grounds for the proposed action pursuant to § 74.11 or §§ 74.60 and 74.61, as applicable.

§ 74.81 Answer to notice; evidence of compliance.

(a) The respondent applicant or owner or operator of a laboratory may file an answer to the notice within 20 days after service thereof. Answers shall admit or deny specifically and in detail each allegation of the notice, unless the respondent party is without knowledge, in which case his answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the respondent to file an answer within the 20-day period following service of the notice may be deemed an admission of all matters of fact recited in the notice.

(b) The answer may include a statement of action, responsive to the notice, taken by the respondent to comply with the applicable requirements, together with supporting material.

(c) After consideration of the information submitted in such statement, or the answer and such investigation and conference with the respondent as the Secretary deems appropriate, the Secretary may withdraw the notice or take such other action as may be appropriate. The withdrawal of the notice of proposed action shall terminate the proceedings but shall not constitute a bar to any further or subsequent action by the Secretary in that or any factually related proceeding.

§ 74.82 Amendment of notice or answer.

The General Counsel may amend the notice of proposed action and opportunity for hearing once as a matter of course before an answer thereto is served, and each respondent may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answer may be amended only by leave of the presiding officer designated in accordance with § 74.90. A respondent shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be the longer, unless the presiding officer otherwise orders.

§ 74.83 Request for hearing.

(a) Within 20 days after service of notice of opportunity for hearing the respondent, either in his answer or in a separate document, may request a hearing. Failure of the respondent to request a hearing shall be deemed a waiver of hearing and consent to submission of the case to the Secretary for decision on the written record. The failure of the respondent both to file an answer and to request a hearing shall be deemed a waiver of all right to participate in the proceedings and to constitute his consent to the making of a decision by the Secretary on the basis of such information as is available.

(b) Upon receipt of a request for a hearing, the Secretary, subject to §§ 74.81 and 74.87, will designate a presiding officer for such hearing as provided in § 74.90.

§ 74.84 Motions.

Motions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, the motion shall be in writing. If made at the hearing, they may be stated orally; but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers and replies shall be addressed to the presiding officer, if the case is pending before him. A repetitious motion will not be entertained.

§ 74.85 Responses to motions and petitions.

Within 8 days after a written motion or petition is served, or such other period as the Secretary or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.

§ 74.86 Disposition of motions and petitions.

The Secretary or presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately. Motions and petitions submitted to the presiding officer or the Secretary, respectively, not disposed of in separate rulings or in their respective decisions will be deemed denied. Oral argument shall not be held on written motions or petitions unless the presiding officer in his discretion expressly so orders.

§ 74.87 Decision prior to hearing.

Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of this part. In any case where it appears from the respondent's answer to the notice of opportunity for hearing, from his failure timely to answer, or from his admissions or stipulations in the record, that there are no matters of material fact in dispute, the Secretary or presiding officer may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for filing briefs under § 74.120. Thereafter the proceedings shall go to conclusion in accordance with this subpart. The presiding officer may allow an appeal from such order in accordance with § 74.110.

DESIGNATION, POWERS, RESPONSIBILITIES AND DUTIES OF PRESIDING OFFICER

§ 74.90 Presiding Officer.

A presiding officer shall preside over all hearings held pursuant to this subpart. The presiding officer shall be either the Secretary or a hearing examiner appointed pursuant to 5 U.S.C. 3105 and designated by the Secretary to conduct the hearing. Such designation shall be made by an order in writing which shall specify whether the examiner is to make an initial decision or to certify the entire record, including his recommended findings and proposed decision, to the Secretary. A copy of such order shall be served on all parties.

§ 74.91 Authority of presiding officer.

Hearings shall be conducted in an informal but orderly manner in accordance with this subpart and the requirements of 5 U.S.C. 551–559 inclusive, and, where this subpart or the statutory requirements are inapplicable or incomplete, in accordance with the direction of the presiding officer. The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange for and issue notice of the date, time, and place of hearings and prehearing conferences, and upon proper notice to change the date, time, and place of hearings and prehearing conferences previously set.

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties to state their position with respect to the various issues in the proceeding.

(d) Administer oaths and affirmations.

(e) Regulate the course of the hearing and the conduct of counsel therein.

(f) Examine witnesses and direct witnesses to testify.

(g) Receive, rule on, exclude, or limit evidence.

(h) Fix the time for filing motions, petitions, briefs, findings, or other items in matters pending before him.

(i) Rule on motions and other procedural items pending before him.

(j) Issue initial or recommended decisions, or final decisions where the Secretary presides.

(k) Take any action authorized by the rules in this part or in conformance with 5 U.S.C. 551–559 inclusive.

HEARING PROCEDURES

§ 74.100 Evidentiary purpose of hearing.

The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received into evidence; rather, it should be presented in opening or closing statements of counsel, memoranda, or briefs, as determined by the presiding officer.

§ 74.101 Published documents.

The authenticity of all published documents submitted in advance shall be deemed admitted unless written objection thereto is filed with the presiding officer upon notice to the other parties within the time specified by the presiding officer in accordance with this section, except that a party will be permitted to challenge such authenticity at a later time upon a showing of good cause for failure to have filed such written objection.

§ 74.102 Testimony—witnesses.

(a) Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his discretion, may require or permit that the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof.

(b) Opinion testimony shall be admitted when the presiding officer is satisfied that the witness is properly qualified.

§ 74.103 Scope of testimony.

When necessary to prevent undue prolongation of the hearing, the presiding officer may limit the number of times any witness may testify, the repetitious examination and cross-examination of witnesses, or the amount of corroboration or cumulative evidence.

§ 74.104 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.

§ 74.105 Exhibits.

All written statements, charts, tabulations, reports, documents, and similar data offered in evidence at the hearing shall be marked for identification, and upon a showing satisfactory to the presiding officer of the authenticity, relevancy, materiality, and reliability, shall be received in evidence, subject to section 556(d) of Title 5, U.S.C. Exhibits shall be submitted in quintuplicate. In case the required number of copies are not made available, the presiding officer shall exercise his discretion in determining whether the exhibit will be read in evidence or whether additional copies will be required to be submitted within a time to be specified by the presiding officer. Where relevant and material matter offered into evidence is embraced in a report or document containing immaterial and irrelevant matter, such immaterial and irrelevant matter will be excluded and will be segregated insofar as

practicable, subject to the direction of the presiding officer.

§ 74.106 Objections.

If any person objects to the admission or rejection of any evidence or to other limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection, and the transcript shall not include extended argument or debate thereon except as ordered by the presiding officer. A ruling of the presiding officer on any such objection shall be a part of the transcript, together with such offer of proof as has been made.

§ 74.107 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which a party or his counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 74.108 Exceptions to rulings.

Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is sought, makes known the action that he desires the presiding officer to take, or his objection to an action taken, and his grounds therefor.

§ 74.109 Official notice; public documents.

(a) Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded opportunity to show the contrary.

(b) Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

§ 74.110 Appeal from ruling of presiding officer.

When a hearing examiner is the presiding officer, rulings of the presiding officer may not be appealed to the Secretary prior to his consideration of the entire proceeding, except with the consent of the presiding officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the Secretary within such period that the presiding officer directs. No oral argument will be heard unless the Secretary directs otherwise.

THE RECORD

§ 74.115 Official transcript.

(a) Testimony given at a hearing shall be reported verbatim by an official reporter designated by the Secretary. Any person desiring a copy of the transcript of the testimony and exhibits taken at the hearing or of any part thereof shall be entitled to the same upon application to the official reporter and upon payment of the costs thereof.

(b) At the close of the hearing, the presiding officer shall afford the parties a reasonable time to submit written proposed corrections of the transcript and shall promptly thereafter order such corrections made as in his judgment are required to make the transcript conform to the testimony.

§ 74.116 Record for decision.

The transcript of testimony together with exhibits, written arguments, briefs or memoranda of law filed with the presiding officer, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

POSTHEARING PROCEDURES, DECISIONS

§ 74.120 Posthearing briefs.

(a) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs. Five copies of each brief shall be filed with the hearing clerk.

(b) Briefs shall include a statement of position on each issue with a summary of the evidence relied upon, together with citations of pages of the transcript and of exhibits, and of authorities relied upon.

§ 74.121 Decisions.

As soon as practicable after the time for filing briefs has expired, the presiding officer, if the Secretary, shall make a final decision. If the presiding officer is a hearing examiner, he shall certify the entire record, including his recommended findings and proposed decision to the Secretary, or, if so authorized, shall make an initial decision. A copy of the recommended findings and proposed decision, or the initial decision, shall be served on all parties.

§ 74.122 Exceptions to, or support of, initial or recommended decisions.

(a) Within 30 days after the mailing or personal service of an initial or recommended decision, any party may file a brief with the Secretary containing exceptions or supporting the decision. The exceptions shall point out with particularity the alleged errors and shall contain a specific citation to the pages of the transcript or to exhibits on which exceptions are based. Any other party may file a response thereto within 45 days after the date of service of the initial or recommended decision.

(b) If oral argument on exceptions is desired, such a request shall be made with the exceptions. The Secretary will grant or deny such requests in his discretion.

§ 74.123 Review of initial decision upon motion of Secretary.

In the absence of exceptions, the Secretary, within 45 days after an initial decision, on his own initiative, may serve on all parties a notice that he will review the decision. In such case, any party shall have 15 days after service in which to file a request for modification, reversal or affirmance of the initial decision and all other parties shall have an additional 15 days to respond in writing to such requests.

§ 74.124 Final decisions.

(a) The Secretary shall make the final decision in all hearings under this subpart after expiration of all applicable time limits provided in § 74.120, § 74.122 or § 74.123.

(b) When the hearing is conducted by a hearing examiner who makes an initial decision, if no exceptions thereto are filed within the period specified in § 74.122 and no notice of review is served within the period specified in § 74.123, such initial decision shall become and constitute the final decision of the Secretary at the expiration of 45 days from the date it was served by the hearing examiner.

(c) All final decisions shall be served promptly on all parties.

(d) A final decision under this subpart constitutes "final action" within the meaning of section 353 of the Act (42 U.S.C. 263a(g)).

§ 74.125 Judicial review.

The General Counsel of the Department of Health, Education, and Welfare is designated as the officer upon whom copies of petitions for judicial review, filed pursuant to section 353 of the Act (42 U.S.C. 263a(g)), shall be served. Such officer shall be responsible for filing in the court the record of the proceedings on which the final decision is based.

§ 74.126 Exparte communications.

(a) No employee or agent of the Secretary who performs or is assigned to any investigative or prosecuting function in a proceeding under this subpart, shall, in that or any factually related proceeding, participate or advise as to the findings, conclusions or decision, except as a witness or counsel in public proceedings.

(b) No person who is a party to a proceeding under this subpart, or his counsel or other representative, shall submit exparte, off-the-record communications to the presiding officer, or to any officer or employee of the Department of Health, Education, and Welfare participating in the decision of such proceedings.

(c) The prohibitions of this section shall apply from the time a request for a hearing is received.

§ 74.127 Filing of exparte communications.

A prohibited communication in writing received by the Secretary, or his decisional staff, or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he considers the memorandum to be incorrect.

JOSEPH T. ENGLISH,
Administrator, Health Services and Mental Health Administration.

Approved: October 8, 1969.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 69-12250; Filed, Oct. 13, 1969; 8:48 a.m.]

Social Security Administration

[20 CFR Part 405]

FEDERAL HEALTH INSURANCE FOR THE AGED

Proposed Time Requirements for Certifications and Recertifications

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations would change the time requirement for certifications and recertifications for inpatient hospital services to require that the initial certification be obtained no later than the 12th day of hospitalization rather than the 14th day, and that the first recertification be obtained no later than the 18th day of stay, instead of the 21st.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, comments, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed regulations are to be issued under the authority contained in sections 1102, 1814, 1815, 1833, 1835, 1842, and 1871, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 297, 79 Stat. 302, 303, 309, and 331, as amended; section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 1302, 1395 et seq.

Dated: August 25, 1969.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: September 24, 1969.

ROBERT H. FINCH,
Secretary of Health, Education, and Welfare.

Subpart P of Regulations No. 5 is amended as set forth below.

1. Section 405.1626 is amended by revising paragraph (b) to read as follows:

§ 405.1626 Inpatient hospital services other than inpatient psychiatric or tuberculosis hospital services; certification and recertification for services furnished prior to January 3, 1968.

* * * * *

(b) *Recertification.* The recertification statement should contain the information and otherwise satisfy the requirements set forth in § 405.1627(a). The first recertification is required no later than as of the 14th day of hospitalization. A hospital may, at its option, provide for the first recertification to be made earlier, or it may vary the timing of the first recertification within the 14-day period by diagnostic or clinical categories. A second recertification is required no later than as of the 21st day of hospitalization. Thereafter, subsequent recertifications are to be made at intervals established by the utilization review committee (on a case-by-case basis if it so chooses), but in no event may the prescribed interval between recertifications exceed 30 days. The provisions of § 405.1627(b) (3) and (4) are also applicable except that the option provided for in § 405.1627(b(3) is applicable only with respect to the third and subsequent recertifications.

2. Section 405.1627 is amended by revising paragraph (b) to read as follows:

§ 405.1627 Inpatient hospital services other than inpatient psychiatric or tuberculosis hospital services; certification and recertification for services furnished on or after January 3, 1968.

* * * * *

(b) *Timing of certifications and recertifications*—(1) *For services furnished to beneficiaries admitted prior to January 1, 1970.* The certification is required no later than as of the 14th day of hospitalization. A hospital may, at its option, provide for the certification to be made earlier, or it may vary the timing of the certification within the 14-day period by diagnostic or clinical categories. The first recertification is required no later than as of the 21st day of hospitalization. Thereafter, subsequent recertifications are to be made at intervals established by the utilization review committee (on a case-by-case basis if it so chooses), but in no event may the prescribed interval between recertifications exceed 30 days.

(2) *For services furnished to beneficiaries admitted on or after January 1, 1970.* The certification is required, with respect to beneficiaries who are admitted to the hospital on or after January 1, 1970, no later than as of the 12th day of hospitalization. A hospital may, at its option, provide for the certification to be made earlier, or it may vary the timing of the certification within the 12-day period by diagnostic or clinical categories. The first recertification is required no later than as of the 18th day of hospitalization. Thereafter, subsequent recertifications are to be made in accordance with the provisions of subparagraph (1) of this paragraph relating to subsequent recertifications.

(3) *Option to conduct review of stay of extended duration.* At the option of the hospital, review of a stay of extended duration, pursuant to the hospital's utilization review plan, may take the place of the second and any subsequent physician recertifications. Such review may be performed before the date on which such physician recertification would otherwise be required, but would be considered timely if performed as late as the seventh day following such date. The next physician recertification would need to be made no later than the 30th day following such review; if review by the utilization review committee took the place of this physician recertification, the review could be performed as late as the seventh day following such 30th day.

(4) *Description of procedure.* The hospital should have available in the files a written description of the procedure it adopts on timing of certifications and recertifications—that is, the intervals at which the necessary statements are required and whether review of long-stay cases by the utilization review committee serves as an alternative to recertification by a physician in the case of the second or subsequent recertifications.

3. Section 405.1629 is amended by revising the first sentence to read as follows:

§ 405.1629 Inpatient tuberculosis hospital services and inpatient psychiatric hospital services; certification and recertification.

The requirements for physician certification and recertification for inpatient psychiatric and tuberculosis hospital services are the same as the requirements for inpatient hospital services furnished prior to January 3, 1968, as set out in § 405.1626, except that the content of the certification and recertification statements is to conform with the requirements of this section and in the case of patients admitted to the hospital on or after January 1, 1970, recertification statements are to be obtained in accordance with the intervals set forth in § 405.1627(b)(2). * * *

[F.R. Doc. 69-12249; Filed, Oct. 13, 1969; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69-CE-93]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the Ironwood, Mich., control zone and transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation 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 proposals 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, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace in the Ironwood, Mich., terminal area, the instrument approach procedures for Gogebic County Airport have been altered. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Ironwood, Mich., control zone and transition area to adequately protect aircraft executing the modified approach procedures and to comply with the new control zone and transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

1. In § 71.171 (34 F.R. 4557), the following control zone is amended to read:

IRONWOOD, MICH.

Within a 5-mile radius of Gogebic County Airport (latitude 46°31'30" N., longitude 90°07'55" W.); within 3 miles each side of the Ironwood VOR 108° radial, extending from the 5-mile radius zone to 12½ miles east of the VOR; within 3½ miles each side of the Ironwood VOR 254° radial, extending from the 5-mile radius zone to 10½ miles west of the VOR; and within 3 miles each side of the 272° bearing from Gogebic County Airport, extending from the 5-mile radius zone to 13½ miles west of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

2. In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

IRONWOOD, MICH.

That airspace extending upward from 700 feet above the surface within a 9½ mile radius of Gogebic County Airport (latitude 46°31'30" N., longitude 90°07'55"W.); within 4½ miles north and 9½ miles south of the 272° bearing from Gogebic County Airport, extending from the 9½-mile radius area to 25 miles west of the airport; and within 3 miles each side of the Ironwood VOR 108° radial, extending from the 9½-mile radius area to 12½ miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 17-mile radius of Ironwood VOR; and within 4½ miles south and 9½ miles north of the Ironwood VOR 108° radial, extending from the 17-mile radius area to 23½ miles east of the VOR.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on September 22, 1969.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 69-12228; Filed, Oct. 13, 1969; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-WA-32]

ATLANTA, GA., TERMINAL CONTROL AREA

Proposed Designation

The Federal Aviation Administration is considering the adoption of a "Terminal Control Area" for Atlanta, Ga. Rules for the control and separation of all aircraft operated within terminal control areas are proposed in Notice 69-41 (34 F.R. 15252), which also contains the reasons for the designation of the terminal control area described herein.

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 airspace docket or notice number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the reasons stated in Notice 69-41, it is proposed to amend Part 71 of the Federal Aviation Regulations as follows:

By adding a new § 71.167 to Part 71 reading as follows:

§ 71.167 Designation of terminal control areas.

The parts of airspace described below are designated as terminal control areas including their designated primary airports. Except as otherwise specified, all mileages are nautical miles.

ATLANTA, GA., TERMINAL CONTROL AREA

PRIMARY AIRPORT

1. Atlanta Airport (lat. 33°38'42" N., long. 84°25'37" W.).

BOUNDARIES

That airspace up to and including 7,000 feet MSL—

1. *Area A.* Extending upward from surface within the Atlanta, Ga., control zone.

2. *Area B.* Extending upward from 2,500 feet MSL bounded on the north by a line 4 miles north of and parallel to runway 9L centerline extended and bounded on the south by a line 4 miles south of and parallel to runway 9R centerline extended, extending from 12 miles west to 12 miles east of the Atlanta Airport and within 4 miles each side of runway 15 centerline extended, extending from the airport to 12 miles southeast, excluding the Fulton County Airport control zone.

3. *Area C.* Extending upward from 3,500 feet MSL within a 20-mile radius of Atlanta Airport.

4. *Area D.* Extending upward from 4,500 feet MSL within the Atlanta, Ga. (Dobbins AFB/NAS Atlanta), and the Chamblee, Ga. (De Kalb-Peachtree Airport), control zones.

This amendment is proposed under the authority of sections 307(a) and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 6, 1969.

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

[F.R. Doc. 69-12229; Filed, Oct. 13, 1969; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-WA-33]

CHICAGO, ILL., TERMINAL CONTROL AREA

Proposed Designation

The Federal Aviation Administration is considering the adoption of a "Terminal Control Area" for Chicago, Ill. Rules for the control and separation of all aircraft operated within Terminal Control Areas are proposed in Notice 69-41 (34 F.R. 15252). This notice should, therefore, be studied in conjunction with Notice 69-41, which also contains the

reasons for the designation of the Terminal Control Area described herein.

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 airspace docket or notice number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the reasons stated in Notice 69-41, it is proposed to amend Part 71 of the Federal Aviation Regulations as follows:

By adding a new § 71.167 to Part 71 reading as follows.

§ 71.167 Designation of terminal control areas.

The parts of airspace described below are designated as terminal control areas including their designated primary airports. Except as otherwise specified, all mileages are nautical miles.

CHICAGO, ILL., TERMINAL CONTROL AREA

PRIMARY AIRPORT

1. Chicago O'Hare International (lat. 41°-59'10" N., long. 87°54'28" W.).

BOUNDARIES

That airspace up to and including 7,000 feet MSL—

1. *Area A.* Extending upward from the surface within the Chicago, Ill. (O'Hare International Airport), control zone, including the airspace 2 miles each side of the centerline of Runway 4 extending to 2 statute miles southwest of the Pine Outer Marker.

2. *Area B.* Extending upward from 1,900 feet MSL within a 10.5-mile radius of Chicago O'Hare International Airport.

3. *Area C.* Extending upward from 3,000 feet within a 20-mile radius of Chicago O'Hare International Airport excluding that airspace within a radius 1.5 miles of Clow International Airport (lat. 41°41'40" N., long. 88°07'38" W.).

This amendment is proposed under the authority of sections 307(a) and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 8, 1969.

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

[F.R. Doc. 69-12230; Filed, Oct. 13, 1969; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-WA-37]

DETROIT, MICH., TERMINAL CONTROL AREA

Proposed Designation

The Federal Aviation Administration is considering the adoption of a "Terminal Control Area" for Detroit, Mich. Rules for the control and separation of all aircraft operated within terminal control areas are proposed, in Notice 69-41 (34 F.R. 15252), which also contains the reasons for the designation of the terminal control area described herein.

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 airspace docket or notice number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the reasons stated in Notice 69-41, it is proposed to amend Part 71 of the Federal Aviation Regulations as follows:

By adding a new § 71.167 to Part 71 reading as follows:

§ 71.167 Designation of terminal control areas.

The parts of airspace described below are designated as terminal control areas including their designated primary airports. Except as otherwise specified, all mileages are nautical miles.

DETROIT, MICH., TERMINAL CONTROL AREA

PRIMARY AIRPORT

1. Detroit Metropolitan Wayne County Airport (lat. 42°13'07" N., long. 83°20'55.7" W.).

BOUNDARIES

That airspace up to and including 7,000 feet MSL—

1. *Area A.* Extending upward from surface within the Detroit Metropolitan Wayne County Airport control zone.

2. *Area B.* Extending upward from 2,300 feet MSL within a 10-mile radius of Detroit Metropolitan Wayne County Airport excluding that airspace within Canada.

3. *Area C.* Extending upward from 3,000 feet MSL within a 15-mile radius of Detroit Metropolitan Wayne County Airport excluding the area west of the centerline of Victor Airways 47 and 275 and excluding the airspace within Canada.

4. *Area D.* Extending upward from 4,000 feet MSL within a 20-mile radius of Detroit Metropolitan Wayne County Airport, bounded on the east by the United States/Canadian border; on the west and northwest by the centerline of Victor Airway Nos. 47, 275, and 11; excluding the airspace within Areas A, B, and C.

This amendment is proposed under the authority of sections 307(a) and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1665(c)).

Issued in Washington, D.C., on October 6, 1969.

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

[F.R. Doc. 69-12231; Filed, Oct. 13, 1969; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[Docket No. 18689; FCC 69-1087]

RADIO FREQUENCY DEVICES

Radiation Interference Limits

In the matter of amendment of Part 15 to revise the limit for radiation of electromagnetic energy in the band 470-1000 MHz from television receivers; Docket No. 18689, RM-1413, RM-1441.

1. Notice is hereby given that the Commission proposes to revise the limit for radiation of electromagnetic energy in the band 470-1000 MHz from television receivers. Authority for this notice is set forth in section 4(i), 301, 302, 303(f), and 303(r) of the Communications Act of 1934, as amended.

2. Rules governing the emission of electromagnetic energy from receivers were adopted by the Commission on December 21, 1955, in the first report and order in Docket No. 9288, 20 F.R. 10056, 13 R.R. 1543. Among other things, that report and order provided that after February 1, 1956, emissions of electromagnetic energy in the band 470-1000 MHz would be limited to 500 μV/m at 100 feet. A note to the applicable rule (then § 15.62) stated that the Commission would review the table of radiation limits from time to time "with a view to reducing the radiation limits as the radio art develops". Over the years since that time, upon repeated petitions from television receiver manufacturers, the Commission has periodically delayed the effective date for the above 500 μV/m limit; and has permitted, on a temporary basis, a limit of 1000 μV/m at 100 feet. The next to last of such extensions was scheduled to expire on April 30, 1969.

3. Just prior to the latter expiration date two rule making petitions relating to the matter were received by the Commission. One petition, filed by Sarkes Tarzian, Inc., on February 17, 1969

(RM-1413), requested still another extension for 1000 μV/m limitation, this one to January 31, 1970. In the other, filed on April 11, 1969 (RM-1441), the Consumer Products Division of the Electronics Industries Association (hereinafter, EIA) made two requests: (a) That the limit of 1000 μV/m be permitted until January 1, 1970; and (b) that after that date, a television receiver be regarded as complying with the 500 μV/m limit if 10 measurements, taken on 10 frequencies uniformly spaced over the band 470–1000 MHz average to no more than 500 μV/m, and show no measurement exceeding 750 μV/m. By letter of April 16, 1969, Sarkes Tarzian informed the Commission that it would regard its request as granted were the Commission to grant the EIA petition.

4. The above petitions were before the Commission on May 2, 1969, on which date the Commission adopted an order permitting the 1000 μV/m limit until January 31, 1970, thereby effectively granting the Sarkes Tarzian petition and the (a) portion of the EIA petition (17 FCC 2d 521). In the dispositive portion of the order, the Commission stated:

> From the arguments and data set forth in the Sarkes Tarzian and EIA petitions, the Commission is persuaded that a radiation limit of 500 microvolts per meter at 100 feet, or even somewhat less, is practicable for television broadcast receivers of modern design; many receivers of current production, especially those of foreign manufacture, meet this requirement now. However because of the complexities of the receiver production and distribution process, it appears advisable to extend once more and for a relatively brief period, the temporary 1000 microvolt per meter limit. This extension is being granted solely to permit manufacturers to exhaust present component inventories, fulfill existing contractual arrangements, and accomplish a complete transition to full compliance with the 500 μV/m limit. In this regard, the Commission takes at face value the assurances implied in the petitions that further extensions will not be requested. It further appears that the adoption of a more rigorously described method of radiation measurement, which would involve statistical or averaging procedures, may have merit. The Commission intends to study this matter further.[1]

5. The Commission's further study has led to the instant proposal to amend § 15.63(c); namely, to reduce the field strength limit for energy radiated by television receivers[2] in the band 470–1000 MHz from 500 μV/m at 100 feet to 350 μV/m at 100 feet, and to provide that the field strength shall be determined by the average of 10 measurements taken on 10 frequencies to be specified in the rule[3] with no individual measurement to exceed 750 μV/m. In proposing a statistical or averaging approach, the Commission is persuaded as to the merit of taking account of the fact that the actual performance of the hundreds of mass produced components comprising a television receiver follow normal distribution curves, with a number of individual components falling well away from anticipated levels of performance. However, to thus make allowance for production tolerances is acceptable only if the basic standard (average of the 10 measurements) for the fully assembled units is set at a level which will assure that receivers placed in use would not be likely to become a source of harmful interference as a result of an excessive number of measurements at the upper limit permitted by the proposed regulation.

6. The continued use of the limit of 500 μV/m would not provide adequate assurance to the Commission that the television receiver in question would not become a source of interference since it can at once be seen that a particular set could have up to five measurements at the 750 μV/m level provided that the average of the other five measurements did not exceed 250 μV/m—a condition which, as will be shown below, could be readily satisfied in the present state of the art. On the other hand, the Commission's proposed figure of 350 μV/m would assure the automatic rejection of any set with five readings of 750 μV/m, and thereby lessen the probability that a particular set would be troublesome from an interference standpoint.

7. The proposal to reduce the limit to 350 μV/m is otherwise supportable since it appears that an average of 350 μV/m or less is presently within the capability of the electronics industry. From the fact that most sets of foreign manufacture now meet the limit of 500 μV/m on an absolute basis it appears clear that such sets could meet the proposed new standard on an average without difficulty. EIA has supplied the Commission with data demonstrating the reductions in radiation achieved by American manufacturers of television receivers in recent years. These data show that whereas, in 1962, (a) 56 percent of sets tested had at least one measurement in band 470–1000 MHz exceeding 500 μV/m, (b) 31 percent of such sets had at least one such measurement exceeding 750 μV/m, and (c) the maximum average of the measurements was between 700 and 800 μV/m. The results of similar tests in 1968 were

(a) Only 26 percent with at least one measurement exceeding 500 μV/m,

(b) Only 7 percent with at least one measurement exceeding 750 μV/m, and

(c) A maximum average of the measurements of between 300 and 400 μV/m.[4]

8. Data supplied by Sarkes Tarzian are even more persuasive that 350 μV/m is the more proper figure to use for the average. Sarkes Tarzian's data consist of the results of measurements taken on a total of 12 sample tuners at 11 points evenly spaced over the 470–1000 MHz band. The highest reading shown was 490 μV/m, the "worst" tuner had an average reading of 290 μV/m, and the average of the 132 measurements was 214 μV/m. Although the Sarkes Tarzian data relate only to UHF tuners, and not to fully assembled television receivers, it is the UHF tuner which contains the UHF oscillator and is therefore the major source of radiation from a television receiver in the band 470–1000 MHz. In the foregoing connection the Commission believes that the Sarkes Tarzian performance data allow sufficient margins to permit the set manufacturers to meet the test criteria set forth above.

9. All interested persons are invited to file written comments on or before November 10, 1969, and reply comments on or before November 21, 1969. In reaching its decision in this matter, the Commission may also take into account any other relevant information before it, in addition to the comments invited by this notice.

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

Adopted: October 8, 1969.

Released: October 9, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[5]

[SEAL] BEN F. WAPLE,
Secretary.

Section 15.63 is amended by deleting the present text of paragraph (c) and inserting the following new test:

§ 15.63 Radiation interference limits.

* * * * *

(c) For television broadcast receivers the limit in the band 470–1000 MHz shall be 350 μV/m, compliance being determined as follows:

(1) Measurements shall be made at the following 10 frequencies in the band 470–1000 MHz.

MHz	*MHz*	*MHz*
520	700	850
550	750	900
600	800	931
650		

(NOTE: If measurements cannot be made on one or more of the frequencies listed because of the presence of signals from licensed radio stations, measurements should be made on a nearby frequency. The report should indicate the actual frequency(ies) on which measurements were made).

(2) The average of the 10 measurements shall not exceed 350 μV/m.

(3) No measurement shall exceed 750 μV/m.

[F.R. Doc. 69-12237; Filed, Oct. 13, 1969; 8:47 a.m.]

[1] Both the Sarkes Tarzian and the EIA petitions had suggested the use of statistical or averaging procedures.

[2] This proposal is directed only to television broadcast receivers and consequently does not call for modification of § 15.63(a) which relates to receivers in general.

[3] The Commission proposes that the measurements be taken on the frequencies 520, 550, 600, 650, 700, 750, 800, 900, and 931 MHz, with provision that should signals from licensed facilities in the area preclude measurements on one or more of the specified frequencies, measurements on nearby frequencies (disclosed in appropriate reports to the Commission) would be permitted.

[4] While the EIA proposal of the 750 μV/m individual limitation, which we preliminarily accept, purportedly reflects an operating experience of approximately one set in four having one or more measurements in excess of 500 μV/m, the Commission invites further comment from manufacturers as to the necessity for that high a tolerance.

[5] Commissioners Hyde, Chairman; and Wadsworth absent.

[47 CFR Parts 89, 91]

[Docket No. 18643]

PUBLIC SAFETY RADIO SERVICES

Operation of Mobile Relay Systems, Fixed Relay Stations, and Repeater Stations; Order Extending Time for Filing Comments

In the matter of amendment of Parts 89 and 91 of the Commission's rules governing the operation of mobile relay systems, fixed relay stations and repeater stations; petition filed by the California Public-Safety Radio Association, Inc., to permit operation of mobile relay stations on frequencies below 150 Mc/s in the Public Safety Radio Services; docket No. 18643, RM-386.

1. The National Association of Manufacturers (NAM) has requested a 15-day extension of time for filing comments in the above-captioned matter. A similar request for a 30-day extension has been filed by the Central Committee on Communication Facilities of the American Petroleum Institute (API). Still another request, but for a 60-day extension, has been submitted by the Northern California Chapter of the Associated Public-Safety Communication Officers, Inc. (APCO). The notice, which was released on August 25, 1969, called for comments and reply comments on October 3, 1969, and October 13, 1969, respectively.

2. To support its request for a 30-day extension, API states that in order to develop meaningful and constructive comments, it "is conducting studies and experiments to determine the effect that this amendment will have on existing users * * *" and that it intends to solicit the opinions of its members "the 8th and 9th of October when the Central Committee convenes in Atlanta, Georgia, for its annual meeting."

3. The circumstances upon which the API request is based appear to warrant grant of a 30-day extension of the comment period. This extension would cover the 15 days requested by NAM so that organization's submission need not be separately considered. Additional time for comment as requested by APCO is not adequately supported and, therefore, is not considered to be warranted.

4. Accordingly, the API and NAM requests are granted. To the extent that the APCO request is consistent with the action taken herein, it also is granted but otherwise is denied.

5. *Accordingly, it is ordered*, Pursuant to § 0.331(b)(4) of the Commission's rules, that the time for filing comments in the above-captioned proceeding is extended to November 3, 1969, and the time for filing reply comments is extended to November 14, 1969.

Adopted: October 6, 1969.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] J. E. BARR,
Chief, Safety and Special Radio Services Bureau.

[F.R. Doc. 69-12238; Filed, Oct. 13, 1969; 8:47 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 252]

LABELING AND ADVERTISING OF WIGS AND OTHER HAIRPIECES

Proposed Guides and Notice of Opportunity To Present Written Views, Suggestions, or Objections

Proposed Guides for Labeling and Advertising of Wigs and Other Hairpieces are hereinafter set forth and are today made public by the Commission for consideration by industry members and other interested or affected parties pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41-58, and the provisions of Part 1, Subpart A, of the Commission's Procedures and Rules of Practice, 16 CFR 1.5, 1.6.

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, firms, corporations, organizations, or other parties affected by or having an interest in the proposed Guides for Labeling and Advertising of Wigs and Other Hairpieces, to present to the Commission their views concerning the Guides, including such pertinent information, suggestions, or objections as they may desire to submit. For this purpose, copies of the proposed Guides, which are advisory in nature as to the applicability of legal requirements, may be obtained upon request to the Commission. Such data, views, information, and suggestions may be submitted by letter, memorandum, brief, or other written communication not later than December 15, 1969, to the Chief, Division of Industry Guides, Bureau of Industry Guidance, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. 20580.

Text of the proposed Guides follows:

NOTE: These Guides have not been approved by the Federal Trade Commission. They are a draft of proposed Guides which are made available to all interested or affected parties for their consideration and for submission of such views, suggestions, or objections as they may care to present, due consideration to which will be given by the Commission before proceeding to final action on the proposed Guides.

The Commission has been concerned recently with acts and practices of some manufacturers, importers, distributors, and retailers of wigs and other hairpieces (hereinafter referred to as wigs), and is issuing these Guides in the interest of the purchasing public and to assist those engaged in the manufacture and sale of wigs to avoid possible violations of the Federal Trade Commission Act.

Information coming to the Commission's attention from various sources such as reputable manufacturers and sellers of wigs, Better Business Bureaus, and consumers reflects that guidance is clearly needed with respect to certain practices. These Guides are released in the belief that the more knowledge businessmen have as to the requirements of laws designed to protect the consumer and foster open and fair competition, the greater the likelihood that they will conform to those laws, with attendant benefits to both the public and the business community.

While the Guides are interpretive of laws administered by the Commission and thus are advisory in nature, proceedings to enforce the requirements of law as expressed in the Guides may be brought under the Federal Trade Commission Act (15 U.S.C. secs. 41-58). Briefly stated, the Federal Trade Commission Act makes it illegal for one to engage in "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce," as commerce is defined therein. In this connection, the Commission considers wigs as "cosmetics" under section 15(2)(e) of the Federal Trade Commission Act, and thus, it will assume jurisdiction under section 12 of the Act over false wig advertising disseminated by U.S. mails, or in commerce by any means, which is likely to induce the sale of such products, or disseminated by any means which is likely to induce the sale in commerce of such products.

Moreover, the Commission considers that wigs are subject to the requirements of the Flammable Fabrics Act (15 U.S.C. section 1191) and it will assume jurisdiction thereunder when deemed appropriate.

Inasmuch as the Commission believes that under certain circumstances the failure to disclose material information to consumers may result in their deception, the Guides provide for affirmative disclosure in some instances. In this regard, the lack of opportunity for a mail-order purchaser to inspect a wig prior to purchase may necessitate disclosure in mail-order advertising that may not be considered material in other advertising.

The content of these Guides is not to be construed as an expression of opinion concerning the relative merits of the various materials used in the manufacture of the products of this industry. Rather, the disclosure provisions of the Guides are intended to insure that the consumer is not deceived into thinking he is getting one material when actually he is furnished another.

Sec.

AUTHORITY: The provisions of this Part 252 issued under 38 Stat. 717, as amended; 15 U.S.C. 41-58.

§ 252.0 Definitions.

(a) "Industry member" means any person, firm, corporation, or organization engaged in the manufacture, sale, or distribution of any industry products as defined below.

(b) "Industry product" means any kind or type of lady's wig, wiglet, fall, chignon, or other hairpiece and any kind or type of man's toupee or other hairpiece.

(c) "Hair composiiton" means the type of hair fiber contained in an industry product. Hair composition may consist of, or be a combination of, three basic types of fiber, namely, human hair, animal hair, and artificial hair.

§ 252.1 Misrepresentation (general).

An industry product should not be labeled, advertised, or otherwise represented in any manner which may have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers concerning the composition, quality, durability, construction, weight, length, size, fit, color, style, ease of styling, maintenance, service, guarantee, origin, price, or any other feature of such product.[1]

[Guide 1]

§ 252.2 Disclosure of hair composition.

Disclosure of hair composition of an industry product should be made by labeling and in all advertising relating to such product. If the hair composition consists of more than one of the basic types of fiber, e.g., human hair and artificial hair, then the percentage of each contained therein should be set forth on the label attached to the product and in all advertising pertaining to the product.

NOTE 1: Disclosures made in accordance with this section should be clear and conspicuous, and labels bearing such disclosures should be attached to the product with sufficient permanency so as to remain thereon until sale to the ultimate purchaser.

NOTE 2: Percentages of basic types of fiber contained in the hair composition of an industry product should be based upon the relationship between the number of hairs that each type contained therein bears to the total number of hairs in the product. An examination of a representative sample of hair contained in such a product can be used to determine the actual percentage of each type of fiber contained therein.

NOTE 3: Disclosure of artificial hair may be made with such terms as "simulated hair," "man-made hair," "imitation hair," or with other terms of similar import, or by the generic name of the material itself, or by such other term or name, provided such term or name clearly discloses the artificial nature of the hair.

[Guide 2]

§ 252.3 Disclosure of foreign origin.

(a) *Labeling.* An industry product should be labeled as to foreign country of origin of the hair. An example of acceptable labeling, assuming the product is made entirely of human hair from "X" country, would be:

Human Hair From "X" Country

NOTE 1: If the hair composition of an industry product consists of hair from more than one foreign country, then the percentages from each country contained therein should be set forth on the label attached to the product. For guidance with respect to the statement of percentages, see Note 2 under § 252.2.

NOTE 2: Disclosures made in accordance with this section should be clear and conspicuous, and labels bearing such disclosure should be attached to the product with sufficient permanency so as to remain thereon until sale to the ultimate purchaser.

(b) *Mail order advertising.* A disclosure of foreign country of origin of the hair in an industry product, indicated in the labeling provision in paragraph (a) of this section, should also be made in all mail order advertising.

(c) *Other advertising.* A disclosure of foreign country of origin of the hair in an industry product need not be made in other advertising unless in the absence of disclosure a purchaser or prospective purchaser may likely be deceived. If such advertising contains any representation, whether affirmative or implied, concerning origin of the product, or any part thereof, then the disclosure indicated in the labeling provision in paragraph (a) of this section should be made. The following examples are set forth as guidance to advertisers.

Example 1. An industry product made in "X" country of hair from "Y" country should not be advertised as an "X" country wig, or with terms of similar import, unless accompanied by clear and conspicuous disclosure of the fact that the industry product is made of hair from "Y" country.

Example 2. An industry product which contains non-European hair should not be advertised as "European manufactured," "European Processed," "European Wig," or with terms of similar import, unless such product was manufactured in Europe and unless accompanied by clear and conspicuous disclosure of the origin of the hair.

Example 3. An industry product, regardless of country of manufacture, which contains non-European hair should not be advertised with such terms as "European Texture" or with other terms of similar import which suggest that the product contains European hair.

Example 4. An industry product manufactured in the United States of imported hair ("X" country) should not be advertised as an "American Wig," or with terms of similar import, unless accompanied by clear and conspicuous disclosure of the fact that the industry product is made of hair from "X" country.

[Guide 3]

§ 252.4 Flammability.

An industry product, which is so highly flammable as to be dangerous when worn by individuals, should not be manufactured for sale, offered for sale, sold, or distributed in the United States, or imported into the United States.

NOTE 1: The Commission considers that industry products are subject to the requirements of the Flammable Fabrics Act (15 U.S.C.A. section 1191) and that the flammability standard for industry products is Commercial Standard 191-53 or other subsequently promulgated standard of flammability pertaining to such products which may be established by the Secretary of Commerce pursuant to section 4 of the Act. Copies of the Act and/or the Commercial Standard are available upon request.

NOTE 2: The prohibitions of the Flammable Fabrics Act apply to industry products which fail the flammability standard either before or after washing and/or dry cleaning.

[Guide 4]

§ 252.5 Use of terms such as "hair," "natural hair," "real hair," etc., and trade names.

The unqualified term "hair," and the terms "natural hair," "true hair," "genuine hair," "real hair," and other terms of similar import, as well as trade names which have the capacity of misleading a purchaser or prospective purchaser into believing that an industry product is made of human hair, should not be used to describe an industry product containing either animal hair or artificial hair.

[Guide 5]

§ 252.6 Disclosure relating to used industry products or parts thereof.

(a) An industry product which has been previously used on a trial basis or otherwise, and then returned, should not be offered for resale without clear and conspicuous disclosure of such fact by label attached thereto and in all advertising relating to such product. The label disclosing prior use should be attached to the product with sufficient permanency so as to remain thereon until sale to the ultimate purchaser.

NOTE: Sellers should maintain adequate inventory control records that reflect the disposition of returned merchandise. Maintenance of inventory control records should enable sellers to demonstrate that returned merchandise was not placed in inventory and resold without disclosing the fact of its previous use to purchasers.

(b) An industry product which contains hair, or other components subjected to previous use in an industry product should not be advertised or otherwise offered for sale without clear and conspicuous disclosure of such fact. Disclosure should be made in accordance with paragraph (a) of this section.

[Guide 6]

§ 252.7 Representations as to "handmade," etc.

An industry product should not be represented as "handmade," or with terms of similar import, unless the entire process of joining or stitching the hair to the foundation is performed by hand.

[Guide 7]

§ 252.8 Representations as to "custom-made," etc.

An industry product should not be described with such terms as "custom-made," "customized," "personalized," or with terms of similar import, unless such product is to be (a) designed and structured on the basis of actual personal measurements of the prospective purchaser, and (b) dyed to a color meeting the personal requirements of such purchaser.

[Guide 8]

§ 252.9 Representations of color.

An industry product should not be described with such terms as "custom-colored," "custom-dyed," "exact match,"

[1] All of the Commission's general Guides, including its Guides Against Deceptive Pricing, Guides Against Bait Advertising, and Guides Against Deceptive Advertising of Guarantees, are applicable to the practices of this industry. These Guides have been codified under Title 16, Parts 233, 238, and 239, respectively, of the U.S. Code of Federal Regulations.

"personalized color," or with terms of similar import, unless the hair contained therein is dyed to match the hair color of the prospective purchaser. Thus, such terms should not be used to describe the color of an industry product manufactured of precolored hair stock or any combination of such precolored stock.

[Guide 9]

§ 252.10 Representations of style.

An industry product should not be represented in any manner, whether through advertising text, depictions or otherwise, that may have the capacity to deceive purchasers or prospective purchasers into believing that such product is styled or capable of being styled in a certain manner, fashion or "hairdo" when such is not the fact.

[Guide 10]

§ 252.11 Representations as to "virgin" hair.

An industry product should not be described as containing "virgin" hair, unless the hair contained therein is human hair and has never been bleached, dyed, or permanented.

[Guide 11]

Issued: October 13, 1969.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 69-12171; Filed, Oct. 13, 1969; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1969 Rev., Supp. 3]

KANSAS BANKERS SURETY COMPANY

Surety Company Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $80,000 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

The Kansas Bankers Surety Company
Topeka, Kansas
Kansas

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: October 8, 1969.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 69-12266; Filed, Oct. 13, 1969; 8:50 a.m.]

Internal Revenue Service

ROBERT BRUCE HERTZLER

Notice of Granting of Relief

Notice is hereby given that Robert Bruce Hertzler, Route 5, Box 5400, Albuquerque, N. Mex., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 20, 1959, in the District Court of the Second Judicial District in and for the county of Bernalillo, N. Mex., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Robert Bruce Hertzler, because of such conviction to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be prevented under chapter 44, title 18, United States Code, from obtaining a license under that chapter as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition under title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236; 18 U.S.C., Appendix) because of such conviction it would be unlawful for Mr. Robert Bruce Hertzler, to receive, possess, or transport in commerce a firearm. Notice is hereby further given that I have considered Robert Bruce Hertzler's application and have found:

(1) The conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the requested relief to Robert Bruce Hertzler from disabilities incurred by reason of his conviction, would not be contrary to the public interest.

It is ordered, Pursuant to the authority vested in the Secretary of the Treasury by section 925(c), of title 18, United States Code and delegated to me by the regulations in Title 26, Part 178, Code of Federal Regulations, that Robert Bruce Hertzler be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms, incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 8th day of October 1969.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 69-12268; Filed, Oct. 13, 1969; 8:50 a.m.]

Office of Foreign Assets Control

HAIR OF CERTAIN ANIMALS, COTTON AND SILK WASTE AND CARPET WOOL

Importation From Countries Not in Authorized Trade Territory; Applications for Licenses

Reference is made to the January 16, 1968, notice regarding hair of certain animals, cotton and silk waste, and carpet wool from certain countries not in the authorized trade territory. Particular reference is made to the penultimate paragraph of that notice. Following is a list of balances of commodities still available for licensing:

	Pounds
Badger hair	200
Carpet wool	1,800,000
Cotton waste	4,550,000
Goat hair	610,000
Horse mane hair	585,037
Horse tail hair	70,000
Silk waste	435,000
Yak hair	410,392

Licenses under the Foreign Assets Control Regulations (31 CFR 500.101–500.808) for the importation of these commodities produced in the U.S.S.R. or Outer Mongolia will be issued under the conditions outlined hereunder:

(1) Applications must be filed before December 31, 1969, and must be accompanied by a copy of a firm contract with the seller subject only to the obtaining of the necessary license. The contract must provide for shipment from the U.S.S.R. on or before January 31, 1970.

(2) Licenses will be nontransferable and imports may be made only in the name of and for the account of the licensee.

(3) If the contract is with a seller in a third country any license issued will require that the goods be shipped directly from the U.S.S.R. to the United States, or, if not, that they remain in continuous carriers' custody during the entire period of transshipment.

Licenses will be valid until the date of shipment specified in the contract and will be extended to permit Customs entry and transactions under the letter of credit with respect to goods shipped pursuant to the contract.

Applications for licenses must be filed in duplicate on Form TFAC-1 with the Federal Reserve Bank of New York, 33 Liberty Street, New York, N.Y. 10045. Applications will be considered in the order in which they are received. Persons applying for a license to import more than one commodity should file a separate application for each such commodity.

Additional information and license application forms may be obtained from the Federal Reserve Bank of New York or from the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220.

[SEAL] MARGARET W. SCHWARTZ,
Director,
Office of Foreign Assets Control.

[F.R. Doc. 69-12267; Filed, Oct. 13, 1969; 8:50 a.m.]

Office of the Secretary

[Treasury Dept. Order 178-2]

COMMISSIONER OF ACCOUNTS

Delegation of Authority to Execute Agreements of Indemnity

By virtue of the authority vested in the Secretary of the Treasury, including the

authority in Reorganization Plan No. 26 of 1950, and by virtue of the authority vested in me as Fiscal Assistant Secretary by Treasury Department Order No. 190, Revision 6, there is hereby delegated to the Commissioner of Accounts the authority of the Secretary of the Treasury under section 3b of the Government Losses in Shipment Act, 50 Stat. 479, as amended by the Act of August 10, 1939, 53 Stat. 1359 (40 U.S.C. 725), to execute and deliver, on behalf of the United States, agreements of indemnity to obtain the replacement of any instrument or document which has been received by the United States and subsequently lost, destroyed or so mutilated as to impair its value.

Dated: September 29, 1969.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 69-12265; Filed, Oct. 13, 1969; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Muskogee Area Office Redelegation Order 2]

CERTAIN OFFICIALS AND EMPLOYEES IN MUSKOGEE AREA OFFICE

Delegation of Authority

SEPTEMBER 12, 1969.

Muskogee Area Office Redelegation Order No. 1, 20 F.R. 657, as amended, is hereby revoked and the following is substituted therefor:

PART 1—GENERAL

PART 2—AUTHORITY OF SUPERINTENDENTS

FUNCTIONS RELATING TO SOCIAL SERVICES

FUNCTIONS RELATING TO FUNDS AND FISCAL MATTERS

FUNCTIONS RELATING TO LANDS AND MINERALS

FUNCTIONS RELATING TO REDELEGATION

PART 3—AUTHORITY TO DESIGNATED EMPLOYEES

FUNCTIONS RELATING TO SOCIAL SERVICES

FUNCTIONS RELATING TO FUNDS AND FISCAL MATTERS

FUNCTIONS RELATING TO LANDS AND MINERALS

PART 1—GENERAL

SECTION 1.1 *Authorities from the Area Director.* The authorities of the Commissioner of Indian Affairs delegated to the Area Director in 10 BIAM 3 are hereby redelegated to Superintendents in the Muskogee Area as set out herein. For the purposes of this redelegation order the term Superintendent means Agency Superintendents and School Superintendents.

SEC. 1.2 *Limitations.* Delegations of authority made by this order are not to be construed as depriving the Area Director of the authority conferred upon him by the Commissioner of Indian Affairs, nor the authority to issue guidelines or instructions for the implementation of the delegated authorities which shall be binding on the recipients.

SEC. 1.3 *Appeals.* Any action taken by a Superintendent or other officer pursuant to Part 2 or 3 of this order shall be subject to the right of appeal. An appeal may be taken from the decision of such Superintendent or other officer to the Area Director, Muskogee Area Office. An appeal must be filed in writing with such Superintendent or other officer and shall be promptly transmitted by him with the record in the case to the Area Director, Muskogee Area Office. Any action taken by the Area Director pursuant to this order shall be subject to the right of appeal to the Commissioner of Indian Affairs, pursuant to 10 BIAM 3, as amended, of the Bureau of Indian Affairs. Any action taken by the Commissioner of Indian Affairs pursuant to this order shall be subject to the right of appeal to the Secretary of the Interior, pursuant to section 1(a) of Order 2508, and 10 BIAM 2, as amended, of the Secretary of the Interior.

SEC. 1.4 *Authority of the Deputy Area Director.* The Deputy Area Director is authorized to exercise all the power and authority of the Area Director as delegated by the Commissioner of Indian Affairs in 10 BIAM 3.

SEC. 1.5 *Authority of persons designated as Acting Area Director.* Persons designated as Acting Area Director during his absences may severally exercise any and all authority conferred upon the Area Director by the Commissioner of Indian Affairs, except when specific limitations are enumerated.

PART 2—AUTHORITY TO SUPERINTENDENTS

FUNCTIONS RELATING TO SOCIAL SERVICE MATTERS

SEC. 2.1 *Deputy special officers' commissions.* The issuance of deputy special officers' commissions to persons working in law enforcement for the maintenance of law and order on Indian reservations.

SEC. 2.2 *Approval of sentences.* The approval of sentences, imposed on Indian employees of the Bureau of Indian Affairs by Courts of Indian Offenses as provided in 25 CFR 11.2(d), and by tribal courts as provided by any law and order code.

FUNCTIONS RELATING TO FUND AND FISCAL MATTERS

SEC. 2.10 *Individual Indian moneys.* The approval of expenditures of individual Indian moneys held in the custody of the Department. This authority extends to and includes investments, loans, and donations by individual Indians, excepting members of the Five Civilized Tribes.

SEC. 2.11 *Loan agreements and modifications.* The approval of applications by individuals, up to $10,000 limit, cooperative associations, credit associations, and incorporated and unincorporated tribes and bands, and groups of Indians, for loans pursuant to 25 CFR Part 91; the issuance of commitment orders; the approval of modifications of loan agreements; the approval of interest rates and the terms and conditions of loans to encourage industry; and the approval of articles of association and by-laws of cooperative and credit associations; and determination of the acceptability of the form of organization of groups of Indians applying for loans to encourage industry.

FUNCTIONS RELATING TO LANDS AND MINERALS

SEC. 2.20 *Allotment applications.* The issuance of certificates of eligibility for allotments on the public domain under authority of the act of February 8, 1887 (25 U.S.C. sec. 334), or the acts of February 28, 1891, and June 25, 1910 (25 U.S.C. sec. 336), and in the national forests pursuant to the act of June 25, 1910 (25 U.S.C. sec. 337), excepting for members of the Five Civilized Tribes.

SEC. 2.21 *Tax-exemption certificates.* The issuance of tax exemption certificates covering lands designated as tax exempt under the provisions of the acts of June 20, 1936 (49 Stat. 1542), as amended by the act of May 19, 1937 (25 U.S.C. 1946 ed., sec. 412a), and May 10, 1928 (45 Stat. 495), as amended May 24, 1928 (45 Stat. 733).

SEC. 2.22 *Surface leasing and permitting.* All those matters set forth in 25 CFR Part 131, excepting lands of the Five Civilized Tribes and members thereof.

SEC. 2.23 *Rights-of-way.* All of the authority set forth in 25 CFR Part 161, excepting lands of the Five Civilized Tribes and members thereof, provided

the form of the instrument granting the particular type of right of way or easement has been approved by the Area Director or Field Solicitor.

SEC. 2.24 *Mineral leases and permits.* The approval of sand, gravel, pumice, and building stone leases and permits not exceeding a 30-day period on tribal and allotted lands pursuant to the provisions of 25 CFR Parts 171, 172, and 174.

SEC. 2.25 *Sale of improvements.* The approval, with tribal consent, of sales of improvements made upon tribal lands by individual Indians.

SEC. 2.26 *Certificate on deed of acquisition.* The execution of the certificate on a deed of an approved purchase of land pursuant to 25 CFR Part 121.

SEC. 2.27 *Sales, fee patents, and other matters in 25 CFR Part 121.* The approval of applications by individuals for acquisition, sale, exchange, partition, patent in fee, certificate of competency, and removal of restrictions on Indian land.

FUNCTIONS RELATING TO REDELEGATION

SEC. 2.30 *Redelegation authority.* Except as may otherwise be provided in this order, the Superintendent may, upon approval of the Area Director, redelegate in writing to any officer or employee within his organization, any authority delegated to him by this order or by the regulations in 25 CFR.

PART 3—AUTHORITY TO DESIGNATED EMPLOYEES

Subject to the provisions of Part 1, sections 1.2 and 1.3, the employees designated herein may exercise the authority of the Area Director as indicated in this part.

FUNCTIONS RELATING TO SOCIAL SERVICE MATTERS

SEC. 3.1 *Appointment of guardians.* The Superintendent, Osage Agency, may approve the appointment of guardians of Osage Indians pursuant to the provisions of the Act of February 27, 1925 (43 Stat. 1008).

FUNCTIONS RELATING TO FUNDS AND FISCAL MATTERS

SEC. 3.10 *Osage Indian quarterly pro rata share payments.* The Superintendent, Osage Agency, may approve quarterly pro rata share payments of Osage tribal funds and interest on individual funds in the United States Treasury pursuant to provisions of the Act of June 28, 1906 (34 Stat. 544), as amended or supplemented by the Acts of February 27, 1925 (43 Stat. 1008), and June 24, 1938 (52 Stat. 1034).

SEC. 3.11 *Osage Indian individual trust funds.* The Superintendent, Osage Agency, may approve applications by Osage Indians under section 5 of the Act of April 18, 1912 (37 Stat. 87), for the withdrawal of individual trust funds in the Treasury of the United States.

SEC. 3.12 *Deposit and expenditure of individual funds—Osage.* The Superintendent, Osage Agency, may exercise any and all the authorities set forth in 25 CFR Part 108.

SEC. 3.20 *Mineral leases and permits.* (a) The Superintendent, Osage Agency, may approve leases and permits for oil, gas, or other mining purposes, covering lands or interests in lands held by the United States in trust for the Osage Tribe of Indians, or subject to restrictions against alienation without the consent of the Secretary of the Interior, pursuant to 25 CFR Parts 175 and 183. The authority delegated herein does not include the approval of instruments providing for the payment of overriding royalty, or approval of royalty rates other than as authorized in 25 CFR for oil, gas, and other minerals, except sand, gravel, pumice, and building stone.

The authority conferred extends to and includes the approval of, or other appropriate administrative action required on, assignments of leases, whether heretofore or hereafter executed, bonds and other instruments required in connection with such leases or assignments thereof; unit and communitization agreements; approval of the valuation of gas pursuant to the provisions of Osage gas leases; the acceptance of voluntary surrender of leases by the lessee; the cancellation of leases for violation of the terms thereof; and the approval of agreements for settlement of claims for damage to Indian lands resulting from oil, gas, or other mineral operations.

(b) Pursuant to a schedule of bids approved by the Area Director, the Area Realty Officer may approve leases for oil and gas mining purposes covering lands or interests in lands held by the United States in trust for individual Indians or tribes of Indians, or subject to restrictions against alienation without the consent of the Secretary of the Interior, pursuant to 25 CFR parts 171 and 174. The authority conferred extends to and includes the approval of, or other appropriate administrative action required on assignments, bonds, voluntary cancellations, expirations, authorization or revocation of direct payments, notices to successful bidders, and extensions of time for filing leases, and notice of relinquishment of supervision due to sale of minerals. The authority delegated in this paragraph does not include approval of (1) leases on lands purchased or reserved for agency school or other administrative purposes, (2) instruments providing for the payment of overriding royalty, or (3) assignments of separate horizons or strata of the subsurface.

(c) The Area Realty Officer may approve sand, gravel, pumice, and building stone leases and permits on tribal and allotted lands pursuant to the provisions of 25 CFR Parts 171, 172, and 174.

SEC. 3.21 *Surface leases and permits.* The Area Realty Officer may exercise the authority of the Area Director relating to surface leases on lands of the Five Civilized Tribes and members thereof, for terms not to exceed five (5) years pursuant to 25 CFR Part 131; *Provided*, That leases on tribal lands for homesite purposes to members of the tribe or to tribal housing authorities may be approved in accordance with 25 CFR Part 131.

SEC. 3.22 *Osage land exchanges, partitions and change designation of homesteads.* The Superintendent, Osage Agency, may approve orders to change designation of homestead and instruments vesting title, pursuant to provisions of 25 CFR Part 127; and approval of deeds executed pursuant to orders of the courts of the State of Oklahoma in actions instituted under section 5 of the Act of March 2, 1929 (45 Stat. 1478).

SEC. 3.23 *Headrights.* The Superintendent, Osage Agency, may approve transfers of Osage headrights belonging to any person not an Indian by blood, pursuant to the provisions of the Act of April 12, 1924 (43 Stat. 94).

SEC. 3.24 *Allotment applications.* The Area Realty Officer may issue certificates of eligibility to members of the Five Civilized Tribes for allotments on the public domain under authority of the Act of February 8, 1887 (25 U.S.C. sec. 334), or the Acts of February 28, 1891 and June 25, 1910 (25 U.S.C. sec. 336), and in the national forests pursuant to the Act of June 25, 1910 (25 U.S.C. sec. 337).

SEC. 3.25 *Certifications and notices.* The Area Realty Officer is delegated authority to execute the certificate on an approved Order for Removal of Restrictions and/or instrument of conveyance and to issue the notice of award to the successful bidder at a land sale, pursuant to 25 CFR Part 121.

SEC. 3.26 *Rights of way.* The Area Realty Officer may exercise the authority of the Area Director in all those matters set forth in 25 CFR Part 161, as relates to lands of the Five Civilized Tribes and members thereof.

VIRGIL N. HARRINGTON,
Area Director.

Approved: October 7, 1969.

T. W. TAYLOR,
Acting Commissioner of Indian Affairs.

[F.R. Doc. 69-12213; Filed, Oct. 13, 1969; 8:45 a.m.]

[Portland Area Office Redelegation Order 3]

CERTAIN OFFICIALS AND EMPLOYEES IN PORTLAND AREA

Redelegation of Authority

SEPTEMBER 4, 1969.

The following Portland Order 3 supersedes existing Portland Order 2. All previously issued documents related to Portland Order 1 and Portland Order 2 that are presently in force will not require revision.

The purpose of this release is to substantially increase Superintendents' authority in certain areas, thereby improving service to the Indian people. Major changes are involved in the Lands and Minerals and Tribal Programs sections of the delegation.

The Portland Area Office redelegation reads as follows:

PART 1—GENERAL

Sec.
1.1 This order supersedes past orders.
1.2 Appeals.
1.3 Limitations.
1.4 Authority of Assistant Area Directors.

PART 2—AUTHORITY TO SUPERINTENDENTS

FUNCTIONS RELATING TO LAW AND ORDER

2.00 Approval of sentences.
2.01 Deputy special officers' commissions.
2.02 Appointment, approval, and removal of judges.

FUNCTIONS RELATING TO LANDS AND MINERALS

2.10 Sales, fee patents, and other matters.
2.11 Tax exempt certificates.
2.12 Leases and permits (nonmineral).
2.13 Certify allotment eligibility.
2.14 Mineral leasing.
2.15 Release of mortgages.
2.16 Rights-of-way.
2.17 Archeological permits.
2.18 Roads.

FUNCTIONS RELATING TO CREDIT MATTERS

2.20 Loan applications.
2.21 Loan security.
2.22 Assignment of trust property.
2.23 Release interests of United States.
2.24 Enforce loan agreements.
2.25 Inspect credit programs and records.
2.26 Furnish information to lender.

FUNCTIONS RELATING TO TRADE WITH INDIANS

2.30 Traders' licenses.

FUNCTIONS RELATING TO FOREST MANAGEMENT

2.40 Timber sale contracts.
2.41 Allotment timber sales.
2.42 Timber cutting permits.
2.43 Fire suppression.
2.44 Prevent timber waste.
2.45 Trespass damages.

FUNCTIONS RELATING TO RANGE MANAGEMENT

2.50 Grazing privileges.

FUNCTIONS RELATING TO FUNDS AND FISCAL MATTERS

2.60 Individual Indian moneys.
2.61 Acceptance of donations.

FUNCTIONS RELATING TO TRIBAL PROGRAMS

2.70 Tribal budgets.
2.71 Dividend and judgment fund rolls.

PART 3—AUTHORITY OF SPECIFICALLY DESIGNATED EMPLOYEES

FUNCTIONS RELATING TO IRRIGATION MATTERS

3.00 Superintendent, Fort Hall grant concessions.

FUNCTIONS RELATING TO LANDS AND MINERALS

3.10 Special legislation authority.

FUNCTIONS RELATING TO TRIBAL PROGRAMS

3.20 Approval of membership rolls.

PART 1—GENERAL

SECTION 1.1 *This order supersedes other orders.* This order supersedes Portland Order 2 (34 F.R. 6802, April 23, 1969) and amendments thereto. All previously issued document related to Portland Orders 1 and 2 continue to be authorized in Portland Order 3 and will not require revision. Authority to issue this order is contained in 10 BIAM 3.1 and Secretarial Order 2508 (10 BIAM 2).

SEC. 1.2 *Appeals.* Any action taken by any Superintendent or other officer pursuant to Part 2 or Part 3 of this order shall be subject to the right of appeal. An appeal may be taken from the decision of such Superintendent or other officer to the Area Director, Portland Area Office. An appeal must be filed in writing with such Superintendent or other officer and shall be promptly transmitted by him with the record in the case to the Area Director, Portland Area Office. Any action taken by the Area Director pursuant to this order shall be subject to the right of appeal to the Commissioner of Indian Affairs, pursuant to 10 BIAM 3.1 (34 F.R. 638) of the Bureau of Indian Affairs. Any action taken by the Commissioner of Indian Affairs pursuant to this order shall be subject to the right of appeal to the Secretary of the Interior, pursuant to section 1(a) of Order 2508, as amended, of the Secretary of the Interior.

SEC. 1.3 *Limitations.* Delegations of authority made by this order are not to be construed as depriving the Area Director of the authority conferred upon him by the Commissioner of Indian Affairs.

SEC. 1.4 *Authority of Assistant Area Directors.* The Assistant Area Directors and those persons authorized to act in their behalf during their absence may exercise any and all authority conferred upon the Area Director. This authority shall be exercised by each within his functional area of responsibility as defined by the organizational structure current at the time. Major policy determinations are subject to review by the Area Director prior to implementation.

PART 2—AUTHORITY OF SUPERINTENDENTS, SCHOOL SUPERINTENDENT, AND PROJECT ENGINEER

Subject to the provisions of Part 1, Superintendents, School Superintendent, and Project Engineer may exercise the authority of the Area Director as indicated in this part.

FUNCTIONS RELATING TO LAW AND ORDER

SEC. 2.00 *Approval of sentences.* The approval of sentences imposed on Indian employees of the Bureau of Indian Affairs by tribal courts and courts of Indian offenses.

SEC. 2.01 *Deputy special officers' commissions.* Issue Deputy Special Officers' commissions for maintenance of law and order on Indian reservations. Duration of commission shall extend only through fiscal year in which issued.

SEC. 2.02 *Appointment, approval, and* removal of judges. Appointment, approval, and removal for cause, of judges of courts of Indian offenses pursuant to the provisions of 25 CFR Part 11. The approval of the appointment of judges of tribal courts as provided by any law and order code.

FUNCTIONS RELATING TO LANDS AND MINERALS

SEC. 2.10 *Sales, fee patents, and other matters.* Sales, fee patents, and other matters to be conducted when authorized by law in accordance with 25 CFR Part 121.

(a) Approval of applications by individuals for acquisition, sale, exchange, partition, patent in fee, certificates of competency, and removal of restrictions on Indian lands.

(b) Approve applications by authorized Indian tribal officials for acquisition, sale, or exchange of trust or restricted Indian lands.

(c) Approve conveyances when land remains in trust on approved forms for sales, exchanges, gifts, partitions, and acquisitions of trust land when consideration is not more than $25,000.

(d) Approve deferred payment plan when requested by seller and purchaser in sales and exchanges of trust lands only between individual Indians or individual Indians and tribes.

(e) Issue land sale advertisements without referral to the Area Director for approval.

SEC. 2.11 *Tax exempt certificates.* Issue tax exemption certificates covering lands designated as tax exempt under the provisions of the acts of June 20, 1936 (49 Statute 1542), as amended by the act of May 19, 1937 (25 U.S.C., 1946 ed., sec. 412a).

SEC. 2.12 *Leases and permits (nonmineral).* The authority of the Area Director to approve leases and permits (nonmineral) when authorized by law in accordance with 25 CFR 131 except the following:

(a) Approval of leases for a duration in excess of 25 years including extensions. This does not apply to leasing tribal land for homesite purposes to members of the tribe involved and tribal housing authorities.

(b) Approval of lease amendment changing lease purpose or reducing rental when lease exceeds approving authority.

(c) Approval of encumbrances by lessees of their leasehold interests when lease exceeds approving authority.

(d) Approve leases of ceded or surplus lands unless title thereto has been restored to the tribe or leasing has been authorized by a specific statute.

(e) Approval or revision of forms prescribed by 25 CFR.

(f) Modify forms approved by the Secretary of the Interior, Commissioner of Indian Affairs, or the Area Director.

SEC. 2.13 *Certify allotment eligibility.* Approve or certify eligibility for allotments on the public domain pursuant to 10 BIAM 3.1.

SEC. 2.14 *Mineral leasing.* The authority of the Area Director to approve coal, sand, gravel, pumice, and building stone leases and permits on trust or restricted tribal or individually owned lands with the following exceptions:

(a) Approval on land purchased or reserved for Agency or school purposes.

(b) Approval of payment of overriding royalty.

(c) Assignment of separate horizons or strata of the subsurface.

SEC. 2.15 *Release of mortgages.* Approve releases of mortgages given as security for loans made from restricted funds of individual Indians, upon proof of payment of the loan.

SEC. 2.16 *Rights-of-way.* Approval of rights-of-way on approved forms, including the granting of permission to survey and related matters pursuant to 25 CFR Part 161.

SEC. 2.17 *Archeological permits.* The approval of permits for the excavation of ruins and archeological sites and the gathering of objects of antiquity on Indian reservations pursuant to 25 CFR Part 132.

SEC. 2.18 *Roads.* (a) Authority to close roads when required for public safety, fire prevention or suppression, fish or game protection, or to prevent damage to unstable roadbed pursuant to 25 CFR 162.6.

(b) Approve transfer of jurisdiction for maintenance to State or local government pursuant to 25 CFR 162.8.

FUNCTIONS RELATING TO CREDIT MATTERS

SEC. 2.20 *Loan applications.* Approve loan applications and modifications by individuals for loans from tribes, subject to availability of funds and approved tribal declarations of policy and plans of operation, pursuant to 25 CFR Part 91.

SEC. 2.21 *Loan security.* Approve mortgages of trust chattels and crops on trust land of an Indian, and assignments of income from trust or restricted land of an Indian as security for a loan from any lender, except to a non-Bureau lender if the borrower is indebted for a loan made pursuant to 25 CFR Part 91.

SEC. 2.22 *Assignment of trust property.* Approve the assignment of any trust property of an Indian, except land, and the authority to act as the Indian's attorney-in-fact to execute leases on any trust land in which the Indian borrower may have an interest and to apply the rentals on the Indian's indebtedness for a loan made pursuant to 25 CFR Part 91.

SEC. 2.23 *Release interest of United States.* Approve the release of interests of the United States in any trust or restricted property of an Indian, except land.

SEC. 2.24 *Enforce loan agreements.* Take all steps to enforce loan agreements authorized in 25 CFR 91.10 except in the case of tribes.

SEC. 2.25 *Inspect tribal credit programs and records.* For adherence to 25 CFR Part 91, contractual provisions, and approved declarations of policy and plans of operation.

SEC. 2.26 *Furnish information to lender.* Furnish necessary information to any lender to whom an Indian applies for financing except a commitment that a mortgage on trust land will be approved.

FUNCTIONS RELATING TO TRADING WITH INDIANS

SEC. 2.30 *Traders' licenses.* Approve issuance of licenses to traders with Indian tribes and to remove and revoke licenses pursuant to 25 CFR Part 251.

FUNCTIONS RELATING TO FOREST MANAGEMENT

SEC. 2.40 *Timber sale contracts.* Issue advertisements and approve timber sale contracts on approved forms involving an estimated stumpage volume not to exceed 250,000 feet board measure pursuant to 25 CFR 141.8, 25 CFR 141.13.

SEC. 2.41 *Allotment timber sales.* Approve contracts for sale of timber from individual allotments under authority of an approved general contract on approved forms pursuant to 25 CFR 141.13.

SEC. 241 *Timber cutting permits.* Issue timber cutting permits on approved forms pursuant to 25 CFR 141.19, paragraphs (a) and (b) but not including paragraph (c).

SEC. 2.43 *Fire suppression.* Hire temporary labor, rent equipment, purchase tools and supplies, and pay for their transportation to extinguish forest or range fires pursuant to 25 CFR 141.21.

SEC. 244 *Prevent timber waste.* Authority to take immediate action including salvage sales not in excess of 250,000 feet board measure each to prevent waste of timber from fire, decay, windthrow, insect infestation, disease, or other natural catastrophy on Indian lands held in trust by the United States.

SEC. 245 *Trespass damages.* Accept payment of damages in full in settlement of civil trespass cases, pursuant to 25 CFR 141.22, when such settlement does not exceed $2,000. "Payment of damages in full" means payment of the maximum amount due under applicable law.

FUNCTIONS RELATING TO RANGE MANAGEMENT

SEC. 2.50 *Grazing privileges.* The authority contained in 25 CFR Part 151 except:

(a) Establishing reservation minimum acceptable grazing rates on individually owned lands and tribal lands where governing body does not establish rates.

(b) Approval of grazing capacity.

FUNCTIONS RELATING TO FUNDS AND FISCAL MATTERS

SEC. 2.60 *Individual Indian moneys.* Authority relating to individual Indian moneys set forth in 25 CFR 104.

SEC. 2.61 *Acceptance of donations.* Accept donations of funds or other property for the advancement of the Indian race and use of the donated property in accordance with the terms of the donation in furtherance of any program authorized by other provisions of law for the benefit of Indians pursuant to the act of February 14, 1931 (46 Stat. 1106), 25 U.S.C. Section 451 (1964) as amended by the act of June 8, 1968 (82 Stat. 171), Public Law 90-333.

FUNCTIONS RELATING TO TRIBAL PROGRAMS

SEC. 2.70 *Tribal budgets.* The approval of the annual operating budget and modifications thereof officially submitted by the tribal governing bodies, provided expenditures are made from recurring operating income and budget does not exceed anticipated operating income.

SEC. 2.71 *Dividend and judgment fund rolls.* The approval of dividend and judgment fund payment rolls based on approved membership rolls.

PART 3—AUTHORITY OF SPECIFICALLY DESIGNATED EMPLOYEES

Subject to the provisions of Part 1, the following employees may exercise the authority of the Area Director.

FUNCTIONS RELATING TO IRRIGATION MATTERS

SEC. 3.00 *Superintendent, Fort Hall grant concessions.* The Superintendent of Fort Hall Agency may grant concessions on reservoir sites, reserves for canals, or flowage areas and other lands which have been withdrawn or otherwise acquired in connection with the Fort Hall Irrigation Project and to permit or lease such lands for agricultural, business, or grazing purposes pursuant to 25 CFR Part 203.

FUNCTIONS RELATING TO LANDS AND MINERALS

SEC. 3.10 *Special legislation authority.* Subject to the same limitations contained in Part 2 of this delegation order.

The following Superintendents are authorized all those matters with respect to lands, improvements, and interests therein, as provided in the following acts.

(a) *Superintendent, Yakima Agency.* (1) The act of July 28, 1955 (69 Statute 392) "To authorize the purchase, sale, and exchange of certain Indian lands on the Yakima Indian Reservation, and for other purposes", as amended by the act of August 31, 1964 (78 Statute 747).

(b) *Superintendent, Colville Agency.* (1) The act of July 24, 1956 (70 Statute 626) entitled "Restoring to tribal ownership certain lands upon the Colville Indian Reservation, Wash., and for other purposes".

(2) The act of June 10, 1968 (82 Statute 174) entitled "To authorize purchase, sale, and exchange of certain lands on the Spokane Indian Reservation, and for other purposes".

(c) *Superintendent, Western Washington Agency.* (1) The act of September 28, 1968 (82 Statute 884) entitled "To authorize the purchase, sale, exchange, mortgage, and long term leasing of land by the Swinomish Indian Tribal Community, and for other purposes".

FUNCTIONS RELATING TO TRIBAL PROGRAMS

SEC. 3.20 *Approval of membership rolls.* The Superintendents of Colville, Warm Springs, and Western Washington agencies may approve membership rolls for tribes under their jurisdiction.

The effective date of this delegation will be the date of publication in the FEDERAL REGISTER.

DALE M. BALDWIN,
Area Director.

Approved: October 7, 1969.

T. W. TAYLOR,
Acting Commissioner of Indian Affairs.

[F.R. Doc. 69-12214; Filed, Oct. 13, 1969; 8:45 a.m.]

Geological Survey

MISSISSIPPI AND WYOMING

Definitions of Known Geologic Structures of Producing Oil and Gas Fields

Pursuant to 43 CFR 3120.2-2(b) notice is hereby given that the known geologic

structures of producing oil and gas fields have been defined as follows:

Names of Field, Effective Date, Acreage	
(6) COLORADO	
Piceance Creek, June 12, 1969	44,133
(26) MONTANA	
Laird Creek, May 6, 1969	2,685
Utopia, Aug. 12, 1969	2,800
(31) NEW MEXICO	
Bluit-San Andres, June 19, 1969	4,919
Buffalo-South Corbin, Sept. 2, 1969	8,350
Flying M, Aug. 13, 1969	7,799
South Salt Lake, Sept. 3, 1969	1,566
(50) WYOMING	
Little Mitchell Creek, May 15, 1969	960

Maps and diagrams showing the boundaries of the defined structures have been filed with the appropriate land office of the Bureau of Land Management and are also of record in the Geological Survey, Washington, D.C.

JOEL M. JOHANSON,
Acting Director.

OCTOBER 7, 1969.

[F.R. Doc. 69-12212; Filed, Oct. 13, 1969; 8:45 a.m.]

Office of the Secretary

ALABAMA, LOUISIANA, AND MISSISSIPPI

Determination of Commercial Fishery Failure Due to Resource Disaster

OCTOBER 8, 1969.

Whereas, many firms and individuals are engaged in raising, harvesting, processing, and marketing oysters in the States of Alabama, Mississippi, and Louisiana; and

Whereas, on August 17-18, 1969, Hurricane Camille subjected the coastal areas of Alabama, Mississippi, and Louisiana to extreme wind and wave action, causing extensive damage and destruction to the oyster resource through silting, deposition of marsh grass, and littering with debris of oyster grounds; and

Whereas, extensive uninsured losses of oyster production in the 1969-70 season will amount to a several million dollar decrease in State incomes; and

Whereas, the serious disruption of the oyster fisheries in Alabama, Mississippi, and Louisiana caused by alteration of habitat was due to natural causes; and

Whereas, effective and practical restoration measures are known:

Now, therefore, as Secretary of the Interior, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster within the meaning of section 4(b) of Public Law 88-309, as amended. Pursuant to this determination, I hereby authorize the use of funds appropriated under the above legislation to rehabilitate, restore, and put back into production the oyster grounds in the States of Alabama, Mississippi, and Louisiana.

RUSSELL E. TRAIN,
Acting Secretary of the Interior.

[F.R. Doc. 69-12236; Filed, Oct. 13, 1969; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

UNIVERSITY OF IOWA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00518-33-46040. Applicant: University of Iowa, College of Dentistry, Dental Research Laboratory (Oakdale), Iowa City, Iowa 52240. Article: Electron microscope, Model Elmiskop 51. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is intended to be used for controlling experimental procedures and for educational purposes in biological research projects in the academic disciplines of medicine and dentistry. The outlines or projects in progress are as follows:

A. Fast processing of experiments and preparation procedures in ultrastructural fixation of nervous tissue.

B. Checking of preparation procedures in aerosol particle counts from dental drilling.

C. Fast processing of staining procedures for biological ultrastructure.

D. Training of postgraduate and graduate students in biological ultrastructure.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: For the intended uses, the applicant requires a relatively simple, compact electron microscope which bridges the gap between light microscopes, and the complex, highly sophisticated research type of electron microscope. The foreign article has a relatively low resolution (35 to 40 angstroms), a fixed accelerating voltage, and a photo-plate film magnification of 12,500x. The most closely comparable domestic electron microscope is the Model EMU-4B formerly manufactured by the Radio Corp. of America (RCA), which has a resolution of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capabilities.) The RCA Model EMU-4B also has four to five accelerating voltages and magnification in excess of 200,000x.

We are advised by the Department of Health, Education, and Welfare (HEW) (memorandum dated June 23, 1969), that the RCA Model EMU-4B is not suitable for the intended uses of the foreign article.

We, therefore, find that the RCA Model EMU-4B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69-12207; Filed, Oct. 13, 1969; 8:45 a.m.]

UNIVERSITY OF WASHINGTON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00526-33-46040. Applicant: University of Washington Medical School, Department of Pathology, Seattle, Wash. 98105. Article: Electron microscope, Model EM 6B/801 and accessories. Manufacturer: Associated Electrical Industries Ltd., United Kingdom. Intended use of article: The article will be used for research and training by present and future trainees, as well as by the principal instructors who are experienced electron microscopists. A number of the projects concerned with research require the highest resolution available in electron microscopes. These include studies of fibrils, collagen, the components of elastic fiber, and bacteriophage. In addition, high resolution microscopy will be used for studying elementary particles of mitochondrial membranes and isolated ribosomes after negative staining procedures. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The applicant's research program involves studies with stereomicroscopy at the highest attainable resolution. For this purpose, the foreign article is equipped with a specimen stage that is capable of being tilted 30° in either direction without loss of resolution.

The most closely comparable domestic electron microscope is the Model EMU–4B, which is currently being produced by the Forgflo Corp. (Forgflo). At the time the applicant ordered the foreign article, the Model EMU–4B was being manufactured by the Radio Corp. of America (RCA), but RCA did not produce a tilting stage for the Model EMU–4B. This accessory may be obtained from Fulham and Co. (Fulham), a domestic manufacturer. Neither Fulham nor RCA, however, would guarantee that the domestic tilting stage could be used without lowering the resolution of 5 angstroms specified for the EMU–4B.

In this regard, the Department of Health, Education, and Welfare (HEW), advises us that before the domestic tilting stage could be used with the Model EMU–4B, the focal length of the objective lens must be increased, which precludes the possibility of obtaining the specified 5 angstroms resolution. (Memorandum dated June 24, 1969.) HEW, therefore, concludes that for purposes requiring stereomicroscopy for accomplishment, the Model EMU–4B is not of equivalent scientific value to the foreign article.

For the foregoing reasons, we find that the RCA Model EMU–4B is not of equivalent value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69–12208; Filed, Oct. 13, 1969; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMCHEM PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP OFO887) has been filed by Amchem Products, Inc., Brookside Avenue, Ambler, Pa. 19002, proposing the establishment of a tolerance (21 CFR Part 120) of 0.1 part per million for negligible residues of the herbicide amiben in or on the raw agricultural commodity sunflower seeds.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure using a microcoulometric detector with a halogen titration cell. After extraction of the residue, the herbicide is converted to its methyl ester which is injected into the gas chromatograph.

Dated: October 7, 1969.

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

[F.R. Doc. 69–12217; Filed, Oct. 13, 1969; 8:46 a.m.]

CIBA AGROCHEMICAL CO. AND NOR-AM AGRICULTURAL PRODUCTS, INC.

Notice of Filing of Petitions Regarding Pesticide Chemical and Food Additive

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408(d)(1), 409(b)(5), 68 Stat. 512, 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a pesticide petition (PP OF0885) has been filed jointly by CIBA Agrochemical Co., Division of CIBA Corp., Post Office Box 1105, Vero Beach, Fla. 32960, and NOR-AM Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, Ill. 60098, proposing the establishment of tolerances (21 CFR Part 120) for residues of the insecticide *N'*-(4-chloro-o-tolyl)-*N,N*-dimethylformamidine in or on the raw agricultural commodities: Pears at 5 parts per million; peaches and plums at 4 parts per million; and apples at 3 parts per million. The residues result from application of the insecticide as the free base or as the hydrochloride salt.

Notice is also given that the same firms have filed a related food additive petition (FAP OH2457) proposing the establishment of a food additive tolerance (21 CFR Part 121) of 10 parts per million for residues of this insecticide in or on dried prunes from application of the insecticide to the growing raw agricultural commodity plums.

The analytical method proposed in the pesticides petition for determining residues of the insecticide is a procedure in which the residue is hydrolyzed to *p*-chlorotoluidine, steam distilled, and extracted into isooctane. The extract is then diazotized and coupled with *N*-ethyl-1-naphthylamine to produce a purple dye which is determined colorimetrically at 535 millimicrons. Interfering azo dyes derived from other sources are removed by chromatography on a cellulose column.

Dated: October 7, 1969.

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

[F.R. Doc. 69–12218; Filed, Oct. 13, 1969; 8:46 a.m.]

E. I. DU PONT DE NEMOURS & CO.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP OF0886) has been filed by E. I. du Pont de Nemours & Co., Wilmington, Del. 19898, proposing the establishment of a tolerance (21 CFR Part 120) of 0.2 part per million for negligible residues of the insecticide methomyl in or on the raw agricultural commodity group root crop vegetables.

The analytical method proposed in the petition for determining residues of the insecticide is that of H. L. Pease and J. J. Kirkland, published in the "Journal of Agricultural and Food Chemistry," vol. 16, pp. 554–57 (1968).

Dated: October 7, 1969.

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

[F.R. Doc. 69–12220; Filed, Oct. 13, 1969; 8:46 a.m.]

HODAG CHEMICAL CORP.

Notice of Filing of Petition Regarding Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP OH2460) has been filed by Hodag Chemical Corp., 7247 North Central Park Avenue, Skokie, Ill. 60076, proposing that § 121.1155 *Chemicals used for the control of micro-organisms in cane-sugar mills* (21 CFR 121.1155) be amended to provide for the safe use of a combination of ethylenediamine, disodium ethylenebisdithiocarbamate, and sodium dimethyldithiocarbamate to control micro-organisms in cane-sugar mills.

Dated: October 7, 1969.

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

[F.R. Doc. 69–12219; Filed, Oct. 13, 1969; 8:46 a.m.]

QUAKER CHEMICAL CORP.

Notice of filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP OB2456) has been filed by Quaker Chemical Corp., Elm and Sandy Streets, Conshohocken, Pa. 19428, proposing that § 121.2531 *Surface lubricants used in the manufacture of metallic articles* (21 CFR 121.2531) be amended to provide for the safe use of diethyl phthalate, di(2-ethylhexyl)phthalate, and hexylene glycol in the manufacture of metallic food-contact articles under conditions such that the total residual lubricant does not exceed 0.015 milligram per square inch of food-contact surface.

Dated: October 6, 1969.

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

[F.R. Doc. 69–12221; Filed, Oct. 13, 1969; 8:46 a.m.]

BUREAU OF THE BUDGET

UTILIZATION OF ADVISORY COMMITTEES DURING FISCAL YEAR 1969

Notice of Availability of Report

In compliance with the provisions of Executive Order No. 11007, dated February 26, 1962, the Bureau of the Budget has prepared a report containing a list of all advisory committees utilized by the Bureau during fiscal year 1969, including the names and affiliations of their members, a description of the function of each committee, and a statement of the dates of any meetings.

This report is available at the Administrative Services Office, Bureau of the Budget, Executive Office Building, Washington, D.C. 20503.

VELMA N. BALDWIN,
Director of Administration.

[F.R. Doc. 69-12206; Filed, Oct. 13, 1969; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT REGIONAL ADMINISTRATOR FOR EQUAL OPPORTUNITY, REGION I (NEW YORK, N.Y.)

Redelegation of Authority With Respect to Fair Housing

SECTION A. *Authority with respect to fair housing.* The Assistant Regional Administrator for Equal Opportunity is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under title VIII (Fair Housing) of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3601-3619, except the authority to:

1. Make studies and publish reports under section 808(e) of the Act.
2. Issue rules and regulations.

SEC. B. *Authority to redelegate.* The Assistant Regional Administrator for Equal Opportunity is further authorized to redelegate to subordinate employees the authority of the Secretary to administer oaths under section 811(a) of the Act, 42 U.S.C. 3611(a).

(Redelegation of authority by Assistant Secretary for Equal Opportunity effective January 15, 1969 (34 F.R. 946, Jan. 22, 1969))

Effective date. This redelegation of authority shall be effective upon publication in the FEDERAL REGISTER.

ANNE M. ROBERTS,
Acting Regional Administrator, Region I.

[F.R. Doc. 69-12254; Filed, Oct. 13, 1969; 8:48 a.m.]

CERTAIN HUD EMPLOYEES IN REGION I (NEW YORK, N.Y.)

Redelegation of Authority to Administer Oaths Under Title VIII (Fair Housing) of Civil Rights Act of 1968

Each of the following named employees in the Department of Housing and Urban Development, Region I (New York, N.Y.), is hereby authorized to administer oaths under section 811(a) of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a):

1. James O. Wyatt.
2. Marjorie M. Cohen.
3. Vivian M. Braxton.
4. Eli M. S. Forman.
5. Max Magner.
6. Jose R. Bosch.
7. Charles F. Booker.
8. Lionel J. Jenkins.

(Redelegation of authority by Regional Administrator effective 1969 (34 F.R. 15818, Oct. 14, 1969))

Effective date. This redelegation of authority shall be effective upon publication in the FEDERAL REGISTER.

IRA GISSEN,
Assistant Regional Administrator for Equal Opportunity, Region I.

[F.R. Doc. 69-12255; Filed, Oct. 13, 1969; 8:49 a.m.]

REGIONAL COUNSEL AND ASSOCIATE REGIONAL COUNSEL FOR GENERAL PROGRAM SERVICES, REGION IV (CHICAGO)

Redelegation of Authority To Execute Requisition Agreements Securing Preliminary Loan Notes

SECTION A. *Authority redelegated with respect to Slum Clearance and Urban Renewal Program.* The Regional Counsel and Associate Regional Counsel for General Program Services, Region IV (Chicago), each is hereby authorized to execute requisition agreements under section 102(c) of the Housing Act of 1949, as amended (42 U.S.C. 1452(c)), securing the payment of the principal of and interest on preliminary loan notes each of which provides that it shall not be valid until the paying agent has executed an agreement appearing on the note to act as paying agent, and under which requisition agreement the United States, among other things:

1. Pledges the full faith and credit of the United States to the aforesaid payment and agrees under section 102(c) of the Act that the payment agreement set forth under paragraph 2 of this section A shall be construed separate and apart from the pertinent loan contract and shall be incontestable in the hands of a bearer; and

2. Agrees to evidence its promise to pay or cause to be paid each such note by a payment agreement executed on behalf of the United States by a facsimile signature of the Secretary of Housing and Urban Development holding office on the date of sale by the local public agency of the particular notes, in substantially the following form:

PAYMENT AGREEMENT

Pursuant to section 102(c) of the Housing Act of 1949, as amended (42 U.S.C. 1452(c)), the United States hereby unconditionally agrees that on the Maturity Date of the within Preliminary Loan Note it will pay or cause to be paid to the bearer thereof the principal of and interest thereon, upon the presentation and surrender of such Note to the Paying Agent designated therein, and the full faith and credit of the United States is pledged to such payment. Under section 102(c) of the Act, this Agreement shall be construed separate and apart from the loan contract referred to in the within Note and shall be incontestable in the hands of a bearer.

In witness whereof, this Agreement has been executed on behalf of the United States by the duly authorized facsimile signature of the Secretary of Housing and Urban Development, as of the Date of Issue of the within Note.

UNITED STATES OF AMERICA
By ----------
(Facsimile signature)
Secretary of Housing and Urban Development.

(Redelegation of authority by Assistant Secretary for Renewal and Housing Assistance effective May 15, 1968, 33 F.R. 7175, May 15, 1968)

Effective date. This redelegation of authority shall be effective as of September 2, 1969.

FRANCIS D. FISHER,
Regional Administrator, Region IV.

[F.R. Doc. 69-12256; Filed, Oct. 13, 1969; 8:49 a.m.]

ACTING ASSISTANT REGIONAL ADMINISTRATOR FOR MODEL CITIES, REGION VI (SAN FRANCISCO)

Designation

The officers named herein and appointed to the following listed positions in Region VI (San Francisco) are hereby designated to serve as Acting Assistant Regional Administrator for Model Cities, Region VI (San Francisco) during the absence of the Assistant Regional Administrator for Model Cities with all the powers, functions, and duties redelegated or assigned to the Assistant Regional Administrator for Model Cities: *Provided*, That no officer is authorized to serve as Acting Assistant Regional Administrator for Model Cities, Region VI, unless all other officers whose title or name precedes his in this designation are unable to serve by reason of absence:

1. Deputy Assistant Regional Administrator for Model Cities.
2. Earl G. Singer, Urban Planner.
3. Salvatore P. Tedesco, HUD Program Specialist.

This designation revokes the designation effective January 5, 1969 (34 F.R. 7044, Apr. 29, 1969).

(Delegation effective May 4, 1962, 27 F.R. 4319; Department Interim Order II, 31 F.R. 815, Jan. 21, 1966)

Effective as of the 29th day of June 1969.

ROBERT B. PITTS,
Regional Administrator, Region VI.

[F.R. Doc. 69-12257; Filed, Oct. 13, 1969; 8:49 a.m.]

ACTING REGIONAL ADMINISTRATOR, REGION VI (SAN FRANCISCO)

Designation

The officers appointed to the following listed positions in Region VI (San

Francisco) are hereby designated to serve as Acting Regional Administrator, Region VI (San Francisco), during the absence of the Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided*, That no officer is authorized to serve as Acting Regional Administrator unless all other officers whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Regional Administrator.
2. Regional Counsel.
3. Assistant Regional Administrator for Renewal Assistance.
4. Assistant Regional Administrator for Administration.

This designation supersedes the designation effective May 5, 1969 (34 F.R. 8211, May 27, 1969).

(Delegation effective May 4, 1962, 27 F.R. 4319; Interim Order II, 31 F.R. 815, Jan. 21, 1966)

Effective as of the 17th day of September 1969.

WARD ELLIOTT,
Acting Regional Administrator, Region VI.

[F.R. Doc. 69-12258; Filed, Oct. 13, 1969; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

STATE OF GEORGIA

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed agreement received from the Governor of the State of Georgia for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

A résumé, prepared by the State of Georgia and summarizing the State's proposed program for control over sources of radiation, is set forth below as an appendix to this notice. A copy of the program, including proposed Georgia regulations, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., or may be obtained by writing to the Director, Division of State and Licensee Relations, U.S. Atomic Energy Commission, Washington, D.C. 20545. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed agreement should send them, in triplicate, to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545. Attention: Chief, Public Proceedings Branch, within 30 days after initial publication of this notice in the FEDERAL REGISTER.

Exemptions from the Commission's regulatory authority which would implement this proposed agreement, as well as other agreements which may be entered into under section 274 of the Atomic Energy Act, as amended, were published as Part 150 of the Commission's regulations in FEDERAL REGISTER issuances of February 14, 1962, 27 F.R. 1351; April 3, 1965, 30 F.R. 4352; September 22, 1965, 30 F.R. 12069; March 19, 1966, 31 F.R. 4668; March 30, 1966, 31 F.R. 5120; December 2, 1966, 31 F.R. 15145; July 15, 1967, 32 F.R. 10432; June 27, 1968, 33 F.R. 9388; and April 16, 1969, 34 F.R. 6517. In reviewing this proposed agreement, interested persons should also consider the aforementioned exemptions.

Dated at Germantown, Md., this 19th day of September 1969.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

PROPOSED AGREEMENT BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF GEORGIA FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Whereas, the U.S. Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under chapters 6, 7, and 8, and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State of Georgia is authorized under section 88-1307 of the Georgia Health Code (Georgia Laws 1964, pp. 499, 571) to enter into this Agreement with the Commission; and

Whereas, the Governor of the State of Georgia certified on August 29, 1969, that the State of Georgia (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, the Commission found on ------ ------ that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, the State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, the Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and

Whereas, this Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I

Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

ARTICLE II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ARTICLE III

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ARTICLE IV

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ARTICLE V

The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ARTICLE VI

The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in

Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ARTICLE VII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ARTICLE VIII

This Agreement shall become effective on December 15, 1969, and shall remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at ----------, in triplicate, this ------ day of ----------

FOR THE UNITED STATES ATOMIC ENERGY COMMISSION,

FOR THE STATE OF GEORGIA,

ORGANIZATION AND STAFF RESPONSIBILITIES

The Georgia Radiation Control Council, which consists of five members, is appointed by the Governor. This Council is responsible to and reports to the Georgia State Board of Health and has the duty of advising the Georgia Department of Public Health on matters pertaining to ionizing radiation and standards, rules, and regulations to be adopted, modified, promulgated, or repealed by the Department. The five (5) appointed Council members are selected from nominees of the Medical Association of Georgia, the Georgia Dental Society, the Georgia Radiological Society, the Associated Industries of Georgia, and the Georgia Veterinary Association. All members have recognized knowledge in the field of ionizing radiation and its biological effects.

The Radiological Health Service is located in the Branch of Environmental Health of the Georgia Department of Public Health. Personnel of the Service will be responsible for the technical evaluation of applications for radioactive material licenses, preparation of licenses, and for conducting inspections of licensees. This work will be under the immediate direction of the Chief of the Radioactive Materials Control Section, with the assistance of two Radiation Safety Officers I and one-time secretary.

Personnel of the X-Ray Control Section will be responsible for the registration and inspection of all radiation machines. Assisting the Chief of this Section will be one Radiation Safety Officer II, two Radiation Safety Officers I and one full-time secretary.

The Environmental Surveillance Section consists of a Chief and two technicians whose duties are to periodically monitor specified areas near nuclear reactors and to collect soil, water, and air samples in the environment.

All personnel of the Service will be involved on a part-time basis, with administrative duties and assignment to the Radiological Emergency Team.

FOREWORD

This document briefly describes some of the past activities and accomplishments of the Radiological Health Program within the Georgia Department of Public Health in the control and regulation of ionizing radiation for the protection of the State's citizens. Proposed programs, staffing, equipment, and facilities are presented for the assumption of additional responsibilities with respect to sources of ionizing radiation, as well as supporting information on authority, regulation, and organization.

The Governor, on behalf of the State of Georgia, is authorized to enter into an agreement with the Federal Government providing for discontinuance of certain of the Federal Government's responsibilities with respect to sources of ionizing radiation. This authority is granted in paragraph (a) section 88-1307 of the Georgia Radiation Control Act as amended by Act 297 (1965) and Act 971 (1968) of the Georgia General Assembly.

The Atomic Energy Commission (AEC) is authorized to enter into an agreement with the governor of a State whereby the Commission may transfer to the State certain licensing and regulatory control over byproduct material, source material, and special nuclear material in quantities not sufficient to form a critical mass. This authority is found in section 274b of the Atomic Energy Act of 1954, as amended.

HIGHLIGHTS IN THE HISTORY OF RADIATION PROTECTION ACTIVITIES CONDUCTED BY THE GEORGIA DEPARTMENT OF PUBLIC HEALTH

1943—Radium contamination surveys conducted by U.S. Public Health Service and Georgia Department of Public Health Industrial Hygiene personnel in a very large military dial refinishing facility at Warner Robins, Ga.

1949—First formal training of staff personnel in radiation safety and protection at National Institutes of Health courses.

1951—Additional staff training in X-ray control at Taft Sanitary Engineering Center in Cincinnati, Ohio.
—Surveyed all shoe fitting fluoroscopes in State to determine compliance with American Industrial Hygiene Association existing standards.
—Began systematic evaluation of X-ray equipment in offices of physicians and dentists.
—Radium Surveys made in all commercial airline dial painting facilities in the State.

1952—Radium surveys made in all military dial painting shops in the State.

1953—Began joint surveys of isotope users in company with Atomic Energy Commission personnel from Oak Ridge.
—Personnel participated in weapons testing program in Nevada.
—Began air surveillance program to determine amount of fallout from weapons testing program in Pacific and Nevada.

1955—Personnel again participated in weapons testing program in Nevada.

1956—Began environmental surveillance program (water, air and vegetation sampling) to support Lockheed Aircraft Corp. reactor development center at Dawsonville.
—Radiation protection activities given "Section" status in Industrial Hygiene Division.

1957—Personnel again participated in weapons testing program in Nevada.

1960—U.S. Public Health Service began state assignee program with Georgia Department of Public Health.

1961—Radiation stream monitoring program begun in Savannah, Chattahoochee and Etowah River systems.
—Laboratory capability for environmental surveillance greatly expanded.
—Milk surveillance begun in 10 major milk sheds in the State.

1962—Dental radiological health "Sur-Pak Survey" conducted in each dental office in State equipped with an X-ray machine.

1964—Radiation Control Act passed by the General Assembly of Georgia.
—Radiation Control Council appointed by Governor; meets for the first time in August.
—Proposed radiation control regulations dealing with X-ray and radioactive materials presented to Council for study.

1965—Radiological Health activities given "Service" status and separated from Industrial Hygiene program.
—Preregistration inventory performed to determine location of all users of radium and X-ray generating devices.
—Radium management studies begun in all hospitals and clinics throughout the State.

1966—Radium management studies begun in offices of all private practitioners in State.

1967—Radioactive materials control and X-ray control activities given Section status in Radiological Health Service.

1969—Regulations pertaining to "X-ray" and "Radioactive Materials" adopted by the State Board of Health.

REGULATORY PROCEDURES AND POLICY

LICENSING AND REGISTRATION

The Georgia radiation control program encompasses all sources of radiation. The regulations require licensing of all radioactive materials and registration of all radiation-producing machines except such sources or machines as may be specifically exempted from those requirements in accordance with the regulations.

The licensing procedures and criteria set forth in chapter 270-5-20 of the Georgia Department of Public Health Rules and Regulations will be consistent with those of the Atomic Energy Commission.

General licenses are issued for specified materials under specified conditions when it is determined that the issuance of a specific license is not necessary to protect the public and occupational health and safety. A general license is effective by regulation without the filing of applications with the Department or the issuance of a licensing document. A specific license or amendments thereto will be issued to named persons and will incorporate appropriate conditions and expiration date upon review and approval of an application. Prelicensing inspections will be conducted when deemed necessary by the Department.

When the Department determines such to be appropriate, it will request the advice of the Radiological Medical Advisory Committee, or appropriate members thereof, with respect to any matter pertaining to medical license application, or to criteria for reviewing such applications.

Members of the Radiological Medical Advisory Committee who have appropriate experience and training in nonroutine human uses of radioactive materials will be consulted. The Atomic Energy Commission's Advisory Committee on the medical use of isotopes will also be consulted when necessary. Appropriate research protocols will be required as part of an application. The Department will maintain knowledge of current developments, techniques and procedures for medical uses applicable to the licensing program through continuing contact and information exchange with the U.S. Atomic Energy Commission and other agreement States.

The registration program will be a continuation of the current activity except that

(a) all radiation machines will be subject to the applicable provisions of the regulations, and (b) radium and accelerator produced radionuclides which were formerly registered, must now be licensed.

INSPECTIONS

Inspections for the purpose of evaluating radiation safety and determining compliance with appropriate regulations and provisions of licenses will be conducted as needed.

Inspection frequency will be based upon the extent of the hazard-potential and experience with the particular facility. It is expected that all specific licensees will be inspected at least once every 2 years. The following frequency is anticipated:

Specific Licenses:	
Waste Disposal Services.	Once each 6 months.
Industrial Radiography.	Once each 12 months.
Other Industrial	Once each 24 months.
Medical	Once each 24 months.
Academic	Once each 24 months.
Other	Based on hazards associated with licensee's program.
Broad Licenses	Once each 12 months.
Registered Facilities.	Based on hazards associated with registrant's program.

Inspections will be made by prearrangement with the licensee or may be unannounced at reasonable times, as the Department, in its judgment, determines to be most constructive. Consultation visits will be made frequently in the early years of the licensing and compliance program in order to establish understanding and cooperation.

Inspections will include the observation of pertinent facilities, operators, and equipment; a review of use procedures, radiation safety practices, and user qualifications; a review of records of radiation surveys, personnel exposure, and receipt and disposition of licensed materials—all as appropriate to the scope and conditions of the license and applicable regulations. In addition, independent measurements will be made as appropriate.

At the start and conclusion of an inspection, personal contact will be made at management-level whenever possible. Following inspections, results will be discussed with the licensee management.

Investigations will be made of all reported or alleged incidents to determine the conditions and exposure incident thereto and to determine the steps taken for correction, cleanup, and the prevention of similar incidents in the future.

Radiological assistance in the form of monitoring, liaison with appropriate authorities and recommendations for area security and cleanup will be available from the Department in the event of an emergency.

Reports will be prepared covering each inspection or investigation. The reports will be reviewed by the Chief of the Radioactive Materials Control Section and the Director of the Radiological Health Service.

COMPLIANCE AND ENFORCEMENT

The status of compliance with regulations, registration, or license conditions will be determined through inspections and evaluations of inspection reports.

When there are items of noncompliance, the licensee will be so informed at the time of inspection. When the items are minor and the licensee agrees at the time of inspection to correct them, written notice at the completion of the inspection will list the items of noncompliance, confirm corrections made at the time, and inform the person that a review of other corrective action will be made at the next inspection.

Where items of noncompliance of a more serious nature occur, the licensee will be informed by letter of the items of noncompliance and required to reply within a stated time as to the corrective action taken and the date such action was completed or will be complete. Assurance of corrective action will be determined by a followup inspection or at the time of the next regular inspection.

Upon request by the licensee, the terms and conditions of a license may be amended, consistent with the Act or regulations, to meet changing conditions in operations or to remedy technicalities of noncompliance of a minor nature. The Department may amend, suspend, or revoke a license in the event of continuing refusal of the licensee to comply with terms and conditions of the license, the Act or regulations, or failure to take adequate action concerning items of noncompliance. Prior to such action, the Department shall notify the licensee of its intent to amend, suspend or revoke the license and provide the opportunity for a hearing.

The Department will use its best efforts to attain compliance through cooperation and education. Only in instances where real or potential hazards exist, or cases of repeated noncompliance or willful violation will the full legal procedures normally be employed.

Where the Department finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates such findings in its order, it may summarily suspend the license pending proceedings for revocation which shall be promptly instituted upon request of any interested person.

In the event of an emergency relating to any source of ionizing radiation which endangers the public peace, health, or safety, the Department shall have the authority to issue such orders for the protection of the public health and safety as may be appropriate, including orders to lay an embargo upon or impound radioactive materials and other source of ionizing radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of the Act or any rules or regulations promulgated thereunder.

RADIATION EMERGENCIES

A Department of Health radiological emergency team was formed in 1964. The function of this team is to respond to all radiological emergencies that might involve the public health and safety. Emergency kits have been prepared with all the necessary apparatus and radiation surveying equipment. Members of this team have been called on to decontaminate one major facility. In addition, the team has responded to many calls to investigate and handle lost or ruptured radioactive shipments, minor contamination in hospitals and offices, and suspected overexposure from X-ray generators.

Plans are currently being made to involve Law Enforcement personnel in a Statewide Emergency Network so that the Department will be promptly notified should radiological accidents occur.

EFFECTIVE DATE OF LICENSE TRANSFER

Any person who, on the effective date of the agreement with the Atomic Energy Commission, possesses a license issued by the Federal Government shall be deemed to possess a like license issued under chapter 88–1301 through 88–1313, Georgia Health Code (as passed by the Legislature in 1964 and amended by Act 297 of the General Assembly in 1965 and Act 971 of the General Assembly in 1968) which shall expire either 90 days after the receipt from the Department of a notice of expiration of such license, or on the date of expiration specified in the Federal license, whichever is earlier.

RULES OF ADMINISTRATION, PRACTICE, AND PROCEDURE

The Georgia State Board of Health, pursuant to the authority granted in 88–110 of the Code of Georgia (Georgia Laws 1964, pages 499, 507), chapter 88–3 of the Code of Georgia (Georgia Laws 1964, pages 499, 518), and the Georgia Administrative Procedure Act, has established rules of practice and procedure governing administrative procedures with reference to promulgation of rules and regulations, conducting hearings, appeals, proceedings, decisions, and orders these rules provide for:

1. Due notice to interested persons and opportunity to present data or views either orally or in writing prior to the adoption, amendment, or repeal of any rule.

2. Whenever the Department in its opinion finds that an emergency exists requiring immediate action to protect the public health and safety, the Department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency.

3. An interested person may petition the Department requesting the promulgation, amendment, or repeal of a rule.

4. Declaratory judgment procedure available on petition by proper party to determine validity of statute, rule, or final decision of the Department.

5. Right to hearing after reasonable notice in a case in which legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined.

6. Any person who has exhausted all administrative remedies available within the Department and who is aggrieved by a final decision in a contested case is entitled to judicial review.

COMPATIBILITY AND RECIPROCITY

The Georgia State Board of Health has adopted rules and regulations for the control of radiation which are consistent with those of the U.S. Atomic Energy Commission and those of the other agreement States. In promulgating rules and regulations, the Board has, insofar as practicable, avoided requiring dual licensing and has provided for reciprocal recognition of other State and Federal licenses.

Routine staff meetings will be conducted involving all members of the division who are involved with the radiological health program to determine and maintain compatible programs with the U.S. Atomic Energy Commission and other agreement States. Periodic internal evaluation exercises will be conducted concerning all phases of the program. Written reports, inspection reports, records, and statistics will be compatible with the current Atomic Energy Commission program.

[F.R. Doc. 69-11375; Filed, Sept. 22, 1969; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 20291; Order 69-10-37]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Traffic Procedures

Issued under delegated authority October 8, 1969.

By Order 69-9-123, dated September 22, 1969, action was deferred, with a view toward eventual approval, on certain resolutions adopted by the Traffic Conferences of the International Air Transport Association (IATA). The agreement encompasses a new resolution which would liberalize the procedures to apply in cases where group-fare passengers are prevented from traveling with the group because of a death in the immediate family after travel has commenced, and amends an existing resolution so as to permit extension of the validity of tickets held by immediate family members accompanying a passenger incapacitated by illness.

In deferring action on the agreement 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 69-9-123 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21290, R-1, R-2, R-15, and R-16, be, and it hereby is, approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-12251; Filed, Oct. 13, 1969; 8:48 a.m.]

[Docket 18650; Order 69-10-36]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority October 8, 1969.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated September 19 and September 24, 1969, names additional specific commodity rates, as set forth in the attachment hereto,[1] which reflect significant reductions from the general cargo rates, and cancels a rate from the west coast to Auckland, also indicated in the attachment.[1]

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act, provided that tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 20745, R-115 through R-117, be and hereby is deferred with a view toward eventual approval, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-12252; Filed, Oct. 13, 1969; 8:48 a.m.]

[Docket 18650; Order 69-10-35]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority October 8, 1969.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated September 19, 1969, names additional specific commodity rates, as set forth in the attachment hereto,[1] which reflect significant reductions from the general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act, provided that tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 20806, R-54 through R-56, be and hereby is deferred with a view toward eventual approval, provided that approval thereof shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed acton herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-12253; Filed, Oct. 13, 1969; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

COMMERCIAL FINANCE CORPORATION OF NEW JERSEY

Order Suspending Trading

OCTOBER 7, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Commercial Finance Corporation of New Jersey 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 October 8, 1969, through October 17, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69-12239; Filed, Oct. 13, 1969; 8:47 a.m.]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 8, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, 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 October 9, 1969, through October 18, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69-12240; Filed, Oct. 13, 1969; 8:47 a.m.]

[1] Filed as part of original document.

[1] Filed as part of the original document.

FEDERAL OIL CO.

Order Suspending Trading

OCTOBER 6, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Federal Oil Co. (a Nevada corporation) 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 October 7, 1969, through October 16, 1969, both dates inclusive.

By the Commission.

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

[F.R. Doc. 69-12241; Filed, Oct. 13, 1969; 8:47 a.m.]

[File No. 24B-1625]

INTERNATIONAL AEROSPACE ASSOCIATES, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

OCTOBER 6, 1969.

I. International Aerospace Associates, Inc. ("I.A.A."), Post Office Box 172, Lexington, Mass., a Massachusetts corporation located in Lexington, Mass. (Post Office Box 172), filed with the Commission on July 24, 1969, a notification on Form 1-A and an offering circular relating to a proposed offering of 50,000 shares of its $1 par value common stock at $1 per share, for the purposes of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder. The proposed offering is to be made by the issuer.

II. The Commission has reasonable cause to believe from information reported to it by the staff that:

A. The offering circular omits to state material facts necessary in order to make the statements made in the light of the circumstances under which they were made not misleading, particularly with respect to the following:

1. The assets of I.A.A.;

2. The operating and earnings history of I.A.A.;

3. The nature of certain facilities purportedly operated by I.A.A.;

4. The impairment of a certain option held by I.A.A. and pendancy of bankruptcy proceedings against an affiliate of I.A.A.; and

5. The reservation of certain options by the president of I.A.A.

B. The issuer has violated the terms and conditions of the Regulation A exemption in the following respects:

1. No financial information is included whereby a determination can be made as to the applicability of Rule 253(a)(1) and the concomitant availability of Rule 257.

2. Item 2(c) of the notification fails to indicate each person who owns of record or beneficially 10 percent or more of the outstanding stock of issuer.

3. Item 9 of the notification indicates 25,000 shares of stock have been sold while in fact only some 3,030 shares have been sold. Further, the number of individuals to whom shares have been sold together with their names was not furnished or was the exemption upon which such sales were based indicated.

4. The issuer failed to indicate in Schedule I the cost attached to the public offering.

5. Copies of the provisions of the governing instruments defining the rights of holders of equity securities were not filed as required by Item 11 of the notification.

C. The use of the offering circular would operate as a fraud and deceit upon prospective purchasers of the securities offered by I.A.A. pursuant to Regulation A in violation of section 17(a) of the Securities Act of 1933.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended:

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

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

[F.R. Doc. 69-12244; Filed, Oct. 13, 1969; 8:48 a.m.]

LIQUID OPTICS CORP.

Order Suspending Trading

OCTOBER 7, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Liquid Optics Corp. and all other securities of Liquid Optics Corp. (a New York corporation) 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 October 8, 1969, through October 17, 1969, both dates inclusive.

By the Commission.

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

[F.R. Doc. 69-12242; Filed, Oct. 13, 1969; 8:48 a.m.]

PACIFIC FIDELITY CORP.

Order Suspending Trading

OCTOBER 6, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pacific Fidelity Corp. and all other securities of Pacific Fidelity Corp. (a Nevada corporation) 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 October 7, 1969, through October 16, 1969, both dates inclusive.

By the Commission.

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

[F.R. Doc. 69-12243; Filed, Oct. 13, 1969; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 9, 1969.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41782—*Alloys or metals to Cypress, Tex.* Filed by Southwestern

Freight Bureau, agent (No. B-91), for interested rail carriers. Rates on alloys or metals, in carloads, as described in the application, from Alloy and Graham, W. Va., to Cypress, Tex.

Grounds for relief—Market competition.

Tariff—Supplement 217 to Southwestern Freight Bureau, agent, tariff ICC 4645.

By the Commission.

[SEAL] ANDREW ANTHONY, Jr.,
Acting Secretary.

[F.R. Doc. 69-12260; Filed, Oct. 13, 1969; 8:49 a.m.]

[Ex Parte No. 72 (Sub-No. 1)]

FRUIT GROWERS EXPRESS CO.

Class of Employees and Subordinate Officials To Be Included Within Term "Employee"

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 30th day of September 1969.

Upon consideration of the record in the above-entitled proceeding, and of a petition, filed August 13, 1969, by Fruit Growers Express Co. for the issuance of an order determining that agents employed by said petitioner do not perform work defined as that of an employee under the Railway Labor Act, section 1, Fifth:

It is ordered, That the aforesaid petition be, and it is hereby, assigned for oral hearing at a time and place to be hereafter fixed.

And it is further ordered, That a copy of this order be filed with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-12261; Filed, Oct. 13, 1969; 8:49 a.m.]

[No. 11761]

IOWA PASSENGER FARES AND CHARGES

SEPTEMBER 29, 1969.

Notice is hereby given that the Chicago and North Western Railway Co.; the Chicago, Burlington & Quincy Railroad Co.; the Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; the Chicago, Rock Island and Pacific Railroad Co.; and the Illinois Central Railroad Co., through the attorneys named below, have filed a petition[1] with the Interstate Commerce Commission praying that the outstanding orders in this proceeding be modified to allow the petitioners to increase intrastate passenger fares within the State of Iowa.

The petitioners point out that they have filed tariffs with the Interstate Commerce Commission to increase by 10 percent their basic interstate one-way and round-trip coach and first-class fares; that interstate and intrastate passengers are transported on the same trains under the same conditions; that, therefore, intrastate passenger fares maintained at a lower level than the prevailing level of interstate passenger fares would assertedly present difficulties; and that since maximum intrastate passenger fares are fixed by State statute, modifications producing fares in excess of the State statutory limits, such as here sought, are not subject to the Iowa State Commerce Commission's regulatory authority but are solely within the jurisdiction of the Interstate Commerce Commission, if warranted on account of the burdensome effect of the intrastate fares and practices on interstate commerce, pursuant to section 13 of the Interstate Commerce Act.

The petitioners further seek in connection with the above-described increase, establishment of a specific minimum one-way intrastate fare on the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. of 75 cents for all passengers over 5 years old, corresponding to a minimum fare already established on interstate trips, effective January 1, 1969.

Any persons interested in any of the matters in the petition may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of 2 copies upon either J. D. Feeney or James W. Nisbet, 280 Union Station Building, Chicago, Ill. 60606. Thereafter, the Commission will proceed to dispose of the instant petition.

Notice of the filing of this petition will be given by publication in the FEDERAL REGISTER.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-12262; Filed, Oct. 13, 1969; 8:49 a.m.]

[1] Not to be confused with the uncontested petition (for elimination of a discount solely on round-trip fares in Iowa) filed by the Illinois Central Railroad Co. on May 15, 1969, which was assigned the same docket number and title. It was subsequently granted by order dated Sept. 9, 1969, providing, among other things, for disposition of that petition.

[Notice 922]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 9, 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 1131), 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 protests 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 (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3018 (Sub-No. 22 TA), filed October 3, 1969. Applicant: McKEOWN TRANSPORTATION COMPANY, 10448 South Western Avenue, Chicago, Ill. 60643. Applicant's representative: Gregory J. Scheurich, 111 West Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Helium, in tube trailers*, from East Chicago, Ind., to La Crosse, Wis., Carter Lake, Iowa, and Youngstown and Marietta, Ohio, for 150 days. Supporting shipper: Union Carbide Corp., Linde Division, 120 South Riverside Plaza, Chicago, Ill. 60606. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 35072 (Sub-No. 4 TA), filed October 6, 1969. Applicant: EDWIN L. ELLOR & SON, INC., Mountain Boulevard, Warren, N.J. 07060. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hydrants, valves, tapping machines, and commodities* used in the installation thereof, for the account of Valve & Hydrant, Division of United States Pipe and Foundry Co., between East Orange, N.J., on the one hand, and, on the other, points in Pennsylvania, for 180 days. Supporting shipper: United States Pipe and Foundry Co., Burlington, N.J. 08016. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 41255 (Sub-No. 74 TA), filed October 6, 1969. Applicant: GLOSSON MOTOR LINES, INC., Route 9, Hargrave Road, Lexington, N.C. 27292. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Catawba, Lincoln, Burke, and McDowell Counties, N.C., to points in Florida, Georgia, Maryland, District of Columbia, Maine, Delaware, Pennsylvania, New Jersey, New York, Rhode Island, Massachusetts, Connecticut, Vermont, and New Hampshire, for 180 days. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission

in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Jack K. Huff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building), Charlotte, N.C. 28202.

No. MC 76025 (Sub-No. 15 TA), filed October 6, 1969. Applicant: OVERLAND EXPRESS, INC., 651 First Street SW., New Brighton, Minn. 55112. Applicant's representative: James F. Sexton (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, tranporting: *Meats and packinghouse products*, from St. Paul, Minn., to Jacksonville, Miami, Orlando, Plant City, St. Petersburg, and Tampa, Fla.; Albany, Atlanta, Augusta, Columbus, Macon, and Thomasville, Ga.; Addison, Chicago, Elk Grove, Lombard, and Melrose Park, Ill.; Gary and Whiting, Ind.; Asheville, Ahoskie, Charlotte, Greenville, Franklinville, Raleigh, and Wilmington, N.C., and Columbia, Charleston, and Greenville, S.C., for 150 days. Supporting shipper: Armour and Co., Chicago, Ill. Send protests to: A. E. Rathert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 86779 (Sub-No. 31 TA), filed October 3, 1969. Applicant: ILLINOIS CENTRAL RAILROAD COMPANY, 135 East 11th Place, Chicago, Ill. 60605. Applicant's representative: John H. Doeringer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods, and commodities which because of size and weight require special equipment), between Chicago, Rockford, Freeport, and Dixon, Ill., from Chicago, Ill., over Interstate Highway 90 to its junction with U.S. Highway 20, thence over U.S. Highway 20 to Rockford and Freeport, Ill., and return, serving the intermediate points of Alworth, Seward, and Evarts, Ill., and the off route point of Genoa, Ill.; (2) from Rockford, Ill., over Illinois Highway 2 to Dixon, Ill., and return, serving no intermediate points; Restriction: Service restricted to traffic having a prior or subsequent movement by rail, for 180 days. NOTE: Applicant requests authority to tack to its existing authority at Rockford, Freeport, and Dixon, Ill. Supporting shippers: J. L. Clark Manufacturing Co., 2300 Sixth Street, Rockford, Ill.; Rockford Drop Forge Co., Rockford, Ill.; Atwood Vacuum Machine Co., 1400 Eddy Avenue, Rockford, Ill.; Central Quality Industries, Inc., Polo, Ill.; All Products, Inc., Genoa, Ill.; and The Goss Co., 5601 West 31st Street, Chicago, Ill. Send protests to: William E. Gallagher, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1068, 219 South Dearborn, Chicago, Ill. 60604.

No. MC 107295 (Sub-No. 223 TA), filed October 3, 1969. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Framer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products; composition boards; insulating materials; roofing and roofing materials; urethane and urethane products; and related materials, supplies, and accessories incidental thereto*, except commodities in bulk, from Carteret and Edgewater, N.J.; Chester, W. Va.; Deposit, N.Y.; Philadelphia, Pittston, and Sunbury, Pa., to points in Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Michigan, Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, Indiana, Ohio, and Alabama, for 180 days. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, Fla. 33607. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 108207 (Sub-No. 272 TA), filed October 6, 1969. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: L. M. McLean (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sour cream, sour cream dips, yogurt products*, from Council Grove, Kans., to Phoenix, Ariz.; Little Rock, Ark.; Chicago, Ill.; Minneapolis, Minn.; Oklahoma City, and Tulsa, Okla.; Memphis, Tenn.; Dallas, Houston, and San Antonio, Tex., for 150 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Fairmont Foods Co., 3201 Farnam Street, Omaha, Nebr. 68101. 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 108676 (Sub-No. 33 TA), filed October 3, 1969. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, NE., Knoxville, Tenn. 37917. Applicant's representative: Louis J. Amato, Central Building, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, crated, uncrated, or on shipping devices, from plantsite of American Saint Gobain Corp., located in Hawkins County, Tenn., on U.S. Highway 11W, approximately 15 miles west of Kingsport, Tenn., to points in Minnesota, Iowa, Missouri, Oklahoma, and Texas and all States in the United States east thereof, for 180 days. Supporting shipper: American Saint Gobain Corp., Post Office Box 929, Kingsport, 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 111812 (Sub-No. 389 TA), filed October 6, 1969. Applicant: MIDWEST COAST TRANSPORT, INC., Post Office Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: R. H. Jinks (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as defined in sections A and C of appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Mitchell, S. Dak., to Austin, Minn., for 180 days. Supporting shipper: Geo. A. Hormel & Co., Post Office Box 800, Austin, Minn. 55912; K. O. Petrick, Manager—Transportation Services. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 112617 (Sub-No. 265 TA), filed October 6, 1969. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, Ky. 40221. Applicant's representative: James S. Holloway (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acetone and phenol*, in bulk, in tank vehicles, from the plantsite of United States Steel Corp., at or near Haverhill (Scioto County), Ohio, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: James T. Curtis, Jr., Manager, Movement and Project Services, Nonferrous Traffic and Transportation, United States Steel Corp., 525 William Penn Place, Pittsburgh, Pa. 15230. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 118263 (Sub-No. 18 TA), filed October 6, 1969. Applicant: COLDWAY CARRIERS, INC., Post Office Box 38, Clarksville, Ind. 47130. Applicant's representative: Paul M. Daniell, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Deerfield, Ill., to points in Michigan, Indiana, and Ohio, for 180 days. Supporting shipper: Kitchens of Sara Lee Corp., Division of Consolidated Foods, 500 Waukegan Road, Deerfield, Ill. 60015. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 119974 (Sub-No. 26 TA), filed October 6, 1969. Applicant: L. C. L. TRANSIT COMPANY, 520 North Roosevelt, Post Office Box 949, Green Bay, Wis. 54305. Applicant's representative: Charles E. Dye (same address as above).

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats*, in vehicles equipped with mechanical refrigeration, from St. Cloud, Minn., to points in Illinois, Indiana, Iowa, Michigan, Ohio, and Wisconsin, for 180 days. Supporting shipper: Meats, Inc., 1420 Third Avenue South, St. Cloud, Minn. 56301 (Charles W. Rosenberg, President). 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 124241 (Sub-No. 7 TA) (Correction), filed September 24, 1969, published FEDERAL REGISTER, issue of October 3, 1969, and republished as corrected this issue. Applicant: REX WELLS AND RAY WELLS, a partnership, doing business as WELLS BROTHERS, 584 Sparks, Post Office Box 482, Twin Falls, Idaho 83301. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, Idaho 83701. The purpose of this republication is to correct the docket number assigned hereto as shown above, No. MC 124241 (Sub-No. 7 TA), in lieu of No. MC 12411 (Sub-No. 7 TA), which was in error.

No. MC 125844 (Sub-No. 12 TA), filed October 6, 1969. Applicant: BIO-MEDHU, INC., 8603 Preston Highway, Louisville, Ky. 40219. Applicant's representative: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, Ky. 40202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Blood and derivatives of blood, which includes plasma*, from points in Broward and Dade Counties, Fla.; Jacksonville, Fla.; and New Orleans, La., to points in Illinois, Michigan, New York, New Jersey, and Pennsylvania, for 180 days. Supporting shipper: Ralph E. Eacret, General Manager and Senior Vice President, Allied Plasma Corp., 1408 Northwest 36th Street, Miami, Fla. 33142. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 128501 (Sub-No. 3 TA), filed October 3, 1969. Applicant: FIDELITY STORAGE AND TRANSFER COMPANY, 543 Brookhaven Drive, Orlando, Fla. 32802. Applicant's representative: Martin Sack, Jr., Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials, and supplies*, between Orlando, Fla., on the one hand, and, on the other, points in Orange, Lake, Seminole, and Osceola Counties, Fla., for 180 days. Supporting shipper: The Western Electric Co., Inc., 3300 Lexington Road, Winston-Salem, N.C. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 133958 (Sub-No. 1 TA), filed October 3, 1969. Applicant: W. E. STOCKARD, 2212 West Juniper, Roswell, N. Mex. 88201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Prepared animal and poultry feeds*, between points in New Mexico, on the one hand, and, on the other, points in Yoakum, Terry, Lynn, Garza, Kent, Stonewall, King, Cottle, Childress, Collingsworth, Wheeler, Hamphill, and Lipscomb Counties, Tex., for 180 days. Supporting shipper: Hi-Plains Feed Yard, Route 2, Friona, Tex. 79035; J. P. White Industries, Inc., Post Office Box 493, Roswell, N. Mex. 88201. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10515 Federal Building, U.S. Courthouse, Albuquerque, N. Mex. 87101.

No. MC 133968 (Sub-No. 1 TA), filed October 6, 1969. Applicant: WATERFORD EXCAVATING CO., INC., 622 North Cass Street, Milwaukee, Wis. 53202. Applicant's representative: Frank M. Coyne, 1 West Main Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Hancock and Gladstone, Mich., to points in Wisconsin on and north of a line formed by Interstate Highway I-94 from Milwaukee, to Tomah and U.S. Highway 16, from Tomah to La Crosse, for 180 days. Supporting shipper: Diamond Crystal Salt Co., 919 South Riverside Avenue, St. Clair, Mich. 48079 (James Sheehan, Assistant Traffic Manager). 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 134070 (Sub-No. 1 TA), filed October 6, 1969. Applicant: LEW ROSE, doing business as LEW ROSE PETROLEUM TRANSPORT, 855 South Fort Street, Detroit, Mich. 48217. Applicant's representatives: Clark, Klein, Winter, Parsons and Prewitt, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten sulphur*, in bulk, in tank vehicles, from the refinery of Mobil Oil Corp. in Woodhaven, Mich., and the plantsite of Detroit Chemical Works, in Detroit, Mich., to the plantsite of Coulton Chemical Co. in Oregon, Ohio, for 150 days. Supporting shipper: Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017. Send protests to: Gerald J. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower Building, 10 Witherell Street, Detroit, Mich. 48226.

No. MC 134071 (Sub-No. 1 TA), filed October 3, 1969. Applicant: MODULAR TRANSPORTATION CO., 421 West Fulton Street, Grand Rapids, Mich. 49502. Applicant's representative: Karl L. Gotting, Union Savings and Loan Building, 117 West Allegan Street, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sectionalized buildings*, from Charlotte, Mich., to points in Florida, Illinois, Missouri, Indiana, and Ohio; restricted to transportation in specially designed and constructed trailers capable of carrying sectionalized building structures 11 feet 6 inches in height and further restricted to transportation requiring special width permits, for 180 days. Supporting shipper: Prestige Structures, Inc., 1111 Mikesell Street, Charlotte, Mich. 48813. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 134074 (Sub-No. 1 TA), filed October 3, 1969. Applicant: DENIS B. HEDSTROM, Wilton, N. Dak. 58579. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer compounds*, from Winona, Minn., to points in North Dakota and South Dakota, for 180 days. Supporting shipper: Farmers Union Central Exchange, Inc., Post Office Box G, St. Paul, Minn. 55101. 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 134082 TA, filed October 3, 1969. Applicant: K. H. TRANSPORT, INC., R.F.D. No. 2, Ellicott City, Md. 21043. Applicant's representative: Charles E. Creager, Suite 1609, Eldorado Towers, 11215 Oak Leaf Drive, Silver Spring, Md. 20901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, plantains, pineapples, and coconuts, and agricultural commodities* otherwise exempt from economic regulations under section 203(b)(6) of the Act when transported in mixed shipments with bananas, plantains, pineapples, and coconuts, from Wilmington, Del., to points in Maryland, Delaware, Virginia, West Virginia, Michigan, Missouri, Kentucky, Ohio, Indiana, Illinois, North Carolina, Iowa, Wisconsin, Pennsylvania, Connecticut, Rhode Island, Massachusetts, New Jersey, New York, and the District of Columbia, for 180 days. Supporting shipper: Samuel Gordon, Vice President, West Indies Fruit Co., Post Office Box 1940, Miami, Fla. 33101. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1125 Federal Building, Baltimore, Md. 21201.

No. MC 134083 TA, filed October 6, 1969. Applicant: SOUTHERN ENTERPRISES, INC., 930 Catherine Street, Key West, Fla. 33040. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Monroe and Dade Counties, Fla.; restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery

service in connection with packing, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper: Commanding Officer, U.S. Naval Station, Key West, Fla. 33040. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

By the Commission.

[SEAL] ANDREW ANTHONY, Jr.,
Acting Secretary.

[F.R. Doc. 69-12264; Filed, Oct. 13, 1969; 8:49 a.m.]

[Notice 425]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 9, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-71606. By order of October 1, 1969, the Motor Carrier Board approved the transfer to Robert Crawford, Greenfield, Iowa; of certificate in No. MC-106405, issued August 23, 1946, to Albert Rusk, Greenfield, Iowa; authorizing the transportation of: Livestock, animal, and poultry feed, building materials, sand and gravel, from and to specified points in Nebraska and Iowa. William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306, representing applicants.

No. MC-FC-71646. By order of October 3, 1969, the Motor Carrier Board approved the transfer to Sal-Son Trucking Co., Inc., New York, N.Y., of certificate No. MC-30111, issued by the Commission on August 12, 1963, to Rapid Trucking Co., a corporation, acquired by transferor herein pursuant to No. MC-FC-71109, approved February 28, 1969, and consummated May 2, 1969, authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, from New York, N.Y., to points in Bergen, Essex, Hudson, Passaic, and Union Counties, N.J., restricted against service to or from National Mills, a division of U.S. Industries, of Memphis, Tenn. Bowes & Millner, Esqs., 744 Broad Street, Newark, N.J. 07012, attorneys for transferor. Leon J. Levitt, Esq., 2 Penn Plaza, New York, N.Y. 10001, attorney for transferee.

No. MC-FC-71657. By order of October 3, 1969, the Motor Carrier Board approved the transfer to Robert E. Wade, Schenectady, N.Y., of certificates Nos. MC-172, MC-172 (Sub-No. 1), and MC-172 (Sub-No. 6) issued August 12, 1963, December 23, 1954, and October 15, 1968, respectively, to Arnold E. Wade, Schenectady, N.Y., authorizing the transportation of passengers and their baggage, restricted to traffic originating in the territory indicated, in special or charter operations, from points in that part of New York bounded by a line beginning at Windham, N.Y., and extending through Gilboa to Cooperstown, thence through Sharon Springs to Amsterdam, thence through Goffmans to Schenectady, and thence through South Berne to point of beginning, to points in New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, and the District of Columbia; and in round trip charter operations beginning and ending at Schenectady, N.Y., and points within 5 miles thereof, and extending to points in North Carolina, South Carolina, Georgia, Florida, and Maine; and from Saratoga and Washington Counties, N.Y., to points in Pennsylvania, New York, New Jersey, Connecticut, Vermont, New Hampshire, and the District of Columbia. S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005, attorney for applicants.

[SEAL] ANDREW ANTHONY, Jr.,
Acting Secretary.

[F.R. Doc. 69-12263; Filed, Oct. 13, 1969; 8:49 a.m.]

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