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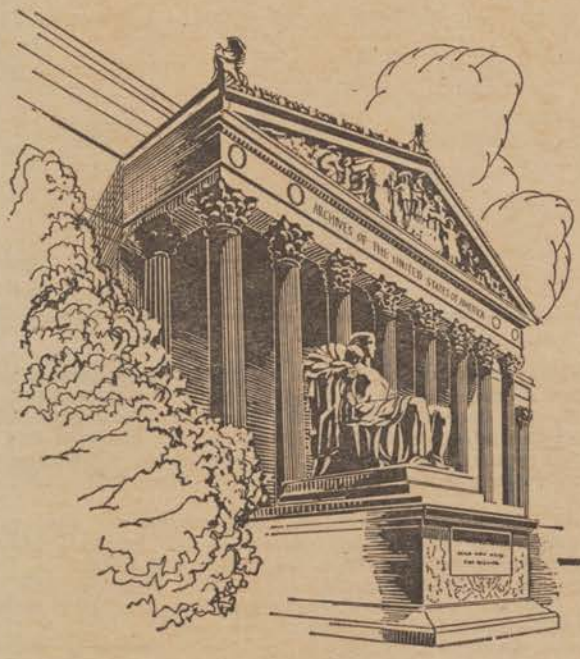

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Title 3—THE PRESIDENT

Executive Order 11508

PROVIDING FOR THE IDENTIFICATION OF UNNEEDED FEDERAL REAL PROPERTY

WHEREAS proper management and use of the Nation's resources require a continuing and critical review of real property held by the Federal government in order to insure that each such property is promptly released by the agency concerned for appropriate disposition whenever changing program requirements of the agency, or other considerations, obviate the need of the agency for such property; and

WHEREAS existing law, including the Federal Property and Administrative Services Act of 1949, as amended (hereinafter referred to as "the Act"), authorizes the President to prescribe property utilization and disposal policies consistent with and deemed necessary to effectuate its provisions; and

WHEREAS I have determined that it would be in the public interest to enunciate a uniform policy for the Executive branch of the Government with respect to the identification of excess real property holdings, and to establish uniform procedures with respect thereto, in order to insure the prompt identification and release by executive agencies of real property holdings that are no longer essential to their activities and responsibilities:

NOW, THEREFORE, by virtue of the authority vested in me by section 205(a) of the Act (40 U.S.C. 486(a)), and as President of the United States, it is hereby ordered as follows:

SECTION 1. In conformity with sections 202 (b) and (c) of the Act (40 U.S.C. 483(b) and (c)), the head of each executive agency, consistent with the policies set forth in Bureau of the Budget Circular No. A–2, Revised, shall:

(1) institute immediately a vigorous and complete survey of all real property under his control; and

(2) make a report to the Administrator of General Services within sixty days of the date of this order, listing any such property or portion thereof, and state whether it is not utilized, is underutilized, or is not being put to its optimum use.

SEC. 2. The Administrator of General Services shall:

(1) within sixty days of the date of this order, and in implementation of the policies set forth in Bureau of the Budget Circular No. A–2, Revised, establish uniform standards and procedures for the identification of real property that is not utilized, is underutilized, or is not being put to its optimum use, and the heads of other executive agencies shall thereafter conform their policies, regulations, and practices to the provisions of such standards and procedures;

(2) within sixty days of the date of this order, institute, and thereafter conduct on a continuing basis, a survey of the real property holdings of all executive agencies to identify properties which in his judgment are not utilized, are underutilized, or are not being put to their optimum use; and

(3) make reports to the President, listing any property or portion thereof (identified either by Executive agencies or as a result of the Administrator's survey) which has not been reported excess and which in the Administrator's judgment is either not utilized, is underutilized, or is not being put to its optimum use, and which in his judgment should be reported as excess property.

SEC. 3. (a) The reports required of the Administrator of General Services by section 2 of this order shall be made to the President through a Property Review Board, which is hereby established.

(b) The members of the Property Review Board shall be the Director of the Bureau of the Budget, the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality, the Administrator of General Services, and such other officers or employees of the Executive branch as the President may from time to time designate. One of the members of the Board shall be designated by the President as Chairman. The Board shall have an Executive Secretary, who shall be appointed by the President.

(c) The Property Review Board shall review the reports made by the Administrator of General Services pursuant to section 2 of this order, as well as other reports to the President making recommendations for the use or disposition of specific parcels of real property, with particular attention to conflicting claims on, and alternative uses for, any property listed in such reports. The Board shall then make such recommendations to the President as it deems advisable regarding the use or disposal of such property.

SEC. 4. As used in this order:

(1) the term "executive agency" means "executive agency" as defined in section 3(a) of the Act (40 U.S.C. 472(a)):

(2) the term "property", however modified, means real property, or an interest therein, which is covered by the definition of "property" set forth in section 3(d) of the Act (40 U.S.C. 472(d)), and also lands withdrawn or reserved from the public domain which are utilized by executive agencies for purposes other than national forests or national parks; and

(3) the term "excess property" means "excess property" as defined in section 3(a) of the Act (40 U.S.C. 472(e)).

Richard Nixon

THE WHITE HOUSE,
February 10, 1970.

[F.R. Doc. 70-1857; Filed, Feb. 10, 1970; 3:51 p.m.]

Executive Order 11509

ESTABLISHING THE PRESIDENT'S ADVISORY COUNCIL ON MANAGEMENT IMPROVEMENT

WHEREAS finding ways in which to improve management and efficiency in the executive branch meets a vital and continuing need; and

WHEREAS it is essential that the resources of the executive branch which are devoted to the fulfillment of our international responsibilities and the needs of our citizens be managed and utilized in as effective a manner as possible; and

WHEREAS the best management practices and techniques developed by individual Government agencies and by business and industry should be utilized in all Government agencies whenever applicable; and

WHEREAS there is a need to review the progress of the Government's management improvement program and to furnish the President advice thereon; and

WHEREAS it is desirable to give increased attention to the improvement of the management of executive agencies and programs:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of the Council.* (a) There is hereby established the President's Advisory Council on Management Improvement (hereinafter referred to as the Council).

(b) The Council shall be composed of 10 members, all of whom shall be appointed by the President from among citizens outside the Government and who shall serve at the pleasure of the President. The President shall designate one of the members of the Council to serve as Chairman.

(c) Each member of the Council shall be entitled to receive compensation for each day he is engaged on business of the Council, and travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 3109 and 5703) for persons in the Government service employed intermittently.

SEC. 2. *Functions of the Council.* As requested by the President or the Director of the Bureau of the Budget, the Council shall, from time to time:

(a) Provide advice and assistance on Government-wide and interagency management problems.

(b) Make systematic appraisals of Government-wide operations to identify opportunities to improve efficiency and cost control.

(c) Carry forward the functions which were vested in the President's Advisory Council on Cost Reduction by Executive Order No. 11353 of May 23, 1967, as amended, but without regard to the time limitation contained therein.

(d) Provide for an interchange of ideas with responsible operating officials throughout the executive branch on opportunities for management improvement and appropriate action to achieve such improvement.

(e) Submit reports to the President containing appropriate recommendations for improving the efficiency of Government-wide operations.

SEC. 3. *Assistance by Federal agencies.* The Office of Executive Management, Bureau of the Budget, shall provide staff assistance to the Council and, upon request of the Chairman of the Council, other executive departments and agencies shall, consistent with law, furnish to the Council available information which the Council may require in performance of its functions.

SEC. 4. *Saving provision.* Nothing in this order shall derogate from the functions or status of the President's Advisory Council on Executive Organization established by the President on April 5, 1969.

SEC. 5. *Prior order.* Without prejudice to the provisions of section 2(c) hereof, the following are hereby revoked: (1) Executive Order No. 11353 of May 23, 1967, and (2) Executive Order No. 11418 of July 27, 1968.

Richard Nixon

THE WHITE HOUSE,
February 11, 1970.

[F.R. Doc. 70-1881; Filed, Feb. 11, 1970; 12:17 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

United States-Mexico Commission for Border Development and Friendship

Effective on publication in the FEDERAL REGISTER, § 213.3166 is revoked, reflecting termination of the United States-Mexico Commission for Border Development and Friendship.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 70–1776; Filed, Feb. 11, 1970; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Department of the Air Force

Section 213.3309 is amended to show that one position of Private Secretary in the Office of the Military Assistant to the President is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (8) is added to paragraph (a) of § 213.3309 as set out below.

§ 213.3309 Department of the Air Force.

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

(8) One Private Secretary in the Office of the Military Assistant to the President.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 70–1778; Filed, Feb. 11, 1970; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Export-Import Bank of the United States

Section 213.3342 is amended to show that one position of Private Secretary to the Executive Vice President is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (g) is added to § 213.3342 as set out below.

§ 213.3342 Export-Import Bank of the United States.

* * * * *

(g) One Private Secretary to the Executive Vice President.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 70–1775; Filed, Feb. 11, 1970; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that one position of Special Assistant to the Assistant Secretary for Research and Technology is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (20) is added to paragraph (a) of § 213.3394 as set out below.

§ 213.3394 Department of Transportation.

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

(20) One Special Assistant to the Assistant Secretary for Research and Technology.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 70–1774; Filed, Feb. 11, 1970; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Plant Protection Division

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161, 162), and section 106 of the Federal Plant Pest Act (7 U.S.C. 150ee), Part 301 of Chapter III, Title 7, Code of Federal Regulations, is hereby amended by changing the phrase "Plant Pest Control Division" to read "Plant Protection Division" wherever such phrase appears in said part.

The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment merely reflects the change in the name of the administrative division responsible for the performance of functions prescribed in said part from the Plant Pest Control Division to the Plant Protection Division; and makes no substantive change in the quarantines or regulations. Any document, certificate, or permit issued prior to this action by the Director of the Plant Pest Control Division will remain valid until modified or revoked in accordance with the applicable provisions of Part 301. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found, upon good cause, that notice and other public procedure regarding the amendment are unnecessary, and good cause is found for making the amendment effective less than 30 days after the publication thereof in the FEDERAL REGISTER.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended, 33 F.R. 15485)

Done at Washington, D.C., this 9th day of February 1970.

R. J. ANDERSON,
Acting Administrator, Agricultural Research Service.

[F.R. Doc. 70–1823; Filed, Feb. 11, 1970; 8:52 a.m.]

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

Pursuant to the authority conferred upon the Director of the Plant Quarantine Division by § 354.1 of the regulations concerning overtime services relating to imports and exports (7 CFR 354.1), effective July 13, 1969 (34 F.R. 11548), administrative instructions (7 CFR 354.2), effective August 19, 1967, as amended February 9, 1968, April 19, 1968, July 25, 1968, December 14, 1968, February 19, 1969, June 6, 1969, July 12, 1969, August 14, 1969, October 9, 1969, and November 7, 1969 (32 F.R. 11981, 33 F.R. 2757, 5987, 10561, 18580, 34 F.R. 2351, 9025, 11547, 13148, 15636, 18001), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by deleting from and adding to the "lists" therein as follows:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

OUTSIDE METROPOLITAN AREA

TWO HOURS

Delete: Belle Chasse, La. (including NAS) (served from New Orleans, La.).

Delete: Braithwaite, La. (served from New Orleans, La.).

Delete: Paine Field and Snohomish County Airport, Wash. (served from Seattle, Wash.).

Delete: St. Rose, La. (served from New Orleans, La.).

Add: Snohomish County Airport, Wash. (served from Seattle, Wash.).

THREE HOURS

Delete: Destrehan, La. (served from New Orleans, La.).

Delete: Good Hope, La. (served from New Orleans, La.).

Delete: Gramercy, La. (served from New Orleans, La.).

Delete: Norco, La. (served from New Orleans, La.).

Delete: Ostrica, La. (served from New Orleans, La.).

Delete: Port Sulphur, La. (served from New Orleans, La.).

Add: Any undesignated Hawaiian port served from Honolulu, Hawaii.

Add: Any point on the Mississippi River above the St. Charles-Jefferson Parish boundary to and including Gramercy, La.; any point below Chalmette, La., on the east bank; and Belle Chasse, La., and points to and including Port Sulphur, on the west bank. (served from New Orleans, La.)

FOUR HOURS

Add: Ostrica, La. (served from New Orleans, La.).

Add: Any undesignated Louisiana port served from New Orleans, La.

* * * * *

These commuted traveltime periods have been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Plant Quarantine Division. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

(64 Stat. 561; 7 U.S.C. 2260)

This amendment shall become effective upon publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 6th day of February 1970.

[SEAL] F. A. JOHNSTON,
Director,
Plant Quarantine Division.

[F.R. Doc. 70-1777; Filed, Feb. 11, 1970; 8:52 a.m.]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 3]

PART 729—PEANUTS

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

PEANUTS RETAINED FOR SEED

On page 20276 of the FEDERAL REGISTER of December 25, 1969, there was published a notice of proposed rule making to issue an amendment relating to seed peanuts for determination of acreage allotments and marketing quotas for 1969 and subsequent crops of peanuts. Interested persons were given 30 days after publication of such notice in which to submit written data, views, and recommendations with respect to the proposed rule making. The data, views, and recommendations which were submitted pursuant to said notice were duly considered and the proposed rule making is adopted effective beginning with peanuts produced in the 1970 crop year.

Since farms are now preparing for the production of the 1970 crop, it is essential that these regulations be made effective at the earliest possible date. Accordingly, it is hereby determined that compliance with the 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and this document shall be made effective upon filing with the Director, Office of the Federal Register.

(Secs. 301(b), 359, 375, 52 Stat. 38, as amended, 55 Stat. 90, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1301(b), 1359, 1375)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on February 9, 1970.

KENNETH E. FRICK,
Adminstrator, Agricultural Stabilization and Conservation Service.

The amendment is as follows:

Section 729.44(e) is revised to read as follows:

§ 729.44 Amount of penalty due from farms with excess acreage.

* * * * *

(e) *Peanuts retained for seed.* Effective beginning with the 1970 crop year, peanuts produced on excess farms and retained for seed or other purposes will be considered as marketed and therefore subject to the marketing quota penalty if such peanuts are used for seed or other purposes on another farm. The amount of penalty on any such peanuts which are considered marketed shall be determined by multiplying the quantity by the converted penalty rate for the farm.

* * * * *

[F.R. Doc. 70-1826; Filed, Feb. 11, 1970; 8:52 a.m.]

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

[Navel Orange Reg. 196]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.496 Navel Orange Regulation 196.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 10, 1970.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period February 13, 1970, through February 19, 1970, are hereby fixed as follows:

(i) District 1: 830,000 cartons;

(ii) District 2: 160,000 cartons;

(iii) District 3: 10,000 cartons.

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

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

Dated: February 11, 1970.

F. L. SOUTHERLAND,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70–1871; Filed, Feb. 11, 1970; 11.21 a.m.]

[Valencia Orange Reg. 298]

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

Limitation of Handling

§ 908.598 Valencia Orange Regulation 298.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 10, 1970.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period February 13, through February 19, are hereby fixed as follows:

(i) District 1: Unlimited;

(ii) District 2: Unlimited;

(iii) District 3: 54,111 cartons.

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

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

Dated: February 11, 1970.

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

[F.R. Doc. 70–1882; Filed, Feb. 11, 1970; 12:33 p.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, paragraph (e)(7) relating to the State of Mississippi, subdivision (iv) is added to read:

(7) *Mississippi.* * * *

(iv) The adjacent portions of Madison and Hinds Counties bounded by a line beginning at the junction of U.S. Highway 49 and State Road 22; thence, following State Road 22 in a generally easterly direction to State Road 463; thence, following State Road 463 in a southeasterly direction to U.S. Highway 51; thence, following U.S. Highway 51 in a southwesterly direction to the Hinds-Madison County Line Road; thence, following the Hinds-Madison County Line Road in a westerly direction to U.S. Highway 49; thence, following U.S. Highway 49 in a northerly direction to its junction with State Road 22.

2. In § 76.2, paragraph (e)(19) relating to the State of South Carolina is amended to read:

(19) *South Carolina.* (i) That portion of Williamsburg County bounded by a line beginning at the junction of Secondary State Highway 160 and the Seaboard Coast Line Railroad; thence, following the Seaboard Coast Line Railroad in a southwesterly direction to Secondary State Highway 24; thence, following Secondary State Highway 24 in a northeasterly direction to Primary State Highway 261; thence, following Primary State Highway 261 in a southwesterly direction to the Seaboard Coast Line Railroad in the town of Kingstree; thence following the Seaboard Coast Line Railroad in a northeasterly direction to Primary State Highway 512; thence, following Primary State Highway 512 in a southeasterly direction to Secondary State Highway 118; thence, following Secondary State Highway 118 in a northeasterly direction to Secondary State Highway 85; thence, following Secondary State Highway 85 in a southeasterly direction to Secondary State Highway 194; thence, following Secondary State Highway 194 in an easterly direction to Secondary State Highway 160; thence, following Secondary State Highway 160 in a southeasterly direction to its junction with the Seaboard Coast Line Railroad.

(ii) That portion of Horry County bounded by a line beginning at the junction of Primary State Highway 9 and Primary State Highway 410; thence, following Primary State Highway 9 in a southeasterly direction to Secondary State Highway 31; thence, following Secondary State Highway 31 in a southerly direction to Secondary State Highway 66; thence, following Secondary State Highway 66 in a southwesterly direction to Secondary State Highway 545; thence, following Secondary State Highway 545 in a westerly direction to Secondary State Highway 139; thence, following Secondary State Highway 139 in a northwesterly direction to Secondary State Highway 97; thence, following Secondary State Highway 97 in a westerly direction to Secondary State Highway 323; thence, following Secondary State Highway 323 in a northwesterly direction to U.S. Highway 701; thence, following U.S. Highway 701 in a northeasterly direction to Primary State Highway 410; thence, following Primary State Highway 410 in a northeasterly direction to its junction with Primary State Highway 9.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Madison and Hinds Counties in Mississippi and part of Horry County in South Carolina because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas designated herein.

The amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish their purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 6th day of February 1970.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-1827; Filed, Feb. 11, 1970; 8:52 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 3—RULES OF PROCEDURE IN CONTRACT APPEALS

1. *Statement of consideration.* On November 10, 1964, the Commission established a Board of Contract Appeals and revised its Rules of Procedure in Contract Appeals to simplify and make more flexible the procedures pertaining to the disposition of contract appeals. The Board and the rules under which it operates have now been in existence for approximately 5 years. During this time the Board has been able to operate in accordance with the mandate of the Commission to dispose of contract appeals in an orderly, impartial, fair and expeditious manner.

2. However, new developments in the Government contracts field as well as the experience gained under the rules of procedure indicate that a revision to the rules is appropriate at this time. This revision conforms the Rules of Procedure to the Uniform (Model) Rules drafted by the Chairmen of the various Boards of Contract Appeals in one area in which there is a substantial difference—Discovery—and adopts the Uniform (Model) Rules relating to the unexcused absence of a party. The complaint and answer provisions of the Uniform (Model) Rules have not been adopted inasmuch as the currently used statement of fact and argument procedure has worked well and provides a less formalized atmosphere during the preliminary stages of a proceeding. The revision also provides greater clarity in those areas in which the experience of the Board indicates that clarification is needed.

3. This revision to the rules in no way affects the basic precepts upon which the Board was established. In fact, the Preface to the Rules which was published in 29 F.R. 12829 (Sept. 11, 1964) remains in most part as valid today as it was in 1964. For this reason the 1964 Preface to the Rules, with the exception of those portions which are no longer applicable, is restated here to assure its application to this revised set of rules:

4. These rules are designed to revise, simplify and make more flexible the procedures pertaining to the disposition of contract appeals. Further, these procedures are designed to dispose of contract appeals under disputes clauses in an orderly, impartial, fair, and expeditious manner. The principal features of the rules are the use of less formal procedures; the use of a mandatory conference prior to hearing; the use of an accelerated procedure for small claims and for other good causes; and the establishment of a Board which will sit in three member panels to consider, hear, and finally dispose of all appeals on behalf of the Commission.

5. The rules of procedure seek to recognize the real nature of the contract appeals process, namely, a means by which an agency can take a second, top-level, independent look at the disputed actions of its authorized agents and effect any necessary revision of such actions dictated by justice and fairness. The rules make clear that the disputes procedure is a contractual method of resolving disagreements and can be invoked only when a contract so provides.

6. The rules emphasize informality in order to facilitate the accomplishment of a just and inexpensive determination of an appeal without unnecessary delay. Because it is impossible to articulate a rule to fit every circumstance which could be encountered, emphasis is placed on the second administration of these rules in specific cases.

7. The use of a Board as the authorized representative of the Commission to decide contract appeals is expected to provide a significant safeguard against the possibility of individual error. The inclusion of nonlawyers on the Board should afford a balanced forum with a fresh and broad insight and will tend to reduce the necessity to remand cases for resolution of technical problems.

8. The Chairman of the Board is responsible for assuring that the Board's operations are conducted in an orderly and expeditious manner. Adequate performance by the Board depends on the active and continuing leadership of the Chairman without impinging on the freedom of the members. The Chairman is expected to use ingenuity to effectuate management improvements in Board operations either by action of the Board itself where appropriate, or by recommendation to the Commission. In addition the Chairman is responsible for maintaining a continuing high level of decisionary consistency.

9. The rules set forth the Commission's intent to vest in the Board the broadest of powers in order to enable the Board to make full and final administrative disposition of the appeal. The rules give the Board sufficient flexibility to decide appeals finally in an orderly, impartial, fair and expeditious manner. The powers specifically enumerated are not intended to be exclusive. The manner in which the Board's powers are exercised is left to the discretion of the Board. The full Board has authority to establish additional rules which would implement and supplement the rules in Part 3. Rules established by the Board will be reduced to writing and published in the FEDERAL REGISTER.

10. Ex parte communications with the Board are prohibited except to the extent that such communications relate to the Board's administrative functions.

11. The pleading requirements do not provide for a complaint and answer and substitute therefor statements of position and, at the option of each party, an argument in the form of a brief. The elimination of formal procedural requirements has simplified the administrative process and served to concentrate attention on the merits of a case rather than procedural matters.

12. The rules assure that the appellant has access to all papers in the appeal file. The Commission wishes to emphasize the need to make all papers in the appeal file readily available to the appellant, subject to the Commission's requirements for the protection of classified and privileged information.

13. An important requirement is the emphasis on a mandatory conference. The conference procedure, while having many of the attributes of a prehearing conference, is intended to be broader in scope than a prehearing conference. The purpose of the mandatory conference is to bring the parties together informally to consider the possibility of disposing of the appeal by agreement. The conference gives the parties an opportunity to discuss the case with the Board and the Board has an active opportunity to make inquiries and attempt to narrow the issues in dispute.

14. The accelerated procedure may be utilized to expedite small claims and in other cases in which good cause is shown. The use of this procedure has resulted in the expeditious handling of cases with a concomitant savings to both the appellant and the Government.

15. Hearings before the Board are conducted by a full panel in order to assure that throughout the proceeding the decision-makers will have heard the entire case. In the conduct of hearings, informality and Board flexibility are emphasized consistent with the need to provide an appropriate record for judicial review.

16. Because these rules relate solely to agency practice or procedure, the Commission has found that notice of proposed rule making and public procedures thereon are unnecessary.

17. Accordingly, the following revised 10 CFR Part 3, "Rules of Procedure in

Contract Appeals," is published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER:

AUTHORITY: The provisions of this Part 3 issued under sec. 161, 68 Stat. 948, as amended; 42 U.S.C. 2201.

§ 3.1 Scope.

(a) This part establishes a Board of Contract Appeals and prescribes the functions and rules of procedure of such Board in considering and deciding appeals from a decision of an AEC contract officer:

(1) In a dispute arising under—

(i) Any AEC prime contract containing a disputes provision requiring an AEC contracting officer's decision and providing for an appeal therefrom to the Commission, and

(ii) Any subcontract entered into by a cost-type prime contractor in which such a dispute provision has been included in accordance with AECPR 9-59.003;[1] and

(2) Assessing liquidated damages pursuant to section 104(c) of the Contract Work Hours Standards Act (40 U.S.C. sec. 327-332).

(b) The Board, sitting in panels as provided in § 3.109(c) shall conduct debarment hearings and decide for the Commission debarment cases. The rules of procedure provided in this part shall apply to debarment proceedings conducted by the Board to the extent determined by the Board to be appropriate.

§ 3.2 Purpose.

(a) The purpose of this part is to provide for the orderly, impartial, fair, and expeditious handling of contract appeals in an informal manner, consistent with the requirements of law, the regulations of this part, the orderly conduct of the proceedings, and the necessity for preserving the record.

(b) Emphasis is placed upon the sound administration of the provisions of this part in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. The provisions of this part will be interpreted so as to secure a just and inexpensive determination of proceedings without unnecessary delay.

Subpart A—Creation and Charter of the Atomic Energy Commission Board of Contract Appeals

§ 3.100 Establishment and membership of the Board.

(a) There is hereby established within the Atomic Energy Commission the "Atomic Energy Commission Board of Contract Appeals" (herein referred to as the Board, abbreviated AECBCA) which shall be the authorized representative of the Commission for the purpose of considering and deciding proceedings within the scope of this part. Decisions of the Board are final decisions of the Commission.

(b) The Board shall be composed of members appointed by the Commission. The Commission shall designate one member of the Board as Chairman and another member as Vice Chairman. The Chairman and Vice Chairman shall be full-time employees of the Commission and attorneys admitted to practice before the highest court of any State, Territory, or the District of Columbia.

(c) For the purpose of considering and deciding an appeal, the Board shall consist of a panel of three members, one of whom shall be the Chairman or Vice Chairman. The Chairman or Vice Chairman shall preside over the panel's activities. The composition of a panel shall be established by the Chairman within ten (10) days after receipt of the appeal file. The decision of the panel shall be the decision of the Board.

(d) Should the appellant elect to have his appeal considered under the accelerated procedures of § 3.205, the Board shall consist of the Chairman or, at the designation or in the absence of the Chairman, the Vice Chairman. The decision of the Chairman (or Vice Chairman) shall be the decision of the Board.

(e) In the absence of the Chairman, the Vice Chairman shall have all the powers and duties of the Chairman.

(f) Two of the three members on a panel shall constitute a quorum for the conduct of the panel's business. The presiding member of a panel shall designate one of the remaining members to preside in his absence.

(g) The Board members, including the Chairman and Vice Chairman, are subject to the laws relating to conflict of interest and the implementing AEC policies published in AEC Manual Chapter 4124, Part 0 of this chapter.

§ 3.101 Authority of the Board.

(a) The Board shall have all powers necessary for the performance of its duties including but not limited to the authority to conduct hearings, call witnesses, dismiss appeals, order the production of documents and other evidence, administer oaths and affirmations, issue subpoenas, order depositions to be taken, take official notice of facts within general knowledge, and decide all questions of fact and law. Decisions on questions of law are subject to 68 Stat. 81 (1954), 41 U.S.C. secs. 321 and 322 (1964 Ed.) relating to finality.

(b) A majority of the full Board shall have the power to establish additional rules not inconsistent with the rules contained in this Part 3.

§ 3.102 Chairman.

(a) The Chairman shall be responsible directly to the Commission.

(b) The Chairman shall have all powers necessary for assuring the proper functioning of the Board, including but not limited to the following:

(1) Assuring the orderly, fair, impartial, and expeditious handling of proceedings;

(2) Acting on procedural matters before the Board including the issuance of subpoenas;

(3) Taking all actions necessary for the conduct of proceedings before the Board prior to the designation of a panel;

(4) Exercising the proper control of the docket.

§ 3.103 Ex parte communications.

(a) No member of the Board or of the Board's staff shall entertain off the record, except from another member of the Board or of the Board's staff, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral regarding any substantive matter at issue in the appeal.

(b) This section does not apply to ex parte communications authorized by law or concerning the Board's administrative functions.

Subpart B—Rules of Procedure in Contract Appeals

§ 3.200 Notice of appeal.

(a) An appeal from the decision of a contracting officer shall be made by notice of appeal[2] in writing, addressed to the Board, and shall be mailed to, or filed with, the contracting officer, within the time allowed by the contract. The notice of appeal shall specify the portion of the decision from which the appeal is taken, and the reasons why the decision is deemed erroneous, and shall include a request for application of the accelerated procedure under § 3.205 if such is desired.

(b) A statement of fact and argument in the form of a brief in support of the appeal may be submitted with the notice of appeal, or, if the appellant prefers, may be mailed to or filed with the

[1] Appendix A of this part contains an excerpt of the AECPR.

[2] A suggested form of notice of appeal appears at the end of this part as Appendix B.

contracting officer, addressed to the Board, within fifteen (15) days after the mailing or filing of the notice. When a statement of fact and argument in the form of a brief in support of the appeal is not submitted with the notice, the contractor shall state in the notice whether such a statement of fact and argument in the form of a brief in support of the appeal will be filed.

§ 3.201 Answer.

(a) When a statement of fact and argument in the form of a brief in support of the appeal has been filed, an answer may be filed with the Board by the contracting officer within thirty (30) days from the date of receipt of the statement of fact and argument in the form of a brief in support of the appeal.

(b) In the event no statement of fact and argument in the form of a brief is filed by appellant, the contracting officer may file an additional statement of his position and supporting argument within thirty (30) days from the receipt of notice that no statement of fact and argument in the form of a brief in support of the appeal will be filed.

§ 3.202 Responsibilities of the contracting officer.

(a) Immediately upon receipt of the notice of appeal, the contracting officer shall inform the Board that the appeal has been received and shall promptly but in no event later than fifteen (15) days from the date of receipt transmit the appeal file in quintuplicate (triplicate in accelerated proceedings) to the Board. The appeal file shall consist of the notice of appeal and the appellant's brief, if any, submitted therewith and of all documents on which the contracting officer has relied in making his decision, including the following:

(1) The decision of the contracting officer;

(2) The contract, specifications, pertinent drawings and plans, and modifications including change orders; and

(3) All correspondence and other data material to the appeal other than documents in the categories set forth in § 9.5(a) of this chapter.

(b) At the time the appeal file is transmitted to the Board, a copy of all papers and documents included in the appeal file and not reasonably expected by the contracting officer to be accessible to the appellant, shall be transmitted to the appellant together with an index thereof.

§ 3.203 Dismissal for lack of jurisdiction.

Any motion addressed to the jurisdiction of the Board shall be filed promptly but in no event later than fifteen (15) days prior to the date set for conference (see § 3.204). The moving party shall attach to the motion a statement setting forth the basis for the motion. A statement in opposition to the motion may be filed with the Board within ten (10) days from the date on which the motion is received by the opposing party. The Board shall have the right on its own motion at any time to recognize its lack of jurisdiction after affording the parties an opportunity to be heard thereon.

§ 3.204 Conference.

(a) Within sixty (60) days after receipt of the appeal file, the Chairman shall direct the parties to appear before the Board for the purpose of exploring the possibility of informally disposing of the appeal by agreement. If it becomes evident that such informal disposition of the appeal by agreement cannot be achieved, the following matters shall be considered:

(1) Jurisdiction of the Board, if the issue has been raised and not already disposed of;

(2) Simplification of issues;

(3) Possibility of obtaining stipulations, admissions of facts and other agreements which will avoid unnecessary proof;

(4) Scope of expert testimony if a hearing is to be held, including requests by the Board for the introduction of any expert testimony desired by the Board; and

(5) Such other matters as may aid in the disposition of the appeal.

(b) The results of the conference shall be reduced to writing by the Board and such writing shall thereafter constitute part of the record.

(c) At the conclusion of the conference the Board may enter an order which recites the action taken at the conference. The order shall control the subsequent course of the proceeding unless modified for good cause.

§ 3.205 Accelerated procedure.

(a) If the amount involved in an appeal does not exceed $20,000, the Board (see § 3.100(d)) will, at the request of the appellant, undertake to issue a decision on the appeal on an expedited basis, without regard to its normal position on the docket. Under this accelerated procedure, the case will be further expedited if the parties elect to waive the filing of written materials and/or elect to waive the hearing. In all other respects these rules will apply.

(b) This procedure may at the discretion of the Chairman be employed regardless of the amount involved for other good causes shown, such as financial hardship, status as small business, location of appellant in an area of concentrated unemployment or underemployment or in an area of substantial or persistent labor surplus.

(c) A request for a decision on an expedited basis under this section shall be contained in the notice of appeal.

§ 3.206 Depositions.

(a) After an appeal has been docketed, the Board may, for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for an order shall specify whether the purpose of the deposition is for discovery or for use as evidence. A copy of the application, and any order issued, shall be served on the other party, who shall be entitled to be represented at the taking of depositions.

(b) No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence except for good cause shown as to why the deponent is not present to testify personally at the hearing. The deposition of a witness may be used to contradict or impeach the testimony of the witness given at the hearing. In cases otherwise heard on the record, the Board may on motion of either party and in its discretion, receive depositions as evidence in the record.

(c) All expenses of taking the deposition of any person shall be borne by the party taking that deposition, except that the other party shall be entitled to copies of the transcript of the deposition only upon paying therefor.

§ 3.207 Interrogatories to parties; inspection of documents; admission of facts.

For good cause shown, the Board may permit a party to serve written interrogatories upon the opposing party, order a party to produce and permit inspection and copying or photographing of designated documents or other tangible items relevant to the appeal, or permit the serving on the opposing party of a request for admission of facts. Such permission will be granted and orders entered as are consistent with the objective of securing a just and inexpensive determination of proceedings without unnecessary delay, and subject to the provisions of § 9.5 of this chapter.

§ 3.208 Request for hearing.

If at the conclusion of the conference there remains a disputed question of fact, the Board shall, at the request of either party received not later than fifteen (15) days from the last day of the conference, grant a hearing. In the absence of a request, the Board may, in its discretion, require a hearing. If a hearing is not held, the Board shall decide the appeal on the record.

§ 3.209 Notice of hearing.

The parties will be given a minimum of fifteen (15) days' notice of the time and place of the hearing which will be held at the AEC Headquarters Office, Washington, D.C., or any other place which the Board determines will best serve the interests of the parties.

§ 3.210 Conduct of hearing.

(a) The hearings shall be conducted by the Board.

(b) Hearings shall be as informal as may be reasonable and appropriate under the circumstances. The parties may offer such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject, however, to the sound discretion of the Board in supervising the extent

and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence may be admitted in the discretion of the Board. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

(c) Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board shall otherwise order. If the testimony of a witness is not given under oath, the Board shall invite the attention of the witness to the provisions of 18 U.S.C. sec. 287 and 1001.

(d) A verbatim transcript of the hearing shall be made. A copy of the transcript shall be available for public inspection.

§ 3.211 Posthearing briefs.

The Board shall fix a time not less than thirty (30) days from the conclusion of the hearing within which posthearing briefs may be filed.

§ 3.212 Service of papers.

(a) A copy of all statements or briefs addressed to the Board, except the appeal file, shall be served on the other party and his attorney at the time of filing with the Board. Service of written materials may be made personally or by mailing same to the other party.

(b) Five copies of all statements or briefs (three copies in accelerated proceedings) shall be filed with the Board.

§ 3.213 Decisions.

The opinion of a majority of a panel, or of the Chairman, or Vice Chairman in appeals decided under § 3.205 constitutes the decision of the Board. A copy of the decision shall be furnished to both parties and shall be available for public inspection.

§ 3.214 Reconsideration.

A request for reconsideration may be filed within thirty (30) days after receipt of the decision by either party. Reconsideration of a decision, which may include a hearing or rehearing, may be granted if, in the judgment of the Board, sufficient reason therefor appears. Failure to request reconsideration shall not be deemed to be a failure to exhaust administrative remedies.

§ 3.215 Remands from Courts.

Whenever any matter is remanded to the Board from any court for further proceedings, the Board shall treat the matter as an appeal under the Accelerated procedure provided for in § 3.205, and undertake to issue a decision thereon on an expedited basis; except that proceedings remanded from any court shall be decided by a three member panel as provided in § 3.100(c). The Board shall afford the parties an opportunity to dispose of the dispute by agreement prior to the conference.

§ 3.216 Extensions of time.

The Chairman may grant extensions of time except with respect to the filing of the notice of appeal.

§ 3.217 Representation.

The parties to an appeal may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney who is admitted to practice before the courts of any State, Territory, or the District of Columbia.

§ 3.218 Security.

All proceedings shall be so conducted and the Board shall take such steps as necessary to insure compliance with the security regulations and requirements of the Commission.

§ 3.219 Sanctions.

If any party fails or refuses to obey an order issued by the Board, the Board may make such orders in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal.

§ 3.220 Unexcused absence of a party.

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing may proceed and the case will be regarded as submitted by the absent party on the record.

APPENDIX A

AECPR 9-59.003 provides, in part, as follows:

"§ 9-59.003 *Policies for cost-type contractor procurement.* The following policies are established for cost-type contractor procurement. Within these policies it is expected that procurement systems and methods will vary according to the types and kinds of procurement to be made, the needs of the particular programs, and the experience, methods, and practices of the particular contractor. In the development of procurement systems and methods, contractors should be encouraged to make maximum utilization of their experience and initiative to the extent consistent with the requirements of this part.

* * * * *

"(j) Subcontracts and purchase orders for supplies and services for the AEC work normally should include provisions for resolving disputes to the same extent and in the same manner as in similar AEC direct contracts. A disputes clause which can be used to carry out this policy is set forth in § 9-7.5004-3(b)."

APPENDIX B

NOTICE OF APPEAL

_____
(Date)

Board of Contract Appeals,
(Care of address of appropriate Contracting Officer),
U.S. Atomic Energy Commission.

Appeal of

_____
(Contractor or Subcontractor)

_____
(Address)

Under Contract (Subcontract) No._____.

The undersigned contractor appeals to the Atomic Energy Commission Board of Contract Appeals from the decision dated_____ by _____.
(Name of contracting officer)

The decision is erroneous because:

(State the portion of the decision being appealed and the reasons therefor.)

The statement of fact and argument in the form of a brief in support of appeal is (is not) attached. A brief in support of the appeal will (will not) be submitted. Request is (is not) made for a decision on an expedited basis under 10 CFR section 3.205.

_____
(Signature)

_____
(Title)

Dated at Germantown, Md., this 2d day of February 1970.

For the U.S. Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 70-1729; Filed, Feb. 11, 1970; 8:45 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Miscellaneous Amendments

The following section is added:

§ 226.302 Credit for business or commercial purposes—more than 4 family units.

(a) Under § 226.3(a), extensions of credit for business or commercial purposes, other than agricultural purposes, are not subject to Regulation Z. The question arises as to whether an extension of credit relating to a dwelling (as defined in § 226.2(p)) which contains more than four-family housing units is an extension of credit for business or commercial purposes.

(b) Credit extended to an owner of a dwelling containing more than four-family housing units for the purpose of acquiring, financing, refinancing, improving, or maintaining that dwelling is an extension of credit for business or commercial purposes.

(Interprets and applies 15 U.S.C. 1603)

Section 226.404 is amended to read as follows:

§ 226.404 Premiums for vendor's single interest insurance required by creditor.

(a) The question arises whether charges or premiums for single interest insurance (Vendor's Single Interest Insurance) written in connection with a credit transaction may be excluded from the finance charge under § 226.4(a)(6) if the insurer waives subrogation.

(b) If the insurer waives all right of subrogation against the customer in a single interest policy of insurance against loss of or damage to property (which

may include coverage for skip, concealment, conversion, and embezzlement) written in connection with a credit transaction, and the creditor complies with the requirements of § 226.4(a)(6), charges or premiums for such insurance may be excluded from the amount of the finance charge on that transaction. However, if the insurer does not so waive subrogation in such policy of insurance, the charges or premiums shall be included in the finance charge.

(Interprets and applies 15 U.S.C. 1605)

Section 226.811 is amended to read as follows:

§ 226.811 Renewals of notes.

(a) Any renewal of an extension of credit providing for payment of the full principal sum on a specified date shall not be considered a refinancing under § 226.8(j), and no disclosures need be made in connection with such renewal, provided:

(1) All disclosures required under this part were made in connection with the original extension of credit or a prior renewal thereof;

(2) The amount of the renewal does not exceed the amount of the unpaid balance plus any accrued and unpaid finance charge;

(3) The annual percentage rate (or rates) previously disclosed is not increased; and

(4) The period for which renewal is made does not exceed by more than 4 days the period of the extension of credit for which disclosures were made.

(b) In instances in which disclosures are required to be made and renewal is made by mail, the creditor may not know whether the customer will reduce his obligation by a payment on principal or, if reduced, the amount of that reduction. The question arises as to what disclosures should be made by mail to the customer in these circumstances.

(c) If the creditor knows the amount of the principal payment, all disclosures should be made on the basis of the resulting new amount financed. If, however, the creditor does not know whether the customer will reduce his original obligation, or if so, by how much, he should disclose on the assumption that there will be no reduction. In such circumstances, at the creditor's option, he may make one or more additional disclosures based on one or more examples of graduated principal reduction. For example, if a single payment note for $1,000 at 7 percent is proposed to be renewed for $1,000 at 8 percent for 3 months, in addition to the other required disclosures, the creditor should disclose an amount financed of $1,000 with a finance charge of $20, and may, in addition, disclose that with a principal payment of $300 the amount financed would be $700 with a finance charge of $14, and with a principal payment of $500 the amount financed would be $500 with a finance charge of $10.

(Interprets and applies 15 U.S.C. 1639)

The following sections are added:

§ 226.813 Disclosures on multiple advance loans.

(a) In connection with construction and other multiple advance loans under § 226.8(i), which are payable in a single sum or permanently financed by the same creditor at maturity of the construction phase with interest only payable up to such maturity, and in which either the amount or date of an advance is not determinable, the question arises whether a method might be utilized to estimate the information to be disclosed under § 226.8 (b) (2) and (3) and (d)(3).

(b) In such cases, at the creditor's option, required information may be estimated and disclosed as follows:

(1) The following mathematical equations based upon assumed continuous advances may be utilized in estimating the amount of the interest component of the finance charge and the annual percentage rate by substituting the appropriate numerical amounts for the following symbols in the equations:

(i) Symbols:

L = Amount of loan commitment.
r = Stated annual interest rate expressed as a decimal figure.
n = Number of interest payments to be made to maturity.
m = Number of interest periods (unit-periods) in 1 year.
P = Total amount of any prepaid finance charge under § 226.8(e).
B = Amount of any required deposit balance under § 226.8(e).

(ii) If interest is computed from the date of each advance on only the amounts advanced:

$$\text{Estimated annual percentage rate} = \frac{nrL+2mP}{n(L-2P-2B)}$$

$$\text{Estimated interest finance charge} = \frac{nrL}{2m}$$

(iii) If interest is computed on the full amount of the commitment without regard for the dates of disbursements or actual amounts disbursed:

$$\text{Estimated annual percentage rate} = \frac{2nrL+2mP}{n(L-2P-2B)}$$

$$\text{Estimated interest finance charge} = \frac{nrL}{m}$$

(2) If the equations under subdivision (ii) of subparagraph (1) of this paragraph are utilized, the amounts of any required interest payments during the construction phase may be omitted in making the disclosures required under § 226.8(b)(3); however, if the equations under subdivision (iii) of subparagraph (1) of this paragraph are utilized, then the amount of each scheduled interest payment shall be disclosed as required under § 226.8(b)(3).

(3) In the case of a combination construction loan and permanent financing provided by the same creditor:

(i) The amount of interest finance charge to be paid prior to the due date of the first amortization payment shall be estimated as prescribed under subdivision (ii) or (iii) of subparagraph (1) of this paragraph as the case may be and shall be treated as prepaid finance charge for computational purposes; and

(ii) Estimation of the annual percentage rate shall be made without regard to the number of interest only payments to be made, assuming the first payment period to be that interval between the date the finance charge begins to accrue and the date the first amortization payment is due.

(4) Disclosures made in accordance with this interpretation, when made along with the other disclosures required under § 226.8 (b) and (d), shall constitute "all other material disclosures required under this part" referred to under § 226.9(a):

EXAMPLE I

A $20,000 construction loan commitment on which the precise dates or amounts of advances are not determinable. The obligation bears a stated 6 percent interest rate and interest is to be paid monthly on the amounts advanced, and the total of the amounts advanced under the commitment plus any unpaid interest is due and payable at the end of 9 months from the date the finance charge begins to accrue. There is a loan fee of 1 percent ($200), but there is no required deposit balance. Substituting these terms for the symbols, the equations become:

$\frac{(9\times0.06\times20{,}000)+(2\times12\times200)}{9\times[(20{,}000-(2\times200)]}=0.0884$ or 8.84% or 8¾% estimated annual percentage rate.

$\frac{9\times0.06\times20{,}000}{2\times12}=450$ or $450 estimated interest finance charge component of the finance charge.

If the terms stated in the example were changed so that interest would be computed on the full amount of the commitment from the date the finance charge begins to accrue without regard for the dates of disbursements or actual amounts of funds disbursed, the equations under (iii) above become:

$\frac{(2\times9\times0.06\times20{,}000)+(2\times12\times200)}{9\times[(20{,}000-2\times200)]}=0.1497$ or 14.97% or 15% estimated annual percentage rate.

$\frac{9\times0.06\times20{,}000}{12}=900$ or $900 estimated interest finance charge component of the finance charge. This interest would be payable in 9 monthly payments of $100 each.

EXAMPLE II

A $20,000 construction loan followed by permanent financing in same amount. Six percent interest. One point loan fee. Nine months to maturity of construction phase. Nine monthly payments of interest only during construction phase. Twenty-year maturity on permanent financing to be amortized in 240 equal monthly payments including interest and principal.

From mortgage amortization tables:

Amortization of a $20,000, 6 percent, 20-year loan in 240 equal monthly payments including interest and principal requires each monthly payment to be $143.29.

Total of 240 payments (240 × $143.29)	$34,389.60
Subtract amount of loan principal	20,000.00
Interest finance charge on permanent financing	14,389.60
Add: Estimated interest finance charge on construction phase (pursuant to subdivision (ii))	450.00
Add: Loan fee 1 point	200.00
Estimated finance charge	15,039.60

(If the interest on the construction phase is computed on the full amount of the commitment for the full time to maturity without regard for the dates of disbursements or actual amounts disbursed pursuant to subdivision (iii), the estimated interest finance charge for the construction phase would be $900 which would result in a total estimated finance charge of $15,489.60.)

Loan fee 1 point prepaid finance charge	$200.00
For computational purposes consider interest to be paid on construction phase as prepaid (not to be disclosed as prepaid)	450.00
Total amount treated as prepaid finance charge for computational purposes	650.00

	Computational purposes	*Disclosure purposes*
Amount of loan	$20,000	$20,000
Deduct total of estimated finance charge treated as prepaid	650	
Deduct actual amount of prepaid finance charge		200
Estimated amount financed for computational purposes	19,350	
Amount financed to be disclosed		19,800

Adjust first payment period (period of construction loan plus period from maturity date of construction loan to due date of first amortization payment) by dividing the period of the construction loan by 2 and adding the period of time between the maturity date of the construction loan and the date the first amortization payment is due.

9 months divided by 2=4½ months plus 1 month=5½ months

From Appendix A (page A2) of Volume I of the Board's Annual Percentage Rate Tables, read across to 5 months and on the line below opposite 15 days (½ month) read +9.0. This adjustment should be added to the number of regular amortization payments to determine the number of payments in utilizing the Annual Percentage Rate Tables:

240 monthly payments+adjustment 9.0=249

Following the directions on page 1 of Volume I: Estimated finance charge $15,039.60×100=$1,503,960 which should be divided by the estimated amount financed for computational purposes:

$1,503,960÷19,350=$77.72 estimated finance charge per $100 of estimated amount financed for computational purposes.

Refer to page 309M of Volume I, read down number of payments column to 249; read across to 78.71 (which is nearest to $77.72 computed above), and read up to 6.25 percent which is the estimated annual percentage rate to be disclosed.

In the example where the interest on the construction phase is computed on the full amount of the commitment without regard for the dates of advances or actual amounts advanced, the estimated finance charge per $100 of amount financed is $81.96. On page 309M of Volume I, read down to the 249th payment line and across to $82.39 which is the nearest amount to $81.96, and read up to 6.50 percent which is the estimated annual percentage rate to be disclosed.

(Interprets and applies 15 U.S.C. 1638 and 15 U.S.C. 1639)

§ 226.814 Premiums for insurance added to an existing balance.

(a) Subsequent to the consummation of a consumer credit transaction the customer may wish to purchase optional insurance in connection with the obligation. Typically, mortgage life and disability insurance may be offered to the customer at some date after consummation under a plan in which the lender will advance the amount of the premium due and add that amount to the existing unpaid balance of the obligation. Generally, each instalment on the original obligation paid during the period before the next premium is due will be increased proportionately to liquidate the amount of the additional advance plus any finance charge. Additional advances are made automatically for renewal premiums as they become due unless the borrower requests discontinuance of the coverage. The question arises as to the required disclosures.

(b) In such cases the insurance agreement may be considered a single separate transaction, and the disclosures required under § 226.8, at the creditor's option, need be made only prior to time the agreement is executed and only with respect to the amount of the initial advance. For example, a mortgage life and disability insurance plan in which the annual premium advanced was $145 repayable in 12 monthly instalments of $12.61 added to the regular monthly mortgage payments would be disclosed as an "amount financed" of $145, a "finance charge" of $6.32, and a "total of payments" of $151.32. Additional disclosures as applicable under § 226.8 would, of course, be made. If, as in some cases, only a portion of the advance is liquidated during the premium period with the remainder payable at the end of the mortgage contract, the creditor would likewise calculate the amount of finance charge which would accrue on the advance until paid in full.

(c) In some cases the advance is secured by a security interest in real property which is used or expected to be used as the principal residence of the customer. In those cases the premium advance agreement is rescindable under § 226.9, and notice of the right of rescission provided in § 226.9(b) need only be given at the time the agreement is executed. Subsequent advances for renewal premiums are not subject to the right of rescission.

(Interprets and applies 15 U.S.C. 1638 and 15 U.S.C. 1639)

§ 226.815 Disclosure for demand loans.

(a) Section 226.8(b)(3) requires a creditor to disclose the number, amount and due dates or periods of payments scheduled to repay an extension of credit other than open end and, in appropriate cases, the total of payments. The question arises as to how these requirements should be met in the case of demand loans.

(b) Section 226.4(g) provides that for the purpose of calculating the finance charge and annual percentage rate, demand loans are considered to have a one-half year maturity unless the obligation is alternatively payable upon a stated maturity, in which case the stated maturity shall be used.

(c) In order to comply with the requirements of § 226.8(b)(3), if no alternative maturity date is specified, the creditor need disclose only the due dates or periods of payments of all scheduled interest payments for the first one-half year. In such cases, the creditor need not disclose the number, amounts or total of payments or identify any balloon payment. Effective May 1, 1970, creditors shall disclose the fact that the obligation is payable on demand.

(d) If an alternative maturity date is specified, all disclosures required under § 226.8(b)(3) shall be made, using that date.

(Interprets and applies 15 U.S.C. 1639)

§ 226.816 Mortgages with demand features.

(a) In some cases real estate mortgages are written for a stated period, for example 1 year, with the provision that they shall be payable on demand after expiration of that period, provided that until such demand is made the principal and interest shall be paid in scheduled periodic installments until paid in full. The obligation is thus payable according to a specified amortization schedule subject to the holder's right to demand payment after the stated period.

(b) The question arises whether the creditor may make disclosures based on the specified amortization schedule or whether disclosures must be made on the basis of the maturity established by the expiration of the stated period.

(c) In such cases the creditor may make disclosures based on the specified amortization schedule, provided he discloses clearly and conspicuously that the obligation is payable on demand after the stated period together with the fact that disclosures are made on the basis of the specified amortization schedule. Otherwise, disclosures shall be based

upon the earliest date demand for payment in full may be made under the terms of the mortgage showing the unpaid balance due at that time as a "balloon payment."

(d) The disclosure requirements of this interpretation shall become effective May 1, 1970.

(Interprets and applies 15 U.S.C. 1639)

Section 226.903 is amended to read as follows:

§ 226.903 Refinancing and increasing—disclosures and effects on the right of rescission.

(a) In some cases the creditor of an obligation will refinance that obligation at the request of a customer by permitting the customer to execute a new note, contract, or other document evidencing the transaction under the terms of which one or more of the original credit terms, including the maturity date of the obligation, are changed. Except as provided in § 226.811, such refinancing constitutes a new transaction, and all disclosures required under § 226.8 must be made. The question arises as to whether that transaction is subject to the right of rescission under § 226.9 where the obligation is already secured by a security interest in real property which is used or expected to be used as the principal residence of that customer.

(b) If the amount of such new transaction does not exceed the amount of the unpaid balance plus any accrued and unpaid finance charge on the existing obligation, § 226.9 does not apply to the transaction.

(c) If, however, such new transaction is for an increased amount, that is, for an amount in excess of the amount of the unpaid balance plus any accrued and unpaid finance charge on the existing obligation, § 226.9 applies to the transaction. However, such right of rescission applies only to such excess and does not affect the existing obligation (or related security interest) for the unpaid balance plus accrued unpaid finance charge.

(d) If a transaction is refinanced by a creditor other than the creditor of the existing obligation, the entire transaction is subject to § 226.9.

(Interprets and applies 15 U.S.C. 1639)

By order of the Board of Governors, January 28, 1970.

[SEAL] KENNETH A. KENYON, *Deputy Secretary.*

[F.R. Doc. 70-1735; Filed, Feb. 11, 1970; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1037]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 4th day of February 1970.

It appearing, that an acute shortage of plain boxcars exists on the Bangor and Aroostook Railroad Co. and the Maine Central Railroad Co.; that shippers located on lines of these carriers are being deprived of such cars required for loading, resulting in a very severe emergency; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by these railroads are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1037 Service Order No. 1037.

(a) *Distribution of boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owners empty, except as otherwise authorized in subparagraph (2) of this paragraph, all plain boxcars which are listed in the Official Railway Equipment Register, ICC R.E.R. 374, issued by E. J. McFarland, or reissues thereof, as having mechanical designation XM, owned by the Bangor and Aroostook Railroad Co. and the Maine Central Railroad Co.

(2) Boxcars described in subparagraph (1) of this paragraph may be loaded to stations on the lines of the car owner only if routed via the car owning railroad.

(3) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraph (2) of this paragraph.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 12:01 a.m., February 7, 1970.

(d) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911, 49 U.S.C. 1(10-17), 15(4) and 17(2))

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

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-1815; Filed, Feb. 11, 1970; 8:51 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 69-EA-163; Amdt. 39-937]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to publish an airworthiness directive applicable to Piper PA-23 type airplanes.

There have been reports of explosions and fires in the vicinity of the engine nacelles during ground starting of certain Piper PA-23-250 aircraft. These incidents are attributable to fuel vapor accumulation under the wing as a result of fuel cell leakage. Since this deficiency can exist or develop in other aircraft of similar type design, an airworthiness directive is being issued which will require inspection and repair if necessary for the aircraft involved.

Since a situation exists requiring expeditious adoption of this airworthiness directive, notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.85 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PIPER. Applies to Models PA-23-235 and PA-23-250 aircraft, serial numbers 27-1 through 27-2504 inclusive, equipped with nonsupercharged engines, including airplanes modified in accordance with STC SA179CE and STC SA867SW, and certificated in all categories.

Compliance required as indicated.

In order to prevent possible explosion and fire resulting from fuel vapor ignition during engine starting, accomplish the following:

a. Prior to each flight, visually inspect the lower surface of the wings in the areas of the fuel cells and aft nacelle for fuel stains and any odor of fuel vapor. If fuel stains or any other sign of fuel leakage are observed, the source of leakage must be determined and repairs or replacements accomplished prior to further flight, in accordance with section IX of Piper Service Manual No. 753564 or an equivalent repair approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

b. The inspection required by this AD constitutes preventive maintenance and may

be performed by persons authorized to perform preventive maintenance under FAR 43. A chronological listing of compliance with this AD must be made in the airplanes permanent maintenance log in accordance with FAR 91.173.

(Piper Service Letters Nos. 449 and 449A refer to this subject.)

This amendment is effective February 17, 1970.

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

Issued in Jamaica, N.Y., on February 2, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-1756; Filed, Feb. 11, 1970; 8:48 a.m.]

[Airspace Docket No. 70-SO-10]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Oxford, Miss., transition area.

The Oxford transition area is described in § 71.181 (35 F.R. 2134). In the description, an extension is predicated on the 280° bearing from the Oxford RBN and has a designated width of 2 miles each side of the bearing and a length of 8 miles.

U.S. Standards for Terminal Instrument Procedures (TERPs), issued after extensive consideration and discussion with government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures was revised to conform to TERPs and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the description by increasing the width of the extension from 2 to 3 miles each side of the 280° bearing from the Oxford RBN and by increasing the length from 8 to 8.5 miles.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the Oxford, Miss., transition area is amended to read:

OXFORD, MISS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the University-Oxford Airport (lat. 34°-23'05" N., long. 89°32'10" W.); within 3 miles each side of the 280° bearing from Oxford RBN (lat. 34°23'00" N., long. 89°-32'30" W.), extending from the 5-mile radius area to 8.5 miles west of the RBN.

(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 February 3, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-1758; Filed, Feb. 11, 1970; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

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

Quantity of Contents Declaration on Multiunit Containers

In the matter of amending the regulations (21 CFR Part 1) for the enforcement of the Fair Packaging and Labeling Act to require the quantity of contents declaration to be in terms of the number of units, the quantity of each individual unit, and the total quantity of the contents of the multiunit package.

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of June 26, 1969 (34 F.R. 9874), and the time for filing comments on it was extended to August 25, 1969, by a notice published August 5, 1969 (34 F.R. 12717).

In response, 29 State, county, or city agencies and 22 industry representatives filed comments. With one exception the former support the proposal, but urge that the model regulation definition of multiunit container be adopted. The exception, the State of Ohio, comments "It would appear that such an amendment might be an undue elaboration of the intent of the Fair Packaging and Labeling Act."

Industry comments are generally in opposition. Several contend there is no need for "triple declarations" on various products they manufacture, such as four ¼-pound sticks of margarine or butter and boxes of instant breakfast drink in individual serving-size envelopes. The primary reasons for the objections were:

1. There is no evidence to support the petitioner's allegation of "unfair competitive advantage" between multiunit packages bearing triple declaration and those bearing only count and individual size declarations.

2. The nonuniformity in the marketplace alluded to by the National Conference on Weights and Measures was created by that organization's adoption of unnecessary multiunit container regulations that are at odds with current Federal regulations.

3. The proposal goes beyond section 4 of the Fair Packaging and Labeling Act (15 U.S.C. 1453) which requires that a choice be made between weight, measure, or count and does not authorize the promulgation of regulations requiring combinations thereof.

4. The proposal goes beyond the clear intent of section 2 of the Fair Packaging and Labeling Act (15 U.S.C. 1451), and beyond the clear intent of Congress, by addressing itself to the correction of "unfair competition" rather than the facilitation of value comparisons.

5. There is no showing of necessity (current labeling practices provide adequate information).

6. There is no need for triple declaration on multiunit packages (a) when the individual units are visible to the purchaser or (b) when the multiunit package is formed by a transparent wrapper or unlabeled collar or handle fitted over the rims of a group of six cans.

Many industry representatives recommend that the proposal, if adopted, be amended to more clearly define "multiunit package" and that the effective date be as much as 2 years ahead to provide for depletion of label inventories that have recently undergone costly revisions.

The Commissioner of Food and Drugs concludes that the requests for a delayed effective date and for a better definition of multiunit packages are reasonable. The amendment below therefore provides for a 1-year delay in effective date and establishes a new definition.

The Commissioner further concludes that:

1. The comments concerned with "unfair competition" deal with an issue that is peripheral. The primary issue is whether or not triple declaration is necessary to facilitate value comparisons.

2. The fact that the "nonuniformity" alluded to by the National Conference on Weights and Measures in its grounds was created by that Agency is not controlling. This proposal is to make the Federal regulations consistent with those recommended by the National Conference.

3. The comments that the statute requires only a choice between weight, measure, or count is without merit. A choice between the three would clearly not provide an accurate declaration of quantity of contents on a multiunit container.

4. The opposition based on lack of a showing of any need for triple declaration is without merit. Making a value comparison without additional calculations is impossible if count, unit size, and total contents are not declared.

Based on consideration of the comments received and other relevant information, the Commissioner concludes that the proposed amendment, with the addition of a definition of multiunit retail package, should be adopted as set forth below. Accordingly, pursuant to provisions of the Fair Packaging and Labeling Act (secs. 4, 5(a), 6(a), 80 Stat. 1297–1300; 15 U.S.C. 1453–55) and the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371), and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That § 1.8b be amended by adding thereto a new paragraph, as follows:

§ 1.8b Food labeling; declaration of net quantity of contents; when exempt.

* * * * *

(s) On a multiunit retail package, a statement of the quantity of contents shall appear on the outside of the package and shall include the number of individual units, the quantity of each individual unit, and, in parentheses, the total quantity of contents of the multiunit package in terms of avoirdupois or fluid ounces, except that such declaration of total quantity need not be followed by an additional parenthetical declaration in terms of the largest whole units and subdivisions thereof, as required by paragraph (j)(1) of this section. For the purposes of this section, "multiunit retail package" means a package containing two or more individually packaged units of the identical commodity, and in the same quantity, with the individual packages intended to be sold as part of the multiunit retail package but capable of being individually sold in full compliance with all requirements of the regulations in this part. Open multiunit retail packages that do not obscure the number of units and the labeling thereon are not subject to this paragraph if the labeling of each individual unit complies with the requirements of paragraphs (f) and (i) of this section.

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

Effective date. This order shall become effective 1 year after the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 4, 5(a), 6(a), 80 Stat. 1297–1300; 15 U.S.C. 1453–55; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371)

Dated: February 4, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–1750; Filed, Feb. 11, 1970; 8:47 a.m.]

SUBCHAPTER C—DRUGS

PART 147—ANTIBIOTICS INTENDED FOR USE IN THE LABORATORY DIAGNOSIS OF DISEASE

Methacycline Hydrochloride Diagnostic Sensitivity Powder

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the following new section is added to Part 147 of the antibiotic drug regulations to provide for certification of the subject diagnostic sensitivity powder:

§ 147.16 Methacycline hydrochloride diagnostic sensitivity powder.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Methacycline hydrochloride diagnostic sensitivity powder is the crystalline methacycline hydrochloride, with or without one or more suitable buffers and diluents, packaged in vials and intended for use in clinical laboratories for determining in vitro the sensitivity of micro-organisms to methacycline. Each vial contains methacycline hydrochloride equivalent to 20 milligrams of methacycline. The potency of each immediate container is satisfactory if it contains not less than 90 percent and not more than 115 percent of its labeled content. It is sterile. Its moisture content is not more than 4.0 percent. When reconstituted as directed in the labeling, its pH is not less than 2.0 and not more than 3.5. The methacycline hydrochloride used conforms to the standards prescribed by § 148y.1(a)(1)(i), (iii), (v), and (vi) of this chapter.

(2) *Packaging.* The immediate container shall be of colorless, transparent glass and it shall be a tight container as defined by the U.S.P. It shall be so sealed that the contents cannot be used without destroying such seal. It shall be of appropriate size to permit the addition of 20 milliliters of sterile diluent when preparing a stock solution for use in making further dilutions for microbial susceptibility testing.

(3) *Labeling.* In addition to the requirements of § 148.3(a) of this chapter, each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) On its outside wrapper or container and on the immediate container:

(*a*) The statement "For laboratory diagnostic use only."

(*b*) The statement "Sterile."

(ii) On the circular or other labeling within or attached to the package, adequate information for use of the drug in the clinical laboratory.

(4) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The methacycline hydrochloride used in making the batch for potency, moisture, absorptivity, identity, and crystallinity.

(*b*) The batch for potency, sterility, moisture, and pH.

(ii) Samples required:

(*a*) The methacycline hydrochloride used in making the batch: 10 packages, each containing 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 20 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample as follows: Reconstitute as directed in the labeling. Dilute an aliquot of this solution with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.06 microgram of methacycline per milliliter.

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using the drug reconstituted as directed in the labeling.

Data supplied by the manufacturer concerning the subject diagnostic sensitive powder have been evaluated. Since the conditions prerequisite to providing for certification have been complied with and since it is in the public interest not to delay in so providing, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: February 3, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–1749; Filed, Feb. 11, 1970; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 65—VIETNAM ERA VETERANS' EMPLOYMENT REFERRAL PROGRAM

Guidelines and Registration Procedures

The following amendments to Part 65 have been approved:

1. Section 65.5 (a) and (d), as amended, read as follows:

§ 65.5 Guidelines.

(a) Retention in the system: Except as noted in paragraphs (c) and (d) of this section:

(1) Each Category "T" registrant will remain in the system until employed or expiration of his eligibility for a transitional appointment, whichever occurs first.

(2) Each Category "S" registrant will remain in the system until employed or 1 year from date of separation from military service, whichever occurs first.

* * * * *

(d) Any registrant who fails to reply to an inquiry of availability within fifteen (15) days or who declines two placement offers at DOD Installations in the geographic commuting areas for which registered will be dropped from the system.

2. Section 65.7(b)(4), as amended, now reads as follows:

§ 65.7 Registration procedures.

* * * * *

(b) * * *

(4) Request candidate to select acceptable Department of Defense activities or other participating agencies. Generally, an applicant will be registered for employment consideration at Department of Defense activities and other participating agencies of his choice located in not more than three (3) geographic commuting areas within a single Civil Service Region.

* * * * *

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

FEBRUARY 5, 1970.

[F.R. Doc. 70-1807; Filed, Feb. 11, 1970; 8:51 a.m.]

PART 102—UNIFORM TRAINING CATEGORIES AND PAY GROUPS WITHIN THE RESERVE COMPONENTS

The Deputy Secretary of Defense has approved the following revision to Part 102:

Sec.
102.1 Purpose and applicability.
102.2 Definitions.
102.3 Training categories.
102.4 Uniform pay groups.
102.5 Tours of active-duty-for-training in excess of fourteen (14) consecutive days or active duty.
102.6 Basic requirements and policy.
102.7 Participation in civil defense activities.
102.8 Retirement point credits authorized for participation in civil defense activities.
102.9 Activities (job descriptions).

AUTHORITY: The provisions of this Part 102 issued under sec. 301, 80 Stat. 379; 5 U.S.C. 301.

§ 102.1 Purpose and applicability.

This part establishes policy guidance for use by the Secretaries of the Military Departments in the administration and management of Reserve Components under their jurisdiction, including (a) designation of uniform training categories for Ready Reserve and Standby Reserve of the Armed Forces pursuant to 10 U.S.C. 2001; (b) establishment of uniform Ready Reserve pay groups for budget and pay purposes; and (c) provision of uniform planning and budgeting policies and procedures relating to and authorizing tours of active-duty-for-training with pay in excess of fourteen (14) consecutive days for selected personnel of the Reserve Components of the Armed Forces.

§ 102.2 Definitions.

(a) Ready Reserve consists of units or Reserves, or both, liable for active duty as outlined in title 10 U.S.C. 672 and 673. 10 U.S.C. 268 provides for an authorized strength of 2,900,000 in the Ready Reserve which includes members of the Reserve Components on active duty. Accordingly, the authorized strength of the Ready Reserve of the DOD not on active duty is 2,500,000 allocated to the Military Departments, and 26,500 allocated to the Secretary of Transportation for the Coast Guard Reserve, as follows:

Service	*Authorized Ready Reserve strength*
Army	1,448,000
Navy	530,000
Air Force	314,000
Marine Corps	208,000
Coast Guard	26,500
Total	2,526,500

(b) Selected Reserve consists of members of the Ready Reserve in pay groups A, B, C and F. These Reservists are either (1) members of units who (i) regularly participate in drills and annual active-duty-for-training or annual field training in the case of the National Guard, or (ii) are on initial active duty for training, or (2) individuals who participate in regular drills and annual active-duty-for-training on the same basis as members of Reserve units. Excluded from the Selected Reserve are (i) reservists who only participate in annual active-duty-for-training but are not paid for attendance at regular drills (pay catgeories D and E), (ii) reservists enrolled in Reserve Officers Training Corps (ROTC) training, (iii) members of the individual Ready Reserve pool, and (iv) reservists on extended active duty.

(c) Standby Reserve consists of those units or members, or both, of the Reserve Components (other than those in the Ready Reserve or Retired Reserve), who are liable for active duty only as provided in 10 U.S.C. 273, 672 and 674. The Active status list of the Standby Reserve shall be composed of Reservists who (1) are completing their statutory military service obligation or (2) are being retained in an active status under 10 U.S.C. 1006, or (3) were screened from the Ready Reserve as being key personnel, or (4) may be temporarily assigned to the Standby Reserve for hardship or other cogent reason determined by the Secretary concerned, with the expectation of their being returned to the Ready Reserve.

§ 102.3 Training categories.

(a) Each unit and member of the Ready Reserve and Standby Reserve not on active duty shall be placed in one of the following training categories, as determined by the Secretary of the Military Department concerned:

Training category	Annual number of periods of inactive duty training	Annual active duty for training
A	48	No less than 14 days exclusive of travel time.
B	24	Do.
C	12	Do.
D	0	14 days. See paragraph (d) of this section.
E	0	30 days.
F	0	4 months minimum initial active-duty-for-training.
G	Members of Congress and other key Federal employees.	
H	Correspondence course.	
I	No training.	
J	Officer training programs.	

(b) Units and members of the Army National Guard of the United States and the Air National Guard of the United States (except those who are members of the inactive National Guard) shall be placed in a training category consistent with the training requirements set forth in chapter 5, title 32, U.S.C.

(c) Additional training within any category may be prescribed by the Secretaries of the Military Departments as necessary and consistent with law. This may include not more than 12 additional inactive duty training assemblies annually for selected key officers and noncommissioned of the Selected Reserve for the purpose of preparation of training programs, lesson plans, training aids, training presentation rehearsals, and general training administration as determined by the Secretary of the Military Department concerned.

(d) Tour of duty of Reservists assigned to training category D who are ordered to active duty training for on-the-job training at headquarters or activities that normally do not operate on Saturday and Sunday will be limited to 12 days exclusive of travel time, i.e., from Monday of the first week through Friday of the second week. However, in the event valuable training opportunities are available these personnel will be ordered to active duty for 14 days exclusive of travel time. This, in no way, prohibits the initiation of training on days other than Monday when special activities such as exercises, may begin during the week.

(e) The following members of the active status list, Standby Reserve, may be permitted to participate voluntarily in reserve training and earn promotion and retirement credits only.

(1) Personnel who have not fulfilled their statutory military service obligations.

(2) Personnel temporarily assigned to the active Standby Reserve for hardship or other cogent reason who intend to return to the Ready Reserve.

(3) Personnel retained in an active reserve status under the provisions of title 10, U.S.C., 1006.

(4) Members of Congress and other key Federal employees transferred from the Ready to the Standby Reserve as key personnel who volunteer for assignment to the active status list of the Standby Reserve for such period as they remain designated as key personnel.

(f) Standby Reserve members who are authorized by paragraph (e) (1), (2), (3), and (4) of this section, and who volunteer to participate in reserve training, shall be placed in appropriate training categories.

(1) Members of Congress and other key Federal employees who desire to be transferred to the active status list of the Standby Reserve will apply directly to the Military Deparments concerned except for members and employees of the Legislative and Judicial branches of the Federal Government who will apply to the Military Departments concerned through the Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs.

(2) Reserve members of the active status list, Standby Reserve, may associate with drilling units of the Selected Reserve or Volunteer Training Units of the Ready Reserve and volunteer for active duty for training in order to earn training points, provided it is at no expense to the Government.

(3) These reserve members will not be entitled to pay and allowances, including travel and transportation allowances for such training.

(4) Opportunity for training for these members will be limited to that which can be provided within the manpower and other resources authorized by the Military Departments for their established Ready Reserve programs.

(g) Personnel not cited in paragraph (e) of this section, who are enrolled in a military school course, to include correspondence courses, at the time they are transferred from the Ready Reserve to the Standby Reserve may voluntarily continue their participation in the course in which enrolled until completion, at which time they will be appropriately credited with completion. Such personnel will not be entitled to pay and allowances, including travel and transportation allowances, nor will they be entitled to earn promotion and retirement points for such training while members of the Standby Reserve.

§ 102.4 Uniform pay groups.

(a) The following uniform pay groups are established within the Ready Reserve for budget and pay purposes:

Training category	Annual number of periods of inactive duty training	Annual active duty for training
A	48	Not less than 14 days exclusive of travel time.
B	24	Do.
C	12	Do.
D	0	14 days. See § 102.3 (d).
E	0	30 days.
F	0	4 months minimum initial active-duty-for-training.

(b) The Secretaries of the Military Departments shall determine which of the above pay groups are to be established for the reserve components of their departments. (Designation of pay groups does not preclude additional paid training where otherwise authorized.)

(c) Effective July 1, 1970, non-prior service personnel who enlist in the Selected Reserve under the provision of title 10, U.S.C., 511(d), will be assigned to training Category I, no training, § 102.3(a), until such time as they enter the initial period of active duty for training, at which time they will be assigned to training and pay Category F. This in no way precludes these individuals from voluntarily participating in inactive duty training assemblies prior to assignment to Category F in a nonpay status.

(d) In order to conform to the accounting classifications prescribed in DOD Instruction 7220.11, "Budget and Accounting Classifications for Reserve Component Personnel Appropriations," February 16, 1967,[1] paid active-duty-for-training for school and special tours shall not be identified as separate pay groups, but may be in addition to the training provided by the established pay groups.

(e) Inactive-duty training assemblies/paid drills conducted by individuals assigned to Pay Groups A, B, and C will be not less than four (4) hours duration, unless otherwise directed by the Secretary of the Military Department concerned. Authority to conduct inactive duty training assemblies of less than 4 hours duration may not be delegated below the Secretary of the Military Department concerned.

(f) The Secretaries of the Military Departments may authorize multiple training assemblies/paid drill periods within appropriate pay groups; that is, more than one (1) paid inactive-duty training period to be conducted within one (1) calendar day, provided each is of at least four (4) hours duration. However, no more than two (2) such paid training periods in one (1) calendar day may be authorized.

§ 102.5 Tours of active-duty-for-training in excess of fourteen (14) consecutive days of active duty.

(a) Training funds, appropriated for tours of active-duty-for-training in excess of fourteen (14) consecutive days with pay for selected reserve component personnel (as distinguished from other reserve components training funds), shall be used to provide sufficient annual active-duty-for-training for such personnel to acquire or maintain essential proficiency in their military occupational specialties, as follows:

(1) Tours of active-duty-for-training as students at regular, associate, and refresher courses of service schools, area schools, unit schools, officer candidate schools and other installations which provide training applicable to the individual's assignment.

(2) Other justified tours of active-duty-for-training, not to exceed ninety (90) days (including travel time) in any one fiscal year for the following purposes:

(i) Staff and faculty for schools.

(ii) Special field, fleet and joint exercises.

(iii) Indoctrination training.

(iv) Special tours of active-duty-for-training in connection with projects relating to the reserve component programs, including support for operation of training camps and training ships, when appropriate personnel in active military service are not available for the duties to be performed and if such duties are essential to the organization and training programs of the reserve component and are beyond the services which the active military forces normally provide for the support of the reserve component programs.

(3) Tours of active-duty-for-training of thirty (30) days, authorized by title 10, U.S.C., 270(a).

(4) Tours of active-duty-for-training of not more than forty-five (45) days for failure to perform reserve training duty satisfactorily, as authorized in title 10, U.S.C., 270 (b) and (c), and subsection III.C. of DOD Directive 1215.13, "Involuntary Order to Active Duty of Ready Reservists for Unsatisfactory Performance of Obligation," January 9, 1969 (34 F.R. 11356).

(5) Initial tours of active-duty-for-training for basic training for individuals entering directly into the Reserve Forces under provisions of title 10, U.S.C., 511.

(6) Tours of active-duty-for-training of three (3) to six (6) months for graduates of officers' training programs under provisions of paragraph (1), subsection 6(d), the Universal Military Training and Service Act.

(b) The Secretaries of the Military Departments are authorized to include in the budget for the regular service funds to provide tours of active duty for reservists for the purpose of meeting temporary personnel requirements which may or may not be directly incident to the furthering of the Reserve Forces program.

§ 102.6 Basic requirements and policy.

(a) In order to insure that trained units and qualified individuals are available for active duty in time of war or national emergency, as set forth in sections 262 and 263 of title 10, U.S.C., and that funds appropriated annually for reserve training are adequate to meet mobilization requirements but not excessive to such need, the Secretaries of the Military Departments shall take the following actions in accordance with the principles indicated, dependent upon the particular needs of the Military Departments concerned:

(1) Establish criteria by which individuals subject to the mandatory participation requirement will be placed in an appropriate training category. Such criteria shall include consideration of the individual's civilian employment and the proximity of established reserve drilling units to his place of residence or employment. No individual shall be involuntarily placed in Training Categories A, B, C,

[1] Filed as part of original. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120, Attention: Code 300.

or F unless there is a vacancy in an established training unit within reasonable commuting distance, as determined by the Secretary of the Military Department concerned.

(2) Establish criteria for identifying all organized training units with a training category. Such criteria shall include, but not necessarily be limited to, the specialized nature of the training required and the availability to the unit of proper training aids and equipment necessary to perform the assigned training mission.

(b) In establishing the criteria called for in paragraph (a) of this section, the following considerations shall govern:

(1) Training prescribed should be the minimum number of inactive duty training periods and minimum periods of annual training required to maintain the proficiency of the unit or individual.

(2) Wherever practicable, multiple inactive duty training periods will be used as substitutes for weekly paid training periods.

(c) Those members of the Ready Reserve who are not subject to mandatory training participation requirements shall be encouraged to participate to the extent necessary to maintain their mobilization potential.

(d) Individual reservists who are qualified for retirement under the provisions of title 10, U.S.C., 1331 and 1332, except for having reached 60 years of age, are required to attain 50 points annually to be retained in the Ready Reserve or active status list, Standby Reserve. Waiver of this requirement on a one-time basis may be made under exceptional circumstances by the Secretary concerned. This policy is effective with the anniversary date of each reservist's current training year (retirement year) beginning on or after July 1, 1967.

§ 102.7 Participation in civil defense activities.

(See Parts 185, 186 and 187 of this subchapter.)

(a) Participation in training for military support of civil defense activities by Ready and Standby Reservists on the active status list in a nonpay status is authorized. Secretaries of the Military Departments are authorized to award training points, creditable for promotion and retirement purposes, in accordance with the schedule at § 102.8. Reservists engaged in civil defense activities will continue to be available, like other Ready and Standby Reservists, for involuntary order to active duty whenever authorized by law.

(1) Eligible Ready and Standby Reserve officers who wish to earn retirement points by participating in civil defense activities should apply directly to the Civil Defense Office with which they wish to serve. If that office can use the officer, a request should be initiated to the appropriate Military Department.

(2) The Military Department concerned will validate the officer's eligibility and, if he is eligible, will issue appropriate orders. In no instance will reservists who are members of the Selected Reserve be assigned such duty.

(3) Rosters of eligible volunteers previously submitted to the Department of the Army (RCS AG–523) will be discontinued and the Department of the Army is relieved as the coordinating agency for use of Standby Reserve officers in civil defense activities.

(4) Each Military Department will provide the Director of Civil Defense, Office of the Secretary of the Army, with copies of procedures established to process requests for use of Standby and Ready Reservists in civil defense activities. These will be used to advise State and local government Civil Defense authorities on how such requests should be submitted.

(5) Instructions regarding this change will be disseminated to Civil Defense Regional Officers by the Department of the Army.

(b) Activities: Use of Reservists participating in Civil Defense activities may be as shown in § 102.9.

§ 102.8 Retirement point credits authorized for participation in civil defense activities.

(a) One point creditable toward retirement will be awarded for each inactive duty training period of not less than 2 consecutive hours of civil defense work at a duly scheduled work formation in an officially designated location under active supervision. Wearing of the uniform will be optional with the individual. This does not constitute a basis for a claim for uniform gratuity allowance.

(b) A maximum of two (2) points for inactive duty training may be awarded per day (a day will be considered the equivalent of a multiple drill, i.e., 8 hours of work); three (3) points for inactive duty training per week; six (6) points for inactive duty training per month; thirteen (13) points for inactive duty training per quarter. Not more than sixty (60) points for inactive duty training and membership may be credited for retirement purposes during any 1 retirement year.

(c) Each volunteer officer will furnish his local (county, city, State region) Civil Defense Director a certification form which will be signed by the local Civil Defense Director attesting to the individual's satisfactory work performance and number of hours worked. This form will be submitted each quarter in accordance with appropriate Military Department regulations.

(d) An officer may be removed from the program for unsatisfactory performance by the Military Department concerned or at the request in writing of the local Civil Defense Director to the Military Department concerned.

§ 102.9 Activities (job descriptions).

(a) Participate actively with a State or local government as a civil defense liaison and planning officer between the local government and neighboring military installations.

(b) Participate actively as an instructor in shelter management, radiological monitoring, civil defense operations or civil defense planning for a local government.

(c) Participate actively as a civil defense planner in a local civil defense organization responsible for the development of organizational and utilization plans for community shelters.

(d) Participate actively as a planning officer member of a statewide Reserve officer network responsible for the development of coordinated emergency operations plans and shelter utilization plans on State basis.

(e) Participate actively as a planner of a State or local government civil defense intelligence or damage assessment unit, responsible for establishing channels of communications, intelligence reporting procedures, and actual reporting and damage assessment in times of emergency.

(f) Participate actively as a State civil defense transportation or supply officer, specifically assigned and responsible for establishing an effective system, developing plans, and operating a certain portion of the system in times of emergency.

(g) Participate actively as a local civil defense industrial planning specialist, responsible for developing industrial plans and procedures and obtaining the support of industry in civil defense activities. Particular emphasis would be placed on those industrial facilities on the DOD Key Facilities List.

(h) Participate actively at all levels in the planning, directing, and testing of civil defense exercises and Command Post Exercises.

(i) Participate actively at the regional levels as planners and instructors in operations, intelligence, communications, transportation, logistics or other appropriate staff or technical duties.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

FEBRUARY 5, 1970.

[F.R. Doc. 70–1808; Filed, Feb. 11, 1970; 8:51 a.m.]

Chapter XVII—Office of Emergency Preparedness

PART 1715—FEDERAL DISASTER ASSISTANCE UNDER THE DISASTER RELIEF ACT OF 1969

Elimination of Filing Date for State Applications for Federal Assistance in Development of Comprehensive Disaster Plans

Pursuant to the authority vested in me by the Disaster Relief Act of 1969 (Public Law 91–79) and Executive Order No. 11495 of November 18, 1969, the first sentence of § 1715.9(b) of Title 32 of the Code of Federal Regulations is hereby amended by deleting "not later than April 1, 1970".

(Public Law 91–79 (80 Stat. 120); Executive Order 11495, 34 F.R. 18447)

Dated: February 6, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70–1761; Filed, Feb. 11, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Part 320]

DEPRESSANT AND STIMULANT DRUGS

Use of Peyote for Religious Purposes

Proposed findings of fact and conclusions and tentative order regarding the petition of the Church of the Awakening to amend § 320.3(c)(3).

In the matter of the petition of the Church of the Awakening to amend § 320.3(c)(3):

Petitioner's amendment would grant the Church an exemption to use peyote for religious purposes. A hearing was held on this matter before Mr. Frederick M. Garfield from June 30, 1969 through July 9, 1969. The report, findings of fact, conclusions and recommendations of the hearing examiner follow in their entirety:

In the matter of: Petition of the Church of the Awakening to amend 21 CFR 320.3 (c)(3).

The Church of the Awakening first petitioned the Food and Drug Administration on May 17, 1967 under the Drug Abuse Control Amendments of 1965 for an exemption to use peyote for religious purposes. This petition was denied by the Commissioner of the Food and Drug Administration on July 10, 1967. On January 11, 1968, the Church again petitioned the Food and Drug Administration for an exemption. This petition was also denied.

On May 15, 1969, the Director of the Bureau of Narcotics and Dangerous Drugs[1] received a petition from the Church of the Awakening, declared to be a New Mexico corporation, Dr. John W. Aiken of Socorro, N. Mex., President of the Church, and 13 members of the Church, as copetitioners to amend § 320.3(c)(3) of Title 21 of the Code of the Federal Regulations. The purpose of the petition is to obtain an exemption for the said Church to permit them the nondrug use of peyote in bona fide religious ceremonies. Notification of the submission of this petition was published in the FEDERAL REGISTER on June 26, 1969 (34 F.R. 9871).

On June 11, 1969, Dr. John Aiken, and Mr. John Adams of the American Civil Liberties Union, met with members of the Chief Counsel's Office of the Bureau of Narcotics and Dangerous Drugs and arranged a mutually convenient procedure by which the Church could petition for an exemption and also make a record containing the necessary facts should an appeal to the courts be necessary.

A prehearing conference was held by the Hearing Officer on June 30, 1969, at which time a record was made of the proceedings. During this prehearing conference, it was established that the particular section in question was erroneously cited, i.e., Petitioners brought the action pursuant to section 701(e)1(b) of the Federal Food and Drug Act to amend § 166.3(c)(3) of title 21 of the United States Code of Federal Regulations whereas this regulation is now designated as 21 CFR 320.3(c)(3). Other matters were discussed as to the conduct of the hearing. It was agreed that while this hearing was informal, a record would be made and the record would be used in lieu of a separate public hearing in the event of a request for a court review.

The hearing began on June 30, 1969, and ended on July 9, 1969. A transcript of the testimony, 926 pages, sets forth the testimony of seven witnesses on behalf of the Government and ten witnesses on behalf of the Petitioner. Additionally, four depositions were taken between June 18, 1969 and June 25, 1969, consisting of some 280 pages. Nineteen exhibits were introduced into evidence on behalf of the Government and 26 were introduced by the Petitioner. Briefs were filed by the Petitioner and the Government.

The Drug Abuse Control Amendments of 1965 were passed by the House of Representatives on March 10, 1965. The Senate passed its version on June 23, 1965. On July 8, 1965, the House concurred in the Senate's amendments and the Bill was signed into law by the President on July 15, 1965. It is vital to note in this respect that the Senate report differed significantly from the House report in that it said "the Committee determined that it would not be desirable to specify drugs other than barbiturates and amphetamines as subject to the controls of the Bill, but determine that the other classes of drugs are to be brought under control of the Bill on a case by case basis by the Secretary of Health, Education, and Welfare under the standards prescribed in the legislation. In accordance wth this determination, the Committee omitted specific reference to peyote as a substance subject to the provisions of the legislation. It is expected that peyote will be subject to the same consideration as all other drugs in determining whether or not it should be included under the provisions of the legislation."

BASIS FOR PETITION

Subsequent discussions and inclusions in the Congressional Record as elucidated in Petitioner's own brief indicate that the exclusion of peyote from the legislation focused only on the Native American Church. Section 320.3 of title 21 specifically lists peyote and mescaline and salts of mescaline as being controlled drugs. The law also states:

"The listing of peyote in this subparagraph does not apply to nondrug use in bona fide religious ceremonies of the Native American Church: however, persons supplying the product to the Church are required to register and maintain appropriate records of their receipts and disbursements of the article."

Petitioners, in fact, seek an amendment to this section. They propose that the above text read as follows:

"The listing of peyote in this subparagraph does not apply to nondrug use in bona fide religious ceremonies of the Native American Church and of the Church of the Awakening: * * *."

The grounds upon which the Petitioners rely for the proposed amendment is as follows:

"The use of peyote by members of the Church of the Awakening in pursuance of precepts of said Church and under the provisions of its authorized personnel is in bona fide pursuit of a religious faith."

In the petition it is alleged that:

"The Church of the Awakening has a present national membership of approximately 390. It is an outgrowth of a group formed in 1958 in New Mexico for the purpose of religious study. It was incorporated in 1963 by members of said group as a nonprofit religious corporation under the laws of the State of New Mexico.

"In 1960, the sacramental use of peyote was found by said group to be valuable for the actualizing of the user's religious or spiritual potential. After said Church was incorporated, the use of peyote was named as a sacrament of the Church."

It is further alleged that:

"The religious sacramental use of peyote has been carried on by the members of said group since 1960 and by members of said Church since 1963. A number of members of the Church, including the individual petitioner signing this petition and the copetitioners joining in this petition have bona fide beliefs and convictions that the partaking and ingestion of peyote as a sacrament, according to the precepts of said Church, is valuable for the actualizing of their respective religious and spiritual potential, and they have a desire to use peyote for such purpose, but are prevented from doing so by reason of the regulations, amendment of which is sought by said petition. For such reason the regulation as now promulgated defeats the immunity given such use by the First Amendment of the Constitution of the United States."

From John W. Aiken's affidavit accompanying the petition the following is abstracted:

The Church of the Awakening is a New Mexico corporation, incorporated on October 14, 1963, as an outgrowth of a group of people who began meeting weekly in Socorro, N. Mex., for the purpose of religious or spiritual exploration. This group began by exploring the field of extrasensory perception and psychic phenomena. Petitioner and others began to experiment with the use of peyote and believed it to be the door to the inner-life of the spirit. Most of such religious explorations were done with peyote, but later mescaline was used in the same way with comparable results. After these initial experiments and alleged revelations, the Church of the Awakening was granted a charter by the State of New Mexico on October 14, 1963 as a nonprofit religious organization.

The bylaws of said Church provide that if other substances, in addition to peyote, with similar properties were found to be useful in the development of religious insight and experience, they might also be used, if this use is legal. The explicit purpose of the Church of the Awakening is to encourage spiritual growth on the part of each member to stimulate him to ask questions, to develop insights, and to encourage the sharing of such growth and insights with others in love and service. Each is encouraged to participate in his own spiritual growth and his own evolution. It is a precept of the Church that such growth and such evolution is the true purpose of all religion—in fact that such growth is religion.

Innergrowth or learning and service and sharing can be encouraged in traditional ways, but should be without the traditional bondage to approved forms and rituals. Innergrowth and learning is encouraged by the study of the writings of sages and

mystics. Group meetings at regular intervals is another very important and useful means in the process of growth. In such group activity, two practices are of great importance. One is sharing through discussion and the other sharing through silent meditation. Both should be practiced, but of the two, meditation has the greater potential for the stimulation of individual growth and understanding.

The Church purposes are further encouraged through individual and group participation in the ingestion of peyote. This substance is to be administered to those who have been previously prepared and by those who are certified monitors of the Church.

At this point in the petition, Dr. Aiken goes into a dissertation on the procedure of the preparation for the peyote ingestion. This procedure was changed during the hearing and will be discussed in depth later. The petition also states that it is the earnest desire of the Church and its officials to make available to members the tremendous potential for achieving a deep religious experience through the peyote sacrament and to protect members and the public from the hazards of improper use.

GOVERNMENT'S THEORY OF CASE

The Government recognizes in its brief that a balancing test is required wherein the free exercise of religion is weighed against the multifaceted governmental interest. The Government alleges that the importance of the religious practice abridged in the instant case is minimal within the petitioners' own framework; that the denial of the petitioners' request will not seriously interfere, if at all, with the practice of their religion, if indeed, a religion it be; that the Government has an overriding interest in controlling the use of peyote and other hallucinogenic drugs; that the present scheme of regulation is necessary to protect the public health; and, finally that an exemption such as the one requested in the instant case would have a disastrous effect on the overall program of dangerous drugs regulation. In particular, the Government claims that the proposed use of peyote by the petitioners is not "essential" nor "central" to the religion, and the denial of such use would not constitute an infringement on the petitioners' constitutional right to exercise their religion.

From the outset, the Government claims that the Church of the Awakening is not a religion. It maintains that the petitioners are religious, but their practices do not constitute a religion. Going further, the Government maintains that the denial of the petition would not prevent the practice of the petitioners' religion. Expanding the original concept, the Government maintains that it has a legitimate and compelling interest in regulating the use of peyote a drug shown to have a potential for abuse because of its hallucinogenic effect. The Government reasons that an examination of the evidence produced during the hearing shows the necessity for controlling dangerous substances, including peyote, and that the public interest weighs heavier in the balance than the alleged interference with the Church's religious practices.

The Government further shows that elaborate measures have been enacted to control the use of dangerous drugs. This is based on the philosophy that drugs must be shown safe and effective before they can be made available to the public, and even if they have been found effective they must be subjected to further controls according to their danger and potential for abuse. Some drugs have been shown to be dangerous physically and psychologically to the user and thus possess a potential for abuse. This, the Government says, presents a danger for the hallucinogens sufficient in itself to preclude granting the amendment. Whenever medical science can demonstrate that a religious practice is harmful to public health and not merely personal health, that practice rather than the belief can be prohibited without violating the constitutional guarantee of freedom of religion. The Government does not question the sincerity of the petitioning members of the Church of the Awakening, but the Government does insist that other individuals using the cloak of religion to use drugs indicate that the problems in enforcing the peyote laws would be overwhelming. The Government also points out that the requirements for membership in the Church of the Awakening are so nebulous that if the petitioners' request for an amendment were granted, there would be no feasible way to control the use or abuse of the drug. In fact, anyone who is able to sign his name to an application can become a member of the Church, use the exemption and claim First Amendment protection as a "shield" for whatever use he may wish to make of the drug. It is pointed out that should such an exemption be granted, the Government would have no way of curtailing the formation of other churches whose sole purpose would be to legalize drug use for their membership.

In pointing out the potential dangers to the individual's physical well-being, the Government lists and explores cellular death, lassitude, premature aging, decreased life span, leukemia, malignancies, and organ toxicities. The potential dangers to offspring include decreased growth rate, leukemia, fetal abnormalities, increased abortions, early abortions, infertility, and sterility. The dangers to the individual's psyche include psychosis, psychological dependence (including escapes from reality), and abuse due to cultural orientation. Additional dangers include suicides and crimes or harm to other individuals while the user is hallucinating. Symptoms observed are depression and psychotic reactions, including paranoia, suspicion, "flash backs," catatonic states, lassitude and laziness, confusion and impaired intellectual and psychomotor functions.

By exploring the unique situation of the Native American Church, the Government justifies the regulation allowing its use of peyote on the basis of the traditional legal and cultural status of the American Indians which is "sui-generis" in showing that the peyote sacrament in the Native American Church is different and distinct from that of the Church of the Awakening. The Government alleges the special membership requirements of the Native American Church and the overriding factor that peyote is essential and central to the religion, in that without peyote their religion would not and could not exist.

PETITIONERS' THEORY OF CASE

Petitioners claim that they have shown the use of peyote as a sacrament under the tenants of their church and that the experience engendered with the peyote "sacrament" goes to the very heart of their religion. Petitioners allege that the tenants of the Church are to strive towards the direct experience of God. They conclude "it is not the only way to find God, but it is a most important tool and many people would not find this experience without it."

Petitioners further allege that the peyote sacrament as practiced by the Church of the Awakening requires a serious religious intent. By demonstrating evidence of the beliefs of the petitioner and copetitioners and the religious nature of the ingestion of peyote, it is claimed that inquiry into the validity of such beliefs is not permissible under the First Amendment. They contend that granting an exception to the Native American Church for its religious use of peyote and opposing like use by the petitioner and copetitioners is a violation by the Government of the establishment clause of the First Amendment. Petitioners claim that conceding that the Government may proscribe the religious use of peyote, a case justifying such proscription does not exist here. It is claimed in the area of religious freedom, only the gravest abuses endangering paramount interest give occasion for permissible limitation, and that no such abuse or danger has been advanced in the present case. Petitioners further go on to indicate that the Government's proof of the deleterious effect of these materials is weak and does not justify valid consideration.

SPECIALIZED FINDINGS OF FACT

1. Peyote is the common name of a plant presently classified botanically as Lophorphora Williamsii Lemaire. It is a small, spineless, low growing cactus; carrot or turnip like in shape and size. Only the fleshy, rounded top appears above the soil. It is the pincushion-like top which when sliced off and dried becomes the hard, brittle disk shape button. This is the button which is used ceremoniously or otherwise to produce profound sensory and psychic phenomena attributed to peyote. The peyote cactus is native to the region of the Rio Grande Valley and southward.[2]

2. Peyote contains many active alkaloids. The least toxic alkaloid is mescaline.[3] Three other alkaloids are identified as moderately toxic. These are anhalamine, anhalonidine and pellotine.[4] The most toxic alkaloids found are anhalonine and lophophorine. For these latter two drugs, 0.0011 grams per kilogram is lethal for frogs.[5] The absolute toxicities of all the alkaloids have not yet been determined.[6] Studies have been made of the effects of these alkaloids individually, but it remains to be determined what the combined effect these substances, as they are found in the peyote button, is, and if there is an interaction of these substances which could produce an effect different from that initiated by each of the drugs used separately.[7] Mescaline is an active substance[8] which is the least toxic of the alkaloids in peyote and is known to constitute approximately 1.5 percent of the weight of the peyote button.[9] Pellotine and anhalonidine have sedative effects. Lophophorine and anhalamine are strong convulsants similar in action to strychnine.[10]

3. Peyote is generally distributed in the form of dried buttons.[11] The ultimate dosage form and method of ingestion varies from chewing and ingesting the button to decocting the button to a tea-like liquid to be drunk, grinding the button to a powder to be enclosed in gelatin capsules to ease ingestion, or injecting a solution of the substance into the body.[12]

4. The emetic activity found shortly after ingestion of peyote or mescaline is described to a central effect as opposed to an irritant effect on the lining of the stomach.[13] This effect is not self-limiting because variations in emetic response might not preclude the ingestion of a lethal dose.[14] That the lethal dosage in humans is not known is emphatically brought out by petitioner John Aiken, who admits to the lack of scientific knowledge in this area.[15] Vomiting or emisis, a recognized side reaction of ingestion of this drug can be in and of itself inherently dangerous to certain susceptible members of the population—for example, someone suffering from cardiovascular disease.[16]

5. Animal tests with both mescaline and LSD indicate a strong likelihood that ingestion of these substances will lead to fetal

See footnotes at end of document.

abnormalities.[17] Whether this effect is original or cumulative is not yet determined.[18] Initial studies in this area are sufficient, when it comes to the matter of safeguarding the public health and welfare, to predict the comparability of mescaline to LSD[19] as a teratogenic agent.[20] Because of peyote's accepted status as a hallucinogen and on the basis of submitted evidence that some of the manifestations and characteristics of other hallucinogens are indistinguishable from peyote and because of the relative paucity of conclusive research concerning peyote, it is reasonable to assume that the evidence submitted for other hallucinogens will apply to peyote.[21] It is thus found that the potential dangers to offspring include decreased growth rate, fetal abnormalities, increased abortions, early abortions, infertility and sterility.[22] Other dangers which are indicated are the possibility of leukemia, lassitude, and decreased life span.[23] The physiological effects of peyote are of physical and mental exhilaration.[24] At the onset, there is wakefulness, mild analgesia and a sensation of fullness in the stomach or loss of appetite which may lead to active nausea, a feeling of tightness in the chest, some muscular tetany, and heightened sensitivity to sound, color, form and texture. Later phases may include visions or hallucinations.

The paucity of human research conducted with regards to peyote, mescaline, and other related hallucinogens has disclosed controversy with respect to short term and long range effects on man.[25] There are indications of harmful, somatic and mutagenic effects.[26] It has been demonstrated that incurable psychosis can be induced because of the use of these drugs under certain situations.[27] It is established that there is no accurate screening procedure which would definitely identify any individual who might be prone to such a psychosis.[28]

6. Peyote is a drug having a hallucinogenic effect within the meaning of 21 U.S.C. 201 (V) (3). The criteria applicable to the determination of whether a drug has a hallucinogenic effect is the consideration of whether the substance will produce hallucinations, illusions, delusions, or alteration of any of the following:

1. Orientation with respect to time or place.[29]

2. Consciousness as evidenced by confused states, dreamlike revivals of past traumatic events or childhood memories.[30]

3. Sensory perception as evidenced by visual illusions, synesthesia, distortion of space and perspective.[31]

4. Motor coordination.

5. Mood and affectivity as evidenced by anxiety, euphoria, hypomania, ecstasy, autistic withdrawal.[32]

6. Ideation as evidenced by flight of ideas, ideas of reference, impairment of concentration and intelligence.[33]

7. Personality as evidenced by depersonalization and derealization, impairment of conscience, and acquired social and cultural customs.[34]

There is sufficient indications in the record which conclusively establish that peyote is in that class of substances as described above having a hallucinogenic effect.[35]

7. That psychological harm may be precipitated by the ingestion of peyote is manifest.[36] Permanent psychological damage can occur when people have both good or bad "trips."[37] There is potential for personality disintegration and the breakdown of certain mechanisms needed to function effectively in society. With continued use over long periods of time, problems arise in focusing concentration. Memory failure occurs and there is a decrease in mathematical ability. There may occur creeping paranoia or feelings of persecution, exaggerated feelings of self-confidence, or even growing underlying feelings of inferiority. There is exhibited passivity, loss of energy and lack of desire to do things, impulsiveness, and feelings of the futility of life and helplessness about one's future.[38]

8. Up to 5,000 bad trips were noted by one of the witnesses. These bad trips were an immediate unpleasant experience for the subject and were compared to the psychological harm that occurs from the "good trips," in that one who experiences a "good trip" wishes to repeat the performance and may well build a psychological dependence for the continued experiencing of the sensations produced by the drug.[39]

9. There is evidence of subjective correlations of peyote to religious insight and personal psychological and mental gain. These experiences may vary with the conditioning and the set and setting of the individual at the time of ingestion of the drug. These attributes are described by some as unreal ad psychedelic hypocracy.[40]

There is no approved medical use of peyote in the United States; however, experimentation with hallucinogens, particularly LSD, is being conducted with terminal patients, alcoholics and others to determine the therapuetic utility.[41] While one report was favorable, the majority of the reports dealing with alcoholics appeared negative for medical value.[42]

10. The set or setting of an area in which the subject is to ingest peyote and the subject's preparation is important to the immediate or initial outcome precipitated by the ingestion of the drug. It does not, however, guarantee a favorable immediate reaction, but it does lessen the probability of a traumatic experience. Precipitious problems do occur less frequently in such settings, but they do occur.[43]

11. That the administration of peyote must be given under very special circumstances is uncontroverted in the record. The controversy arises as to the particular circumstances themselves. Likewise, the necessity of trained personnel in attendance is unquestioned. The degree of training, however, raises grave conflicts of opinion.[44]

A screening of subjects is necessary before ingestion of the drug to insure that certain types of personalities are rejected. This screening is of a psychological nature. If after the screening and ingestion of peyote a reaction sufficient in intensity requires the termination of the "experience," a physician must first determine the problem, and second, administer the necesary antidote drug, i.e., chlorpromazine, pentothal, or similar type drugs.[45]

The Church of the Awakening requires "monitors, ministers and a physician on call." Ministers and monitors need not possess, according to the petitioners' requirements, the ordinary scholastic and licensing requirements to practice psychology, psychiatry, or medicine, and yet they are expected to make psychological, medical, and psychiatric determination.[46]

Of the conditions precedent to the appointment of a monitor or minister of the Church, one or more of the listed requirements may be waived by the "Directors."[47]

12. The Church of the Awakening is a loosely formed group incorporated by Drs. John and Louise Aiken for the purpose of studying and developing the spiritual nature of man in order for man to recognize his oneness with the cosmos, and to find purpose and meaning of life. The thing that is most important and fundamental to the beliefs of petitioning Church is the "mystical experience," or the attainment of the goal of "religious experience."[48] It is not inconsistent for members to be practicing members of other religious entities or religions.[49]

The Church desires to provide for those who request it, the opportunity to have a psychedelic experience which is a sacrament of the Church. A psychedelic experience is defined as that experience which occurs following the ingestion of peyote or like substances which may be found useful for the purpose of increasing man's understanding of himself.[50] Other psychedelic drugs, if legal and safe, could be used rather than peyote if the latter remains illegal.[51] There is no one single drug which is considered by the Church to be fundamental to its religion.[52]

13. The Church of the Awakening exists today and its members do not partake of hallucinogenic substances.[53] There are members of the Church to whom peyote is nonessential.[54] The one fundamental fact is that the mystical or religious experience is fundamental to the Church and that drugs are not the only means to achieve this end.[55] The mystical experience is achieved more quickly with peyote.[56]

14. The Board of Directors is a loosely knit group with the membership of some of the Board unknown to other members of the Board; likewise, the Board members are not fully knowledgable of the monitors of the Church. There is a clear and distinct possibility that the membership of the Board of Directors can change—that it may change is fact.[57]

15. The sole membership requirement is the filling out of a membership blank which implies the understanding of the objectives of the Church. There is no indication of any means by which a person wanting to become a member of the Church may be denied membership. The precise membership in the Church and their dates of membership have not been determined.[58]

16. There has been no policy established as to the age at which peyote ingestion is to be limited.[59]

17. Sacrament in the Church is described as a sacred experience, not a fundamental something essential for salvation or other religious ends. Sacrament is the sacred experience.[60] The Church believes in the use of any hallucinogen so long as it is legal.[61] There are no medically approved hallucinogens in the United States today.

18. In the attainment of its goal of the religious experience, the requirement for monitors in the Church is extremely flexible and can be changed readily at the will of the Board of Directors.[62] The original requirements as set forth in the petitioners' petition on page 17 et sequitur have been changed as manifested by petitioners' exhibit No. 5 during the course of the hearing. Along with changes in the procedures for the ingestion of peyote, using the latter procedures and qualifications, the sacrament is to be dispensed only at the National Center of the Church of the Awakening (which is not yet existent) under the direct supervision of an ordained minister of the Church.[63]

Competent medical assistants shall be available but not necessarily on hand.[64] A candidate shall have a minimum of a week available for the experience. Two days of preparation are required utilizing meditation, music, relaxation, self-examination and the development of an increased rapport with the minister or certified monitor.[65] Medical assistance shall be nearby (i.e., on call) but not necessarily present during the experience.[66] One day shall be devoted for the experience itself and the four subsequent days for orientation in light of new perspectives hoped to be achieved.[67]

19. Group participation may be instituted for those who have previously achieved at least three satisfactory individual experiences. There are no criteria that have been

See footnotes at end of document.

established to indicate what constitutes a satisfactory individual experience or an unsatisfactory one. The group shall have no more than five members—each having a mutually satisfactory rapport with the others, and may be guided or accepted by a single minister on a given day. The minister may not partake of the substance and he shall be assisted by at least one certified monitor or monitor candidate. The latter also shall not partake of the substance.[68]

20. The peyote will be avilable only to those who have been members of the Church for a minimum of one year and whose personality and motivation are known to a minister of the Church.[69] After the first experience no member may participate in the experience oftener than three times a year.[70] The subject shall be under supervision for 24 hours after the beginning of the experience.[71]

21. The qualifications and appointment of monitors are as follows: Minimum age, 25 years. Education should include not less than 2 years of college and preferably a bachelor's degree. Personality should be outgoing and capable of developing rapport with a variety of people. He should be oriented towards service rather than profit or status. Experience should include at least five personal individual psychedelic experiences; the observance of five given by a minister or certified monitor; and monitoring five under the supervision of a minister or certified monitor. He may then be recommended to the Board of Directors for certification. The five personal individual psychedelic experiences need not be within the framework of the Church and could definitely include individual nonchurch oriented ingestions of hallucinogens.[72]

22. There are numerous other means to attain the religious experience desired by the petitioners. The experience may be achieved by meditation, fasting, hypnosis, deliberation, and contact with other members of the Church. The Church presently exists utilizing these other methods.[73]

23. Peyote has an entirely different and individual meaning to the members of the Native American Church. It is essential to their religion; it is a deity; it is a subject of worship as well as an instrument of worship and without it, the religion would cease to exist and could not function.[74]

24. Indians in the United States are treated differently from other citizens. Their situation is similar to sovereign nations in that their relationship with the Federal Government is direct and not through a State or other municipal authority. To the Indians on a reservation, there is a separate Bill of constitutional rights, 25 U.S.C.A. 1301 et seq.[75]

25. That mescaline or peyote is abusable and has a ready market among the drug culture throughout the nation is evidenced by the number of clandestine laboratories which have been discovered by Federal Agents.[76]

Conclusions

While the record of the hearing and the briefs presented by the Church of the Awakening and the Government in this case are voluminous, the issues are relatively clear cut.

1. Do the precepts of the Church of the Awakening constitute a religion?

2. Is the use of peyote, or other hallucinogenic drugs essential to the Church in its religious practices?

3. Would the denial of the requested exemption constitute an infringement on the petitioners' rights to exercise their religion?

4. Would the Church's use of peyote pose a substantial risk to health and life, or to the social well-being or the convenience of society?

5. Does the granting of an exemption for the use of peyote to the Native American Church of North America and not to the Church of the Awakening violate the petitioner's constitutional rights?

It is the opinion of the Hearing Officer after review and study of the record that the Church of the Awakening is not a religion in the true sense of the word, but a loose confederation of kindred souls whose purpose is to explore the mystical boundaries of humanity through the use of hallucinogenic drugs and other means.

Peyote obviously is not essential to the existence of the Church of the Awakening. The Church has existed and does exist without the use of the drug. Other means may and are being utilized to achieve the fundamental goals of the Church. Granted, arguendo, that drugs can facilitate or precipitate a religious or mystical experience, the record shows that the experience can be reached through less convenient means such as fasting, prayer, meditation, hypnosis, etc. Therefore, denial of the exemption would not infringe on the rights of the petitioners to exercise their religion. The fact that the Church is functioning and has been functioning since 1965, the year of the enactment of the Drug Abuse Control Amendments, is prima facie evidence that it can exist and function without peyote.

The Government has direct responsibility and interest in the control of certain hallucinogenic drugs under the Drug Abuse Control Amendments of 1965. Peyote has been designated as a drug with a potential for abuse because of its hallucinogenic effect and it is subject to control under the Amendments.

This law was passed by the Congress to improve Federal controls over depressant, stimulant, and hallucinogenic drugs because their illegal manufacture or diversion into the illicit market posed a danger to the public health and safety. The Government's interest for the public welfare is sufficient to override the inconvenience that refusal of the exemption might cause to the petitioners.

Peyote is an inherently dangerous substance capable of producing psychosis and other psychological harm as well as physical problems. There is insufficient knowledge in the areas of medicine and science to permit the promiscuous unleashing of this drug without adequate medical or psychiatric supervision. The Church's proposed methods for the psychological and medical screening and supervision of members before, during and after ingestion of peyote are insufficient to provide for the safety of users. To administer this drug and other hallucinogens requires careful procedures. A physician is essential to the experience. Likewise, screening of the prospective user must be done by one capable of diagnosing certain psychological and medical factors which preclude the use of nonmedical personnel proposed by the Church.

The Church of the Awakening is generically different from the Native American Church of North America which is sui generis. The Native American Church is composed basically of Indians, who are treated differently from the ordinary citizenry of the United States. The relationship with the Federal Government has been established through law and treaty. The use of peyote in the Native American Church is different from and in no way similar to use of peyote proposed by the petitioners. Peyote in the Native American Church is a deity—a sacrament essential to the religion. Without peyote, the religion could not exist and would in fact, cease to function. This is not so with the Church of the Awakening. In the Church of the Awakening, it is an added attraction or an expeditious means to an end.

Both the First and Fourth Amendment application of the Constitution to the Native American Church of North America is different from the application of those clauses to the members of the Church of the Awakening.

There is a decided facility for drug abusers to enter into the membership of the Church of the Awakening. This would provide a ready means to acquire immunity from the law if the petition were granted. "Bad faith" of future members and monitors is a real problem under the proposed requirements enumerated by the Church. Granting of the exemption would create serious breaches in drug abuse legislation and open the door to pseudoreligions conceived for the purpose of circumventing drug laws intended to control the misuse of drugs.

Accordingly, it is recommended that this report be adopted and the petition of the Church of the Awakening be denied.

Dated: January 16, 1970.

Frederick M. Garfield,
Hearing Officer.

Footnotes

These footnotes are intended to be a guide only in demonstrating some of the evidence that established the facts in point. It is not intended to show the degree of importance or the totality of the evidence relied upon.

[1] Responsibility for the enforcement of the Drug Abuse Control Amendments of 1965 was transferred from the Food and Drug Administration to the Bureau of Narcotics and Dangerous Drugs on April 8, 1968, by Presidential Reorganization Plan No. 1 of 1968.

[2] GD Exhibit #1.

[3] Seevers Deposition p. 15; GD Exhibit #1, p. 1; Merck Index p. 663.

[4] Meirck Index p. 787; GD Exhibit #1.

[5] Seevers Deposition pp. 15–18; GD Exhibit #1 p. 1; Merck Index p. 625.

[6] Seevers Deposition p. 15; Hollister Deposition p. 7.

[7] GD Exhibit #1, pp. 9–12; Seevers Deposition pp. 15–18.

[8] TR. p. 233.

[9] GD Exhibit #1, p. 32.

[10] Seevers Deposition pp. 15–18; GD Exhibit #1.

[11] Seevers Deposition pp. 12–13.

[12] TR. p. 57.

[13] Seevers Deposition p. 10.

[14] Seevers Deposition pp. 38–40; Hollister Deposition pp. 34–36, pp. 40–42.

[15] Hollister Deposition pp. 13–16; TR. 228–232.

[16] Seevers Deposition p. 38.

[17] TR. p. 464, pp. 758–769, pp. 771–773.

[18] TR. p. 471.

[19] TR. p. 670.

[20] Government Exhibit #7; Government Exhibit #8; Government Exhibit #9; Government Exhibit #10; GD #2; GD #3; GD #6; TR. p. 764, pp. 589–594.

[21] Ibid; Hollister Deposition pp. 7–14; Wikler Deposition pp. 4–19, p. 31; TR. p. 824.

[22] TR. p. 464, pp. 467–468, pp. 588–594, pp. 758–769, pp. 914–920.

[23] Government Exhibit #11; Government Exhibit #12; Government Exhibit #13.

[24] TR. p. 613.

[25] TR. pp. 758–769.

[26] TR. pp. 611–614, pp. 761–769.

[27] Seevers Deposition pp. 69–70; TR. pp. 611–614.

[28] Seevers Deposition pp. 46–49; TR. pp. 616–618.

[29] TR. p. 551.

[30] TR. p. 652.

[31] TR. pp. 551–552, p. 558, pp. 606–608, pp. 650–651.

[32] TR. pp. 606–608, pp. 650–651, pp. 615–619; TR. 874–876.

See footnotes at end of document.

[33] TR. p. 551, p. 553, pp. 650–653.
[34] TR. pp. 615–619.
[35] Wikler Deposition pp. 4–7; Hollister Deposition pp. 7–9, p. 13.
[36] TR. pp. 874–876.
[37] TR. pp. 594–597, pp. 612–614; Wikler Deposition pp. 8–19; Hollister Deposition pp. 7–9, pp. 13–14.
[38] TR. pp. 615–619.
[39] TR. p. 471, pp. 613–619, p. 640.
[40] TR. pp. 351–431, pp. 463–464, p. 612, pp. 619–632, pp. 822–830; Petitioners Exhibit #7; Petitioners Exhibit #8; Petitioners Exhibit #9; Petitioners Exhibit #10; Government Exhibit #5; H. Smith Deposition pp. 13–18, pp. 23–25, pp. 32–38.
[41] Petitioners Exhibit #11; Petitioners Exhibit #12; TR. pp. 370–395.
[42] TR. pp. 370–384.
[43] Hollister Deposition p. 11; Aiken Affidavit in Petition, p. 7, pp. 12–13; TR. p. 388, pp. 596–598, pp. 600–605, p. 910.
[44] Seevers Deposition pp. 46–49; Wikler Deposition pp. 8–12, p. 33; TR. pp. 295–302, pp. 446–447, pp. 461–463, pp. 876–884.
[45] Wikler Deposition pp. 8–12, pp. 33–34; Hollister Deposition pp. 36–40; TR. pp. 214–218, pp. 295–301, p. 448, p. 604, pp. 876–887.
[46] Seevers Deposition pp. 46–49; Wikler Deposition pp. 8–12; TR. pp. 446–463, pp. 608–612.
[47] TR. pp. 210–214, p. 478.
[48] Aiken Affidavit in Petition pp. 11–18; TR. p. 133, p. 179, pp. 188–191.
[49] H. Smith Deposition pp. 27–29, pp. 38–42.
[50] TR. pp. 182–183.
[51] TR. pp. 183–186, pp. 220–222.
[52] TR. pp. 183–186, pp. 220–222, pp. 545–554, p. 911; Government Exhibit #2.
[53] TR. p. 180, p. 913.
[54] TR. pp. 197–198, pp. 544–548.
[55] TR. p. 180, pp. 188–189, pp. 203–210, pp. 221–222.
[56] H. Smith Deposition pp. 43–44; TR. pp. 203–210, pp. 221–222, pp. 544–548.
[57] TR. p. 140, p. 290; H. Smith Deposition pp. 57–68.
[58] TR. p. 141, p. 247; H. Smith Deposition pp. 41–42, p. 51, p. 60.
[59] TR. pp. 249–250, pp. 920–921.
[60] TR. pp. 144–145, pp. 247–248, p. 903.
[61] TR. p. 134, p. 177, p. 183.
[62] H. Smith Deposition pp. 61–68.
[63] TR. p. 173, pp. 213–214, p. 325.
[64] TR. pp. 214–218, pp. 295–301, pp. 877–884.
[65] TR. p. 325, pp. 877–884.
[66] TR. pp. 214–218, pp. 295–301, pp. 877–884.
[67] TR. pp. 156–171, pp. 174–175, pp. 877–884; Petitioners Exhibit #4; Petitioners Exhibit #5; Aiken Affidavit in Petition pp. 7–8, p. 12.
[68] Aiken Affidavit in Petition p. 7.
[69] TR. p. 915.
[70] TR. pp. 194–202, pp. 646–647, p. 593, p. 325.
[71] TR. p. 175; Petitioners Exhibit #5; Aiken Affidavit in Petition pp. 7–8, p. 12.
[72] TR. pp. 102–103, pp. 139–140, pp. 212–213, p. 326, p. 454; H. Smith Deposition p. 49; Petitioners Exhibit #5.
[73] TR. p. 145, p. 180, pp. 203–210, pp. 221–222, p. 238, p. 294, pp. 544–546, p. 621, pp. 913–915; H. Smith Deposition p. 50.
[74] TR. pp. 104–111, pp. 240–242, pp. 266–277, pp. 487–488, p. 702, pp. 707–710; H. Smith Deposition pp. 41–49; Government Exhibit #13; Government Exhibit #12; Government Exhibit #11.
[75] TR. pp. 580–581, pp. 675–697, pp. 806–818; U.S. Constitution Article I, Section 8, Chapter 3.
[76] TR. pp. 782–783, pp. 787–789.

Therefore, it is ordered, That it is the decision of the Director of the Bureau of Narcotics and Dangerous Drugs that the foregoing report, findings of fact, conclusions and recommendations of the hearing examiner be accepted in their entirety and that the petition of the Church of the Awakening is denied.

It is contemplated that the subsequent final order in this matter will have an effective date that will be 30 days from its date of publication in the FEDERAL REGISTER.

Any interested person whose appearance was filed at the hearing may, within 30 days from the date of publication of this tentative order in the FEDERAL REGISTER, file with the Office of the Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, 1405 I Street NW., Washington, D.C. 20537, written exceptions thereto. Exceptions shall point out with particularity the alleged errors in the findings of fact and proposed order, and shall contain specified references to the pages of the transcript of testimony or to the exhibits on which the exceptions are based. Exceptions and accompanying briefs should be submitted in quintuplicate.

Dated: February 5, 1970.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[F.R. Doc. 70-1816; Filed, Feb. 11, 1970; 8:52 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1006, 1012, 1013]

[Docket Nos. AO-356-A4, AO-347-A8, AO-286-A16]

MILK IN UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Orlando, Fla., on April 9–10, 1968, pursuant to notice thereof issued on March 21, 1968 (33 F.R. 4995).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on December 18, 1969 (34 F.R. 20053; F.R. Doc. 69-15195) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modification:

A new paragraph is added immediately following the second paragraph beginning on page 20055.

The material issues on the record of the hearing relate to:

1. Class I prices; and
2. Revision of classification provisions.

This decision deals with issue No. 2 only. Issue No. 1 was dealt with in an earlier decision.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

2. *Revision of classification provisions.* The three Florida orders should be amended to combine present Class II and Class I uses into a single Class I, and to add certain uses now Class III in the Class I category. The Class I price should be adjusted to offset the effect of the increased Class I utilization resulting from the proposed change.

The Tampa Bay and Upper Florida orders now provide for three classes of utilization; the Southeastern Florida order has four classes. Classes I, II, and III in the three orders are basically the same. The Southeastern Florida Class IV classification applies only to milk, the skim milk portion of which is (1) disposed of for fertilizer or livestock feed, or (2) "dumped" by the handler after such prior notification as the market administrator may require.

Class I now includes all skim milk and butterfat that is either disposed of in the form of a fluid milk product or is not accounted for in another class. Fluid milk product has been defined to mean milk, flavored milk, and skim milk. The three Florida orders were amended, effective January 1, 1970, to include filled milk in the fluid milk product definition.

Class II milk is the skim milk and butterfat that is either disposed of in the form of a Class II product (cream, sour cream, half and half, acidophilus milk, and chocolate drink) or is in a handler's inventory of fluid milk products, both packaged or in bulk at the end of the month.

Class III includes the skim milk and butterfat used to produce any product other than a fluid milk product or Class II product. Such Class III products are: Frozen desserts (e.g., ice cream, ice cream mix), eggnog, yogurt, aerated cream products, milkshake mix, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk and sterilized products in hermetically sealed containers.

Other dispositions included in the present Class III are: (1) Skim milk and butterfat in fluid milk products and in Class II products disposed of for livestock feed or dumped by a handler (except such dispositions classified in Class IV in the Southeastern Florida order); (2) skim milk represented by the nonfat solids added to a fluid milk product or Class II product which is in excess of an equivalent volume of such product prior to the addition, and (3) skim milk

and butterfat (within certain limits) in shrinkage at a handler's plant. These dispositions would be included in the newly designated Class II by this decision. There were no proposals at the hearing to include them in a higher priced classification.

Cooperatives representing more than 75 percent of the producers under the three orders proposed that Class I milk be defined in the same manner under the three orders and that it include all uses now in Class I milk and Class II milk of the three orders as well as some uses that are now Class III milk under the respective orders. Eggnog, yogurt, aerated cream products and milkshake mix, which are now in Class III, also would be classified in Class I under the producer proposal.

The basic reasons advanced by producers for combining the present Class I and Class II classification into one class (Class I) are: (1) The Florida Dairy Products Law has been revised to require that each of the products now proposed to be included in Class I milk be produced from milk and milk products of Grade A quality; and (2) the proposed expanded coverage of Class I is necessary and desirable to bring the Class I classification provisions in the Florida orders in conformity with comparable provisions of other Federal orders.

In connection therewith, producers further proposed that the Class I differential be reduced to offset the effect of the increased Class I utilization resulting from the change. This amount was estimated at 15 cents per hundredweight and, as proposed by producers, would be reflected in a reduction of 15 cents in the Class I price differential.

Handlers opposed combining the present Class I and Class II classifications into one class. It was their position that such classifications appropriately reflect conditions in these Florida areas and that there have been no changes in marketing conditions to warrant the changes requested by producers.

Producer-handlers opposed changing the classification provisions of the order because an expanded category of Class I uses might require some producer-handlers to increase their production to maintain producer-handler status. This is because producer-handlers may now purchase Class II products from pool plants but may not purchase Class I products from such sources and retain producer-handler status. Classifying milk for some of the present Class II products in Class I would result in an increase in the Class I sales of a producer-handler who currently may depend on outside sources for his Class II products.

Insofar as it is practicable, the classification provisions of the three Florida orders should be identical and as comparable as possible with the classification provisions in other Federal orders. There is a significant overlapping of the sales and production areas of the three Florida markets. In addition, milk and milk products for fluid use are imported into the Florida markets from other order markets.

Class I milk in each market should include the skim milk and butterfat in "fluid milk products" disposed of for fluid consumption, except dispositions for specified uses that are designated Class II (and Class III, in Southeastern Florida). In addition to whole milk, "fluid milk product" would be defined to mean skim milk, buttermilk, flavored milk and flavored milk drinks including eggnog and milkshake mix, filled milk, concentrated milk, sweet cream and mixtures of cream and milk or skim milk. The form and the purpose for which these products are used generally are the same as the form and purpose of use for whole milk. Just as whole milk, they are disposed of in fluid form. Also, they are marketed by handlers in the same types of packages and in the same trade channels as the whole milk they market, and are intended primarily for consumption in their fluid form.

Handlers stated that buttermilk, chocolate drink, eggnog, and similar products should not be included in Class I because the State of Florida permits the reconstitution of such products from nonfluid milk products (e.g., nonfat dry milk).

To accept the handlers' position in this regard would be contrary, however, to the decision resulting from the hearing completed in Memphis, Tenn., on May 24, 1968, that considered the classification of the skim milk and butterfat in filled milk, the treatment of reconstituted skim milk in filled milk, and related issues under all Federal orders. Amendments were made to 62 orders, including the three Florida orders, effective January 1, 1970, on the basis of the record of that hearing.

The October 13, 1969, decision (34 F.R. 16881) resulting from that hearing provides for classifying in Class I the skim milk (including the skim milk in reconstituted skim milk) and butterfat used to produce filled milk. The findings in that decision relative to the classification in Class I of the skim milk and butterfat (including that in nonfat dry milk and similar nonfluid products) used to produce filled milk are equally applicable with respect to skim milk and butterfat used to produce the other milk products to be included in Class I and are adopted in full herein.

The orders should continue to classify in Class I any skim milk and butterfat that is not accounted for as a disposition in another class. This will be best accomplished by stating explicitly in the orders the dispositions which are other than Class I.

Month-end inventories or packaged fluid milk products (now in Class II) should also be classified in Class I. The proposed classification, which usually conforms with the ultimate utilization of packaged fluid milk products in inventory, will result in no actual increase in handlers' costs. Moreover, it will result in fewer audit adjustments in classification and handlers' obligations than if classified in Class II, as herein proposed for bulk fluid milk products.

A handler who operates a plant that varies between nonpool and pool status from month to month would be required to allocate first to a lower priced class the fluid milk products in inventory at the beginning of each month that he changes from nonpool to pool status. This requirement and the classification of month-end inventories of packaged fluid milk products in Class I provide sufficient safeguards to prevent the exploitation of the pool (by varying his month-end inventory) by the operator of a plant that may be a pool plant and nonpool plant in successive months.

Month-end inventories of bulk fluid milk products should be classified in Class II. In the following month they would be subtracted under the allocation procedures from any available Class II milk. The higher use value of such fluid milk products allocated to Class I would be reflected in returns to producers in the following month.

Although packaged fluid milk products in inventory are items which have been prepared specifically for Class I disposition, the ultimate utilization of bulk fluid milk products in inventory may differ substantially between plants and even from month to month at the same plant. Under these circumstances, continuing to classify and price month-end inventories of bulk fluid milk products in a lower-priced class, as now provided in the orders, will facilitate the accounting procedure in the handling of such month-end inventories.

The order should specify that all fluid milk products on hand at the beginning of the month at a plant which was a nonpool plant in the preceding month should be allocated to any available Class II utilization of the plant during the month. This procedure will preserve the priority of assignment to current receipts of producer milk to the current Class I utilization at the plant.

For the first month that the changes provided by this decision would be effective, packaged fluid milk products on hand at the beginning of the month at a plant that was a pool plant in the preceding month would be allocated to Class I and bulk fluid milk products would be allocated to Class II. Since the Florida orders would have priced the packaged fluid milk products in a lower-priced class in the preceding month (as closing inventory), the orders should provide that a handler's net pool obligation be increased in the amount by which the value at the Class I price for the current month of the fluid milk products in beginning inventory allocated to Class I exceeds the value for such products at the class prices applicable in the preceding month. Likewise, a handler's net pool obligation should be reduced in the amount by which the Class II price for the current month (basic formula price plus 15 cents) of the bulk fluid milk products in beginning inventory is less than the value of such bulk fluid milk products (as closing inventory) at the Class II price for the preceding month (basic formula price plus $1). The above adjustments will insure that all fluid milk products disposed of by a handler during the month will be priced

at the class prices applicable for the month, whether such fluid milk products originated as closing inventory in the preceding month or as a receipt at the handler's plant in the current month.

Class II milk would include the skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, a product which contains 6 percent or more nonmilk fat (or oil), and sterilized products in hermetically sealed containers. Producers further suggested the reclassification of sour cream, sour cream mixtures, yogurt, aerated cream and aerated cream products to Class I milk. Under the conditions in these Florida markets, the basis for reclassifying and pricing those items moved to Class I does not have equal application in the case of yogurt and the sour cream and aerated cream products. Consequently, these latter products remain in Class II.

The present Class IV classification under the Southeastern Florida order would be designated Class III.

Combining the present Class I and Class II classifications into one class, as provided by this decision, will not increase the total amount paid by handlers for producer milk in the newly designated Class I and will not increase the returns to producers for milk now sold in these classes. As corollary changes the Class I price is reduced 15 cents and the newly designated Class II will be priced at the present Class III price (the Minnesota-Wisconsin manufacturing milk price plus 15 cents). On the basis of recent utilization experience in these markets, this should return to producers in each market approximately the same amount of money as is now obtained under the present pricing schemes in the respective orders.

Exemption from the pricing and pooling provisions of the Florida orders is now accorded a distributor who depends entirely on his own-farm production for his Class I needs (except for nonfat solids used to fortify Class I products) and handles his own surplus. Producer-handlers argued that if the proposed Class I definition is revised to include some utilizations now in Class II, the producer-handler exemption should continue to be based on their production of milk for those needs now included in Class I rather than for the total requirements included in the revised definition of Class I milk.

The present basis for the exemption of a producer-handler from the pricing and pooling provisions in any of the Florida orders has been determined, on the basis of the record evidence presented at public hearings, to be appropriate for marketing conditions in Florida. It was determined that he must produce his own Class I needs and necessary reserves. Under these conditions, it was concluded that a producer-handler would not have a significant advantage over regulated handlers in the fluid market, which is his principal outlet. It was further indicated that a person with own-herd production who did not meet these qualifications would have an unwarranted advantage over fully regulated handlers in the Florida markets.

To keep the producer-handler qualifications on the basis they proposed, in conjunction with the change in uses included in the Class I classification, would have the effect of changing the fundamental basis for exempting producer-handlers from the pricing and pooling provisions of these Florida orders.

The proposed expanded Class I classification would be fully applicable in pricing milk to regulated handlers. Thus, additional fluid products are raised to the highest-valued class, increasing their cost to regulated handlers. To require such adjustments from regulated handlers, but keeping the producer-handler exemption on its present basis, would result in having the proposed classification change applicable to the regulated handlers but ignored in determining the exempt status of competing producer-handlers. The effect would be to ease the basis of exempting producer-handlers in relation to the obligations placed by the order on other handlers. There is no basis in the evidence to warrant such action.

Also, there was no indication on the record that those persons who have attained producer-handler status under the Florida orders will be unable to realize and maintain such status because of the proposed changes in the classification provisions of the orders.

The proposal to revise the producer-handler definition therefore is denied.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

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

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreements and orders. Annexed hereto and made a part hereof are six documents, entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Upper Florida Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Tampa Bay Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Southeastern Florida Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Upper Florida Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Tampa Bay Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Southeastern Florida Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of producer approval and representative period. December 1969 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas, is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on February 6, 1970.

RICHARD LYNG,
Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the Upper Florida Marketing Area

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Upper Florida marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on December 18, 1969, and published in the FEDERAL REGISTER on December 23, 1969 (34 F.R. 20053; F.R. Doc. 69-15195), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following revisions: In § 1006.60, paragraph (d) is revised and paragraphs (c-1) and (d-1) are added.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. Section 1006.7 is revised as follows:

§ 1006.7 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk and flavored milk drinks (including eggnog and milkshake mix), filled milk, concentrated milk, sweet cream, and mixtures of sweet cream and milk or skim milk.

2. In § 1006.17, paragraphs (a) and (b) are revised as follows:

§ 1006.17 Other source milk.

* * * * *

(a) Fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products from pool plants; and

(3) Fluid milk products in inventory at the beginning of the month;

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

* * * * *

§ 1006.19 [Revoked]

3. Section 1006.19 is revoked.

4. Section 1006.22(j)(2) is revised as follows:

§ 1006.22 Duties.

* * * * *

(j) * * *

(2) The 5th day of each month the Class II price and the Class II butterfat differential, both for the preceding month; and

* * * * *

§ 1006.30 [Amended]

5. In § 1006.30(a) (2) and (5), "and Class II products" is deleted.

6. Section 1006.41 is revised as follows:

§ 1006.41 Classes of utilization.

Subject to the conditions set forth in § 1006.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except as provided in paragraph (b) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, a product which contains 6 percent or more nonmilk fat (or oil), and sterilized products in hermetically sealed containers;

(2) Skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of bulk fluid milk products at the end of the month;

(5) Skim milk represented by the nonfat solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(6) Skim milk and butterfat, respectively, in shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1006.16) but not in excess of:

(i) 2 percent of producer milk (except that received from a handler pursuant to § 1006.13(d));

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1006.13(d): *Provided,* That if the handler receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2 percent;

(iii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of bulk fluid milk products from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler;

(vi) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(7) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1006.42(b)(2).

7. Section 1006.42 is revised as follows:

§ 1006.42 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1006.41(b)(6)

(2) Other source milk exclusive of that specified in § 1006.41(b)(6)

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

8. Section 1006.43 is revised as follows:

§ 1006.43 Transfers.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1006.45 (a)(9) and the corresponding step of § 1006.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1006.45(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1006.45(a) (8) or (9) and the corresponding steps of § 1006.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in the form of fluid milk product to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt distributing plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II in his report submitted pursuant to § 1006.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk.

(c) As follows, if transferred in the form of a fluid milk product to an other order plant is excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and allocations to other classes shall be classified in a comparable classification as Class II milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1006.41.

(d) As Class I milk if transferred or diverted in the form of a fluid milk product, from a pool plant to an exempt distributing plant.

9. Section 1006.45(a) is revised as follows:

§ 1006.45 Allocation of skim milk and butterfat classified.

* * * * *

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1006.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (3) (vi) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class II pursuant to § 1006.41(b) (5) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of fluid milk products from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(vi) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided*, That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity or quantities:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (3)(v) of this paragraph:

(*a*) For which the handler requests such utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting

from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (3)(vi) of this paragraph;

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (3)(vi) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (4) of this paragraph;

(7) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (3)(v) and (5)(i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (3)(vi) and (5)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1006.22(l) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(10) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and receiveo from pool plants of other handlers according to the classification of such products pursuant to § 1006.43(a); and

(11) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amoun' so subtracted shall be known as "overage";

* * * * *

10. Section 1006.51 is revised as follows:

§ 1006.51 Class prices.

Subject to the provisions of §§ 1006.52 and 1006.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.65.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 15 cents.

11. Section 1006.52 is revised as follows:

§ 1006.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1006.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I price, 7.5 cents; and

(b) Class II price, 0.115 times the Chicago butter price for the month.

12. Section 1006.60 is revised as follows:

§ 1006.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler pursuant to § 1006.13 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1006.45(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1006.45(a)(11) and the corresponding step of § 1006.45 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(6) and the corresponding step of § 1006.45(b);

(c–1) For the first month that this paragraph is effective, subtract the amount by which the value at the Class II price for the current month of the skim milk and butterfat subtracted from Class II pursuant to § 1006.45(a)(6) and the corresponding step of § 1006.45(b) is less than the value for such skim milk and butterfat at the Class II price for the preceding month;

(d) Except for the first month that this paragraph is effective, add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(4) and the corresponding step of § 1006.45(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result would be a minus amount;

(d–1) For the first month that this paragraph is effective, add the amount by which the value at the Class I price for the current month of the skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(4) and the corresponding step of § 1006.45(b) exceeds the value for such skim milk and butterfat at the class prices applicable to it in the preceding month;

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(3) and the corresponding step of § 1006.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1006.45(a)(3) (v) and (vi) and the corresponding step of § 1006.45(b) the Class I price shall be adjusted to the location of the transferor plant; and

(f) Add the value at the class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(8) and the corresponding step of § 1006.45(b).

13. Section 1006.61(f)(2) is revised as follows:

§ 1006.61 Computation of uniform price.

* * * * *

(f) * * *

(2) The total hundredweight for which a value is computed pursuant to § 1006.60(f); and

* * * * *

§ 1006.62 [Amended]

14. In § 1006.62(a)(1), "or Class III" is deleted, the reference "§ 1006.60(e)" is changed to "§ 1006.60(f)", and "Class III price" is changed to "Class II price" in the two places it appears in such subparagraph.

14a. In § 1006.62(b)(5), "Class III price" is changed to "Class II price" in the two places it appears in such subparagraph.

§ 1006.63 [Amended]

15. In § 1006.63(b), "Class III price" is changed to "Class II price".

16. Section 1006.74(b)(2) is revised as follows:

§ 1006.74 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) of other source milk for which a value is computed pursuant to § 1006.60(f).

§ 1006.77 [Amended]

17. In § 1006.77, the reference to "§ 1006.45(a) (3) and (9)" is changed to "§ 1006.45(a) (3) and (8)".

Order[1] Amending the Order, Regulating the Handling of Milk in the Tampa Bay Marketing Area

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Tampa Bay marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on December 18, 1969, and published in the FEDERAL REGISTER on December 23, 1969 (34 F.R. 20053; F.R. Doc. 69–15195), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following revisions:

1. Section 1012.43(b) is revised.
2. In § 1012.60, paragraph (d) is revised and paragraphs (c–1) and (d–1) are added.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. Section 1012.7 is revised as follows:

§ 1012.7 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk, and flavored milk drinks (including eggnog and milkshake mix), filled milk, concentrated milk, sweet cream, and mixtures of sweet cream and milk or skim milk.

2. In § 1012.17, paragraphs (a) and (b) are revised as follows:

§ 1012.17 Other source milk.

* * * * *

(a) Fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products from pool plants; and

(3) Fluid milk products in inventory at the beginning of the month;

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

* * * * *

§ 1012.19 [Revoked]

3. Section 1012.19 is revoked.

4. Section 1012.22(j)(2) is revised as follows:

§ 1012.22 Duties.

* * * * *

(j) * * *

(2) The 5th day of each month the Class II price and the Class II butterfat differential, both for the preceding month; and

* * * * *

§ 1012.30 [Amended]

5. In § 1012.30(a) (2) and (5), "and Class II products" is deleted.

6. Section 1012.41 is revised as follows:

§ 1012.41 Classes of utilization.

Subject to the conditions set forth in § 1012.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except as provided in paragraph (b) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, a product which contains 6 percent or more nonmilk fat (or oil), and sterilized products in hermetically sealed containers;

(2) Skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of bulk fluid milk products at the end of the month;

(5) Skim milk represented by the nonfat solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(6) Skim milk and butterfat, respectively, in shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1012.16) but not in excess of:

(i) Two percent of producer milk (including that received from a handler pursuant to § 1012.13(d)) if the handler receiving such milk files notice with the market administrator that he is purchasing it on the basis of farm weights. Otherwise, the applicable percentage pursuant to this subdivision shall be 1.5 percent;

(ii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iii) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler; and

(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(7) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1012.42(b)(2).

7. Section 1012.42 is revised as follows:

§ 1012.42 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1012.41(b)(6); and

(2) Other source milk exclusive of that specified in § 1012.41(b)(6).

8. Section 1012.43 is revised as follows:

§ 1012.43 Transfers.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1012.45(a)(9) and the corresponding step of § 1012.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1012.45(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate

the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1012.45(a) (8) or (9) and the corresponding steps of § 1012.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant that is neither an other order plant, nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II in his report submitted pursuant to § 1012.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administartor determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk.

(c) As follows, if transferred in the form of a fluid milk product to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and allocations to other classes shall be classified in a comparable classification as Class II milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1012.41.

9. Section 1012.45(a) is revised as follows:

§ 1012.45 Allocation of skim milk and butterfat classified.

* * * * *

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1012.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraphs (3)(v) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class II pursuant to § 1012.41(b)(5) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided*, That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity or quantities:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (3)(iv) of this paragraph:

(*a*) For which the handler requests such utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (3)(v) of this paragraph;

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (3)(v) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (4) of his paragraph;

(7) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagrpah (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not

subtracted pursuant to subparagraphs (3)(iv) and (5)(i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (3)(v) and (5)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1012.22(l) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(10) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and received from pool plants of other handlers according to the classification of such products pursuant to § 1012.43(a); and

(11) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

* * * * *

10. Section 1012.51 is revised as follows:

§ 1012.51 Class prices.

Subject to the provisions of §§ 1012.52 and 1012.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.75.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 15 cents.

11. Section 1012.52 is revised as follows:

§ 1012.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1012.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I price, 7.5 cents; and

(b) Class II price, 0.115 times the Chicago butter price for the month.

12. Section 1012.60 is revised as follows:

§ 1012.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler pursuant to § 1012.13 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1012.45(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1012.45(a)(11) and the corresponding step of § 1012.45 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(6) and the corresponding step of § 1012.45(b).

(c–1) For the first month that this paragraph is effective, subtract the amount by which the value at the Class II price for the current month of the skim milk and butterfat subtracted from Class II pursuant to § 1012.45(a)(6) and the corresponding step of § 1012.45(b) is less than the value for such skim milk and butterfat at the Class II price for the preceding month;

(d) Except for the first month that this paragraph is effective, add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(4) and the corresponding step of § 1012.45 (b). If the Class I price for the current month is less than the Class I price for the preceding month, the result would be a minus amount;

(d–1) For the first month that this paragraph is effective, add the amount by which the value at the Class I price for the current month of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(4) and the corresponding step of § 1012.45(b) exceeds the value for such skim milk and butterfat at the class prices applicable to it in the preceding month;

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(3) and the corresponding step of § 1012.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1012.45(a)(3) (iv) and (v) and the corresponding step of § 1012.45(b) the Class I price shall be adjusted to the location of the transferor plant; and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(8) and the corresponding step of § 1012.45(b).

13. Section 1012.61(e)(2) is revised as follows:

§ 1012.61 Computation of uniform price.

* * * * *

(e) * * *

(2) The total hundredweight for which a value is computed pursuant to § 1012.60 (f); and

* * * * *

§ 1012.62 [Amended]

14. In § 1012.62(a)(1), "or Class III" is deleted, the reference "§ 1012.60(e)" is changed to "§ 1012.60(f)", and "Class III price" is changed to "Class II price" in the two places it appears in such subparagraph.

14a. In § 1012.62(b)(5), "Class III price" is changed to "Class II price" in the two places it appears in such subparagraph.

§ 1012.63 [Amended]

15. In § 1012.63(b), "Class III price" is changed to "Class II price".

16. Section 1012.74(b)(2) is revised as follows:

§ 1012.74 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) of other source milk for which a value is computed pursuant to § 1012.60(f).

§ 1012.77 [Amended]

17. In § 1012.77, the reference to "§ 1012.45(a) (3) and (9)" is changed to "§ 10.12.45(a) (3) and (8)".

Order[1] Amending the Order, Regulating the Handling of Milk in the Southeastern Florida Marketing Area

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southeastern Florida marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

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

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on December 18, 1969, and published in the FEDERAL REGISTER on December 23, 1969 (34 F.R. 20053; F.R. Doc. 69-15195), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following revisions: In § 1013.70, paragraph (d) is revised and paragraphs (c-1) and (d-1) are added.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. Section 1013.7 is revised as follows:

§ 1013.7 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk and flavored milk drinks (including eggnog and milkshake mix), filled milk, concentrated milk, sweet cream, and mixtures of sweet cream and milk or skim milk.

2. In § 1013.17, paragraphs (a) and (b) are revised as follows:

§ 1013.17 Other source milk.

* * * * *

(a) Fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products from pool plants; and

(3) Fluid milk products in inventory at the beginning of the month;

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

* * * * *

§ 1013.19 [Revoked]

3. Section 1013.19 is revoked.

4. Section 1013.27(j)(1) is revised as follows:

§ 1013.27 Duties.

* * * * *

(j) * * *

(1) The 5th day of each month the Class I price and Class I butterfat differential, both for the current month, and the Class II and Class III prices and butterfat differentials, for the preceding month; and

* * * * *

§ 1013.30 [Amended]

5. In § 1013.30(a) (2) and (5), "and Class II products" is deleted.

6. Section 1013.41 is revised as follows:

§ 1013.41 Classes of utilization.

Subject to the conditions set forth in §§ 1013.42 through 1013.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except as provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce frozen deserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, a product which contains 6 percent or more nonmilk fat (or oil), and sterilized products in hermetically sealed containers;

(2) Except as provided in paragraph (c) of this section, skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(3) Except as provided in paragraph (c) of this section, skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of bulk fluid milk products at the end of the month;

(5) Skim milk represented by the nonfat solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(6) Skim milk and butterfat, respectively, in shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1013.16) but not in excess of:

(i) Two percent of producer milk (including that received from a handler pursuant to § 1013.13(d)) if the handler receiving such milk files notice with the market administrator that he is purchasing it on the basis of farm weights. Otherwise, the applicable percentage pursuant to this subdivision shall be 1.5 percent;

(ii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iii) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler; and

(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(7) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1013.42(b)(2).

(c) *Class III milk.* Class III milk shall be all milk, the skim milk portion of which is:

(1) Disposed of for fertilizer or livestock feed, or

(2) Dumped after such prior notification as the market administrator may require.

7. Section 1013.42 is revised as follows:

§ 1013.42 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1013.41(b)(6).

(2) Other source milk exclusive of that specified in § 1013.41(b)(6).

8. Section 1013.44 is revised as follows:

§ 1013.44 Transfers.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1013.46(a)(10) and the corresponding step of § 1013.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1013.46(a)(3) and (4), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1013.46(a)(9) or (10) and the corresponding steps of § 1013.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such

other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 500 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the main U.S. Post Office in West Palm Beach.

(c) As Class I milk, if transferred or diverted in bulk in the form of a fluid milk product to a nonpool plant that is neither an other order plant nor a producer-handler plant located not more than 500 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the main U.S. Post Office in West Palm Beach, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II or Class III in his report submitted to the market administrator pursuant to § 1013.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat in fluid milk products so transferred shall be classified as Class III milk to the extent available and the remainder as Class II milk.

(d) As follows, if transferred in the form of a fluid milk product to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and allocations to other classes shall be classified in a comparable classification as Class II milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1013.41.

9. Section 1013.46(a) is revised as follows:

§ 1013.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1013.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (4)(iv) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class II pursuant to § 1013.41(b)(5) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II, the pounds of skim milk in other source milk as specified in § 1013.17(b);

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

(ii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iii) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(iv) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(5) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided*, That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class III and/or Class II (beginning with Class III unless otherwise specified) but not in excess of such quantity or quantities.

(i) Receipts of fluid milk products from unregulated supply plants and in other source milk from dairy farmers that were not subtracted pursuant to subparagraph (4) of this paragraph:

(*a*) For which the handler requests such utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(iv) of this paragraph;

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (4)(iv) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk (and then Class I), the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (5) of this paragraph;

(8) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (4) and (6) (i) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (4) (iv) and (6) (ii) of this paragraph:

(i) In series beginning with Class III and thereafter from Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1013.27(l) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(11) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and received from pool plants of other handlers according to the classification of such products pursuant to § 1013.44(a); and

(12) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

* * * * *

10. Section 1013.51 is revised as follows:

§ 1013.51 Class prices.

Subject to the provisions of §§ 1013.52 and 1013.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.95.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 15 cents.

(c) *Class III price.* The Class III price shall be computed as follows: Multiply the Chicago butter price by 1.25, add 4 cents and multiply the result by 3.5.

11. Section 1013.52 is revised as follows:

§ 1013.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1013.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I price, 7.5 cents; and

(b) Class II and Class III prices, 0.115 times the Chicago butter price for the month.

§ 1013.61 [Amended]

12. In § 1013.61(d)(2), "Class III price" is changed to "Class II price".

§ 1013.62 [Amended]

13. In § 1013.62(a)(1), "or Class III" is deleted, the reference "§ 1013.70(e)" is changed to "§ 1013.70(f)", and "Class III price" is changed to "Class II price" in the two places it appears in such subparagraph.

13a. In § 1013.62(b)(5), "Class III price" is changed to "Class II price" in the two places it appears in such subparagraph.

14. Section 1013.70 is revised as follows:

§ 1013.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler pursuant to § 1013.13 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1013.46(c), by the applicable class price;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1013.46(a)(12) and the corresponding step of § 1013.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding accounting period and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(7) and the corresponding step of § 1013.46(b);

(c–1) For the first month that this paragraph is effective, subtract the amount by which the value at the Class II price for the current month of the skim milk and butterfat subtracted from Class II pursuant to § 1013.46(a)(7) and the corresponding step of § 1013.46(b) is less than the value for such skim milk and butterfat at the Class II price for the preceding month;

(d) Except for the first month that this paragraph is effective, add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(5) and the corresponding step of § 1013.46(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result would be a minus amount;

(d–1) For the first month that this paragraph is effective, add the amount by which the value at the Class I price for the current month of the skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(5) and the corresponding step of § 1013.46(b) exceeds the value for such skim milk and butterfat at the class prices applicable to it in the preceding month;

(e) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1013.46(a)(3) and (4) and the corresponding steps of § 1013.46(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1013.46(a)(4) (iii) and (iv) and the corresponding step of § 1013.46(b) the Class I price shall be adjusted to the location of the transferor plant; and

(f) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(9) and the corresponding step of § 1013.46(b).

15. Section 1013.71(e)(2) is revised as follows:

§ 1013.71 Computation of uniform price.

* * * * *

(e) * * *

(2) The total hundredweight for which a value is computed pursuant to § 1013.70(f); and

* * * * *

16. Section 1013.82(b)(2) is revised as follows:

§ 1013.82 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) of other source milk for which a value is computed pursuant to § 1013.70(f).

§ 1013.86 [Amended]

17. In § 1013.86(a), the reference to "§ 1013.46(a) (3), (4), and (10)" is changed to "§ 1013.46(a) (3), (4), and (9)".

[F.R. Doc. 70–1736; Filed, Feb. 11, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69–EA–127]

FEDERAL AIRWAY SEGMENTS

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of

the Federal Aviation Regulations that would alter segments of the following VOR Federal airways: V–26, V–42 east, V–133, and V–297.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Divison Chief.

The FAA proposes the following airspace actions:

1. Realign V–26 from Salem, Mich., to Cleveland, Ohio, via the Salem VORTAC 139° T (142° M) and Cleveland VORTAC 309° T (312° M) radials.

2. Realign V–42E from Windsor, Ontario, Canada, to Akron, Ohio, via the Windsor VOR 134° T (137° M) and Akron VORTAC 312° T (316° M) radials.

3. Realign V–133 from Sandusky, Ohio, to Salem, Mich., via the Sandusky VORTAC 342° T (345° M) and Salem VORTAC 139° T (142° M) radials.

4. Realign V–297 from Akron, Ohio, to Carleton, Mich., via the Akron VORTAC 298° T (302° M) and Carleton VORTAC 120° T (123° M) radials.

The above proposed realignment of airways is required due to the decommissioning of the Strongsville, Ohio, VOR.

(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 February 5, 1970.

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

[F.R. Doc. 70–1757; Filed, Feb. 11, 1970; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70–SW–4]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Cherokee Village, Ark.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the following transition area is added:

CHEROKEE VILLAGE, ARK.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Cherokee Village Airport (lat. 36°15'49" N., long. 91°33'55" W.), within 3.5 miles each side of the 226° bearing from the Cherokee Village RBN (lat. 36°15'55" N., long. 91°-33'45" W.) extending from the 8-mile radius area to 11 miles southwest of the RBN; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles northwest and 9.5 miles southeast of the 226° bearing from the Cherokee Village RBN extending from the RBN to 18.5 miles southwest, and that airspace east of Cherokee Village Airport bounded on the north by V–159, on the south by V–240, and on the west by the arc of an 8-mile radius circle centered on the Cherokee Village Airport.

The proposed transition area will provide airspace protection for aircraft executing approach/departure procedures proposed at the Cherokee Village Airport. The 1,200-foot portion of the transition area east of the airport is required to protect aircraft transitioning from the Walnut Ridge VORTAC to the Cherokee Village RBN.

This amendment is 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 Fort Worth, Tex., on February 3, 1970.

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

[F.R. Doc. 70–1759; Filed, Feb. 11, 1970; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 263; No. 35198]

RULES, REGULATIONS, AND PRACTICES OF REGULATED CARRIERS WITH RESPECT TO PROCESSING OF LOSS AND DAMAGE CLAIMS

Petition for Declaratory Order

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 29th day of January 1970.

By joint petition filed December 1, 1969, in No. 35198, Northwest Furniture Manufacturers Association and Washington-Oregon Shippers Cooperative Association, Inc., request the entry of a declaratory order pursuant to 5 U.S.C. 554(e) (the Administrative Procedure Act) to terminate a controversy and remove an uncertainty in regard to the lawfulness of rules, regulations, and practices recently adopted by railroads, motor carriers, and freight forwarders subject to parts I, II, and IV of the Interstate Commerce Act, with respect to the handling, processing, and limitation of carrier liability in the case of concealed loss and damage claims by shippers and receivers of freight. The specific questions as to which a declaratory order is sought are summarized in the appendix to this notice and order, and petitioners ask this Commission (1) to declare that we have the necessary power and jurisdiction to determine the lawfulness of concealed loss-and-damage claim rules, regulations, and practices of such regulated carriers, (2) to order a prompt hearing and investigation on the subject, and then (3) to prescribe just and reasonable general rules and regulations involving concealed loss and damage claims as will be lawful in all respects. Pleadings generally in support of petitioners' position in No. 35198 were filed by the Aerospace Industries Association of America, Inc., The National Industrial Traffic League, jointly by The National Small Shipments Traffic Conference, Inc., and the Drug and Toilet Preparation Traffic Conference, the Department of Transportation, Furniture Manufacturers Association of California, Steel Office Furniture Traffic Association, Inc., Inland Freight Traffic Service, National Association of Wholesalers, Seattle Traffic Association, Automotive Service Industry Association, National Lumber and Building Material Dealers Association, Shippers Conference of Greater New York, Inc., Phillips Petroleum Company, National Industrial Traffic League, and the Institute of Scrap Iron & Steel, Inc.

The facts giving rise to the described petition are these: On June 11, 1969, the Freight Claim Division of the Association of American Railroads announced the adoption (to be effective with shipments on and after August 1, 1969) of a

"new rule, placed in the Division's Articles of Principles and Practice [which] sets the maximum payment of claims on rail carriers for concealed damage under a clear record—a shipment in which there is no apparent damage to the lading—at 50 percent of the proven net monetary loss." The National Freight Claim Council of the American Trucking Associations, Inc., also amended their Principles & Practices by adding Article X dealing with the settlement of concealed damage claims. Pursuant to the new Article shipments moving on or after August 1, 1969, are subject to the following requirements:

(A) Subject to the following paragraphs, net claim loss for concealed loss or damage shall be pro-rated among motor carriers participating in the movement of freight, after deletion of those portions of the net loss which may be attributed to other than carrier handling. Portions of the net loss to be eliminated from pro-ration shall be determined by assessing one point of exposure to damage or probability of damage factor, to each carrier, shipper and consignee (including intermediate warehouses or other storage points, if any) participating in the handling of the freight over the complete movement.

(B) Carriers shall not prorate payment for concealed loss or damage when inspection is not requested within 15 days after delivery to consignee.

(C) Carriers shall not prorate payment for concealed loss or damage when carrier is not afforded an opportunity to make an inspection at the premises to which carrier delivery was made.

(D) Carriers shall not prorate payment for concealed damage when container and packing for damaged articles are not retained by consignee for inspection; provided, inspection is made by carrier within five (5) normal working days after requesting inspection.

(E) Carriers shall not prorate payment for concealed loss or concealed damage to merchandise which has been moved from points of carriers delivery to other premises prior to discovery and/or reporting of damage.

Finally, the members of the Freight Forwarders Institute on July 25, 1969, adopted the following statement of freight forwarder procedures for the settlement of concealed loss and damage claims:

Effective with shipments originating on and after August 1, 1969, concealed loss or damage claims will be handled as follows:

A. Maximum payment of claims by forwarders for concealed loss or damage to shipments handled under a clear record will be 50 percent of the net monetary loss.

B. Forwarders will not honor claims for concealed loss or damage when inspection is not requested within 15 days after delivery to consignee.

C. Forwarders will not honor claims for concealed loss or damage when forwarder is not given an opportunity to make inspection at the premises to which forwarder made delivery of shipment.

D. Forwarders will not honor claims for concealed loss or damage when containers and packing are not retained by consignee for inspection by forwarder.

E. Forwarders will not honor claims for concealed loss or damage to shipments which have been moved from point of forwarder's delivery to other locations, prior to discovery and reporting of loss or damage.

The regulated railroads, motor carriers, and freight forwarders have thus adopted new claim liability principles and practices designed to limit their liability in case of concealed loss and damage claims by shippers and receivers of freight. These restrictions have a nationwide effect, and generally limit carrier liability for concealed damage—where the responsibility for damage cannot be clearly established—to not more than 50 percent of the damage. The petitioners estimate that concealed damage claims would total between $30 and $50 million a year on a national basis if all regulated carriers were considered.

In addition to the carrier rules, regulations, and practices concerning concealed loss and damage claims questioned by petitioners, this Commission has become aware of instances in which a carrier deliberately and unreasonably either delays a determination as to its liability on claims of shippers and receivers for loss and damage or fails to pay such claims, even though the carrier has determined that it is in fact liable thereon in whole or in part, until and unless the claimants vigorously press for payment. In this connection, a substantial percentage of motor carrier service complaints received by this Commission relate to the manner in which such carriers handle, or fail to handle, loss and damage claims. Only a small number of these complaints appear to involve dissatisfaction with the amount of settlement offered by the motor carrier. Rather, nearly all of the complaints relate to allegations of failure on the part of the carrier to acknowledge a claim, to answer inquiries regarding the status of a claim, or to make final disposition of a claim within a reasonable time. It would thus appear that the problem of inadeqaute carrier response on loss and damage claims is a major one, and one which on an informal basis alone involves much of the time of this Commission's field personnel. It, therefore, is desirable and necessary that all aspects of the regulated carriers' rules, regulations, and practices governing and affecting their handling and processing of loss and damage claims, concealed and otherwise, as well as the extent of this Commission's jurisdiction over such general rules, regulations, and practices, be explored and fully considered by this Commission at the present time. It is for these purposes that the instant rulemaking proceeding, which will be designated as Ex Parte No. 263, is instituted.

It is ordered, That, based upon the foregoing explanation and good cause appearing therefor, a proceeding be, and it is hereby, instituted under the authority of the National Transportation Policy (49 U.S.C. preceding section 1, parts I, II, III, and IV of the Interstate Commerce Act (49 U.S.C. 1, 301, 901, and 1001, all et seq.), and more specifically sections 1(6), 2, 5a, 6(1), 6(5), 12(1), 20(11), 204(a) (1), (6), and (7), 204(b), and 208(a), 216(b), 216(c), 216(d), 217 (a), 219, 220(a), 304(a), 305(a), 305(c), 306(a), 313(b), 316(a), 403(b), 404(a), 405(a), 405(b), 405(c), 406(b), 409(b), 412(a), and 413 thereof, and pursuant to 5 U.S.C. 553 and 559 (the Administrative Procedure Act), for the purposes (1) of inquiring into the nature of existing rules, regulations, and practices of railroads, motor carriers, water carriers, or freight forwarders subject to parts I, II, III, or IV of the Interstate Commerce Act, governing such carriers' handling and processing of loss and damage claims filed by shippers and receivers of freight, (2) of investigating the effect these carrier rules, regulations, and practices have upon the adequacy of interstate or foreign transportation services and the obligation of the regulated common carriers to perform reasonably adequate and continuous service, (3) of determining the extent of this Commission's jurisdiction over such rules, regulations, and practices, (4) of considering whether there should be adopted by this Commission just, reasonable, and lawful rules and regulations governing these and other matters relating to the general handling and processing of loss and damage claims by the regulated carriers which are the subject of this notice and order, and (5) of taking such other and further action, including the possible recommendation of any legislation, as the facts and circumstances may justify or require.

It is further ordered, That all railroads, motor carriers, water carriers, and freight forwarders subject to the Interstate Commerce Act be, and they are hereby, made respondents in this proceeding.

It is further ordered, That the Bureau of Enforcement of this Commission be, and it is hereby, authorized and directed to participate in this proceeding.

It is further ordered, That the proceeding in No. 35198 be, and it is hereby, discontinued and that the pleadings filed therein be, and they are hereby, deemed to be filed in Ex Parte No. 263.

It is further ordered, That no oral hearings be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that respondents or any other interested persons may participate in this proceeding by submitting for consideration written statements of facts, views, and arguments on the subjects mentioned above, or any other subjects pertaining to this proceeding.

It is further ordered, That any person intending to participate in this proceeding by submitting initial statements or reply statements shall notify the Commission by filing with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 16, 1970, the original and one copy of a statement of his intention to participate; that the Commission then shall prepare and make available to all such persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be filed; and that at the time of the service

of the service list the Commission will fix the time within which initial statements and reply statements must be filed.

And it is further ordered, That statutory notice of the institution of this proceeding be given to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

SPECIFIC REQUESTS FOR A DECLARATORY ORDER

1. Under present law does the Interstate Commerce Commission have jurisdiction to consider the lawfulness of established railroad loss and damage claim rules, regulations, and practices involving concealed loss and damage claims on railroad shipments?

2. Under the present law does the Interstate Commerce Commission have jurisdiction to consider the lawfulness of established motor carrier loss and damage claim rules, regulations, and practices involving concealed loss and damage claims on motor carrier shipments?

3. Under present law does the Interstate Commerce Commission have jurisdiction to consider the lawfulness of established freight forwarder loss and damage claim rules, regulations, and practices involving concealed loss and damage claims on freight forwarder shipments?

4. Does the Interstate Commerce Act require procedures under section 5(a), the "Reed-Bulwinkle" Act, for each of the carrier groups involved to relieve them of liability from the antitrust and other related Federal laws involving collusive action to limit their claim liability?

5. Have any or all of the 3 carrier groups involved herein received section 5(a) approval from the Commission sufficient to cover their joint action to limit their concealed damage claim action documented herein, to relieve them from the application of existing federal antitrust and other related legislation?

6. Does section 6 (Tariff publishing requirements) and other related sections of the Interstate Commerce Act require that such concealed damage claims rules, regulations, and practices of the carriers be filed in tariffs with the Interstate Commerce Commission?

7. Is the Interstate Commerce Commission without power, under existing law, to investigate or consider this concealed damage matter? (It is emphasized that the petition does not seek consideration of the merits of any individual claim and it seeks no dollar damages on any individual or multiple claims. This petition applies only to the lawfulness of the nationwide rules, regulations and practices of the carriers with claim-limiting liability percentages, etc., which have been made and are to be applied without regard to the facts in any specific claim.)

[F.R. Doc. 70-1813; Filed, Feb. 11, 1970; 8:51 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order No. 111; Rev. 1]

REGIONAL FISCAL MANAGEMENT OFFICERS ET AL.

Delegation of Authority

1. Pursuant to authority vested in the Commissioner of Internal Revenue by 31 CFR Part 5, the authority for administrative collection, compromise, termination, or suspension of agency collection action under the Federal Claims Collection Act of 1966 is hereby delegated as follows:

(a) Regional Fiscal Management Officers; Chiefs, Fiscal Management Branches; the Chief, National Office Accounting Branch; and Chief, Fiscal Division, IRS Data Center, shall take aggressive action, on a timely basis with effective followup, to collect claims of the United States (except claims arising from damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Service) for money or property arising out of the activities of, or referred to, the Service. They are authorized to compromise, terminate, or suspend collection action on such claims that do not exceed $20,000 exclusive of interest upon written recommendation of Chief Counsel or his designee, and may terminate collection action on such claims up to $50 without the recommendation of Chief Counsel.

(b) The Chief, Facilities Management Branch, each Regional Office, shall take aggressive action on a timely basis with effective followup, to collect claims arising from damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Service up to $5,000, exclusive of interest and costs, of the United States for money or property arising out of the field activities of the Service. Each Chief is authorized to compromise such claims or terminate, or suspend collection action on such claims up to $5,000 upon written recommendation of Regional Counsel, and may terminate collection action on such claims up to $50 without the recommendation of Regional Counsel.

(c) The Safety Management Officer, Protective Programs Branch, National Office, shall take aggressive action, on a timely basis with effective followup, to collect claims of the United States for money or property arising out of the activities of, or referred to, the Service, for damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Service. He is authorized to compromise, terminate, or suspend collection action on such claims that do not exceed $20,000 upon written recommendation of Chief Counsel and may terminate collection action on such claims up to $50 without the recommendation of Chief Counsel.

2. This order does not apply to tax claims nor any claim where there is an indication of fraud or misrepresentation on the part of the debtor.

3. The authority delegated herein may not be redelegated.

4. This order supersedes Delegation Order No. 111, issued October 1, 1969.

Issued: February 5, 1970.

Effective date: February 5, 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner.

[F.R. Doc. 70-1767; Filed, Feb. 11, 1970; 8:48 a.m.]

FEDERAL RESERVE SYSTEM

ATLANTIC BANCORPORATION AND ATLANTIC NATIONAL BANK OF JACKSONVILLE

Order Approving Applications Under Bank Holding Company Act

In the matter of the applications of Atlantic Bancorporation and The Atlantic National Bank of Jacksonville, Jacksonville, Fla., for approval of acquisition of not less than 80 percent of the voting shares of Aloma National Bank of Winter Park, Winter Park, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the applications of Atlantic Bancorporation and The Atlantic National Bank of Jacksonville, both of Jacksonville, Fla., for the Board's prior approval of the acquisition of not less than 80 percent of the voting shares of Aloma National Bank of Winter Park, Winter Park, Fla.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the applications to the Comptroller of the Currency and requested his views and recommendation. The Comptroller recommended approval of the applications.

Notice of receipt of the applications was published in the FEDERAL REGISTER on November 25, 1969 (34 F.R. 18834), providing an opportunity for interested persons to submit comments and views with respect to the proposal. Copies of the applications were forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said applications be and hereby are approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

Dated at Washington, D.C., this 5th day of February 1970.

By order of the Board of Governors.[2]

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-1745; Filed, Feb. 11, 1970; 8:46 a.m.]

[Reg. Z]

CONNECTICUT

Application for Exemption From Truth in Lending Act

Pursuant to 12 CFR 226.12 (Supplement II to Regulation Z) the State of Connecticut has applied to the Board of Governors for an exemption from the Truth in Lending Act (Title I of the Consumer Credit Protection Act, 15 U.S.C. 1601ff) on the grounds that under the laws of the State of Connecticut credit transactions within that State are subject to requirements substantially similar to those imposed under chapter 2 of the Truth in Lending Act and that there is adequate provision for enforcement of such requirements.

The application is available for inspection at the Federal Reserve Building in Washington and at the Federal Reserve Bank of New York and the Federal Reserve Bank of Boston.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 15,

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[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Maisel, Brimmer and Sherrill. Absent and not voting: Chairman Martin and Governor Daane. Chairman Burns was not a member of the Board on the date of the Board's decision.

1970. Under the Board's rules regarding availability of information (12 CFR Part 261), such materials will be available for inspection and copying unless the person submitting the material requests that it be considered confidential.

Board of Governors, February 4, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-1744; Filed, Feb. 11, 1970; 8:46 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Director, Grain Policy Staff, Agricultural Stabilization and Conservation Service" to "Director, Grain Division, Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service".

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-1780; Filed, Feb. 11, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Director, Conservation and Land Use Policy Staff, Agricultural Stabilization and Conservation Service" to "Director, Conservation and Land Use Programs Division, Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service".

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-1781; Filed, Feb. 11, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Assistant Administrator for Research, Urban Mass Transportation Administration.

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

[F.R. Doc. 70-1773; Filed, Feb. 11, 1970; 8:48 a.m.]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Office of Economic Opportunity to fill by noncareer executive assignment the position of Associate Director for Public Affairs. This position is removed from the excepted service.

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

[F.R. Doc. 70-1772; Filed, Feb. 11, 1970; 8:48 a.m.]

PHYSICAL SCIENCE SUBSERIES

Notice of Removal of Termination Date for Special Salary Rates

On January 30, 1970, the Civil Service Commission removed the automatic termination date from the special salary rates which have been authorized for the Physical Science Subseries, GS-1301.1, under the authority of 5 U.S.C. 5303 and Executive Order 11073. The automatic termination date was to have been the beginning of the first pay period which occurs on or after February 1, 1970. Special salary rates authorized for GS-1301.1 positions in grades GS-5 through GS-12, which became effective the first day of the first pay period on or after July 27, 1969, are being continued pending resolution of certain position classification issues.

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

[F.R. Doc. 70-1779; Filed, Feb. 11, 1970; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

[No. P-47]

COUNCIL ON INTERNATIONAL EDUCATIONAL EXCHANGE, INC.

Revocation of Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation

Whereas, the Council on International Educational Exchange, Inc., 777 United Nations Plaza, New York, N.Y. 10017, does not now intend to charter the "MS Aurelia" for voyages to and from United States ports; and

Whereas, the Council on International Educational Exchange, Inc. has returned Certificate (Performance) No. P-47 for revocation:

It is ordered, That Certificate (Performance) No. P-47 be and is hereby revoked effective February 5, 1970.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the Council on International Educational Exchange, Inc.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-1782; Filed, Feb. 11, 1970; 8:51 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 1]

SALES OF CERTAIN COMMODITIES

Annual Sales List, Fiscal Year Ending June 30, 1970

Section 2 Export Commodities of the CCC Annual Sales List for the fiscal year ending June 30, 1970 (35 F.R. 2603), is amended by the addition at the end thereof a new paragraph which reads as follows:

Although a commodity may not be specifically listed for export sale in the Annual or Monthly Sales Lists, CCC reserves the right to make emergency sales of its stocks for export when the flow of commodities to ports is disrupted or impeded and the maintenance of U.S. exports is temporarily jeopardized. Specific offering terms, including the applicable export announcement to be used, will be provided interested parties through special sales announcements by the appropriate ASCS Commodity or Branch Office.

Signed at Washington, D.C., on February 4, 1970.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 70-1821; Filed, Feb. 11, 1970; 8:52 a.m.]

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the following table lists the establishments operated under Federal inspection pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) which were officially reported on January 2, 1970, as humanely slaughtering and handling on that date the species of livestock respectively designated for such establishments in the table. Additions to and deletions from this list will be made from time to time as the facts may warrant, by notices published in the FEDERAL REGISTER. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all species are listed for that establishment in the table. Nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods.

ESTABLISHMENTS SLAUGHTERING HUMANELY

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Armour & Co.	2C	(*)						
Do.	2H	(*)	(*)	(*)		(*)		
Do.	2W					(*)		
Do.	2AT	(*)		(*)	(*)	(*)		
Do.	2HT	(*)						
Do.	2SA			(*)	(*)			
Do.	2SD	(*)				(*)		
Do.	2SI	(*)						
Do.	2WN	(*)	(*)					
Swift & Co.	3D	(*)						
Do.	3F	(*)	(*)	(*)	(*)	(*)		
Do.	3G	(*)						
Do.	3H	(*)	(*)	(*)		(*)		
Do.	3L					(*)		
Do.	3N	(*)				(*)		
Do.	3R	(*)				(*)		
Do.	3S					(*)		
Do.	3W	(*)						
Do.	3Y	(*)						
Do.	3Z	(*)	(*)					
Do.	3AE	(*)				(*)		
Do.	3AF	(*)	(*)					
Do.	3AN	(*)	(*)	(*)		(*)		
Do.	3CC			(*)				
D. E. Nebergal Meat Co.	3DE	(*)	(*)					
Swift & Co.	3GI	(*)						
Do.	3GW					(*)		
Do.	3TA	(*)						
Lykes Brothers, Inc. of Georgia	8	(*)	(*)			(*)		
Lykes Brothers, Inc.	8B	(*)						
Pauly Packing Co., Inc.	10	(*)						
The Evans Packing Co.	11	(*)	(*)	(*)		(*)		
Hygrade Food Products Corp.	12A					(*)		
Do.	12C	(*)				(*)		
Do.	12P	(*)						
Do.	12T	(*)						
Do.	12FW	(*)						
Mickelberry's Food Products Co.	16					(*)		
John Morrell & Co.	17	(*)				(*)		
Do.	17A	(*)				(*)		
Do.	17D	(*)		(*)		(*)		
Do.	17E	(*)				(*)		
Do.	17U	(*)						
C. Finkbeiner, Inc.	18	(*)				(*)		

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Wilson & Co., Inc.	20A	(*)				(*)		
Do.	20H					(*)		
Do.	20I	(*)				(*)		
Do.	20L					(*)		
Do.	20N	(*)	(*)	(*)		(*)		
Do.	20Q	(*)	(*)			(*)		
Do.	20U			(*)				
Do.	20Y	(*)	(*)	(*)		(*)		
Do.	20AI	(*)		(*)	(*)			
Swift & Co., Inc.	23	(*)		(*)				
Brander Meat Co.	25	(*)	(*)					
Patrick Cudahy, Inc.	28					(*)		
Kreinberg & Krasny, Inc.	30	(*)						
Superior's Brand Meats, Inc.	31	(*)	(*)			(*)		
Roegelein Provision Co.	32					(*)		
Do.	32A	(*)						
Valleydale Packers, Inc.	34	(*)	(*)	(*)		(*)		
Kenton Packing Co.	36	(*)	(*)	(*)				
Pocomoke Provision Co.	39	(*)	(*)	(*)				
Sunnyland Packing Co.	43	(*)				(*)		
Stark Wetzel & Co., Inc.	44	(*)						
Do.	44A					(*)		
Idaho Meat Packers	46	(*)						
Consolidated Dressed Beef Co., Inc.	47	(*)						
Midwestern Beef, Inc.	53	(*)						
Sunnyland Packing Co. of Alabama	56	(*)						
Do.	56A					(*)		
Glover Packing Co. of Amarillo	60	(*)						
Glover Packing Co.	60A	(*)	(*)	(*)	(*)	(*)		
Gooch Packing Co., Inc.	61	(*)				(*)		
Sunflower Beef Packers of Nebraska	62	(*)						
Sandusky Dressed Beef Co.	63	(*)						
Selkirk Realty Co.	65					(*)		
The Quaker Oats Co.	E67						(*)	(*)
Meat Quality Laboratory	68	(*)	(*)	(*)		(*)		
Auburn University Meats Laboratory	71	(*)				(*)		
Minch's Wholesale Meats, Inc.	72	(*)	(*)					
Brown Thompson & Sons	73					(*)		
Armour & Co.	75			(*)				
The Eckert Packing Co.	79A	(*)				(*)		
Do.	79B	(*)				(*)		
The Cudahy Co.	81					(*)		
Riviana Foods, Inc., Hill's Division	E83						(*)	
Edgar Packing Co.	84		(*)					
Excel Packing Co., Inc.	86	(*)						
Utica Veal Co., Inc.	88	(*)						
The E. Kahn's Sons Co.	89	(*)	(*)			(*)		
Laredo Packing Co.	91	(*)	(*)			(*)		
Sugardale Foods, Inc.	92	(*)				(*)		
Shonyo Packing, Inc.	93	(*)	(*)	(*)	(*)			
The Val Decker Packing Co.	95	(*)				(*)		
Central Packing Co., Inc.	96	(*)	(*)					
Cleve Farm Packing Co., Inc.	97A					(*)		
A. Koch's Sons	98	(*)	(*)					
Armour & Co.	100	(*)		(*)				
Liberty Packing Co.	101	(*)	(*)					
I. Kaplan, Inc.	102	(*)						
H. Graver Co.	103	(*)						
J. Lynn Cornwell, Inc.	107					(*)		
Contris Packing Co., Inc.	110					(*)		
Wilson & Co., Inc.	111	(*)		(*)	(*)	(*)		
Morris Beef Co.	112	(*)						
The Morris Packing Co.	113	(*)						
Producers Packing Co.	114	(*)						
The Merchants Co.	116	(*)				(*)		
West Coast Meat Co., Inc.	117	(*)	(*)	(*)		(*)		
Marhoefer Packing Co., Inc.	121	(*)				(*)		
E. J. Archie & Sons, Inc.	122	(*)						
City Dressed Beef	125	(*)						
John Morrell & Co.	126	(*)						
Cash Brothers Packing Co., Inc.	127	(*)	(*)			(*)		
John Roth & Son, Inc.	130	(*)						
Tobin Packing Co., Inc.	133					(*)		
Ferrara Meat Co., Inc.	134	(*)	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Kluener Packing Co	142	(*)						
R. B. Rice Sausage Co., Inc	144					(*)		
Silver Falls Packing Co., Inc	153	(*)	(*)					
Dallas City Packing, Inc	156	(*)	(*)					
Cornland Dressed Beef, Inc	157	(*)						
Missouri Farmers Association Packing Division.	159	(*)				(*)		
Carr Packing Co., Inc	160	(*)						
Kansas Packing Co	164	(*)						
New York State College of Agriculture	165	(*)	(*)	(*)	(*)	(*)		
Swift & Co	166A	(*)				(*)		
Bub Davis Packing, Inc	171	(*)						
Lee's Sausage Co., Inc	173					(*)		
Montrose Beef Co	181	(*)						
The Rath Packing Co	186					(*)		
Do	186F					(*)		
Kent Provision Co., Inc	187	(*)						
Carl's Sausage Co	188					(*)		
Cudahy Co	191	(*)				(*)		
Krey Packing Co	192	(*)				(*)		
John Morrell & Co	196					(*)		
Hynes Packing Co	197	(*)	(*)					
United Fryer and Stillman, Inc	198	(*)						
George A. Hormel & Co	199	(*)				(*)		
Do	199A	(*)						
Do	199D					(*)		
Do	199H	(*)						
Do	199I					(*)		
Do	199N	(*)				(*)		
Watkins Packing Co	200	(*)	(*)					
Cudahy Co	202					(*)		
Platte Valley Packing Co	203	(*)						
Emge Packing Co., Inc	205	(*)				(*)		
National Beef Packing Co	208	(*)						
Do	208A	(*)						
Heinz's Riverside Abattoir, Inc	210	(*)	(*)					
Penn Packing Co	212					(*)		
E. W. Kneip, Inc	213	(*)						
Marshall Meat Products, Inc	215	(*)						
Lincoln Meat Co	217	(*)						
York Packing Co., Inc	220					(*)		
Gwaltney, Inc	221A					(*)		
Armour & Co	222	(*)				(*)		
De Jong Packing Co	223	(*)	(*)					
Hygrade Food Products Corp	224	(*)				(*)		
Do	224B	(*)	(*)					
Safford Packing Co	226	(*)						
John Morrell & Co	234	(*)						
Walti Schilling & Co., Inc	235	(*)						
Animal Husbandry Department, Texas Technological College	236	(*)		(*)		(*)		
Raskin Packing Co	237	(*)						
P. D. & J. Meats	240	(*)	(*)					
Greenwood Packing Plant	242	(*)	(*)	(*)		(*)		
I. Klayman & Co	243					(*)		
Blue Ribbon Beef Pack, Inc	244	(*)						
Iowa Beef Packers, Inc	245	(*)						
Do	245A	(*)						
Do	245B	(*)						
Do	245C	(*)						
Do	245D	(*)						
John Morrell & Co	246	(*)				(*)		
Harget Realty Corp	247	(*)				(*)		
Federal Packing Co., Inc	249	(*)	(*)					
Frosty Morn Meats, Inc	250	(*)				(*)		
Praire Packing Co	253	(*)	(*)			(*)		
Magic Valley Packing Co	258	(*)						
Hyplains Dressed Beef, Inc	262	(*)						
The Jones Dairy Farm	263					(*)		
Farm Pac Kitchens, Inc	266	(*)				(*)		
Pacific Meat Co., Inc	267	(*)	(*)	(*)		(*)		
Pawnee Packing Co	270	(*)						
Golden Valley Packing Co	271	(*)						
Tog Packing Co., Inc	273	(*)						
Elliott Packing Co	274	(*)	(*)			(*)		
Acme Markets, Inc	279	(*)		(*)				

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Momence Pork Packers Co	282					(*)		
Parnett Packing Co	283	(*)						
Solano Meat Co	285	(*)	(*)	(*)				
Western Packing Co	288	(*)						
Arbogast and Bastian Co	289					(*)		
The H. H. Meyer Packing Co	290					(*)		
San Jose Meat Co	291	(*)						
Armour & Co	292					(*)		
Iowa Beef Packers, Inc	292A	(*)						
Gus Juengling & Son, Inc	298	(*)						
Waldock Packing Co	299					(*)		
Great Falls Meat Co	301	(*)				(*)		
Commercial Packing Co., Inc	302	(*)						
Union Packing Co	305	(*)						
Do	305A	(*)						
Star Packing Co	306	(*)						
Kaufman Meat Packers, Inc	310	(*)	(*)					
Melton Provision Co	311	(*)		(*)	(*)			
Ideal Packing Co., Inc	312	(*)						
Rudy's Farm Co	315					(*)		
Dutterer's of Manchester, Inc	316A	(*)				(*)		
Estes Packing Co	319	(*)						
Stadler Packing Co., Inc	320	(*)				(*)		
Rudnick Packing Co., Inc	325	(*)						
Frisco Packing Co	327	(*)						
C&M Meat Packing Corp	329	(*)	(*)					
Royal Packing Co	331A	(*)						
Shapiro Packing Co., Inc	332	(*)	(*)					
Great Western Packing Co., Inc	334	(*)						
Noble's Meat Co	335	(*)						
Chino Valley Meat Packing Co., Inc	336	(*)						
Sam Kane Packing Co	337	(*)	(*)					
Green & Oliver Sausage Co	338					(*)		
Midland Empire Packing Co., Inc	339	(*)						
Des Moines Packing Co	340	(*)						
Peters Packing Co., Inc	341	(*)				(*)		
Puckett Packing Co	343	(*)	(*)					
State Packing Co., Inc	344	(*)						
Anza Packing Co	345	(*)	(*)	(*)				
Union Packing Co	351	(*)						
Samuels E-Tex Packing Co	353	(*)						
Fresno Meat Packing Co	354	(*)						
Hernando Packing Co., Inc	355	(*)	(*)					
St. Paul Dressed Beef, Inc	357	(*)						
Clougherty Packing Co	360					(*)		
Meyer's Packing Co	363	(*)						
James Allan & Sons	365	(*)		(*)		(*)		
Arrow Meat Co., Inc	369	(*)						
Fischer Packing Co	374	(*)	(*)			(*)		
Cross Brothers Meat Packers, Inc	376	(*)	(*)	(*)				
Beeville Packing Co	377	(*)	(*)			(*)		
Salinas Meat Co	378	(*)	(*)	(*)		(*)		
Emge Packing Co., Inc	380	(*)				(*)		
Smithfield Packing Co., Inc	382					(*)		
Acme Markets, Inc	384	(*)						
City Custom Packing Co., Inc	387	(*)		(*)	(*)	(*)		
Liebmann Packing Co	388	(*)	(*)					
Dugdale Packing Co	390	(*)						
Oldham's Farm Sausage Co., Inc	392					(*)		
Robert L. Runtz, Inc	395	(*)						
Boneless Meat Co., Inc	395B	(*)	(*)					
Dubuque Packing Co	396	(*)	(*)	(*)		(*)		
Logan Packing Co	397	(*)						
Watsonville Dressed Beef, Inc	398	(*)						
Los Banos Abattoir Co	400	(*)	(*)					
Oakridge Smokehouse	401	(*)		(*)		(*)		
Owens Country Sausage, Inc	403					(*)		
Williston Packing Co	405	(*)						
Neuhoff Brothers	406	(*)	(*)			(*)		
Endlich Packing Co., Inc	410	(*)						
Alpine Packing Co	412	(*)	(*)					
The Lundy Packing Co	413					(*)		
Do	413A					(*)		
Frosty Morn Meats	414	(*)	(*)			(*)		
Minden Beef Co	417	(*)						
S. Bonaccurso & Sons, Inc	418	(*)	(*)	(*)				

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Murray Packing Co., Inc	421	(*)						
E. W. Kneip, Inc. of Iowa	422	(*)						
The Collins Packing Co	423					(*)		
Kenosha Packing Co., Inc	425	(*)						
Fineberg Packing Co	428	(*)	(*)					
Schneider Packing Co	439	(*)						
Omaha Dressed Beef Co., Inc	441	(*)						
Del Curto Meat Co	445	(*)	(*)	(*)		(*)		
A. Dicillo & Sons, Inc	448	(*)						
Mankato Packing Co	455	(*)						
Dewitt Packing Corp	456	(*)	(*)					
Morris Rifkin & Sons, Inc	460	(*)						
Pioneer Boneless Beef, Inc	461	(*)						
Do	461A	(*)						
Lancaster Packing Co	462	(*)						
Litvak Packing Co	465	(*)						
Becwar Packing Co	467	(*)	(*)			(*)		
Cornhusker Packing Co	468	(*)						
Dunn Packing Co., Inc	470	(*)						
Oriskany Beef and Veal Corp	472	(*)						
Missouri Beef Packers, Inc	473	(*)						
Friona Packing Co	473A	(*)						
Mid-States Packers, Inc	476	(*)						
Armour & Co	477	(*)						
Gotham Provision Co., Inc	481	(*)	(*)					
Robel Beef Packers, Inc	485	(*)						
East Tennessee Packing Co	487	(*)				(*)		
Memphis Butchers Association, Inc	488	(*)		(*)		(*)		
E. W. Kneip, Inc	489	(*)						
Goldring Packing Co., Inc	490		(*)	(*)				
Fairbank Farms, Inc	492	(*)	(*)					
Mid-State Meat Packers, Inc	494	(*)	(*)					
Roberts Packing Co	495					(*)		
Bartel's Meat Co	497	(*)	(*)	(*)		(*)		
Heim Brothers Packing Co., Inc	499	(*)				(*)		
Greenlee Packing Co	501	(*)						
The Hull & Dillon Packing Co	510	(*)				(*)		
Shen-Valley Meat Packers, Inc	511	(*)	(*)			(*)		
Snider Brothers, Inc	512	(*)	(*)					
Capitol Packing Co	513	(*)						
Charles Miller & Co	517					(*)		
Illinois Packing Co	521	(*)						
Pearl Packing Co., Inc	524	(*)	(*)	(*)		(*)		
Meat Laboratory-Oklahoma State University	526	(*)	(*)	(*)		(*)		
Sebastopol Meat Co., Inc	527	(*)	(*)	(*)		(*)		
Armour & Co	528	(*)						
Smallwood Packing Co., Inc	529	(*)						
Marysville Meat Packing Co	533	(*)	(*)					
Pepper Packing Co	536	(*)						
Oscar Mayer & Co., Inc	537A	(*)				(*)		
Do	537B					(*)		
Do	537C					(*)		
Do	537E					(*)		
Midwest Packing Co	538	(*)						
Greendell Packing Co	542	(*)	(*)					
Pride Packing Co., Inc	549	(*)	(*)					
Piute Packing Co	550	(*)						
Slater Packing Co	551	(*)						
Black Hills Packing Co	554	(*)				(*)		
Mid-South Packers, Inc	557	(*)				(*)		
The Cudahy Co	559	(*)				(*)		
D & W Packing Co	560	(*)				(*)		
Emery Land Co	561	(*)	(*)					
Packerland Packing Co., Inc	562	(*)						
John Morrell & Co	564					(*)		
Texas Meat Packers, Inc	565	(*)	(*)					
Do	565C	(*)						
Elmer Bender & Son, Inc	569	(*)	(*)	(*)				
Perretta Packing Co., Inc	571	(*)						
Frosty Morn Meats, Inc	576	(*)				(*)		
Armour & Co	579	(*)				(*)		
Kingsford Packing Co., Inc	581	(*)						
Coffeyville Packing Co., Inc	583	(*)						
Stoppenbach Sausage Co	585	(*)				(*)		
Frederick Packing Co., Inc	586					(*)		

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Dawson-Baker Packing Co., Inc	588	(*)	(*)	(*)				
Swift & Co	591	(*)		(*)		(*)		
Elk Grove Meat Co	601	(*)						
San Antonio Packing Co	602	(*)		(*)	(*)			
Wright Packing Co	603	(*)	(*)					
I. D. Packing Co., Inc	606					(*)		
Eastern Oregon Meat Co., Inc	611	(*)		(*)		(*)		
National Tea Co	613	(*)				(*)		
Donner Packing Co	614	(*)						
Kummer Meat Co., Inc	617	(*)		(*)		(*)		
Doskocil Sasuage, Inc	623					(*)		
Star Provision Co	626					(*)		
Big Foot Packing Co., Inc	627	(*)						
E. A. Miller & Sons Packing Co	628	(*)	(*)					
H. H. Keim Co	630	(*)	(*)	(*)		(*)		
Ebner Brothers Packers	633	(*)						
United Packing Co., Inc	635	(*)						
Auburn Packing Co., Inc	636	(*)						
Flanery Meat, Inc	643	(*)						
Coast Packing Co	645	(*)						
Trans-Continent Packing Co	E646						(*)	
Bird Provision Co	647					(*)		
Spencer Packing Co	648	(*)						
Schulderberg-Kurdle Co., Inc	649					(*)		
John Morrell & Co	650					(*)		
Nagle Packing Co	653		(*)					
Wilson & Co., Inc	655	(*)		(*)				
Baum's Bologna, Inc	657	(*)						
Loeb & Gottfried, Inc	658	(*)						
McCook Packing Corp	660	(*)		(*)				
Quality Meat Packing Co	661	(*)	(*)					
Western Meat Packers, Inc	662	(*)	(*)	(*)	(*)	(*)		
Globe Packing Co	663	(*)						
Thorp's Meats, Inc	664	(*)	(*)					
Webber Sausage Co., Inc	665					(*)		
Crown Packing Co	666					(*)		
Scottsbluff Packing Co	667	(*)						
Central Coast Meats	671	(*)						
Union Packing Co., Inc	673	(*)						
S & S Packing Co	674	(*)				(*)		
Caviness Packing Co., Inc	675	(*)	(*)	(*)				
Jacob Bauer's Sons, Inc	678	(*)	(*)					
Armour & Co	680	(*)	(*)	(*)		(*)		
William Taaffe & Co., Inc	681	(*)	(*)	(*)				
Caldwell Packing Co., Inc	683	(*)						
The William Focke's Sons Co	685					(*)		
Callaway Packing Co., Inc	688	(*)	(*)					
Pierce Packing Co	691	(*)				(*)		
Silver State Beef Co	692	(*)						
Bryan Meat Co	693	(*)						
Animal Husbandry Department, Kansas State University	694	(*)	(*)	(*)		(*)		
Kramer Beef Co	695	(*)						
Gulf Packing Co	696	(*)						
Carter Packing Co	698	(*)						
Central Nebraska Packing Co	E713						(*)	
Davenport Packing Co., Inc	716	(*)						
Farmbest, Inc	717					(*)		
Do	717A					(*)		
A. Darlington Strode	718					(*)		
K–M Co	719	(*)						
The Lohrey Packing Co	721					(*)		
Swift & Co	726	(*)	(*)	(*)		(*)		
Decker & Son	727					(*)		
Roode Packing Co., Inc	729	(*)						
Frosty Morn Meats	731	(*)				(*)		
Eiler & Son, Inc	732	(*)	(*)	(*)		(*)		
Western Packers	733	(*)						
The Quaker Oats Co	E734						(*)	(*)
Ohio Packing Co	736	(*)	(*)			(*)		
Parnell's Packing Co	738	(*)	(*)	(*)		(*)		
The Jacob Schlachter's Sons Co	739	(*)	(*)					
Mid-State Meat Co	741	(*)	(*)					
Ruchti Brothers	749	(*)	(*)					
Monroe Packing Co., Inc	755	(*)						
Seitz Packing Co., Inc	756A	(*)				(*)		

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
The American Meat Packing Corp	760					(*)		
Schaake Packing Co., Inc	761	(*)						
Karler Packing Co	767	(*)						
Sheridan Meat Co., Inc	768	(*)	(*)	(*)		(*)		
Earl C. Gibbs, Inc	770	(*)						
Cadwell Martin Meat Co	773	(*)						
Atlas Packing Co	775	(*)						
Central Packing Co	777	(*)						
The Cudahy Co	779	(*)	(*)			(*)		
Bryan Brothers Packing Co	780	(*)	(*)	(*)	(*)	(*)		
Diamond Meat Co., Inc	783	(*)						
Granite State Packing Co	785	(*)						
M. Jacobson Sons Co., Inc	786	(*)	(*)	(*)	(*)			
Aurora Packing Co., Inc	788	(*)						
Hatfield Packing Co	791					(*)		
Baum's Meat Packing	792	(*)	(*)					
Rod Barnes Packing Co	798	(*)						
Western Iowa Pork	806					(*)		
American Beef Packers, Inc	807	(*)						
Do	807A	(*)						
Amco-Pac Corp	809	(*)						
The G. Erhardt Sons, Inc	810	(*)	(*)					
Great Western Packing Co. of Nebraska.	811			(*)				
Floyd Valley Packing Co	812					(*)		
Castle Brands, Inc	816					(*)		
Rochester Independent Packer, Inc	817	(*)						
J. H. Routh Packing Co	818					(*)		
The Sidney Avenue Beef Co	822	(*)	(*)					
Foremost Packing Co	824					(*)		
Superior Packing Co., Inc	825			(*)				
Bristol Packing Co	828	(*)				(*)		
Berchem's Meat Co	830	(*)						
John Morrell & Co	836	(*)						
Nat Buring Packing Co. of Arkansas	837B	(*)				(*)		
Frederick County Products, Inc	838	(*)	(*)	(*)				
Reelfoot Packing Co	840	(*)				(*)		
G. Bartusch Packing Co	843	(*)						
Arena Dressed Beef Co	853	(*)	(*)					
Sioux City Dressed Beef	857	(*)						
Siouxland Dressed Beef Co	857F	(*)						
Sioux Beef Co	857-0	(*)						
Jordan Meat and Livestock Co., Inc	858	(*)	(*)	(*)	(*)	(*)		
Wells and Davies, Inc	860	(*)				(*)		
Sierra Meat Co	862	(*)						
Tennessee Dressed Beef Co	865	(*)						
American Beef Packers, Inc	866	(*)						
Genesee Packing Co	868	(*)						
Hardy and Co., Inc	869	(*)	(*)					
Long Creek Meat Co	870	(*)						
Santa Ana Packing Co	874	(*)						
Pahler Packing Corp	880	(*)						
Swanton Packing Corp	883	(*)						
Alco Packing Co	885	(*)	(*)	(*)		(*)		
Walden Packing Co., Inc	886	(*)						
J. F. O'Neill Packing Co	889	(*)						
City Packing Co	891	(*)	(*)	(*)		(*)		
Sambol Packing Co	892	(*)						
Tobin Packing Co., Inc	893					(*)		
Vernon Calhoun Packing Co	897	(*)						
Meats, Inc	899	(*)						
Sigman Meat Co., Inc	901	(*)						
Do	901B					(*)		
Party Packing Corp	902	(*)						
Kane's Dressed Beef	907	(*)						
B. Constantino & Sons Co	918	(*)						
Alice Packing Co	921	(*)						
Valleydale Packers, Inc. of Briston	922	(*)	(*)			(*)		
Wisconsin Packing Co	924	(*)						
Peoples Packing Co	925	(*)	(*)					
Kerber Packing Co	929					(*)		
Tarpoff Packing Co	931	(*)						
Parsons Beef Co., Inc	932	(*)						
E. B. Manning & Son	934	(*)						
Blue Ribbon Beef Pack, Inc	935	(*)						

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Voltz Packing Co	938	(*)						
Cappellino Abattoir, Inc	939	(*)						
Gentner Packing Co., Inc	941	(*)						
Diamond Meat Packers, Inc	944					(*)		
M. Brizer & Co	948	(*)						
Joe Doctorman & Son Packing Co., Inc	949	(*)	(*)	(*)		(*)		
Kennedy's Sausage Co	950					(*)		
Bob Evans Farms Michigan, Inc	952					(*)		
Armour & Co	956					(*)		
Thompson Farms Co	959					(*)		
Greater Omaha Packing Co., Inc	960	(*)						
Potter Sausage Product, Inc	961					(*)		
Virginia Packing Co., Inc	963	(*)	(*)	(*)				
Interstate Meats, Inc	965	(*)						
Lay Packing Co	967	(*)				(*)		
Monfort Packing Co	969	(*)		(*)				
Hawaii Meat Co., Ltd	970	(*)						
Longhorn Meat Packers, Inc	976	(*)						
National Food Stores, Inc	981	(*)						
Hospers Packing Co	985	(*)						
Everett C. Horlein & Son, Inc	988	(*)						
Sunflower Packing Co., Inc	992	(*)						
Klarer of Kentucky, Inc	995C	(*)				(*)		
The Home Pride Provisions, Inc	1029	(*)						
Armour & Co	1085	(*)	(*)					
Landy Packing Co	1171	(*)						
The Harris Packing Co	1175					(*)		
Wayne Packing Co	1303	(*)						
A. F. Moyer & Sons, Inc	1311	(*)						
McCabe Packing Plant	1312	(*)						
H & H Packing Co	1315	(*)				(*)		
Nebraska Iowa Dressed Beef Co	1318	(*)						
Associated Meat Packers, Inc	1472	(*)		(*)		(*)		
Stevens Meat Co., Inc	1485	(*)						
James Sausage Co	1718					(*)		
C & C Packing Co	2033	(*)						
De Luca Packing Co	2054	(*)	(*)					
Odom Sausage Co. of Kentucky, Inc	2094					(*)		
Jesse Jones Sausage Co., Inc	2103					(*)		
Ballards Farm Sausage, Inc	2108					(*)		
P & H Packing Co., Inc	2211	(*)	(*)					
Greeley Meat Co	2212	(*)	(*)	(*)				
Hardy Packing Co., Inc	2215	(*)		(*)	(*)	(*)		
Yoakum Packing Co., Ltd	2216	(*)				(*)		
Burlison Packing Co	2224	(*)				(*)		
Pace Packing Co	2228	(*)				(*)		
Ridley Packing Co	2229	(*)				(*)		
South Texas Packers, Inc	2230	(*)						
George Braum Packing Co., Inc	2239	(*)						
Tiny Packing Co	2254	(*)						
Loveland Packing Co., Inc	2259					(*)		
Broadway Packing Co., Inc	2264	(*)						
Ridley Packing Co	2265	(*)	(*)			(*)		
L. A. Frey & Sons, Inc	2266A	(*)				(*)		
Panhandle Packing Co	2267	(*)						
Wright Packing Co	2269	(*)	(*)			(*)		
Lamesa Meat Co	2272	(*)						
Amarillo Packing Co	2273	(*)						
Pinkney Packing Co	2274	(*)				(*)		
Valley Packing Co	2280	(*)				(*)		
Jack Agee & Co	2281	(*)		(*)		(*)		
Northwest Packing Co	2283	(*)						
Husband Brothers Packing Co	2284	(*)		(*)				
Rollins Packing Co	2285	(*)	(*)	(*)		(*)		
Wells Meat Co	2289	(*)				(*)		
Dankworth Packing Co	2296	(*)				(*)		
Amana Society Meat Department	2357	(*)						
Theis Packing Co., Inc	2367	(*)				(*)		
Grote Meat Co	2369	(*)	(*)	(*)				
Wuestling Packing Co	2370	(*)						
Clayton Packing Co	2373		(*)					
Smit & Son, Inc	2376	(*)				(*)		
Schuyler Packing Co	2379	(*)						
Partin Sausage Co	2385					(*)		
Marshall Packing Co., Inc	2386	(*)						

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Clinton Packing Co	2387					(*)		
Gustav B. Nissen & Son Packing Co	2388	(*)						
United Meat Co., Inc	2396	(*)						
Pony Express Ranch	2398	(*)	(*)			(*)		
Johnsville Packing Co	2402	(*)						
South Side Packing Co., Inc	2424	(*)						
Quality Packinghouse, Inc	2435					(*)		
M. Luck, Inc	2443	(*)						
John R. Daily, Inc	2450	(*)	(*)	(*)	(*)	(*)		
Rocky Mountain Packing Co., Inc	2455	(*)				(*)		
Cimpl Packing Co	2460	(*)						
Wenning Packing Co., Inc	2533	(*)						
Springfield Dressed Beef, Inc	2590	(*)	(*)			(*)		
Bartlow Brothers, Inc	2595	(*)				(*)		
The Teeters Packing Co	2598					(*)		
De Quion Packing Co	2599	(*)				(*)		
J. W. Treuth & Sons, Inc	2612	(*)						
Manassas Frozen Foods	2621A	(*)	(*)	(*)	(*)	(*)		
H. P. Beale & Sons, Inc	2682					(*)		
Wagner Provision Co., Inc	2770	(*)	(*)					
Stoeven Brothers	2800	(*)		(*)				
Blue Mountain Meats	2825	(*)		(*)		(*)		
Lewis & McDermott	2847	(*)						
Granite Meat and Livestock Co	2856	(*)	(*)	(*)	(*)			
Zweigart Packing Corp	2863	(*)	(*)	(*)		(*)		
Fort Plain Packing Co., Inc	5074	(*)	(*)					
Double A Meat Packing, Inc	5162	(*)	(*)					
Anthony Parillo	5193	(*)	(*)	(*)	(*)	(*)		
Ralph Packing Co., Inc	5228	(*)	(*)					
Johnston Dressed Beef & Veal Co., Inc	5300	(*)	(*)	(*)	(*)			
Maple Brook Packing House	5301	(*)	(*)	(*)				
Morris Mendel & Co	5309	(*)	(*)	(*)	(*)			
Klinch & Schaller, Inc	5319	(*)	(*)	(*)				
Hershey Estates Abattoir	5388	(*)	(*)			(*)		
Kearney Packing Co	5511	(*)						
Elshimer Meat Products, Inc	5516	(*)						
Macon Beef Packers, Inc	5531	(*)						
O. K. Meat Packing Co., Inc	6001	(*)		(*)	(*)	(*)		
William C. Parke & Sons Co	6003	(*)						
Hohener Meat Co., Inc	6011	(*)	(*)	(*)		(*)		
L. & B. Meat Co., Inc	6016	(*)	(*)	(*)	(*)	(*)		
Chico Dressed Meat Co	6035	(*)	(*)	(*)	(*)	(*)		
Mount Vernon Meat Co., Inc	6039	(*)	(*)	(*)				
Pasco Meat Packers, Inc	6040	(*)	(*)	(*)		(*)		
Weber, Inc	6041	(*)	(*)	(*)				
McRae Pack, Inc	6042	(*)	(*)	(*)		(*)		
Florence Packing Co., Inc	6043	(*)	(*)					
Davis Meat Co	6044	(*)		(*)		(*)		
Avila Meat Co	6046	(*)	(*)					
Schenk Packing Co	6056	(*)	(*)	(*)				
Arizona Meat Packers	6062	(*)	(*)	(*)	(*)	(*)		
Tulare Meat Co	6063	(*)	(*)					
Redwood Meat Co	6066	(*)	(*)	(*)		(*)		
Klubnikin Packing Co	6071	(*)	(*)					
Prime Meat Products Co	6079	(*)	(*)	(*)	(*)	(*)		

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Grandview Packing Co	6083	(*)	(*)	(*)		(*)		
Arnopole Meat Co	6084	(*)	(*)	(*)	(*)	(*)		
Kratzig Meat Co	6110	(*)	(*)	(*)	(*)	(*)		
Atwater Meat Co	6113	(*)	(*)	(*)	(*)	(*)		
Mid-Cave Meat Packing Co	6114	(*)	(*)			(*)		
Cuyamaca Meat Co	6126	(*)	(*)			(*)		
Circle Bar Meat Farm	6151	(*)	(*)	(*)		(*)		
Green Hill, Inc	6513	(*)				(*)		
George H. Meyer Sons, Inc	6521	(*)	(*)	(*)		(*)		
Guard Hill Meats, Inc	6526	(*)	(*)	(*)	(*)	(*)		
Portsmouth Dressed Beef, Inc	6538	(*)	(*)	(*)				
Gunnoe Sausage Co., Inc	6541					(*)		
Odom Sausage Co., Inc	6544					(*)		
C. Rice Packing Co., Inc	6545	(*)	(*)					
Suffolk Packing Co	6546	(*)	(*)	(*)				
Martin's Abattoir & Wholesale Meats	6547	(*)	(*)	(*)	(*)	(*)		
Penn Haven Meats, Inc	6559	(*)	(*)			(*)		
Whiteville Packing Co., Inc	6563	(*)				(*)		
Edwards Sausage Co., Inc	6579					(*)		
Ledford's Livestock Farm Slaughter Plant	6591A	(*)	(*)	(*)		(*)		
White Packing Co	6595	(*)	(*)			(*)		
Primeat Packing Co	6758	(*)						
Star Meat Co	6760					(*)		
Walter Packing, Inc	6766	(*)						
Calihan & Co	6775	(*)	(*)	(*)		(*)		
Helms Slaughterhouse	6777	(*)						
Creston Packing Co., Inc	6783					(*)		
Bob Evans Farms, Inc	6785					(*)		
Do	6807					(*)		
Jones Packing Co	7000	(*)	(*)			(*)		
Deming Packing Co., Inc	7005	(*)				(*)		
Chaparral Packing Co	7010	(*)						
Jimmy Dean Meat Co	7012					(*)		
Beard Packing Co	7017	(*)	(*)	(*)		(*)		
Hatch Packing Co., Inc	7021	(*)	(*)	(*)		(*)		
Joe's Packing Co	7022	(*)						
Sixty Six Packing Co	7023	(*)	(*)	(*)		(*)		
H. A. S. Sweetmeat, Inc	7025	(*)						
Western Meat Packers, Inc	7028					(*)		
Brown's Meat Locker	7055	(*)	(*)	(*)	(*)	(*)		
Interstate Packing Co	7056	(*)	(*)	(*)	(*)	(*)		
Brown Packing Co., Inc	7064	(*)				(*)		
Metzger Packing Co., Inc	7306	(*)				(*)		
Coleman Sausage Co	7401					(*)		
Henry W. Stapf	7402		(*)	(*)				
Harrisonburg Wholesale Meat Co	7420	(*)	(*)	(*)		(*)		
Contris Packing Co	7438					(*)		
T. M. Landis, Inc	7517	(*)	(*)	(*)				

Done at Washington, D.C., on February 9, 1970.

G. H. WISE,
Deputy Administrator, Consumer Protection.

[F.R. Doc. 70-1822; Filed, Feb. 11, 1970; 8:52 a.m.]

Office of the Secretary

MISSISSIPPI

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined on February 3, 1970, that in the hereinafter-named counties in the State of Mississippi, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MISSISSIPPI

Carroll.	Quitman.
Montgomery.	Webster.
Noxubee.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1970, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 9th day of February 1970.

J. PHIL CAMPBELL,
Acting Secretary.

[F.R. Doc. 70-1824; Filed, Feb. 11, 1970; 8:52 a.m.]

WYOMING

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined on February 3, 1970, that in the hereinafter-named counties in the State of Wyoming, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

WYOMING

Campbell.	Weston.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after December 31, 1970, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 9th day of February 1970.

J. PHIL CAMPBELL,
Acting Secretary.

[F.R. Doc. 70-1825; Filed, Feb. 11, 1970; 8:52 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. A 3732]

ARIZONA

Notice of Classification of Public Lands for Transfer Out of Federal Ownership

FEBRUARY 2, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1412), the public lands and acquired lands described below are hereby classified for transfer out of Federal ownership by private, State, or National Park system exchanges under the authority of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315g); the Act of October 8, 1964 (78 Stat. 1039, 16 U.S.C. 460n); and the Act of September 13, 1962 (76 Stat. 538, 16 U.S.C. 459c). As used in this order, the term "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

The acquired lands involved were acquired under the Bankhead-Jones Farm Tenant Act and may be transferred only by exchange.

2. Publication of this notice has the effect of segregating the described lands from all forms of appropriation under the public land laws including the mining and mineral leasing laws, except those listed in section 1 above.

3. The notice of proposed classification of these lands was published September 27, 1969 in 34 F.R. 14904. Only one comment adverse to the proposal was received and this protest was later withdrawn.

4. The lands involved are located in the northeast corner of Cochise County and are described as follows:

ACQUIRED LANDS

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 13 S., R. 30 E.,
Sec. 7;
Sec. 10, S½SE¼;
Sec. 11, N½NE¼, SE¼NE¼, S½SE¼, and SW¼;
Sec. 12, SW¼NW¼;
Sec. 13, W½SE¼ and SE¼SE¼;
Sec. 14, N½NE¼ and SW¼;
Sec. 15, S½NW¼;
Sec. 22, SW¼;
Sec. 23, S½NE¼ and NW¼;
Sec. 24, NE¼ and SE¼SW¼;
Sec. 26, E½NE¼SE¼ and SE¼SE¼ (except E½SE¼SE¼SE¼);
Sec. 35, SE¼.
T. 13 S., R. 31 E.,
Sec. 17, S½;
Sec. 18, NE¼SW¼, lots 3 and 4 (except SW¼SW¼SW¼);
Sec. 20, SW¼SW¼;
Sec. 29, W½NW¼ and NW¼SW¼;
Sec. 31, lot 2.
T. 14 S., R. 30 E.,
Sec. 1, SE¼;
Sec. 11, E½SE¼;
Sec. 13, NE¼;
Sec. 24, NW¼ and S½.
T. 14 S., R. 31 E.,
Sec. 3, N½SE¼ and SE¼SE¼ (except SE¼SE¼SE¼SE¼);
Sec. 4, E½SE¼ and SW¼SW¼;
Sec. 5, SE¼SE¼;
Sec. 6, N½SW¼;
Sec. 8, E½SW¼, W½SE¼, and NW¼;
Sec. 9, N½NW¼;
Sec. 12, W½SE¼;
Sec. 13, SE¼;
Sec. 17, E½ and SW¼;
Sec. 18, S½SE¼;
Sec. 19, SE¼;
Sec. 20, S½S½;
Sec. 21, E½;
Sec. 22, NW¼;
Sec. 23, SW¼NE¼ and W½SE¼;
Sec. 28, S½SE¼;
Sec. 33, E½;
Sec. 34, N½S½.
T. 14 S., R. 32 E.,
Sec. 19, SE¼SE¼ and lot 4;
Sec. 20, W½SW¼;
Sec. 29, W½NW¼, NW¼SW¼, SE¼NW¼, and SW¼NE¼.

PUBLIC LANDS

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 14 S., R. 31 E.,
Sec. 11, NE¼;
Sec. 13, W½NE¼.
T. 14 S., R. 32 E.,
Sec. 18, lot 3, NE¼SW¼.
T. 15 S., R. 30 E.,
Sec. 26, W½SW¼, NW¼SE¼, and NE¼SW¼;
Sec. 35, NW¼NW¼.

The lands described aggregate approximately 7,787.22 acres.

5. The above lands have been identified as not being needed for Federal land management programs.

6. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.1-2(d). During this 30-day period, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240.

FRED J. WEILER,
State Director.

[F.R. Doc. 70-1783; Filed, Feb. 11, 1970; 8:51 a.m.]

[Serial No. I-3363]

IDAHO

Notice of Public Sale

FEBRUARY 6, 1970.

Under the provisions of the Public Land Sale Act of September 19, 1964 (78 Stat. 988; 43 U.S.C. 1421-1427), 43 CFR Subpart 2243, a tract of land will

be offered for sale to the highest bidder at a sale to be held at 2 p.m., m.s.t., on Wednesday, March 18, 1970 at the Idaho Land Office, Room 380 Federal Building, 550 West Fort Street, Boise, Idaho 83702. The land is described as follows:

BOISE MERIDIAN, IDAHO

T. 12 S., R. 28 E.,
Sec. 32, S½S½SE¼SW¼.

The area described contains 10 acres. The appraised value of the tract is $20,000 and the publication cost to be assessed is $15. The purchaser will be required to reimburse range users in the amount of $23.41 for a reseeding and relocate a fence and gate.

The land will be sold subject to all valid existing rights and rights-of-way of record and to a reservation to the United States for rights-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). All minerals will be reserved to the United States and withdrawn from appropriation under the public land laws, including the mining and mineral leasing laws.

Bids may be made by the principal or his agent, either at the sale or by mail. An agent should be prepared to show that the person he represents is a qualified bidder.

Bids must be for all the land in the parcel. A bid for less than the appraised value of the land is unacceptable. Bids sent by mail will be considered only if received at the Idaho Land Office, Bureau of Land Management, Room 334 Federal Building, 550 West Fort Street, Boise, Idaho 83702, prior to 1 p.m., m.s.t., on Wednesday, March 18, 1970. Bids made prior to the public auction must be in sealed envelopes and accompanied by certified checks, postal money orders, bank drafts, or cashier's checks, payable to the Bureau of Land Management, for the full amount of the bid plus publication costs. The envelopes must be marked in the lower left-hand corner "Public Sale Bid, I–3363, Sale of March 18, 1970."

The authorized officer shall publicly declare the highest qualifying sealed bid received. Oral bids shall then be invited in specified increments. After oral bids, if any, are received, the authorized officer shall declare the high bid. A successful oral bidder must submit a guaranteed remittance, in full payment for the tract and cost of publication, before 3:30 p.m. of the day following the sale.

If no bids are received for the sale tract on Wednesday, March 18, 1970, the tract will be reoffered on the first Wednesday of subsequent months at 1:30 p.m., beginning April 1, 1970.

Any adverse claimants to the above described lands should file their claim or objections with the undersigned before the time designated for the sale.

The land described in this notice has been segregated from all forms of appropriation, including locations under the general mining laws, except for sale under this Act, from the date of notation of the proposed classification decision. Inquiries concerning this sale should be addressed to the Land Office, Bureau of Land Management, Room 334 Federal Building, 550 West Fort Street, Boise, Idaho 83702.

CURTIS R. TAYLOR,
Acting Manager, Land Office.

[F.R. Doc. 70–1755; Filed, Feb. 11, 1970; 8:45 a.m.]

[Serial No. N–2158]

NEVADA

Notice of Classification of Public Lands for Multiple Use Management

FEBRUARY 6, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the area described below are hereby classified for multiple use management. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing or material sale laws, with the exception contained in paragraph 3. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. The record showing the comments received following publication of a Notice of Proposed Classification (33 F.R. 232), or at the public hearing at the Churchill County Courthouse, Fallon, Nev., which was held on January 21, 1969, and other information is on file and can be examined at the Nevada Land Office. The public lands affected by this classification are located within the following described area and are shown on maps designated N–2158 in the Carson City District Office, 801 North Plaza Street, Carson City, Nev. 89701, and the Nevada Land Office, Bureau of Land Management, Room 3104, Federal Building, 300 Booth Street, Reno, Nev. 89502.

The overall description of the area is as follows:

CHURCHILL COUNTY

MOUNT DIABLO MERIDIAN, NEVADA

All public lands in Churchill County excepting an area of approximately 156,000 acres on the east side of the county previously included in the Eastgate Classification (N–279) and approximately 546,000 acres which comprise the Newlands Irrigation Project and the Stillwater National Wildlife Refuge.

The area described above aggregates approximately 1,868,500 acres of public land.

3. The public lands listed below are further segregated from all forms of appropriation under the public land laws, including the general mining laws, except the mineral leasing and material sale laws and the Recreation and Public Purposes Act (44 Stat. 741, 68 Stat. 173, 43 U.S.C. 869):

MOUNT DIABLO MERIDIAN, NEVADA

PETROGLYPH CAVE

T. 17 N., R. 27 E.,
Sec. 14, SW¼NW¼.

FISH CAVE

T. 18 N., R. 30 E.,
Sec. 15, NE¼NW¼.

WYEMAHA CAVES

T. 18 N., R. 30 E.,
Sec. 21, N½S½.

SINGING SANDS MOUNTAIN

T. 17 N., R. 32 E.,
Sec. 15, S½S½;
Sec. 16, SE¼SE¼;
Sec. 20, SE¼;
Sec. 21, all;
Sec. 22, N½, SW¼;
Sec. 28, N½, SW¼;
Sec. 29, all;
Sec. 32, N½N½.

WAR CANYON

T. 20 N., R. 37 E.,
Sec. 19, SE¼.

The above area aggregates approximately 3,160 acres of public land having archeological and recreational value.

4. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2c For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LIM, 320, Washington, D.C. 20240.

NOLAN F. KEIL,
State Director, Nevada.

[F.R. Doc. 70–1753; Filed, Feb. 11, 1970; 8:45 a.m.]

UTAH

Notice of Filing of Plats of Survey and Order Providing for Opening of Public Lands

1. Plats of survey of the lands described below will be officially filed in the Land Office, Salt Lake City, Utah, effective at 10 a.m. on March 2, 1970:

SALT LAKE MERIDIAN

Plats of survey accepted December 22, 1969:

T. 37 S., R. 17 E.,
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½;
Secs. 33, 34, and 35.

T. 37 S., R. 18 E.,
Sec. 1, lots 1 to 4, inclusive; S½N½, S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8 to 15, inclusive;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½;
Secs. 33, 34, and 35.

The area described aggregates 30,646.54 acres.

2. The following lands are within State Exchange application U 3710, and are not open to application, selection, and petition unless that application is withdrawn or finally rejected, in which event these lands will become open as provided by 43 CFR 2013.2–4:

T. 34 S., R. 17 E.,
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½;
Secs. 33, 34, and 35.
T. 37 S., R. 18 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, S½;
Sec. 4, S½S½;
Sec. 7, lots 2 to 4, inclusive, E½, SE¼NW¼, E½SW¼;
Secs. 8 to 12, inclusive, 14, 15, and 17;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 and 21;
Sec. 22, N½, SW¼;
Sec. 27, W½W½;
Secs. 28 and 29;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½;
Sec. 33.

3. The following lands were withdrawn August 14, 1962, by Proclamation 3486 for Natural Bridges National Monument:

T. 37 S., R. 18 E.,
Sec. 6, lots 3, 4, and 5, SE¼NW¼.

4. PLO 3352 dated March 23, 1964, withdrew a strip of land 200 feet on each side of the center line of the Natural Bridges National Monument Access Road where it passes through the following lands:

T. 37 S., R. 18 E.,
Sec. 3, NW¼SW¼, S½SW¼, SW¼SE¼;
Sec. 4, lot 4, S½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 5, lots 1 to 4, inclusive;
Sec. 10, NE¼, NE¼NW¼, NE¼SE¼.

5. Except for the lands shown in paragraphs 2, 3, and 4, the lands listed in paragraph 1 of this order are open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws. All valid applications received at or prior to 10 a.m. on March 2, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. These lands are mostly broken benchland covered with a dense growth of scrub juniper and pinon timber with undergrowth of sagebrush and grass.

6. Inquiries concerning the lands should be addressed to the Manager, Utah Land Office, Post Office Box 11505, Salt Lake City, Utah 84111.

J. E. KEOGH,
Manager, Utah Land Office.

JANUARY 30, 1970.

[F.R. Doc. 70–1754; Filed, Feb. 11, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

2-CHLORO-1-(2,4,5-TRICHLOROPHENYL)VINYL DIMETHYL PHOSPHATE

Establishment of Temporary Tolerance for Pesticide Chemical

Notice is given that at the request of Shell Chemical Co., Suite 1103, 1700 K Street NW., Washington, D.C. 20006, a temporary tolerance of 85 parts per million is established for residues of the insecticide 2-chloro - 1 - (2,4,5-trichlorophenyl) vinyl dimethyl phosphate, including its related conversion products 2-chloro-1-(2,4,5-trichlorophenyl) vinyl methyl phosphoric acid, 2,2',4',5'-tetrachloroacetophenone, and conjugates of the latter two compounds, in or on the raw agricultural commodity pasture grass. The Commissioner of Food and Drugs has determined that residues will not transfer to the meat and milk of ruminants feeding on treated pastures and that this temporary tolerance will protect the public health.

A condition under which this temporary tolerance is established is that the insecticide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the Shell Chemical Co. name.

This temporary tolerance expires February 3, 1971.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 512; 21 U.S.C. 346a(j)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: February 3, 1970.

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

[F.R. Doc. 70–1748; Filed, Feb. 11, 1970; 8:46 a.m.]

HERCULES, INC.

Notice of Filing of Petition for Food Additives

Pursuant to 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 0A2504) has been filed by Hercules, Inc., Wilmington, Del. 19899, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of oleic acid derived from tall oil fatty acids (1) as a lubricant, binder, and defoaming agent in food and (2) as a component in the manufacture of other food-grade additives.

Dated: February 4, 1970.

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

[F.R. Doc. 70–1747; Filed, Feb. 11, 1970; 8:46 a.m.]

ROHM & HAAS CO.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to 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 petition (PP0F0932) has been filed by Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing the establishment of tolerances (21 CFR Part 120) for the combined residues of the herbicide 3',4'-dichloropropionanilide and its metabolites (calculated as 3',4'-dichloroproprionanilide) in or on the raw agricultural commodities: Rice at 2 parts per million; meat byproducts of poultry at 0.1 part per million (negligible residue); and milk, meat, fat, and meat byproducts of cattle and eggs and meat of poultry at 0.05 part per million (negligible residue).

Notice is also given that the same firm has filed a related petition (FAP 0H2501) proposing the establishment of food additive tolerances of 10 parts per million for the combined residues of the herbicide and its metabolites in rice bran, rice polishings, and other rice bran milling fractions; and 6 parts per million in or on rice hulls for residues resulting from application of the herbicide to growing rice.

The analytical method proposed in the pesticide petition for determining residues of the herbicide is a colorimetric procedure in which the sample is refluxed with sodium hydroxide to yield 3,4-dichloroaniline. The latter compound is diazotized and coupled with *N*-1-naphthylethylenediamine to produce a dye, the absorbance of which is measured at 550 millimicrons.

Dated: February 4, 1970.

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

[F.R. Doc. 70–1746; Filed, Feb. 11, 1970; 8:46 a.m.]

TRIACETYLOLEANDOMYCIN FOR ORAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following triacetyloleandomycin preparations for oral use:

1a. Cyclamycin Oral Suspension containing triacetyloleandomycin equivalent to 125 milligrams of oleandomycin per 5 cubic centimeters; and

b. Cyclamycin Capsules containing triacetyloleandomycin equivalent to 125 or 250 milligrams of oleandomycin per capsule; both by Wyeth Laboratories, Inc., Post Office Box 8299, Philadelphia, Pa. 19101.

2a. TAO Pediatric Drops containing triacetyloleandomycin equivalent to 100 milligrams of oleandomycin per cubic centimeter (when reconstituted);

b. TAO Ready-Mixed Oral Suspension containing triacetyloleandomycin equivalent to 125 milligrams of oleandomycin per 5 cubic centimeters; and

c. TAO Capsules containing triacetyloleandomycin equivalent to 125 or 250 milligrams of oleandomycin per capsule; all three by J. B. Roerig & Co., Division of Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

The Food and Drug Administration concludes that triacetyloleandomycin is possibly effective for certain respiratory tract infections due to staphylococci, streptococci, or pneumococci. Preparations containing triacetyloleandomycin are subject to antibiotic certification procedures under section 507 of the Federal Food, Drug, and Cosmetic Act. To allow applicants to obtain and submit data to provide substantial evidence of the effectiveness of the drug in those conditions for which it has been evaluated as possibly effective, batches of preparations containing triacetyloleandomycin which bear labeling with these claims will be accepted for release or certification by the Food and Drug Administration for a period of 6 months after publication of this announcement in the FEDERAL REGISTER.

The Food and Drug Administration further concludes that there is a lack of substantial evidence of the drug's effectiveness for bone and joint infections, gentitourinary tract infections, rickettsial and large virus infections, staphylococcal enterocolitis, and prevention of development of rheumatic fever and glomerulonephritis. Preparations containing triacetyloleandomycin with labeling bearing these claims will no longer be acceptable for certification or release after the publication of this announcement in the FEDERAL REGISTER.

The above-named firms and any other holders of antibiotic drug applications approved for a drug of the kind described above are requested to submit, within 60 days after publication of this announcement in the FEDERAL REGISTER, supplements to their antibiotic drug applications to provide for revised labeling to delete the above-listed claims for which evidence of effectiveness is lacking and to modify the labeling in accord with the comments in the Academy reports pertaining to the misleading descriptive statements.

Any person who would be adversely affected by deletion of the claims for which the drug lacks substantial evidence of effectiveness, as described in this announcement, may within 30 days after publication hereof in the FEDERAL REGISTER submit comments or pertinent data bearing on the effectiveness of the drug for such claims. The only data that will be considered acceptable for review must be well-organized, must consist of adequate and well-controlled studies and must not have been previously submitted.

A copy of the NAS–NRC report has been furnished to each firm referred to above. Any other manufacturer, packer, or distributor of a drug of composition and labeling similar to the subject drugs or any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be directed to the attention of the appropriate office and addressed to the Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204:

Request for NAS–NRC Reports: Press Relations Office (CE–300). Supplements: Division of Anti-Infective Drugs (MD–140), Office of New Drugs, Bureau of Medicine.

Comments on this announcement: Special Assistant for Drug Efficacy Study Implementation (MD–16), Bureau of Medicine.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: February 3, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–1752; Filed, Feb. 11, 1970; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21813; 70–2–32]

AIR CARRIER DISCUSSIONS

Order Approving Discussions Concerning Commodity Description and Numbering System

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of February 1970.

By joint petition filed January 16, 1970, six air carriers,[1] which are participants in Official Air Freight Specific Commodity Tariffs Nos. 5–B and SC–2 (Tariff),[2] request authority from the Board for themselves and all other interested air carriers to hold discussions jointly, as a group or through committees or subgroups, of a commodity description and numbering system to be incorporated in the Tariff, in lieu of the commodity descriptions and numbers presently contained therein. Petitioners request such authority to be effective for a period of not less than 180 days from the date of the Board's order.

Petitioners state that the Board has previously authorized such discussions, that such discussions were concerned with possible domestic adoption of an SITC-based code (United Nations Standard International Trade Classification), that no conclusive action resulted therefrom, and that the prior authority expired with December 31, 1968.[3]

Petitioners further state that exploration and discussions would involve observers from the Association of American Railroads which has adopted the Standard Transportation Commodity Code (STCC), that industry data collection by commodity is desirable and that it is intended to begin in 1971, but that such effort is dependent upon industry adoption of a uniform code, and lastly, that adoption for domestic tariff purposes of a uniform commodity description and numbering system is in the public interest and consistent with the objectives of the Board.

No objections have been filed with the Board.

An improved uniform standard commodity description and numbering system should facilitate the interlining of domestic air shipments, as well as intermodal (surface-air) shipments, by permitting faster and more accurate rating of shipments through the use of common terminology, and should facilitate the development of statistical data by commodity, thus benefiting both the carriers and the shipping public.

The intended purpose of the discussions appear to be in the public interest and the intended result is one that could not be achieved readily by individual carrier action. The Board will therefore authorize the carriers to discuss a standard commodity description and numbering system, provided, however, that such authorization shall not extend to any discussion of rates or rate levels. In addition, to insure that shippers are kept fully apprised of the carriers' progress in this undertaking, the Board will condition its approval to provide opportunity for shipper participation in the discussions. Our authorization shall be further conditioned to provide for the attendance of Board observers, the filing of the minutes of the discussions, and that any agreement which may be reached shall not be implemented unless and until approved by the Board.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof:

It is ordered, That:

1. Airlift International, Inc., American Airlines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and other interested scheduled United States route air carriers are authorized to engage in discussions of commodity description and numbering systems for interstate and overseas application for 180 days following the date of this order;

[1] Airlift International, Inc., American Airlines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

[2] Airline Tariff Publishers, Inc., Agent, CAB Nos. 12 and 115.

[3] Order 68–7–50 dated July 11, 1968, in Docket 18255, and prior orders.

2. A notice of any meeting called pursuant to this order shall be filed with the Board in this Docket and mailed to all interested persons upon request and to all scheduled domestic air carriers at least 15 calendar days prior to such meeting;

3. The Civil Aeronautics Board reserves the right to have one or more observers in attendance at these meetings;

4. Interested persons shall have the right to file written comments with the Board in this Docket, and with the carriers, at any time, and shall, upon request, be permitted to meet with and present their views to the carriers;

5. Complete and accurate minutes shall be kept of all discussions by the carriers, and a true copy thereof filed with the Board and mailed to all interested shippers and air carriers not later than 20 days after the conclusion of each meeting;

6. Any agreement or agreements reached as a result of such discussions shall be filed with the Board in accordance with section 412 of the Federal Aviation Act of 1958, and mailed to all interested shippers and air carriers, and approved by the Board prior to being placed in effect or filed in tariff form; and

7. This order will be served upon Airlift International, Inc., American Airlines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-1817; Filed, Feb. 11, 1970; 8:51 a.m.]

[Docket No. 21712]

AMERICAN COURIER CORP. AND SKY COURIER, INC.

Notice of Proposed Approval

Joint application of American Courier Corporation and Sky Courier, Inc. for approval of control of Independent Delivery, Inc., Docket 21712.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the order set forth below under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., February 6, 1970.

[SEAL] A. M. ANDREWS,
Director, Bureau of Operating Rights.

ORDER APPROVING CONTROL RELATIONSHIPS

Joint application of American Courier Corporation, and Sky Courier, Inc., for approval of control of Independent Delivery, Inc.

Issued under delegated authority.

By joint application filed December 17, 1969, as amended,[1] American Courier Corp. (ACC), a motor common carrier and its wholly-owned domestic air freight forwarder, Sky Courier, Inc. (Sky) request approval of an agreement whereby ACC will acquire control of Independent Delivery, Inc. (Independent), also a motor common carrier, while retaining control of Sky in addition to a number of other motor common carriers.[2]

Independent operates a general commodity pickup and delivery service pursuant to Interstate Commerce Commission authorizations and a State of Washington Utilities and Transportation Commission permit. These services, performed in the State of Washington, are substantially the same as the services being performed by ACC and its subsidiaries in other areas.

It is contended that ACC's acquisition of Independent will not result in any significant change in the nature of specialized service currently conducted by ACC and its applicants, and that Independent's operations would in no way conflict with air transportation services.

The applicants state that given Board approval of the acquisition, certain interlocking relationships will result between Independent and Sky, but that the exemption and approval conferred by section 287.2 of the Board's economic regulations, apply to such relationships, and approval thereof accordingly is not necessary.

No objections to the application have been filed.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the attorney general not later than 1 day following such publication, both in accordance with section 408(b) of the Act.

Upon consideration of the foregoing, it is concluded that the relationships are subject to section 408 of the Act. However, it is further concluded that such control relationships do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly and do not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a hearing. The control relationships are similar to others which have been approved by the Board and do not essentially present any new substantive issues.[3] On the other hand, should the general character of Security alter in any significant respect through expansion of their operations, new issues may be raised. Therefore, consistent with our decision in Docket 19505,[4] we shall make our approval herein subject to the condition that Independent, upon receiving from the Interstate Commerce Commission authority to engage in interstate transportation, shall promptly advise the Board of the nature and extent of such authority.

[1] Amended by letter filed Jan. 9, 1970.

[2] Sky is controlled by ACC which is in turn controlled by Purolater Products, Inc., a manufacturing enterprise. These control relationships were granted Board approval by Order 69-3-31 (Docket 19505). ACC at that time controlled five motor common carriers, viz., Pony Express, Inc., American Courier Corporation of Virginia, Trans Canadian Couriers, Ltd., and Protective Motor Service Co., Inc., as well as its wholly owned subsidiary Protective Service Co.

[3] Order 69-3-31, supra.

[4] Mark IV Air Freight, Inc. et al., Order E-22451, July 19, 1965.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the foregoing control relationships should be approved under section 408(b) of the Act, without hearing.

Accordingly, it is ordered, That:

1. The acquisition of control by ACC of Independent be and hereby is approved;

2. Approval of the acquisition of control herein shall be effective only so long as Independent conducts the specialized types of intrastate transportation described herein; and upon receipt of authority from the Interstate Commerce Commission to engage in interstate transportation Independent shall promptly advise the Board of the grant of such authority; and

3. The Board shall have continuing jurisdiction over the parties and matters involved in Docket 21712.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-1820; Filed, Feb. 11, 1970; 8:52 a.m.]

[Docket No. 20993; Order 70-2-19]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority February 6, 1970.

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 an IATA letter dated January 28, 1970, names additional specific commodity rates, as set forth below, which reflect significant reductions from the general cargo rates.

R-21:

Commodity Item No. 7107—Daily Newspapers, 42 cents per kg., minimum weight 300 kgs., Between New York and London.[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.

[1] Additional rates were also agreed for application from New York to other European points beyond London at differentials based on distance and ranging between 2 and 15 cents.

Accordingly, it is ordered, That:

Action on agreement CAB 21380, R–21, be and hereby is deferred with a view toward eventual approval, provided that approval shall not constitute approval of the specific commodity description 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] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–1818; Filed, Feb. 11, 1970; 8:52 a.m.]

[Docket No. 21413]

TRANSAMERICA CORP. ET AL.

Notice of Hearing

Transamerica Corp., Tron Van Corp., and Lyon Van & Storage Co. (California) et al.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 24, 1970, beginning at 10 a.m., e.s.t., in Room 630, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

For information concerning the issues involved and other details concerning this proceeding, interested persons are referred to the prehearing conference report and other documents on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., February 9, 1970.

[SEAL] E. ROBERT SEAVER,
Hearing Examiner.

[F.R. Doc. 70–1819; Filed, Feb. 11, 1970; 8:52 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets No. 18708, 18709; FCC 70R–41]

DITMER BROADCASTING CO., INC., AND CARMINE BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Ditmer Broadcasting Co., Inc., St. Johns, Mich., Docket No. 18708, File No. BPH–6667, and David Allen Carmine, Dale Edgar Carmine, Frances Ward Carmine, doing business as Carmine Broadcasting Co., East DeWitt, Mich., Docket No. 18709, File No. BPH–6729, for construction permits.

1. The above-captioned mutually exclusive applications for new FM broadcast stations were designated for hearing by Commission order, FCC 69–1157, released October 27, 1969, 34 F.R. 17533. Ditmer Broadcasting Co. (Ditmer) filed its Motion to Enlarge Issues on November 14, 1969, requesting the inclusion of issues concerning the financial ability of David Allen Carmine, Dale Edgar Carmine, and Frances Ward Carmine, doing business as Carmine Broadcasting Co. (Carmine) and the availability of Carmine's proposed transmitter site location.[1]

2. In its motion, Ditmer notes that Carmine is a partnership composed of a father, mother and son and that the partnership agreement makes no specific provision whatsoever for the contribution of any capital to the partnership. Moreover, it notes that Carmine filed no partnership balance sheet with its application; rather, it submitted what is captioned Balance Sheet (Applicant Partners) which shows combined assets of $117,800, and combined liabilities of $23,000 for a net total of $94,700. The "balance sheet," petitioner points out, does not indicate which of the partners own the assets outlined therein; however, Exhibit 4, which purports to supply the information required by Question 4, Section III of the application, states that certain equipment which will be used in the business and a record collection totaling $5,700 are already owned. Ditmer also notes that, in response to Item C of Question 4, applicant states "reference Exhibit 1, Partnership Agreement, propose to furnish all required capital within the partnership group", and that among the assets listed on the "balance sheet" are stocks (G.M. Common) $39,000, Savings Plans $13,700, and insurance $1,000. Ditmer argues that while the stocks referred to may be General Motors Common, there is no way of knowing either that this is so or the number of shares involved. Moreover, petitioner asserts, the savings plans are not described, nor does applicant establish whether those funds are immediately available, and the item referred to as insurance may be paid-up insurance or it may be cash value, or it may refer to some other variation of insurance as an asset. Ditmer also urges that since there is no distinction between current liabilities and fixed long-term liabilities, all of the liabilities including the $19,000 mortgage must be regarded as current liabilities. Furthermore, Ditmer argues that Carmine's reference in Exhibit 4 (H) to a leasing plan for the acquisition of a tower and related equipment is completely unsupported by any documentation, and that no breakdown of estimated costs has been submitted. Thus, argues Ditmer, it is impossible to accurately ascertain annual operating costs. Finally, Ditmer argues that Carmine's estimate of $750 for a transmitter building appears to be inadequate in the absence of some firm estimate concerning the cost and Ditmer also notes that Carmine has made no provision for certain necessary equipment or for legal fees or other costs involved in prosecuting its application. In these circumstances it requests an issue to determine with respect to the application of Carmine Broadcasting Co.:

(a) What funds or other capital assets, if any, are available from commitments by the partners of applicant or other for the construction and operation of the proposed station.

(b) Whether the person or persons who propose making funds available to applicant have sufficient net liquid assets to meet said commitments.

(c) Whether the applicant's estimated construction costs include necessary provisions for legal and hearing expenses, nontechnical studio or office furniture, fixtures, and equipment, construction of both transmitter and studio facilities, and preoperational expenses.

(d) The basis for the applicant's estimated operating costs for the first year of operation.

(e) Whether any of the proposed broadcast equipment is to be leased, and if so, what arrangements, if any, have been made therefor, including costs, terms of payment, and period of lease.

3. The Broadcast Bureau, in its opposition, takes the position that when Ditmer filed its prehearing petition requesting the Commission to reconsider its action accepting Carmine's application for filing, it made no reference to financial problems, and that the Commission upon analyzing the application concluded that Carmine was financially qualified since it required only $50,050 to construct and operate the station for 1 year, and has available liquid assets to finance the construction consisting of cash on hand and in banks of $1,600, stocks $39,000 (G.M. Common), U.S. Series E bonds, $2,500, and a savings plan of $13,700. Thus the Bureau concludes that Carmine has $56,800 available to meet its obligation of $50,050. Moreover, the Bureau notes that Carmine has personal property valued at $15,000 and real property at $45,000 for total assets of $117,800, which is substantially in excess of Carmine's $23,000 in liabilities. Based on these facts, the Bureau argues, citing United Artists Broadcasting, 64R–567, 4 RR 2d 453, that Carmine is financially qualified. In response to Ditmer's arguments concerning the uncertainties of the obligations of the various partners to make financial contributions to the partnership, the Bureau argues that "the application reveals that each of the three has a one-third interest and is willing to commit his assets toward 'operating a radio broadcast station for profit'." Moreover, the Bureau argues that the specific questions raised by Ditmer are not a substitute for specific allegations of fact and that the motion to enlarge the issues with respect to Carmine's financial ability should be denied. Carmine's opposition adopts the views expressed by the Broadcast Bureau.

[1] The Review Board also has before it the Broadcast Bureau's opposition, filed Dec. 12, 1969; Carmine's opposition, filed Dec. 24, 1969; and Ditmer's reply to oppositions, filed Jan. 13, 1970.

4. The questions raised by Ditmer warrant the inclusion of an issue concerning Carmine's financial qualifications. Due to deficiencies in the financial portion of Carmine's application, it is impossible for the Board to determine on the basis of the application and the various Exhibits attached thereto whether Carmine is financially qualified to build and to operate its proposed station for 1 year. The partnership agreement does not specify the extent to which any of the partners are obligated to make capital available to the partnership, nor can we determine, even if we assume that all of the "family assets" depicted in the balance sheet are available for this purpose, whether there will be sufficient liquid assets available to construct the station and operate it for 1 year. The item captioned G. M. Stock does not tell us whether or not the stock is General Motors as presumed by the Broadcast Bureau.[2] Moreover, even if we assume that the stock described is General Motors stock, since we do not know the number of shares involved, it is impossible to ascertain the value of stock as of this date as opposed to the date the balance sheet was prepared. Furthermore, the item described as "Savings Plans $13,700" does not tell us whether or not those assets are available on call or whether there is some restriction on their availability. Moreover, in view of the applicant's failure to make provisions for certain essential equipment and for the cost of prosecuting its application as well as its failure to establish the annual costs for rental of technical equipment we are not able to conclude that Carmine is financially qualified to construct and operate its proposed station for 1 year. We cannot assume, as the Bureau recommends, that since the total net assets reflected by the balance sheet exceed Carmine's requirements, it will be able to construct and operate its proposed station. The net worth of the applicant in United Artists Broadcasting, FCC 64R–551, 4 RR 2d 453 (1964) was many times greater than its cash requirement. In the instant case the ratio of net worth to cash requirements is much smaller. Thus the Bureau's position is not warranted by the United Artists case. The unresolved questions can be best and most expeditiously answered in the context of the hearing.

SITE AVAILABILITY

5. Ditmer alleges that the antenna site proposed by Carmine is presently zoned for agricultural use and that Carmine has not sought to have it rezoned to permit the construction of a radio tower. Ditmer supports its contentions with two affidavits from William Coffey, Administrator of Clinton County Zoning Administration. Those affidavits in effect establish: That the land in question is zoned for agricultural use; that before a tower can be constructed on the land a change in zoning must be effected by the Clinton County Zoning Commission; that there is no application for change of zoning now pending and that "as a matter of record the Board does not approve of the Spot Zoning." The Board agrees with the Broadcast Bureau that Ditmer has not raised sufficient questions concerning Carmine's proposed antenna site to justify an issue. Carmine has purchased the land and the mere facts that rezoning may be required and that as a general rule the Zoning Administration is against "Spot Zoning" does not warrant the inclusion of an issue, in the absence of a more specific showing that the request is likely to be denied. See Lester H. Allen, 69R–475. Ditmer has made no such showing.

6. *Accordingly, it is ordered,* That the Motion to Enlarge Issues, filed November 14, 1969, by Ditmer Broadcasting, Inc. is granted to the extent indicated herein and denied in all other respects;

7. *It is further ordered,* That the issues be enlarged as follows:

With respect to the application of David Allen Carmine, Dale Edgar Carmine and Frances Ward Carmine doing business as Carmine Broadcasting Co. to determine:

(a) The cost of construction and the first year's operation of the proposed station.

(b) Whether it will have sufficient liquid assets available to construct and operate the proposed station for 1 year.

(c) Whether, in light of the evidence adduced pursuant to the foregoing issues, the applicant is financially qualified.

8. *It is further ordered,* That the burden of proof with respect to the foregoing issues shall be on David Allen Carmine, Dale Edgar Carmine and Frances Ward Carmine doing business as Carmine Broadcasting Co.

Adopted: February 5, 1970.

Released: February 6, 1970.

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

[F.R. Doc. 70–1768; Filed, Feb. 11, 1970; 8:48 a.m.]

[2] We cannot necessarily conclude that the stock is General Motors stock merely because Dale Edgar Carmine has been employed by General Motors

[3] Review Board Members Berkemeyer and Kessler absent.

[Report No. 478]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

FEBRUARY 9, 1970.

Pursuant to §§ 1.227(b)(3) and 21.26 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign, and nature of application

4162–C2–P–70—Telephone Message Bureau, Inc., trading as Contact (KGC223), C.P. to add transmitter to operate on frequency 43.22 MHz at a new site to be identified as location No. 2: 1401 Pennsylvania Avenue, Wilmington, Del.

4163–C2–P–(3)–70—Jay-En, Inc. (New), C.P. for a new 2-way station. Location No. 1: Lookout Mountain, 2 miles north of Virginia, Minn. Frequencies: 152.15 MHz (Base) 75.74 MHz (Repeater). Location No. 2: Fifth Avenue West and 10th Street, Duluth, Minn. Frequency: 72.30 MHz (Control).

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

4178–C2–P–70—Metro Fone Communications, Inc. (New), C.P. for a new 2-way station to be located at 4659 Stinson Boulevard NE., Columbia Heights, Minn., to operate on base frequency 152.18 MHz.

4192–C2–P–70—RAM Broadcasting of Georgia, Inc. (New), C.P. for a new 1-way station to be located at First National Bank Building, 2 Peachtree Street, Atlanta, Ga., to operate on base frequency 43.22 MHz.

4193–C2–P–(3)–70—Otis L. Hale, doing business as Mobilfone Communications (KFL870), C.P. to reorient the antennas for the repeater station at location No. 1; Trap Mountain, 6 miles southwest of Hot Springs, Ark., operating on frequency 459.15 MHz. Replace transmitter and change antenna location for Control station at location No. 2: 119 Harvard Street, Hot Springs, Ark., operating on frequency 454.15 MHz. Replace transmitter and change antenna location for Control station at location No. 3: 200 West Capitol, Little Rock, Ark., operating on frequency 454.15 MHz.

4194–C2–P–(2)–70—Tadlock's Radio Dispatch (KMA259), C.P. to replace transmitter and change transmission line for base frequencies 152.03 and 152.09 MHz at location No. 2: Bald Mountain, 5 miles southeast of Guinda, Calif.

4195–C2–P–70—RCC of Virginia, Inc. (KIY394), C.P. to change antenna system and location for base frequency 152.21 MHz at location No. 1 to: John Marshall Hotel, Sixth and Franklin Streets, Richmond, Va.

4202–C2–P–70—Indiana Bell Telephone Co. (KSD324), C.P. to replace transmitter and change antenna location to: 301 North Washington Street, Bloomington, Ind., operating on base frequency 152.75 MHz also change antenna system.

4203–C2–P–(3)–70—The Mountain States Telephone & Telegraph Co. (KOK345), C.P. for an additional channel to operate on base frequency 152.60 MHz; change antenna system and replace existing transmitter operating on base frequency 152.75 MHz at station located at 3 miles west-southwest of Pocatello, Idaho. Also add auxiliary test facilities to be located at Pocatello Main, 455 West Lewis Street, Pocatello, Idaho, to operate on frequencies 158.01 and 157.86 MHz.

4214–C2–P–70—Forward Electronics, Inc. (New), C.P. for a new 2-way station to be located at Rib Mountain State Park, 5 miles southwest of city of Wausau, Wis., to operate on base frequency 152.18 MHz.

4215–C2–P–70—Margaret Walsh, doing business as Radio Telephone Secretaries (New), C.P. for a new 1-way station to be located at 2300 Western Avenue, Manitowoc, Wis., to operate on base frequency 152.24 MHz.

4216–C2–P–70—Margaret Walsh, doing business as Radio Telephone Secretaries (New), C.P. for a new 1-way station to be located at 103 West College Avenue, Appleton, Wis., to operate on base frequency 152.24 MHz.

4217–C2–P–(3)–70—General Telephone of Indiana, Inc. (KSA623), C.P. to relocate base frequency 152.81 MHz to: 3102 South Clinton, Fort Wayne, Ind., site to be identified as location No. 1 also add base frequency 152.54 MHz at same location. Relocate base frequency 152.63 MHz to a new site to be identified as location No. 2: 4011 North Clinton, Fort Wayne, Ind.

Correction

3948–C2–P–70—The Redco Corp., and Roy M. Teel and Lowry McKee, doing business as Mobilfone (KLB785), Correct to read: and change location of repeater station relocate to base station location lat. 36°24'16" N., long. 97°59'45" to operate on frequency 459.15 MHz. All other particulars to remain the same as reported on public notice dated Jan. 26, 1970, Report No. 476.

Major Amendment

3526–C2–P–70—Communications Industries, Inc., doing business as New Orleans Mobilfone (KLB759), Amend to add: 152.12 MHz. All other particulars to remain the same as reported on public notice dated Jan. 5, 1970, Report No. 473.

1985–C2–P–(4)–70—Illinois Bell Telephone Co. (KSA755), Change base frequency from 152.78 MHz to 152.72 MHz. All other particulars same as reported on public notice dated Oct. 27, 1969, Report No. 463.

RURAL RADIO SERVICE

4164–C1–P/L–70—Jay-En, Inc. (New), C.P. and license for a new station to be located in any temporary fixed location within territory of licensee to operate on frequency 158.61 MHz.

4165–C1–P–70—General Telephone Co., of the Northwest, Inc. (New), C.P. for a new fixed station to be located at Boardman Creek Camp; approximately 13 miles east of Granite Falls, Wash., to operate on frequency 157.95 MHz.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

4166–C1–P–70—Somerset Telephone Co. (New), C.P. for a new station. Frequency: 2162.4 MHz toward Sugarloaf, Mountain, Maine. Location: King and Bartlett Township, 15½ airline miles northeast Stratton, Maine.

4167–C1–P–70—Somerset Telephone Co. (New), C.P. for a new station. Frequncy: 2112.4 MHz toward King and Bartlett, Maine. Location: Sugarloaf Mountain, 10 miles south of Stratton, Maine.

4179–C1–P–70—Puerto Rico Telephone Co. (WWR74), C.P. to add frequency 11,485 MHz toward El Yunque, P.R. Station location: 607 Cerra Street, San Juan, P.R.

4180–C1–P–70—Puerto Rico Telephone Co. (WWT64), C.P. to add frequency 10,715 MHz toward San Juan, P.R. Station location: El Yunque, 5.5 miles south-southeast of Rio Grande, P.R.

4204–C1–P–70—Bell Telephone Co. of Nevada (KPY26), C.P. to add frequency 2168.8 MHz toward Cactus Flat, Nev. Location: Booker Mountain, 2.6 miles northeast of Tonopah, Nev.

4205–C1–P–70—Bell Telephone Co. of Nevada (New), C.P. for a new fixed station to be located at Cactus Flat, 27 miles northeast of Goldfield, Nev., to operate on frequency 2118.8 MHz toward Booker Mountain, Nev.

4206–C1–P–70—Michigan Bell Telephone Co. (KQG59), C.P. to add frequencies 11,365 and 6264.0 MHz toward Byron, Mich. Location: 502 Beach Street, Flint, Mich.

4207–C1–P–70—Michigan Bell Telephone Co. (KQM34), C.P. to add frequencies 11,115 and 5997.1 MHz toward Shaftsburg, Mich. and 10,915 and 6011.9 MHz toward Flint, Mich. Location: 2.75 miles east-northeast of Byron, Mich.

4208–C1–P–70—Michigan Bell Telephone Co. (KQM35), C.P. to add frequencies 11,565 and 6249.1 MHz toward Byron, Mich., and 11,365 and 6264.0 MHz toward Lansing, Mich. Location: 2.5 miles south of Shaftsburg, Mich.

4209–C1–P–70—Michigan Bell Telephone Co. (KQM36), C.P. to add frequencies 10,915 and 6011.9 MHz toward Shaftsburg, Mich. Location: 220 North Capitol Street, Lansing, Mich.

4218–C1–P/L–70—The Chesapeake & Potomac Telephone Co. of Md. (New), C.P. for a new fixed station to be located at 1.2 miles south of Randallstown, Md., to operate on 11,445.0 MHz toward Owings Mills, Md.

4219–C1–P/L–70—The Chesapeake & Potomac Telephone Co. of Md. (New), C.P. for a new fixed station to be located at Gwynnbrook State Game Farm, 1.6 miles north of Owings Mills, Md., to operate on frequency 10,995.0 MHz toward Randallstown, Md.

Major Amendment

1591–C1–P/L–70—California Interstate Telephone Co. (New), Add: to operate on frequencies in the 2110–2130 and 2160–2180 MHz frequency bands. All other particulars same as reported in public notice Report No. 460, dated Oct. 6, 1969.

Correction

3835–C1–P–70—The Chesapeake & Potomac Telephone Co. of Virginia (KIA83), Correct location to read: Poore Mountain, approximately 2.5 miles west of Airpoint, Va. All other particulars same as reported on public notice dated Jan. 26, 1970, Report No. 476.

3836–C1–P–70—The Chesapeake & Potomac Telephone Co. of Virginia (KIA95), Add entry: C.P. to add frequencies 6264.0 and 11,245 MHz toward Poore Mountain, Va. Location: Price Mountain, approximately 3.9 miles southwest of Blacksburg, Va. (This application was inadvertently omitted from public notice same date as above.)

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

4181-C1-P-70—Laredo Microwave, Inc. (KLH77), C.P. to add frequency 6197.2 MHz on azimuth 207°15′ at station located at Miguel, 15 miles east of Pearsall, Tex., at lat. 28°53′24″ N., long. 98°50′23″ W.

4182-C1-P-70—Laredo Microwave, Inc. (KLH78), C.P. to add frequency 6160.1 MHz on azimuths 221°26′ and 276°27′ at station located at 7 miles east of Cotulla, Tex. at lat. 28°24′15″ N., long. 99°07′34″ W.

4183-C1-P-70—Laredo Microwave, Inc. (KLH79), C.P. to add frequenecy 6226.8 MHz on azimuths 221°26′ and 276°27′ at station located at 7 miles east of Cotulla, Tex., at lat. long. 99°32′13″ W. (Informative: Applicant proposes to provide an additional microwave channel to Cotulla and Laredo, Tex., in order to provide the television signals of KLRN(TV) and KWEX(TV) on a full-time basis rather than part-time as done in the past. Customers are Cotulla Cable Television and Vumore Company of Laredo. Applicant requests a waiver of 21.701(i) of FCC rules.)

4188-C1-P-70—United Video, Inc. (New), C.P. for a new station to be located 1 mile northwest of Louisiana, Mo., at lat. 39°27′30″ N., long. 91°03′44″ W. Frequency: 10,855 MHz on azimuth 313°24′. (Informative: Applicant proposes to provide the television signals of KDNL(TV) of St. Louis, Mo., to Hannibal Cable TV, Inc., in Hannibal, Mo.)

4196-C1-P-70—Microwave Transmission Corp. (KVU78), C.P. to change location of station to Broadcast Peak, 16 miles northwest of Santa Barbara, Calif., at alt. 34°31′31″ N., long. 119°57′29″ W. and change point of communication to Mount Lospe, Calif. Frequencies: 10,755, 10,835, 10,915, 10,995, 11,075, and 11,155 MHz on azimuth 302°56′.

4197-C1-P-70—Microwave Transmission Corp. (New), C.P. for a new station to be located at Mount Lospe, 4.5 miles south of Guadalupe, Calif., at lat. 34°53′53″ N., long. 120°35′28″ W. Frequencies: 6211.8, 6241.5, 6271.2, 6300.9, 6330.6, and 6360.6 MHz on azimuth 359°57′.

4198-C1-P-70—Tele-Communications of Oregon, Inc. (KOS36), C.P. to power-split frequencies 6293.6, 6234.3, 6352.9, and 6412.2 MHz on azimuth 171°23′. Location: Mount Harris, near La Grand, Oreg., at lat. 45°26′23.4″ N., long. 117°53′43.8″ W.

4199-C1-P-70—Western Tele-Communications, Inc. (New), C.P. for a new station, located at Lone Pine Mountain, 4.5 miles southeast of Baker, Oreg., at lat. 44°44′20″ N., long. 117°44′46″ W. Frequencies: 11,225, 11,305, 11,465, and 11,545 MHz on azimuth 130°39′.

4200-C1-P-70—Western Tele-Communications, Inc. (New), C.P. for a new station, located at Morgan Mountain, 3.2 miles east-northeast of Lime, Oreg., at lat. 44°26′03″ N., long. 117°15′03″ W. Frequencies: 10,755, 10,855, 11,015, and 11,095 on azimuth 155°11′; 10,755, 10,855, 11,015, and 11,095 on azimuth 181°07′.

4220-C1-MP-70—Mountain Microwave Corp. (WAY72), Modification of C.P. to change the location of station to Soderburg, Colo., 6.3 miles south-southwest of Fort Collins, Colo., at lat. 40°32′46.2″ N., long. 105°11′52″ W. Frequency 5989.7 MHz on azimuth 345°02′.

4201-C1-P-70—Western Tele-Communications, Inc. (New), C.P. for a new station located at Apple Valley, 7 miles southeast of Nyssa, Oreg., at lat. 43°49′32″ N., long. 116°51′40″ W. Frequencies: 11,225, 11,305, 11,465, and 11,545 on azimuth 114°45′; 11,225, 11,305, 11,465, and 11,545 MHz on azimuth 140°22′; 11,225, 11,305, 11,465, and 11,545 on azimuth 267°22′; 11,225, 11,305, 11,465, and 11,545 on azimuth 355°00′; 11,225, 11,305, 11,465, and 11,545 on azimuth 351°14′; 11,225, 11,305, 11,465, and 11,545 on azimuth 82°15′. (Informative: Applicant proposes to provide the television signals of KATU-TV, KGW-TV, KOIN-TV, and KPTV of Portland, Oreg., to GenCoE in Boise, Nampa, Parma, Payette, Weiser, and Emmett, Idaho, and Vale, Oreg.)

4212-C1-P-70—Eastern Microwave, Inc. (New), C.P. for a new station at Helderberg Mountain, 1.75 miles northwest of New Salem, N.Y., at lat. 42°38′12″ N., long. 73°59′45″ W. Frequencies 5960.0, 6019.3, and 6078.6 MHz on azimuth 14°56′ are to be power split from other pending facilities. (Informative: Applicant proposes to provide the television signals of WPIX, WOR-TV, and WNEW-TV to Normandy TV Cable Corp. at Queensbury, N.Y.)

4213-C1-P-70—Amercan Microwave & Communications, Inc. (KQN52), C.P. to add a new point of communication at Talbot, Mich., via power split using frequency 5982.3 MHz on azimuth 185°00′. Location: 3.5 miles east-southeast of Talbot, Mich., at lat. 45°29′40″ N., long. 87°31′50″ W. (Informative: Applicant proposes to provide closed circuit educational television signals of Northern Michigan University to Menominee, Mich.)

[F.R. Doc. 70-1769; Filed, Feb. 11, 1970; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7523]

CENTRAL TELEPHONE & UTILITIES CORP.

Notice of Application

FEBRUARY 6, 1970.

Take notice that on January 30, 1970, Central Telephone & Utilities Corp. (applicant), filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of up to $50 million in unsecured promissory notes to commercial banks and to commercial paper dealers.

Applicant is incorporated under the laws of the State of Kansas, with its principal business office in Lincoln, Nebr. It is engaged in the electric utility operations in the southeastern part of Colorado and the central and western portion of the State of Kansas.

The promissory notes to banks and commercial paper dealers or either of such types of facilities will be issued from time to time between January 1, 1970, and December 31, 1971, with a final maturity date of not later than March 1, 1972. Interest on the notes to banks will be at the prime rate or ¼ of 1 percent above the prime rate from time to time in effect at such banks; the interest rate on commercial paper will be at the rate then in effect of such commercial paper of such quality and term.

The proceeds from the issuance of short-term notes are to provide funds for the construction, completion, extension or improvement of facilities of applicant and for advances to an improvement in subsidiaries of the applicant to be used for the construction and improvement of facilities of such subsidiaries. The estimated construction program for the above purposes for 1970 is $90 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-1734; Filed, Feb. 11, 1970; 8:45 a.m.]

[Docket No. CP69-103]

COLUMBIA GULF TRANSMISSION CO.

Notice of Petition To Amend

FEBRUARY 4, 1970.

Take notice that on January 26, 1970, Columbia Gulf Transmission Co. (applicant), Post Office Box 683, Houston, Tex. 77001, filed in Docket No. CP69-103 a petition to amend the order of the Commission issued on March 17, 1969, to authorize it to exceed the maximum daily limitation provided therein for deliveries to United Fuel Gas Co. (United), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Said order authorized applicant to deliver to United up to 1,578,500 Mcf of natural gas per day, and applicant has made emergency deliveries of up to 25,000 Mcf per day in order to help United relieve a serious deficiency in its storage level. Applicant states that it is apparent that the cold weather may not permit United to return its storage to scheduled levels and that it may be advisable to continue such deliveries beyond the 60-day period provided in section 157.22(c) of the regulations under the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with

the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-1738; Filed, Feb. 11, 1970; 8:45 a.m.]

[Docket No. CP70-178]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

FEBRUARY 4, 1970.

Take notice that on January 26, 1970, Kansas-Nebraska Natural Gas Co., Inc. (applicant), 300 North St. Joseph Avenue, Hastings, Nebr. 68901, filed in Docket No. CP70-178 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 22.5 miles of 3-inch pipeline and 18.5 miles of 2-inch pipeline from the existing 8-inch transmission line near Albion, Nebr., to Greeley, Primrose, and Spalding, Nebr., and also to install a town border station each to serve Greeley and Spalding. Applicant states that the proposed facilities will be used for delivery of natural gas for fueling irrigation pumps and general distribution at retail by applicant in Greeley, Primrose, and Spalding.

The total estimated cost of the proposed facilities is $240,000, which will be financed by contributions of customers and working capital with interim bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-1740; Filed, Feb. 11, 1970; 8:46 a.m.]

[Docket No. CP63-174]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Petition To Amend

FEBRUARY 4, 1970.

Take notice that on January 26, 1970, Natural Gas Pipeline Co. of America (applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP63-174 a petition to amend the order of the Commission issued on March 15, 1965, by deleting from said order the requirement of reporting annually the monthly volumes of gas delivered by applicant's distributor customers for boiler fuel purposes, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant states that such reporting is a burden upon it and its customers without any commensurate benefit in that the requirement was imposed in respect to the position taken during the proceedings by certain coal interests concerning their competitive position, but the reports have disclosed no additional information which would alter the Commission's original conclusions of no substantial harm to the competitive position of coal.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-1739; Filed, Feb. 11, 1970; 8:45 a.m.]

[Docket No. CP68-166]

TENNESSEE GAS PIPELINE CO.

Notice of Petition To Amend

FEBRUARY 4, 1970.

Take notice that on January 21, 1970, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (applicant), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. CP68-166 a petition to amend the order of the Commission issued on May 1, 1968, to delete the authorization to construct and operate approximately 8.6 miles of 6-inch pipeline to replace its existing Spencer Lateral, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant states that it was authorized by the aforementioned order, inter alia, to construct and operate said facilities, but that the construction of Compressor Station No. 264 pursuant to the order of the Commission issued on June 10, 1969, in Docket No. CP69-222 (Phase I) has obviated the necessity of replacing the Spencer Lateral in that Compressor Station No. 264 provides unanticipated higher pressure at the beginning of the Spencer Lateral, sufficient to maintain desired volumes of deliveries.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-1741; Filed, Feb. 11, 1970; 8:46 a.m.]

[Docket No. CP70-177]

TENNESSEE GAS PIPELINE CO.

Notice of Application

FEBRUARY 4, 1970.

Take notice that on January 22, 1970, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (applicant), Post Office Box 2511, Houston, Tex. 77001, filed in

Docket No. CP70–177 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon and remove seven existing meter stations, and a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate an emergency sales meter station as requested by United Fuel Gas Co. (United), in order to provide backup protection for its service in the Lexington, Ky., area.

Applicant also proposes to abandon and remove from service sales meter stations which applicant states have not been used for several years and whose abandonment would allow reduction in maintenance costs. Said stations are in Madison County, Ky., for the Richmond sales; in Cabell County, W. Va., for the Heath Creek emergency sales and Roach Farm emergency sales; Putnam County, W. Va., for the Hurricane sales and Coal Mountain emergency sales; and in Kanawha County, W. Va., for the Rocky Fork sales and Elkview emergency sales.

Applicant states that the estimated total cost of the proposed facilities is $22,500, which will be financed from general funds and revolving credit.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate or permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–1742; Filed, Feb. 11, 1970; 8:46 a.m.]

[Docket No. CP70–179]

UNITED FUEL GAS CO. ET AL.

Notice of Application

FEBRUARY 5, 1970.

Take notice that on January 27, 1970, United Fuel Gas Co. (United), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25325, Cumberland and Allegheny Gas Co. (Cumberland), 800 Union Trust Building, Pittsburgh, Pa. 15230, The Manufacturers Light and Heat Co. (Manufacturers), 800 Union Trust Building, Pittsburgh, Pa. 15230, and Columbia Gas of West Virginia, Inc. (Columbia), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25325, filed in Docket No. CP70–179 an application pursuant to sections 7(c), 7(b), and 1(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas for resale, permission and approval to transfer certain sales of gas for resale to Columbia, and an order of the Commission declaring the operations of Columbia to be exempt from regulations under the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United, Cumberland, and Manufacturers propose to establish wholesale service to Columbia upon its acquisition of their present West Virginia distribution operations. United, Cumberland, and Manufacturers herein request authorization to establish certain existing facilities as points of delivery and to initiate the sale of gas for resale to Columbia.

By its order of December 16, 1969, the West Virginia Supreme Court of Appeals directed the West Virginia Public Service Commission to approve the transfer of the said West Virginia distribution operations, after which all of the West Virginia distribution operations, including United's sales for resale to wholesale customers, namely Union Oil and Gas, Inc., Consumers Gas Utility Co., and Luther Lusher, will be subject to the regulatory jurisdiction of the Public Service Commission of West Virginia. All of the gas to be received by Columbia will be purchased and ultimately consumed within the State of West Virginia. For this reason Columbia requests that the Commission declare that Columbia is exempt from regulation pursuant to the Natural Gas Act so that its operations will be subject only to the regulatory jurisdiction of the West Virginia Public Service Commission.

Manufacturers and Cumberland propose in Docket No. CP69–191 the sale of certain FPC jurisdictional properties by Cumberland to Manufacturers and abandonment by Cumberland of certain transmission facilities. The presiding Examiner's decision recommended approval of the application, but his decision is pending on exceptions before the Commission. The proceeding in Docket No. CP69–191 does not include any of the distribution properties to be transferred by Cumberland to Columbia, but the northeastern distribution area of Columbia proposed to be serviced by Cumberland will be served by Manufacturers after the consummation of the transfer of transmission properties proposed in Docket No. CP69–191. If the transaction proposed herein is completed prior to the consummation proposed in Docket No. CP69–191, then Columbia will be successor to the distribution operations of Cumberland, with such succession effected without the necessity of an amendatory order in Docket No. CP69–191. If the transactions proposed in Docket No. CP69–191 are consummated prior to the completion of the transactions proposed herein, then the succession of Columbia to the service agreements of Cumberland with Manufacturers will be accomplished by filing new service agreements reflecting the transfer of distribution properties of Cumberland to Columbia pursuant to the order of the Public Service Commission of West Virginia.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate or permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-1732; Filed, Feb. 11, 1970; 8:45 a.m.]

[Docket No. CP70-180]

WEST CENTRAL INDIANA GAS AUTHORITY, INC., AND PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

FEBRUARY 5, 1970.

Take notice that on January 27, 1970, West Central Indiana Gas Authority, Inc. (applicant), 601 Chamber of Commerce Building, Indianapolis, Ind. 46204, filed in Docket No. CP70-180 an application pursuant to section 7(a) for an order of the Commission directing Panhandle Eastern Pipe Line Co. (respondent) to establish physical connections of its transportation facilities with distribution facilities proposed to be constructed by Applicant and to sell and deliver natural gas to Applicant for resale and distribution, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By order issued November 21, 1967, 38 FPC 1038, the Commission ordered respondent to sell and deliver natural gas to Mid States Gas Co., Inc., for resale and distribution in Lizton, Jamestown, and Advance, Ind. The franchises for service in these towns have been transferred to applicant and applicant proposes to construct and operate a 4-inch lateral line to be connected to respondent's main transmission line and a local distribution system for service in said towns and environs.

The total estimated cost of the proposed facilities is $474,000, which will be financed by the issuance of gas revenue bonds.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-1733; Filed, Feb. 11, 1970; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-911, 812-2265]

BANK FIDUCIARY (EQUITY) FUND

Notice of Filing of Application for Order Amending Orders Exempting Company

FEBRUARY 6, 1970.

Notice is hereby given that Bank Fiduciary (Equity) Fund (formerly Bank Fiduciary Fund) ("Applicant"), Room 820, Chrysler Building, 405 Lexington Avenue, New York, N.Y. 10017, a New York corporation which is registered as a diversified open-end management investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission amending orders issued under section 6(c) of the Act on March 21, 1955 (Investment Company Act Release No. 2114) and June 13, 1968 (Investment Company Act Release No. 5405). The Applicant requests that the exemptions granted by the Commission's orders continue after a reorganization of Applicant is completed. Applicant contends that the reorganization has not effected the force of those orders but, to remove any question, has requested an order of the Commission. The provisions of the Act and the rules from which the Applicant has been exempted, and from which a continued exemption is sought, are as follows: Section 20(a); section 22(d); section 22(e); section 24(d); and Rule 20a-1. All interested persons are referred to the application which is on file with the Commission for a statement of the representations which are summarized below.

Applicant was organized in 1954 under a New York statute which authorized the creation of mutual trust investment companies to serve as a medium for the common investment of trust funds held by small banks and trust companies in the State of New York. Applicant was designed to provide an investment medium for these smaller banks and trust companies, whose trust assets in many cases are not of sufficient size to make the establishment of their own legal common trust funds practical.

Investment in and redemption of Applicant's shares by those qualified to hold the same are only permitted on designated valuation dates. The Banking Board of the State of New York has fixed the last business days of January, April, July, and October of each year as mandatory valuation dates, and Applicant's Board of Directors has power to designate such other dates as it may deem desirable. The value of each share of Applicant's stock shall be determined on any designated valuation date on the basis of market value according to the formula prescribed by the New York State Banking Board which has been incorporated in Applicant's bylaws. Applicant's investments, until 1969, had been limited by statute and the provisions of its organization certificate to so-called "legal" investments under the laws of the State of New York. In effect, Applicant was required to maintain a balanced portfolio, partly in bonds and the like and partly in listed stocks (up to 50 percent). However, in 1969 the applicable provisions of the New York State Banking Law were amended to allow a mutual trust investment company to invest entirely in "legal" bonds or entirely in "legal" stocks, if so authorized by its organization certificate. As a result of this change, Applicant is being reorganized. It has amended its organization certificate so as to change its name to Bank Fiduciary (Equity) Fund and to change its authorized investment purpose so that it may invest up to 100 percent of its funds in common stocks or convertible securities which are "legal" for investment by fiduciaries under New York Law. Applicant is also transferring the market value of its investments in bonds and other fixed income securities, all of which have been liquidated, to a newly organized mutual trust investment company named Bank Fiduciary (Fixed Income) Fund in exchange for a number of shares equal to the number of Applicant's outstanding stock. The shares of Fixed Income Fund received will be distributed forthwith pro rata to Applicant's shareholders. Approval by shareholders and the Superintendent of Banks of New York State has been obtained for the changes.

In support of the relief requested, Applicant states, among other things, that it employs no underwriter or sales' force, and will not undertake any active sales' campaign. The decision to invest in the stock of Applicant is made by officers or directors of such banks and trust companies, with access to whatever information about Applicant they deem relevant to an investment decision. All of Applicant's own directors are required to be officers, directors, or trustees of banks and trust companies in the State of New York (including at least one from each of the nine banking districts of the State). Finally, Applicant was organized with the approval of the Banking Department of the State of New York, all of its operations are subject to close regulation and supervision by that Department and its investments are limited to securities that are "legal" investments for New York trustees.

Applicant further urges that these exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Investment Company Act of 1940.

Notice is further given that any interested person may, not later than February 26, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be

notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70–1765; Filed, Feb. 11, 1970; 8:47 a.m.]

[812–2686]

BANK FIDUCIARY (FIXED INCOME) FUND

Notice of Filing of Application for Order Exempting Company

FEBRUARY 6, 1970.

Notice is hereby given that Bank Fiduciary (Fixed Income) Fund ("Applicant"), Room 820, Chrysler Building, 405 Lexington Avenue, New York, N.Y. 10017, a New York corporation which is registered as a diversified open-end management investment company under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting it from the provisions of sections 15(a), 16(a), 20(a), 22(d), 22(e), and 24(d) of the Act and Rule 20a–1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, and which are summarized below.

Applicant was organized in December 1969, under a New York statute which authorizes the creation of mutual trust investment companies to serve as a medium for the common investment of trust funds held by small banks and trust companies in the State of New York. Applicant was designed to provide an investment medium for smaller banks and trust companies, whose trust assets in many cases are not of sufficient size to make the establishment of their own legal common trust funds practical. Under the statute and in accordance with its organization certificate, applicant may invest only in fixed income securities that under New York law are "legal" investments for fiduciaries.

Applicant's enabling statute empowers the Banking Board of the New York State Banking Department to regulate the conduct and management of applicant's affairs and to prescribe among other things: (1) The records and accounts to be kept by applicant; (2) the procedures to be followed in the sale or redemption of applicant's shares; (3) the methods and standards to be employed in determining the value of applicant's shares and the investment of its assets; and (4) the maximum proportionate shares of applicant which may be apportioned or sold to any one trust company or bank. Applicant's activities are accordingly regulated under General Regulation No. 50 promulgated by the Banking Board of the State of New York. The Superintendent of Banks has additional regulatory powers under bylaw provisions that may not be amended without his prior written approval.

Applicant is presently authorized to issue 300,000 shares of capital stock of $1 par value. Purchase of applicant's shares is limited by the New York statute to trust companies and state or national banks having trust powers which have their principal offices within the State of New York, and their nominees. Thus, it is restricted to intrastate operation, and but for section 24(d), of the Act would be within the exemption of section 3(a)(11) of the Securities Act of 1933. Banks or trust companies operating their own legal common trust funds are not eligible to purchase applicant's shares.

Under applicant's organization certificate, its board of directors must include at least one person who is an officer or director of a New York bank or trust company (or a national bank located in the State of New York) in each of the nine banking districts of the State of New York. The 11 directors named in the organization certificate who are to serve until the first annual meeting of stockholders in 1970 are all officers of such banks or trust companies. The Board of Governors of the Federal Reserve System has expressed its opinion that section 32 of the Banking Act of 1933 does not prohibit officers, directors, or employees of member banks from serving as directors, officers, or employees of applicant.

Applicant has entered, subject to approval by the stockholders at their first annual meeting in 1970, into a management-custodian agreement with Manufacturers Hanover Trust Company of New York, under which the latter, among other things, will act as investment adviser.

Applicant will employ no underwriter or sales force and will not undertake any active sales campaign. The decision to invest in applicant's shares will be made by officers or directors of banks and trust companies, with access to whatever information about applicant they deem relevant to an investment decision.

Initially applicant will issue to Bank Fiduciary (Equity) Fund (the "Equity Fund"), another New York mutual trust investment company organized in 1955, a number of shares equal to the number of shares of the Equity Fund outstanding as of February 28, 1970, against payment in cash of a sum equal to the market value as of February 28, 1970 of the Equity Fund's present portfolio of bonds and other fixed income securities; and the Equity Fund immediately will distribute the shares pro rata to its shareholder. At the Equity Fund's last valuation date, October 30, 1969, it had 182,040 shares outstanding, and the market value of its bond portfolio was approximately $8,422,270.

Thereafter investment in and redemption of applicant's shares by those qualified to hold the same will be permitted only on designated valuation dates. The Banking Board of the State of New York has fixed the last business days of January, April, July, and October of each year as mandatory valuation dates, and applicant's Board of Directors has power to designate such other dates as it may deem desirable. The value of each share of applicant's stock shall be determined on any designated valuation date on the basis of market value according to a formula prescribed by the New York State Banking Board, which has been incorporated in applicant's bylaws.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person from any provision of the Act or of any rule or regulation thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an exemption from sections 15(a) of the Act (requiring that no person shall act as investment adviser of a registered investment company except pursuant to a written contract approved by shareholders) and 16(a) of the Act (requiring that no person shall serve as director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company at an annual or special meeting duly called for that purpose) until the first meeting of its shareholders, which will be held on March 10, 1970.

In addition, applicant seeks an exemption from compliance with the provisions of section 20(a) of the Act and Rule 20a–1 thereunder (requiring solicitation of proxies for stockholders' meetings in accordance with the Commission's proxy-soliciting rules), section 22(d) of the Act (requiring the use of a prospectus in connection with sales of redeemable securities), section 22(e) of the Act (prohibiting suspending the right of redemption of a redeemable security or postponing the date of payment or satisfaction upon redemption for more than 7 days after tender of such security), section 24(d) of the Act (denying to register investment companies the "intrastate" exemption from registration under the Securities Act of 1933).

Applicant contends that compliance with the provisions of these sections would entail substantial expense that ultimately would fall upon the beneficiaries of the trusts that use applicant as an investment medium. At the same time, applicant contends because of the statutory limitation upon its investment activities, the supervision of its operations by the New York State Banking Department, and the limitation of ownership of its shares to banks and trust companies acting in a fiduciary capacity, compliance with such provisions would not accord sufficient additional protection to investors to justify the additional expense that would be entailed.

For these reasons, applicant requests that the Commission enter an order pursuant to section 6(c) exempting applicant from the provisions of sections 15(a), 16(a), 20(a), 22(d), 22(e), and 24(d) of the Investment Company Act of 1940 and the Commission's Rule 20a–1 and urges that such an exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Investment Company Act of 1940.

Notice is further given that any interested person may, not later than February 26, 1970 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the persons being served are located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70–1764; Filed, Feb. 11, 1970; 8:47 a.m.]

[811–1044]

CAPITAL FOR TECHNICAL INDUSTRIES, INC.

Notice of Filing of Application for Order Declaring Company Has Ceased To Be Investment Company

FEBRUARY 6, 1970.

Notice is hereby given that Capital for Technical Industries, Inc. ("Applicant"), 2444 Wilshire Boulevard, Santa Monica, Calif. 90403, registered as a nondiversified, closed-end management investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order declaring that applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant represents that on September 30, 1967, its shareholders approved a plan of reorganization which provided for the transfer of all interests in companies it controlled to a newly formed operating company, Capital Technical Inc., and for the dissolution of applicant. The reorganization plan was consummated on September 30, 1967 and on that date applicant distributed to its distribution agent for the benefit of its shareholders, as its sole liquidating dividend, all the issued and outstanding capital stock of Capital Technical Inc. On September 30, 1967 Capital Technical Inc. guaranteed the bank loans and all obligations theretofore or thereafter incurred by applicant and in consideration therefor applicant agreed to pay over to Capital Technical Inc., any assets remaining after applying the proceeds of liquidation to the payment of its indebtedness and other obligations.

Applicant's shareholders were directed to surrender their certificates of Applicant's stock in exchange for certificates of Capital Technical Inc. As of November 7, 1968, all but 226 shareholders had complied with this request, leaving at that time certificates for 17,717 shares of the outstanding 857,600 shares of Capital Technical Inc., stock still in the custody of the distribution agent, Security Pacific National Bank, which has reported that it is continuing its efforts to locate these shareholders.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect, and that, if necessary for the protection of investors, such order may be made upon appropriate conditions.

Notice is further given that any interested person may, not later than February 27, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70–1766; Filed, Feb. 11, 1970; 8:47 a.m.]

[812–2469]

IVY FUND, INC., AND STUDLEY, SHUPERT & CO., INC., OF BOSTON

Notice of and Order for Hearing on Application for Order of Exemption

FEBRUARY 6, 1970.

Notice is hereby given that Ivy Fund, Inc. ("Fund"), 155 Berkeley Street, Boston, Mass., registered as an open-end, diversified investment company under the Investment Company Act of 1940 (the "Act"), and the Fund's investment adviser, Studley, Shupert & Co., Inc. of Boston ("Adviser"), 155 Berkeley Street, Boston, Mass. (hereinafter referred to collectively as "Applicants"), have filed a joint application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act the proposed grant by Fund to Adviser of a license, more fully described below, to use in company names the word "Ivy" and to confer on certain investment companies the right to use names similar to "Ivy Fund Inc." For the grant of such license Adviser is to pay to Fund a total of $2,000.

The Fund was organized in January 1960 as Commonwealth Fund for Growth, Inc., and adopted its present name in March 1967. Shares of the Fund are

offered at net asset value without sales charge, and there is no withdrawal charge. As of December 31, 1968, the Fund's net assets were approximately $63,500,000 and it had approximately 2 million shares outstanding. Applicants represent that the Fund has not engaged in advertising and expects to terminate offering its shares sometime this year, when, in management's opinion, the Fund's size restricts investment flexibility and performance.

Adviser has served Fund as investment adviser since the Fund commenced operations.

The Fund proposes to grant to Adviser a license to use the word "Ivy" in a new name for Adviser and in the name of any wholly or majority owned subsidiary of Adviser and would also grant to Adviser the right to confer, by sublicense or otherwise, names similar to the name "Ivy Fund, Inc." on other investment companies for which Adviser now or hereafter performs investment advisory services. Said license and right of conferral would be terminable at the option of the Fund in the event that Adviser ceases to be its investment adviser. In addition, the conferred right of any other investment company to use a name similar to the name "Ivy Fund, Inc." would be terminable at the option of the Fund in the event that Adviser ceases to be an investment adviser to either the Fund or such other investment company.

If the license becomes effective, Adviser intends to adopt a new name with the word "Ivy" in it. It further intends to confer, pursuant to the licensing agreement, the name "Ivy Capital Corp." upon Inventure Capital Corp., a registered closed-end, nondiversified investment company for which Adviser is investment adviser, if that company requests and accepts such conferral. Adviser also desires to secure the name "Ivy Convertible Securities Fund, Inc." for a recently organized yet inactive Massachusetts corporation, which Adviser will serve as investment adviser and which is intended to operate as a no-load, open-end, diversified investment company, investing primarily in convertible securities.

The terms of the proposed licensing agreement were approved by all of the directors of the Fund on January 27, 1969. A majority of the Fund's directors are not affiliated with either Adviser or any other intended conferee of rights under the license. The proposed licensing agreement was approved by the Fund's shareholders on April 9, 1969.

Since it is the investment adviser of the Fund, Adviser is an affiliated person of the Fund within the meaning of section 2(a)(3) of the Act.

Section 17(a) of the Act, as here pertinent, makes it unlawful for an affiliated person of a registered investment company to purchase any property from such registered company. However, section 17(b) of the Act provides that the Commission, on application, shall grant an exemption from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transactions are consistent with the policy of such registered company and with the general purposes of the Act.

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the said application.

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on the aforesaid application under the applicable provisions of the Act and the rules of the Commission thereunder be held on the 17th day of March 1970 at 10 a.m. in the office of the Commission, 500 North Capitol Street NW., Washington, D.C. 20549. At such time the Hearing Room clerk will advise as to the room in which such hearing will be held. Any person, other than applicants, desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission, on or before the 13th day of March 1970, his application pursuant to Rule 9(c) of the Commission's rules of practice. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address noted above, and proof of service (by affidavit, or, in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of the Commission to be designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act, and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation has advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters are presented for consideration without prejudice to its specifying additional matters upon further examination:

(1) Whether the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(2) Whether the proposed transaction is consistent with the policy of the registered investment company as recited in its registration statement and reports filed under the Act; and

(3) Whether the proposed transaction is consistent with the general purposes of the Act.

It is further ordered, That at the aforesaid hearing attention be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall serve notice of such hearing by mailing a copy of this notice and order by certified mail to Fund and Adviser; that Adviser shall mail a copy of this notice and order to each of the holders of record of the capital stock of Fund, at his last known address, at least twenty (20) days prior to the date herein fixed as the date for hearing; and that the Secretary of the Commission shall give notice of the aforesaid hearing to all other persons by publication of this notice and order in the FEDERAL REGISTER; and that a general release of the Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

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

[F.R. Doc. 70-1763; Filed, Feb. 11, 1970; 8:47 a.m.]

[70-4830]

PHILADELPHIA ELECTRIC POWER CO. AND SUSQUEHANNA POWER CO.

Notice of Proposed Issuance and Sale of Common Stock to Holding Company

FEBRUARY 6, 1970.

Notice is hereby given that Philadelphia Electric Power Co. ("Philadelphia"), a registered holding company and an electric utility subsidiary company of Philadelphia Electric Co. ("Philadelphia Electric"), an exempt holding company, and the Susquehanna Power Co. ("Susquehanna"), 1000 Chestnut Street, Philadelphia, Pa. 19105, an electric-utility subsidiary company of Philadelphia, have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), and 10 thereof as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Philadelphia and Susquehanna are colicensees of facilities known as the Conowingo Hydroelectric Project ("Project") under a 50-year license granted by the Federal Power Commission in February 1926. Susquehanna, a Maryland corporation, owns the portion of the facilities situated in Maryland, including the dam and generating units, and Philadelphia, a Pennsylvania corporation, owns the properties situated in Pennsylvania, including the transmission lines in that State. The facilities owned by Philadelphia are leased to Philadelphia Electric, and those owned by Susquehanna and leased to the Susquehanna Electric Co., a wholly owned subsidiary company of Phialdelphia Electric. Philadephia Electric purchases substantially all of the energy output of the Project.

Philadelphia proposes to issue and sell to Philadelphia Electric, its sole common stockholder, 300,000 additional shares of

its common stock, par value $25 per share, for a total consideration of $7,500,000. The proceeds from the sale of the common stock are to be used to (1) liquidate $4 million of outstanding bank loans, (2) provide approximately $2 million cash necessary to purchase part of the Susquehanna common stock and (3) provide working capital for construction and other corporate purposes.

Susquehanna proposes to issue and sell to Philadelphia, its sole common stockholder, 523,000 additional shares of common stock, no par value, and Philadelphia proposes to acquire these shares at $42.65 per share (the approximate present per share book value of outstanding shares), or for a total consideration of $22,305,950. The principal consideration for Susquehanna from the sale of its common stock will be the liquidation of its inter-company advances from Philadelphia, which as of December 31, 1969, amounted to $20,306,233. Approximately $2 million of the cash proceeds will be utilized to (1) liquidate $1,600,000 of outstanding bank loans and (2) provide working capital for construction. All of the acquired stock of Susquehanna will be pledged, as are all of Susquehanna's presently outstanding shares of stock, under Philadelphia's First Mortgage, as security for the bonds outstanding thereunder.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $15,300, consisting of issuance taxes of $15,200, and regulatory filing fees of $100.

The application states that the Pennsylvania Public Utility Commission, the State commission of the State in which Philadelphia is organized and doing business, has jurisdiction over its issuance and sale, and acquisition, of common stock, and the Public Service Commission of Maryland, the State commission of the State in which Susquehanna is organized and doing business, has jurisdiction over its issuance and sale of common stock. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 27, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-1762; Filed, Feb. 11, 1970; 8:47 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

KENTUCKY

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); and by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855–1855g); notice is hereby given that on February 2, 1970, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Kentucky adversely affected by heavy snow, rains, and flooding beginning on or about December 30, 1969, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 81-875. I therefore declare that such a major disaster exists in the State of Kentucky. Areas eligible for Federal assistance will be determined by the Director of the Office of Emergency Preparedness.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11495, November 18, 1969 (34 F.R. 18447, Nov. 20, 1969) to administer the Disaster Relief Act of 1969 (Public Law 91-79, 83 Stat. 125), I hereby appoint Mr. Robert C. Stevens, Regional Director, OEP Region 2, to act as the Federal Coordinating Officer to perform the duties specified by section 9 of that act for this disaster.

I do hereby determine the following areas in the State of Kentucky to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 2, 1970:

The counties of:

Bell.	Laurel.
Breathitt.	Leslie.
Clay.	Letcher.
Harlan.	Martin.
Knott.	Owsley.
Knox.	Pike.

Dated: February 6, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70-1760; Filed, Feb. 11, 1970; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

CALIFORNIA INSTITUTE OF TECHNOLOGY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of 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. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00337-15-29900. Applicant: California Institue of Technology, 1201 East California Boulevard, Pasadena, Calif. 91109. Article: Birefringent filters, Type H-Alpha. Manufacturer: Bernhard Halle Nachfl., West Germany. Intended use of article: The article will be used in conjunction with the videcon camera on the Apollo Telescope Mount (ATM) Photoheliograph. Application received by Commissioner of Customs: November 26, 1969.

Docket No. 70-00338-33-46040. Applicant: The Rockefeller University, York Avenue and 66th Street, New York, N.Y. 10021. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used for research on ribosome substructure and on the relationship of the large ribosomal subunits to the endoplasmic reticulum membrane to which some of these subunits are attached; for research on membrane structure and membrane biogenesis in algal chloroplasts and in the endoplasmic reticulum of mammalian

hepatocytes; and for research on structures involved in intracellular transport and discharge of secretory projects, primarily proteins, in mammalian pancreas and parotid. Application received by Commissioner of Customs: November 26, 1969.

Docket No. 70–00339–61–46040. Applicant: Cornell University, New York State Agriculture Exp. Station, Geneva, N.Y. 14456. Article: Electron microscope, Model JEM 100B. Manufacturer: Japan Electron Optics Laboratory, Co., Japan. Intended use of article: The article will be used mainly by the Department of Plant Pathology for research. The research programs include routine field diagnosis, symptom diagnosis, insect diagnosis, virus fine structure, diseased plant ultrastructure, genetic investigations, insect pathogen diagnosis and insect pathogen multiplication. Other departments on the campus will have access to the electron microscope. Application received by Commissioner of Customs: November 26, 1969.

Docket No. 70–00340–33–46040. Applicant: University of Connecticut Health Center, School of Medicine, Farmington Avenue, Route 4, Farmington, Conn. 06032. Article: Electron microscope, Model HU–11E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for the training of students and visiting investigators in the techniques of electron microscopy and for carrying out and supporting research projects by members of the department of microbiology staff. In training, all techniques of electron microscopy applicable to biological specimens will be used. In research, the major area of application will be in studies involving the reassociation of molecular components of membranes (proteins, phospholipid, and lipopolysaccharide), which requires the determination of the shapes, sizes, and fine structure of the complexes formed. Application received by Commissioner of Customs: November 26, 1969.

Docket No. 70–00341–16–61800. Applicant: Science Center of Pinellas County, Inc., 7701 22d Avenue North, St. Petersburg, Fla. 33710. Article: Planetariums and auxiliary projectors, Apollo Model. Manufacturer: Goto Optical Co., Japan. Intended use of article: The article will be operated manually or automatically and will be used for instruction in Grades 1 thru 12 in astronomy, weather, navigation and related courses as outlined by the applicant. Students as well as teachers will operate the article. Application received by Commissioner of Customs: November 26, 1969.

Docket No. 70–00342–99–46040. Applicant: East Carolina University, Greenville, N.C. 27834. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used primarily for the training of undergraduate and graduate students in the techniques and applications of electron microscopy. Due to the fact that this instrument is to be used for teaching, its operation must be relatively simple for the inexperienced student operators. A minimum of detailed programing facilitates early and competent use by students. Application received by Commissioner of Customs: November 26, 1969.

Docket No. 70–00343–16–47500. Applicant: University of Michigan, Department of Astronomy, Ann Arbor, Mich. 48104. Article: H-Alpha Monochromator with Temperature Control and Motorized Drive. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used for photography of the sun to provide research material for student and faculty use. Application received by Commissioner of Customs: December 1, 1969.

Docket No. 70–00344–33–46040. Applicant: Slippery Rock State College, Slippery Rock, Pa. 16057. Article: Electron Microscope, Model JEM–T7, and accessories. Manufacturer: Japan Electron Optics Lab., Ltd., Japan. Intended use of article: The article will be used primarily in teaching in the Department of Biology for undergraduate and graduate students. In one semester, approximately 1500 students are enrolled. A course in cytology will emphasize tissue preparation and the basic principles of the electron microscope. A course in cell ultrastructure considers the fine structure of cells as revealed with the electron microscope. Lectures will be given dealing with the theoretical and physical and chemical basis of tissue preparation for electron microscope study; and fixation images and their relationship to morphological details and definitions of the fine structural level. Application received by Commissioner of Customs: December 1, 1969.

Docket No. 70–00345–16–61800. Applicant: Collier County Board of Public Instruction, Building "D", Government Complex, Collier County, Naples, Fla. 33940. Article: Planetarium, Model Mercury. Manufacturer: Goto Optical Manufacturing Co., Japan. Intended use of article: The article will be used for precision sky motion simulation for educational and public programs including astronomy and navigation instruction. Application received by Commissioner of Customs: December 1, 1969.

Docket No. 70–00346–33–46040. Applicant: Herbert H. Lehman College, Department of Biological Sciences, Bedford Park Boulevard West, Bronx, N.Y. 10468. Article: Electron microscope, Model HU–11E. Manufacturer: Hitachi Ltd., Japan. Intended use of aritcle: The article will be used for three purposes; the training of graduate students in the techniques and applications of electron microscopy; as a teaching instrument in cytology; and for research projects. The research projects include a wide variety of biological materials to be examined, such as DNA molecules, viruses, blue-green algae, and cells of higher plants and animals. Application received by Commissioner of Customs: December 1, 1969.

Docket No. 70–00347–16–61800. Applicant: Tunkhannock Area School District, Philadelphia Avenue, Tunkhannock, Pa. 18657. Article: Planetarium, Model Mercury. Manufacturer: Goto Optical Manufacturing Co., Japan. Intended use of article: The article will be used for precision sky and apparent sky simulation for educational and public programs including astronomy and navigation instruction. Application received by Commissioner of Customs: December 1, 1969.

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

[F.R. Doc. 70–1806; Filed, Feb. 11, 1970; 8:51 a.m.]

FRANKLIN INSTITUTE RESEARCH LABS

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 as amended (34 F.R. 15787 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. 69–00645–33–46500. Applicant: The Franklin Institute Research Labs., 20th and Parkway, Philadelphia, Pa. 19103. Article: Ultramicrotome, Model Reichert "OmU2". Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used in connection with research presently being pursued for the identification by electron diffraction techniques of crystalline substances which are present in thin tissue samples prepared by ultramicrotomy. These crystalline particles are of greater density than the tissue itself which requires sections as thin as possible (50 angstroms) to assure that a satisfactory diffraction pattern will be obtained. The thin 50 angstroms sections also are necessary to obtain maximum resolution of the fine structure within the crystalline particles. 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, was being manufactured in the United States at the time the application was received (May 19, 1969). Reasons: The foreign article provides a minimum thickness capability of at least 50 angstroms. The most closely comparable domestic instrument being manufactured in the United States at the time the application was received was the Model MT–2 ultramicrotome that was being manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall

Model MT–2 had a guaranteed minimum thickness capability of 100 angstroms. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated December 8, 1969, that the applicant's research studies require sections less than 100 angstroms thick. For this reason, we find that the Sorvall Model MT–2 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, which was being manufactured in the United States at the time the application was received.

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

[F.R. Doc. 70–1793; Filed, Feb. 11, 1970; 8:49 a.m.]

LOUISIANA STATE UNIVERSITY MEDICAL CENTER

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 as amended (34 F.R. 15787 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. 69–00674–33–46500. Applicant: Louisiana State University Medical Center, Department of Anatomy, 1542 Tulane Avenue, New Orleans, La. 70112. Article: Ultramicrotome, Reichert Model "OmU2". Manufacturer: C. Reichert Optische Werke A. G., Austria. Intended use of article: The article will be used to section tissues of about 50 angstroms for a variety of studies which include; (a) viewing connections between cells during organogenesis, (b) the study of crystalline materials in hard tissues in normal and abnormal cartilage, and (c) to obtain maximum resolution of isotopically labeled material within subcellular organelle. 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, was being manufactured in the United States at the time the application was received. Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument being manufactured in the United States at the time the application was received was the Model MT–2 ultramicrotome that was being manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT–2 had a guaranteed minimum thickness capability of 100 angstroms. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated December 15, 1969 that the applicant's research studies require uniform serial sections of less than 100 angstroms. The better minimum sectioning capability of the foreign article, is therefore, pertinent.

For this reason, we find that the Sorvall Model MT–2 is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the application was received.

The Department of Commerce knows of no other instruments or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the application was received.

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

[F.R. Doc. 70–1791; Filed, Feb. 11, 1970; 8:49 a.m.]

MASSACHUSETTS GENERAL HOSPITAL

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 as amended (34 F.R. 15787 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. 69–00706–00–46040. Applicant: Massachusetts General Hospital, Orthopedic Research, Parkman Street Gate, Boston, Mass. 02114. Article: Shutter exposure meter No. 171–460. Manufacturer: Siemens A. G., West Germany. Intended use of article: The article will be used for exact measurement of the electron current falling on the final viewing screen and determination of the most favorable exposure time in order to obtain properly blackened negatives of the tissue under study. 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 foreign article is an accessory for a priorly imported electron microscope which was manufactured by the same source from which the accessory is being purchased.

The Department of Commerce knows of no similar accessory being manufactured in the United States which is interchangeable with the foreign article, or can readily be adapted to the electron microscope with which the foreign article is intended to be used.

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

[F.R. Doc. 70–1800; Filed, Feb. 11, 1970; 8:50 a.m.]

MASSACHUSETTS GENERAL HOSPITAL ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of 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. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00261–33–43780. Applicant: Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Six total hip joint replacements. Manufacturer: Protek, Ltd., Switzerland. Intended use of article: The article will be used for a study of a scientific assessment of hip reconstructions, using total hip replacement in contrast with previously existing modes of reconstructive hip surgery. Application received by Commissioner of Customs: October 16, 1969.

Docket No. 70–00301–89–43000. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Portable magnetometer, Model GM–102. Manufacturer: Barringer Research Ltd., Canada. Intended use of article: The article will be used to instruct students of the University of Tennessee's Geography Department in geophysical surveys, to teach principles and techniques used in nuclear precession field measurement. Application received by Commissioner of Customs: November 6, 1969.

Docket No. 70–00319–33–46040. Applicant: Veterans Administration Hospital, 4801 Linwood Boulevard, Kansas City, Mo. 64128. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for basic research on the structure and function of macromolecular aggregates. Specific research programs include electron microscopic studies of quaternary structure of oligomeric dehydrogenases; studies of the size and substructure of individual subunits of enzymes; studies of ordered aggregates of dehydrogenase oligomers; and studies of the glycoproteins of hela cell membranes, both attached and separated from the cell membranes. Application received by Commissioner of Customs: November 13, 1969.

Docket No. 70–00323–33–46040. Applicant: New York State Veterinary College, Cornell University, Ithaca, N.Y. 18450. Article: Electron microscope, Model 300. Manufacturer: Philips NVD, The Netherlands. Intended use of article: The article will be used in the following studies:

Virology:

a. Fine structure of animal viruses.

b. Fine structure of subviral antigens ("soluble antigens").

c. Morphological alterations in virus infected cells under varying physiological conditions.

d. Pathogenesis of viral diseases, ultrastructural pathogenesis of viral hepatitis, nephritis, encephalitis.

Bacteriology: Fine structure of cell wall and microcapsular material of *Brucella*.

Biochemistry: Correlative biochemical and ultrastructural alterations in collagen (joint capsular material—hip dysplasia project).

Application received by Commissioner of Customs: November 18, 1969.

Docket No. 70–00324–99–46040. Applicant: Case Western Reserve University, School of Medicine, 2109 Adelbert Road, Cleveland, Ohio 44106. Article: Electron microscope, Model EM 9A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used by the Department of Anatomy primarily for teaching electron microscopy and secondarily for research. Formal training in the use of electron microscopy in biological and medical research is provided through a course entitled Applied Electron Microscopy (Anatomy 495), which is a 16 week course with a minimum of 6 hours per week. Numerous lectures, demonstrations and practical exercises will be utilized to cover all aspects of electron microscopy in order to obtain adequately prepared specimens and practical operating experience. Application received by Commissioner of Customs: November 18, 1969.

Docket No. 70–00325–00–77040. Applicant: Stanford University, 820 Quarry Road, Palo Alto, Calif. 94304. Article: Ion source components. Manufacturer: Auckland Nuclear Accessory Co., Ltd., New Zealand. Intended use of article: These components, when assembled with others, will produce beams of polarized protons and deuterons and will be used for research and education of graduate students in nuclear physics experiments. Application received by Commissioner of Customs: November 18, 1969.

Docket No. 70–00327–33–23200. Applicant: University of California, Donner Laboratory, Berkeley, Calif. 94720. Article: Electron spin resonance spectrometer, Model JES–ME–1X. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for biomedical research in the following areas:

a. Structure of metalloproteins involved in enzyme-controlled biochemical reactions such as photosynthesis and nitrogen fixation.

b. Attachment of proteins and lipids to membranes using the spin-label technique.

c. Determination of the quantitative aspects of electron-transfer in enzyme reactions by paramagnetic electron titrations in conjunction with spectrophotometric monitoring of the reaction involved.

d. Aggregation and binding of proteins in particulate assemblies such as ribosomes and microsomes.

e. Interactions of nucleic acid requiring paramagnetic ion concentration as necessary factor.

f. Study of conformational changes in proteins and protein complexes by spin-label and transition-metal paramagnetic electron spin resonance.

g. Exploratory studies of free radicals produced by carcinogenic agents.

Application received by Commissioner of Customs: November 18, 1969.

Docket No. 70–00328–33–46500. Applicant: Veterans Administration Hospital, 4150 Clement Street, San Francisco, Calif. 94121. Article: Ultramicrotome, Model 8800A. Manufacturer: LKB Produktar AB, Sweden. Intended use of article: The article will be used in projects involving the electron microscopic examination of experimental virus infections of nervous tissue, for studies of the ultrastructure of human and animal peripheral nerve and muscle, and for a study of the relationship between virus particles and cellular membranes. Ultrathin sections will be embedded in a variety of plastics. Application received by Commissioner of Customs: November 19, 1969.

Docket No. 70–00330–33–28500. Applicant: Sloan-Kettering Institute for Cancer Research, 410 East 68th Street, New York, N.Y. 10021. Article: Cylindrical microelectrophoresis Apparatus. Manufacturer: Rank Bros., United Kingdom. Intended use of article: The article will be used to study electrophoretic mobility of cancer cells. Application received by Commissioner of Customs: November 19, 1969.

Docket No. 70–00331–33–46040. Applicant: Columbia University, Department of Biological Sciences, New York, N.Y. 10027. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: The article will be used for scientific research pertaining to structure of protein molecules. One of the main uses to which the microscope will be put is the study of molecular structure, specifically the three-dimensional conformation of proteins such as hemoglobin and cytochrome C. Also to be studied is the development and structural features of the nervous system and the problems of cell-cell associations. Application received by Commissioner of Customs: November 19, 1969.

Docket No. 70–00333–33–46040. Applicant: U.S. Department of Agriculture, ARS, Management Services Division for Marketing and Nutrition Research, 701 Loyola Avenue, Room T–12017, New Orleans, La. 70150. Article: Electron microscope, Model HU–11E–2, and accessories. Manufacturer: Hitachi, Ltd. Japan. Intended use of article: The article will be used for ultrastructural studies of pathogens of mosquitoes and other medically important insects; for investigations of the cyclic development of viral, bacterial, fungal, and protozoal organisms pathogenic to mosquitoes and arthropods; ultrastructure studies of digestive and reproductive tissues of insects in relation to the effects of treatments with insecticides; studies concerning physiologic changes at the subcellular level; and cytologic studies of chromosomes and microsomes in relation to investigations of the genetics of mosquitoes. Application received by Commissioner of Customs: November 21, 1969.

Docket No. 70–00332–79–60095. Applicant: The University of Texas Medical School at San Antonio, 7703 Floyd Curl Drive, San Antonio, Tex. 78229. Article: Sensing units for measurement of germicidal ultraviolet light. Manufacturer: Laboratoire Pasteur de l'Institut du Radium, France. Intended use of article: The article will be used for experiments in the effect of ultraviolet light (2537 Å) on various micro-organisms to be conducted concurrently in six multidiscipline laboratories occupied by a total of 104 medical students. Application received by Commissioner of Customs: November 21, 1969.

Docket No. 70–00336–00–61800. Applicant: Foothill Junior College District, 12345 El Monte Road, Los Altos Hills, Calif. 94022. Article: Planetarium projector. Manufacturer: Minolta Camera Co. Ltd., Japan. Intended use of article: The article will be used for elementary school, secondary and college classes, as well as for public education in astronomy and space sciences. Application received by Commissioner of Customs: November 25, 1969.

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

[F.R. Doc. 70–1803; Filed, Feb. 11, 1970; 8:50 a.m.]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of 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. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00378–65–46070. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Scanning electron microscope, Model JSM–U3 and Television scan accessory. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used for research and instruction in the Mechanical Engineering Department. Projects using the scanning electron microscope include the following studies:

1. Micro-morphology of natural, synthetic undrawn and drawn polymeric materials.
2. Topology of processing and deformation of fibrous composite materials.
3. Structure and mechanics of fibrous materials.
4. Cold drawing of solid polymers.
5. The role of internal friction during bending of fiber assemblies.
6. Mechanics of ductile fracture.
7. Mechanisms of fatigue damage and fatigue crack growth.
8. Rolling contact fatigue.
9. Fatigue and fracture in composite materials.
10. Surface roughness in mechanical polishing.

Application received by Commissioner of Customs: December 17, 1969.

Docket No. 70–00434–33–74600. Applicant: Yale University, Purchasing Division, 20 Ashmun Street, New Haven, Conn. 06520. Article: Signal analyser, Model BIOMAC 1000. Manufacturer: Data Lab., Ltd., United Kingdom. Intended use of article: The article will be used to study properties of axons and to find out how these optical properties change during the action potentials. This will be done in order to determine how the structure of the axon changes during its activity. The optical properties to be studied are birefringence, light scattering, and fluorescence. In each case the optical property is measured by converting the light energy into electrical energy with the photodetector. Application received by Commissioner of Customs: January 23, 1970.

Docket No. 70–00435–33–46040. Applicant: Albert Einstein College of Medicine, Kennedy Center for Mental Retardation and Human Development, 1300 Morris Park Avenue, The Bronx, N.Y. 10461. Article: Electron microscope, Model HS–8–1. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used by a group of M.D. and Ph. D. investigators in a series of biological experiments each of which when complete will be written up and published in the noncommercial scientific literature. The first group of experiments centers about diseases of myelin such as multiple sclerosis and experimental allergic encephalomyelitis. The work involves studies on experimental demyelination in animals and tissue cultures. A second group of studies is to be directed at the changes in the brain related to senility. Application received by Commissioner of Customs: January 23, 1970.

Docket No. 70–00436–01–07520. Applicant: University of Miami, Coral Gables, Fla. 33124. Article: Microcalorimeter, Model LKB 10700–2B. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to teach graduate students the use of research in calorimetry and for the scientific study of the interactions of dissolved organics with suspended minerals in the ocean. Application received by Commissioner of Customs: January 26, 1970.

Docket No. 70–00438–65–46070. Applicant: University of Connecticut, Institute of Materials Science, Storrs, Conn. 06268. Article: Scanning electron microscope, Model Mark IIa. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom. Intended use of article: The article will be used for graduate research. Current research areas which will use this instrument are fractography of metals and plastics, micropaleontology, studies on hard tissues, corrosion of surgical implant materials and a variety of biological researches. The instrument will also be used in microcrystallographic orientation studies. Application received by Commissioner of Customs: January 26, 1970.

Docket No. 70–00440–01–86300. Applicant: Princeton University, Purchasing Department, Post Office Box 33, Princeton, N.J. 08540. Article: Viscoelastometer, Model DDV–II. Manufacturer: Toyo Measuring Instruments Co., Ltd., Japan. Intended use of article: The article will be used to study the viscoelastic properties of various polymeric materials measured as a function of frequency of vibration and of temperature. The experiments to be conducted will initially include triblock copolymer films of styrene and butadiene. Another material to be studied is a polyurethane block copolymer. Application received by Commissioner of Customs: January 26, 1970.

Docket No. 70–00441–99–46040. Applicant: Fresno State College, State of California, Cedar and Shaw Avenues, Fresno, Calif. 93726. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for teaching and training purposes in the Biology Department at the applicant institution. An undergraduate course, biology 130-electron microscopy, will be offered for the first time in the fall of 1970 and each semester thereafter. Within a period of 15 weeks (one semester), 12 to 15 students will need to be instructed in preparative techniques, microscope operation, and accessory photographic techniques. Other biology courses in botany, zoology, parasitology, entomology, and microbiology will include laboratory exercises in which preparations will be made and examined by students by light and electron microscopy. Graduate students will receive instruction in the use of the article. Faculty members with a variety of research interest will also use the instrument. Application received by Commissioner of Customs: January 26, 1970.

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

[F.R. Doc. 70–1790; Filed, Feb. 11, 1970; 8:49 a.m.]

NEW MILFORD SCHOOL BUILDING COMMITTEE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of 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. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribed the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at

the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00348–16–61800. Applicant: New Milford School Building Committee, 40 Main Street, New Milford, Conn. 06776. Article: Planetariums and auxiliary projectors, Eros Model. Manufacturer: Goto Optical Manufacturing Co., Japan. Intended use of article: The article will be used for instruction in grades 1 through 12 in such subjects as astronomy, navigation, earth-space relationship, elementary science, water cycles, causes of weather and the solar system. Students as well as teachers will operate the instrument. Application received by Commissioner of Customs: December 1, 1969.

Docket No. 70–00349–00–61800. Applicant: New Milford School Building Committee, 40 Main Street, New Milford, Conn. 06776. Article: Hemispherical reinforced plastic assembly, Type 14. Manufacturer: Sailcraft Ltd., Canada. Intended use of article: The article will be used in connection with the planetarium instrument ordered by the applicant institution for instructional purposes. Application received by Commissioner of Customs: December 1, 1969.

Docket No. 70–00350–33–46040. Applicant: Medical University of South Carolina, 80 Barre Street, Charleston, S.C. 29401. Article: Electron Microscope, Model HU–11E–2. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for teaching and for research purposes. In teaching, graduate students and medical students will be trained in the techniques and applications of electron microscopy in a course entitled "The Electron Microscope in Cell and Molecular Biology". Current research projects are designed to clarify mechanisms of cellular movement, transport, development and pathology, and involve both morphologic and cytochemical techniques of study.

The ultrastructural localization of acid mucosubstances must be determined by direct staining methods applied to muscle cells, myblasts, blood platelets, and other cell types. Application received by Commissioner of Customs: December 3, 1969.

Docket No. 70–00351–01–77030. Applicant: The Institute for Cancer Research, 7701 Burholme Avenue, Philadelphia, Pa. 19111. Article: NMR spectrometer, Model JNM–MH–60–II. Manufacturer: Japan Electron Optics Lab., Co., Japan. Intended use of article: The article will be used for the high determination of chemical shifts and coupling constants of proton signals of organic compounds (adenosine nucleoside derivatives); routine analysis for determining structure of samples of compounds prepared for a program of synthetic organic research; high precision determination of chemical shifts of proton signals of closely similar (isomeric) organic compounds which it is planned to synthesize; and for low and high variable temperature studies for determining exchange rates of protons in organic compounds. Application received by Commissioner of Customs: December 3, 1969.

Docket No. 70–00353–98–26000. Applicant: Community College of Allegheny County, Boyce Campus, Monroeville, Pa. 15146. Article: Theory of electricity device, Model EG AZ/ZT. Manufacturer: Dr. Clemenz, West Germany. Intended use of article: The article will be used in classes for teaching the basic theory of electricity and for teaching the student to construct electrical articles. Thus actual practice by the student gives a basic understanding of the theory underlying the experiments. Application received by Commissioner of Customs: December 4, 1969.

Docket No. 70–00356–33–46500. Applicant: Cornell University, Veterinary Virus Research, Ithaca, N.Y. 14850. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to prepare ultrathin sections of animal tissues and tissue culture cells for electron microscopy. The fields of application include virology, bacteriology and biochemistry. The studies planned include fine structure of animal viruses in host cells; fine structure of cell wall and microcapsular material of Brucella; and correlative ultrastructure and histochemical alterations in collagen. Application received by Commissioner of Customs: December 4, 1969.

Docket No. 70–00357–99–46040. Applicant: California State College, 25800 Hillary Street, Hayward, Calif. 94542. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article's primary function will be for teaching and instruction. Simplicity of operation and the short training period required for its use make this instrument ideal for teaching. It will be necessary for students of limited background, having no previous experience in electronics or electron microscopy, to be trained in the techniques of electron microscopy within a few weeks. The course, outlined in detail, consists of 17 lectures and 10 laboratory periods. The secondary function of the article will be for graduate research in the fine structure of biological or geological material. Application received by Commissioner of Customs: December 5, 1969.

Docket No. 70–00358–33–46040. Applicant: Temple University Health Sciences Center, Skin and Cancer Hospital, 3322 North Broad Street, Philadelphia, Pa. 19140. Article: Electron microscope, Model EM 801. Manufacturer: GEC–AEI Electronics Ltd., United Kingdom. Intended use of article: The article will be used to examine ultrathin sections and surface replications of biological material. The instrument will service the entire department, several investigators, and a large number of research projects. The research programs involve a study of the role of plasma memberane specializations in regulating normal cell behavior, as well as abnormal and cancer cell systems. Application received by Commissioner of Customs: December 5, 1969.

Docket No. 70–00359–50–44630. Applicant: U.S. Department of Commerce, ESSA, Weather Bureau, Rural Route 1, Box 105, Sterling, Va. 22170. Article: Pulsed light ceilometer system. Manufacturer: Compagnie Des Compteurs, France. Intended use of article: The article will be used for comparison tests with similar instruments made in the United States. Application received by Commissioner of Customs: December 5, 1969.

Docket No. 70–00360–01–77040. Applicant: Iowa State University, Purchasing Dept., Room 202 Service Building, Ames, Iowa 50010. Article: Mass Spectrometer, Model MS 902C–1. Manufacturer: GEC-Associated Electrical Industries, United Kingdom.

Intended use of article: The article will be used to obtain spectra of organic, inorganic, and organometallic compounds and materials of biochemical interest, also to obtain ionization efficiency data for the determination of the strength of various bonds holding molecules of interest together. Such data concerns the characterization of molecules with respect to their structure and energetics and identifies unknown materials which may be intermediates in a series of complex reactions leading to the synthesis of new materials of importance in organic and biochemistry. Application received by Commissioner of Customs. December 5, 1969.

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

[F.R. Doc. 70–1785; Filed, Feb. 11, 1970; 8:49 a.m.]

NEW YORK UNIVERSITY

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 as amended (34 F.R. 15787 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. 69–00686–65–46040. Applicant: New York University, University Heights, Bronx, N.Y. 10453. Article: Electron microscope, Model JEM–120 and Accessories. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for studies of the nature and structure of defects in crystals of both metals and semiconductors, as well as for studies involving the use of the article and accompanying accessories in the transmission mode (bright and dark field), and in high resolution replication and fractography. In relating structure properties, a quantitative analysis of the dislocation substructure is intended, for

example, determination of the Burgers vectors. In this way, the scientific objective in each program can be achieved. 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 the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a maximum accelerating voltage of 120 kilovolts, which the applicant requires for adequate penetration of metallic specimens. The most closely comparable domestic instrument available at the time the application was submitted was the EMU–4B electron microscope which was then being manufactured by the Radio Corp. of America (RCA), and which is currently being produced by the Forgflo Corp. (Forgflo). The Model EMU–4B provides a maximum accelerating voltage of 100 kilovolts. We are advised by the National Bureau of Standards (NBS) in a memorandum dated October 7, 1969, that the higher accelerating voltage of the foreign article is pertinent to the purposes for which the foreign article is intended to be used.

For this reason, we find that the RCA EMU–4B electron microscope is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of not other instrument or apparatus of equivalent scientific value to the foreign article, which was being manufactured in the United States at the time the application was received.

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

[F.R. Doc. 70–1799; Filed, Feb. 11, 1970; 8:50 a.m.]

STATE UNIVERSITY OF NEW YORK AT BUFFALO ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of 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. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00420–33–43780. Applicant: State University of New York at Buffalo, Purchasing Department, 1803 Elmwood Avenue, Buffalo, N.Y. 14207. Article: Custom built mechanical stimulation system, including transducer, power amplifier and control, function generator and cabinetry. Manufacturer: Detlef Burchard, West Germany. Intended use of article: The article is a precision mechanical device for applying movements of a wide variety, time courses and repetition of frequencies. It will be used for stimulating receptors in the skin and also in the muscle and joint with the aim of investigating the responses produced in the central nervous system thereby. Application received by Commissioner of Customs: January 14, 1970.

Docket No. 70–00421–99–46040. Applicant: Northwestern University, Dept. of Materials Science, 2145 Sheridan Road, Evanston, Ill. 60201. Article: High voltage electron microscope and automatic tilting, rotating and heating stage Model HU–200E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to study the structure and properties of materials, primarily by the faculty, staff, and graduate students. The following research projects will utilize the microscope in the immediate future.

1. The dynamic observation of electron irradiation in situ.
2. The direct observation of heat treatments of specimen in the microscope.
3. The structural study of fatigued copper and copper alloys.
4. The study of high temperature materials with the emphasis on the 3–D morphology and second phases.
5. The structure and diffraction analysis of small defect clusters.
6. The dislocation structures in magnesium and magnesium-lithium alloys and their annealing out during heating.
7. Phase transformation in tin.
8. The simultaneous observation of surface and internal structure of metals.
9. Precipitation hardening in gold based alloys.
10. The dynamic observation of plastic deformation of metals in the microscopes.
11. Structural study of magnetic phase in oxide.

Application received by Commissioner of Customs: January 15, 1970.

Docket No. 70–00422–33–46040. Applicant: New York Hospital, Cornell Medical Center, 525 East 68th Street, New York, N.Y. 10021. Article: Electron microscope, Model EM 6B. Manufacturer: Associated Electrical Ind., England. Intended use of article: The article will be used for corneal research and training of physicians in electron microscope techniques. Application received by Commissioner of Customs: January 15, 1970.

Docket No. 70–00423–33–46500. Applicant: University of California, Davis, School of Medicine, Davis, Calif. 95616. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used for sectioning human breast tissue for electron microscopy. A study will be made of the normal human breast at all ages and correlate normal anatomical features at the subgross, light microscopic and electron microscopic level with those found in diseased states. The ultimate goal is to find out what comprises the precursor stages of cancer of the human breast. Application received by Commissioner of Customs: January 19, 1970.

Docket No. 70–00424–33–46040. Applicant: Children's Hospital, 1056 East 19th Avenue, Denver, Colo. 80218. Article: Electron microscope, Model EM 9S. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for research and trainee education. The objective of the investigations under study is to define by electron microscopy morphologic features of the cell populations, thus contributing to the understanding of the processes in which those cells are important. Human biopsy, selected human necropsy and small animal materials will be studied, as well as normal and diseased human and animal tissues. Experiments concern the ultrastructure of malignant neoplasms of children and of the liver in patients with pyloric stenosis and jaundice. Medical students and residents will be trained in electron microscopy. Application received by Commissioner of Customs: January 19, 1970.

Docket No. 70–00425–01–77030. Applicant: Morehead State University, Chemistry Department, Morehead, Ky. 40351. Article: JNM–C–60HL, High Resolution Multi-Nuclei NMR spectrometer system. Manufacturer: JEOLCO, Japan. Intended use of article: The article will be used as following:

(a) Instructional use in connection with courses in physical chemistry, instrumental analysis, and qualitative organic analysis.

(b) Studies of structures of steroids employing C^{13} measurements. These will require broad band decoupling of all protons.

(c) Proton studies in molten salt mixtures such as the ternary eutectic $NaNO_3$–$LiNO_3$.

(d) Studies of donor acceptor properties of substituted pyridine complexes with trifluoracetyl chloride, boron trifluoride, etc.

(e) Conformational studies of alicyclic ring systems employing variable temperature proton measurements.

(f) Study of association equilibrium constants for intermolecular complexes and the temperature and solvent dependence of these constants.

(g) Routine structural determinations employing proton and occasionally F^{19}

and C^{13} measurements. Application received by Commissioner of Customs: January 19, 1970.

Docket No. 70-00426-01-68495. Applicant: Purdue University, Lafayette, Ind. 47907. Article: Pump, Dosing. Manufacturer: Societe Pompes, DKM, France. Intended use of article: The article will be used in constructing a recirculating gradientless reactor for studying kinetics of gas phase catalytic reactions. Application received by Commissioner of Customs: January 19, 1970.

Docket No. 70-00430-33-46040. Applicant: Emory University, Atlanta, Ga. 30322. Article: Electron microscope, model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for research and teaching. Studies are in progress concerning the induction of polykaryocytosis in cultured cells Newcastle disease virus (NVD); the interaction of NVD and polyene antibiotics; the role of viral envelope in the infectous process; the "toxic" effects of poxviruses; the mechanism of blood clotting by staphylocoagulase; and the mechanism of liver damage resulting from antigen-antibody complexes. A course in electron microscopy for graduate students will be developed. Application received by Commissioner of Customs: January 21, 1970.

Docket No. 70-00439-01-72000. Applicant: Newark College of Engineering, 323 High Street, Newark, N.J. 07102. Article: Weissenberg rheogoniometer, Model R. 18. Manufacturer: Sangamo Controls Ltd., U.K. Intended use of article: The article will be used for research in the area of rheology (the science of deformation and flow). The behavior of molten polymers, polyethylene, polymer solutions, polymethylemethacylate, carboxy methyl cellulose, and biological fluids will be studied. Application received by Commissioner of Customs: January 26, 1970.

Docket No. 70-00442-33-46040. Applicant: Brown University, Division of Biological and Medical Sciences, Box G, Providence, R.I. 02912. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used primarily for producing high resolution electron micrographs for research by several investigators. Also selected students will be taught methods of high resolution electron microscopy. The main area of research concerns accurate determination of the size, shape and possible substructure of particles and molecules of lipoprotein. Particle-surfaces of chylomicrons and other lipoproteins will be studied. Other studies will be made of ribosomes, of cell membranes, and the mechanism of muscle-contraction. Application received by Commissioner of Customs: January 26, 1970.

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

[F.R. Doc. 70-1805; Filed, Feb. 11, 1970; 8:50 a.m.]

UNIVERSITY OF CALIFORNIA

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 as amended (34 F.R. 15787 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. 70-00145-00-46040. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Electromagnetic shutter for a Siemens electron microscope. Intended use of article: The article will be used as a photographic accessory to an existing electron microscope. 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 foreign article is an accessory to a priorly imported electron microscope manufactured by the same source from which the accessory is being purchased. The Department of Commerce knows of no similar accessory being manufactured in the United States which is interchangeable with the foreign article, or can readily be adapted to the electron microscope with which the foreign article is intended to be used.

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

[F.R. Doc. 70-1792; Filed, Feb. 11, 1970; 8:49 a.m.]

UNIVERSITY OF CALIFORNIA

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 as amended (34 F.R. 15787 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. 70-00037-65-46040. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Electron microscope, Model JEM-120. Manufacturer: Japan Electron Optics Laboratory Co. Ltd., Japan. Intended use of article: The article will be used as an educational instrument in conjunction with an established course on transmission microscopy of thin crystals. In the laboratory associated with the lecture course, students will have an opportunity to use the article to observe the large variety of diffraction contrast phenomena from defects in thin crystals. In addition to the above use, the article will be used as a research tool in a variety of scientific programs currently in progress. 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 foreign article provides a maximum accelerating voltage of 120 kilovolts (kv). The most closely comparable domestic instrument available at the time of application was the EMU-4B electron microscope which was then manufactured by the Radio Corporation of America (RCA) and which is currently being produced by Forgflo Corp. (Forgflo). The Model EMU-4B electron microscope provides a maximum accelerating voltage of 100 kv. The higher the accelerating voltage, the greater is the penetration of the specimen by the electron beam. Since extra penetration is needed to provide adequate resolution of the thick metallic samples which the applicant intends to examine, the greater accelerating voltage of the foreign article is pertinent. For this reason, we find that the RCA Model EMU-4B electron microscope is not of equivalent scientific value to the foreign article, for the purposes for which 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. 70-1796; Filed, Feb. 11, 1970; 8:50 a.m.]

UNIVERSITY OF CALIFORNIA

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 as amended (34 F.R. 15787 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. 70–00128–00–46040. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: 70mm camera and specimen stage for an EM 6B electron microscope. Manufacturer. Associated Electrical Industries, United Kingdom. Intended use of article: The articles will be used as accessories for an existing Model EM 6B electron microscope. 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 the purposes for which this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article consists of accessories for a priorly imported electron microscope which was manufactured by the same source from which the accessories are being purchased. The Department of Commerce knows of no similar accessory being manufactured in the United States which is interchangeable with the foreign article, or can readily be adapted to the electron microscope with which the foreign article is intended to be used.

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

[F.R. Doc. 70–1797; Filed, Feb. 11, 1970; 8:50 a.m.]

UNIVERSITY OF CALIFORNIA

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 as amended (34 F.R. 15787 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. 69–00671–33–77040. Applicant: University of California at San Diego, Purchasing Department, Post Office Box 109, La Jolla, Calif. 92037. Article: Respiratory air mass spectrometer, Model 473601. Manufacturer: Varian MAT, West Germany. Intended use of article: The article will be used for analyzing expired gas in men who have been inhaling various gas mixtures. Four gases will be monitored simultaneously in order to measure the change in gas exchange ratio and the distribution of ventilation. The concentration of exhaled water vapor will also be monitored in order to make appropriate corrections for the other gases. This analysis will reveal the function of the lungs. 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 the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is a respiratory air analysis mass spectrometer which has the capabilities of a response time for water vapor less than 0.5 seconds and the ability to analyze four gases simultaneously, one of which is water vapor. We are advised by the Department of Health, Education, and Welfare (HEW) in a memorandum dated November 26, 1969, that the capabilities of a response time for water vapor less than 0.5 seconds and the ability to analyze four gases simultaneously, one of which is water vapor are pertinent to the purpose for which the foreign article is intended to be used and that no available domestic mass spectrometer is known to possess these pertinent characteristics. 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. 70–1802; Filed, Feb. 11, 1970; 8:50 a.m.]

UNIVERSITY OF CHICAGO ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of 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. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00392–75–40600. Applicant: University of Chicago (Operator of), Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: Isotope separator. Manufacturer: Danfysik, Denmark. Intended use of article: The article will be used in connection with research on the study of high energy nuclear reactions at the Argonne National Laboratory proton synchrotron. Simple nuclear reactions, nuclear fission, spallation, and fragmentation are under investigation. The separator will also be used to prepare isotopically pure samples for nuclear spectroscopy studies. Application received by Commissioner of Customs: December 22, 1969.

Docket No. 70–00393–65–82600. Applicant: National Aeronautics & Space Administration, Manned Spacecraft Center, Space Sciences Procurement Branch, Code: BG9, Houston, Tex. 77058. Article: Recording vacuum thermoanalyzer. Manufacturer: Mettler Instrument Corp., Switzerland. Intended use of article: The article will be used in basic investigations of the thermal behavior of terrestrial, meteoric, and lunar materials and off gassed products in controlled gas environments. The scientific objective is to provide the most meaningful, complete, and timely thermal data on the above materials within the present state-of-the-art. Application received by Commissioner of Customs: December 23, 1969.

Docket No. 70–00394–01–77040. Applicant: The University of Kansas, Department of Medicinal Chemistry, Lawrence, Kans. 66044. Article: Mass spectrometer, Model CH–5. Manufacturer: Varian/MAT GmbH, West Germany. Intended use of article: The article will be used as a teaching and research instrument in graduate programs involving problems in organic, medicinal, physical, inorganic chemistry, and biochemistry. Intended applications include structure studies of complex organic natural products including peptides, alkaloids, terpenoids, and antibiotics; as well as the identification of components of complex natural mixtures of plant sterols, essential oils, and complex mixtures. Application received by Commissioner of Customs: December 23, 1969.

Docket No. 70–00395–33–43780. Applicant: Tulane University School of Medicine, 1430 Tulane Ave., New Orleans, La. 70112. Article: Mark 4 resparameter; helium analyzer; and carbon monoxide analyzer. Manufacturer: P. K. Morgan Ltd., U.K. Intended use of article: The article will be used for the measurement of pulmonary transfer factor (diffusing capacity) and total lung capacity. The purpose of this measurement is to assess damage at the alveolar capillary impairment of the lungs as evidenced by a reduced diffusing capacity. Application received by Commissioner of Customs: December 23, 1969.

Docket No. 70–00396–50–49000. Applicant: The Research Foundation of SUNY (State University of New York), in conjunction with ASRC, SUNYA, 130 Saratoga Road, Route 50, Scotia, N.Y. 12302. Article: Scattered light recorder (nephelometer), type STR–V22–56–MS04. Manufacturer: A.E.G. Telefunken, West Germany. Intended use of article: The article will be used in class

room lectures in light scattering principles and in research projects concerning extinction coefficient of the atmosphere, aerosol scattering characteristics, atmospheric haze problems, and visibility in "clear" and foggy air. Application received by Commissioner of Customs: December 29, 1969.

Docket No. 70–00397–33–46040. Applicant: City of Hope Medical Center, 1500 East Duarte Road, Duarte, Calif. 91010. Article: Electron microscope, Model HS–8–1. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for studies to determine the packing ratio of DNA into the chromatin fiber of chromosomes; whole mount electron microscopy of avian and mammalian metaphase chromosomes; and studies of meiotic chromosomes of humans, mammals, birds and amphibia utilizing the water spread-technique. Besides other studies listed by the applicant, the article will be used for instruction of postdoctoral fellows in the use of electron microscopes. Application received by Commissioner of Customs: December 29, 1969.

Docket No. 70–00398–33–46040. Applicant: Kansas State Teachers College, Emporia, Kans. 66801. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for both research and teaching purposes. Faculty and advanced students are investigating ultrastructural changes associated with development of adipose tissues in the hamster; studying the fine structure of conidia, the ultrastructure of cells of several species of each of the orders of the division Chlorophyta; and the morphology of certain bacteriophage and the structural alterations observed at different times in the phage-host relationship. Students and their projects are listed by the applicant, and the courses using the electron microscope. Application received by Commissioner of Customs: December 29, 1969.

Docket No. 70–00399–01–77030. Applicant: University of Texas at El Paso, El Paso, Tex. 79999. Article: NMR spectrometer, Model R12. Manufacturer: Perkin and Elmer Ltd., U.K. Intended use of article: The article will be used in research projects concerning chain conformations and tacticity sequences in synthetic polyampholited, hydroxy resin acid derivatives, chemotaxonomy of porophyllum species, conformation effects in steroid derivatives, superhyperfine spectra of fluoride complexed transition metal ions and identifications of products of photochemical reactions. Application received by Commissioner of Customs: December 29, 1969.

Docket No. 70–00400–25–41200. Applicant: University of Colorado, Purchasing Dept., Regent Hall—Room 122, Boulder, Colo. 80302. Article: Klystron oscillator, Type VC742C. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: The article will be used in a research effort to develop a 94 GHz Maser receiver that would be useful in radio astronomy applications. Application received by Commissioner of Customs: December 29, 1969.

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

[F.R. Doc. 70–1786; Filed, Feb. 11, 1970; 8:49 a.m.]

UNIVERSITY OF CINCINNATI MEDICAL CENTER

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 as amended (34 F.R. 15787 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. 69–00672–33–46040. Applicant: University of Cincinnati Medical Center, Department of Pathology, Eden and Bethesda Avenue, Cincinnati, Ohio 45229. Article: Electron Microscope Model Elmiskop 101. Manufacturer: Siemens A. G., West Germany. Intended use of article: The article will be used for the following studies:

a. The correlation of chemical and antigenic alterations with the fine structure morphology of the plasma membranes in both isolated fragments and intact cells.

b. The correlation of defective muscle membrane with structure abnormality in myotonic animals.

c. The study of early fine structure changes in accelerated rejection of transplanted dog kidneys.

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 foreign article has a guaranteed resolving power of 3.5 angstroms. The most closely comparable domestic instrument available at the time the foreign article was ordered was the EMU–4B electron microscope which was then being manufactured by the Radio Corporation of America (RCA) and which is currently being produced by Forgflo Corp. (Forgflo). The RCA Model EMU–4B has a guaranteed resolving power of 5 angstroms. (The lower the numerical rating in terms of angstroms the better the resolving power.) For the purposes for which the foreign article is intended to be used, the highest possible resolving power is required. We are advised by the Department of Health, Education, and Welfare (HEW), in its memorandum dated October 31, 1969, that the additional resolving capabilities of the foreign article are pertinent to the purposes for which the article is intended to be used. For this reason, we find that the RCA Model EMU–4B electron microscope 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 such purposes as this article is intended to be used, which was being manufactured in the United States at the time the application was received.

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

[F.R. Doc. 70–1801; Filed, Feb. 11, 1970; 8:50 a.m.]

UNIVERSITY OF DAYTON

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 as amended (34 F.R. 15787 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. 69–00699–40–74700. Applicant: University of Dayton, Department of Mechanical Engineering, 300 College Park Drive, Dayton, Ohio 45409. Article: Simulators (mechanical engineering). Manufacturer: Tecquipment, Ltd. U.K. Intended use of article: The article will be used for laboratory demonstration and instruction of undergraduate mechanical engineering students. 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 the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides demonstrations of epicyclic gears and gear trains, provides a mechanical aid to the graphical determination of tooth profiles produced by the generating process, provides controls to follow the dynamic behaviour of a cam follower under various operating conditions including bounce and can be used to demonstrate acceleration of geared systems. These characteristics of the foreign article are pertinent to the purposes for which this article is intended to be used. We are

advised by the National Bureau of Standards (NBS) in a memorandum dated October 17, 1969, that it knows of no domestic instrument or apparatus which is capable of fulfilling the purposes for which the foreign article is intended to be used.

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

[F.R. Doc. 70-1798; Filed, Feb. 11, 1970; 8:50 a.m.]

UNIVERSITY OF ILLINOIS

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 as amended (34 F.R. 15787 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. 69-00684-01-77030. Applicant: University of Illinois at Chicago Circle, 601 South Morgan Street, Chicago, Ill. 60607. Article: Nuclear induction spectrometer, Model HX5/5. Manufacturer: Bruker Physik, West Germany. Intended use of article: The article will be used in an experimental program concerned with a variety of nuclear magnetic resonance studies of "Low Sensitivity" nuclei. The low sensitivity of the nuclei in question is a result of some or all of the following: low natural abundance, small magnetic moment, low solubility, and long relaxation times. Experimental techniques developed over the past few years, in addition to advanced instrumentation, now make such studies feasible, thus making available to whole new areas of inorganic chemistry the richness of nuclear magnetic resonance experiments. 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 the purposes for which this article is intended to be used, was available at the time the applicant placed the order for the foreign article, June 19, 1968. Reasons: The foreign article is intended for use in the observation of very weak phosphorus (atomic number-31) signals and rhodium signals in such compounds as triphenyl phosphine complexes of rhodium as well as to observe signals from other low sensitivity nuclei. The article provides a multinuclei capability and has the ability to provide up to four independent frequencies simultaneously. The most closely comparable domestic instrument at the time the foreign article was purchased was the Model HA-100-15 nuclear magnetic resonance spectrometer manufactured by Varian Associates (Varian). We are advised by the National Bureau of Standards (NBS) in a memorandum dated October 6, 1969, that the Varian Model HA-100-15 spectrometer did not provide multinuclear capability plus simultaneous independent frequencies as required to do the specific experiments to be performed by the applicant and that this combination of capabilities is pertinent to the purposes for which the 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 was being manufactured in the United States at the time the applicant placed the order for the foreign article.

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

[F.R. Doc. 70-1794; Filed, Feb. 11, 1970; 8:49 a.m.]

UNIVERSITY OF ILLINOIS ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of 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. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00408-33-46040. Applicant: University of Illinois at the Medical Center, 833 South Wood Street, Chicago, Ill. 60612. Article: Electron microscope, Model HS-7S. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for educational and research purposes. Approximately 15 individuals per year will be trained on the proper technique in electron microscopy which includes specimen preparation, electron microscope operation and basic photographic technique. Among the 37 current research projects using this instrument are studies of tyrosine toxicity in rats; fine structure of the oral mucosa of rabbit fed with a vitamin A deficient diet; ultrastructure of mycobacteria; and biopsies of skeletal muscle in diabetic patients and normal controls. Application received by Commissioner of Customs: January 5, 1970.

Docket No. 70-00410-33-46040. Applicant: University of Connecticut, School of Medicine, Hartford Plaza, Hartford, Conn. 06105. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used primarily for research in cellular and neurobiology. It will also be used for the training of graduate, postdoctoral and medical students in ultrastructural techniques as they apply to biological and medical research. A study of the morphology of scar formation in the nervous system and the reaction of neuroglial cells to experimental injury during development is being investigated. Another study concerns glyocogen in neurons. Application received by Commissioner of Customs: January 7, 1970.

Docket No. 70-00406-01-77030. Applicant: Drew University, Route No. 24, Madison, N.J. 07940. Article: NMR spectrometer, Model JNM-MS-60-II. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used in studies of temperature dependent exchange phenomena to elucidate mechanisms of rapid organic reactions; high temperature studies of polymers and other compounds of high molecular weight; and low and high temperature studies for determining exchange rates of proton compounds containing groups such as OH, NH, and SH for student's evaluation. Faculty and students research projects concern gas-liquid and liquid-liquid chromatography as an analytical tool; transition-metal organometallic complexes; and characterization of natural products. Application received by Commissioner of Customs: December 31, 1969.

Docket No. 70-00419-16-61800. Applicant: Saint Aloysius High School, 2003 Clay Street, Vicksburg, Miss. 39180. Article: Planetariums and auxiliary projectors, Model Apollo. Manufacturer: Goto Optical Co., Japan. Intended use of article: The article will be used for instruction in such courses as astronomy, navigation and weather for different grade levels and will be operated by both students and teachers. Application received by Commissioner of Customs: January 14, 1970.

Docket No. 70-00428-33-11000. Applicant: Vanderbilt University, Department of Pharmacology, 21st Avenue South, Nashville, Tenn. 37203. Article: Gas chromatograph-mass spectrometer, Model LKB 9000. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used primarily in analytical biochemical problems related to medical research. It will

be utilized extensively in the identification of metabolites of drugs administered to humans and the experimental animals. Specific types of problems in drug metabolisms will be studied, since there is an increasing need for the ability to identify trace components in blood and urine after the administration of potent drugs, for doses of such agents are often in the milligram range or less, meaning that urinary metabolites will be present in microgram quantities and the drug and its metabolites in blood will be present at submicrogram amounts. Application received by Commissioner of Customs: January 20, 1970.

Docket No. 70-00429-98-41500. Applicant: Southeastern Massachusetts University, Commonwealth of Massachusetts, North Dartmouth, Mass. 02747. Article: Sandover laminar flow table, Model #9509. Manufacturer: Armfield Engineering, Ltd., United Kingdom. Intended use of article: The article will be used in classroom demonstrations of laminar flow phenomena, student-performed experiments and for advanced research by undergraduates, graduate students and faculty in the area of two-dimensional flow phenomena. Application received by Commissioner of Customs: January 20, 1970.

Docket No. 70-00431-33-46040. Applicant: Johns Hopkins University, School of Medicine, 725 North Wolfe Street, Baltimore, Md. 21205. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for biological and medical applications, ranging from low magnification, survey pathology study to high resolution membrane and protein subunit analysis. A relatively large number of researchers and students, some inexperienced, will use the electron microscope. Specific projects include studies of synapse mapping in nervous tissue; corneal and retinal pathology; corneal stromal and collagen subunit structure; and Golgi (silver)-impregnated cell structure and three dimensional reconstruction from serial sections. Application received by Commissioner of Customs: January 22, 1970.

Docket No. 70-00432-33-90000. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: X-ray diffraction equipment, Model GX6. Manufacturer: Elliott Electronic Tubes, Ltd., United Kingdom. Intended use of article: The article will be used to study the diffraction from heavily hydrated crystals. The studies are directed towards the solution of the structure of transfer RNA, an important molecule in the synthesis of proteins in living systems. It crystallizes in a heavily hydrated crystal which needs a very high intensity X-ray beam. Work on this problem includes both postdoctoral workers as well as students. Application received by Commissioner of Customs: January 22, 1970.

Docket No. 70-00427-33-46500. Applicant: Boston University, School of Medicine, 78 East Concord Street, Boston, Mass. 02118. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The primary use of this article will be in virus cancer research. A project concerning the pathogenesis of viral leukemia is being studied. In order to study the relation of viral replication to tumor proliferation, the relation of mature virions will be studied in serial section in ultrathin tissue sections. Application received by Commissioner of Customs: January 19, 1970.

Docket No. 70-00412-07-13200. Applicant: Purdue University, Purchasing Department, Lafayette, Ind. 47907. Article: Photo-electric-apparatus for analyzing properties of meat according to the brightness of its color intensity. Manufacturer: Ernest Schutt Jun., West Germany. Intended use of article: The article will be used for color evaluation on muscle and meat from research animals that have been subjected to controlled environments prior to slaughter. Meat color is one of the most difficult phenomena to evaluate objectively. Pigment properties vary from species to species as to optimum wavelength for brightness determination. In addition these color pigments are somewhat unstable in that they change when exposed to the air, and are affected by temperature changes. Timing and experimental conditions are critical. Application received by Commissioner of Customs: January 12, 1970.

Docket No. 70-00413-33-46040. Applicant: Miami University, Oxford, Ohio 45056. Article: Electron microscope, Model HU-125E-1. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant intends to conduct experiments in light and interference microscopy, using specially prepared thin sections, in conjunction with electron microscopic studies of Golgi morphology, enzyme cytochemistry and ultrastructural cytochemistry. The article will also be used in a course entitled "Electron Microscopy" to teach routine fixation and embedment, preparation of grids for electron microscopy, negative staining of preparations, phase contrast electron microscopy, electron microscope radioautography, electron microscopy cytochemistry and special problems in electron microscopy, including electron diffraction. Application received by Commissioner of Customs: January 12, 1970.

Docket No. 70-00415-33-46040. Applicant: University of Maryland School of Medicine, Department of Cell Biology and Pharmacology, 660 West Redwood Street, Baltimore, Md. 21201. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens & Halske Aktiengesellschaft, West Germany. Intended use of article: The article will be used in the investigation of virus and host cell ultrastructure, particularly to determine (morphologically) how viruses and other macromolecules interact with the substructure of cell walls and subcellular particles. Graduate students in the department will be trained to use the electron microscope in their own investigations. Application received by Commissioner of Customs: January 12, 1970.

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

[F.R. Doc. 70-1804; Filed, Feb. 11, 1970; 8:50 a.m.]

UNIVERSITY OF NEBRASKA

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 as amended (34 F.R. 15787 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. 69-00702-33-46500. Applicant: University of Nebraska College of Medicine, 42d and Dewey Avenue, Omaha, Nebr. 68105. Article: Ultramicrotome, Model LKB 8800 ultrotome III. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used primarily for sectioning embryonic tissue or whole embryos in serial form. The applicant must be able to obtain alternately single sections of greater than 0.1 micron thickness and long series of serial sections of equal thickness (approximately 50 angstroms), allowing location and identification by light microscopy of certain cell types (for example germ cells) using toluidine blue stained thick sections, and then with serial ultrathin sections reconstruct the fine structure of these cells. 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, was being manufactured in the United States at the time the application was received (June 30, 1969). Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument being manufactured in the United States at the time the application was received was the Model MT-2 ultramicrotome that was being manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 had a guaranteed minimum thickness capability of 100 angstroms. We are advised by the Department of Health, Education, and Welfare (HEW), in its memorandum dated December 5, 1969 that the applicant's research studies require uniform serial sections of less than 100 angstroms. For this reason, we find that

the Sorvall Model MT–2 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 instruments or apparatus of equivalent scientific value to the foreign article, which was being manufactured in the United States at the time the application was received.

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

[F.R. Doc. 70–1788; Filed, Feb. 11, 1970; 8:49 a.m.]

UNIVERSITY OF OREGON MEDICAL SCHOOL

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 as amended (34 F.R. 15787 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. 69–00690–33–46040. Applicant: University of Oregon Medical School, 3181 Southwest Sam Jackson Park Road, Portland, Oreg. 97201. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used for training of research fellows and graduate students, as well as for scanning pathological sections obtained from surgery. Basic research for which the article is intended to be used includes the following:

(a) Morphology and pathology of the inner structure of the ear.

(b) Identification and study of viruses in common colds.

(c) Cytochemical features and structure of specific membranes in the inner ear.

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 foreign article has a guaranteed resolving power of 3.5 angstroms. The most closely comparable domestic instrument available at the time the application was submitted was the EMU–4B, which was then being manufactured by the Radio Corporation of America (RCA), and which is currently being produced by Forgflo Corp. (Forgflo). The RCA Model EMU–4B has a guaranteed resolving power of 5 angstroms. (The lower the numerical rating in terms of angstroms the better the resolving power.) We are advised by the Department of Health, Education, and Welfare (HEW), in its memorandum dated October 17, 1969, that the applicant requires the highest possible resolving power for his research studies and, therefore, the additional resolving capability of the foreign article is pertinent. For this reason, we find that the RCA Model EMU–4B electron microscope 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, which was being manufactured in the United States at the time the application was received.

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

[F.R. Doc. 70–1784; Filed, Feb. 11, 1970; 8:49 a.m.]

UNIVERSITY OF SOUTHWESTERN LOUISIANA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or appartus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00361–33–46040. Applicant: University of Southwestern Louisiana, Lafayette, La. 70501. Article: Electron microscope, Model AEI–EM6B. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used for student training and microbiological research. These projects concern capsule structure studies on bacteria and actinomycetes, microbial genetics investigations where the morphology of the DNA–RNA structures are involved, and membrane physiology investigations of the effect of rare earth metals on membrane transport systems. Application received by Commissioner of Customs: December 9, 1969.

Docket No. 70–00362–33–46040. Applicant: City of Hope Medical Center, 1500 East Duarte Rd., Duarte, Calif. 91010. Article: Electron microscope, Model HU–11E–1. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to study normal and neoplastic nerve cells and tissue culture; normal and spinal cord of a variety of species of animals; tissues of mice and humans suffering from various genetic and acquired disorders of the nervous system; the nervous systems of Drosophila; animal tumors with special emphasis on the localization of oncogenic viruses. Application received by Commissioner of Customs: December 9, 1969.

Docket No. 70–00363–33–46040. Applicant: University of California, Los Angeles, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Electron microscope, Model EM 9A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for biological research projects and to introduce people at various levels of education to the techniques of electron microscopy as applicable to medical diagnosis and investigation. The major research project is an investigation of cardiovascular defects produced by copper deficiency. Studies of secretory mechanisms in a variety of human neoplasms and studies on islet cell tumors, pheochromocytomas and carcinoid tumors are under way. As an educational tool, the article will be used by all medical students, internes and residents in the Department of Pathology of the School of Medicine. Application received by Commissioner of Customs: December 11, 1969.

Docket No. 70–00366–33–46040. Applicant: Children's Hospital Medical Center, 300 Longwood Avenue, Boston, Mass. 02115. Article: Electron microscope, Model 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used primarily in research programs concerned with mental retardation, including pathology and cellular anatomy. Selected graduate and postdoctoral students will be trained in the applications of electron microscopy to the study of human diseases. The investigation and training will include research at the tissue, cellular and macromolecular level. Application received by Commissioner of Customs: December 11, 1969.

Docket No. 70–00367–01–77030. Applicant: Eastern Washington State College, Department of Chemistry, Cheney, Wash. 99004. Article: NMR spectrometer, Model R–20A. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for two primary functions, teaching the techniques and applications of proton magnetic resonance in a variety of courses, and research in

several fields of chemistry. Two current research projects are synthesis and characterization of stable nitrenium ions; and molecular complexation between substituted ethylenes and triphenylphosphine and its derivatives. Application received by Commissioner of Customs: December 11, 1969.

Docket No. 70-00368-00-46040. Applicant: Children's Hospital of Los Angeles, Post Office Box 54700, Los Angeles, Calif. 90054. Article: Universal cassette without magazine. Magazine with 24 plate holders. In Manufacturer: Siemens, West Germany. Intended use of article: The article will be used on an existing Siemens electron microscope in the applicant institution. Application received by Commissioner of Customs: December 11, 1969.

Docket No. 70-00369-65-46070. Applicant: University of Kentucky, College of Agriculture, Lexington, Ky. 40506. Article: Scanning electron microscope, Model Mark II-A. Manufacturer: Cambridge Instrument Co., Ltd., U.K. Intended use of article: The article will be used in research concerning entomology (morphology and behavior of the acarina); and morphology and taxonomy of leafhoppers, as well as ecological and behavioral studies. Other projects involve studies related to forestry, veterinary science, regulatory services, plant pathology, metallurgy and physics. Application received by Commissioner of Customs: December 11, 1969.

Docket No. 70-00372-00-11000. Applicant: Research Triangle Institute, Post Office Box 12194, Research Triangle Park, N.C. 27709. Article: Mass marker, Model LKB 9010. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is an accessory for a gas chromatograph mass spectrometer at the applicant institution. Application received by Commissioner of Customs: December 12, 1969.

Docket No. 70-00373-33-90000. Applicant: Princeton University, Post Office Box 33, Princeton, N.J. 08540. Article: X-ray equipment, Model GX-6; (two complete units). Manufacturer: Elliott Electronic Tubes Ltd., U.K. Intended use of article: The article will be used for X-ray diffraction structure analysis of large biological molecules to obtain knowledge of the three dimensional structure of selected biological specimens. Application received by Commissioner of Customs: December 12, 1969.

Docket No. 70-00374-01-77030. Applicant: The City College of the City University, of New York, Department of Chemistry, Convent Avenue and 128th Street, New York, N.Y. 10031. Article: NMR spectrometer, Model HFX-2/0. Manufacturer: Bruker Scientific Inc., West Germany. Intended use of article: The article will be used in the following research projects:

(a) Investigation of nitrites, imines, and hydrazines to define the relationship between coupling and molecular geometry.

(b) Investigation of 15N labeled compounds of biological importance.

(c) Energy barriers for rotation about N-N bond.

(d) Synthesis of cyclicphosphinemethylene polymers.

(e) N.M.R. spectroscopy of dihydropyrazines.

Application received by Commissioner of Customs: December 15, 1969.

Docket No. 70-00391-33-46040. Applicant: Sloan-Kettering Institute for Cancer Research, 410 East 68th Street, New York, N.Y. 10021. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens, A.G. West Germany. Intended use of article: The article will be used in cancer research, including the fine structure of cancer cells and the direct visualization of viruses. One study concerns whether or not smaller structures are preserved in the organization of cells and viruses. New techniques for fixation, new resins for embedding, and their application to the study of such viruses as murine leukemia and the herpes group will be developed. Other studies of macromolecules and enzyme molecules are planned. Application received by Commissioner of Customs: December 22, 1969.

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

[F.R. Doc. 70-1787; Filed, Feb. 11, 1970; 8:49 a.m.]

VETERANS' ADMINISTRATION HOSPITAL, SAN FRANCISCO, CALIF., ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of 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. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00375-33-46040. Applicant: Veterans Administration Hospital, 4150 Clement Street, San Francisco, Calif. 94121. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used to study experimental virus diseases of the nervous system. In addition studies of the ultrastructure of virus particules and an investigation of a variety of diseases of the human central and peripheral nervous system are planned. Application received by Commissioner of Customs: December 15, 1969.

Docket No. 70-00376-00-44630. Applicant: U.S. Department of Commerce, ESSA, Washington Science Center, 11800 Old Georgetown Road, Rockville, Md. 20852. Article: Antenna, parabolic 15-foot. Manufacturer: Andrew Antenna Co., Ltd., Canada. Intended use of article: The article will be used as the focusing element in a receiver. A condenser microphone will be installed at the focal point of the antenna to pick up sonic energy from the atmosphere overhead. The ratio of focal length to diameter (f/D) was chosen to provide proper signal illumination of the microphone while at the same time having a 26 db rolloff in edge illumination so as to avoid picking undesirable side lobe signals. The mechanical characteristics of the antenna such as freedom from vibration, stability and ease of attaching appropriate mounting hardware provides a highly desirable interface with the rest of the system. Application received by Commissioner of Customs: December 15, 1969.

Docket No. 70-00377-33-46040. Applicant: The Pennsylvania State University, College of Science, University Park, Pa. 16802. Article: Two (2) electron microscopes, Model EM 300. Manufacturer: Philips Electronic Instruments, the Netherlands. Intended use of article: The microscopes will be used for both teaching and research. Students and faculty will be taught how to properly use the instruments. One research project is studying bacterial cell walls. Another study concerns organelles of bacteria and the component parts of viruses. The surface structure of cells, spores, and macromolecular architecture of viruses will be investigated by the faculty. Application received by Commissioner of Customs: December 15, 1969.

Docket No. 70-00379-33-46040. Applicant: William Beaumont Hospital, 3601 West 13 Mile Road, Royal Oak, Mich. 48072. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, the Netherlands. Intended use of article: The article will be used for research in renal pathology and in the pathogenesis of congenital malformations of the kidney. Other projects include studies of mitochondrial structure and function in ascites tumor cells; a study of ultrastructural changes in kidney tubules after exposure to certain nephrotoxic agents; studies of childhood renal diseases; and a study of the relationship between ultrastructure and respiratory activity under controlled artificial conditions in ascites tumor cells. Application received by Commissioner of Customs: December 17, 1969.

Docket No. 70-00380-65-46070. Applicant: University of Dayton, 300 College

Park Avenue, Dayton, Ohio 45409. Article: Scanning electron microscope with liquid nitrogen cold finger, Models JSM–U3 and JSM–LNT. Manufacturer: Japan Electron Optics Lab. Co., Japan. Intended use of article: The article will be used for research purposes such as the determination of secondary electron emission coefficients for ceramic oxides under 5- to 50-kv. incident electron probes; high resolution transmission scanning electron microscopy of ceramic orthopedic implants; initial stage sintering of ultrafine particles; and surface diffusion and grain boundary grooving in oriented bicrystals. The article will also be used for educational and instructional purposes. Application received by Commissioner of Customs: December 19, 1969.

Docket No. 70–00381–33–46040. Applicant: Illinois Institute of Technology, Biology Department, 3101 South Dearborn, Chicago, Ill. 60616. Article: Electron microscope, model Elmiskop 1A. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used primarily for research by members of the staff of the Biology Department, and also for research and graduate training. Research activities center on cell biology and concern the configuration and association of molecular aggregates of the muscle proteins actin and myosin. Graduate training in research will train predoctoral and postdoctoral students in the methods and techniques used in the above research, with many of them participating in the research itself. Application received by Commissioner of Customs: December 19, 1969.

Docket No. 70–00383–90–46070. Applicant: University of California, Santa Cruz, Purchasing Department, Carriage House, Santa Cruz, Calif. 95060. Article: Scanning electron microscope, Model JSM–2, and accessories. Manufacturer: Japan Electron Optics Lab. Co., Japan. Intended use of article: The article will be used by students and faculty in the fields of biology, geology and paleontology. Biologists are studying the form, structure, development, and chemical composition of spores of lower land plants, especially of bryophytes; and as well as conducting a study of the structure of the outer membrane of mitochondria. Geologists are investigating terrestrial and lunar glasses and their alteration products; and also structures and defects within crystals are being studied. Paleontological study with the scanning electron microscope is being made of ultramicroscopic fossils such as coccoliths and discoasters. Application received by Commissioner of Customs: December 22, 1969.

Docket No. 70–00384–33–46040. Applicant: University of California, San Diego, La Jolla, Calif. 92037. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used in an investigation of human and experimental demyelinating diseases. This research is directed to elucidate alterations of myelin lamellae during their formation, maintenance and destruction. Myelin lamelae are formed by the fusion and transformation of the plasma membranes of myelin supporting cells. Faulty formation results in abnormal sheaths that cannot be maintained. Another study concerns the demonstration of the sequence of morphologic changes that occur during the digestion of myelin within macrophages. Application received by Commissioner of Customs: December 22, 1969.

Docket No. 70–00386–99–46040. Applicant: University of Tennessee, Knoxville, Tenn. 37916. Article: Electron microscope Model EM 9S. Manfacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used primarily as a teaching instrument for the training of advanced undergraduate students in Research Participation programs and in courses in Experimental Cell Biology in the use of the electron microscope. Graduate students will use the electron microscope in their research programs. These projects concern biomedical or health-related topics concerning basic cellular structure and function. Application received by Commissioner of Customs: December 22, 1969.

Docket No. 70–00388–00–61800. Applicant: Tunkhannock Area School District, Philadelphia Avenue, Tunkhannock, Pa. 18657. Article: Constellation Projector. Manufacturer: Goto Optical Co., Japan. Intended use of article: The article is an attachment designed specifically for use in the planetarium to be installed in the school system. Application received by Commissioner of Customs: December 22, 1969.

Docket No. 70–00388–00–61800. Tunkhannock Area School District, Philadelphia Avenue, Tunkhannock, Pa. 18657. Article: Geocentric Earth. Manufacturer: Goto Optical Co., Japan. Intended use of article: The article is an attachment designed specificially for use on the planetarium to be installed in the school system. Application received by Commissioner of Customs: December 22, 1969.

Docket No. 70–00389–00–61800. Applicant: Tunkhannock Area School District, Philadelphia Avenue, Tunkhannock, Pa. 18657. Article: Projection Orrery. Manufacturer: Goto Optical Co., Japan. Intended use of article: The article is an attachment designed specifically for use in the planetarium instrument to be installed in the school system. Application received by Commissioner of Customs: December 22, 1969.

Docket No. 70–00390–00–61800. Applicant: Tunkhannock Area School District, Philadelphia Avenue, Tunkhannock, Pa. 18657. Article: Solar and lunar eclipse projector. Manufacturer: Goto Optical Co., Japan. Intended use of article: The article is an attachment designed specifically for use in the planetarium instrument to be installed in the school system. Application received by Commissioner of Customs: December 22, 1969.

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

[F.R. Doc. 70–1789; Filed, Feb. 11, 1970; 8:49 a.m.]

WASHINGTON UNIVERSITY

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 as amended (34 F.R. 15787 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. 69–00700–33–90000. Applicant: Washington University, School of Medicine, Department of Radiology, 510 South Kingshighway, St. Louis, Mo. 63110. Article: High pressure injector, "Contrac 3E". Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used in connection with angiocardiography to inject contrast material directly into the heart. The contrast material is injected continuously and independent of the heart phases, thus producing high concentrations in the blood and heart cavities. These concentrations are not necessary for the information; they give additional, unnecessary load to the patient's coronary arteries and brain and obscure the structures within the heart. The purpose of the investigation is to eliminate these disadvantages. 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 foreign article is a high-pressure, pulse injector capable of supplying contrast fluid to the heart at selected phases of the cardiac cycle, which is intended for use in the development of improved techniques in angiocardiography. We are advised by the Department of Health, Education, and Welfare (HEW) in a memorandum dated October 14, 1969 that the foreign article has several characteristics which are pertinent to the purposes for which this article is intended to be used. These characteristics are an extremely short pressure rise of 20 milliseconds, an injection duration of 0.1 to 0.5 second and the ability to program injection times and volumes according to selected cardiac phase positions under electrocardiographic control. HEW further advises that it knows of no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which this 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. 70–1795; Filed, Feb. 11, 1970; 8:49 a.m.]

[Dept. Organization Order 40-1A]

Office of the Secretary

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Authority and Functions

The following order was issued by the Secretary of Commerce on February 4, 1970. This material supersedes the material appearing at 29 F.R. 5408 of April 22, 1964; 30 F.R. 15238 of December 9, 1965; 31 F.R. 14571 of November 19, 1966; 32 F.R. 2389 of February 3, 1967; and 32 F.R. 17548 of December 7, 1967.

SECTION 1. *Purpose.* This order delegates authority to the Administrator, Business and Defense Services Administration, and prescribes the functions of the Administration.

SEC. 2. *General.* .01 The Business and Defense Services Administration established on October 1, 1953, pursuant to authority vested in the Secretary of Commerce by Reorganization Plan No. 5 of 1950 and Executive Order 10480 of August 14, 1953, is continued as a primary operating unit of the Department of Commerce.

.02 The Business and Defense Services Administration shall be headed by an Administrator who shall report and be responsible to the Assistant Secretary for Domestic and International Business. The Administratior shall be assisted by a Deputy Administrator who shall perform the functions of the Administrator in the latter's absence.

SEC. 3. *Delegation of authority.* .01 Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 5 of 1950, and subject to such policies and directives as the Secretary of Commerce or the Assistant Secretary for Domestic and International Business may prescribe, the Administrator, Business and Defense Services Administration, is hereby delegated the authority of the Secretary of Commerce, relating to the industry and trade of the United States, under the applicable provisions of:

a. The Act of February 14, 1903, (32 Stat. 825; 15 U.S.C. 1512; 15 U.S.C. 175) as amended, to foster, promote, and develop the domestic commerce of the United States, and related provisions (15 U.S.C. 171 et seq.);

b. The Defense Production Act of 1950 (64 Stat. 798; 50 U.S.C. App. 2061 et seq.) as amended and extended, and Executive Order 10480 thereunder except the authority of the Secretary of Commerce with respect to the use of transportation facilities and the creation of new agencies within the Department of Commerce;

c. Part 9 of Executive Order 11490 of October 28, 1969, with respect to emergency preparedness functions concerning production and distribution of materials, and use of production facilities;

d. The National Security Act of 1947 (61 Stat. 495; 50 U.S.C. 401 et seq.) as amended, as it relates to mobilization preparedness responsibilities assigned thereunder;

e. The Strategic and Critical Materials Stockpiling Act (60 Stat. 596; 50 U.S.C. 98-98h, as amended) with respect to the acquisition of stocks of materials for defense purposes;

f. Executive Order 11179 of September 22, 1964, with respect to the establishment and training of the National Defense Executive Reserve;

g. Executive Order 10421 of December 31, 1952, providing for the physical security of facilities important to the national defense;

h. Section 402 of the Act of June 30, 1949 (63 Stat. 398; 40 U.S.C. 512) as it relates to the authority of the Secretary of Commerce with respect to the importation of foreign excess property, section 601 of the Act of June 30, 1949 (63 Stat. 399; 64 Stat. 583; 40 U.S.C. 473) relating to the importation into the United States of surplus property sold in foreign areas before July 1, 1949, as delegated to the Secretary of Commerce pursuant to F.L.C. Reg. 8 (44 CFR 308.15), and including authority to promulgate regulations pertaining thereto;

i. Chapters 1 and 2 of title III of the Trade Expansion Act of 1962 (Public Law 87-794 of Oct. 11, 1962; 19 U.S.C. 1801 et seq.), other than the authority to make certifications pursuant to sections 302(b)(1), 302(c), and 311(b) of the Act;

j. Headnote 2, subpart B, part 6, schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) relating to the development, maintenance, and publication of a list of bona fide motor-vehicle manufacturers, and authority to promulgate rules and regulations pertaining thereto under section 501(2) of title V of the Automotive Products Trade Act of 1965 (Public Law 89-283, 79 Stat. 1016; 19 U.S.C. 2031); and

k. The Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897), except that the approval of the Assistant Secretary for Domestic and International Business shall be obtained before issuance by the Administrator of any rules, regulations, or procedures required by this Act.

.02 The Administrator, Business and Defense Services Administration, may redelegate his authority to any employee of the Business and Defense Services Administration or to any other appropriate officer or agency of the Government, subject to such conditions in the exercise of such authority as he may prescribe.

SEC. 4. *Defense functions.* The Business and Defense Services Administration shall:

.01 Promote and develop the growth of industry and commerce of the United States through the following functions:

a. Stimulate the development of manufacturing, construction, distribution and service industries in order to achieve and sustain full and efficient production and employment commensurate with the needs of an expanding economy;

b. Conduct continuing studies and analyses of the American industrial economy and selected segments thereof in order to provide analytical and interpretive data on industrial trends affecting economic stability and recommend necessary and appropriate action on the part of Government and industry towards continued industrial and economic growth; and utilize the advice and assistance of the Office of Business Economics as appropriate in such studies when they concern the total economy;

c. Foster a common understanding of the problems of Government and business and industry;

d. Obtain and consider the views of business and industry in formulating recommendations to the Secretary and the Assistant Secretary for Domestic and International Business on national economic policy affecting the industry and commerce of the United States;

e. Provide technical advice and assistance on commodities and industries to the Bureau of International Commerce, Office of Business Economics and other elements of the Department and to other agencies of the Federal Government and cooperate with them on programs to achieve national economic stability and growth;

f. Conduct research on industry economic growth including an identification and analysis of factors affecting such growth;

g. Develop, as requested, basic commodity-industry information and recommendations concerning adjustment assistance to individual firms in an industry which has been injured due to increased imports resulting from concessions granted under Trade Agreements;

h. Develop export potential for selected commodities, and analyze and disseminate foreign trade opportunity information to U.S. business on commodities and products;

i. Administer the Foreign Excess Property program;

j. Provide staff assistance to the Departmental official designated to carry out the Department's responsibility for regulating textile imports affected by international agreements;

k. Administer Trade Adjustment Assistance under title III of the Trade Expansion Act;

l. Develop recommendations for the Department on matters pertaining to international primary commodity resources, and on oceanographic problems concerning sea-bed resources;

m. Develop and implement affirmative plans and programs for achieving effective participation by the business community in the Federal Government's efforts to bring about equal opportunity for all American citizens; and develop and conduct special efforts to promote franchise business opportunities for minority groups; and

n. Evaluate and process applications for importation of educational, scientific and cultural materials under Public Law 89-651.

.02 Perform the following national defense and industrial mobilization functions:

a. Be responsible for the achievement of approved national security programs through the issuance of priorities and by

channeling materials and products required therefor in accordance with the provisions of the Defense Production Act of 1950, as amended, including the operation of the Defense Materials System and related regulations and orders;

b. Assist in achieving a fair and equitable distribution of that portion of critical materials in excess of defense requirements to civilian industry, including small business;

c. Participate in the development of national plans for industry and economic mobilization including the development of a production control system with appropriate standby orders and regulations, and the development and administration of preparedness measures and their execution in an emergency;

d. Be responsible for the development of practical mobilization programs by ascertaining the production potential of the industrial economy as related to industrial materials, products, and facilities for defense-supporting and essential civilian needs and appraise productive capacity for full mobilization requirements;

e. Establish appropriate procedure and assemble necessary supply and requirements information on industrial products and services to assist in the formulation of national programs of stockpiling, increased production, facilities and other courses of action looking toward survival of the Nation and its people in the event of any type of emergency including nuclear attack;

f. Provide the framework for the integration of defense production and mobilization programs with industry's long-range plans for maintaining civilian production and employment on a sound basis;

g. Install and execute, in an emergency, the programs and procedures for the establishment of requirements by designated claimant agencies, the assessment of resources availability to meet such requirements and the preparation of appropriate program recommendations.

h. Provide liaison with the Office of Emergency Preparedness, Department of Defense, National Aeronautics and Space Administration and Atomic Energy Commission and other departments and agencies having mobilization responsibilities; and

i. Administer and direct the industrial unit of the National Defense Executive Reserve.

.03 The Administrator shall have the authority and responsibility for determining all programs and policies governing the domestic and foreign field activities pertaining to the responsibilities of the Business and Defense Services Administration. Such authority and responsibility shall be exercised through and in coordination with the Directors of the Offices of Field Services and Foreign Commercial Services.

SEC. 5. *Administrative, publications, and related services.* .01 The Office of Administration (DIB) shall furnish management, budget, personnel and related administrative services to the Business and Defense Services Administration pursuant to Department Organization Order 40–5A (formerly D.O. 189–A).

.02 The Office of Publications and Information (DIB) shall furnish publications and information services to the Business and Defense Services Administration pursuant to Department Organization Order 40–6A (formerly D.O. 190–A).

SEC. 6. *Transfer of personnel, funds, records, and property.* There are hereby transferred to the Business and Defense Services Administration the personnel, funds, records, and property heretofore assigned or available to the Bureau of International Commerce to carry out the functions of the International Resources Policy Division, which functions have herein been assigned to BDSA.

SEC. 7. *Saving provision.* Department Organization Orders 40–2A and 40–2B (formerly D.O. 182–A and 182–B, respectively) are hereby constructively amended to reflect the transfer of functions authorized in section 6 of this order.

Effective date: February 4, 1970.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F.R. Doc. 70-1737; Filed, Feb. 11, 1970; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 14]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

FEBRUARY 6, 1970.

The following applications are governed by Special Rule 247[1] of the Commission's general rules of practice (49 CFR 1100.247, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 263 (Sub-No. 193), filed January 5, 1970. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, Idaho 83201. Applicant's representative: Wayne S. Green (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Western Electric Co. near Northglenn, Colo., as an off-route point, in connection with carrier's authorized regular-route operations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 30844 (Sub-No. 310), filed January 19, 1970. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial, Waterloo, Iowa 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Minneapolis, Minn., and commercial zone to points in Colorado, Connecticut, Delaware, Indiana, Iowa, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Vermont, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Minneapolis, Minn.

No. MC 39140 (Sub-No. 177), filed January 12, 1970. Applicant: A. DUIE PYLE, INC., 144 Garfield Avenue, West Chester, Pa. 19380. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plant or facilities of Green Giant Co., in the township of West Sadsbury, Chester County, Pa., to points in Connecticut, Massachusetts, Rhode Island, and West Virginia; restricted to traffic originating at said plant or facilities and destined to points in the above named States. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 41255 (Sub-No. 75), filed January 16, 1970. Applicant: GLOSSON MOTOR LINES, INC., Hargrave Road, Lexington, N.C. 27292. Applicant's representative: James E. Wilson, 1735 K Street, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Elkin, N.C., to points in Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, and Vermont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Greensboro or Charlotte, N.C.

No. MC 41432 (Sub-No. 105), filed January 5, 1970. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, Tex. 75207. Applicant's representative: Rollo E. Kidwell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) *Ammunition* (explosive, incendiary, or gas, smoke or tear producing), (2) *manufactured ingredients and component parts of ammunition*, and (3) *general commodities* (except those of unusual value, classes A and B explosives (other than ammunition and manufactured ingredients and component parts of ammunition as specified), household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading); serving the site of Remington Arms Co., Inc., near Lonoke, Ark., as an off-route point in connection with carrier's regular-route operations authorized between Memphis, Tenn., and Texarkana, Ark.; serving all intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 41951 (Sub-No. 9), filed January 2, 1970. Applicant: WHEATLEY TRUCKING, INC., Brohawn Avenue, Cambridge, Md. 21613. Applicant's representative: Marion L. Wheatley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet foods*, in containers, from Cambridge, Md., to points in Alabama, Georgia, Florida, Tennessee, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 42614 (Sub-No. 50) (Amendment), filed August 4, 1969, published FEDERAL REGISTER issue of October 17, 1969, amended January 20, 1970, and republished as amended, this issue. Applicant: CHICAGO AND NORTH WESTERN RAILWAY COMPANY, a corporation, 400 West Madison Street, Chicago, Ill. 60606. Applicant's representative: Christopher A. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Meat, meat products, and meat byproducts, articles distributed by meat packinghouses, and such commodities* as are used by meatpackers in the conduct of their business when destined to and for use by meatpackers, as described in sections A, C, and D of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 766, between Le Mars, Iowa, and the plant of Sioux-Preme Packing Co. located on U.S. Highway 75 2½ miles north of junction U.S. Highway 75 and Iowa Highway 10, said plantsite being also located 4½ miles north of Maurice, Iowa; over U.S. Highway 75, and return over the same route, serving no intermediate points, restricted to prior or subsequent rail haul. NOTE: The purpose of this republication is to redescribe the territorial scope. If a hearing is deemed necessary, applicant requests it be held at Des Moines or Sioux City, Iowa, or Chicago, Ill.

No. MC 50544 (Sub-No. 63), filed December 24, 1969. Applicant: THE TEXAS AND PACIFIC MOTOR TRANSPORT COMPANY, a corporation, 210 North 13th Street, St. Louis, Mo. 63103. Applicant's representative: Robert S. Davis (same address as applicant). The instant application seeks authority solely to remove Alexandria, La., as a key point from applicant's certificate No. MC 50544, wherein it is authorized to transport general commodities over regular routes, between various points in Louisiana, Texas, and New Mexico in service auxiliary to and supplemental of rail service of the Texas and Pacific Railway Co. but subject to the other key points of New Orleans, Shreveport, Dallas-Fort Worth, Abilene, and El Paso, and all the other restrictions contained in said certificate. No new routes or points sought to be served. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 52657 (Sub-No. 665), filed December 29, 1969. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), trailer converter dollies, in initial truckaway and driveaway service, from Mecklenburg County, N.C., to points in the United States, including Alaska, but excluding Hawaii; (2) *tractors*, in secondary movements, in driveaway service, only when drawing trailers in initial movements, from points in Mecklenburg County, N.C., to points in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia; (3) *bodies and containers*, between points in Mecklenburg County, N.C., and points in the United States, including Alaska, but excluding Hawaii; (4) *tractors*, in secondary movements, in driveaway service, only when drawing trailers in secondary movements, from points in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia, to points in Mecklenburg County, N.C.; and (5) *materials, supplies, and parts* used in the manufacture, assembly, or servicing of the commodities described in paragraphs (1) and (3) above, when moving in mixed loads with such commodities, between points in Mecklenburg County, N.C., and points in the United States, including Alaska, but excluding Hawaii. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Detroit, Mich.

No. MC 52657 (Sub-No. 666), filed December 31, 1969. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: A. J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in secondary movement via truckaway method, between Kansas City, Mo., on the one hand, and, on the other, points in Kansas. NOTE: Applicant states that the requested authority cannot be tacked

with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Detroit, Mich.

No. MC 53965 (Sub-No. 65), filed January 23, 1970. Applicant: GRAVES TRUCK LINES, INC., 739 North 10th Street, Salina, Kans. Applicant's representatives: John E. Jandera, 641 Harrison, Topeka, Kans. 66603, and James E. Lockwood, 92 Shawnee Avenue, Kansas City, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Dallas, Tex., and Wichita, Kans.: From Dallas over Interstate Highway 35 to Wichita and return over the same route; serving intermediate and off-route points within the Dallas-Fort Worth commercial zone. Restriction: To perform no local service between Dallas, Tex., and points in the Dallas-Fort Worth commercial zone, and Kansas City, Mo., and points in the Kansas City, Mo.-Kans., commercial zone, Enid, Oklahoma City, and Tulsa, Okla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salina, Kans.; Dallas and Houston, Tex.; and Omaha, Nebr.

No. MC 53965 (Sub-No. 66), filed January 23, 1970. Applicant: GRAVES TRUCK LINE, INC., 739 North 10th Street, Salina, Kans. Applicant's representatives: John E. Jandera, 641 Harrison, Topeka, Kans. 66603, and James E. Lockwood, 92 Shawnee Avenue, Kansas City, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Houston, Tex., and Wichita, Kans., from Houston over Interstate Highway 45 to Dallas, thence over Interstate Highway 35 to Wichita, and return over the same route, serving intermediate and off-route points in the Houston, Tex., commercial zone. Restriction: To perfrom no local service between Houston, Tex., and points in the Houston, Tex., commercial zone. Restriction: To perform no local Tulsa, Okla., and Kansas City, Mo., and points in the Kansas City, Mo.-Kans., commercial zone. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salina, Kans., with continuations at Dallas, and Houston, Tex., and Omaha, Nebr.

No. MC 56679 (Sub-No. 38), filed January 5, 1970. Applicant: BROWN TRANSPORT CORP., 125 Milton Avenue SE., Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment because of size or weight), serving the off-route points of Bessemer, Graysville, Gardendale, Center Point, Trussville, and Pelham, Ala., and those within 5 miles of Birmingham, Ala., and Atlanta, Ga., in connection with applicant's regular-route between Birmingham, Ala., and Atlanta, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Birmingham, Ala.

No. MC 61403 (Sub-No. 203), filed January 5, 1970. Applicant: THE MASON AND DIXON TANK LINES, INC., Eastman Road, Kingsport, Tenn. 37662. Applicant's representative: W. C. Mitchell, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Cedartown, Ga., to points in Ohio, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 66531 (Sub-No. 5), filed January 12, 1970. Applicant: INTERSTATE GROCERY DISTRIBUTION SYSTEM, INC., 2200 48th Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* dealt in or sold by grocery stores (except salt), between those points in that portion of the New York, N.Y., commercial zone, as defined in the fifth supplemental report by the Commission in commercial zones and terminal areas, 53 M.C.C. 451, within which local operations may be conducted under the exemption provided by section 203 (b)(8) of the Interstate Commerce Act (the exempt zone), on the one hand, and, on the other, points in Somerset County, N.J., restricted to shipments moving from, to, or between warehouse, retail, and chain outlets or other facilities of grocery and food business houses. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 76032 (Sub-No. 251), filed January 5, 1970. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: William E. Kenworthy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Salina and McPherson, Kans., from Salina over U.S. Highway 81 to McPherson, Kans., thence over Kansas Highway 61 to Hutchinson, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 76032 (Sub-No. 252), filed January 11, 1970. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: William E. Kenworthy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Phoenix, Ariz., and El Paso, Tex., over Interstate Highway 10 to El Paso, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's regular route service between Los Angeles, Calif., and El Paso, Tex. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or El Paso, Tex.

No. MC 85811 (Sub-No. 3) (Clarification), filed December 12, 1969, published in FEDERAL REGISTER issue of January 29, 1970, and republished in part as clarified this issue. Applicant: AMSCO TRANSPORTATION, INC., Post Office Box 14147, Houston, Tex. 77021. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. 20004. The purpose of this partial republication in part is to clarify tacking information to read: NOTE: Applicant states that it could tack with its Sub 2 at points in Fort Bend County, Tex., to originate iron and steel articles at Corpus Christi, Galveston, and Houston, Tex. The rest of the application remains the same.

No. MC 94201 (Sub-No. 84), filed December 29, 1969. Applicant: BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, Gadsden, Ala. Applicant's representative: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, livestock, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, and household goods as defined by the Commission), from the plantsite and warehouse facilities of the Proctor & Gamble Co., Inc., at or near Augusta, Ga., to points in Alabama. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 95876 (Sub-No. 94) (Clarification), filed October 23, 1969, published in the FEDERAL REGISTER issue of November 27, 1969, and republished as clarified, this issue. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Andrew R. Clark, 1000 First National Bank

Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated steel buildings and component parts and accessories;* and (2) *iron or steel component parts and accessories* for buildings, from Milwaukee, Wis., to points in Iowa. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. The purpose of this republication is to clarify the commodity description. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107002 (Sub-No. 388), filed January 2, 1970. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, Post Office Box 1123, Jackson, Miss. 39505, and H. D. Miller, Jr., Post Office Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Hazlehurst, Miss., to points in Alabama, Louisiana, Tennessee, and Texas. NOTE: Applicant states although tacking is not contemplated, the authority sought could be combined with various authorities in MC 107002 and subs thereto to perform through service to several states. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 107295 (Sub-No. 272), filed December 15, 1969. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, paneling, structural steel, hardboard, lumber, pipe, forest products and accessories*, from points in Alabama, Connecticut, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and Wisconsin, to points in the United States (except Washington, Oregon, California, Alaska, and Hawaii). NOTE: Applicant states it intends to tack the requested authority with its existing authority but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 276), filed December 22, 1969. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Concrete additives, flooring and grouting compounds, and curing compounds* (except in bulk), from Cleveland, Ohio; Buffalo, N.Y.; and Springfield, Mo., to points in the United States (except Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Alaska, and Hawaii); (2) *mortars, grouts, and adhesives*, from Cleveland, Ohio, to points in and east of Minnesota, Nebraska, Kansas, Oklahoma, and Texas (except Ohio, North Carolina, South Carolina, Georgia, and Florida); (3) *lighting fixtures, reflectors, and accessories* used in the installation thereof, from Cleveland, Ohio, to points in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas; (4) *stair treads, cove base, and floor and stair accessories*, including *accessories for installation thereof*, from Shelby, Ohio, to points in the United States (except Alaska and Hawaii); (5) (a) *flooring and curing compounds, building mortar, paint, and related commodities* when shipped therewith and (b) *machinery and hand tools* used in the installation and application of those commodities in (a) above and when shipped with said commodities, between points in Ohio, Michigan, Indiana, Illinois, Iowa, Kentucky, Tennessee, Wisconsin, Missouri, and Arkansas; (6) *structural floor supports and accessories*, from Seville, Ohio, to points in Michigan, Indiana, Illinois, Iowa, Kentucky, Tennessee, Wisconsin, Missouri, Arkansas, and Ohio; and (7) *corrosion proof materials, products and supplies*, from Berea, Ohio, to points in the United States (except Alaska, Hawaii and Ohio). NOTE: Applicant states that tacking may take place at Cleveland, Shelby, Seville, and Berea, Ohio, Buffalo, N.Y., and Springfield, Mo., on traffic originating in Arkansas, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin for transportation beyond, as authorized under its MC-107295, Part (b). If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 282), filed January 8, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ceiling suspension systems and wall systems, venetian blinds, drapery hardware, and folding doors*, from Baltimore, Md., and points in Howard County, Md., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplications are anticipated. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 283), filed January 8, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, lumber, and lumber products*, from New Albany, Ind., and Bowling Green, Va., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that tacking may take place at New Albany, Ind., on traffic originating in Arkansas, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin for transportation beyond, as authorized under MC 107295, Part (B). Applicant further states no duplications anticipated. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 284), filed January 8, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Aluminum pipe and/or tubing; aluminum billets; aluminum dross; aluminum fittings; and aluminum blanks, stampings, or unfinished shapes*, from Ellenville, N.Y., to points in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas; (b) *steel conduit*, from Bala Cynwyd, Pa., to points in Indiana, Kentucky, Tennessee; and (c) *plastic pipe and fittings*, from Benton, Ark., to points in Oklahoma, Texas, Louisiana, Mississippi, Missouri, Kansas, Iowa, Illinois, Indiana, Kentucky, Tennessee, and Alabama. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplication is anticipated. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 285), filed January 8, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum windows, doors, and walls*, from Dallas, Tex., to points in the United States in and east of Arizona, Colorado, Iowa, Minnesota, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 291), filed January 12, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: (1) *Adhesives and thinners* (except in bulk), from Freeport and Brooklyn, N.Y., to points in the United States in and east of Minnesota, Nebraska, Oklahoma, Kansas, and Texas; and (2) *insulating materials* in shapes, blocks, boards, bags, cartons, rolls, or bales, from Stanhope, N.J., to points in the United States (except Washington, Oregon, Idaho, California, Nevada, Utah, Arizona, Alaska, Hawaii, New York, and New Jersey). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplications are anticipated. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107615 (Sub-No. 4), filed January 7, 1970. Applicant: UNITED NEWS TRANSPORTATION COMPANY, a corportation, 850 East Luzerne Street, Philadelphia, Pa. 19124. Applicant's representatives: V. Baker Smith and Alfred N. Lowenstein, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles*, between Harrisburg, Pa.; Baltimore, Md.; and points in the Philadelphia, Pa., commercial zone as defined in *Philadelphia, Pa., commercial zone*, 17 M.C.C. 533, Washington, D.C., commercial zone as defined in *Washington, D.C., commercial zone*, 3 M.C.C. 243, and New York, N.Y., commercial zone as defined in *New York, N.Y., commercial zone*, 1 M.C.C. 665, on the one hand, and, on the other, points in Maryland, Delaware, New Jersey, Pennsylvania, Washington, D.C., commercial zone, supra, points in Rockland, Nassau, Westchester, and Suffolk Counties, N.Y., except that no transportation for compensation shall be performed from North Bergen, Newark, Paterson, Hackensack, Passaic, New Brunswick, Elizabeth, and Dunellen, N.J., to points in New York, nor from New York, N.Y., to points in the four New York counties named above. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or New York, N.Y.

No. MC 108068 (Sub-No. 91), filed January 12, 1970. Applicant: U.S.A.C. TRANSPORT, INC., Post Office Box G, Joplin, Mo. 64801. Applicant's representatives: A. N. Jacobs (same address as applicant) and Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transpotring: (1) *Aircraft and aircraft parts*, between points in California, Arizona, New Mexico, Texas, Oklahoma, Missouri, Kansas, Colorado, Illinois, Indiana, Ohio, Pennsylvania, Nevada, Michigan, Washington, Massachusetts, Connecticut, New York, Maryland, New Jersey, Florida, Georgia, Tennessee, Kentucky, Virginia, and the District of Columbia; and (2) *equipment, parts, materials, machinery, and supplies* used in the assembling, maintenance, servicing, repairing, and operation of aircraft, between points in (1) above, on the one hand, and, on the other, points in the United States (except Hawaii and Alaska), restricted to traffic originating at or destined to terminals and facilities of Trans World Airlines, Inc. NOTE. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it beheld at Kansas City or St. Loius, Mo.

No. MC 109595 (Sub-No. 13), filed January 21, 1970. Applicant: REX TRANSPORTATION CO., a corporation, 34350 Goddard Road, Romulus, Mich. 48174. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Avon, Ind., to points in Indiana, restricted to traffic having a prior out-of-State movement by rail. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 110525 (Sub-No. 955), filed January 19, 1970. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representatives: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036 and Robert K. Maslin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt syrup* in bulk, from Maywood, N.J., to Reading and Denver, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 111467 (Sub-No. 21), filed January 2, 1970. Applicant: ARTHUR J. PAPE, doing business as ART PAPE TRANSFER, 1381 Rockdale Road, Dubuque, Iowa 52001. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials*, (1) from Streator, Ill., to points in Indiana and points in Michigan on and west of U.S. Highway 27 and on and south of Interstate Highway 96, and (2) from Rock Island, Ill., to points in Wisconsin, Illinois, and Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 111617 (Sub-No. 7), filed January 12, 1970. Applicant: O'NEILL TRANSFER COMPANY, INC., 2215 Northwest 22d Place, Portland, Oreg. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Clackamas, Columbia, Hood River, Marion, Multnomah, Washington, and Yamhill Counties, Oreg., and Clark, Cowlitz, and Skamania Counties, Wash., restricted to shipments having a prior or subsequent movement in containers beyond the area authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, or decontainerization of such traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 112304 (Sub-No. 37), filed January 11, 1970. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and prefabricated steel buildings, including parts and accessories thereto*, from points in Milwaukee County, Wis., to points in Illinois (except those in the Chicago, Ill., commercial zone), Indiana (except those in the Chicago, Ill., commercial zone), Michigan, Ohio, West Virginia, Virginia, Kentucky, Tennessee, New York, Pennsylvania, Maryland, Delaware, New Jersey, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, Missouri, and the District of Columbia; and (2) *commodities*, the transportation of which, because of size or weight, require special handling and the use of special equipment, between points in Milwaukee County, Wis., on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Kentucky, Tennessee, New York, those in Pennsylvania east of U.S. Highway 15, Delaware, New Jersey, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112822 (Sub-No. 147), filed January 6, 1970. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, (1) from Denver, Colo., to points in Arkansas, Kansas, Missouri, Texas, Oklahoma, and New Mexico; and (2) from Fort Morgan, Ovid, and Sterling, Colo., to points in Arkansas, Kansas, Missouri, New Mexico, Oklahoma, and Texas. NOTE: Applicant states that tacking possibilities exist at origins involved in this application. Applicant further states it presently holds authority in its Sub-No. 98 to transport sugar, from Rocky Ford, Colo., to points in Arkansas, Kansas, Missouri, New Mexico, Oklahoma, and Texas, under which authority

applicant has for several years been interchanging traffic originating at various points in northern Colorado and destined to the States named herein with Bethke Truck Lines (MC 82944) acting as originating carrier. The purpose of the present application is to change the interchange point from Rocky Ford, Colo., to Denver, Colo., and to obtain direct authority from Fort Morgan, Ovid, and Sterling, Colo. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113828 (Sub-No. 171), filed December 26, 1969. Applicant: O'BOYLE TANK LINES, INCORPORATED, 4848 Cordell Avenue NW., Washington, D.C. 20014. Applicant's representatives: John F. Grimm (same address as above) also William P. Sullivan, 1819 H Street NW., Washington, D.C., 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, from Cheraw, S.C., to points in Virginia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114045 (Sub-No. 331), filed December 17, 1969. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic plastics, liquid and chemicals*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from Houston, Tex., to points in California, Connecticut, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 114045 (Sub-No. 332), filed December 17, 1969. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive filters* (oil and air), from Fayetteville, N.C., to Jacksonville, Fla.; Kansas City, Mo.; Dallas, Tex., and Port Newark, N.J. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 114045 (Sub-No. 333), filed December 18, 1969. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except in bulk, in tank vehicles), from points in Texas to points in Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fort Worth, Tex.

No. MC 114045 (Sub-No. 334), filed December 22, 1969. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Camera and camera outfits, unexposed photographic paper, unexposed photographic film, photographic plates, photographic chemicals, advertising matter, matrix and surface coated paper*, not printed, in vehicles equipped with mechanical refrigeration, from Teterboro, N.J., to Denver, Colo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114045 (Sub-No. 335), filed January 19, 1970. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frames, mirror and picture, wood and wooden, not glazed*, (2) *pictures, printed on paper and paper board sheets*, (3) *display stands and advertising material*, from Fayetteville, St. Pauls, and Parkton, N.C., to points in Arizona, California, Connecticut, Florida, Indiana, Iowa, Maine, Michigan, Minnesota, Illinois, Mississippi, Nebraska, New Hampshire, North Dakota, South Dakota, Rhode Island, Texas, Vermont, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114091 (Sub-No. 81), filed December 15, 1969. Applicant: HUFF TRANSPORT CO., INC., 2114 South 41st Street, Louisville, Ky. 40211. Applicant's representative: Rudy Yessin, Sixth Floor, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *comon carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, from Madison, Ind., and its commercial zone, to points in Indiana, Kentucky, Ohio, Illinois, the southern peninsula of Michigan, and points in that part of Pennsylvania on and west of U.S. Highway 219. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., and St. Louis, Mo.

No. MC 114273 (Sub-No. 58), filed January 7, 1970. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, 3930 16th Avenue SW., Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, 315 Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, Iowa 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in the *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from St. Cloud, Minn., to points in Connecticut, Colorado, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114273 (Sub-No. 59), filed January 7, 1970. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, 315 Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, Iowa 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are used or sold by manufacturers of iron and steel and iron and steel products*, between Cedar Rapids, Iowa, on the one hand, and, on the other, points in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, Wisconsin, and Arkansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114552 (Sub-No. 43), filed January 8, 1970. Applicant: SENN TRUCKING COMPANY, a corporation, Post Office Box 333, Newberry, S.C. 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, or built-up wood, prefinished, molding and stain*, (1) from points in Queens County, N.Y., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia; and (2) from points in Peach County, Ga., and Pittsylvania County, Va., to points in Queens County,

N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C., Charlotte, N.C., or Atlanta, Ga.

No. MC 114552 (Sub-No. 44), filed January 16, 1970. Applicant: SENN TRUCKING COMPANY, a corporation, Post Office Box 333, Newberry, S.C. 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hardboards, insulation boards, plywoods and/or particleboards*, in straight or mixed truckloads; *parts, materials, and accessorial items* necessary for the installation thereof, from the plant and warehouse sites of the Abitibi Corp. in Wilkes County, N.C., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin; and (2) *commodities* used in the manufacture of hardboards, insulating boards, plywoods, or particleboards, and *parts, materials, and accessorial items* incidental to the transportation and installation thereof in truckloads, from the above-described destination points in (1) above, to the plant and warehouse sites of the Abitibi Corp. in Wilkes County, N.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.; Charlotte, N.C.; or Columbia, S.C.

No. MC 115840 (Sub-No. 51), filed January 9, 1970. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as above) and E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chattanooga, Tenn., to points in Kentucky, North Carolina, and South Carolina. NOTE: Applicant states that it could tack with its lead certificate. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chattanooga, or Nashville, Tenn.

No. MC 115840 (Sub-No. 52), filed January 7, 1970. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as above) and E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and implements*, from Poplarville, Miss., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Birmingham, Ala.

No. MC 115841 (Sub-No. 368), filed January 12, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as applicant) and E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat offal*, unfit for human consumption (except in bulk), in vehicles equipped with mechanical refrigeration (1) from points in North Carolina, to points in Ohio, Illinois, Indiana, the Lower Peninsula of Michigan, New York, New Jersey, Pennsylvania, Maryland, Connecticut, Rhode Island, and Massachusetts; and (2) from points in Wisconsin (except the plantsite of Armour & Co., at Green Bay), Illinois, Indiana, Ohio, Minnesota, Kentucky, Arkansas, Virginia, and West Virginia, to Toledo, Ohio, and Dublin, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115841 (Sub-No. 369), filed January 14, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as applicant) and Bill Davis, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, starter fluid, and hickory chips*, from Jacksonville, Tex., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Illinois, Indiana, Ohio, Missouri, Iowa, Kansas, Nebraska, Wisconsin, New York, Pennsylvania, Virginia, West Virginia, Delaware, Maryland, District of Columbia and the Lower Peninsula of Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 116077 (Sub-No. 286), filed January 12, 1970. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Pat H. Robertson, Suite 401 First National Life Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in Caddo Parish, La., to points in Arkansas, Louisiana, Mississippi, and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states that it seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 116519 (Sub-No. 6), filed January 16, 1970. Applicant: FREDERICK TRANSPORT LIMITED, Post Office Box 10, Merlin, Ontario, Canada. Applicant's representative: S. Harrison Kahn, 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except truck tractor); (2) *agricultural implements and machinery*, and (3) *attachments for, and equipment* designed for use with the articles described in (1) and (2) above when moving in mixed loads with the articles described in (1) and (2) above, from the United States-Canadian border crossings in Michigan and New York to points in the United States (except Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Hawaii, Oregon, Utah, Washington, and Wyoming). Restriction: Traffic in foreign commerce originating at the plant, warehouse or distribution facilities of the International Harvester Co. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 117815 (Sub-No. 156), filed January 5, 1970. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, sold, or distributed by person engaged in the manufacturing, processing, and milling of grain products, from Jackson and Chelsea, Mich., to points in Iowa, Kansas, Missouri, and Nebraska, and to points in Illinois in the Davenport, Iowa, Rock Island and Moline, Ill., commercial zones as defined by the Commission. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 118159 (Sub-No. 86), filed January 12, 1970. Applicant: EVERETT LOWRANCE, INC., 4916 Jefferson Highway, New Orleans, La. Applicant's representative: David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and/or

cold storage facilities utilized by Mountaire Kitchens (a division of Southwestern Frozen Foods, Inc.), at or near Springhill, La., to points in Louisiana, Texas, Mississippi, Oklahoma, Alabama, Florida, Georgia, Arkansas, Tennessee, Kentucky, Kansas, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.; Oklahoma City, Okla.; or Washington, D.C.

No. MC 119619 (Sub-No. 23), filed January 15, 1970. Applicant: DISTRIBUTORS SERVICE CO., a corporation, 2000 West 43d Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Meat, meat products, meat byproducts, packinghouse products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and skins, and except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Bird Provision Co. at Pekin, Ill., and cold storage and warehouse facilities at Peoria, Ill., to points in Maryland, New York, New Jersey, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Delaware, District of Columbia, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119641 (Sub-No. 83) (Amendment), filed October 14, 1969, published in the FEDERAL REGISTER issues of November 20, 1969, and December 24, 1969, and republished as amended, this issue. Applicant: RINGLE EXPRESS, INC., 450 South Ninth Street, Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, 720 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except truck tractors), (2) *agricultural implements and machinery*, and (3) *attachments for, and equipment* designed for use with the foregoing articles described in (1) and (2) above when moving in mixed loads with such articles described in (1) and (2) above, from ports of entry on the international boundary line between the United States and Canada located in New York and Michigan, to points in the United States (except Arizona, Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming); restricted to traffic in foreign commerce originating at the plant, warehouse, or distribution facilities of the International Harvester Co. NOTE: The purpose of this republication is to broaden the scope by including all of the United States and Canada boundary in New York and Michigan pertaining to ports of entry. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119863 (Sub-No. 7), filed January 13, 1970. Applicant: LAMONI REFRIGERATED EXPRESS, INC., Post Office Box 148, Davis City, Iowa 50065. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of E. W. Kniep, Inc., near Wahoo, Nebr., to Aurora and Chicago, Ill., and Cedar Rapids and Ottumwa, Iowa; under contract with E. W. Kniep, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 119934 (Sub-No. 161), filed December 15, 1969. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: Robert C. Smith, 711 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, from points in Jefferson County, Ind., to points in Indiana, Kentucky, Ohio, Illinois, the southern peninsula of Michigan and points in that part of Pennsylvania on and west of U.S. Highway 219. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 120800 (Sub-No. 24), filed December 31, 1969. Applicant: CAPITOL TRUCK LINE, INC., 2500 North Alameda Street, Compton, Calif. 90222. Applicant's representative: Warren N. Grossman, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid natural gas and liquid methane*, in bulk, in specially designed cryogenic trailers, between points in the United States (except Hawaii). NOTE: Applicant presently holds authority in its Sub-No. 11 and Sub-No. 20 presently pending, which duplicates in part authority sought herein. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 123064 (Sub-No. 6), filed January 19, 1970. Applicant: RALPH WALKER, Post Office Box 3222, Jackson, Miss. 39207. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Building, Post Office Box 22628, Jackson, Miss. 39201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer*, dry, in containers and in bulk, from Jackson, Miss., to points in Alabama, under contract with Royster Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 124711 (Sub-No. 5), filed January 5, 1970. Applicant: BECKER AND SONS, INC., 801 East Clark Street, Emporia, Kans. 66801. Applicant's representative: Erle W. Francis, 719 Capitol Federal Building, 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, road oil and residual fuel oil*, in bulk, in tank trucks, from Phillipsburg, Kans., to points in Colorado on and East of U.S. Highway 87, those in New Mexico on and East of U.S. Highway 85, and those in Wyoming on and East of U.S. Highway 87. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 124987 (Sub-No. 16), filed December 22, 1969. Applicant: EARL L. BONSACK AND ELAINE M. BONSACK, a partnership, doing business as EARL L. BONSACK, 512 West Plainview Road, La Crosse, Wis. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and incidental advertising material* when shipped with malt beverages, (1) from La Crosse and Sheboygan, Wis., to Milwaukee, Wis., restricted to shipments having an immediate prior or subsequent movement by rail beyond piggy-back service, and (2) from La Crosse and Sheboygan, Wis., to points in Illinois, under contract with G. Heilman Brewing Co., Inc., and (3) from the plantsite of the Associated Brewing Co., St. Paul, Minn., to Two Harbors, Minn., under contract with Svee Distributing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at La Crosse, Wis.

No. MC 127187 (Sub-No. 7), filed January 13, 1970. Applicant: FLOYD DUENOW, 215 East Cherry Street, Fergus Falls, Minn. 56537. 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: (1) *Animal and poultry feed, and animal and poultry feed ingredients*, dry, from points in South Dakota, to points in Minnesota and Iowa; (2) *fertilizer and fertilizer ingredients*, dry, from Port Cargill, Savage, and Shakopee, Minn., to points in North Dakota and South Dakota; and (3) *grain augers, and steel buildings, storage bins, grain dryers, and corn cribs*, knocked down and in sections, and *component parts, materials, supplies, fixtures, and accessories* used in the construction and erection of the above-specified commodities when moving in mixed loads therewith, from York and Columbus, Nebr., Sioux Falls, S. Dak., and Hull, Iowa, to points in Minnesota on and west of U.S. Highway 71 and

points in North Dakota on and east of U.S. Highway 281. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or Minneapolis, Minn.

No. MC 128888 (Sub-No. 3), filed January 7, 1970. Applicant: PANDA TRANSPORT, INC., 2700 Broening Highway, Dundalk Marine Terminal, Baltimore, Md. 21222. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and personal effects*, from Baltimore, Md., to Dover, Del., restricted to shipments having an immediately prior or subsequent movement by rail, motor, water, or air. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Baltimore, Md.

No. MC 129060 (Sub-No. 2), filed January 14, 1970. Applicant: ALBERT KULB, 789 Rambler Road, Warminster, Pa. 18974. Applicant's representative: Alan Kahn, 1920 2 Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sheet metal and fabricated sheet metal*, between the plantsite and facilities of Caine Steel Co., a division of American Industries Corp. in Philadelphia, Pa., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states it presently holds authority in its MC 129060 which duplicates in part authority sought herein. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 129307 (Sub-No. 34), filed January 19, 1970. Applicant: McKEE LINES, INC., 664 54th Avenue, Mattawan, Mich. 49071. Applicant's representative: Gene R. Prokuski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and frozen bakery goods*, from the plantsite and warehouse facilities utilized by the Kitchens of Sara Lee, Division Consolidated Foods Corp. at Deerfield and Chicago, Ill., to points in Kentucky and New York. NOTE: Applicant holds contract carrier authority under Docket No. MC 119394, therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129416 (Sub-No. 7), filed December 29, 1969. Applicant: B. D. C. LTD., 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representatives: Warren W. Wallin, 330 South Jefferson St., Chicago, Ill. 60606 and Arnold Burke, 2220 Brunswick Building, 69 West Washington Boulevard, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Processed and unprocessed film, prints, slides, audio and video tapes, including motion picture film, and materials and supplies* used in connection with commercial and television motion pictures; (B) *audit media and other business records;* and (C) *graphic arts material*, between Bellingham, Wash., on the one hand, and, on the other, the international boundary line between the United States and Canada at Blaine, Wash. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or San Francisco, Calif.

No. MC 129475 (Sub-No. 7), filed January 9, 1970. Applicant: E. D. CARRELL, doing business as CARRELL TRUCKING CO., Post Office Box 186, Monroe, Ga. 30655. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores, between the warehouses of Sears, Roebuck & Co., Atlanta, Ga., and Waynesville, N.C., under contract with Sears, Roebuck & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 133070 (Sub-No. 4), filed January 16, 1970: Applicant: TRANS-AIR SERVICE, INC., Post Office Box 230, Buffalo, N.Y. 14225. Applicant's representative: Earl M. Rhoney, Post Office Box 119, La Salle Station, Niagara Falls, N.Y. 14304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle radiator, heater, and air conditioner parts*, between Niagara Falls Airport, Niagara Falls, N.Y., on the one hand, and, on the other, Buffalo and Lockport, N.Y., on traffic having an immediate or subsequent movement by air. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y., or Washington, D.C.

No. MC 133689 (Sub-No. 6), filed January 12, 1970. Applicant: OVERLAND EXPRESS, INC., 651 First Street SW., Post Office Box 2667, New Brighton, Minn. 55112. Applicant's representatives: James F. Sexton (same address as above) and Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses* as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *canned and frozen foods*, from St. Paul and Twin Lakes, Minn., and Eau Claire, Monroe, and Portage, Wis., to points in Illinois and Indiana. NOTE: Applicant states that by tacking at St. Paul or Twin Lakes service could be provided from various points in Minnesota under authority sought in MC 133689. Applicant holds contract carrier authority under its permits MC 76025 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 134113 (Sub-No. 2), filed January 2, 1970. Applicant: HI-BALL TRUCKING, INC., Post Office Box 1117, Billings, Mont. 59103. Applicant's representative: Jerome Anderson, Post Office Box 1215, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, lumber, and lumber products*, from points in Washington to points in Colorado, Wyoming, Nebraska, and Kansas. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Billings, Mont.

No. MC 134206 (Sub-No. 2), filed January 16, 1970. Applicant: F & K MILK SERVICE, INC., Post Office Box 67, Union Grove, Wis. 53182. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in appendix I to the *Descriptions Case*, 61 M.C.C. 209, 272, and 273, *cottage cheese, yogurt, sour cream, synthetic creams, puddings, fruit drinks and uncarbonated beverages, and foodstuffs* (except in bulk), from Whitewater, Wis., to points in Illinois, Indiana, Iowa, Michigan, Ohio, Missouri, Pennsylvania, New Jersey, New York, and Kentucky, restricted to transportation to be performed under contracts with Hawthorn Mellody, Inc., Chicago, Ill. NOTE: Applicant states that although it now holds common carrier authority under Docket No. MC 119009, such authority may be canceled upon a grant of the contract carrier authority sought herein. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Chicago, Ill.

No. MC 134218, filed December 8, 1969. Applicant: ALGE TRUCKING COMPANY, INC., 178, 28 Hillside Avenue, Jamaica, N.Y. 11432. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical, electronic, and electro-medical equipment and parts thereof*, between the plantsite of Siemens Corp. at Iselin, Woodbridge, N.J., on the one hand, and, on the other, points in the New York, N.Y., commercial zone as defined by the Interstate Commerce Commission, under contract with Siemens Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 134233 (Sub-No. 2), filed January 2, 1970. Applicant: ANGELO ACACIO, doing business as ANGELO TRUCKING CO., 363 North Washington Street, Wilkes-Barre, Pa. 18201. Applicant's representative: Philip F. Hudock, 408 Citizens Bank Building, Hazleton, Pa. 18201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Nonalcoholic carbonated beverages*, in containers, from Wilkes-Barre, Pa., to points in Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Maine, Ohio, Delaware, New York, New Jersey, West Virginia, Virginia, Maryland, and the District of Columbia; and (2) *materials* used in the making of nonalcoholic carbonated beverages, from points in Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Maine, Ohio, Delaware, New York, New Jersey, West Virginia, Virginia, Maryland, and the District of Columbia, to Wilkes-Barre, Pa.; under contract with Ma's Old Fashioned Bottling, Inc., of Wilkes-Barre, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Wilkes-Barre, Pa., or Washington, D.C.

No. MC 134278, filed January 14, 1970. Applicant: CHARLES R. GOODMAN, doing business as C. R. GOODMAN TRUCKING CO., 1238 South Second West Street, Salt Lake City, Utah 84101. Applicant's representative: Irene Warr 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sporting goods*, from San Francisco, Calif., to Salt Lake City, Utah, under a continuing contract with Udisco, a Utah corporation. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub-No. 424), filed January 5, 1970. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a corporation, 180 Boyden Avenue, Maplewood, N.J. 07040. Applicant's representative: Richard Fryling (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Irvington, and Woodbridge Township, N.J., from Garden State Parkway Interchange No. 143, Irvington, thence over Garden State Parkway to Interchange No. 127, Woodbridge Township, and returning from the Garden State Parkway Interchange No. 127, Woodbridge Township, thence over the Garden State Parkway to Interchange No. 144 (formerly Interchange 143A), Irvington, serving all intermediate points. NOTE: Applicant states that it intends to tack the above-described route to its existing routes. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 29948 (Sub-No. 5), filed November 21, 1969. Applicant: EMPIRE LINES, INC., 1125 West Sprague, Post Office Box 2205, Spokane, Wash. 99210. Applicant's representative: David A. Frazier, Post Office Box 1000, Coeur d'Alene, Idaho 83814. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Passengers, and their baggage and express, mail and newspapers* in the same vehicle with passengers (1) Regular routes: Between the port of entry on the international boundary line between the United States and Canada at or near Eastport, Idaho, and Coeur d'Alene, Idaho: From the said port of entry at or near Eastport over U.S. Highway 95 to junction unnumbered highway (South Bonners Ferry Junction), thence over unnumbered highway to junction U.S. Highway 95 (South Naples Junction), thence over U.S. Highway 95 to Coeur d'Alene, and return over the same route, serving the intermediate points of Eastport, Bonners Ferry, Sandpoint, Cocolalla, and Athol Junction; and (2) Irregular routes: In special and/or charter operations, incidental to (1) above and charter authority presently held for all United States. NOTE: Applicant states that it intends to tack the requested authority with authority presently held, at Coeur d'Alene, Idaho, to serve Sandpoint, Bonners Ferry, and Eastport, Idaho. Common control may be involved.

No. MC 111191 (Sub-No. 2) (Amendment), filed July 7, 1969, published in the FEDERAL REGISTER issue of October 23, 1969, and republished as amended this issue. Applicant: BORTNER BUS COMPANY, a corporation, Rural Delivery 1, Sharpsville, Pa. 16150. Applicant's representative: Martin E. Cusick, First Federal Building, East State Street, Sharon, Pa. 16146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special operations; (a) beginning and ending at points in Mercer, Crawford, Venango, and Lawrence Counties, Pa., and extending to all points in the United States, including Alaska, but excluding Hawaii; and (b) beginning and ending at Grove City and Sharon, Pa., and points located on the route extending from Grove City over Pennsylvania Highway 58 to Mercer Borough, Pa., then over U.S. Highway 62 to Sharon and extending to points in the United States, including Alaska, but excluding Hawaii. The purpose of this republication is to limit operation to special operations only, and to exclude Hawaii as a destination State. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Youngstown, Ohio, Pittsburgh, Pa., or Cleveland, Ohio.

No. MC 134026, filed Septmber 5, 1969. Applicant: HARRY J. ORRILL, Rural Route No. 5, Godfrey, Ill. 62035. Applicant's representative: Ralph T. Smith, 604 East Broadway, Alton, Ill. 62002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* by charter from institutions located in Godfrey, Ill., to points in St. Louis, Mo. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 134295, filed January 6, 1970. Applicant: CASCADE CHARTER SERVICE, LTD., 147 Gore Avenue, Chilliwack, British Columbia, Canada. Applicant's representative: Robert Dubois (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their personal baggage* in charter operations, beginning and ending at ports of entry on the international boundary line between the United States and the Province of British Columbia, Canada, located in Washington, and extending to points in California, Nevada, Idaho, and to Portland, Oreg. NOTE: Applicant states that it does not intend to tack. If a hearing is deemed necessary, applicant does not specify a location.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-1716; Filed, Feb. 11, 1970; 8:45 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 9, 1970.

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. 41880—*Corn, grain sorghums, etc., to points in Texas.* Filed by Southwestern Freight Bureau, agent (No. B-130), for interested rail carriers. Rates on corn, grain sorghums, and related articles, in carloads, as described in the application, from various points in Iowa, Kansas, Missouri, Nebraska, and Oklahoma, to specified points in Texas in Texas Group 3.

Grounds for relief—Rate relationship.

Tariff—Supplement 201 to Southwestern Freight Bureau, agent, tariff ICC 4496.

FSA No. 41881—*Sodium (Soda) chlorate from Lake Charles, La.* Filed by Southwestern Freight Bureau, agent (No. B-125), for interested rail carriers. Rates on sodium (soda) chlorate, in carloads and tank carloads, as described in the application, from Lake Charles, La., to Courtland and Robertson, Ala.

Grounds for relief—Market competition.

Tariff—Supplement 192 to Southwestern Freight Bureau, agent, tariff ICC 4668.

FSA No. 41882—*Chlorine from Brand, Tex.* Filed by Southwestern Freight Bureau, agent, (No. B-126), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Brand, Tex., to Foley, Fla., and Hamilton, Miss.

Grounds for relief—Market competition.

Tariff—Supplement 101 to Southwestern Freight Bureau, agent, tariff ICC 4773.

FSA No. 41883—*Clay from Fort Worth, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-131), for interested rail carriers. Rates on clay, noibn, processed, in carloads, as described in the application, from Fort Worth, Tex., to Norco, La., and Pascagoula, Miss.

Grounds for relief—Market competition.

Tariff—Supplement 23 to Southwestern Freight Bureau, agent, tariff ICC 4779.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-1811; Filed, Feb. 11, 1970; 8:51 a.m.]

[No. 34896[1]]

IOWA AND TEXAS INTRASTATE PASSENGER FARES

JANUARY 28, 1970.

Notice is hereby given that The Atchison, Topeka, and Santa Fe Railway Co., Chicago, Burlington & Quincy Railroad Co., Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Chicago, Rock Island & Pacific Railroad Co., Norfolk and Western Railway Co., Missouri Pacific Railroad Co., St. Louis Southwestern Railway Co., Southern Pacific Transportation Co., and The Texas and Pacific Railway Co., through the attorneys named below, have filed a petition with the Interstate Commerce Commission praying that the outstanding orders in this proceeding be modified to allow the petitioners to cancel station-to-station round-trip 6 months limit first-class and coach fares on basis of 180 percent of the one-way fare, to cancel station-to-station round-trip 12 months limit first-class and coach fares on basis of double the one-way fare, and establish 6 months limit station-to-station round-trip first-class and coach fares on basis of double the one-way fare, which is to become effective February 1, 1970.

Petitioners point out that in Iowa and Texas maximum intrastate passenger fares are fixed by State statutes, and fares in excess thereof are not subject to the jurisdiction of the State regulatory bodies. Since many difficulties arise if intrastate passenger fares are lower than the prevailing level of interstate passenger fares, it is urgent that the orders in this proceeding be modified.

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. 70-1812; Filed, Feb. 11, 1970; 8:51 a.m.]

[No. 35192]

NORTH CAROLINA INTRASTATE FREIGHT RATES AND CHARGES, 1969

Order. At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 3d day of February 1970.

In the matter of the assignment for hearing and directing special procedure.

It appearing, that by order dated December 9, 1969, the Commission, Division 2, instituted an investigation, pursuant to section 13 of the Interstate Commerce Act into the matters and things presented in the petition filed November 14, 1969, by the common carriers by railroad operating within the State of North Carolina wherein it is alleged that the North Carolina Utilities Commission has refused to authorize or to permit increases in rates and charges on sand, gravel, crushed stone, and related commodities moving in intrastate commerce corresponding to those authorized by this Commission in Ex Parte No. 259, Increased Freight Rates, 1968, 332 I.C.C. 590 and 714;

It further appearing, that on December 10, 1969, and January 22, 1970, the North Carolina Utilities Commission and the North Carolina Department of Justice, respectively, filed motions to dismiss the petition filed November 14, 1969, by the rail carriers in North Carolina:

And it further appearing, that upon consideration of the record in the above-entitled proceeding, this matter is one which should be referred to a hearing examiner for hearing and requires the adoption of special procedure for the purpose of expediting the hearing; and for good cause showing:

It is ordered, That the above-entitled proceeding be, and it is hereby, referred to Hearing Examiner George P. Morin for hearing and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor.

It is further ordered, That the motions of the North Carolina Utilities Commission and the North Carolina Department of Justice to dismiss the petition of the rail carriers operating within North Carolina be, and they are hereby, denied for the reason that sufficient grounds have not been shown to warrant granting the action sought.

It is further ordered, That on or before March 16, 1970, the respondents and any persons in support thereof shall file with the Commission three copies of the verified statements of their witnesses, in writing, together with any studies to be offered at the hearing with a statement where the underlying work papers to such studies will be available for inspection by parties to the proceeding and at the same time, serve a copy of such prepared material upon all persons listed in appendix A below and any additional persons who make known their desire to actively participate in the proceeding on or before March 6, 1970;

It is further ordered, That on or before April 13, 1970, protestants shall file with the Commission three copies of rebuttal verified statements of their witnesses, in writing, and at the same time, serve a copy of such prepared material upon all persons listed in appendix A below and any additional persons who make known their desire to actively participate on or before March 6, 1970. Set forth below as appendix A is a list of all known persons who have indicated their desire to actively participate in the proceeding. Any additional persons who desire to actively participate and receive copies of the prepared material to be served shall notify the Commission, in writing, on or before March 6, 1970, as well as all persons listed in appendix A below. Otherwise, any interested person desiring to participate in this proceeding may make his appearance at the hearing.

It is further ordered, That on or before April 23, 1970, the respondents and any persons in support thereof shall file with the Commission three copies of reply verified statements of their witnesses, in writing, and at the same time, serve a copy of said statements upon all persons listed in appendix A below and any additional persons who make known their desire to actively participate in the proceeding on or before March 6, 1970.

It is further ordered, That parties desiring to cross-examine witnesses who have submitted verified statements shall give notice to that effect, in writing, to the affiant and his counsel, if any, on or before April 29, 1970, a copy of such notice to be filed simultaneously with the Commission together with a request for any underlying data that the witnesses will be expected to have available for immediate reference at the hearing. All verified statements and attachments as to which no cross-examination is requested will be considered as part of the record. Any witness who has been requested to appear for cross-examination but fails to do so, subjects his verified statement to a motion to strike.

It is further ordered, That a hearing will be held commencing on May 4, 1970, 9:30 o'clock a.m. daylight saving time (or 9:30 o'clock a.m. U.S. standard time, if that time is observed), in the second floor court room, Old U.S. Courthouse and Post Office Building, 300 Fayetteville Street, Raleigh, N.C., for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the examiner deems necessary to complete the record.

[1] Embraces also No. 28846, Increases in Texas Rates, Fares, and Charges; and No. 33683, Texas Intrastate Passenger Coach Fares.

And it is further ordered, That a copy of this order be served upon the respondents and protestants; that the State of North Carolina be notified by sending a copy of this order by certified mail to the Governor of North Carolina, Raleigh, N.C., and a copy to the North Carolina Utilities Commission, Raleigh, N.C.; and that further notice be given to the public by depositing a copy of this order in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

By the Commission, Division 2.

[SEAL] H. NEIL GARSON, *Secretary.*

APPENDIX A

RESPONDENTS

E. W. Burroughs, 1920 L Street NW., Washington, D.C. 20036.
James L. Howe III, Commerce Counsel, Southern Railway System, Post Office Box 1808, Washington, D.C. 20013.
Albert B. Russ, Post Office Box 1620, Richmond, Va. 23213.
John M. Simms, Post Office Box 2210, Raleigh, N.C. 27602.

PROTESTANTS

Larry G. Ford, Associate Commission Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, N.C. 27602.
Edward B. Hipp, Attorney, North Carolina Utilities Commission, Post Office Box 991, Raleigh, N.C. 27602.
Maurice Horne, Special Assistant, North Carolina Department of Justice, Post Office Box 629, Raleigh, N.C. 27602.
John R. Jordan, Jr. (attorney for: Carolina Ready Mix Concrete Association), Jordan, Morris and Hoke, Post Office Box 1606, Raleigh, N.C. 27602.
T. Grant Killian, Director of Traffic, North Carolina Utilities Commission, Post Office Box 991, Raleigh, N.C. 27602.
W. H. Kreckman, Albemarle Paper Co., Roanoke Rapids, N.C. 27870.
Charles B. Morris, Jr., Jordan, Morris and Hoke, Suite 914 First Citizens Bank Building, Raleigh, N.C. 27602.
Richard W. Remmert, Assistant Director Transportation, Vulcan Materials Co., Post Office Box 7497, Birmingham, Ala. 35223.
Kenneth Wooten, Jr. (attorney for: North Carolina Sand, Gravel & Crushed Stone Association), Bailey, Dixon, Wooten & McDonald, Tenth Floor, Durham Life Building, Post Office Box 2246, Raleigh, N.C. 27602.

[F.R. Doc. 70-1814; Filed, Feb. 11, 1970; 8:51 a.m.]

[Notice 22]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 6, 1970.

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 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 20894 (Sub-No. 15 TA), filed February 3, 1970. Applicant: P. CALLAHAN, INC., 5240 Comly Street, Philadelphia, Pa. 19135. Applicant's representative: Terrence L. Bowers (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Magnesium hydroxide,* from Cape May, N.J., to Lewes, Del., over Delaware River and Bay Authority Ferry and *empty drums,* on return, for 180 days. Supporting shipper: Northwest Magnesite Co., 2 Gateway Center, Pittsburgh, Pa. 15222. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Custom House, 2d and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 42798 (Sub-No. 3 TA), filed February 3, 1970. Applicant: LABER RUSSO TRUCKING COMPANY, INC., 1198 Atwood Avenue, Johnston, R.I. 02919. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, Mass. 02108. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Propane* (liquified petroleum gas), in bulk, in tank vehicles, from Selkirk, N.Y., to Wakefield, R.I., for 150 days. Supporting shipper: Wakefield Brach Co., 608 Main Street, Wakefield, R.I. 02880. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, R.I. 02903.

No. MC 52704 (Sub-No. 71 TA), filed January 30, 1970. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Box 49, Lafayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* from Palatka, Fla., to points in Alabama, Mississippi, North Carolina, South Carolina, and Tennessee, *equipment, materials, and supplies used in the process and manufacturing of paper and paper products,* except commodities in bulk and articles requiring the use of special equipment, between Palatka, Fla., and points in Alabama, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: Hudson Pulp & Paper Corp., Post Office Box 919, Palatka, Fla. 32077. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814—2121 Building, Birmingham, Ala. 35203.

No. MC 107295 (Sub-No. 294 TA), filed February 3, 1970. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sewer pipe, fiber-bituminous or indurated; conduit; and fittings and connections therefor,* from Orangeburg, N.Y., to points in Arkansas, Illinois, Kansas, Michigan, Minnesota, Missouri, Tennessee, and Wisconsin, for 180 days. Supporting shipper: The Flintkote Co., Inc., Pipe Products Group, Orangeburg, N.Y. 10962. 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 107295 (Sub-No. 296 TA), filed February 3, 1970. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Ceiling suspension systems, venetian blinds, drapery hardware, and folding doors,* from Baltimore and Guilford Industrial Center near Columbia, Md., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Eastern Products Corp., subsidiary of Roper Corp., Guilford Industrial Center, 9325 Berger Road, Columbia, Md. 21043. Send protests to: Harold C. Jollif, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 107515 (Sub-No. 688 TA), filed February 3, 1970. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Ga. 30050. Applicant's representative: B. L. Gundlach (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Adhesive film,* in vehicles equipped with mechanical refrigeration, from Akron, Ohio, to Marietta, Ga., for 150 days. Supporting shipper: The B. F. Goodrich Co., 500 South Main Street, Akron, Ohio 44318. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree NW., Atlanta, Ga. 30309.

No. MC 111594 (Sub-No. 48 TA), filed February 3, 1970. Applicant: C W TRANSPORT, INC., 610 High Street, Post Office Box 200, Wisconsin Rapids, Wis. 54494. Applicant's representative: Glenn R. Richmond, 1970 South Broadway, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum sulphate, rosin size, resins, and plastic materials,* liquid, in bulk, in tank vehicles, from Groos, Mich., to points in Michigan and Wisconsin, for 150 days. Supporting shipper: American Cyanamid Co., Industrial Chemicals Division, Wayne, N.J. 07470. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 444

West Main Street, Room 11, Madison, Wis. 53703.

No. MC 114265 (Sub-No. 7 TA), filed February 3, 1970. Applicant: RALPH SHOEMAKER TRUCKING CO., 8624 Franklin Road, Boise, Idaho 83705. Applicant's representative: Raymond D. Givens, Post Office Box 964, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal and compressed automobile bodies and automobile parts*, from points in Idaho south of the southern boundary of Idaho County, to Portland, Oreg., for 180 days. Supporting Shipper: For-Mark, Inc., Post Office Box G, Lewiston, Idaho 83501. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, Boise, Idaho 83702.

No. MC 114632 (Sub-No. 25 TA), filed February 3, 1970. Applicant: APPLE LINES, INC., 225 Van Epps, South, Madison, S. Dak. 57042. Applicant's representative: Robert A. Appelwick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described 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 Huron, S. Dak., to States of Minnesota, Illinois, Wisconsin, Kansas, and Missouri, for 180 days. Supporting shipper: Armour and Co., Transportation & Distribution Department, Fresh Meat and Byproducts Division, 401 North Wabash, Chicago, Ill. 60611; Donald A. Chute, Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 124174 (Sub-No. 77 TA), filed February 2, 1970. Applicant: MOMSEN TRUCKING CO., Highways 71 and 18 North, Spencer, Iowa 51301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Untrimmed blue chrome splits, hides, and pieces thereof*, from Gloversville, N.Y., to Peabody, Mass., for 180 days. Supporting shipper: Fermon Leather Co., Inc., 11–27 Walnut Street, Peabody, Mass. 01960. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 124735 (Sub-No. 10 TA), filed February 2, 1970. Applicant: R. C. KERCHEVAL, JR., 4424 Fourth Avenue South, Seattle, Wash. 98134. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive and trailer springs, suspensions and parts thereof, trailer hitches, tire changing machines, wheels, wheel parts and wheel attaching parts, and wheel weights, and hub caps*, from points in Los Angeles and Solano Counties, Calif., to Spokane, Wash.; *automotive and trailer wheels and wheel parts*, from Spokane, Wash., to points in Los Angeles County, Calif., service to be performed under a continuing contract with Northwest Wheel, Inc., Spokane, Wash., for 150 days. Supporting shipper: Northwest Wheel, Inc., East 202 Mission Avenue, Post Office Box 5230, Spokane, Wash. 99205. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 134307 TA, filed February 3, 1970. Applicant: GREAT ATLANTIC CORP., 165 Spring Street, Lewiston, Maine 04240. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from New York, N.Y., Port Newark, and Weehawken, N.J.; Baltimore, Md., and Fall River, Mass., to Lewiston and Bangor, Maine, under a continuing contract with Maine Banana Corp., 165 Spring Street, Lewiston, Maine, for 180 days. Supporting shipper: Maine Banana Corp., 165 Spring Street, Lewiston, Maine 04240. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, Maine 04112.

No. MC 134308 TA, filed February 3, 1970. Applicant: CADDO EXPRESS, INC., 1016 Southwest Second, Oklahoma City, Okla. 73125. Applicant's representative: Alfred Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between Oklahoma City, Okla., and Richards Spur, Okla., from Oklahoma City, south over U.S. Highway 62 and U.S. Highway 277 to Richards Spur, Okla., and thence north over U.S. Highway 62 and U.S. Highway 281, to its junction with Oklahoma Highway 9, thence east over U.S. Highway 62 and Oklahoma Highway 9 to its junction with U.S. Highway 62 and Oklahoma Highway 9; thence north over U.S. Highway 62 to Oklahoma City, further serving a route from the junction of U.S. Highway 281 and Oklahoma Highway 19 from Apache, Okla., over Oklahoma Highway 19 to its junction with Oklahoma Highway 8 at Cyril, Okla., thence over Oklahoma Highway 8 northerly to its junction with U.S. Highway 62 at Anadarko, Okla., for 180 days. Supporting shippers: There are approximately 21 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: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 NW. Third, Oklahoma City, Okla. 73102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 70–1809; Filed, Feb. 11, 1970; 8:51 a.m.]

[Notice 23]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 9, 1970.

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 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 1872 (Sub-No. 72 TA), filed February 5, 1970. Applicant: ASHWORTH TRANSFER, INC., 1526 South Sixth West Street, Salt Lake City, Utah 84104. Applicant's representative: Gordon L. Roberts, 520 Kearns Building, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Montana and Idaho to points in Colorado and Utah, for 180 days. Supporting shippers: There are approximately 11 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: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 103993 (Sub-No. 496 TA), filed February 5, 1970. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from the plantsite of Cross Hill Mobile Homes, at or near Clinton, S.C., to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Supporting shipper: Cross Hill Mobile Homes, Inc., Post Office Box 432, Clinton, S.C. 29325. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, Room 204,

345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 110012 (Sub-No. 19 TA), filed February 5, 1970. Applicant: G. B. C., INC., Post Office Box 68, Morristown, Tenn. 37814. Applicant's representative: James W. Wrape, Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* crated and uncrated, from plantsite of Futuristic, Inc., Hawkins County, Tenn., to points in the United States, except Alaska and Hawaii, for 180 days. Supporting shipper: Futuristic, Inc., Valley View Road, Bean Station, Tenn. 37708. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803–1808 West End Building, Nashville, Tenn. 38203.

No. MC 117459 (Sub-No. 3 TA), filed February 4, 1970. Applicant: CARLSON TRUCK SERVICE, INC., 2501 Henry Street, Muskegon, Mich. 49441. Applicant's representative: J. G. Kuiper (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Oswego, N.Y., to points in Pennsylvania, and points in New York, traversing Pennsylvania for operating convenience, only, and *returned shipments* in the reverse direction, for 120 days. NOTE: Applicant states there will be no tacking nor interlining. Supporting shipper: Huron Cement, Division of National Gypsum Co., 17515 West Nine Mile Road, Honeywell Center, Southfield, Mich. 48075; by Ernest J. Lubeck, General Traffic Manager. Send protests to: C. R. Flemming, District Supervisor, Interstates Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 118019 (Sub-No. 3 TA), filed February 5, 1970. Applicant: PENN TRANSPORTATION CORP., 250 Maple Street, Chelsea, Mass. 02150. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from New York, N.Y., Port Newark and Weehawken, N.J., Fall River, Mass., and Wilmington, Del., to Ipswich, Mass., for 180 days. Supporting shipper: Yell-O-Glow Corp., Mitchell Road, Ipswich, Mass. 01938. Send protests to: Max Gorenstein, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

No. MC 129645 (Sub-No. 13 TA) (Correction), filed January 23, 1970, published in the FEDERAL REGISTER issue of January 31, 1970, and republished in part, as corrected, this issue. Applicants: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership; doing business as SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, Mich. 49801. NOTE: The purpose of this partial republication is to include the applicants' trade name, which was inadvertently omitted in previous publication. The rest of the application remains as previously published.

No. MC 133316 (Sub-No. 2 TA), filed February 4, 1970. Applicant: FRANK R. GIVIGLIANO, doing business as GIVIGLIANO TRANSPORT, 1513 San Pedro Street, Box 22, Trinidad, Colo. 81082. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, requiring temperature controlled vehicles, from the plantsite of Johnson Food Co., Colorado Springs, Colo., to Reno, Nev., Phoenix, Ariz., in California, for 180 days. Supporting shipper: Johnson Food Co., Post Office Box 1269, Colorado Springs, Colo. 80901. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 133327 (Sub-No. 1 TA), filed February 2, 1970. Applicant: MELBURN TRUCK LINES (TORONTO) CO., LTD., Post Office Box 306, Station U, Toronto 18, Ontario, Canada. Applicant's representative: Charles P. Bridge, 885 Niagara Street, Buffalo, N.Y. 14213. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Wilmington, Del.; Miami, and Tampa, Fla.; Baltimore, Md.; Fall River, Mass.; Newark and Weehawken, N.J.; New York, N.Y.; Charleston, S.C., to ports of entry on the international boundary between United States and Canada located in New York for export to points in Canada, for 180 days. Supporting shippers: Jamieson's Foods Ltd., Room 158, Ontario Food Terminal, Toronto 18, Ontario, Canada; Chiovitti Banana Co., Ltd., 10 Magnificent Road, Toronto 18, Ontario, Canada; Meschino Banana Co., 1613 St. Clair Avenue West, Toronto, Ontario, Canada; S. Netkin & Sons, Ltd., 53 Macnab Street North, Hamilton 11, Ontario, Canada; Pan American Fruit Co., 19 Rector Street, New York, N.Y. 10006; The Great Atlantic & Pacific Tea Co., Inc., 90 Delaware Avenue (Post Office Box 2458), Paterson, N.J. 07509; Standard Fruit and Steamship Co., 425 Broad Hollow Road, Melville, N.Y. 11746.

No. MC 134265 (Sub-No. 1 TA), filed February 5, 1970. Applicant: CLIFTON R. SPARKMAN, Route 3, Culleoka, Tenn. 38451. Applicant's representative: John D. Whalley, Seventh Floor, Third National Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Phosphate and phosphate materials*, from the mine pits in Lemestone County, Ala., to the railroad tipple in Giles County, Tenn., for 150 days. Supporting shipper: J. T. Kelley, Inc., Route 1, Lynnville, Tenn. 38472. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 134302 (Sub-No. 1 TA), filed February 2, 1970. Applicant: HETEM BROS., INC., 601 Commerce Road, Linden, N.J. 07036. Applicant's representatives: Herman B. J. Weckstein, 60 Park Place, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products and its derivatives* in bulk, from Bayonne, Bogota, Linden, Perth Amboy, Port Reading, Sewaren, and Newark, N.J., to New York, N.Y., points in Nassau, Suffolk, and Westchester Counties, N.Y., for 180 days. Supporting shippers: Hess Oil & Chemical Division, Amerada Hess Corp., 1 Hess Plaza, Woodbridge, N.J. 07095; BP Oil Corp., 580 Sylvan Avenue, Englewood Cliffs, N.J. 07633. Send protests to: District Supervisor Walter J. Grossman, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 134304 (Sub-No. 1 TA), filed February 5, 1970. Applicant: LES DARR TRUCKING CO. (a corporation), 520 Grade Street, Kelso, Wash. 98626. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Veneer cores and dunnage*, between points in Washington, and dunnage and/or cores shipped one way and dunnage or cores on a return basis, for 180 days. Supporting shipper: Friesen Lumber Co., Post Office Box 1482, St. Helens, Oreg. 97051. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 SW. Fourth Avenue, Portland, Oreg. 97204.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70–1810; Filed, Feb. 11, 1970; 8:51 a.m.]

[Notice 489–A]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 6, 1970.

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 general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. 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–71775. By order of February 2, 1970, Division 3, acting as an Appellate Division, approved the transfer to Spencer Trucking Corp., Keyser, W. Va., of certificates Nos. MC–127036 and MC–127036 (Sub-No. 1), issued to Freddie E. Wible and Alma L. Wible, doing business as Hiram Wible & Son, Three Springs, Pa., authorizing the transportation of: Materials and supplies used in the construction of roads, and coal, between points in specified counties in Pennsylvania, Virginia, West Virginia,

and Maryland. Charles E. Creager, practitioner, 11215 Oak Leaf Drive, Silver Spring, Md. 20901.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-1723; Filed, Feb. 10, 1970; 8:48 a.m.]

[Notice 489]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 6, 1970.

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-71832. By order of January 30, 1970, the Motor Carrier Board approved the transfer to Louis Chet Braafladt, doing business as Chet Braafladt, Dimmitt, Tex., of a portion of the operating rights in certificate No. MC-111740 (Sub-No. 1) and all of the operating rights in certificate No. MC-111740 (Sub-No. 26) issued September 18, 1958, and April 3, 1969, respectively, to Oil Transport Co., a corporation Abilene, Tex., authorizing the transportation of anhydrous ammonia, in bulk, in tank vehicles, from Etter, Tex., and points within 5 miles of Etter, to specified points in New Mexico, and anhydrous ammonia from the plantsite of Hill Chemicals, Inc., near Borger, Tex., to points in Colorado, Kansas, and Oklahoma. John C. Sims, 1607 Broadway, Lubbock, Tex. 79401, attorney for applicants.

No. MC-FC-71843. By order of January 30, 1970, the Motor Carrier Board approved the transfer to Osborne Trucking Co., Inc., Riverton, Wyo., of the certificates in Nos. MC-123310 (Sub-No. 2), MC-123310 (Sub-No. 4), and MC-123310 (Sub-No. 7), issued March 15, 1965, August 8, 1966, and November 3, 1967, respectively, to Vernon L. Hunt, doing business as Hunt Trucking, Cheyenne, Wyo., authorizing the transportation of animal and poultry feed from Denver, Colo., to points in specified areas in Nebraska, Wyoming, and Montana. Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001, attorney for applicants.

No. MC-FC-71889. By order of January 30, 1970, the Motor Carrier Board approved the transfer to L. Schertzer Trucking Co., Inc., Union, N.J., of the certificates in Nos. MC-52523 and MC-52523 (Sub-No. 3), issued September 30, 1966, and May 12, 1969, respectively, to Leonard Schertzer, doing business as Schertzer Trucking Co., Carteret, N.J., authorizing the transportation of newspapers from New York, N.Y. to specified counties in New Jersey and carbonated beverages from Newark, N.J., and Brooklyn, N.Y., to specified areas in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, and Pennsylvania. Herman B. J. Weckstein, 60 Park Place, Newark, N.J. 07102, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-1722; Filed, Feb. 10, 1970; 8:48 a.m.]

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