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Title 3—THE PRESIDENT

Proclamation 3975

LOYALTY DAY, 1970

By the President of the United States of America

A Proclamation

The full meaning of ordinary words is often discovered only when we know their origin. The word "loyal" has its origins in the Latin word for "legal." Ultimately, to be loyal means not only to be faithful to a person or a cause or a nation, but to be lawful as well.

We demonstrate loyalty to our nation, then, not only when we show our love for its ideals, but when we also show respect for its laws. Without those laws, our ideals cannot be reached; without those ideals, our laws are mechanical and lifeless. True loyalty to our country means working together toward justice under the law.

The Congress of the United States, by a joint resolution of July 18, 1958, has designated May 1 of each year as Loyalty Day and requested the President to issue a proclamation inviting the people of the United States to observe such day with appropriate ceremonies.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do call upon the people of the United States, and upon all patriotic, civic and educational organizations to observe Friday, May 1, 1970, as Loyalty Day, with appropriate ceremonies in which all of us may join in a reaffirmation of our loyalty to the United States of America.

I also call upon appropriate officials of the government to display the flag of the United States on all government buildings on that day as a manifestation of our loyalty to the Nation which that flag symbolizes.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of March, in the year of our Lord nineteen hundred seventy and of the Independence of the United States of America the one hundred ninety-fourth.

Richard Nixon

[F.R. Doc. 70-3932; Filed, Mar. 27, 1970; 2:41 p.m.]

Executive Order 11521

AUTHORIZING VETERANS READJUSTMENT APPOINTMENTS FOR VETERANS OF THE VIETNAM ERA

WHEREAS this Nation has an obligation to assist veterans of the armed forces in readjusting to civilian life;

WHEREAS the Federal Government, as an employer, should reflect its recognition of this obligation in its personnel policies and practices;

WHEREAS veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers;

WHEREAS the Federal Government is continuously concerned with building an effective workforce, and veterans constitute a major recruiting source; and

WHEREAS the development of skills is most effectively achieved through a program combining employment with education or training:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States, by sections 3301 and 3302 of title 5, United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. (a) Subject to paragraph (b) of this section, the head of an agency may make an excepted appointment, to be known as a "veterans readjustment appointment", to any position in the competitive service up to and including GS–5 or the equivalent thereof, of a veteran or disabled veteran as defined in section 2108(1), (2), of title 5, United States Code, who:

(1) served on active duty in the armed forces of the United States during the Vietnam era;

(2) at the time of his appointment has completed not more than fourteen years of education; and

(3) is found qualified to perform the duties of the position.

(b) Employment under paragraph (a) of this section is authorized only under a training or educational program developed by an agency in accordance with guidelines established by the Civil Service Commission.

(c) An employee given a veterans readjustment appointment under paragraph (a) of this section shall serve subject to:

(1) the satisfactory performance of assigned duties; and

(2) participation in the training or educational program under which he is appointed.

(d) An employee who does not satisfactorily meet the conditions set forth in paragraph (c) of this section shall be removed in accordance with appropriate procedures.

(e) An employee serving under a veterans readjustment appointment may be promoted, reassigned, or transferred.

(f) An employee who completes the training or educational program and who has satisfactorily completed two years of substantially continuous service under a veterans readjustment appointment shall be converted to career-conditional or career employment. An employee converted under this paragraph shall automatically acquire a competitive status.

(g) In selecting an applicant for appointment under this section, an agency shall not discriminate because of race, color, religion, sex, national origin, or political affiliation.

SEC. 2. (a) A person eligible for appointment under section 1 of this order may be appointed only within one year after his separation from the armed forces, or one year following his release from hospitalization or treatment immediately following his separation from the armed forces, or one year after involuntary separation without cause from (i) a veterans readjustment appointment or (ii) a transitional appointment, or one year after the effective date of this order if he is serving under a transitional appointment.

(b) The Civil Service Commission may determine the circumstances under which service under a transitional appointment may be deemed service under a veterans readjustment appointment for the purpose of paragraph (f) of section 1 of this order.

SEC. 3. Any law, Executive order, or regulation which would disqualify an applicant for appointment in the competitive service shall also disqualify a person otherwise eligible for appointment under section 1 of this order.

SEC. 4. For the purpose of this order:

(a) "agency" means a military department as defined in section 102 of title 5, United States Code, an executive agency (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, and those portions of the legislative and judicial branches of the Federal Government and of the government of the District of Columbia having positions in the competitive service; and

(b) "Vietnam era" means the period beginning August 5, 1964, and ending on such date thereafter as may be determined by Presidential proclamation or concurrent resolution of the Congress.

SEC. 5. The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the provisions of this order.

SEC. 6. Executive Order No. 11397 of February 9, 1968, is revoked. Such revocation shall not affect the right of an employee to be converted to career-conditional or career employment if he meets the requirements of section 1(d) of Executive Order No. 11397 after the effective date of this order.

SEC. 7. This order is effective 14 days after its date.

Richard Nixon

THE WHITE HOUSE,
March 26, 1970.

[F.R. Doc. 70-3990; Filed, Mar. 30, 1970; 11:57 a.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

Section 213.3199 is amended to show that the Schedule A authorities for the President's Commission on Income Maintenance Programs and the White House Conference on Food, Nutrition, and Health have been revoked since both organizations have been terminated. Effective on publication in the FEDERAL REGISTER, paragraphs (a) and (d) of § 213.3199 are revoked.

(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. 70-3837; Filed, Mar. 30, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

U.S. Information Agency

Section 213.3328 is amended to show that one Special Assistant to the Associate Director (Policy and Plans) is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (k) is added to § 213.3328 as set out below.

§ 213.3328 U.S. Information Agency.

* * * * *

(k) One Special Assistant to the Associate Director (Policy and Plans).

(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. 70-3863; Filed, Mar. 30, 1970; 8:51 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 Special Assistant to the President and Chairman of the Bank who serves as senior economic adviser to the Chairman and the Board of Directors is expected under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (h) is added to § 213.3342 as set out below.

§ 213.3342 Export-Import Bank of the United States.

* * * * *

(h) One Private Secretary to the Special Assistant to the President and Chairman who serves as Economic Adviser to the Chairman and Board of Directors.

(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. 70-3865; Filed, Mar. 30, 1970; 8:51 a.m.]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Special Assistant to the Director is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (13) is added to paragraph (a) of § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

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

(13) One Special Assistant to the Director.

* * * * *

(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. 70-3866; Filed, Mar. 30, 1970; 8:51 a.m.]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that two additional positions of Confidential Staff Assistant to the Assistant Director for Operations are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (2) of paragraph (c) of § 213.3373 is amended as set out below.

§ 213.3373 Office of Economic Opportunity.

* * * * *

(c) *Office of the Assistant Director for Operations.* * * *

(2) Three Confidential Staff Assistants to the Assistant Director.

(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. 70-3867; Filed, Mar. 30, 1970; 8:51 a.m.]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that one position of Confidential Secretary (interdepartmental activities) to the Assistant Administrator for Congressional Liaison, Federal Aviation Administration, is excepted under Schedule C. The section is also amended to show the current titles of this Assistant Administrator and his Assistant. Effective on publication in the FEDERAL REGISTER, subparagraphs (2) and (3) are amended and subparagraph (5) is added to paragraph (h) of § 213.3394 as set out below.

§ 213.3394 Department of Transportation.

* * * * *

(h) *Federal Aviation Administration.* * * *

(2) One Assistant Administrator for Congressional Liaison.

(3) One Assistant to the Assistant Administrator for Congressional Liaison.

* * * * *

(5) One Confidential Secretary (interdepartmental activities) to the Assistant Administrator for Congressional Liaison.

(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. 70-3864; Filed, Mar. 30, 1970; 8:51 a.m.]

Title 7—AGRICULTURE

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

[Grapefruit Reg. 21, Amdt. 1]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of grapefruit

grown in the Lower Rio Grande Valley in Texas, 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 of the Texas Valley Citrus Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, 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 amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of grapefruit.

Order. The provisions of paragraph (a) (1) (ii) of § 906.345 Grapefruit Regulation 21 (34 F.R. 14382) are amended to read as follows:

§ 906.345 Grapefruit Regulation 21.

(a) *Order.* (1) * * *

(ii) Any grapefruit of any variety, grown in the production area, which are of a size smaller than 3$^{9}/_{16}$ inches in diameter, except that not more than 10 percent, by count, of such grapefruit in any lot of containers, and not more than 15 percent, by count, of such grapefruit in any individual container in such lot, may be of a size smaller than 3$^{9}/_{16}$ inches in diameter: *Provided,* That during the period April 6, 1970, through September 13, 1970, grapefruit grading at least U.S. No. 1, and not smaller than 3$^{5}/_{16}$ inches in diameter, with not more than 10 percent, by count, of such grapefruit in any lot of containers, and not more than 15 percent, by count, of such grapefruit in any individual container in such lot smaller than 3$^{5}/_{16}$ inches in diameter, may be handled; or

* * * * *

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

Dated, March 26, 1970, to become effective April 6, 1970.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-3795; Filed, Mar. 30, 1970; 8:46 a.m.]

PART 991—HOPS OF DOMESTIC PRODUCTION

Subpart—Administrative Rules and Regulations

DISPOSITION OF 1969 CROP POOLED RESERVE HOPS

Notice was published in the March 12, 1970, issue of the FEDERAL REGISTER (35 F.R. 4411) of a proposal based upon the unanimous recommendation of the Hop Administrative Committee, which would prescribe terms and conditions applicable to the disposition of 1969 crop pooled reserve hops. This subpart is operative pursuant to Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

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

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Committee and other available information, it is hereby found that this action is necessary to meet domestic and export trade requirements not satisfied by salable hops and amendment of the administrative rules and regulations, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, Subpart — Administrative Rules and Regulations is amended as follows:

A new § 991.140 is added reading as follows:

§ 991.140 Disposition of 1969 crop pooled reserve hops.

(a) *Eligible handlers.* Any handler who handled hops as the first handler thereof during the 1968–69 marketing year is eligible to participate in an offer by the committee to sell 1969 crop pooled reserve hops.

(b) *Prices.* The committee shall offer the 1969 pooled reserve hops for sale to eligible handlers at 66 cents per pound plus 1 cent per pound premium for each percentage less than 6 percent leaf and stem content.

(c) *Handlers' shares.* Each eligible handler's share of the 1969 crop pooled reserve hops offered by the committee shall be the same proportion of the quantity offered as the proportion of the quantity so handled by him is to the total quantity of hops so handled by all eligible handlers: *Provided,* That the committee may adjust the share of any handler by less than 1 bale to avoid splitting of individual bales.

(d) *Reoffer.* Any hops unpurchased at the end of the offer period shall be reoffered to handlers who accepted their full shares during the offer period without regard to shares; and approval of handlers' applications to purchase shall be made in the same order in which the applications are received by the committee.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Almost all 1969 salable hops have been sold and there is an immediate demand for the quantity of hops contained in the reserve pool; (2) the Hop Administrative Committee is prepared to offer the pooled hops for immediate sale and handlers do not need additional time to prepare for or to conduct operations under this provision; (3) no further regulations are being imposed since all handlers may purchase their pro rata share of the reserve pool; and (4) no useful purpose would be served by delaying the effective time hereof.

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

Dated March 26, 1970, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-3879; Filed, Mar. 30, 1970; 8:52 a.m.]

PART 991—HOPS OF DOMESTIC PRODUCTION

Salable Quantity and Allotment Percentage for 1970–71 Marketing Year

Notice was published in the March 12, 1970, issue of the FEDERAL REGISTER (35 F.R. 4411) regarding a proposal to establish a salable quantity and allotment percentage applicable to hops produced in Washington, Oregon, Idaho, and California for the 1970–71 marketing year beginning August 1, 1970. The allotment percentage and salable quantity herein established are based on the recommendation of the Hop Administrative Committee and other available information in accordance with the applicable provisions of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

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

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the committee, the applicable provisions of the marketing order, and other available information, it is found that to establish a salable quantity and allotment percentage as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the salable quantity and allotment percentage to be applicable to the 1970–71 marketing year (Aug. 1, 1970–July 31, 1971) are established as follows:

§ 991.208 Allotment percentage and salable quantity for hops during the marketing year beginning August 1, 1970.

The allotment percentage during the marketing year beginning August 1, 1970, shall be 80 percent, and the salable quantity shall be the amount resulting from multiplying the total of all producer allotment bases by the allotment percentage.

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

Dated March 25, 1970, to become effective May 1, 1970.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-3880; Filed, Mar. 30, 1970; 8:52 a.m.]

[Milk Order 7]

PART 1007—MILK IN GEORGIA MARKETING AREA

Order Suspending Certain Provision

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Georgia marketing area.

It is hereby found and determined that the following provision of the order no longer tends to effectuate the declared policy of the Act: In § 1007.51(a), "For the first 12 months from the effective date of this section,".

Statement of consideration. Suspension of this provision will continue in effect the Class I price which otherwise would terminate March 31, 1970.

A public hearing was held in Atlanta, Ga., March 11, 1970, on proposals to review the level of the Class I price in the Georgia marketing area.

Producers and handlers, through counsel, requested this suspension action pending the issuance of an amending order based on the evidence presented at the hearing.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the Class I price, fundamental to effective order administration, would otherwise terminate on March 31, 1970.

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

(c) The request for this suspension order was made by producers and concurred in by handlers at a public hearing held March 11, 1970, at Atlanta, Ga. No objections were expressed to the request for this suspension. This action is necessary, pending the issuance of an amending order, to continue the Class I price in the order beyond the present termination date of March 31, 1970.

Therefore, good cause exists for making this order effective April 1, 1970.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended beginning April 1, 1970.

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

Effective date: April 1, 1970.

Signed at Washington, D.C., on March 26, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-3881; Filed, Mar. 30, 1970; 8:52 a.m.]

[Milk Order 65]

PART 1065—MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area.

It is hereby found and determined that for the months of April through November 1970 the following provisions of the order no longer tend to effectuate the declared policy of the Act:

1. In § 1065.71(g), "except for the months specified below, shall be"; and

2. Paragraphs (h) through (l) of § 1065.71 in their entirety.

Statement of consideration. Suspension of the takeout-payback plan was requested by the Central States Dairy Cooperative which represents a major portion of the producers associated with the market.

This action will suspend, for 1970, the "takeout-payback" plan for paying producers, which provides for withholding from the pool 8 percent of the adjusted value of producer milk in each of the months of April, May, and June, for distribution to producers during September, October, and November according to their deliveries in these latter months. The purpose of the plan is to reduce the seasonality of milk production for the market. The basis for the request of the cooperative is that the relationship of uniform prices to pay prices of nearby manufacturing plants during the next few months that could be disruptive to milk procurement at regulated plants.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the takeout-payback plan may result in uniform prices during the next few months that could be disruptive to milk procurement at regulated plants.

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

(c) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (35 F.R. 4262). None were filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective April 1, 1970, for the period through November 30, 1970.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the period April 1, 1970, through November 30, 1970.

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

Effective date: April 1, 1970.

Signed at Washington, D.C., on March 26, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-3882; Filed, Mar. 30, 1970; 8:52 a.m.]

[Milk Orders 121, 126; Docket Nos. AO-364-A2, AO-231-A34]

PART 1121—MILK IN THE SOUTH TEXAS MARKETING AREA

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

Order Amending Orders

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 each of the aforesaid orders and of the previously issued amendments thereto; and all of the 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. The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* 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 governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

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;

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective not later than April 1, 1970. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued February 18, 1970, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued March 17, 1970. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending each of the aforesaid orders effective April 1, 1970, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in each of the respective marketing areas.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the South Texas and North Texas orders shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

1. In § 1121.51, paragraph (a) is revised to read as follows:

§ 1121.51 Class prices.

* * * * *

(a) *Class I price.* The Class I milk price shall be the basic formula price for the preceding month plus $2.48, and plus 20 cents.

* * * * *

2. In § 1121.53, paragraphs (a) and (b) are revised to read as follows:

§ 1121.53 Location differential to handlers.

(a) For that milk which is received from producers at a pool plant located (1) in Fayette County, Tex., or (2) north of U.S. Highway 90 and 60 miles or more from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred to another pool plant in the form of fluid milk products and assigned Class I disposition at the transferee plant pursuant to paragraph (c) of this section, or which is otherwise classified as Class I milk, and for other source milk for which Class I location adjustment credit is applicable, the price specified in § 1121.51(a) shall be reduced at the rate specified below for the applicable distance that such plant is located from the Houston city hall by shortest hard-surfaced highway distance, as determined by the market administrator:

Miles from city hall in Houston, Tex.:	*Rate per hundredweight (cents)*
60 miles but less than 100 miles	12
100 miles but less than 140 miles	18
140 miles but less than 180 miles	22
180 miles but less than 225 miles	26

For plants located beyond the 225 mile distance from the city hall in Houston, Tex., the rate of adjustment shall be increased 1.5 cents for each 10 miles or fraction thereof that such plant is located more than 225 miles from the city hall in Houston, Tex., by shortest hard-surfaced highway distance, as determined by the market administrator:

(b) For that milk which is received from producers at a pool plant located south of U.S. Highway 90 and (1) outside the Texas counties of Colorado, Fayette, Gonzales, Lavaca, and Wharton, and (2) beyond 60 miles from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred to another pool plant in the form of fluid milk products and assigned Class I disposition at the transferee plant pursuant to paragraph (c) of this section, or which is otherwise classified as Class I milk and for other source milk for which a Class I location adjustment is applicable, the price specified in § 1121.51(a) shall be increased at the rate specified below for the applicable distance that such plant is located from the Houston city hall by the shortest hard-surfaced highway distance, as determined by the market administrator.

Miles from city hall in Houston, Tex.:	*Rate per hundredweight (cents)*
60 miles but less than 100 miles	12
100 miles but less than 140 miles	18

For plants located beyond the 140 miles distance from the city hall in Houston, Tex., the rate of adjustment shall be increased at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is located more than 140 miles from the city hall in Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator;

* * * * *

§ 1121.54 [Revoked]

3. Section 1121.54 is revoked in its entirety.

§ 1121.80 [Amended]

4. In § 1121.80(a), the reference "§ 1126.72" is changed to read "§ 1121.72."

§ 1126.90 [Amended]

5. In § 1126.90(b), the words "an advance" is deleted and the words "a partial" is substituted therefor.

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

Effective date: April 1, 1970.

Signed at Washington, D.C., on March 26, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-3883; Filed, Mar. 30, 1970; 8:52 a.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. 111–113, 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:

In § 76.2, in paragraph (e)(19) relating to the State of Virginia, a new subdivision (xii) relating to Orange County is added to read:

(19) *Virginia.* * * *

(xii) That portion of Orange County bounded by a line beginning at the junction of U.S. Highway 522 and Secondary Highway 663; thence, following Secondary Highway 663 in a generally northeasterly direction to Secondary Highway 622; thence, following Secondary Highway 622 in a generally southeasterly direction to Secondary Highway 602; thence, following Secondary Highway 602 in a generally easterly direction to Secondary Highway 611; thence, following Secondary Highway 611 in a generally southeasterly direction to Secondary Highway 604; thence, following Secondary Highway 604 in a generally south-

westerly direction to Secondary Highway 621; thence, following Secondary Highway 621 in a generally southwesterly direction to Secondary Highway 608; thence, following Secondary Highway 608 in a generally southerly direction to the Orange-Spotsylvania County line; thence, following the Orange-Spotsylvania County line in a southwesterly direction to Secondary Highway 651; thence, following Secondary Highway 651 in a generally southwesterly direction to Secondary Highway 629; thence, following Secondary Highway 629 in a generally northwesterly direction to U.S. Highway 522; thence, following U.S. Highway 522 in a generally northerly direction to its junction with Secondary Highway 663.

(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 amendment shall become effective upon issuance.

The amendment quarantines a portion of Orange County in Virginia 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 area designated herein.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish its 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 amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 25th day of March 1970.

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

[F.R. Doc. 70-3796; Filed, Mar. 30, 1970; 8:46 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

BACKFITTING OF PRODUCTION AND UTILIZATION FACILITIES; CONSTRUCTION PERMITS AND OPERATING LICENSES

On April 16, 1969, the Atomic Energy Commission published for comment in the FEDERAL REGISTER proposed amendments to its Rules of Practice, 10 CFR Part 2, and to its regulation, Licensing of Production and Utilization Facilities, 10 CFR Part 50, which would (1) define more precisely the significance of the issuance of a construction permit for a facility, (2) simplify and expedite the Commission's facility licensing process by eliminating the "provisional" operating license, and (3) clarify the Commission's position with respect to requirements for additional safety features after the issuance of a construction permit (34 F.R. 6540).

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 60 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. Upon consideration of the comments received and other factors involved, the Commission has adopted the amendments set out below. The amendments are the same as the proposed amendments published April 16, 1969, except for (1) the elimination of the proposed amendments to § 50.35, other than those deleting the term "provisional" construction permit and a related note, and the proposed definition in § 50.2 of the "principal architectural and engineering criteria" of the proposed design of a facility; (2) the addition of conforming amendments to Part 170; and (3) the addition of minor corrective amendments to §§ 50.35, 50.57 and proposed § 50.109.

The rapid changes in technology in the field of atomic energy result in the continual development of new or improved features designed to improve the safety of production and utilization facilities. Section 50.109 which follows defines the circumstances under which the Commission may require backfitting of facilities—that is, the addition or modification of structures, systems or components affecting the safety of the facility after the construction permit has been issued. It provides that the Commission may require backfitting if it finds that such action will provide substantial, additional protection which is required for the public health and safety or the common defense and security.

Section 50.109 is not, however, intended to affect the responsibility of applicants for, or holders of, facility licenses to evaluate significant new information developed as a result of experience in the design, construction, testing and operation of facilities and the results of research and development programs bearing on the safety of facilities, and to recommend any additions to, or modification of facilities needed to protect the health and safety of the public.

In the past the Commission has issued "provisional" construction permits when an applicant has not supplied initially all of the technical information required to complete the application and support the issuance of a construction permit which approves all proposed design features. In practice, almost all construction permits have never been converted into "final" construction permits, but have merged directly into the operating license. The amendments of § 50.35 and conforming amendments to Parts 2 and 170 which follow eliminate the term "provisional" construction permit, thus conforming the terminology with Commission practice. The findings required for issuance of a construction permit would be the same as those which have been required for a "provisional" construction permit.

The proposed amendment to § 50.35 would have provided that the Commission, in issuing a construction permit, would be approving the construction of the facility in accordance with the application, including the principal architectural and engineering criteria. "Principal architectural and engineering criteria" would have been defined, by amendment of § 50.2, to include (1) the principal design criteria, (2) the essential elements of the proposed design for certain structures, systems and components, (3) the design bases for protection against natural phenomena, and (4) the essential elements of the applicant's quality assurance program. On further consideration, it appears that the "essential elements of the proposed design" of the structures, systems and components of water-cooled nuclear power units referred to in the proposed rule require further definition involving additional study. Accordingly, the proposed amendments of § 50.35 other than those eliminating the term "provisional" construction permit and a related note and the proposed definition of "principal architectural and engineering criteria" in § 50.2 have not been adopted at this time.

By amendments to § 50.57, the "provisional" operating license, which is issued for an 18-month period, is eliminated. Temporary limitations on operation considered necessary for public health and safety will be incorporated in the full-term operating license as conditions. The elimination of the provisional operating license does not preclude the Commission from imposing all the limitations in the full-term operating license which may have been required in the provisional operating license. The findings required for issuance of an operating license are largely the same as those which have been required for a provisional operating license. The elimination of the provisional operating license removes one step in AEC's facility licensing process and is expected to reduce the time consumed in the facility licensing process without reducing the degree of protection of the public health and safety provided. Provisional operating licenses already issued will continue in effect in accordance with their terms. Conforming amendments with respect to the operating license have also been made to Parts 2 and 170.

Pursuant to the Atomic Energy Act of 1954 as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 2, 50 and 170, are published as a document subject to codification to be effective 30 days after publication in the FEDERAL REGISTER.

PART 2—RULES OF PRACTICE

§ 2.104 [Amended]

1. Section 2.104(b)(2) and sections I (c) and (d), III(g)(1) and IV (c) and (d) of Appendix A of 10 CFR Part 2 are amended by substituting the words "construction permit" for "provisional construction permit" where they appear.

§ 2.761 [Amended]

2. Paragraph (d) of § 2.761 of 10 CFR Part 2 is amended by substituting the words "operating license or provisional operating authorization" for "provisional operating license or authorization".

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

3. Paragraphs (a) and (b) of § 50.35 of 10 CFR Part 50 are amended to read as follows:

§ 50.35 Issuance of construction permits.

(a) When an applicant has not supplied initially all of the technical information required to complete the application and support the issuance of a construction permit which approves all proposed design features, the Commission may issue a construction permit if the Commission finds that (1) the applicant has described the proposed design of the facility, including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public; (2) such further technical or design information as may be required to complete the safety analysis, and which can reasonably be left for later consideration, will be supplied in the final safety analysis report; (3) safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and that (4) on the basis of the foregoing, there is reasonable assurance that, (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility, and (ii) taking into consideration the site criteria contained in Part 100 of this chapter, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

NOTE: When an applicant has supplied initially all of the technical information required to complete the application, including the final design of the facility, the findings required above will be appropriately modified to reflect that fact.

(b) A construction permit will constitute an authorization to the applicant to proceed with construction but will not constitute Commission approval of the safety of any design feature or specification unless the applicant specifically requests such approval and such approval is incorporated in the permit. The applicant, at his option, may request such approvals in the construction permit or, from time to time, by amendment of his construction permit. The Commission may, in its discretion, incorporate in any construction permit provisions requiring the applicant to furnish periodic reports of the progress and results of research and development programs designed to resolve safety questions.

4. Section 50.57 of 10 CFR Part 50 is revised to read as follows:

§ 50.57 Issuance of operating license.

(a) Pursuant to § 50.56, an operating license may be issued by the Commission, up to the full term authorized by § 50.51, upon finding that:

(1) Construction of the facility has been substantially completed, in conformity with the construction permit and the application as amended, the provisions of the Act, and the rules and regulations of the Commission; and

(2) The facility will operate in conformity with the application as amended, the provisions of the Act, and the rules and regulations of the Commission; and

(3) There is reasonable assurance (i) that the activities authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations in this chapter; and

(4) The applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations in this chapter; and

(5) The applicable provisions of Part 140 of this chapter have been satisfied; and

(6) The issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

(b) Each operating license will include appropriate provisions with respect to any uncompleted items of construction and such limitations or conditions as are required to assure that operation during the period of the completion of such items will not endanger public health and safety.

(c) In a case where a hearing has been held in connection with a proceeding under this section the presiding officer may, upon written motion and upon good cause shown, provide that any initial decision issued pursuant to this section shall become effective ten (10) days after issuance subject to (1) the review thereof and further decision by the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate, upon exceptions filed by any party, and (2) such order as the Commission or the Atomic Safety and Licensing Appeal Board may enter upon such exceptions or upon its own motion within forty-five (45) days after the issuance of such initial decision. In the absence of a Commission or an Appeal Board order pursuant to the foregoing, and in the absence of exceptions to the initial decision, the initial decision shall become the final decision of the Commission at the end of such forty-five (45) day period. If any party opposes the motion for expedited effectiveness of the initial decision, the presiding officer may stay its effectiveness pending filing within five (5) days after its issuance of an exception to the provision for expedited effectiveness, and thereafter until decision by the Commission or the Atomic Safety and Licensing Appeal Board on the exception.

5. An undesignated center head and a new § 50.109 are added to 10 CFR Part 50 to read as follows:

BACKFITTING

§ 50.109 Backfitting.

(a) The Commission may, in accordance with the procedures specified in this chapter, require the backfitting of a facility if it finds that such action will provide substantial, additional protection which is required for the public health and safety or the common defense and security. As used in this section, "backfitting" of a production or utilization facility means the addition, elimination or modification of structures, systems or components of the facility after the construction permit has been issued.

(b) Nothing in this section shall be deemed to relieve a holder of a construction permit or a license from compliance with the rules, regulations, or orders of the Commission.

(c) The Commission may at any time require a holder of a construction permit or a license to submit such information concerning the addition or proposed addition, the elimination or proposed elimination, or the modification or proposed modification of structures, systems or components of a facility as it deems appropriate.

PART 170—FEES FOR FACILITIES AND MATERIALS LICENSES UNDER THE ATOMIC ENERGY ACT OF 1954 AS AMENDED

§ 170.12 [Amended]

6. Section 170.12(b) and (c) of 10 CFR Part 170 are amended by substituting the words "construction permit" for "provisional construction permit," and "operating license" for "provisional operating license" where they appear.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 20th day of March 1970.

For the Atomic Energy Commission.

F. T. HOBBS,
Acting Secretary.

[F.R. Doc. 70-3799; Filed, Mar. 30, 1970; 8:46 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 9, Amdt. 3]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business Coal and Lignite Mining Concerns

On February 5, 1970, there was published in the FEDERAL REGISTER (35 F.R. 2597) a notice that the Small Business Administration proposed to amend Part 121 of Chapter I of Title 13 of the Code of Federal Regulations by establishing definitions of small business in certain mining industries for the purpose of SBA loans or loan guarantees.

Interested parties were given 15 days in which to submit written statements of facts, opinions, or arguments concerning the proposed definitions. After consideration of all relevant matter in connection with the proposal, it has been determined to adopt the size standards as proposed. Accordingly, the amendment set forth below is hereby adopted:

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by:

1. Adding new § 121.3–10(h) to read as follows:

§ 121.3–10 Definition of small business for SBA loans.

* * * * *

(h) *Mining and mining services.* Any mining or mining services concern primarily engaged in an industry set forth in Schedule F of this part is classified as small if its number of employees does not exceed the size standard established therein for that industry.

2. Adding new Schedule F to Part 121 to read as follows:

SCHEDULE F—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MINING AND MINING SERVICES

(The following size standards are to be used when determining the size status of mining and mining services concerns for the purpose of SBA business loans (or loan guarantees), displaced business loans, economic opportunity loans, and as alternate standards for sections 501 and 502 loans and Small Business Investment Company assistance.)

Census classification code	Industry	Employment size standard (number of employees)
1111	Anthracite	250
1112	Anthracite Mining Services	250
1211	Bituminous Coal	500
1212	Lignite	500
1213	Bituminous Coal and Lignite Mining Services.	250

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

Dated: March 17, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70–3831; Filed, Mar. 30, 1970; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9846; Amdt. Nos. 21–30; 37–20; 121–59; 127–16; 135–16; 145–10]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

PART 145—REPAIR STATIONS

Reporting Requirements for Manufacturers; Failures, Malfunctions, and Defects; Extension of Effective Date

The purpose of this amendment is to extend to July 2, 1970, the effective date of the recently adopted regulation requiring manufacturers to report certain failures, malfunctions, or defects in the products or articles which they manufacture.

On February 11, 1970, the FAA adopted Amendments 21–29; 37–19; 121–58; 127–15; 135–15; and 145–9 and these amendments were published in the FEDERAL REGISTER on February 19, 1970, to become effective April 2, 1970. However, by letter dated March 4, 1970, the General Aviation Manufacturers Association, Inc. (GAMA), has requested a postponement of the effective date for at least 90 days. GAMA states that while the effect of the rule is still being studied and plans to meet the reporting requirements are being processed, such cannot be completed within the 28 working days allotted. The FAA agrees that some manufacturers may not be able to establish the necessary procedures and to assemble the necessary staff by April 2, 1970, and that justification exists for extending the effective date to July 2, 1970.

Since this amendment is an extension of the effective date of a new requirement and imposes no additional burden on any person, I find that notice and public procedure thereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, the effective date of Amendments 21–29; 37–19; 121–58; 127–15; 135–15; and 145–9 published in the FEDERAL REGISTER (35 F.R. 3154) on February 19, 1970, is extended to July 2, 1970.

(Secs. 313(a), 603, 604, and 607, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on March 24, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70–3785; Filed, Mar. 30, 1970; 8:45 a.m.]

[Docket No. 10062; Amdt. 39–958]

PART 39—AIRWORTHINESS DIRECTIVES

Avions Marcel Dassault/Sud-Aviation Fan Jet Falcon Airplanes

Correction

In F.R. Doc. 70–3312 appearing at page 4747 in the issue for Thursday, March 19, 1970, the word "contractor", appearing in the fifth line of the first paragraph and in the first line of column 1, page 4748, should read "contactor".

[Docket No. 70–SW–3; Amdt. 39–962]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 206A Series Helicopters

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of Planetary Gear Support Spider, P/N 206–040–041–1, on the Bell Model 206A series helicopters was published in 35 F.R. 1294.

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

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

BELL. Applies to Model 206A Helicopters with transmissions incorporating Planetary Gear Support Spider, P/N 206–040–041–1.

Compliance required as indicated:

a. Planetary Gear Support Spiders P/N 206–040–041–1, with less than 450 hours time in service on the effective date of this airworthiness directive must be removed from service prior to accumulating 500 hours time in service.

b. Planetary Gear Support Spiders, P/N 206–040–041–1, with more than 450 hours time in service on the effective date of this airworthiness directive must be removed from service within 50 hours time in service after the effective date of this directive.

c. Retired Planetary Gear Support Spiders may be replaced with either the redesigned, heavy duty, Planetary Gear Support Spider P/N 206–040–080–3, using redesigned Shafts,

P/N 206-040-043-5 (three required) in lieu of Shafts, P/N 206-040-043-3, or a serviceable Planetary Gear Support Spider, P/N 206-040-041-1, with less than 450 hours total time in service. This latter item must be removed prior to accumulating 500 hours total time in service.

Removal and replacement is to be accomplished in accordance with the Maintenance and Overhaul Instructions for the Bell Model 206A helicopter or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Southwest Region.

(Bell Helicopter Service Bulletin No. 206A-14, Revision B, dated 1-23-70, pertains to this subject.)

This amendment becomes effective May 1, 1970.

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

Issued in Fort Worth, Tex., on March 20, 1970.

GEORGE W. IRELAND,
Acting Director, Southwest Region.

[F.R. Doc. 70-3786; Filed, Mar. 30, 1970; 8:45 a.m.]

[Docket No. 9843; Amdts. 61-47; 63-11]

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

Use of Foreign Pilot, Flight Engineer, and Flight Navigator Certificates and Medical Qualification Evidence

The purpose of these amendments to Parts 61 and 63 of the Federal Aviation Regulations is (1) to provide in § 63.3 that when a civil aircraft of U.S. registry is operated within a foreign country a current flight engineer or flight navigator certificate issued by the country in which the aircraft is operated may be used; and (2) to provide in both §§ 61.3 and 63.3 that under these circumstances evidence of medical qualification issued for the foreign certificate may be used.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rule making (Notice 69-40) issued on September 8, 1969, and published in the FEDERAL REGISTER on September 12, 1969 (34 F.R. 14331). Due consideration has been given to all comments presented in response to the notice.

Six comments were received in response to the notice. Three of the comments were favorable. The other three comments, although not objecting to the proposed amendments, contained certain suggested changes that were beyond the scope of the notice.

For the reasons stated in the preamble to Notice 69-40, these amendments are hereby adopted with changes in § 63.3 (a) and (b) to conform them with § 61.3(a).

In consideration of the foregoing, Parts 61 and 63 of the Federal Aviation Regulations are amended, effective April 30, 1970, as follows:

1. By amending paragraph (c) of § 61.3 to read as follows:

§ 61.3 Certificates and ratings required.

* * * * *

(c) *Medical certificate.* Except for glider pilots piloting gliders, no person may act as pilot in command or in any other capacity as a required pilot flight crewmember of an aircraft under a certificate issued to him under this part, unless he has in his personal possession an appropriate current medical certificate issued under Part 67 of this chapter. However, when the aircraft is operated within a foreign country with a current pilot certificate issued by that country, evidence of current medical qualification for that certificate, issued by that country, may be used. Also, in the case of a pilot certificate issued under § 61.33, evidence of current medical qualification accepted for the issue of that certificate is used in place of a medical certificate.

* * * * *

2. By amending paragraphs (a) and (b) of § 63.3 to read as follows:

§ 63.3 Certificates and ratings required.

(a) No person may act as a flight engineer of a civil aircraft of U.S. registry unless he has in his personal possession a current flight engineer certificate with appropriate ratings issued to him under this part and a second-class (or higher) medical certificate issued to him under Part 67 of this chapter within the preceding 12 months. However, when the aircraft is operated within a foreign country, a current flight engineer certificate issued by the country in which the aircraft is operated, with evidence of current medical qualification for that certificate, may be used. Also, in the case of a flight engineer certificate issued under § 63.42, evidence of current medical qualification accepted for the issue of that certificate is used in place of a medical certificate.

(b) No person may act as a flight navigator of a civil aircraft of U.S. registry unless he has in his personal possession a current flight navigator certificate issued to him under this part and a second-class (or higher) medical certificate issued to him under Part 67 of this chapter within the preceding 12 months. However, when the aircraft is operated within a foreign country, a current flight navigator certificate issued by the country in which the aircraft is operated, with evidence of current medical qualification for that certificate, may be used.

* * * * *

(Secs. 313(a), 601-610, and 1102, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421-1430, 1502; Article 32(a), Convention on International Civil Aviation; 61 Stat. 1180; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on March 24, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-3787; Filed, Mar. 30, 1970; 8:45 a.m.]

[Docket No. 10229; Amdt. 103-7]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

Applicability; Shipments of Radioactive Materials

The purpose of this amendment to Part 103 of the Federal Aviation Regulations is to add certain radioactive materials to those materials expressly excluded from the applicability of Part 103.

The radioactive materials involved are generally small quantities of radiopharmaceuticals with a low level of radioactivity extending over relatively short periods. These materials are used principally by physicians in the treatment of patients and by those engaged in medical research.

Under the Hazardous Materials Regulations of the Department of Transportation (49 CFR Parts 172 and 173) these particular radioactive materials are exempt from the packing, marking, and labeling requirements prescribed for shipment by rail express. Previously, these materials were excluded from the applicability of Part 103 of the Federal Aviation Regulations. However, they were inadvertently deleted from among the excluded materials by Amendment 103-4 (33 F.R. 14918). This amendment corrects that deletion.

Since this amendment merely corrects an inadvertence, I find that notice and public procedure are unnecessary, and that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, § 103.1(c) of the Federal Aviation Regulations is amended, effective March 31, 1970, by changing the period at the end of paragraph (c)(3) to a semicolon, and by adding a subparagraph, designated (4), to read:

§ 103.1 Applicability.

* * * * *

(c) * * *

(4) Shipments of radioactive materials that meet those requirements in 49 CFR Parts 172 and 173 that exempt them from packing, marking, and labeling requirements for shipment by rail express.

(Secs. 313(a), 601, and 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1354, 1421, and 1472; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on March 24, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-3788; Filed, Mar. 30, 1970; 8:45 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-385; Order 397]

PART 33—APPLICATION FOR SALE, LEASE, OR OTHER DISPOSITION, MERGER OR CONSOLIDATION OF FACILITIES, OR FOR PURCHASE OR ACQUISITION OF SECURITIES OF PUBLIC UTILITY

Applicability

MARCH 25, 1970.

This order amends § 33.1 of the Commission's regulations under the Federal Power Act so as to clarify the applicability of the Commission's regulations governing the filing of applications for sale, lease or other dispositions, mergers or consolidation of facilities and for the purchase or acquisition of securities of a public utility. As amended the section sets forth in more detail the situations where applications must be filed, taking into consideration the holding in Duke Power Company v. FPC, 401 F. 2d 930 (CADC 1968). This clarification should be reflected in the statement of applicability of Part 33 of the Commission's regulations under the Federal Power Act as required by section 552 of Title 5 of the United States Code as amended.

The Commission finds:

(1) The amendment herein adopted is necessary and appropriate for the purposes of the Federal Power Act.

(2) Since the amendment herein adopted involves matters of Commission organization and procedures the notice, hearing, and effective date provisions of section 553 of title 5 of the United States Code are not applicable.

(3) Good cause exists that the amendment herein adopted become effective forthwith.

The Commission, acting pursuant to the authority granted by the Federal Power Act, particularly sections 203 and 309 thereof (49 Stat. 849, 858; 16 U.S.C. 824b, 825h), and in accordance with section 552 of title 5 of the United States Code as amended (81 Stat. 54, 5 U.S.C. 552) orders:

(A) Section 33.1, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations is hereby amended to read as follows:

§ 33.1 Applicability.

(a) The requirements of this part will apply to public utilities seeking authority under section 203 of the Federal Power Act. This authority extends to—

(1) The disposition by sale, lease or otherwise by a public utility of the whole of its electric facilities subject to Commission jurisdiction or any part thereof of a value in excess of $50,000.

(2) The merger or consolidation, directly or indirectly of the facilities subject to the Commission's jurisdiction with those of any other person having a value in excess of $50,000. This includes the acquisition by a public utility of electric facilities used for the transmission or sale at wholesale of electric energy in interstate commerce which, except for ownership, would be subject to Commission's jurisdiction.

(3) The purchase, acquisition or taking by a public utility of any security of any other public utility.

(b) Value in excess of $50,000 as used in section 203 of the Federal Power Act (16 U.S.C. 824b) shall be the original cost undepreciated as defined in the Commission's uniform system of accounts prescribed for public utilities and licensees.

(Secs. 203, 309, 49 Stat. 849, 858; 16 U.S.C. 824b, 825h)

(B) The amendment herein prescribed shall become effective upon issuance of this order.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

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

[F.R. Doc. 70-3846; Filed, Mar. 30, 1970; 8:50 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

MISCELLANEOUS AMENDMENTS

In Part 200, Subpart D, in the Table of Contents § 200.106 is amended to read as follows:

Sec.

200.106 Assistant Commissioner for Field Operations and Deputy; HUD Regional Administrators and Assistant Regional Administrators for FHA; Directors, Deputy Directors, Assistant Directors, Administrative Officers, Chief Clerks, and Service Office Supervisors in FHA Field Offices; and Assistant Comissioner for Administration and Deputy.

In § 200.56a a new paragraph (e) is added to read as follows:

§ 200.56a Director of the Single Family Division and Deputy.

* * * * *

(e) To review cases relating to expenditures to correct or compensate for structural defects in houses financed with insured mortgages and to approve or reject, without referral to the Structural Defects Committee, those requests for financial assistance which he determines do not involve circumstances of an exceptionally difficult or questionable nature.

In § 200.73 paragraph (a) is amended to read as follows:

§ 200.73 Assistant Commissioner for Rehabilitation and Deputy.

* * * * *

(a) To develop and recommend policies and establish operating plans and procedures for housing rehabilitation under all FHA mortgage insurance programs including the insurance of mortgages under the sections 221(h) and 235(j) programs, and for the rehabilitation of housing to be acquired under the low-rent public housing program, and to provide technical advice and assistance to the field offices on housing rehabilitation and training or rehabilitation techniques.

* * * * *

In § 200.87 paragraph (a) is amended to read as follows:

§ 200.87 Management Improvement Committee.

(a) *Members.* The Management Improvement Committee is comprised of the following members: Director of the Management and Operations Assistance Division, Chairman; and one designee of each of the following: Assistant Commissioner-Comptroller; Assistant Commissioner for Unsubsidized Insured Housing Programs; Assistant Commissioner for Property Improvement; Assistant Commissioner for Technical and Credit Standards; Assistant Commissioner for Subsidized Housing Programs; Assistant Commissioner for Field Operations; and Director of the Budget Division.

* * * * *

In § 200.92 paragraph (a) is amended to read as follows:

§ 200.92 Structural Defects Committee.

(a) *Members.* The Structural Defects Committee is composed of the following members: Director, Single Family Division, Chairman; Assistant Commissioner-Comptroller; and Assistant Commissioner for Technical and Credit Standards, or their designees.

* * * * *

In § 200.93 paragraph (a) is amended to read as follows:

§ 200.93 Multifamily Participation Review Committee.

(a) *Members.* The Multifamily Participation Review Committee shall consist of the following officials or their deputies: Assistant Commissioner for Field Operations, Chairman; Assistant Commissioner for Technical and Credit Standards; Assistant Commissioner for Unsubsidized Insured Housing Programs; Assistant Commissioner for Subsidized Housing Programs; Assistant Commissioner for Rehabilitation; Director, Compliance Coordination; and such other members as the Assistant Secretary-Commissioner shall designate.

* * * * *

In § 200.106 the heading and paragraph (a) are amended to read as follows:

§ 200.106 Assistant Commissioner for Field Operations and Deputy; HUD Regional Administrators and Assistant Regional Administrators for FHA; Directors, Deputy Directors, Assistant Directors, Administrative Officers, Chief Clerks, and Service Office Supervisors in FHA Field Offices; and Assistant Commissioner for Administration and Deputy.

(a) To the Assistant Commissioner for Field Operations and Deputy; HUD Regional Administrators and Assistant Regional Administrators for FHA; Directors, Deputy Directors, Assistant Directors, Adminisrative Officers, Chief Clerks, and Service Office Supervisors in FHA Field Offices; and the Assistant Commissioner for Administration and Deputy, pursuant to 5 U.S.C. 16a, there is delegated the authority to administer the oath required by section 1757, Revised Statutes, as amended (5 U.S.C. 16), incident to entrance into the executive branch of the Federal Government, or any other oath required by law in connection with employment therein, such oath to be administered without charge or fee and to have the same force and effects as oaths administered by officers having seals.

* * * * *

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 607, 55 Stat. 61, as amended; sec. 712, 62 Stat. 1281, as amended; sec. 907, 65 Stat. 301, as amended; sec. 807, 69 Stat. 651, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f)

Issued at Washington, D.C., March 25, 1970.

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

[F.R. Doc. 70-3797; Filed, Mar. 30, 1970; 8:46 a.m.]

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart H—Enforcement Remedies

Section 200.205 is amended to read as follows:

§ 200.205 Basis of action.

In order to protect homeowners and to avoid increased insurance risks, the Field Office Director will assist lending institutions in their efforts to supervise and control the activities of dealers and salesmen originating mobile home and property improvement loans where there are involved irregularities or disregard for the statute and regulations. The Director will determine the corrective action appropriate in the circumstances.

Section 200.206 is amended to read as follows:

§ 200.206 Inquiry notice and explanation.

Upon receipt of information indicating unscrupulous and unethical practices or other conduct that tends to unduly increase insurance risks on the part of a dealer or salesman, the Director will arrange for a prompt inquiry by a member of his staff. After the inquiry, the dealer or salesman is informally advised in writing of the proposed determination by the Director. The dealer or salesman may then request an opportunity to give his version of the surrounding circumstances and answer or explain any derogatory charges or allegations made in connection with his mobile home or property improvement loan operations.

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 607, 55 Stat. 61, as amended; sec. 712, 62 Stat. 1281, as amended; sec. 907, 65 Stat. 301, as amended; sec. 807, 69 Stat. 651, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f)

SUBCHAPTER B—HOUSING RENOVATION AND MOBILE HOME FINANCING

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

In Chapter II the headings of Subchapter B and Part 201 are amended as set forth above, and a new Subpart A heading is added preceding § 201.1 as follows:

Subpart A—Property Improvement Loans

In § 201.8 the introductory text of paragraph (b) is amended to read as follows:

§ 201.8 Dealer investigation, approval and control.

* * * * *

(b) If the insured has not approved the dealer or has reason to withdraw approval of a dealer that has previously been approved under this section or § 201.590, the proceeds of a loan shall not be disbursed until:

* * * * *

In § 201.12 paragraph (b) is amended to read as follows:

§ 201.12 Insurance reserve.

* * * * *

(b) There shall be maintained for each insured a general insurance reserve, which shall equal 10 percent of the aggregate amount advanced on all eligible loans originated by such insured pursuant to the provisions of the regulations both in this Subpart A and in Subpart B of this part on and after March 1, 1950, and prior to the expiration of the Commissioner's authority to insure under the provisions of this Act, less the amount of all claims approved for payment by the Commissioner in connection with such loans and less the amount of any adjustments made pursuant to paragraph (c) of this section.

* * * * *

(Sec. 2, 48 Stat. 1246, as amended; 12 U.S.C. 1703)

In Part 201 a new Subpart B is added to read as follows:

Subpart B—Mobile Home Loans

AUTHORITY: The provisions of this Subpart B issued under sec. 2, 48 Stat. 1246, as amended; 12 U.S.C. 1703.

Subpart B—Mobile Home Loans

§ 201.501 Definitions.

As used in the regulations in this part, the term—

(a) "Act" means the National Housing Act.

(b) "Borrower" means a natural person who applies for and receives a loan for the purchase of a mobile home in reliance upon the provisions of the Act.

(c) "Certificate of origin" means a document establishing that a mobile home is free and clear of all legal encumbrances.

(d) "Commissioner" means the Federal Housing Commissioner or his duly authorized representative.

(e) "Contract of insurance" includes all of the provisions of the regulations in this subpart and the applicable provisions of the Act.

(f) "Form" means a document which is provided by or satisfactory to the Commissioner.

(g) "Insured" means a financial institution holding a contract of insurance under title I of the Act.

(h) "Loan" means an advance of funds or credit or the purchase of an obligation.

(i) "Manufacturer's invoice" means a document which is officially issued by the manufacturer stating the true wholesale price of a mobile home, its furnishings, equipment and accessories. The document shall be on a form which is in general use in the industry.

(j) "Mobile home" means a movable dwelling unit designed and constructed for permanent occupancy by a single family which dwelling unit contains permanent eating, cooking, sleeping, and sanitary facilities.

(k) "Obligation" means evidence of monetary indebtedness.

(l) "Owner" means a borrower who has at least a one-half interest in the real property upon which the mobile home is placed, which interest is a fee title and such title may be subject to a mortgage, deed of trust or other lien securing a debt.

(m) "Principal residence" means that place where the borrower expects to live at least 9 months of the year.

§ 201.505 Purpose of subpart.

The provisions in this subpart contain the requirements under which an approved financial institution may obtain insurance of loans made for the purchase of mobile homes.

Property and Structural Requirements

§ 201.510 New or used mobile homes.

The loan shall be made only for financing the purchase of a mobile home which is new or for financing the purchase of a used mobile home which the seller acquired with financing provided under this subpart. To be considered new, a mobile home shall not have been previously occupied at the time of the purchase.

§ 201.515 Borrower's use of mobile home.

The borrower shall establish, to the satisfaction of the Commissioner, that he is purchasing the mobile home for use and occupancy as his principal residence.

§ 201.520 Structural design and standards.

(a) *Basic requirements.* The mobile home shall be designed and constructed so as to insure adequate durability and livability.

(b) *ANSI criteria.* The requirements of paragraph (a) of this section may be satisfied by compliance with the specifications in effect at the time the loan is made which are prescribed in mobile home standard No. A 119.1, as approved by the American National Standards Institute (formerly the United States of America Institute, Inc.), hereinafter referred to as "ANSI". A certification shall be obtained from the manufacturer stating that the mobile home was constructed in accordance with the ANSI requirements.

(c) *Minimum size.* The mobile home shall be at least 40 feet long and 10 feet wide.

§ 201.525 Mobile home location standards.

(a) *In general.* The mobile home shall be placed either in a mobile home park, approved by the Commissioner, or on a site owned by the borrower which meets certain requirements prescribed by the Commissioner.

(b) *Mobile home park.* Where the mobile home is to be placed on a mobile home park, approved by the Commissioner, the park shall meet such minimum standards and specifications relating to sanitation, site or lot location, vehicular access, landscaping, and such other requirements conducive to an adequate environment as the Commissioner shall deem necessary.

(c) *Owner's site.* Where the mobile home is to be placed on a site owned by the borrower the following requirements shall be met:

(1) In all instances, except where it is served by a central sewage and water facility subject to supervision and control by a governmental authority, the site shall have a minimum size of not less than one-fourth acre.

(2) The insured shall obtain from the borrower or the dealer a certification made by an authorized local official establishing that the site has adequate sanitary facilities and is in conformance with applicable sanitary codes in the jurisdiction where the mobile home is to be located.

(3) The insured shall obtain a certification from the dealer and the borrower establishing that current zoning of the site does not preclude emplacement of a mobile home.

Maximum Loan, Fees and Charges

§ 201.530 Maximum loan amount.

(a) *Basic limitation.* The mobile home loan proceeds shall not exceed the lesser of $10,000 or 115 percent of the total price for such home, as stated in the manufacturer's invoice (115 percent of the wholesale blue book price, if a previously financed used mobile home is involved). The charges and fees authorized in paragraph (b) of this section may be added to the loan, if the inclusion of such items does not increase the total loan proceeds to more than $10,000.

(b) *Permissible charges and fees.* The following charges and fees are authorized:

(1) Filing or recording fees and charges.

(2) Documentary stamp taxes.

(3) State and local sales taxes.

(4) Costs of comprehensive and extended coverage insurance and a vendor's single interest coverage. The term of the initial policy shall not exceed 5 years.

(5) Costs of transportation or freight, not to exceed $400.

(6) Set-up charges by the dealer for installing the mobile home on site, not to exceed $200.

§ 201.535 Borrower's minimum investment.

The borrower shall make a minimum cash downpayment of at least 5 percent of the first $6,000 of the total cost of the mobile home as shown in the purchase contract (excluding permissible charges and fees provided for in § 201.530 (b)) plus 10 percent of any amount in excess of $6,000.

§ 201.540 Financing charges.

(a) *Annual percentage rate.* The maximum permissible financing charge which may be paid or collected by the insured for interest discount and fees of all kinds in connection with the loan transaction expressed as an annual percentage rate varies from 7.97 percent to 10.57 percent depending upon the amount and term of the loan.

(b) *Maximum discount.* Charges for individual loans shall be made in accordance with tables of calculations issued by the Commissioner based upon the following requirements:

(1) On amounts not in excess of $2,500, a charge equivalent to $5.50 discount per $100 of the original face amount of a 1 year note payable in equal installments.

(2) On amounts in excess of $2,500, a charge equivalent to $4.50 discount per $100 of the original face amount of a 1 year note payable in equal installments.

(c) *Prepayment rebate.* If an obligation is paid in full prior to maturity, the insured shall rebate the full unearned charge, where such rebate is $1 or more. Where the law of the jurisdiction permits an acquisition or minimum retained charge, such charge may be deducted from the rebate.

Eligible Borrowers

§ 201.545 Credit requirements.

(a) *Credit application.* The insured shall obtain a dated credit application form executed by the borrower. The loan file shall contain either a commercial credit report obtained by the insured on the borrower, or evidence that the insured has made an adequate investigation of the borrower's credit.

(b) *Borrower's credit.* The credit information relied upon by the insured shall, in its judgment, clearly show the borrower to be solvent with reasonable ability to pay the obligation and, in all other respects, a reasonable credit risk.

(c) *Effect of misstatements.* If after the loan has been made, in good faith, the insured discovers any material misstatements or misuse of the proceeds of the loan by the borrower, dealer, or others, he shall promptly report such discovery to the Commissioner. Any such discovery, however, shall not affect the Commissioner's insurance, provided that the validity of the lien on the mobile home has not been impaired.

§ 201.550 Limitation on outstanding loans for same borrower.

(a) *Outstanding mobile home loan.* If the borrower is already obligated under a loan for the purchase of a mobile home financed under this subpart, the insured shall determine that such loan has or will be paid in full prior to disbursal of the proceeds of an additional mobile home loan. This requirement may be waived by the Commissioner, if the loan would otherwise be eligible.

(b) *Outstanding federal obligations.* The proceeds of a loan shall not be disbursed if the insured has knowledge that the borrower is past due more than 15 days as to either principal or interest with respect to an obligation owing to, or insured by, any department or agency of the Federal Government. This requirement may be waived by the Commissioner, if the borrower is in default under an obligation by reason of his being in the military service.

LOAN REQUIREMENTS

§ 201.555 Payment provisions.

The loan shall be payable in one of the following ways:

(a) In equal installments falling due monthly, or every 2 weeks. The first payment shall be due no later than 2 months from the date of the loan. The loan may provide for a first or final payment in an amount other than the amount of the regular installment. In such instance, the first or final installment shall not be less than one-half nor more than one and one-half times the amount of the regular installment.

(b) In equal installments at intervals corresponding with the borrower's flow of income. In such cases, the obligation may provide for installments payable quarterly, semiannually or annually, with the first payment to be made no later than 1 year from the date of the obligation and subsequent payments to be made at least once a year.

§ 201.560 Maturity provisions.

The obligation shall have a term of not less than 1 year or more than 12 years and 32 days from the date it is made.

§ 201.565 Default provision.

The obligation shall contain a provision for acceleration of maturity, at the option of the holder, upon default in the payment of any installment upon the due date thereof, or failure to make the payments of rent, taxes, or other charges incurred in connection with the lot or site where the mobile home is emplaced.

§ 201.570 Late charges.

The obligation may provide for a late charge not to exceed 5 cents per $1 of each installment more than 10 days in arrears. No late charge in excess of $7.50 may be made on any past due installment. Any late charge collected from the borrower as a penalty shall be so billed and evidence of such billing must be in the loan file if claim therefor is made under the Contract of Insurance.

§ 201.575 Validity and enforceability of loan.

The obligation shall be valid and enforceable against the borrower and be complete and regular on its face. The signatures of all parties on the document evidencing the loan obligation must be genuine. The obligation shall be secured by a properly recorded financing statement and security agreement or other security instrument which creates a first lien against the mobile home and its furnishings, equipment, and accessories.

§ 201.580 Provision concerning past due loans.

A loan shall not be purchased if any installment thereon is past due more than 15 days at the date of purchase, except purchases of loans from other insured lending institutions which loans have been previously reported for insurance.

§ 201.585 Refinancing.

A new obligation entered into for the purpose of liquidating a loan previously reported for insurance may be insured, if such new loan meets the requirements of this subpart and if the term of the new loan does not exceed 12 years and 32 days or 17 years from the date of the original loan. The full amount of any unearned financing charge on the original obligation shall be refunded to the borrower. The borrower may be assessed a handling charge of not more than $25 in connection with the refinancing.

DEALER AND DIRECT LOANS

§ 201.590 Types of loan transactions.

The transaction may involve a dealer loan where the dealer has been approved by and makes the loan arrangements with the insured or it may involve a direct loan obtained by the borrower directly from the insured.

§ 201.595 Dealer investigation, approval and control.

Where the loan involves a dealer, the insured shall comply with the following requirements:

(a) *Requisites of approved dealer.* The insured shall approve as dealer an applicant who the insured considers to be reliable, financially responsible, and qualified to satisfactorily install the mobile home and able to provide the borrower with proper services in connection with the warranties covering such home. This approval shall be evidenced by an executed application form, together with a financial statement certified by a licensed public accountant. The application shall be dated and signed by the dealer and shall contain the signature of the insured signifying approval of the dealer.

(b) *Financial statement required.* The insured shall obtain a financial statement of the dealer, certified by a licensed public accountant, not less than once every 12 months. If no loans have been purchased, prior to the date of such financial statement, the insured shall approve the dealer as provided in paragraph (a) of this section.

(c) *Contents of file and records.* The insured shall maintain a file on each dealer which shall contain information as follows:

(1) The dealer application as approved by the insured.

(2) Financial statements, credit reports and any other information obtained to support the dealer application.

(3) Records of inspection of the dealer's place of business.

(4) Any memoranda relating to the insured's experience wtih loans originated by the dealer.

(d) *Reserve account and guarantees.* Reserve accounts to cover losses on loans reported to the Commissioner for insurance are prohibited. The insured may require a dealer or other person to endorse or guarantee payment of loan obligations so long as no reserve account is involved, and any such undertaking must cover the full amount due on the obligation. The provisions of this paragraph shall not apply to agreements between insured lenders covering the transfer of loans already reported for insurance.

§ 201.600 Procedures on direct loans.

Where the borrower applies for a loan, not through a dealer, but directly to the insured, the provisions of § 201.595 shall not apply. In such instance, the insured, the borrower and the seller shall comply with all other requirements of this subpart, and the proceeds check shall be drawn jointly to the order of the borrower and the seller of the mobile home.

§ 201.605 Placement certificate.

(a) Prior to the disbursement of the loan proceeds, the insured shall obtain a placement certificate form signed by the borrower and the dealer or seller establishing that:

(1) The mobile home has been placed on a site meeting the requirements of § 201.525.

(2) That the borrower has neither been paid nor offered, as inducement for the consummation of the transaction, any cash payment or rebate, nor has it been represented to the borrower that he will receive a cash bonus or commission on future sales.

(b) If the insured has information to the contrary with regard to the statements in the placement certificate, he shall not disburse the loan proceeds. In the absence of such contrary information, he may disburse the loan proceeds in reliance on the statements contained in the placement certificate.

§ 201.610 Advance notice of disbursement.

The insured shall mail to the borrower the written advance notice form of the insured's intention to disburse the proceeds of the loan. Such notice shall be mailed not less than 6 calendar days prior to actual disbursement. A record of such notice showing the date of mailing to the borrower shall be retained in the insured's loan file.

§ 201.615 Precautionary measures.

If the insured has not approved the dealer or has reason to withdraw the approval of a dealer, that has previously been approved under § 201.595 or § 201.8, the proceeds of a loan to such dealer shall not be disbursed until:

(a) The insured has verified all statements contained on the borrower's credit application.

(b) The borrower and dealer have each signed the placement certificate in the presence of the insured.

(c) The insured has inspected the site and the installation.

(d) The insured has signed a statement to the effect that the above requirements were met prior to releasing the proceeds of the loan. This statement of compliance shall accompany each loan report.

§ 201.620 Persons ineligible for participation.

No loan shall be made or disbursed where the insured has knowledge that any person participating in the transaction as dealer, salesman, borrower, or in any other capacity, has been barred from participation, pursuant to § 200.190 et seq. of this chapter, in either of the programs provided for in Subparts A and B of this part.

INSURANCE CHARGE REQUIREMENTS

§ 201.625 Rate of insurance charge.

The insured shall pay to the Commissioner an insurance charge equal to fifty one-hundredths (0.50) of 1 percent per annum of the net proceeds of any eligible loan reported and acknowledged for insurance. In computing the insurance charge, no charge shall be made for a period of 14 days or less, and a charge for a month shall be made for a period of more than 14 days.

§ 201.630 When insurance charge payable.

(a) *Single payment.* On loans having a maturity of 25 months or less, the insurance charge for the entire term of the loan shall be paid within 25 days after the date the Commissioner acknowledges to the insured institution the receipt of the report of the loan.

(b) *Installment payments.* On loans having a maturity in excess of 25 months, the insurance charge shall be paid in installments. The first installment shall be equal to the charge for 1 year and be paid within 25 days of the Commissioner's acknowledgment of the loan report. The second and succeeding installments, each equal to the charge for 1 year, shall be paid on the first and each succeeding anniversary of the first day of the month following the date of the loan.

§ 201.635 Insurance charge adjustments on transfers.

Where there is a transfer of obligations between insured lenders and the insurance charge on such obligations has already been paid, any adjustments, of such charge shall be made by the lenders involved, except that any unpaid installments of the insurance charge shall be paid by the purchasing lender.

§ 201.640 Refund or abatement of insurance charge.

An insured shall be entitled to a refund or abatement of insurance charges only in the following instances:

(a) Where the obligation has been refinanced, the unearned portion of the charge on the original obligation shall be credited to the charge on the refinanced loan.

(b) Where the obligation is prepaid in full or an insurance claim is filed, charges falling due after such prepayment or claim shall be abated.

(c) Where a loan (or a portion thereof) is found to be ineligible for insurance, charges paid on the ineligible portion shall be refunded. Such refund shall be made, however, only if a claim is denied by the Commissioner or the ineligibility is reported by the insured promptly upon discovery. In no event shall a charge be refunded on the basis of loan ineligibility where the application for refund is made after the loan has been paid in full.

§ 201.645 Limit on charge to borrower.

The insurance charge paid by the insured shall not be passed on to the borrower, if such action would cause the total payments for which the borrower is liable to exceed the maximum permissible amount which may be collected from him for interest, discount, and all other charges in connection with the transaction.

LOAN REPORTING AND SERVICING

§ 201.650 Report of loans.

(a) *Date of reports.* A loan report on the prescribed form shall be transmitted to the Federal Housing Administration at Washington, D.C., within 31 days from the following dates:

(1) In the case of an original loan, the date of the loan or the date upon which it was purchased by the insured.

(2) In the case of a refinancing, the date of the refinancing loan.

(3) In the case of a transfer of the loan to another insured lender, the date of the transfer.

(b) *Late reports.* If the loan is current, the Commissioner may in his discretion, accept a late report on a loan where the insured certifies that the obligation is not in default.

(c) *Transfer of loan between insured lenders.* All of the provisions of § 201.12 (d) governing the transfer of loans between insured lenders shall apply to loans insured under this Subpart B.

§ 201.655 Servicing and collection.

The insured shall service loans in accordance with accepted practices of prudent lending institutions. The insured shall have adequate facilities for contacting the borrower in the event of default and shall otherwise exercise diligence in collecting the amount due. The insured shall remain responsible to the Commissioner for proper collection efforts, even though the actual servicing and collection may be performed by an agent of such insured.

§ 201.660 Administrative reports and examinations.

The Commissioner may at any time call upon an insured for such reports as the Commissioner may deem to be necessary in connection with the regulations in this subpart. The Commissioner may inspect the books or accounts of the insured as they pertain to the loans reported for insurance.

CLAIMS

§ 201.665 Claim application.

(a) *How to file.* Claim for reimbursement for loss on any eligible loan shall be made on a form provided by the Commissioner and executed by a qualified officer of the insured. The claim shall be accompanied by the insured's complete file pertaining to the transaction. Where the insured is required by law to keep an original document in his possession, a copy of the original document shall be acceptable.

(b) *When to file.* Claim shall not be filed by the insured until after default, repossession, and sale of the mobile home. Such claim shall be filed no later than 9 months and 31 days after the due date of the earliest fully unpaid installment provided for in the obligation, unless an extension is requested and approved by the Commissioner.

§ 201.670 Assignment of security.

If a deficiency judgment or other security has been obtained, it shall be assigned to the United States of America, on a form recordable in the jurisdiction in which the judgment or other security was taken.

§ 201.675 Insurance reserve.

All of the provisions of § 201.12 with respect to the maintenance for each insured lender of a general insurance reserve shall apply with respect to loans reported for insurance under subparts A and B. The aggregate amount of loans advanced by an insured lender, for the purposes of determining its general insurance reserve, shall include loans reported for insurance under both subparts A and B of this part.

§ 201.680 Amount of claim.

An insured may be reimbursed for losses on loans made in accordance with the regulations under this subpart, up to the amount of its general insurance reserve. The amount of the reimbursement is determined by following the computation steps prescribed in paragraphs (a), (b) and (c) of this section:

(a) Deduct from the unpaid amount of the obligation (net unpaid principal and the earned portion of the financing charge, at the time of default) the actual sales price obtained for the mobile home following its repossession, or the appraised value of the mobile home, whichever amount is the greater. The determination of appraised value (for the purposes of this paragraph) shall be made by the Commissioner, at his option, on the basis of either the value listed in a current accepted "blue or red book" value rating publication (establishing wholesale values for comparable mobile homes in the geographic rating area) or on the basis of an actual appraisal of the mobile home. The Commissioner's determination of appraised value shall be binding on the insured for the purposes of establishing its loss.

(b) Add to 90 percent of the amount determined under paragraph (a) of this section 90 percent of the interest at 7 percent per annum on the amount determined under paragraph (a) of this section, computed from the date of default:

(1) To either the date of the claim application or for a period of 9 months and 31 days following such default date, whichever period of time is the lesser or,

(2) To the date of certification of the claim for payment, in a case where an otherwise eligible claim has been held in suspense by the Commissioner pending a determination of the eligibility for insurance of other claims or loans, or by an investigation of the insured's loan or claim activities.

(c) Add to the amount obtained under paragraph (b) of this section the following allowances for expenditures made by the insured:

(1) The costs of repossessing and refurbishing the mobile home, not to exceed $500.

(2) Attorney's fees, not to exceed $100.

(3) Uncollected court costs including fees paid for issuing, serving and filing summons.

(4) A sales commission to the dealer for the resale of the repossessed mobile home, not to exceed 3 percent of the sales price.

AMENDMENTS

§ 201.900 Amendment and effect.

The regulations in this part may be amended by the Commissioner at any time, but such amendment shall not adversely affect the insurance privileges of an insured with respect to any loan previously made or in the process of being made. Unless otherwise provided, an amendment shall be applicable to any loan or the refinancing of any loan, when the loan is made pursuant to an application dated on or after the effective date of such amendment.

Issued at Washington, D.C., March 25, 1970.

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

[F.R. Doc. 70-3798; Filed, Mar. 30, 1970; 8:46 a.m.]

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Minnesota	Olmsted	Rochester	E 27 109 5960 01.	Minnesota Department of Conservation, 345 Centennial Building, St. Paul, Minn. 55101. Commissioner of Insurance, State of Minnesota, State Office Building, Room 210, St. Paul Minn. 55101.	Office of the City Clerk, City Hall, Rochester, Minn. 55901.	Apr. 3, 1970.
Mississippi	Forrest	Hattiesburg	I 28 035 1050 01.	State of Mississippi Governor's Emergency Council, 429 Mississippi Street, Room 409, Jackson, Miss. 39205. Mississippi Research and Development Center, Information Services Division, Post Office Drawer 2470, Jackson, Miss. 39205. Commissioner of Insurance, Jackson, Miss. 39205.	Office of the City Clerk, City Hall, Hattiesburg, Miss. 39402. Office of the City Engineer, City Hall, Hattiesburg, Miss. 39402.	Do.
North Carolina	Guilford	Greensboro	E 37 081 1940 01.	North Carolina Department of Water and Air Resources, Post Office Box 9392, Raleigh, N.C. 27603. Commissioner of Insurance, State of North Carolina, Post Office Box 351, Raleigh, N.C. 27602.	Office of the City Clerk, City Hall, Greensboro, N.C. 27402.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Effective date: March 31, 1970.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[F.R. Doc. 70-3875; Filed, Mar. 30, 1970; 8:52 a.m.]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Minnesota	Olmsted	Rochester	H 27 109 5960 01.	Minnesota Department of Conservation, 345 Centennial Building, St. Paul, Minn. 55101. Commissioner of Insurance, State of Minnesota, State Office Building, Room 210, St. Paul, Minn. 55101.	Office of the City Clerk, City Hall, Rochester, Minn. 55901.	Mar. 31, 1970.
Mississippi	Forrest	Hattiesburg	H 28 035 1050 01.	State of Mississippi, Governor's Emergency Council, 429 Mississippi Street, Room 409, Jackson, Miss. 39205. Mississippi Research and Development Center, Information Services Division, Post Office Drawer 2470, Jackson, Miss. 39205. Commissioner of Insurance, Jackson, Miss. 39205.	Office of the City Clerk, City Hal., Hattiesburg, Miss. 39402. Office of the City Engineer, City Hall, Hattiesburg, Miss. 39402.	Do.
North Carolina	Guilford	Greensboro	H 37 081 1940 01.	North Carolina Department of Water and Air Resources, Post Office Box 9392, Raleigh, N.C. 27603. Commissioner of Insurance, State of North Carolina, Post Office Box 351, Raleigh, N.C. 27602.	Office of the City Clerk, City Hall, Greensboro, N.C. 27402.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Effective date: March 31, 1970.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[F.R. Doc. 70-3876; Filed, Mar. 30, 1970; 8:52 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER E—DEFENSE CONTRACTING

PART 163—DEFENSE CONTRACT FINANCING REGULATIONS

Miscellaneous Amendments

Sections 163.72(a), 163.72–4, 163.73–1 (b), 163.73–4, 163.78–5, 163.79–1, and 163.88 are revised to read as follows:

§ 163.72 Customary progress payments.

(a) Certain contracts may require contractor's predelivery or unbillable partial performance expenditures that will have a material impact on the contractor's working funds. These include production contracts which involve a long "lead time" or preparatory period between the beginning of work and the first production delivery, normally involving 4 months or more for small business concerns and 6 months or more for firms which are not small business concerns. They also include some contracts for research and development and some contracts for services which have a long time period, of approximately 4 months or more for small business concerns and 6 months or more for firms which are not small business concerns, between the beginning of work and the first opportunity to bill and receive payment for a significant element of contract performance. Progress payments are customary at the uniform standard percentages of total costs (§§ 163.72–1 and 163.72–2), on this category of contracts and on letter contracts contemplating a definitive fixed price type of contract. Length of lead time, or length of the time period within which billings for deliveries or for significant partial performance cannot be accomplished, are not a factor in qualifying letter contracts and their superseding definitive contracts for customary progress payments. Percentages above uniform standard percentages are regarded as unusual, and not within the category of customary progress payments (§ 163.74).

* * * * *

§ 163.72–4 Administration.

When progress payments are provided in the cases mentioned in § 163.72–3, or on separate orders or calls or their equivalent qualifying for progress payments (§ 163.72), (a) each order, call or equivalent procurement action shall be treated for progress payment purposes as a separate contract; (b) costs for progress payment purposes are the costs applicable solely to each such separate contract; and (c) requests (§ 163.88), payments and liquidations shall identify and relate solely to each such separate contract.

§ 163.73–1 Progress payment provisions in invitation for bids.

* * * * *

(b) Provision for progress payments shall be made in invitations for bids whenever the contracting officer considers (1) that the period between the beginning of work and the required first production delivery will exceed 4 months for small business concerns and 6 months for firms which are not small business concerns, or (2) that progress payments will be useful or necessary by reason of circumstances that will involve substantial accumulation of predelivery costs that may have a material impact on a contractor's working funds (including but not limited to substantial small business set-asides expected to involve a relatively large predelivery accumulation of materials, purchased parts or components).

* * * * *

§ 163.73–4 Notice to bidders.

Those invitations for bids that make provision for progress payments (§ 163.73–1) should contain substantially the following notice to bidders:

PROGRESS PAYMENTS[1]

The need for progress payments conforming to regulations (Appendix E, Armed Services Procurement Regulation) will not be considered as a handicap or adverse factor in the award of contracts. Authorized progress payments will not be a factor for evaluation of bids. The "Progress Payment" clause attached hereto will be included in the contract awarded. Bidders do not need to request the "Progress Payment" clause. For small business concerns, 85 percent will be specified throughout paragraphs (a) and (b) of the "Progress Payment" clause. For Contractors who are not small business concerns, 80 percent will be specified throughout paragraphs (a) and (b) of the "Progress Payment" clause.

§ 163.78–5 Incurred costs.

Incurred costs are those costs identified through the use of the accrual method of accounting and reporting. As to invoices, incurred costs include only invoices for (a) completed work to which the prime contractor has acquired title, (b) materials delivered (to which the prime contractor has acquired title), (c) services rendered, (d) costs billed under cost reimbursement or time and material subcontracts for work to which the prime contractor has acquired title, and (e) invoices for progress payments to subcontractors which have been paid or approved for current payment in the ordinary course of business (as specified in the prime contract), all properly recorded on the books of the contractor and identified with the contracts. Costs incurred are exclusively costs of direct labor, direct material, and direct services

[1] Do not use last sentence of this notice for procurements mentioned in §§ 163.73–2 and 163.73–3.

identified with and necessary for the performance of the contract, and also all properly allocated and allowable overhead (indirect) costs as shown by the books of the contractor.

§ 163.79–1 Progress payment clause.

PROGRESS PAYMENT (DECEMBER 1969)

Progress payments shall be made to the Contractor as work progresses, from time to time upon request, in amounts approved by the Contracting Officer upon the following terms and conditions:

(a) *Computation of amounts.* (1) Unless a smaller amount is requested, each progress payment shall be (i) 80 percent of the amount of the Contractor's total costs incurred under this contract plus (ii) the amount of progress payments to subcontractors as provided in (j) below; all less the sum of previous progress payments.

(2) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and material subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(3) The amount of unliquidated progress payments shall not exceed the lesser of (i) 80 percent of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) 80 percent of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(4) The aggregate amount of progress payments made shall not exceed 80 percent of the total contract price.

(5) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(b) *Liquidation.* Except as provided in the clause entitled "Termination for Convenience of the Government," all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments, or 80 percent[1] of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly.

(c) *Reduction or suspension.* The Contracting Officer may reduce or suspend progress payments, or liquidate them at a rate higher than the percentage stated in (b) above, or both, whenever he finds upon substantial evidence that the Contractor (i) has failed to comply with any material requirement of this contract, (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, (iv) is delinquent in payment of the costs of performance of this contract in the ordinary course of business, (v) has so failed to make progress that the unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract, or (vi) is realizing less profit than the estimated profit used for establishing a liquidation percentage in paragraph (b), if that liquidation percentage is less than the percentage stated in paragraph (a)(1).

(d) *Title.* Immediately, upon the date of this contract, title to all parts; materials; inventories; work in process; special tooling as defined in the clause of this contract entitled "Special Tooling"; special test equipment and other special tooling to which the Government is to acquire title pursuant to any other provision of this contract; nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids title to which is not obtained as special tooling pursuant to this paragraph; and drawings and technical data (to the extent delivery thereof to the Government is required by other provisions of this contract); theretofore acquired or produced by the Contractor and allocated or properly chargeable to this contract under sound and generally accepted accounting principles and practices shall forthwith vest in the Government; and title to all like property thereafter acquired or produced by the Contractor and allocated or properly chargeable to this contract as aforesaid shall forthwith vest in the Government upon said acquisition, production or allocation. Notwithstanding that title to property is in the Government through the operation of this clause, the handling and disposition of such property shall be determined by the applicable provisions of this contract such as: the Default clause and paragraph (h) of this clause; Termination for Convenience of the Government clause; and the Special Tooling clause. Current production scrap may be sold by the Contractor without approval of the Contracting Officer and the proceeds shall be credited against the costs of contract performance. With the consent of the Contracting Officer and on terms approved by him, the Contractor may acquire or dispose of property to which title is vested in the Government pursuant to this clause, and in that event, the costs allocable to the property so transferred from this contract shall be eliminated from the costs of contract performance and the Contractor shall repay to the Government (by cash or credit memorandum) an amount equal to the unliquidated progress payments allocable to the property so transferred. Upon completion of performance of all the obligations of the Contractor under this contract, including liquidation of all progress payments hereunder, title to all property (or the proceeds thereof) which had not been delivered to, and accepted by the Government under this contract or which had not been incorporated in supplies delivered to and accepted by the Government under this contract and to which title has vested in the Government under this clause shall vest in the Contractor. The provisions of this contract referring to or defining liability for Government-furnished property shall not apply to property to which the Government shall have acquired title solely by virture of the provisions of this clause.

(e) *Risk of loss.* Except to the extent that the Government shall have otherwise expressly assumed the risk of loss of property, title to which vests in the Government pursuant to this clause, in the event of the loss, theft or destruction of or damage to any such property before its delivery to and acceptance by the Government, the Contractor shall bear the risk of loss and shall repay the Government an amount equal to the unliquidated progress payments based on costs allocable to such lost, stolen, destroyed or damaged property.

(f) *Control of costs and property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports—access to records.* Insofar as pertinent to the administration of this clause, the Contractor will (i) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (ii) give the Government reasonable opportunity to examine and verify his books, records and accounts.

(h) *Special provisions regarding default.* If this contract is terminated pursuant to the clause entitled "Default," (i) the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments and (ii) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) *Reservations of rights.* The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) *Progress payments to subcontractors.* (1) The amount mentioned in item (a)(1)(ii) above shall be the sum of (i) all the progress payments made by the Contractor to his subcontractors and remaining unliquidated, and (ii) unpaid billings for progress payments to subcontractors which have been approved for current payment in the ordinary course of business, when under subcontracts which conform to (2) below.

(2) Subcontracts on which progress payments to subcontractors may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time," between the beginning of work and the first delivery, approximating 4 months or more for small business concerns and 6 months or more for firms which are not small business concerns, which (i) are substantially similar to and as favorable to the Government as this "Progress Payments" clause, no more favorable to the subcontractor than this clause is to the Contractor and on a basis of not more than 80 percent of total costs (except that this percentage may be 85 percent of total costs for those subcontractors which are small business concerns), and (ii) make all rights of the subcontractor with respect to all property to which the Government has title under the subcontract subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

[1] For lower percentages for this paragraph (b) and for (a)(3)(ii) and (a)(4), see § 163.81–2.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) The billings described in (j)(1)(ii) above shall be paid promptly by the Contractor in the ordinary course of business, not later than a reasonable time after payment of equivalent amounts by the Government to the Contractor.

(5) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in paragraph 503 of Appendix E of the Armed Services Procurement Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

§ 163.88 Contractor's request.

All invoices for progress payments on contracts containing the Progress Payment clause set out in § 163.79, and on contracts containing any deviation from that clause approved pursuant to §§ 163.86 and 163.87, will be supported by the Contractor's Request for Progress Payment (DD Form 1195) with any supporting information that may be reasonably required. The use of this form is subject to the instructions set forth on the reverse thereof. The instruction for Item 4 of the DD Form 1195 requires that Item 4 of that form shall contain the full contract number, including supplementary procurement instrument (call/order) identification numbers (ASPR 20-204), for progress payments in the cases mentioned in § 163.72-4.

[Rev. 6, ASPR, Dec. 31, 1969] (Secs. 2202, 2301-2314, 70A Stat. 120, 127-133; 10 U.S.C. 2202, 2301-2314)

For the Adjutant General.

RICHARD B. BELNAP,
Special Advisor to TAG.

[F.R. Doc. 70-3847; Filed, Mar. 30, 1970; 8:50 a.m.]

Chapter VII—Department of the Air Force

SUBCHAPTER W—AIR FORCE PROCUREMENT

PART 1016—PROCUREMENT FORMS

Release of Assignment Forms

Subchapter W of Chapter VII of Title 32, of the Code of Federal Regulations is amended by revising § 1016.812 of Part 1016 to read as follows:

§ 1016.812 Release of assignment forms.

When the forms in paragraph (d) of § 16.812 of this title titled "Contractor's Assignment of Refunds, Rebates, Credit, and Other Amounts," are to be executed by contractors who have claims for refund of State and local taxes, the following parenthetical phrase will be added at the end of paragraph 1 of the form directly following the word "thereunder" (except those for refunds, rebates, or credits for taxes paid to a State or political subdivision thereof), and in addition, the following paragraph 4 will be added to the form contained in paragraph (d) of § 16.812 of this title "in the event the Contractor obtains or receives any refund, rebate, or credit for taxes paid to a State or any political subdivision, thereof, in connection with the performance of this contract, and for which the Contractor is paid or reimbursed by the Government, the Contractor agrees to pay over to the Government an amount equal to such refunds or credit (including interest paid or credited to the Contractor incident to such refund or credit to the extent such interest was earned after the Contractor was paid or reimbursed by the Government for such taxes.) In the event the Contractor receives any benefit in lieu of or in addition to such refund, rebate or credit, the Contractor agrees to pay over to the Government an amount equal to such benefit."

(10 U.S.C. ch. 137, 10 U.S.C. 8012)

For the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 70-3783; Filed, Mar. 30, 1970; 8:45 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter III—Corps of Engineers, Department of the Army

PART 326—PUBLIC USE OF CERTAIN NAVIGABLE RESERVOIR AREAS

Little Goose Reservoir Area, Snake River, Wash.

The Secretary of the Army having determined that the use of Little Goose Reservoir Area by the general public for boating, swimming, bathing, fishing, and other recreational purposes will not be inconsistent with the operation and maintenance of the reservoir for its primary purposes, hereby prescribes rules and regulations for public use, pursuant to the provisions of section 4 of the Flood Control Act of 1944 as amended (76 Stat. 1195), adding the reservoir area to those listed in § 326.1(c), as follows:

§ 326.1 Areas covered.

* * * * * * *

(c) * * *

WASHINGTON

* * * * * * *

Little Goose Reservoir Area, Snake River

* * * * * * *

[Regs., Mar. 3, 1970, ENGCW-OM] (Sec. 4, 58 Stat. 889, as amended, 16 U.S.C. 460d)

For the Adjutant General.

RICHARD B. BELNAP,
Special Advisor to TAG.

[F.R. Doc. 70-3800; Filed, Mar. 30, 1970; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER B—LAND TENURE MANAGEMENT (2000)

[Circular No. 2270]

PART 2220—GRANTS

Subpart 2222—State Grants

SELECTION OF UNSURVEYED LAND

On page 14784 of the FEDERAL REGISTER of October 3, 1968, there were published a notice and text of a proposed amendment to Subpart 2222 of Title 43, Code of Federal Regulations. The purpose of the amendment is to provide for the selection of unsurveyed lands in the satisfaction of deficiencies in lands granted a State, to incorporate in the regulations other changes prescribed by the Act of June 24, 1966 (80 Stat. 220), and to permit States to include up to 12,000 acres in any application for selection.

Interested persons were given 30 days within which to submit comments, suggestions or objections to the proposed amendment. Only one suggestion was received. This recommended that the regulations be expanded to include the essence of the provisions of section 4 of the law (relating to the time within which lands approved as suitable for transfer to the State shall be surveyed) in order to put the State and the interested public on notice of its requirements. After consideration, it has been decided not to incorporate the suggestion into the regulations since the law itself serves that purpose. Section 4 is an instruction to the Secretary, and not a requirement for the public or the States to meet. Accordingly, the proposed amendment is adopted as published. This amendment shall become effective on publication in the FEDERAL REGISTER.

WALTER J. HICKEL,
Secretary of the Interior.

MARCH 25, 1970.

1. Section 2222.1-1 (a) and (b) are amended to read as follows:

§ 2222.1–1 Authority.

(a) Sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), referred to in §§ 2222.1–1 to 2222.1–5 as "the law," authorize the public land States except Alaska to select lands (or the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals, or any specified mineral or minerals, which interest is referred to in §§ 2222.1–1 to 2222.1–5 as the "mineral estate") of equal acreage within their boundaries as indemnity for grant lands in place lost to the States because of appropriation before title could pass to the State or because of natural deficiencies resulting from such causes as fractional sections and fractional townships.

(b) The law provides that indemnity for lands lost because of natural deficiencies will be selected from the unappropriated, nonmineral, public lands, and that indemnity for lands lost before title could pass to the State will be selected from the unappropriated, public lands subject to the following restrictions:

* * * * *

2. In § 2222.1–3(d), paragraphs (1), (2), and (3) are amended to read as follows, a new subparagraph (4) is added and existing (4) is renumbered (5):

§ 2222.1–3 Applications for selection.

* * * * *

(d) * * *

(1) The selected land and base lands must be described in accordance with the official plats of survey except that unsurveyed lands will be described in terms of protracted surveys as officially approved in accordance with 43 CFR 3123.8(c). If the unsurveyed lands are not covered by protracted surveys the lands must be described in terms of their probable legal description, if and when surveyed in accordance with the rectangular system of public land surveys, or if the State Director gives written approval therefor, by a metes and bounds description adequate to identify the lands accurately.

(2) The selection in any one application must not exceed 12,000 acres. This limitation shall not apply to unsurveyed lands if the State Director finds that the selection of a larger tract would not be inconsistent with the management of the remaining public lands and their resources. However, in this latter event, the unsurveyed lands selected must be in one tract.

(3) Separate base or bases must be assigned to each smallest legal subdivision of selected surveyed land or mineral estate and to each tract of unsurveyed land. Such base or bases must correspond in area with each subdivision or tract. A portion of a smallest actual or probable legal subdivision may be assigned as base but such assignment is an election to take indemnity for the entire subdivision and is a waiver of the State's rights to such subdivision, except that any remaining balance may be used as base for future selections.

(4) For purposes of selecting unsurveyed land a protracted section shall be considered to be a smallest legal subdivision except where the State Director finds otherwise.

* * * * *

3. A new § 2222.1–6 is added to read as follows:

§ 2222.1–6 Application for selection of unsurveyed lands.

(a) The authorized officer will reject any application for selection of unsurveyed lands if: (1) The costs of survey of the lands would grossly exceed the average per-acre costs of surveying public lands under the rectangular system of surveys in the State in which the lands are located, or (2) if the conveyance of the lands would create serious problems in the administration of the remaining public lands or resources thereof or would significantly diminish the value of the remaining public lands. The term "remaining public lands" means the public lands from which the applied-for lands would be separated by survey.

(b) In addition to the provisions of this section, applications for selection of unsurveyed lands are subject to the provisions of Subparts 2410 and 2411.

[F.R. Doc. 70–3816; Filed, Mar. 30, 1970; 8:47 a.m.]

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4779]

[Fairbanks 035265]

ALASKA

Partial Revocation of Public Land Order No. 733 as Amended by Public Land Order No. 2388

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

1. Public Land Order No. 733 dated July 18, 1951, as amended by Public Land Order No. 2388 dated May 16, 1961, is hereby revoked so far as it affects the following described lands:

FAIRBANKS MERIDIAN

T. 1 S., R. 2 E. (partially surveyed),
Secs. 14 and 15 (unsurveyed);
Sec. 21, S½;
Secs. 22, 23, 26 and 27 (unsurveyed).

The areas described aggregate 4,160.00 acres situated in the North Star Borough.

2. The following described lands have been determined to be "property" within the meaning of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377, 40 U.S.C. sec. 471 (1964), and will be administered or disposed of under regulations of the General Services Administration.

FAIRBANKS MERIDIAN

T. 1 S., R. 2 E. (partially surveyed),
Sec. 15, S½SE¼SE¼SW¼ (unsurveyed);
Sec. 21, SE¼SW¼NE¼SW¼;
Sec. 22, N½NE¼NE¼NW¼ (unsurveyed).

The areas described aggregate approximately 12.5 acres.

3. The public lands released from this withdrawal, except those described in paragraph 2, remain withdrawn by Public Land Order No. 4582 of January 17, 1969, for the determination and protection of the rights of the Native Aleuts, Eskimos, and Indians of Alaska. They will be open to location for metalliferous minerals at 10 a.m. on April 25, 1970.

Inquiries concerning the lands should be addressed to the Manager, Fairbanks District and Land Office, Fairbanks, Alaska.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 20, 1970.

[F.R. Doc. 70–3817; Filed, Mar. 30, 1970; 8:47 a.m.]

[Public Land Order 4780]

[Oregon 3800]

OREGON

Partial Revocation of Public Water Reserve

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910, 36 Stat. 847, 43 U.S.C. § 141 (1964), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Executive order of August 27, 1921, creating Public Water Reserve No. 79, is hereby revoked so far as it affects the following described lands:

WILLAMETTE MERIDIAN

T. 37 S., R. 23 E.,
Sec. 35, NW¼NE¼, NW¼NW¼.
T. 38 S., R. 23 E.,
Sec. 3, lot 1.

The areas described aggregate 121 acres in Lake County.

The lands are located 21 miles northeast of Lakeview, Oreg. The area encompasses generally level to rolling sagebrush bunch grass grazing land.

2. At 10 a.m. on April 25, 1970, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 25, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location for nonmetalliferous minerals at 10 a.m. on April 25, 1970. They have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws for metalliferous minerals.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oreg.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 20, 1970.

[F.R. Doc. 70–3818; Filed, Mar. 30, 1970; 8:47 a.m.]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket Nos. 4, 2, 3, 15, 16; Amdt. Nos. 5–2, 7–2, 9–2, 95–2, 99–2]

MISCELLANEOUS AMENDMENTS TO SUBTITLE

The purpose of this amendment to Parts 5, 7, 9, 95, and 99 of Subtitle A of Title 49, Code of Federal Regulations, is to reflect in those parts the establishment, within the Department of Transportation, of the Urban Mass Transportation Administration and the National Highway Safety Bureau, as operating administrations. The Urban Mass Transportation Administration was established within the Department by 1968 Reorganization Plan No. 2, effective July 1, 1968 (82 Stat. 1369). The National Highway Safety Bureau was established as a separate operating administration by Part 1 of the Regulations of the Office of the Secretary of Transportation (35 F.R. 4955) on March 21, 1970.

Since this amendment relates to Departmental organization and management, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Parts 5, 7, 9, 95, and 99 of Subtitle A of Title 49, CFR, are amended as follows:

PART 5—RULE MAKING PROCEDURES

§ 5.1 [Amended]

Section 5.1 is amended by inserting the words "Urban Mass Transportation Administration, National Highway Safety Bureau," after the words "Federal Railroad Administration." in paragraph (a) thereof.

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Section 7.5 is amended by adding the following new paragraph (g) to the definition of "Department":

§ 7.5 Definitions.

* * * * *

(g) The National Highway Safety Bureau.

* * * * *

PART 9—TESTIMONY OF EMPLOYEES OF THE DEPARTMENT AND PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS

Section 9.3 is amended by adding the following new paragraph (g) to the definition of "Department":

§ 9.3 Definitions.

* * * * *

(g) The National Highway Safety Bureau.

* * * * *

PART 95—ADVISORY COMMITTEES

§ 95.1 [Amended]

Section 95.1 is amended by inserting the words "the Urban Mass Transportation Administration, the National Highway Safety Bureau," after the words "Federal Railroad Administration," in paragraph (a) thereof.

PART 99—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. Section 99.735–3 is amended by adding the following new paragraphs (f) and (g) to the definition of "Department":

§ 99.735–3 Definitions.

* * * * *

(f) The Urban Mass Transportation Administration.

(g) The National Highway Safety Bureau.

* * * * *

2. Appendix C is amended by adding the following new paragraph VII at the end thereof:

VII. URBAN MASS TRANSPORTATION ADMINISTRATION

Assistant Administrator for Administration
Director, Division of Program Audit
Staff Auditors
Chief Counsel
Counsel, Legislation Division
Counsel, Opinions Division
Counsel, Program Division
Assistant Administrator for Program Operations
Director, Division of Project Development
Director, Division of Project Management
Director, Division of Technical Studies
Assistant Administrator for Research
Director, Division of Technology
Director, Division of Project Management
Director, Office of Civil Rights

(Sec. 9, Department of Transportation Act; 49 U.S.C. 1657)

Issued in Washington, D.C., on March 26, 1970.

JOHN A. VOLPE,
Secretary of Transportation.

[F.R. Doc. 70–3792; Filed, Mar. 30, 1970; 8:46 a.m.]

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM–31; Amdt. Nos. 173–19, 178–9]

PART 173—SHIPPERS

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Extension of Specification 3HT Cylinder Service Life

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to extend the service life of specification 3HT cylinders for aircraft use from 12 to 15 years without relinquishing the 4,380 pressurization cycle limitation. A second purpose is to change the reference to safety device requirements in § 178.44–13.

On August 20, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM–31; Notice No. 69–23 (34 F.R. 13428) proposing to amend the regulations as stated above. Interested persons were invited to participate in this rule making action.

There were no comments received objecting to the basic proposal to extend service life of specification 3HT cylinders to 15 years. One commenter objected to the proposed change in record keeping requirements, and stated that such a requirement should apply only to those cylinders charged more than once every other day on the average. By this means, it would be known if a cylinder was cycled in excess of the 4380 limitation within the 15-year period. The Board agrees with the commenter's proposal.

As indicated in his original petition, the commenter stated that most rechargings are of the "topping off" type. The cylinders are seldom completely discharged and recharged; therefore, complete pressurization cycles are seldom experienced. A survey indicated that crew oxygen cylinders were most frequently recharged and that their recharging cycles were seldom shorter than 5 days.

As stated in the notice, the Board is providing a 3-year extension and not 12 years as requested. Further extension will be considered by the Board if sufficient justification is provided and following a complete study of the requalification requirements for specification 3HT cylinders.

In consideration of the foregoing, Parts 173 and 178 of Title 49 Code of Federal Regulations are amended, effective July 1, 1970. However, compliance with the regulations as amended herein is authorized immediately.

I. Part 173 is amended as follows:

A. In § 173.34 paragraph (e)(13)(iii) is amended to read as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

* * * * *

(e) * * *

(13) * * *

(iii) A cylinder must be condemned at the termination of a 15-year period following the date of the original test or after 4,380 pressurizations, whichever occurs first. If a cylinder is recharged more than an average of once every other day, an accurate record of the number of rechargings must be maintained by its owner, or his agent.

* * * * *

B. In § 173.302 paragraph (a)(2) is amended to read as follows:

§ 173.302 Charging of cylinders with nonliquefied compressed gases.

(a) * * *

(2) Spec. DOT 3HT (§ 178.44 of this chapter) cylinders for aircraft use only having a maximum service life of 15 years. Authorized only for nonflammable gases. Cylinders must be equipped with safety relief devices only of the frangible disc type which meet the requirements

of § 173.34(d). Each frangible disc must have a rated bursting pressure which does not exceed 90 percent of the minimum required test pressure of the cylinder. Discs with fusible metal backing are not permitted. Spec. 3HT cylinders may be shipped only when packed in strong outside packagings.

* * * * *

C. In § 173.304 paragraph (a)(2) Table Note 7 is amended to read as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *
(2) * * *

NOTE 7: Spec. DOT 3HT (§ 178.44 of this chapter) cylinders for aircraft use only having a maximum service life of 15 years. Authorized only for nonflammable gases. Cylinders must be equipped with safety relief devices only of the frangible disc type which meet the requirements of § 173.34(d). Each frangible disc must have a rated bursting pressure which does not exceed 90 percent of the minimum required test pressure of the cylinder. Discs with fusible metal backing are not permitted. Spec. 3HT cylinders may be shipped only when packed in strong outside packagings.

* * * * *

II. Part 178 is amended as follows:

A. In § 178.44–13 paragraph (a) is amended to read as follows:

§ 178.44 Specification 3HT; inside containers, seamless steel cylinders for aircraft use made of definitely prescribed steel.

§ 178.44–13 Safety devices and protection for valves, safety devices, and other connections, if applied.

(a) Must be as required by applicable regulations in Part 173 of this chapter (see §§ 173.34(d), 173.301(g), 173.302(a)(2), and 173.304(a)(2) Note 7 of this chapter).

(Secs. 831–835, title 18, United States Code, sec. 9, Department of Transportation Act (49 U.S.C. 1657); title VI, sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(h)))

Issued in Washington, D.C., on March 25, 1970.

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

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

F. C. TURNER,
Administrator, Federal Highway Administration.

SAM SCHNEIDER,
Board Member, for the Federal Aviation Administration.

[F.R. Doc. 70–3877; Filed, Mar. 30, 1970; 8:52 a.m.]

[Amdt. 195–1; Docket No. HM–6]

PART 195—TRANSPORTATION OF LIQUIDS BY PIPELINE

Miscellaneous Amendments

The purpose of this amendment is to modify slightly several provisions of this new part. These changes will clarify certain provisions and ease the burden of compliance in others without any effect on safety.

On September 29, 1969, the Hazardous Materials Regulations Board issued a new Part 195 which established safety regulations for the design, construction, operation, and maintenance of liquid pipelines. On March 2, 1970, the American Petroleum Institute, on behalf of the liquid petroleum pipeline industry, submitted a petition for reconsideration of certain parts of these new regulations. The petition and the Board's reply have been placed in Docket HM–6 and are available to the public at the Office of Hazardous Materials. In response to parts of this petition, several changes are being made to Part 195.

Section 195.1(b)(4). As previously issued, this subparagraph was not broad enough to accomplish its intended purpose of excluding gathering pipelines in rural areas. It has been reworded to exclude gathering lines of carriers in rural areas, up to the point of connection with the carrier's trunk line.

Sections 195.2 and 195.6(a). The petitioner requested that a definition of petroleum similar to that contained in Part 180 be included in Part 195 to avoid uncertainty as to whether or not certain liquids would be included in the phrase "petroleum and petroleum products". The only provision of the regulations where this uncertainty would be of any significance is § 195.6. As issued, this section might appear to require notification for the shipment of natural gasoline or liquefied petroleum gases, which was not intended. To avoid this problem, § 195.6 is being amended to specifically exclude these two items from the notification requirement.

Section 195.8. From the subject petition and other communications with the liquid pipeline industry, it is apparent that some confusion exists as to when notice must be given under this section with respect to pipelines in operation on April 1, 1970. The very limited number of notices received by the Administrator thus far indicates that, if § 195.8 is permitted to go into effect in its present form, a number of pipelines would either have to shut down or continue operations in violation of the regulations. To avoid this situation, and to permit adequate time for submission and evaluation of the notices required by this section, the applicability will be extended to October 1, 1970, thus giving the operators of existing pipelines until July 3, 1970 to provide notice to the Administrator.

Section 195.234(e)(1). The petitioner has requested that the 100 percent nondestructive testing requirements of this subparagraph be limited to areas between valves that are installed in compliance with § 195.260 (e) and (f). Such a change would be much too limiting. Since a major spill into one of the smaller bodies of water could very easily and quickly spread into a larger one with very serious consequences, this section does not appear overly stringent as issued. However, it is reworded slightly to make it clear that it does not require 100 percent nondestructive testing wherever a spill is possible, but only where there is a reasonable expectation of pollution if a defective weld ruptured.

Section 195.404(b). The collection of daily operating records at a central location is necessary due to the continuing surveillance to which they will be subjected. However, it is not necessary to place them only at the operator's principal place of business and the requirement has been modified accordingly.

Section 195.418(d). Petitioner has pointed out that § 195.416(f) gives the operator the alternative of reducing the operating pressure on externally corroded pipe rather than replacing or repairing it. This alternative is also requested with respect to internally corroded pipe. The Board agrees that there is no sound technical reason for making such a distinction between internal and external corrosion. Therefore, this section is modified to make the two provisions consistent.

Since the regulations that are affected by this amendment will become effective on April 1, 1970, and since these amendments relieve certain restrictions and will impose no additional burden on any person, I find that notice and public procedure are not necessary, and that good cause exists for making them effective on less than 30 days' notice.

In consideration of the foregoing, Part 195 of Title 49 of the Code of Federal Regulations is amended as follows, effective April 1, 1970.

(Sec. 831–835, title 18, United States Code; sec. 6 (e)(4), (f)(3)(A), Department of Transportation Act (49 U.S.C. 1655 (e)(4), (f)(3)(A)); § 1.4(d)(6), Regulations of the Office of the Secretary of Transportation)

Issued in Washington, D.C., on March 26, 1970.

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

1. By amending § 195.1(b)(4) to read as follows:

§ 195.1 Scope.

* * * * *

(b) * * *

(4) Except for Subpart B of this part, transportation of petroleum in rural areas between a production facility and a carrier's trunk line reception point.

2. By amending the section heading of §§ 195.6 and 195.6(a) to read as follows:

§ 195.6 Transportation of certain commodities.

(a) Except for petroleum, petroleum products, natural gasoline, and liquefied petroleum gases, no carrier may transport any commodity unless the carrier notifies the Administrator in writing, with the information listed in paragraph (b) of this section, at least 90 days before the date the transportation is to begin. If the Administrator determines that the transportaion of the commodity in the manner proposed would be unduly hazardous, he will, within 90 days after receipt of the notice, order the carrier, in writing, not to transport the commodity in the proposed manner until further notice. As soon as practicable after issuance of such an order,

the Administrator will initiate appropriate action to determine whether and in what manner the commodity may be transported without undue hazard.

* * * * *

3. By amending § 195.8 to read as follows:

§ 195.8 Transportation of commodities in pipelines constructed with other than steel pipe.

After October 1, 1970, no carrier may transport any commodity through a pipe that is constructed with material other than steel unless the carrier has notified the Administrator in writing at least 90 days before the transportation is to begin. The notice must state the chemical name, common name, hazard classification (if any) determined in accordance with Part 173 of this chapter, properties, and characteristics of the commodity to be transported and the material used in construction of the pipeline. If the Administrator determines that the transportation of the commodity in the manner proposed would be unduly hazardous, he will, within 90 days after receipt of the notice order the carrier, in writing, not to transport the commodity in the proposed manner until further notice.

4. By amending § 195.234(e)(1) to read as follows:

§ 195.234 Welds: Nondestructive testing and retention of testing records.

* * * * *

(e) * * *

(1) At any location where a loss of commodity could reasonably by expected to pollute any stream, river, lake, reservoir, or other body of water.

* * * * *

5. By amending § 195.404(b) to read as follows:

§ 195.404 Maps and records.

* * * * *

(b) Each carrier shall maintain daily operating records that indicate the discharge pressures at each pump station and any unusual operations of a facility. The carrier shall retain these records at one central location for at least 3 years.

* * * * *

6. By amending § 195.418(d) to read as follows:

§ 195.418 Internal corrosion control.

* * * * *

(d) Whenever any pipe is removed from the pipeline for any reason, the carrier must inspect the internal surface for evidence of corrosion. If the pipe is generally corroded such that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances, the carrier shall investigate adjacent pipe to determine the extent of the corrosion. The corroded pipe must be replaced with pipe that meets the requirements of this part or, based on the actual remaining wall thickness, the operating pressure must be reduced to be commensurate with the limits on operating pressure specified in this subpart.

[F.R. Doc. 70-3904; Filed, Mar. 30, 1970; 8:53 a.m.]

Chapter III—Federal Highway Administration, Department of Transportation

[Docket No. 26]

PART 371—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Subpart A—General

DEFINITION OF MOBILE STRUCTURE TRAILER

A mobile home for purposes of the Federal motor vehicle safety standards is considered a "trailer" which is defined in 49 CFR 371.3(b) as a "motor vehicle with or without motive power, designed for carrying persons or property and for being drawn by another motor vehicle." On August 15, 1968, a notice of request for comments was published (33 F.R. 11604) announcing that rulemaking was being considered "which would either exclude mobile homes, offices, classrooms, etc. from applicability of the Federal Motor Vehicle Safety Standards * * * or classify them as a separate category of vehicle subject to regulation". Comments were requested pertinent to these issues and Docket No. 26 was established to receive them.

The Federal Highway Administrator has evaluated these comments and is of the opinion that a mobile home towed on its own wheels is a "motor vehicle" within the meaning of section 102(3) of the National Traffic and Motor Vehicle Safety Act of 1966 (hereafter the Act), and is properly categorized as a trailer. However, differences between mobile homes and cargo and travel trailers are believed significant enough to warrant the creation of a subcategory of trailer covering mobile homes only. This new subcategory is designated "mobile structure trailer."

The mobile home industry has asserted that its products are not "motor vehicles" in view of the infrequent use of the average mobile home upon the public streets, roads, and highways. Comments to Docket No. 26 state that the average mobile home is moved once every 40 months, that it spends less than 12 hours on the public roads in 18 to 20 years, and that it only spends 0.055 percent of its useful life on the highway. Thus, it is contended that mobile homes are not "manufactured primarily for use on the public streets, roads, and highways" and hence are not "motor vehicles" for purposes of the Act.

The undisputed fact is that mobile homes, as their name implies, are constructed with a view towards over-the-road operations; their capability for travel on public highways is their principal advantage over fixed-site structures. Further, no one denies that mobile homes can present a significant safety hazard when they perform that function.

The Administrator views his conclusion that a mobile home towed on its own wheels is a motor vehicle as being consistent with the criteria expressed in the opinion on mini-bikes published October 3, 1969 (34 F.R. 15416). It is noteworthy that many States in significant ways accord mobile homes the same treatment as conventional motor vehicles. Registration, licensing, or other permission for use on the public roads is generally required. A number of jurisdictions has standards for mobile home lighting, braking, hitching, tire loading, and axle number and location.

Not only is a mobile home towed on its own wheels operationally capable of being used on public thoroughfares, it is almost exclusively so used in traveling from plant to dealer to owner site. Even assuming an infrequent move for the average mobile home, mobile homes as a class are found with increasing frequency on the public roads; industry production in 1967 was 240,000 units and the estimate for 1969 production was 400,000 units. The demand for low-cost housing makes the industry optimistic that there will be similar increases in years to come.

Clearly, when on the public highways, a mobile home towed on its own wheels will present a hazard if its tires, brakes, connection to the towing vehicle, and other factors affecting roadworthiness and traffic safety do not meet minimum standards. While some States, in recognition of this problem, have adopted their own safety standards, the Administrator believes that the decision published today may result in eventual uniformity of safety standards for mobile homes, and for that reason should be welcomed both by the motoring public and by the industry.

The current definition of trailer in § 371.3(b) is sufficient to encompass mobile homes. Yet, because of its size (10 to 14 feet in overall width), construction (a walled and roofed structure), and purpose (general off-road dwelling or commercial use) a mobile home is different from a conventional cargo or travel trailer. Separation by subclassification will allow exclusion of mobile homes from future rulemaking actions relating to trailers which may be inappropriate for mobile homes.

The sole standard presently applicable to trailers (No. 108-Lamps, Reflective Devices, and Associated Equipment) continues to be considered appropriate for mobile homes. In recognition of the limited road use of mobile homes, manufacturers have been advised for some time that compliance may be achieved by use of a lighting harness remoavble upon completion of transit.

The Administrator believes that mobile homes, offices, classrooms, etc. or modular portions thereof, should be termed mobile structures. In consideration of the foregoing, 49 CFR 371.3(b) is hereby amended effective immediately to add the following:

"Mobile structure trailer" means a trailer that has a roof and walls, is at least 10 feet wide, and can be used off-road for dwelling or commercial purposes.

Since this amendment merely establishes a subcategory of trailer without

imposing any additional burden on any person I find that notice and public procedure are unnecessary and that good cause exists for making it effective on less than 30 days notice.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407); delegation of authority from Secretary of Transportation to Federal Highway Administrator (49 CFR Part 1))

Issued on March 20, 1970.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 70-3906; Filed, Mar. 30, 1970; 8:53 a.m.]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1024, Amdt. 2]

PART 1033—CAR SERVICE

Union Pacific Railroad Co. Authorized To Operate Over Tracks of Southern Pacific Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 24th day of March 1970.

Upon further consideration of Service Order No. 1024 (34 F.R. 6395) and good cause appearing therefor:

It is ordered, That § 1033.1024 *Service Order No. 1024* (Union Pacific Railroad Company authorized to operate over tracks of the Southern Pacific Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1970.

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

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

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-3853; Filed, Mar. 30, 1970; 8:50 a.m.]

[S.O. 1025, Amdt. 4]

PART 1033—CAR SERVICE

Regulations for Return of Covered Hopper Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of March 1970.

Upon further consideration of Service Order No. 1025 (34 F.R. 7451, 9870; 35 F.R. 894) as amended, and good cause appearing therefor:

It is ordered, That § 1033.1025 *Service Order No. 1025* (Regulations for return of covered hopper cars) be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* This order shall expire at 11:59 p.m., November 28, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1970.

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

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

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-3857; Filed, Mar. 30, 1970; 8:50 a.m.]

[S.O. 1028-A]

PART 1033—CAR SERVICE

Atchison, Topeka and Santa Fe Railway Co. Authorized To Operate Over Tracks of Fort Worth and Denver Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of March, 1970.

Upon further consideration of Service Order No. 1028 (34 F.R. 9033 and 19077), and good cause appearing therefor:

It is ordered, That § 1033.1028 *Service Order No. 1028* (The Atchison, Topeka and Santa Fe Railway Company authorized to operate over tracks of Fort Worth and Denver Railway Co.) be, and it is hereby, vacated and set aside.

(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 this order shall become effective at 11:59 p.m., March 24, 1970; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of the order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-3854; Filed, Mar. 30, 1970; 8:50 a.m.]

[S.O. 1030, Amdt. 3]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Tracks of the Atchison, Topeka and Santa Fe Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of March 1970.

Upon further consideration of Service Order No. 1030 (34 F.R. 11211, 15250), and good cause appearing therefor:

It is ordered, That § 1033.1030 (Chicago, Rock Island and Pacific Railroad Co. authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1970.

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

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

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-3855; Filed, Mar. 30, 1970; 8:50 a.m.]

[S.O. 1037, Amdt. 1]

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 24th day of March 1970.

Upon further consideration of Service Order No. 1037 (35 F.R. 2868) as amended, and good cause appearing therefor:

It is ordered, That § 1033.1037 *Service Order No. 1037* (Regulations for return of boxcars) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., November 28, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 23, 1970.

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

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

By the Commission, Railroad Service Board.

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

[F.R. Doc. 70-3856; Filed, Mar. 30, 1970; 8:50 a.m.]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Notice of Regulations Continued in Effect

A. *Permissible explosives and blasting devices and permissible manner of use.* Section 313(c) of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173) provides:

Except as provided in this subsection, in all underground areas of a coal mine only permissible explosives, electric detonators of proper strength, and permissible blasting devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming boreholes. The Secretary may, under such safeguards as he may prescribe, permit the firing of more than 20 shots and allow the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. Nothing in this section shall prohibit the use of compressed air blasting.

The regulations in effect on the date of enactment of the Act relating to permissible explosives and blasting devices and permissible manner of use are contained in 30 CFR Part 15 (Bureau of Mines Schedule 1H) and 30 CFR Part 17 (Bureau of Mines Schedule 26A) and in the 1953 editions of the Federal Mine Safety Code for Bituminous-Coal and Lignite Mines of the United States, Part I—Underground Mines and the Federal Mine Safety Code, Anthracite Mines of the United States, Part I—Underground Mines.

Pursuant to section 101(j) of the Act, notice is hereby given that these regulations are published herein and shall continue in effect until modified or superseded in accordance with the provisions of the Act. (No change is made in 30 CFR Part 15 or 17.)

PART 15—EXPLOSIVES AND RELATED ARTICLES

Sec.

AUTHORITY: The provisions of this Part 15 issued under secs. 2, 3, 5, 36 Stat. 370, as amended; 30 U.S.C. 3, 5, 7.

§ 15.1 Purpose.

The regulations in this part state the requirements for certification of explosives as permissible for use in underground coal mines; provides standards for the examination of explosives previously certified to check conformance to their basic specifications; and provide for miscellaneous tests not leading to certification.

§ 15.2 Definitions.

As used in this part, the following terms are defined:

(a) "Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat. This definition does not include blasting devices as defined in Part 17 of this subchapter.

(b) "Certificate of approval" means a formal document issued by the Bureau stating that an explosive has met the specifications and requirements in this part, and authorizing the use of markings signifying this fact, as provided hereafter.

(c) "Applicant" means an individual, partnership, company, corporation, association, or other organization that compounds, manufactures, or controls the production of an explosive and that seeks a certificate of approval for permissibility.

(d) "Basic specifications" for an explosive that is submitted for certification means those chemical and physical properties which characterize it. They will be stated in the certificate of approval.

(e) "Poisonous gases" shall mean those gases, such as carbon monoxide, hydrogen sulfide, and oxides of nitrogen, which may have deleterious physiological effects even when present in the atmosphere in relatively low concentrations.

(f) "Ingredients" are substances specified or found to be present in any given sample of an explosive.

(g) "Bureau's test detonator" is a detonator containing a base charge of 0.25 ± 0.02 gram of pentaerythritol tetranitrate (PETN).

(h) "Bureau" means the United States Department of the Interior, Bureau of Mines.

§ 15.3 Application for tests.

Before an applicant may obtain any tests by the Bureau on an explosive, the applicant must file a written request, in duplicate (no application form is provided by the Bureau), with a statement as to the nature of the explosive to be tested, including the composition. This request should be addressed to the Chief, Explosives Research Laboratory, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. 15213. The Bureau will review the application to determine whether the request is within the scope of this part. If the application is approved, an application number will be assigned and instructions given regarding the fees required and method of shipment of materials. Upon receipt of this information, the applicant shall transmit to the address given in this section a check, bank draft, or money order made payable to the Bureau of Mines, to cover all fees for the tests requested.

§ 15.4 Fees.

(a) The fee for complete tests leading to approval of an explosive as permissible is $1,320. If the applicant withdraws an explosive, or if the explosive fails to pass any of the tests prescribed in this part, the Bureau will charge for the tests actually performed, with a minimum charge of $100 according to the charges stated in paragraph (b) of this section. The balance of the fees will be returned to the applicant.

(b) The fees covering individual and complete (total) tests are revised to read as follows:

	Individual test	Total
1. Complete permissibility test		$1,320
(i) Friction	$22	22
(ii) Physical examination	22	77
(iii) Chemical analysis	110	110
(iv) Gap	22	22
(v) Ballistic mortar	44	44
(vi) Gallery test 4	33	330
(vii) Gallery test 7	550	550
(viii) Rate of detonation	55	55
(ix) Gaseous products	110	110
(x) For other tests or additional work, the costs as determined by the Bureau based on an estimate of the actual cost of the test. The Bureau will notify the applicant accordingly, and the fee shall be paid before such tests are begun.		

(c) If no experimental tests are required, the fee for issuance of a revised certificate of approval will be $25.

§ 15.5 Shipment, quantities, and sizes of explosives.

Samples of explosives tc be tested shall be shipped only after the Bureau has furnished instructions regarding the quantities of materials required, mode of shipment of the materials, and destination. Shipments shall be properly labeled and shall comply with the Interstate Commerce Commission regulations. The minimum quantities and sizes required for complete official tests are as follows:

(a) One hundred pounds of each explosive in 1¼ by 8-inch cartridges, but if the cartridge count per 50-pound case is less than 150 cartridges, then 300 cartridges is the minimum quantity required.

(b) Fifty cartridges of 8-inch length of each explosive in the smallest diameter (not less than 1 inch) in which it is desired the explosive shall be certified as permissible, except when this smallest diameter is 1¼ inches.

(c) Ten cartridges of 8-inch length of each explosive in any diameter other than those described in paragraphs (a) and (b) of this section, for which application is made to determine the permissibility of the explosive.

(d) Should the applicant later desire to market cartridges of other diameters, the Bureau will, upon application, establish the basic specifications for grams of wrapper and apparent specific gravity of these diameters. A fee (§ 15.4(b)(2)) will be charged for each cartridge diameter. If the cartridge diameter is smaller than the smallest diameter previously approved as permissible, a propagation test (rate of detonation) will also be required and a fee charged for such test (§ 15.4(b)(8)). No test will be made on cartridges of a diameter smaller than ones along which detonation has failed to propagate, nor will a retest be made on same-diameter cartridges of a formulation for which detonation has failed to propagate in any one trial.

§ 15.6 Conditions under which tests leading to issuance of a certificate of approval will be made.

(a) The explosive will be stored in a Bureau magazine for at least 30 days before the gallery tests are made.

(b) Explosives containing incompatibles (that is substances that will react when mixed); or those containing either chlorites, chlorates, or perchlorates; or other explosives that are chemically unstable; or show leakage of explosive oil, or are in such condition that exudation of the explosive oil would occur in handling or transporting, will not be tested.

(c) Tests will be limited to samples of explosives which are produced under the control of the applicant.

(d) Explosives with cartridge diameters of less than 1 inch will not be tested for certification.

(e) No report on the results of tests made by the Bureau, or any part thereof, may be published without prior written consent of the Bureau.

§ 15.7 Place of investigation.

Tests on explosives will be made at the Bureau's facilities at Bruceton, Pa., in order of receipt of the explosives, provided an application is on file.

§ 15.8 Consultation.

Any potential applicant (or accredited representative thereof) may visit the Bureau of Mines, Explosives Research Laboratory, Pittsburgh, Pa. 15213, to discuss, without charge, explosives proposed to be submitted for investigation by the Bureau. Should preliminary tests be desirable before submitting the explosive for formal investigation, the Bureau may conduct such tests for the applicant after payment of the fees prescribed in § 15.4. The results from such preliminary tests may not be used to reduce the requirements of the formal investigation.

§ 15.9 Observers at formal investigations and demonstrations.

No one shall be present during any part of the formal investigation for permissibility conducted by the Bureau except the necessary Bureau personnel, representatives of the applicant, and such other persons as may be mutually agreed upon by the applicant and the Bureau. After the issuance of a certificate of approval, the Bureau may conduct such public demonstrations and tests of the approved explosive as it sees fit. Those who attend any part of the investigation, or any public demonstration, shall be present solely as observers; the conduct of the investigation and of any public demonstration shall be controlled wholly by the Bureau's personnel. Results of chemical analyses for ingredients and all information contained in the drawings, specifications, and instructions shall be deemed proprietary and their disclosure will be appropriately safeguarded by the Bureau.

§ 15.10 Chemical and physical tests.

(a) *Chemical tests.* The following chemical tests will be made:

(1) Chemical analysis for ingredients.

(2) Gaseous products of detonation will be determined using the Bichel gage for carbon monoxide and Crawshaw-Jones method for oxides of nitrogen.

(b) *Physical tests.* The following physical tests will be made:

(1) *Physical examination.* The physical examination of an explosive is made on several cartridges of each size taken at random from the shipment of explosives. It shall consist of determination of apparent specific gravity and wrapper-to-explosive ratio.

(2) *Ballistic mortar test.* The strength of an explosive will be determined by the ballistic mortar.

(3) *Gallery test 4.* Ten trials, each with a 1½-pound tamped charge of explosive, are made. Each charge is fired, without stemming, into a mixture of natural gas and air containing 4.0±0.2 percent of the Bureau's natural gas (Bruceton property), or its equivalent, and 8 pounds of bituminous coal dust placed on shelves in the gallery, at 25°±5° C.

(4) *Gallery test 7.* The W_{50} (weight for 50 percent probability of ignition) will be determined using the Bruceton up-and-down method and firing a minimum of 20 tamped charges of varying weights, stemmed with one pound of dry-milled plastic fireclay, from a steel cannon into a mixture of natural gas and air containing 8.0±0.3 percent of the Bureau's natural gas, at a temperature of 25°±5° C.

(5) *Rate of detonation.* The rate of detonation is determined on a 50-inch column of 1¼-inch diameter cartridges and for the smallest diameter submitted for testing, provided that this diameter is less than 1¼ inches. Nongelatinous explosives are initiated with the Bureau's test detonator only, while gelatinous explosives are initiated with the Bureau's test detonator and a 60-gram tetryl-pellet booster.

(6) *Pendulum friction test.* Ten trials are made with the steel shoe released from a height of 1.5 meters (59 in.) and if evidence of sensitivity is obtained, the test is repeated with the hard-fiber-faced shoe.

(7) *Explosion-by-influence test.* The air-gap sensitivity is determined by the halved-cartridge method on 1¼-inch diameter cartridges.

§ 15.11 Establishment of basic specifications.

The composition of the explosive as furnished by the applicant, will form a part of the basic specifications provided that the requirements of §§ 15.12(a) and 15.21(b) are met. Such physical properties of the explosive as may be furnished by the applicant will form a part of the basic specifications, provided that the requirements of § 15.21 are met with the exception of the air-gap sensitivity,

in which case the requirement of § 15.12(c) must be met; otherwise the basic specifications will be those obtained by Bureau tests.

§ 15.12 Requirements for approval as a permissible explosive.

(a) The chemical composition as determined by the Bureau's analysis must correspond, within tolerances specified in § 15.21(b), to the composition as furnished by the applicant.

(b) The explosive must not fail to propagate completely in any of the tests involving detonation, except as provided in paragraph (g) of this section.

(c) In the explosion-by-influence test, the air-gap sensitivity of the explosive in 1¼-inch diameter cartridges must be at least 3 inches.

(d) The explosive must yield in gallery test 7, a W_{50} value equal to or greater than 450 grams to 95 percent confidence.

(e) The explosive must pass without a single ignition, gallery test 4.

(f) The volume of poisonous gases produced by the explosive must not exceed 2.5 cubic feet per pound of explosive (71 liters per 454 grams).

(g) If an explosive fails to propagate completely in the rate of detonation test (§ 15.10(b)(5)), it will not be approved for cartridges having a diameter equal to or smaller than that of the cartridge that failed the test.

(h) In the pendulum friction test, an explosive must not show, in any trial with the hard fiber-faced shoe, a result more unfavorable than an almost indistinguishable local crackling.

§ 15.13 Notification to applicant.

After the Bureau of Mines has completed the investigation of an explosive, a written report summarizing the results of the investigation and including a statement of either approval or disapproval of the explosive as permissible will be sent to the applicant.

§ 15.14 Approved markings.

(a) Upon certification of an explosive as permissible, it shall be marketed only under a brand or trade name which shall have been furnished to the Bureau, and the certification shall apply only to the explosive as so designated.

(b) The wrapper of each cartridge must be clearly and legibly labeled:

(Insert brand or trade name of explosive) Permissible Explosive, Approved by the U.S. Department of the Interior, Bureau of Mines. A reasonable abbreviation of "by the U.S. Department of the Interior, Bureau of Mines" is acceptable.

(c) The brand or trade name and the words "Permissible Explosive" must be included in the case marking.

(d) The applicant must warn the user by means of a case-insert that the explosive is permissible only when used in conformance with the Bureau's requirements (§ 15.19).

(e) After obtaining certification, the applicant who places approved markings on his permissible explosives must use all reasonable precautions to assure that his explosives are manufactured to conform with the basic specifications within specified tolerances.

§ 15.15 Changes after certification.

No change in the basic specifications may be made by the applicant without prior written approval from the Bureau. To obtain this approval, application shall be made in writing giving complete information on the nature of the proposed change(s). The Bureau will determine what tests, if any, will be required. A fee will be charged for such tests. Once a change in basic specifications involving composition has been approved, the brand name may only be used for the new composition, and the former composition may not be manufactured as a permissible explosive until it has been reapproved under the provisions of this schedule.

§ 15.16 Withdrawal of certification.

The Bureau reserves the right to rescind for cause, at any time, any certification granted under this part. Upon such withdrawal, the certification shall lose all force and effect, and explosives to which it relates shall not be marketed as permissible.

§ 15.17 Release of test data.

The Bureau may publish test results in such manner as will not identify the data, except cartridge weight, count, and detonation velocity, of an individual applicant.

§ 15.18 Lists of permissible explosives.

(a) *Active list.* The Bureau will maintain a list of active permissible explosives which will be published from time to time so that interested parties may have information regarding available explosives which have passed the tests leading to approval. In order to be retained on the active list, any explosive must be produced in a total quantity of not less than 50,000 pounds in any period of 3 calendar years. This requirement shall become effective on January 1 following the publication of these regulations in the FEDERAL REGISTER. The applicant will be notified of the Bureau's intent to remove any brand from the active list. An applicant may request that a permissible explosive be placed on the inactive list, or be deleted entirely.

(b) *Inactive list.* The Bureau will maintain an unpublished file of inactive permissible explosives. These explosives will be retained on the inactive list for a period not to exceed 5 years and will be returned to the active list during this period only after approval by the Bureau on specific written request of the applicant. An explosive may be deleted from the inactive list upon written request of the applicant. An explosive may not be manufactured for sale as a permissible explosive while on the inactive list.

§ 15.19 Use of permissible explosives.

An explosive certified as permissible under this part is permissible in use only so long as it meets the following requirements:

(a) Conforms with the basic specifications within limits of tolerances prescribed herein, and the cartridges are of diameters that have been approved.

(b) Is stored in surface magazines under conditions that tend to maintain original product character, and is used within 48 hours after being taken underground.

(c) Remains in its original cartridge wrapper throughout storage and use, without admixture with other substances.

(d) Is initiated with a copper or copper-based-alloy shell, commercial electric detonator (not cap and fuse) of not less than No. 6 strength.

(e) Is in all other respects used in conformance with the regulations specified in the most recent edition of the applicable Federal Mine Safety Code.

§ 15.20 Field testing.

The Bureau will periodically collect and examine samples of permissible explosives in order to determine whether they continue to conform to the basic specifications.

§ 15.21 Tolerances and requirements as applied to field samples.

Tolerances which provide for reasonable limits of variation in the results of analyses and tests of field samples of permissible explosives were established July 1, 1915, subsequently amended November 15, 1920, February 26, 1921, and March 24, 1955, and are further modified in this section. The tolerances and requirements as enumerated below supersede all previous tolerances.

(a) Requirements for tests that directly affect permissibility.

(1) *Gallery test 7.* The sample must yield in gallery test 7, as a W_{50} value equal to or greater than 450 grams to 95 percent confidence. (For exception see § 15.22(a)).

(2) *Gallery test 1.* Field samples failing Gallery test 7 but excepted under § 15.22(a) will be subjected to Gallery test 1. In this test, 10 trials, each with a 220-gram tamped charge of the explosive, are made. Each charge, stemmed with 1 pound of dry-milled plastic fireclay, is fired from a steel cannon into a mixture of natural gas and air containing 8.0±0.3 percent of the Bureau's natural gas, at a temperature of 25°± 5° C. No ignitions must result.

(3) *Gallery test 4.* The sample must pass five shots with a tamped unstemmed charge of 680 grams (1½ pounds).

(4) *Pendulum friction test.* The sample must pass the pendulum friction test with a hard-fiber-faced shoe released from a height of 1.5 meters (59 inches).

(5) *Poisonous gases.* Poisonous gases produced must not exceed 2.5 cu. ft. per pound of the explosive (71 liters per 454 grams).

(6) *Propagation test.* Complete propagation of the explosive must be obtained in the rate of detonation test.

(b) Requirements for tests that do not directly affect permissibility.

(1) *Carbonaceous combustible material.* The tolerance shall be ±3 percent of the total explosive.

(2) *Moisture and other ingredients.* The tolerances shall be in accordance with those shown in Table 1.

TABLE 1—LIMIT OF VARIATION (PERCENTAGE OF TOTAL EXPLOSIVE) FOR VARIOUS QUANTITIES OF INGREDIENT

Quantity of ingredient		Limit of variation
From—	To—	
Percent	*Percent*	*Percent(±)*
0.0	5.0	1.2
5.1	10.0	1.5
10.1	20.0	1.7
20.1	30.0	2.0
30.1	40.0	2.3
40.1	50.0	2.5
50.1	55.0	2.8
55.1	100.0	3.0

(3) *Rate of detonation.* The tolerance shall be ±15 percent of that shown in the basic specifications.

(4) *Ballistic mortar.* The tolerance shall be ±10 percent of that shown in the basic specifications.

(5) *Explosion by influence test.* The air-gap sensitivity, using 1¼-inch-diameter cartridges, must be not less than 2 inches.

(6) *Grams of wrapper.* The tolerance shall be ±2 grams per 100 grams of explosives ingredient based on that shown in the basic specifications.

(7) *Apparent specific gravity.* The tolerance shall be ±7.5 percent of that shown in the basic specifications.

§ 15.22 Field sample failures.

(a) Any field sample will be declared nonpermissible if when tested it fails to meet any of the requirements of § 15.21 (a): *Provided, however,* That, for a period of 5 years following the issuance of this schedule, the requirement of § 15.21(a)(1) shall not apply to any field sample whose basic specifications were approved under prior schedules.

(b) The Bureau will immediately report any field sample failure to the applicant. The applicant must immediately remove from the market and the field any unused portions of the explosive bearing the same lot number as the sample tested. If a field sample of any particular brand of permissible explosive fails three times within a period of 5 years, the explosive will be declared nonpermissible and removed from the lists of permissible explosives.

§ 15.23 Variances from prescribed tolerances.

Variances on field sample tests from tolerances as specified in § 15.21(b) do not directly affect permissibility of the explosive, but the applicant will be notified of such variances, and is then obligated to modify his formulation of future lots of the explosive to bring the explosive within the prescribed limits and to keep it within such limits.

§ 15.24 Miscellaneous tests on explosives and other hazardous materials.

(a) The Bureau conducts some tests not leading directly to approval of explosives as permissible for use in underground coal mines. Fees for these tests will be prescribed in § 15.4 and as prescribed below:

(1) Impact test	$33
(2) Electrostatic spark test	22
(3) Thermal sensitivity test	33
(4) Suspended tests in the gallery (per shot)	11
(5) Gaseous products:	
i. Oxides of nitrogen only	77
ii. Complete analysis of gaseous products, including oxides of nitrogen	110

(b) Application for miscellaneous tests shall follow the procedure prescribed in § 15.3. Applicants requesting tests shall follow the instructions under § 15.5. The applicant will be notified by the Bureau as to the quantity of material needed. No report on the results of tests made by the Bureau, or any part thereof, may be published without prior written consent of the Bureau.

Section 15.19 of Part 15 deals with the use of permissible explosives, and paragraph (e) of that section incorporates the "regulations specified in the most recent edition of the applicable Federal Mine Safety Code." Except for provisions which impose requirements now expressly dealt with in, or which are inconsistent with, the Federal Coal Mine Health and Safety Act of 1969, these regulations are as follows:

BITUMINOUS COAL AND LIGNITE UNDERGROUND MINES

ARTICLE IV—EXPLOSIVES AND BLASTING

* * * * *

SEC. 5. *Blasting practices.* * * *

b. * * *

3. Where the coal is cut, shots shall not be fired if the blast hole is drilled beyond the limits of the cut.

4. Boreholes shall be cleaned, and they shall be checked to see that they are placed properly and are of correct depth, in relation to the cut, before being charged.

5. All blasting charges in coal shall have a burden of at least 18 inches in all directions if the height of the coal permits.

6. Boreholes shall be stemmed with at least 24 inches of incombustible material, or at least one-half of the length of the hole shall be stemmed if the hole is less than 4 feet in depth unless other permissible stemming devices or methods are used.

* * * * *

9. Charges exceeding 1½ pounds, but not exceeding 3 pounds, shall be used only if boreholes are 6 feet or more in depth, the explosives are charged in a continuous train, with no cartridges deliberately deformed or crushed, with all cartridges in contact with each other and with the end cartridge touching the back of the hole and the stemming respectively, and Class A or Class B permissible explosives are used; provided, however, that the 3-pound limit does not apply to solid rock work.

10. Shots shall be fired by certified shot firers wherever State law requires such certification. In mines where certification of shot firers is not required by State law, the management shall designate competent persons to fire shots.

11. Boreholes shall not be charged while any other work is being done at the face, and the shot or shots shall be fired before any other work is done in the zone of danger from blasting except that which is necessary to safeguard the employees.

12. Only nonmetallic tamping bars shall be used for charging and tamping boreholes. This does not prohibit the use of a nonmetallic tamping bar with a nonsparking metallic scraper on one end.

13. The leg wires of electric detonators shall be kept shunted until ready to connect to the firing cable.

14. Shots shall not be fired from the power or signal circuit while any men are in the mine.

15. The roof and ribs of working places shall be tested before and after firing each shot or group of multiple shots.

16. Ample warning shall be given before shots are fired, and care shall be taken to ascertain that all persons are in the clear. Men shall be removed from adjoining working places when there is danger of a shot blowing through.

17. Mixed types or brands of explosives shall not be charged or fired in any borehole.

* * * * *

SEC. 6. *Blasting cables.* a. Blasting cables shall be:

1. Well insulated and as long as may be necessary to permit the shot firer to get in a safe place around a corner.

2. Short-circuited at the battery end until ready to attach to the blasting unit.

3. Staggered as to length or the ends kept well separated when attached to the detonator leg wires.

4. Kept clear of power wires and all other possible sources of active or stray electric current.

SEC. 7. *Misfires.* a. Where misfires occur with electric detonators, a waiting period of at least 5 minutes shall elapse before anyone returns to the shot. After such failure, the blasting cable shall be disconnected from the source of power and the battery ends short-circuited before electric connections are examined.

b. Explosives shall be removed by firing a separate charge at least 2 feet away from, and parallel to, the misfired charge or by washing the stemming and the charge from the borehole with water, or by inserting and firing a new primer after the stemming has been washed out.

c. A very careful search of the working place, and, if necessary, of the coal after it reaches the tipple shall be made after blasting a misfired hole, to recover any undetonated explosive.

d. The handling of a misfired shot shall be under the direct supervision of the mine foreman or a competent person designated by him.

ANTHRACITE UNDERGROUND MINES

ARTICLE IV—EXPLOSIVES AND BLASTING

* * * * *

SEC. 4. *Blasting practices.* * * *

b. * * *

2. Boreholes shall be cleaned, and they shall be checked by the miner in charge to see that they are placed properly before being charged.

3. Boreholes shall be stemmed with at least 24 inches of material, or at least one-half of the length of the hole shall be stemmed if the hole is less than 4 feet in depth or suitable blasting plugs shall be used.

* * * * *

6. Shots shall be fired by certified persons in charge.

7. Boreholes shall not be charged while any other work is being done at the face, and the shot or shots shall be fired before any other work is done in the zone of danger from blasting except that which is necessary to safeguard the employees.

8. Only nonmetallic tamping bars shall be used for charging and tamping boreholes.

9. The leg wires of electric detonators shall be kept shunted until ready to connect to the firing cable.

10. Shots shall not be fired from any power or signal circuit while any men are

in the section of the mine in which such shots are fired.

11. The roof and faces of working places shall be tested before and, where possible, after firing each shot or group of multiple shots.

12. Ample warning shall be given before shots are fired, and care shall be taken to ascertain that all persons are in the clear. Men shall be removed from adjoining working places when there is danger of a shot blowing through.

13. Mixed types of explosives shall not be charged or fired in any borehole, nor shall detonators made by different manufacturers be combined in the same blasting circuit.

* * * * *

15. Workmen shall never go inside a battery to start the flow of material.

16. Power wires and cables that could contact blasting cables or leg wires shall be deenergized during charging and firing.

SEC. 5. *Blasting cables.* a. Blasting cables shall be:

1. Well insulated and as long as may be necessary to permit the person firing the blast to get in a safe place.

2. Short-circuited at the battery end until ready to attach to the blasting unit.

3. Staggered as to length or the ends kept well separated when attached to the detonator leg wires.

4. Kept clear of power wires and all other possible sources of active or stray electric currents.

SEC. 6. *Misfires.* a. Where misfires occur with electric detonators, a waiting period of at least 30 minutes shall elapse before anyone returns to the shot. After such failure, the blasting cable shall be disconnected from the source of power and the battery ends short-circuited before electric connections are examined.

b. Explosives shall be removed by firing a separate charge at least 2 feet away from, and parallel to, the misfired charge.

c. A very careful search of the working place, and, if necessary, of the coal after it reaches the tipple, shall be made after blasting a misfired hole to recover any undetonated explosive.

d. The handling of a misfired shot shall be under the direct supervision of the miner in charge.

PART 17—BLASTING DEVICES

Sec.

AUTHORITY: The provisions of this Part 17 issued under secs. 3, 5, 36 Stat. 370, as amended, sec. 212, 66 Stat. 709; 30 U.S.C. 5, 7, 482.

§ 17.1 Purpose.

The regulations in this part specify certain minimum safety standards and requirements for approval, by the Bureau of Mines, of blasting devices as permissible for use in coal mines. The use of blasting devices for dislodging coal in underground mines involves at least two possible hazards, namely:

(a) Ignition of methane-air and/or coal dust-air mixtures when the blasting device is operated.

(b) Emission of toxic gases, such as carbon monoxide, oxides of nitrogen, and hydrogen sulfide, when the blasting device is operated.

§ 17.2 Definitions.

As used in this part, the following terms are defined:

(a) "Blasting device" is a unit used for breaking down coal involving a high-pressure discharge from a metal shell but does not include blasting devices whose operations depend upon pressures developed wholly by mechanical means.

(b) "Approval" is a written official notification by the Bureau of Mines, that, upon investigation, the blasting device has met satisfactorily the requirements of this part for use in coal mines. Reports of tests other than the complete series required for the determination of permissibility are not approvals and should not be construed as such.

(c) "Permissible" means conforming, when completely assembled, in every respect with the blasting device approved by the Bureau of Mines for use in coal mines.

(d) "Approved marking" is an identifying mark indicating that the blasting device has been approved by the Bureau of Mines as a permissible blasting device.

§ 17.3 Application for tests.

Before the Bureau of Mines will make any tests leading to the approval of a blasting device or for a subsequent change in its design, the applicant must file a written request (no application form is provided by the Bureau) with a statement as to the nature of the blasting device to be tested, the composition of the active components, and any other pertinent information relating to the blasting device. The Bureau's engineers will review the application and decide whether or not the tests will be undertaken. The request for the making of tests must be addressed to the U.S. Bureau of Mines, Central Experiment Station, 4800 Forbes Avenue, Pittsburgh, Pa. 15213. Upon approval of the application, an application number will be assigned and instructions given regarding the fees required and method of shipment of materials. Upon receipt of this information the applicant should transmit to the address given in this section, a check, bank draft, or money order made payable to the Bureau of Mines to cover all fees for the tests.

§ 17.4 Fees.

(a) Complete tests for approval when electrical tests are not required	[1] $1,210
(b) Complete tests for approval when electrical tests are required	[1] 1,450
(c) Individual tests:	
1. Chemical	120
2. Physical examination	60
3. Gallery, per shot	15
4. Pendulum friction, per sample	30
5. Gaseous products, per sample	120
6. Shell temperature	100
7. Electrical	240
8. Fee for tests not included in this list will be based on actual costs.	
(d) Fee for tests required by changes in design will be determined by the Bureau; minimum fee	500

[1] If the applicant withdraws the blasting device after testing has begun, or if the device fails to pass any of the required tests, the Bureau will charge a minimum of $500 and will return to the applicant any part of the remaining fee not required to compensate the Bureau for its services.

§ 17.5 Drawings and specifications.

A set of drawings, bill of materials, and specifications sufficient in number and detail to identify fully the parts of the blasting device must accompany the application. Drawings shall be numbered and dated to facilitate identification and reference in the records. The drawings and specifications for blasting devices shall include an assembly drawing or drawings, clearly showing the overall dimensions of the blasting device, tolerances, and character, size, and relative arrangement for all parts. The nature of the materials used in the assembly shall be specified on the drawings.

§ 17.6 Shipment of blasting device sample.

Samples of the blasting device to be tested and all equipment necessary for charging and firing the blasting device, shall be shipped prepaid to the Bureau only after the Bureau has furnished shipping instructions specifying the quantities and mode of shipment of the materials.

CROSS REFERENCE: For regulations with respect to shipment of samples of explosives and explosive articles, see 49 CFR 73.86.

§ 17.7 Place of investigation.

Tests on blasting devices will be made at the Bureau's Explosives Testing Station at Bruceton, Pa., in the order of receipt of the blasting device, provided an application is on file.

§ 17.8 Consultation.

Any potential applicant (or accredited representative thereof) may visit the Bureau of Mines' Central Experiment Station, Pittsburgh, Pa., 15213, to discuss, without charge, blasting devices proposed to be submitted for investigation by the Bureau. Should preliminary tests appear advisable before submitting

the blasting device for formal investigation, the Bureau may conduct such tests for the applicant with fees as prescribed in § 17.4.

§ 17.9 Observers at formal investigations and demonstrations.

No one shall be present during any part of the formal investigation conducted by the Bureau which leads to approval for permissibility except the necessary Government personnel, representatives of the applicant, and such other persons as may be mutually agreed upon by the applicant and the Bureau. Upon granting approval for permissibility, the Bureau will announce that such approval has been granted to the blasting device and may thereafter conduct, from time to time in its discretion, public demonstrations of the tests conducted on the approved blasting device. Those who attend any part of the investigation, or any public demonstration, shall be present solely as observers; the conduct of the investigation and of any public demonstration shall be controlled wholly by the Bureau's personnel. Results of chemical analyses of material and all information contained in the drawing, specifications, and instructions shall be deemed confidential and their disclosure will be appropriately safeguarded by the Bureau.

§ 17.10 Chemical and physical tests.

(a) *Chemical tests.* Chemical tests will be made on any components of the blasting device which may be necessary to establish basic data.

(b) *Physical examination.* A physical examination will be made on the components of the blasting device and all dimensions will be checked against the submitted drawings and specifications.

(c) *Gallery tests*—(1) *Test 1.* Each assembly is discharged into a mixture of natural gas and air containing 8.0±0.3 percent of the Bureau's standard natural gas, at a temperature of 25°±5° C.

(2) Test 4. Each assembly is discharged into a mixture of natural gas and air containing 4.0±0.2 percent of the Bureau's standard natural gas, at a temperature of 25°±5° C., and there will also be 8 pounds of standard bituminous coal dust placed on shelves inside the gallery.

(d) *Pendulum friction test.* For any combustible components or mixtures used in the blasting device 10 trials are made with the steel shoe and, if necessary, with the hard fiber-faced shoe, dropped from a height of 1.5 meters (59 ins.) and with an added weight of 20 kilograms (44 lbs.).

(e) *Gaseous products.* The nature and quantity of gaseous products emitted by the assembled blasting device will be determined.

(f) *Shell temperature test.* The surface temperature of the blasting device will be determined after operating the blasting device under conditions which will produce a "hot shell", i.e., a shell in which the hot gases are trapped and not released.

(g) *Additional tests.* Additional tests will be made if it is determined by the Bureau of Mines that they are necessary to establish the safety of the blasting device.

§ 17.11 Requirements for approval of permissible blasting devices.

(a) *Gallery tests.* Each assembly of a blasting device must pass without a single ignition, test 1 (35 trials) and test 4 (15 trials) in the gallery.

(b) *Pendulum friction test.* All components thought to constitute an explosive hazard will be tested and such components tested must not show in any trial with the hard fiber-faced shoe on the pendulum friction device a result more unfavorable than an almost indistinguishable local crackling.

(c) *Gaseous products of explosion.* The volume of poisonous gases produced by a blasting device must not exceed 140 liters per shell as determined in the Crawshaw-Jones apparatus.

(d) *Shell temperature test.* The maximum surface temperature attained after operating the blasting device as a "hot shell" shall not exceed 350° C.

(e) *Tests on electrical parts.* If the blasting device is so designed that it cannot be discharged except with a specially designed electric power supply unit made expressly for that purpose, that power supply unit must meet the applicable requirements of the Bureau of Mines set forth in Parts 18, 24, and 25 of this chapter.

(f) *Misfires.* Approval will not be granted if the blasting device fails to function or misfires in a manner which is deemed to be unsafe by the Bureau of Mines.

§ 17.12 Change in design.

Special authorization from the Bureau of Mines must be obtained before the manufacturer makes a change in the design or in the components of an approved blasting device.

§ 17.13 Notification of approval or disapproval.

After the Bureau of Mines has completed the investigation of a blasting device, a written report covering approval or disapproval of the blasting device will be sent to the applicant. Approval of the blasting device requires that it will be used in conformity with the conditions specified in § 17.16 and any other specific conditions required for handling the blasting device which may be stated in the report.

§ 17.14 Release of test data.

All test data regarding the chemical characteristics of any components of the blasting device are deemed confidential between the Bureau of Mines and the applicant and will not be publicly released.

§ 17.15 List of permissable blasting devices.

The Bureau will maintain a list of permissible blasting devices which will be published from time to time so that interested parties may have information regarding blasting devices which have passed the permissibility tests of the Bureau of Mines.

§ 17.16 Conditions under which a permissible blasting device is to be used.

A blasting device is permissible only when used under the following conditions:

(a) The blasting device must conform to the specifications for the model as originally approved.

(b) The blasting device must not be discharged in the presence of firedamp that can be detected with a permissible flame safety lamp.

(c) The electrical unit used to fire the blasting device must be suitable for the purpose and meet the Bureau of Mines' requirements applicable to that particular type of unit. The unit must also be used in a manner prescribed by the Bureau.

(d) The blasting device must not be fired until everyone is a safe distance from the shot and protected by adequate cover, having one and, if possible, two right angles between them and the blast.

(e) The coal to be blasted must be undercut or equivalently relieved; the length of shot holes must be at least 6 inches less than the depth of the undercut or equivalent relief; and the shot shall be at least 6 inches way from the side of undercut or equivalent relief.

(f) No blasting device shall be assembled or disassembled in a mine unless such permission is stated in the original approval.

(g) A misfired blasting device may not be opened in the mine unless an exception to this section is included as part of the approval for each specific blasting device. The conditions which constitute a misfire will be specified in the original approval.

(h) A waiting period of 15 minutes shall be required before any personnel is allowed to return to the face after a misfire has occurred.

(i) The blasting device must be used in conformance with all applicable regulations specified in the current edition of the Federal Mine Safety Code.

(j) Other conditions, which will be set down by the Bureau as appropriate to the particular blasting device tested, must be observed.

§ 17.17 Tolerances and requirements as applied to field samples.

The Bureau will periodically collect and re-examine permissible blasting devices in order to determine whether they conform to the specifications for the blasting device as originally approved and subject to the following tolerances:

(a) *Chemical analysis*—(1) *Moisture.* The tolerances for moisture shall be in accordance with those shown in table 1 of this section.

TABLE 1—LIMIT OF VARIATION (PERCENTAGE OF TOTAL CHEMICAL COMPONENTS) FOR VARIOUS QUANTITIES OF MOISTURE

Quantity of moisture		Limit of variation
From—	To—	
Percent	*Percent*	*Percent (±)*
0.0	1.0	1.8
1.1	2.0	2.0
2.1	3.0	2.2
3.1	4.0	2.4
4.1	and up	2.6

(2) *Carbonaceous combustible material.* The tolerance shall be ±3 percent of total chemical components.

(3) *Other ingredients or their equivalents.* For ingredients in quantities of 55.1 percent or more, the tolerance shall be ±3 percent of the total chemical components. For ingredients in quantities not exceeding 55 percent, the tolerance shall be in accordance with those shown in table 2 of this section.

TABLE 2—LIMIT OF VARIATION (PERCENTAGE OF TOTAL CHEMICAL COMPONENTS) FOR VARIOUS QUANTITIES OF INGREDIENT

Quantity of ingredient		Limit of variation
From—	To—	
Percent	*Percent*	*Percent (±)*
0.0	5.0	1.2
5.1	10.0	1.5
10.1	20.0	1.7
20.1	30.0	2.0
30.1	40.0	2.3
40.1	50.0	2.5
50.1	55.0	2.8

(b) *Physical tests of field samples*—(1) *Poisonous gases.* The volume of poisonous gases must not exceed 140 liters per shell.

(2) *Grams of wrapper.* For those blasting devices containing combustible materials as wrapper for any of the components, the tolerance shall be ±2 grams per 100 grams of the component based on that shown for the approved design.

(3) *Weight of chemical components.* The weight of the chemical components in the blasting device shall be ±10 percent of that shown by the basic sample weight.

(4) *Gallery test 1.* The blasting device must pass gallery test 1 (20 trials) using the normal charge.

(5) *Gallery test 4.* The blasting device must pass gallery test 4 (10 trials) using the normal charge.

(6) *Pendulum friction test.* Any chemical component must pass with the hard fiber-faced shoe falling from a height of 1.5 meters and with an added weight of 20 kilograms (44 lbs.).

(7) *Temperature.* The maximum temperature attained by a hot shell must not exceed 350° C.

(8) *Conformance with basic data.* The blasting device and all special equipment required for its use must conform to the basic data.

§ 17.18 Field sample failures.

If the blasting device fails to pass any retests specified in § 17.17(b) (1), (4), (5), (6), and (7), the manufacturer will be so notified. As soon as he has been so notified the manufacturer (a) shall promptly withdraw from the market all components specified by the Bureau and (b) shall manufacture components in conformity with the basic specifications.

§ 17.19 Variances from prescribed tolerance.

Variance on field sample tests from tolerances specified in § 17.17 (a) and (b) (2) and (3) do not directly affect permissibility of the blasting device, but the manufacturer will be notified; he is then obligated to modify his formulation of future blasting devices to bring the blasting device within the prescribed limits and to keep it within such limits.

§ 17.20 Rescission of approval.

The Bureau reserves the right to rescind for cause, at any time, any approval granted under this part. Upon such rescission the blasting device will be declared nonpermissible and will be removed from the list of permissible blasting devices.

Section 17.16 of Part 17 deals with the use of permissible blasting devices, and paragraph (i) of that section provides that "The blasting device must be used in conformance with all applicable regulations specified in the current edition of the Federal Mine Safety Code." Except for provisions which impose requirements now expressly dealt with in, or which are inconsistent with, the Federal Coal Mine Health and Safety Act of 1969, these regulations are as follows:

BITUMINOUS COAL AND LIGNITE UNDERGROUND MINES

ARTICLE IV—EXPLOSIVES AND BLASTING

* * * * *

SEC. 8. *Cardox.* * * *

(c) Where Cardox is used for blasting, the following shall apply:

(1) When Cardox is fired all persons in the vicinity, including the shot firer, shall be around a second corner or in an equally safe place.

(2) Blasting cables shall be as long as may be necessary to assure the safety of the shot firer, attached only after the charge has been placed in the borehole, and maintained in good repair.

(3) Blasting cables shall be kept clear of power wires and all other possible sources of active or stray electric currents.

(4) The charge shall be detonated with a permissible shot-firing unit.

(5) Cardox shall not be shot off the solid, over heavy rock binders or shale, or in a "tight" shot.

(6) Cardox misfires shall not be approached until after the elapse of 15 minutes and shall be handled under the supervision of a competent person.

(7) Misfired shells shall be bled off before complete removal from the hole and marked conspicuously upon such removal.

(8) All protruding wires shall be removed from misfired shells before the shells are removed from the face.

* * * * *

(11) Cardox shells shall not be heated. This does not apply to heat generated when the shell is discharged.

B. *Stemming devices.* Pursuant to section 101(j) of the Federal Coal Mine Health and Safety Act of 1969, the regulations in Part 16 of Title 30, Code of Federal Regulations (Bureau of Mines Schedule 27B), as set forth below without change, also are continued in force until modified or superseded.

PART 16—STEMMING DEVICES

Sec.
16.1 Purpose.
16.2 Definitions.
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16.4 Fees.
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16.12 Change in design.
16.13 Granting of approval; notification of approval or disapproval.
16.14 Approval label.
16.15 List of permissible stemming devices.
16.16 Conditions under which stemming devices are to be used.
16.17 Field sampling.
16.18 Rescission of approval.

AUTHORITY: The provisions of this Part 16 issued under secs. 3, 5, 36 Stat. 370, as amended, sec. 212, 66 Stat. 709; 30 U.S.C. 5, 7, 482.

§ 16.1 Purpose.

The regulations in this part specify the safety standards and the requirements for approval by the Bureau of Mines, of stemming devices as permissible for use in coal mines. The use of stemming devices for confining permissible explosives when fired for underground blasting, involves consideration of several possible hazards including:

(a) Ignition of methane-air and/or coal dust-air mixtures when the explosive charge is detonated.

(b) Emission of toxic gases such as carbon monoxide, oxides of nitrogen, and hydrogen sulfide when the explosive charge is detonated.

(c) Other hazards associated with the firing of inadequately confined explosive charges.

§ 16.2 Definitions.

As used in this part, the following words are defined:

(a) "Stemming devices" means any flame resistant unit which has incorporated in its design positive means for providing adequate confinement to permissible explosives in boreholes when used as prescribed.

(b) "Approval" means written official notification by the Bureau of Mines that upon investigation the stemming device has met satisfactorily the requirements of this part for use in coal mines.

(c) "Permissible" means conforming in every respect to the provisions of the appropriate Bureau of Mines test schedule.

(d) "Approval label" means an identifying mark indicating that the stemming device has been approved by the Bureau of Mines as a permissible stemming device.

(e) "Flame resistant" means incapable of supporting combustion under the test conditions hereinafter stated.

§ 16.3 Application for tests.

Before the Bureau will make any tests on a stemming device or on any change in the design thereof, the manufacturer or user must file a written request (no application form is provided by the Bureau) with the U.S. Bureau of Mines, Central Experiment Station, 4800 Forbes Avenue, Pittsburgh, Pa. 15213. A statement as to the nature of the stemming device to be tested, the composition, and any other pertinent information relative to the stemming device must accompany the application. The Bureau's engineers will review the application and decide whether or not the tests will be undertaken. If the application is approved, an application number will be assigned and instructions given regarding the fees required and method of shipment of materials. Upon receipt of this information, the applicant must transmit, to the address given in this section, a check, banknote, or money order, made payable to the Bureau of Mines, to cover all fees for the tests; drawings and specifications of the stemming device must be transmitted at the same time.

§ 16.4 Fees.

(a) Complete tests for approval	[1] $1,225
(b) Individual tests:	
1. Chemical	65
2. Physical examination	25
3. Gallery, per shot	18
4. Rough handling	15
5. Flammability	40
6. Fee for tests not included in this list will be based on actual costs.	
(c) Fee for tests required by changes in design will be determined by the Bureau; minimum fee	100

[1] Fees for additional tests, described in paragraph (c) of § 16.10, will be determined by the Bureau and will be in addition to this fee. If the applicant withdraws the stemming device after testing has begun, or if the device fails to pass any of the required tests, the Bureau will charge a minimum of $100 and will return to the applicant any part of the remaining fee not required to compensate the Bureau for its services.

§ 16.5 Drawings and specifications.

A set of drawings, bill of material, and specifications sufficient in number and detail to identify fully the parts of the stemming device must be furnished to the Bureau. Drawings should be numbered and dated to facilitate identification and reference in the records. The drawings and specifications for stemming devices shall include an assembly drawing, or drawings, clearly showing the over-all dimensions of the stemming device, tolerances, and the character, size, and relative arrangement of all parts. The nature of the materials used in the assembly shall be specified on the drawings.

§ 16.6 Shipment of stemming device samples.

Samples of the stemming device to be tested should be shipped to the Bureau only after the Bureau has furnished shipping instructions specifying the quantities, sizes, and mode of shipment of the samples.

§ 16.7 Place of investigation.

Tests on stemming devices will be made at the Bureau's Explosives Testing Station at Bruceton, Pa., in the order of receipt of applications.

§ 16.8 Consultation.

Any potential applicant (or accredited representative thereof) may visit the Bureau of Mines' Central Experiment Station, Pittsburgh, Pa. to discuss, without charge, stemming devices proposed to be submitted for investigation by the Bureau. Should preliminary tests appear advisable before submitting the stemming device for approval, the Bureau may conduct such tests for the applicant with fees as prescribed in § 16.4.

§ 16.9 Observers at formal investigations and demonstrations.

No one shall be present during any part of the formal investigation conducted by the Bureau which leads to approval for permissibility except the necessary Government personnel, representatives of the applicant, and such other persons as may be mutually agreed upon by the applicant and the Bureau. Upon granting approval for permissibility, the Bureau will announce that such approval has been granted to the stemming device and may thereafter conduct, from time to time in its discretion, public demonstrations of the tests conducted on the approved stemming device. Those who attend any part of the investigation, or any public demonstration, shall be present solely as observers; the conduct of the investigation and of any public demonstration shall be controlled wholly by the Bureau's personnel. Results of chemical analyses of material and all information contained in the drawings, specifications, and instructions shall be deemed confidential and their disclosure will be appropriately safeguarded by the Bureau.

§ 16.10 Physical and chemical tests.

(a) *Compositional tests.* Such test will be made to verify the submitted specifications.

(b) *Physical tests.* The following physical tests will be made:

(1) *Physical examination.* An examination will be made to verify the submitted specifications, or to establish basic specifications on the composition, as are deemed necessary by the Bureau.

(2) *Gallery test.* Fifty trials, using two or more different permissible explosives selected by the Bureau, will be made with not more than 30 trials with any one permissible explosive, firing a 220-gram charge of the permissible explosive from a cannon stemmed with the stemming device under test, into a steel gallery charged with a mixture of natural gas and air containing 8.0 ±0.3 percent of the Bureau's Standard natural gas, at a temperature of 25° ±5° C. In order to pass this test there must not be an ignition in any of the trials made.

(3) *Rough-handling test.* A specially designed box is used for making the rough-handling test. This box is approximately 6 feet in height and it is equipped with seven baffles each approximately 10 inches apart and sloping 30° from the horizontal. Ten samples of the stemming device to be tested will be introduced individually at the top and allowed to drop from baffle to baffle. Each stemming device will be subjected to 30 passes through the box and then will be subjected to the gallery test prescribed in subparagraph (2) of this paragraph. Each stemming device must pass the gallery test in the physical condition existing at the end of the rough-handling test. These 10 gallery trials shall be in addition to the 50 trials described in subparagraph (2) of this paragraph.

(4) *Flammability test.* At least three specimens 2 inches in length, ¼ inch in width and 1/16-inch thick shall be cut or prepared from each major component of the device under test, excluding any wrapper material. If the total weight of any wrapper material exceeds 3 grams, it shall be tested separately. If the nature of the material to be tested precludes the preparation of specimens with the above dimensions, then the specimens shall have dimensions as near as possible to those specified. The specimen shall be clamped in a support at one end with its longitudinal axis horizontal and its transverse axis inclined at 45° to the horizontal. Under the test specimen, there shall be clamped a piece of 20-mesh Bunsen burner gauze about 1½ inches square, in a horizontal position ¼ inch below the specimen with about ½ inch of the specimen extending beyond one edge of the gauze. If the specimen is not rigid, it shall be allowed to bend and come to rest on the gauze. A Bunsen-type burner, with a flame 1 inch in height having a temperature of 950° ±50° C. when measured by means of a 20 B & S gauge, iron-constantan thermocouple, centered in the flame at the tip of the inner cone, shall be placed under the free end of the test specimen and adjusted so that the flame tip is just in contact with the specimen. The flame shall be removed when ignition of the specimen is observed or after an application time of not more than 30 seconds. If the specimen does not continue to burn with visible flame after the first application of flame, a second application of the burner flame shall be made immediately under the same conditions for a period not to exceed 30 seconds. If none of the specimens continue to burn with a visible flame for more than 5 seconds after removing the burner flame in any of the individual trials made, the material shall be considered flame resistant and acceptable for use in the stemming device.

(c) *Additional tests.* Additional tests will be made if it is determined by the Bureau of Mines that they are necessary to establish safety characteristics of the stemming device.

§ 16.11 Requirements for approval of a stemming device.

Approval will be given only for stemming devices which pass the tests prescribed in § 16.10. Approval will be

based primarily on tests made on one standard size to be designated by the Bureau of Mines (1¾ inch diameter unless otherwise specified). The applicant must, however, submit samples and specifications for all sizes for which approval is desired. No stemming device with diameter exceeding the length will be accepted for test. For sizes smaller than the standard size, the overall length must not be less than that for the standard size. For sizes having a diameter larger than the standard size, the ratio of the length to the diameter must not be less than that for the standard size. Specific approval must be obtained for each size before it can be labeled as approved. The amount of any combustible wrapper used must not exceed 3 grams.

§ 16.12 Change in design.

Any change in the design of an approved stemming device must first be approved by the Bureau before such modified stemming devices are offered to the trade under the approval label.

§ 16.13 Granting of approval; notification of approval or disapproval.

After the Bureau of Mines has completed the investigation of a stemming device, a written report covering approval or disapproval of the stemming device will be sent to the applicant. The report of approval will establish the tolerances that must be maintained in manufacture and all requirements for use as described in § 16.16.

§ 16.14 Approval label.

(a) Upon approval of the stemming device and before the stemming device is offered to the trade, the applicant must place an approval label on all containers of packages of such stemming devices which must be of the same characteristics as the stemming device approved by the Bureau. The approval label which shall be submitted to and approved by the Bureau shall bear the seal of the Department of the Interior, Bureau of Mines, and be inscribed as follows:

PERMISSIBLE STEMMING DEVICE

Approval Number ------ issued to ------.

(b) When required by the Bureau, appropriate words of caution must be added.

(c) A manufacturer who places the approval label on the stemming device must use all reasonable precautions to manufacture the stemming device to conform with the specified tolerances of the stemming device as approved, and is obligated to warn the user that the stemming device is permissible only when employed as specified in § 16.16.

§ 16.15 List of permissible stemming devices.

The Bureau will maintain a list of permissible stemming devices which will be published from time to time.

§ 16.16 Conditions under which stemming devices are to be used.

An approved stemming device is permissible only when used under the following conditions:

(a) The stemming device must be completely within the borehole and in physical contact with the explosive charge before the shot is fired.

(b) The stemming device must be of such a size as to fill tightly the cross section of the borehole when it is properly put into place.

(c) The explosive being stemmed must be classed as "permissible" and it must be used in the manner prescribed by the Bureau of Mines in Part 15 of this subchapter.

(d) Other conditions, which will be set down by the Bureau as appropriate to the particular stemming device, must be observed.

§ 16.17 Field sampling.

The Bureau will, from time to time, collect and reexamine permissible stemming devices in order to determine whether they conform to the stemming device as approved. If the field sample fails to pass any of the tests described in § 16.10 or exceeds the established tolerances, the manufacturer will be so notified and required to take such steps as are necessary to make all future production conform to the approved specifications. In the event of failures of a nature deemed by the Bureau to present definite hazard in use of the stemming device, the Bureau may request that the manufacturer remove from the market and the field any unused stemming devices of similar faulty nature.

§ 16.18 Rescission of approval.

The Bureau reserves the right to rescind for cause at any time, any approval granted under this part. Upon such rescission the stemming device will be declared nonpermissible and will be removed from the list of permissible stemming devices.

C. *Electric face equipment.* Section 318 (i) of the Act provides in part:

> * * * the regulations of the Secretary or the Director of the Bureau of Mines in effect on the operative date of this title (Title III) relating to the requirements for investigation, testing, approval, certification, and acceptance of such equipment (electric face equipment), as permissible shall continue in effect until modified or superseded by the Secretary * * *.

Subpart F—Electrical Equipment—General of Part 75—Mandatory Safety Standards, Underground Coal Mines, of Title 30, Code of Federal Regulations (35 F.R. 5237) deals, among other things, with electric face equipment. Sections 75.506 and 75.506-1 in Subpart F cover permissibility of electric face equipment and the maintenance of such equipment in permissible condition. Section 75.506 identifies specifically the regulations relating to such equipment which were continued in force by section 318(i) of the Federal Coal Mine Health and Safety Act of 1969.

MITCHELL MELICH,
Acting Secretary of the Interior.

MARCH 27, 1970.

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Chapter V—Interim Compliance Panel (Coal Mine Health and Safety)

SUBCHAPTER A—COAL MINE HEALTH

PART 501—PERMITS FOR NONCOMPLIANCE

Section 202 of the Coal Mine Health and Safety Act of 1969, which applies to bituminous coal, lignite and anthracite mines, provides that the Interim Compliance Panel may issue permits for noncompliance with the respirable dust standards specified therein. This Part 501, reading as set forth below, is promulgated to prescribe the requirements which must be met by each applicant for an initial permit for noncompliance with the respirable dust standard prescribed for underground coal mines in section 202(b)(1) of the Act and for renewals of such permit. In addition, it sets forth the requirements which must be met by each person requesting a public hearing with respect to the issuance of any permit or renewal thereof.

This Part 501 shall become effective upon its publication in the FEDERAL REGISTER.

CHARLES F. BROWN,
Chairman, Interim Compliance Panel (Coal Mine Health and Safety Act).

Sec.

AUTHORITY: The provisions of this Part 501 issued under Title V, sec. 508, Pub. Law 91-173, Stat. 803.

§ 501.1 Application of part.

This part applies to applications for permits for noncompliance and renewals thereof submitted in accordance with the provisions of Title II of the Federal Coal Mine Health and Safety Act of 1969, and to requests for hearings conducted with respect to such applications.

§ 501.2 Definitions.

As used in this part:

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173);

(b) "Panel" means the Interim Compliance Panel established by section 5 of the Act;

(c) "Applicant" means any operator of an underground coal mine who files an application with the panel for an initial or renewal permit for noncompliance with the respirable dust standard set forth in section 202(b)(1) of the Act;

(d) Unless otherwise specified in this part, "permit" means an initial permit for noncompliance issued to an applicant, or a subsequent renewal thereof, which entitles the applicant to exceed the respirable dust standard set forth in section 202(b)(1) of the Act with respect to working places designated in such permit or renewal;

(e) "Respirable dust standard" means the average concentration of respirable dust prescribed by section 202(b)(1) of the Act;

(f) "Average concentration of respirable dust" means the average concentration of respirable dust, expressed in milligrams per cubic meter of air, as measured by an MRE instrument or an equivalent concentration if measured with another device approved by the Secretary of the Interior and the Secretary of Health, Education, and Welfare.

(g) "Working places" means those areas in a single working section which are at any given time inby the last open crosscut;

(h) "Working section" means all areas of the coal mine inby the loading point of the section to and including the working faces;

(i) "Qualified person" means a person who has satisfactorily completed a course in sampling and evaluation of respirable coal mine dust concentrations approved by the Secretary of the Interior with sampling devices approved by the Secretary of the Interior and the Secretary of Health, Education, and Welfare;

(j) "Certified engineer" means an engineer certified or registered by the State in which the coal mine is located to perform duties prescribed by title II of the Act, except that, in a State where no program of certification or registration is provided or where the program does not meet at least minimum Federal standards established by the Secretary of the Interior, such certification or registration shall be by the said Secretary;

(k) "Respirable dust level" means the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of the mine is exposed;

(l) "Engineering survey" means a determination by a certified engineer of the respirable dust levels of the working places of the mine with respect to which an application is filed together with a statement of the applicant's ability to reduce the dust levels therein.

§ 501.3 Filing procedures.

(a) Applicants shall file an application on ICP Form 1 for each mine which shall include a Statement of Working Section Information on ICP Form 1(a) for the working places in each section for which a permit is requested. Except as provided in § 501.4(d), one copy of each form shall be filed on or before May 1, 1970, with the Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006, in the form and content prescribed in § 501.4.

(b) The original of each ICP Form 1 shall be signed by the applicant and the original of each ICP Form 1(a) shall be signed by the applicant and by the certified engineer responsible for the engineering survey.

(c) At the time an application is mailed or delivered to the panel, the applicant shall post on the mine bulletin board a notice that such application has been filed and that the application and all related ICP Forms 1(a) are available at the mine office for inspection by any interested person during usual working hours. In addition, the applicant shall furnish a copy of the application to the union or other representative of the miners of the mine to which such application applies.

(d) A copy of each application and all related ICP Forms 1(a) received by the panel will be available at the office of the panel in Washington, D.C., for inspection by any person during usual working hours.

(e) Application forms may be obtained from Coal Mine Safety Offices of the U.S. Bureau of Mines or from the Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

§ 501.4 Contents of applications for permits.

(a) Each application for a permit (ICP Form 1) shall contain the name and address of the mine and the operator thereof and a list of working sections with respect to which such permit is requested, including any working section for which an ICP Form 1(a) can be completed on or before June 30, 1970.

(b) Each Statement of Working Section information (ICP Form 1(a)) shall contain a representation by the applicant and the certified engineer conducting the engineering survey as defined in § 501.2 (l) that the applicant is unable to comply with the respirable dust standard in those working places within each working section identified in the application:

(1) Because technology for reducing the respirable dust level at such places is not available; or

(2) Because of the lack or other effective control techniques or methods; or,

(3) Because of any combination of such reasons.

The representation shall be accompanied by an explanation of the reasons therefor.

(c) Each statement of working section information shall include the following:

(1) Identification of each working section in which are located the working places for which a permit is requested;

(2) The number of men regularly employed on each production shift and the usual number of production shifts per day;

(3) The type and method of mining, including haulage;

(4) The results of an engineering survey as defined in § 501.2 (l). The determination of respirable dust levels included in such a survey shall be made in accordance with the procedures set forth in this subparagraph (4).

(i) All measurements of respirable dust levels shall be conducted by a qualified person using an MRE instrument or other dust sampling device approved by the Secretary of the Interior and the Secretary of Health, Education, and Welfare in accordance with the provisions of Part 74 of this title.

(ii) One sample of respirable dust shall be taken in each working section on the same production shift on each of 5 consecutive working days at the following locations:

(*a*) Where conventional mining methods are employed, the sample shall be taken on the cutting machine operator or on the cutting machine within 36 inches by the operator's normal working position;

(*b*) Where continuous mining methods are employed, the sample shall be taken on the continuous miner operator or on the continuous miner within 36 inches by the operator's normal working position;

(*c*) Where long wall mining methods are employed, samples shall be taken on the miner who works nearest the return air side of the long wall face or on the return-air side of the long wall face no farther than 48 inches from the corner;

(*d*) Where hand loading methods are employed, samples shall be taken on 10 percent of the hand loaders, but in no case less than one hand loader, or at a site which represents the average concentration of respirable dust to which all hand loaders are exposed;

(*e*) Where two or more mechanized mining operations are engaged in the production of coal in a single working section, each such mechanized mining operation shall be considered a separate working section. Samples of respirable dust shall be taken from each such mechanized mining operation in accordance with the provisions of this subparagraph.

(*f*) A sixth sample shall be taken in the intake air of each working section at a location within 200 outby the working faces of the section within one working day of the completion of the sampling cycle required in this subparagraph.

(iii) Each sample of respirable dust taken in accordance with the provisions of subdivision (ii) of this subparagraph shall be weighed and the results found shall be converted and reported in accordance with the methods set forth in (*a*) and (*b*) of this subdivision.

(*a*) Approved sampling devices shall be operated at a flow rate of 2.0 liters of air per minute and the MRE instrument shall be operated at a flow rate of 2.5 liters of air per minute.

(*b*) The respirable dust level shall be determined by dividing the weight in milligrams of dust collected on the filter during a full production shift by the volume of air in cubic meters passing through the filter. To convert a concentration of respirable dust as measured with an approved sampling device to an equivalent concentration of respirable dust as measured with an MRE instrument, the concentration measured by the approved sampling device shall be multiplied by a constant factor of 1.6 and the product shall constitute the equivalent concentration as measured with an MRE instrument.

(5) A description of the ventilation system of the working section and its capacity;

(6) The quantity and velocity of air regularly reaching the working faces;

(7) The amount and pressure of water, if any, reaching the working faces;

(8) The number, location and type of sprays, if any;

(9) A description of any action taken to reduce the respirable dust level;

(10) A description by the applicant and the certified engineer who conducted the engineering survey under subparagraph (4) of this paragraph of the means and methods to be employed to achieve compliance with the respirable dust standard, the progress made to date, and an estimate of the date when compliance can be achieved.

(d) Where an applicant is unable to comply with all of the requirements set forth in this section with respect to any working place for which a permit for noncompliance has been requested, he shall specifically state the reasons for his failure to comply and indicate the date on which he expects to meet such requirements and complete his application.

(e) All applications timely filed in accordance with the provisions of this part shall be considered by the panel in the order in which completed applications are received and the panel shall make its determination on the basis of the evidence of record. Each applicant shall, however, upon written request by the panel, submit such additional evidence as the panel deems necessary to its determination, including, but not limited to, evidence in support of representations made under the provision of paragraph (b) of this section or evidence in support of claims that the survey required under the provisions of paragraph (c)(4) of this section cannot be completed on or before May 1, 1970.

§ 501.5 Issuance of initial permits.

(a) The panel will issue initial permits for working places within working sections based upon applications which are timely filed and complete in all material respects in accordance with §§ 501.3 and 501.4.

(b) No initial permit will be issued for working places in a working section that is not in existence on June 30, 1970.

(c) Each initial permit will be issued for the period specified by the panel but in no case for more than 1 year. Each permit will specify the average concentration of respirable dust which the applicant will be entitled to maintain, but in no case shall the level be greater than 4.5 mg/m^3.

(d) If a permit is issued, such permit will be forwarded to the applicant. If a permit is denied, the panel will advise the applicant in writing of the reasons therefor and give the applicant an opportunity for a public hearing.

(e) A copy of every permit for noncompliance shall be posted by the applicant in the manner and place prescribed by section 107(a) of the Act.

(f) No initial permit or renewal thereof shall be valid beyond June 30, 1971, or the date on which section 202(b)(1) is superseded by improved mandatory health standards, whichever first occurs.

§ 501.6 Applications for renewal permits.

(a) To be considered by the panel, every application for a renewal permit must be:

(1) Filed with the panel not more than 90 days, nor less than 30 days prior to the expiration date of a permit;

(2) Submitted on the forms and in the manner prescribed in §§ 501.3 and 501.4.

(b) When an application for a renewal of a permit for noncompliance is received, the panel shall cause to be published in the FEDERAL REGISTER a notice giving any interested person an opportunity to file with the panel a request for a public hearing.

(c) On or before the 15th day after publication of notice in the FEDERAL REGISTER that an application for renewal has been accepted for consideration, any interested person may file a request with the panel for a public hearing.

(d) Requests for hearing shall be submitted in triplicate to the panel, shall be in writing, and signed by the person making the request.

(e) A request for hearing shall be accepted only if:

(1) It states the interest in the application of the person making the request;

(2) It alleges specific facts which raise a substantial issue and, if established at the hearing, would result in the denial or modification of the permit.

(f) If the request for hearing is denied, the panel shall inform the person making the request in writing of the reasons therefor.

(g) If the request for hearing is granted, the panel shall publish in the FEDERAL REGISTER a notice of hearing which sets forth the date, time and place of such hearing. Notice of such hearing will be mailed to the person requesting the hearing. Notice of hearing will also be mailed to the applicant at his last known address together with a copy of the request for hearing.

(h) After public hearing, or if no hearing has been requested pursuant to paragraph (c) of this section, the panel shall make its determination.

§ 501.7 Request for hearing on renewal permit by applicant.

(a) Where the panel has not received a timely and sufficient request for hearing by an interested person and has reason to believe that it will deny a renewal permit on the basis of the evidence of record, it will, prior to the denial of such permit, give notice in writing, to the applicant, of its intention to deny the permit, the reasons therefor, and an opportunity to request a public hearing.

(b) On or before the 15th day after such notice, the applicant may file a request with the panel for a public hearing.

(c) Requests for hearing shall be submitted in triplicate to the panel, shall be in writing, and signed by the applicant.

(d) A request for hearing shall be accepted only if it contains allegations which, if established, would result in the issuance of the renewal permit at a respirable dust level greater than that shown in the application to be possible.

[F.R. Doc. 70-3980; Filed, Mar. 30, 1970; 10:23 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Federal Water Pollution Control Administration

[18 CFR Part 601]

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Notice of Proposed Rule Making

Notice is hereby given that the Secretary of the Interior pursuant to the authority in sec. 6, 70 Stat. 502, as amended; 33 U.S.C. 466e, proposes to amend Subpart B of Part 601 by adding five new sections to that subpart, and by amending one of the sections in that subpart.

The proposed amendments are intended to provide greater assurance that treatment works for which Federal financial assistance is provided under this subpart will more effectively enhance and improve the quality of the water into which such treatment works will discharge. To achieve this greater assurance, the Commissioner proposes to require: That treatment works be included in a basin-wide plan for pollution abatement; that the treatment works be included in a metropolitan or regional plan for pollution abatement; and that the treatment works be operated in conformance with requirements relating to the treatment of industrial waste; and that such treatment works be designed and periodically inspected so as to achieve efficiency, economy, and effectiveness.

Interested persons may submit, in triplicate, written data, views or arguments in regard to the proposed regulations to the Secretary of the Interior, Washington, D.C. 20240. All relevant material received not later than 45 days after publication of this notice will be considered.

Subpart B would be amended by adding the following new sections, as follows:

§ 601.32 Basin control.

(a) No grant shall be made unless the Commissioner determines, based on information the State, or where appropriate, the interstate agency, for the areas within their respective jurisdictions, furnishes to him pursuant to paragraph (b) of this section that a project is included in an effective basin-wide program for pollution abatement.

(b) In reaching such determination, the Commissioner may require information in such manner as he prescribes concerning the total basin program, or portion thereof, as he deems adequate to evaluate the effectiveness of the project. Such information shall be furnished within 1 year of the date of the Commissioner's request for such information. The Commissioner may extend this period for proper cause. For this purpose, the affected river basin waters shall be deemed not to include any waters outside the State in which the project is located but shall include waters in another State if an interstate agency has jurisdiction of the additional affected basin waters.

(1) *Sources of pollution.* An identification list of all significant waste discharges; municipal, industrial, agricultural and others.

(2) *Volume of discharge.* The average daily volume of discharge produced by each waste discharger. Cooling water, or cooling water which is contaminated by industrial waste or sewage shall be reported separately. Storm water and runoff and mixed storm water and sewage shall be identified and reported separately.

(3) *Character of effluent.* The major characteristics of each such waste discharge together with a measurement of their relative strength or concentrations, including but not limited to:

BOD 5	mg/l.
Color	Platinum cobalt scale.
Turbidity	Jackson candle scale.
Solids	mg/l.
Toxic substances	----------
Metal Ions	mg/l.
Fluorides	mg/l.
Dissolved substances	ppm.
Temperature	C.
pH	----------
Radioactivity	Cc/l.
Chlorides	mg/l.
Nutrients	mg/l.

(4) *Present treatment.* A brief description of the type of treatment being given by each discharger, together with a statement of the degree of treatment currently being achieved.

(5) *Water quality effect.* A brief description of the effect of discharges and abatement practices upon the quality of the water in the basin, and the anticipated effectiveness of the proposed project in improving the quality of the water.

(6) *Detailed abatement program.* Identify all waste discharges for which present treatment is less than required by standards, or which will degrade water quality below standards. For each such discharger so identified, furnish an abatement schedule containing the following:

(i) Level of treatment to be required expressed in percentage of reduction of BOD and any other significant parameters required pursuant to applicable Federal, State, and interstate laws, regulations and orders.

(ii) Volume of flow for which waste treatment facilities will be designed.

(iii) Estimated completion dates for preliminary plans, for final design, for construction, and for operation of waste treatment facilities.

(iv) Estimated cost of design and construction if available.

(c) If the proposed project is not included in an effective basin-wide program for pollution abatement, and the Commissioner determines that such project will nevertheless effectively contribute to the improvement of the quality of the water in the basin, he may waive the limitation of paragraph (a) of this section. In making his determination the Commissioner may require all or a part of the information identified in paragraph (b) of this section.

(d) The Commissioner's discretion in determining the desirability of any project shall not be limited by any provision of any basin-wide abatement program pursuant to this section.

§ 601.33 Regional and metropolitan plan.

(a) A grant for a project shall not be made unless the Commissioner determines that such project is included in an effective metropolitan or regional plan developed or in the process of development, and certified by the Governor as being the official pollution abatement plan developed or in the process of development for the metropolitan area or region within which the project is proposed to be constructed.

(b) In reaching such determination the Commissioner shall consider whether such plan adequately takes into account: anticipated growth of population and economic activity with reference to time and location; present and future use and value of the waters within the planning area for water supplies, propagation of fish and wildlife, recreational purposes, agricultural, industrial and other legitimate uses; adequacy of the waste collection systems in the planning area with reference to operation, maintenance and expansion of such systems; combination or integration of waste treatment facilities into a waste treatment system so as to achieve efficiency and economy of such treatment; practicality and feasibility of treating domestic and industrial waste in a combined waste treatment facility or integrated waste treatment system; need for and capacity to deal with waste from sewers which carry storm water or both storm water and sewage or other wastes; waste discharges presently in, or anticipated for the planning area; effect of the proposed waste treatment facility upon the quality of the water within the planning area with reference to other waste discharges and to applicable water quality standards.

(c) If the proposed project is not included in an effective metropolitan or regional plan for pollution abatement, and the Commissioner determines that such project will nevertheless effectively contribute to the improvement of the quality of the water in the metropolitan

area or region, he may waive the limitation of paragraph (a) of this section. In making his determination the Commissioner may require all or a part of the information identified in paragraph (b) of this section.

(d) The Commissioner's discretion in determining the desirability of any project shall not be limited by any provision of any metropolitan or regional plan pursuant to this section.

§ 601.34 Industrial waste treatment.

(a) No grant shall be made for any project if such project is included in a waste treatment system, determined by the Commissioner to be intended to treat industrial waste, rather than the wastes of the entire community, metropolitan area, or region concerned. For purposes of this section "waste treatment system" means one or more treatment works which provide integrated waste disposal for a community, metropolitan area or region.

(b) If industrial waste is to be included in the waste treated by the proposed project, the applicant shall assure the Commissioner that such applicant will require pretreatment of industrial waste, which would if untreated be detrimental to the treatment works or its proper and efficient operation and maintenance, or will otherwise prevent the entry of such waste into the treatment plant.

(c) Where industrial wastes are to be treated by the proposed project the applicant shall assure the Commissioner that it has, or will have in effect when the project will be operated, an equitable system of cost recovery. Such system of cost recovery may include user charges, connection fees or such other techniques as may be available under State and local law. Such system shall provide for an equitable assessment of costs whereby such assessments upon dischargers of industrial wastes correspond to the cost of the waste treatment, taking into account the volume and strength of the industrial, domestic, commercial wastes and all other waste discharges treated, and techniques of treatment required. Such cost recovery system shall produce revenues, in proportion to the percentage of industrial wastes, proportionately, relative to the total waste load to be treated by the project, for the operation and maintenance of the treatment works, for the amortization of the applicant's indebtedness for the cost of such treatment works, and for such additional costs as may be necessary to assure adequate waste treatment on a continuing basis. For purposes of this section "industrial waste" shall mean the waste discharges (other than domestic sewage) of industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category "Division D—Manufacturing," and such other wastes as the Commissioner deems appropriate for purposes of this section.

§ 601.35 Inspections.

No grant shall be made for any project unless the applicant assures the Commissioner that the State Water Pollution Control Agency will inspect the treatment works not less frequently than annually for the 3 years after such treatment works are constructed and periodically thereafter to determine whether such treatment works are operated and maintained in an efficient, economic and effective manner, and in accordance with such requirements as the Commissioner from time to time may publish concerning methods, techniques and practices for economic, efficient and effective operation and maintenance of treatment works.

§ 601.36 Design.

No grant shall be made for any project unless the Commissioner determines that the proposed treatment works are designed so as to achieve economy, efficiency and effectiveness in improving the quality of the water into which such treatment works will discharge; and that the applicant will meet such requirements as the Commissioner may publish from time to time concerning treatment works design so as to achieve efficiency, economy and effectiveness in waste treatment.

§ 601.25 [Amended]

Subpart B would be further amended by adding to subsection (c) of § 601.25 a new subparagraph (3) as follows:

(3) Such project is included in a basin-wide program for pollution control in accordance with § 601.32, and such project is included in a metropolitan or regional plan for pollution abatement in accordance with § 601.33 of this Subpart.

Subpart B would be further amended by renumbering the existing subparagraph (3) of § 601.25(c) as subparagraph (4); and by changing the reference to subparagraph (3) in the proviso following such subparagraph (3) to subparagraph (4).

Dated: March 24, 1970.

WALTER J. HICKEL,
Secretary of the Interior.

[F.R. Doc. 70-3812; Filed, Mar. 30, 1970; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 14, 121]

[Docket No. FDC-78]

COCOA PRODUCTS

Notice of Hearing Regarding Standard of Identity and Food Additive Regulations for Cocoa With Dioctyl Sodium Sulfosuccinate for Manufacturing

In the matter of (1) establishing a standard of identity for cocoa with dioctyl sodium sulfosuccinate for manufacturing to be designated as § 14.14; (2) amending § 121.1137, the food additive regulation concerning dioctyl sodium sulfosuccinate, to provide for a new paragraph (e); and (3) establishing a food additive regulation for cocoa with dioctyl sodium sulfosuccinate for manufacturing designated as § 121.1229.

Notices were published in the FEDERAL REGISTER of December 24, 1968 (33 F.R. 19197–98 and 19203) setting forth proposals of American Cyanamid Co., Pearl River, N.Y. 10965, (1) to establish a proposed standard of identity for cocoa with dioctyl sodium sulfosuccinate for manufacturing, (2) to amend the food additive regulation concerning dioctyl sodium sulfosuccinate to provide for its safe use as a dispersing agent in cocoa, and (3) proposing a new food additive regulation to provide for the safe use of the new additive cocoa with dioctyl sodium sulfosuccinate for manufacturing.

In response to the notice, comments were received and considered. On July 23, 1969, orders were published in the FEDERAL REGISTER (34 F.R. 12177 and 12178) establishing a new § 14.14, amending § 121.1137, establishing a new § 121.1229, and giving persons adversely affected 30 days to present written objections and request a hearing.

Pursuant to sections 409(f) and 701(e) of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1055, as amended 70 Stat. 919, 72 Stat. 1787; 21 U.S.C. 348(f), 371(e)), objections to the orders were filed by the Chocolate Manufacturers Association.

A notice was published on December 3, 1969 (34 F.R. 19142), noting the objections but finding only one to state reasonable grounds for a hearing: Whether dioctyl sodium sulfosuccinate would accomplish its intended effect to rapidly disperse cocoa in dry beverage bases when mixed with water or milk. The order was stayed pending a public hearing.

Now, therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 409, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 72 Stat. 1785 et seq.; 21 U.S.C. 341, 348, 371) and in accordance with the authority delegated to him by the Secretary (21 CFR 2.120), the Commissioner of Food and Drugs hereby announces that a public hearing will be held for the purpose of receiving evidence relevant and material to the issue set forth above.

The hearing will begin at 10 a.m. on May 4, 1970, in Room 3A-GH, Parklawn Building, 5600 Fishers Lane, Rockville, Md. All interested persons are invited to attend the hearing and present evidence. A prehearing conference for the exchange of documentary evidence, scheduling of witnesses, and such other matters as may aid in disposition of the hearing will be held in Room 3A-GH, Parklawn Building, 5600 Fishers Lane, Rockville, Md., beginning at 10 a.m. on April 27, 1970. The hearing will be conducted in accordance with the rules of

practice therefor. Mr. William E. Brennan is hereby designated as presiding officer to conduct the hearing in accordance with the provisions of 21 CFR Part 2 et seq. and 21 CFR 121.58–121.71. All those intending to appear shall submit a written notice of appearance to the presiding officer, Department of Health, Education, and Welfare, Room 5B–46, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20852, by April 15, 1970. The presiding officer is required to certify the entire record of the proceeding to the Commissioner of Food and Drugs.

Dated: March 25, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–3811; Filed, Mar. 30, 1970; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 70–26]

DRAWBRIDGE OPERATION

Notice of Proposed Rule Making

1. Notice is hereby given that the Commandant, U.S. Coast Guard under authority of section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2) and 49 CFR 1.4(a)(3)(v) is considering a request by Western Pacific Railroad Co. and the County of Sacramento, Calif., to revise the special operation regulations for their bridges across the Mokelumne River near Thornton, Calif., and a request from the California Division of Highways and the Southern Pacific Railroad Co. to revise the special operation regulations for their bridges across the Sacramento River at Knights Landing.

2. It is therefore proposed to revise § 117.714(h)(1)(ii) to read as follows:

§ 117.714 San Joaquin River and its tributaries, California.

* * * * *

(h) *Mokelumne River, including North and South Forks.* (1) Mokelumne River. * * *

(ii) Drawbridge above New Hope Landing. The draws of these bridges need not be opened for the passage of navigation.

* * * * *

3. It is further proposed to revise § 117.716(a)(3)(iii) to read as follows:

§ 117.716 Sacramento River and its tributaries, California.

(a) *Sacramento River.* * * *

(3) * * *

(iii) At least 12 hours' advance notice is required.

* * * * *

4. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before April 30, 1970. All submissions should be made in writing to the Commander, 12th Coast Guard District, 630 Sansome Street, San Francisco, Calif. 94126.

5. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address, and firm or organization, if any, of the person making the submission.

6. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, 12th Coast Guard District, 630 Sansome Street, San Francisco, Calif. 94126.

7. After the time set for the submission of comments by the interested parties, the Commander, 12th Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: March 24, 1970.

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

[F.R. Doc. 70–3874; Filed, Mar. 30, 1970; 8:52 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 298]

[Docket No. 22047; EDR–177]

CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Liability Insurance Requirements

MARCH 26, 1970.

Notice is hereby given that the Civil Aeronautics Board has under consideration an amendment to Part 298 of the economic regulations (14 CFR Part 298) to modify certain of the provisions relating to the requirement that Board-regulated air taxi operators carry liability insurance.

The principal features of the proposed amendments are described in the explanatory statement below and the proposed amendments are set forth in the proposed rule below. The amendments are proposed under the authority of sections 204(a) and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771; 49 U.S.C. 1324 and 1386.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before April 30, 1970, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

By ER–548, adopted November 29, 1968, and made effective March 7, 1969, 33 F.R. 18231, the Board imposed liability insurance requirements on all air taxi operators. In the course of administering these provisions, it has become apparent that considerable difficulties are being experienced by air taxi operators and insurers in attempting to comply with these requirements. The Board has now reconsidered the matter and herein proposes to make the following modifications in the insurance requirements of Part 298.

1. *"Open-end" coverage.* The present regulation, with specified exceptions, requires in effect that the insurance policy must cover all operations of air taxi operators in air transportation, not merely those of particular aircraft enumerated in the policy. The insurance company may fix premiums on the basis of what is represented to it by the air taxi operator as to the aircraft operated, but the insurance company may in fact be exposed to greater risk by reason of the operator's substitution of aircraft, its borrowing of aircraft or its use of after-acquired aircraft.

Some insurance companies assert that they are not authorized to write "open-end" insurance policies for air taxi operators; others, that even if they had such authority, the premiums for such policies would be excessive for this class of air carrier, the great majority of which are relatively small operators.

It is believed that air taxi operators have an incentive to maintain adequate insurance coverage on aircraft flown in air transportation and not to use uninsured aircraft. Measuring the additional actual protection offered the public by "open-end" insurance against the substantial additional premiums involved, and the extreme resistance of the insurance companies to the underwriting of such insurance, the Board tentatively concludes that the apparently small risk of uninsured accidents does not warrant the substantial burden which "open-end" insurance imposes on the vast majority of air taxi operators, and ultimately, on the traveling and shipping public.

Therefore we propose to modify the open-end requirement by authorizing the limitation of insurance coverage to specific aircraft declared in the policy of insurance. We shall, however, require

that the insurer cover substitute aircraft not owned by the insured when the use thereof is necessary by reason of the breakdown, repair, servicing, loss or destruction of aircraft declared in the policy. This is a common provision in air taxi policies, and would provide protection against failure of the air taxi operator to obtain specific coverage of aircraft operated on a short-term basis.

The rule would, of course, continue to to prohibit an air taxi operator's use in air transportation of aircraft for which there is not the prescribed amount of insurance.

2. *Combined single limit coverage.* The present rule requires certain minimum amounts of liability insurance for several categories of prescribed risks. Thus, with respect to bodily injury to or death of aircraft passengers, an air taxi operator must carry at least $75,000 for any one passenger and, for each occurrence in any one aircraft, at least an amount equal to the sum produced by multiplying $75,000 by 75 percent of the total number of passenger seats intalled in the aircraft. With respect to liability for bodily injury to or death of persons who are not passengers, an air taxi operator must maintain a limit of at least $75,000 for any one person in any one occurrence, and a limit of at least $300,000 for each occurrence. And with respect to liability for loss of or damage to property, a limit of at least $100,000 for each occurrence.

The insurance companies and a number of air taxi operators request authority to use a single limit type of coverage rather than the split limits of the existing rule described above requiring a breakdown of liability limits for certain types of coverage, i.e., bodily injury to passengers, bodily injury to nonpassengers and property damage. They assert that the single limit type of policy—for example, a single limit of $1 million—provides more flexibility and greater protection to the insured since the entire proceeds of the policy could be used to pay a single type of claim, e.g., bodily injury to passengers. Under the split limits type of policy, recovery for claims based on bodily injury to passengers would be limited to the amount of insurance prescribed in the policy for this category of claims, i.e., a limit of $75,000 to each person and, for each occurrence, a limit of $75,000 times 75 percent of the number of seats on the aircraft. As is customary with single limit policies, the minimum amount of single limit coverage, they contend, should be an amount equal to the combined minimums prescribed in the rule for the various categories of split limits coverage, i.e., bodily injury to passengers, bodily injury to nonpassengers and property damage.[1]

During the pendency of the rule making proceeding which resulted in adoption of the original insurance requirements and which were made effective March 7, 1969, the issue of single limit coverage was not seriously raised, apparently because the insurance companies believed that it would be allowed in the final rule. However, it appears that aviation insurance policies typically provide for single limit coverage and that a substantial number of the certificates of insurance currently on file with the Board under Part 298 are based upon insurance policies which provide for this type of coverage.

We propose to authorize combined single limit coverage as an alternative to split limits coverage under the existing rule, provided that the amount of the single limit is at least equal to the combined required minimums of coverage for the various types of split limits coverage specified in the regulation.

3. *Geographic exclusions.* The present rule requires that each insurance policy shall provide for geographic coverage with respect to, at a minimum, operations (1) in the 48 contiguous States, the District of Columbia, Canada and Mexico; (2) between points in Puerto Rico and the Virgin Islands; (3) between points within the States of Hawaii and Alaska; and (4) between points in Alaska and Canada. All of the above areas must be covered in each policy in addition to any other areas served by the air taxi operator. Many insurance companies object to this provision as providing too broad a geographic coverage. Some claim that they cannot write insurance coverage for all of the areas named; others, that to extend coverage to Alaska, for example, would require higher premiums for all air taxi operators.

It is true that, under the present regulation, a purely domestic air taxi operator operating, for instance, only in the Midwest, must have insurance coverage in many geographic areas which are far removed from its base of operations. While a broad geographic coverage was not objected to when the regulation was being promulgated, it now appears that such a broad coverage increases the cost of insurance for all air taxi operators.[2]

We propose to modify the geographic coverage by making it coterminous with the area of operations applicable to each air taxi operator as prescribed in its Operations Specifications issued by the Federal Aviation Administration (FAA) in conjunction with its issuance of an air taxi/commercial operators (ATCO) certificate. Typical of such operating areas are "Alaska," "Hawaii," "Continental United States and Canada" or "Continental United States excluding Alaska." Most FAA Operations Specifications contain an "area of operations" which covers at least the 48 contiguous States. The proposed rule contains one exception: If the area of operations in the Operations Specifications includes one or more of the 48 contiguous States, all 48 contiguous States must be included insofar as the insurance coverage under Part 298 is concerned. This requirement is necessary because otherwise there would be substantial risk that an air taxi operator with a very limited "area of operations," e.g., the States of Washington and Idaho, would in fact operate in an area beyond its insurance coverage and engage in air transportation without insurance protection for the public.

4. *Miscellaneous amendments.* We shall also propose a number of miscellaneous amendments, most of which are editorial in nature and affect the form for registration or the certificate of insurance form. They include the following: (1) Establish a uniform annual date for reregistration of air taxi operators or commuter air carriers, i.e., July 1st; (2) add the address of the broker to the certificate of insurance form; (3) modify the title of the registration form; (4) modify item 1 of the registration form to require the name in which FAA's ATCO is issued; (5) modify item 2 of the registration form to require the name in which the insurance policy is written;[3] (6) modify item 7 of the registration form by deleting any reference to past performance of scheduled service by an air taxi operator or commuter air carrier; and (7) modify item 8 of the registration form so as to provide information with respect to the carriage of passengers and cargo as well as mail. We shall attach to this notice a registration form (CAB 298–A), a Certificate of Insurance form (CAB 257) and a Standard Endorsement form (CAB 262), embodying the above proposals, and those hereinafter provided.

Finally, we propose to modify the provision which prohibits the cancellation of an insurance policy until after the expiration of a period of time after written notice of intent to cancel is received by the Board (§ 298.45). Thus, we shall make it clear that this provision applies only to cancellations by the insurer, not by the insured. The effect of the literal language of the present rule is to require an air taxi operator to carry insurance on aircraft after it has ceased operations as an air taxi operator under Part 298. However, we propose to require insurers, in the event of cancellation of a policy by an insured, to notify the Board within 5 days after receipt of notice of such cancellation.

We anticipate that the final rule will be made effective July 1, 1970, which is the date for reregistration for most air taxi operators and commuter air carriers under the present rule.

PROPOSED RULE

It is proposed to amend Part 298 of the economic regulations (14 CFR Part 298) as follows:

1. Amend § 298.41 (a) and (b) and add paragraph (e) to read as follows:

§ 298.41 Basic requirements.

(a) Each air taxi operator engaging in air transportation shall maintain in effect liability insurance coverage which complies with the requirements of this

[1] A single limit type of insurance policy is authorized by the U.S. Air Force in connection with the use of an Air Force facility or installation by private owners of aircraft. See par. 12, AFR 55–20; AF Form 203, June 1966, Certificate of Insurance.

[2] The insurance companies maintain that they cannot write such a policy except at higher insurance premiums.

[3] The item "trade name" in the present registration form would be deleted.

subpart and which is evidenced by a currently effective policy of insurance, with an attached standard endorsement, available for inspection by the Board and the public at its principal place of business. No air taxi operator shall operate in air transportation or perform services in air transportation unless it carries liability insurance which complies with this subpart.

(b) "Certificate of insurance," as used herein, means one or more certificates, evidencing the following: Issuance by one or more insurers of one or more currently effective policies of aircraft liability insurance in compliance with this subpart and properly endorsed, which alone or in combination provide the minimum coverage prescribed in § 298.42. When more than one insurer is involved in providing the minimum coverage prescribed herein, the limits and types of liability assumed by each insurer shall be clearly stated in the certificate of insurance. The certificate of insurance shall also state whether the policy of insurance provides coverage for liability for bodily injury to, or death of, aircraft passengers. In addition, the certificate of insurance shall list the aircraft, by Federal Aviation Administration (FAA) registration number, with respect to which the policy of insurance applies and shall set forth the area or areas of operation as found in the operations specifications issued by the FAA in conjunction with the applicable ATCO certificate: *Provided, however,* That if one or more of the 48 contiguous States is listed in such Operations Specifications, then all 48 contiguous States must be included in the coverage of insurance. Each certificate of insurance, and each endorsement limiting the permitted exclusions, shall be signed in ink by an authorized officer or agent of the insurer and shall be on forms prescribed and furnished by the Board.[4]

* * * * *

(e) Endorsements that add previously unlisted aircraft to coverage or that delete listed aircraft from coverage shall be filed with the Board not more than five (5) days after the effective date of such endorsement: *Provided, however,* That aircraft shall not be listed in the carrier's operations specifications with the Federal Aviation Administration and shall not be operated unless liability insurance coverage has attached.

2. Amend § 298.42 by adding paragraphs (c) and (d) to read as follows:

§ 298.42 Minimum limits of liability.

* * * * *

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, an air taxi operator may be insured for a single limit of liability for each occurrence. In that event, coverage must be equal to or greater than the combined required minimums for bodily injury, property damage, and/or passenger liability for the type of use to which such aircraft is put, as the case may be.[5]

(d) In the case of a single limit of liability, aircraft may be insured by a combination of primary and excess policies. Such policies must have combined coverage equal to or greater than the required minimums for bodily injury to nonpassengers, property damage, and/or passenger liability for the type of use to which the aircraft is put, as the case may be.

3. Amend § 298.43 by adding paragraph (f) to read as follows:

§ 298.43 Terms and conditions of insurance coverage.

Liability insurance coverage required by this part shall meet the following minimum requirements:

* * * * *

(f) The policy of insurance shall state that, while an aircraft owned by the named insured and declared in the policy is withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction, such insurance as is afforded by the policy with respect to such aircraft shall apply also with respect to another aircraft of similar type, horsepower, and seating capacity, not so owned while temporarily used as the substitute for such aircraft.

4. Amend § 298.44 by deleting and reserving paragraph (b) and modifying paragraphs (g) and (j). As amended § 298.44 (b), (g), and (j) will read as follows:

§ 298.44 Authorized exclusions of liability.

* * * * *

(b) [Reserved]

* * * * *

(g) Any loss arising from operations within any geographic areas other than the following:

(1) Between any points in the "area of operation" as described in the Operations Specifications issued by the FAA in conjunction with its issuance of the applicable ATCO certificate to each air taxi operator: *Provided, however,* That if one or more of the 48 contiguous States is listed in such area of operation, all 48 contiguous States must be included within the coverage of insurance under this subpart; and

(2) Within any other geographic area for which coverage is specified in the policy of insurance;

Provided, further, That a loss caused by mere misadventure in flying over or landing in any geographic area not specified in subparagraph (1) or (2) of this paragraph shall not be excluded;

* * * * *

(j) Any loss arising from the ownership, maintenance, or use of any aircraft not declared to the insurer in accordance with the terms and conditions of this policy other than substitute aircraft as provided in § 298.43(f);

* * * * *

5. Amend § 298.45(a) to read as follows:

§ 298.45 Cancellation, withdrawal, modification, expiration, or replacement of insurance coverage.

(a) Each policy of insurance shall specify that, unless replaced as provided in paragraph (b) of this section, it may not be canceled, withdrawn or modified to reduce the limits of liability, by the insurer, until after 10 days' written notice by the insurer to the Board's Bureau of Operating Rights, Washington, D.C. 20428, which 10-day notice period shall commence to run from the date such notice is actually received by the Board. Each policy shall further provide that, in the event of cancellation of the policy by the insured, the insurer shall, within 5 days after receipt of such notice of cancellation, notify the Board's Bureau of Operating Rights, Washington, D.C. 20428, of this action by the insured. In addition, each policy shall provide that the insurer will notify the Board, 10 days before the expiration date of the policy, unless the policy has been renewed.

* * * * *

6. Amend § 298.50(b) and (c)(1) to read as follows:

§ 298.50 Filing for registration by air taxi operators.

* * * * *

(b) Any person (whether or not he is a commuter air carrier as defined in this part) who commences operations under this part after July 1, 1969, shall, within 30 days after commencing such operations, register with the Board and shall reregister annually thereafter on or before July 1 of each succeeding year.

(c) Registration shall be accomplished by filing the following with the Board's Bureau of Operating Rights, Washington, D.C. 20428:

(1) A "Registration under Part 298 of the economic regulations of the Civil Aeronautics Board" (CAB Form 298–A, revised) executed in duplicate.[6] This form shall be certified by a responsible official of such carrier and shall include the following information: (i) Name in which the FAA certificate is issued; (ii) the carrier's Federal Aviation Administration certificate number and the name in which the insurance policy is issued; (iii) address of its principal place of business and its mailing address; (iv)

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[4] CAB Forms 257 and 262 (revised) are filed as part of the original document and can be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

[5] For example: the minimum single limit of liability acceptable for an aircraft operated as described in paragraph (a) is as follows, assuming that the aircraft has 16 passenger seats exclusive of crew seats. 16 × 0.75 equals 12; 12 × $75,000 equals $900,000; $900,000 plus $300,000 (nonpassenger liability per occurrence), plus $100,000 (property damage per occurrence) equals $1,300,000. The latter is the amount in which a single limit liability policy may be written.

[6] CAB Form 298–A (revised) is filed as part of the original document and can be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

whether the carrier is currently performing at least 5 round trips per week pursuant to published schedules; (v) whether the carrier has currently effective insurance which complies with Subpart D of this part; and (vi) whether the carrier is performing passenger, cargo, and/or mail service.

* * * * *

7. Amend § 298.51 to read as follows:

§ 298.51 **Processing by the Board.**

After examination of an operator's filing under § 298.50, the Board will stamp and return to the carrier the duplicate copy of the CAB Form 298–A filed thereunder. This will serve to confirm that the carrier is registered with the Board in compliance with § 298.50.

8. Amend CAB Form 257 (Certificate of Insurance), CAB Form 262 (Standard Endorsement) and CAB Form 298–A (Registration under Part 298 of the economic regulations of the Civil Aeronautics Board) as attached to this notice.

[F.R. Doc. 70–3912; Filed, Mar. 30, 1970; 8:53 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 25]

[Docket No. 16495; FCC 70–307]

ESTABLISHMENT OF DOMESTIC COMMUNICATION-SATELLITE FACILITIES BY NONGOVERNMENTAL ENTITIES

Notice of Proposed Rule Making

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. On March 2, 1966, the Commission instituted an inquiry in Docket No. 16495 to explore various questions associated with the possible authorization of domestic communications satellite facilities to nongovernmental entities. Notice of Inquiry, 31 F.R. 3507; Supplemental Notice of Inquiry, October 20, 1966, 31 F.R. 13763. In its report and order in Docket No. 16495 adopted on March 20, 1970 (FCC 70–306), the Commission decided to entertain applications for the authorization of domestic systems. In order to facilitate expeditious action on the applications and prompt attainment of the potential benefits of the satellite technology in the domestic field, the Commission further decided to keep open the proceedings in Docket No. 16495 and to incorporate a notice of proposed rule making. The rule making concerns the policies to be followed in the event of technical or economic conflicts between applications (Report and Order, pars. 23–24), the appropriate initial role of A.T. & T. in the domestic satellite field (pars. 25–26), procurement policies (par. 28), and access to earth stations (par. 27).

3. We discussed in general terms some of the possible areas of conflict, stating (par. 24 of the report and order):

> Technical conflicts may arise in such areas as proposed orbital locations and frequency usage. Moreover, in the course of coordinating earth stations with terrestrial systems it may prove impossible in some instances to accommodate earth stations at desired sites without some adjustment in the frequencies and routes of terrestrial systems or other measures to avoid interference. Also, arguments of economic incompatibility may be raised, posing questions as to the proper effectuation of the Commission's responsibility under Section 1 of the Communications Act to exercise its regulatory functions in such a manner as to make communications services "available, so far as possible, to all people of the United States * * *."

It is not practicable to specify now, in advance of the submission of applications, the precise aspects that may require policy determinations by rule. Some potential conflicts may be evident to applicants in the course of preparing applications. Others may not become apparent until all of the initial applications have been filed. The purpose of this notice is to set forth the subject matter and issue to which parties are to focus—namely, the technical or economic conflicts, if any, which exist or may arise between applicants in this area, and what policies are called for in light of any claimed conflicts. In this way, the Commission will be in a position to adopt rules, reflecting its policy determinations, to resolve any such conflicts, if it appears that this procedure would be the one best conducing "to the proper dispatch of business and to the ends of justice" (sec. 4(j) of the Communications Act).

4. Comments are also requested on what initial role of A.T. & T. in the domestic satellite field would be appropriate in order to achieve a market environment conducive to innovation and the vigorous exploration and development of the special communications service potentials of the satellite technology. The discussion of this matter at paragraphs 25–26 of the report and order may be summarized briefly as follows: A question has been raised by the executive branch as to whether A.T. & T. might discourage or foreclose entry by others into its special service markets through a policy of inter-service subsidy. The memorandum of the executive branch recommended that facilities to be used by A.T. & T. for specialized communications services "should be authorized only after a determination by the Commission on each application, based on public evidentiary hearings, that no cross-subsidization between monopoly public message and specialized services would take place in the development, manufacture, installation, or operation of such facilities." There are also the factors of whether innovative planning by A.T. & T. would be inhibited by its existing terrestrial facilities and services, and whether the expansion of the dominant terrestrial carrier into the satellite field at this time would pose a substantial constraining factor for other potential common carrier entrants in deciding whether to develop system proposals, the kinds of systems that will be proposed, and the types of services and markets that can be developed. Applicants and other interested persons are requested to comment on the question of whether the public interest would be better served by authorizing domestic satellite facilities to A.T. & T. without restriction as to the type of service, authorizing facilities limited to public message service, following the procedure recommended by the executive branch, or confining A.T. & T.'s participation, for an initial period, to leasing satellite channels in systems established by others.

5. Comments should also address the proposed policies relating to interconnection and access to earth stations (par. 27 of the report and order), and the question of procurement in the domestic communications satellite field (par. 28).

6. Applicants for domestic communications satellite systems are requested to submit comments on the foregoing matters in conjunction with their applications. As stated in the report and order (par. 30), the Commission will give public notice of a cut-off time for the filing of applications to be considered initially. When such cut-off date is established, the Commission will by further order specify a time for the filing of reply comments by applicants and comments by other interested persons. After consideration of such comments and reply comments, the Commission may request additional comments directed to particular issues.

7. Authority for the proposed rule making instituted herein is contained in sections 1, 2, 3, 4 (i) and (j), 214, 301, 303, 307–309, and 403 of the Communications Act of 1934 and section 102(d) of the Communications Satellite Act of 1962.

8. In reaching its decision in this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this notice. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission.

Adopted: March 20, 1970.

Released: March 24, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70–3840; Filed, Mar. 30, 1970; 8:49 a.m.]

[1] Commissioners Robert E. Lee and Johnson concurring in the result; Commissioner Cox concurring in part and dissenting in part and issuing a statement which is filed as part of the original document of Report and Order (FCC 70–306) issued simultaneously herewith.

Notices

POST OFFICE DEPARTMENT

MAIL EMBARGO

New York Area

On March 18, 1970, the Post Office Department embargoed mail destined to the New York area (35 F.R. 4974). The embargo has subsequently been modified (35 F.R. 5187). The Post Office Department has now issued the following instructions to all Regional Directors:

Effective at 2 p.m. today, March 27, the Postmaster General has lifted the embargo on ZIP-Coded, second-, third-, and fourth-class mail destined to the areas listed below. Acceptance of second-class mail is restricted to current issues.

State	SCF	ZIP Code
New York	New York City	100, 103, 104.
	Westchester	105, 106, 107, 108.
	Suffern	109.
	Long Island Terminal	110, 111, 112, 113, 114.
	Mineola	115, 116.
	Hicksville	117, 118.
	Riverhead	119.

The embargo is lifted on all classes of New York foreign mail.

Also the embargo is lifted on ZIP-Coded second- and third-class mail originating in ZIP Code areas 100–119. Acceptance of second-class mail is restricted to current issues.

(5 U.S.C. 301, 39 U.S.C. 501, 701, 6106, 6107)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 70–3962; Filed, Mar. 30, 1970; 8:54 a.m.]

MAIL EMBARGO

New York Area

On March 30, 1970, the Post Office Department issued the following instructions to all Regional Directors:

The Postmaster General has lifted the embargo on ZIP-Coded fourth-class mail originating in the following areas:

State	SCF	ZIP Code
New York	New York City	100, 103, 104.
	Westchester	105, 106, 107, 108.
	Suffern	109.
	Long Island Terminal	110, 111, 112, 113, 114.
	Mineola	115, 116.
	Hicksville	117, 118.
	Riverhead	119.

This supplements previous announcements on the lifting of embargoes in these areas and permits the mailing of ZIP-Coded mail of all classes originating at or destined for ZIP Codes 100–119.

(5 U.S.C. 301, 39 U.S.C. 501, 701, 6106, 6107)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 70–3989; Filed, Mar. 30, 1970; 11:51 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Bureau Order 701, Amdt. 9]

LANDS AND RESOURCES

Redelegation of Authority

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

1. A new paragraph (z) is added to section 1.9 as follows:

SEC. 1.9 *Land use.* * * *

(z) *Recreation.* All actions relating to recreation management pursuant to 43 CFR Parts 6000–6270.

2. A new paragraph (z) is added to section 3.9 as follows:

SEC. 3.9 *Land use.* * * *

(z) *Recreation.* All actions relating to recreation management pursuant to 43 CFR Parts 6000–6270.

IRVING SENZEL,
Acting Director.

MARCH 25, 1970.

[F.R. Doc. 70–3813; Filed, Mar. 30, 1970; 8:47 a.m.]

ALASKA

Notice of Public Hearing Regarding Management of Public Lands in Wrangell Mountains Area

Notice is hereby given that a public hearing will be held in Anchorage on April 23 and 24, 1970, and in Fairbanks on April 25, 1970, for the purpose of receiving comments and suggestions relating to the management of the public lands in the Wrangell Mountains area of Alaska. The public lands have been classified for retention for multiple-use management. The area is a composite of Class III (natural environment areas), Class IV (outstanding scenic splendor areas), and Class V (primitive areas), under the Bureau of Outdoor Recreation system of classification. It includes areas valuable for a wide variety of natural resources.

The Department of the Interior is ready to prepare management plans for the area. The hearing will provide the Secretary with information and advice from both the public and private sectors to help evaluate fully the public values of the area and the type of administration needed to realize those values.

Maps and information concerning the areas can be secured from State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

Interested individuals, representatives of organizations, and public officials are invited to attend the hearing and submit their comments and views. Those wishing to testify at the hearing are requested to contact the Alaska State Director of the Bureau of Land Management. The Department will accept written testimony for a period of 15 days following the last day of the hearing. This will allow those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony.

The time and place of the hearings will be announced at a later date.

WALTER J. HICKEL,
Secretary of the Interior.

MARCH 27, 1970.

[F.R. Doc. 70–3922; Filed, Mar. 30, 1970; 8:53 a.m.]

[New Mexico 9752]

NEW MEXICO

Notice of Proposed Classification of Public Lands for Multiple Use Management

MARCH 24, 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, it is proposed to classify for multiple-use management the public lands within the area described below. 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 laws. 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 public lands located within the following described areas are shown on a map designated Sabinoso Planning Unit (01–13), on file in the Albuquerque District Office, Bureau of Land Management, 1304 Fourth Street NW., Albuquerque, N. Mex. 87107, and Land Office, Bureau of Land Management, U.S. Post

Office and Federal Building, Santa Fe, N. Mex. 87501.

The overall description of the lands is as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 16 N., R. 22 E.,
Sec. 13, SW¼NW¼, W½SW¼ and E½SE¼;
Sec. 14, SE¼NE¼ and E½SE¼;
Sec. 22, SE¼NE¼ and NE¼SE¼;
Sec. 23, NE¼NE¼, NW¼NW¼, S½N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 24, E½E½, W½NW¼, and NW¼SW¼;
Sec. 25, NE¼, S½NW¼, and NE¼SE¼;
Sec. 26, W½NE¼, SE¼NE¼, and E½NW¼.
T. 16 N., R. 23 E.,
Secs. 3 and 4;
Sec. 5, lots 1, 2, 4, S½NE¼, E½SW¼, and SE¼;
Sec. 6, lots 6, 7, S½NE¼, SE¼NW¼, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 7, NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 8, E½, E½NW¼, and SE¼SW¼;
Sec. 9;
Sec. 10, N½, N½SW¼, SE¼SW¼, NW¼SE¼, and S½SE¼;
Sec. 17, N½, N½S½, and SW¼SW¼;
Sec. 18, lot 1, NE¼NE¼, S½NE¼, NE¼NW¼, SE¼SW¼, and SE¼;
Sec. 19;
Sec. 20, NW¼NW¼, S½NW¼, and S½;
Sec. 28, SW¼NE¼, SE¼NW¼, and S½;
Sec. 29, W½NE¼, NW¼, and S½;
Sec. 30, lots 1, 2, 3, E½, and E½W½;
Sec. 31, NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
Sec. 33, W½E½ and W½.
T. 17 N., R. 23 E.,
Sec. 13, NW¼NE¼, NE¼NW¼, S½NW¼, NE¼SE¼, and S½SE¼;
Sec. 14, SW¼NE¼, S½NW¼, N½S½, and SW¼SW¼;
Sec. 15, SE¼;
Sec. 19, lot 4, SE¼SW¼, and S½SE¼;
Sec. 20, NE¼SE¼ and S½S½;
Sec. 21, SW¼;
Sec. 22, NW¼NE¼, E½NW¼, SW¼NW¼, and S½SE¼;
Sec. 23, S½NE¼, S½SW¼, and SE¼;
Secs. 24, 25, and 26;
Sec. 27, E½, NW¼, and N½SW¼;
Sec. 28, SE¼NE¼, NE¼SE¼, and S½SE¼;
Sec. 29, E½NE¼, NW¼NE¼, and NW¼;
Sec. 30, lots 1, 2, 3, 4, N½NE¼, SE¼NE¼, E½NW¼, and S½SE¼;
Sec. 31, lot 1, SW¼NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 33, NE¼, E½NW¼, SW¼NW¼, and S½;
Sec. 34, NE¼, W½W½, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 35.
T. 17 N., R. 24 E.,
Sec. 17, W½NW¼;
Sec. 18, lots 3, 4, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, NE¼SE¼, and W½SE¼;
Sec. 19, lots 2, 3, 4, SE¼NW¼, and E½SW¼;
Sec. 20, SE¼NE¼, and E½SE¼;
Sec. 21, S½NW¼, and SW¼;
Sec. 28, W½NW¼;
Sec. 29, E½NE¼, SW¼NE¼, S½NW¼, and W½SW¼;
Sec. 30, lots 1, 2, 3, 4, NW¼NE¼, S½NE¼, E½W½, and SE¼;
Sec. 31, lots 1, 2, 3, and E½NW¼.

The areas described aggregate 19,627.78 acres in San Miguel County.

3. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Albuquerque District Manager, 1304 Fourth Street NW., Albuquerque, N. Mex. 87107.

W. J. ANDERSON,
State Director.

[F.R. Doc. 70-3814; Filed, Mar. 30, 1970; 8:47 a.m.]

[OR 4668]

OREGON

Notice of Proposed Classification of Public Lands for Multiple-Use Management

MARCH 23, 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, it is proposed to classify for multiple-use management the public lands within the areas described below. Publication of this notice has the effect of segregating the described lands from appropriation only under the argicultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. sec. 334), and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. 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 a Federal use or purpose.

2. The public lands proposed for classification are located within the following described areas in Grant County and are shown on a map designated "Oregon 4668, 2411.2: 36–020: March 1969, on file in the Burns District Office, Bureau of Land Management, Burns, Oreg., and the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg.

The description of the areas is as follows:

WILLAMETTE MERIDIAN

T. 9 S., R. 26 E.,
Secs. 3 to 11 inclusive, secs. 14, 15, and secs. 17 to 34, inclusive.
T. 10 S., R. 26 E.,
Secs. 3 to 15, inclusive, and secs. 17 to 36, inclusive.
T. 10 S., R. 27 E.,
Sec. 7, secs. 17 to 22, inclusive, and secs. 26 to 34, inclusive.
T. 11 S., R. 26 E.,
Secs. 1 to 15, inclusive, secs. 28, 29, 30, 33, 34, 35, and 36, and secs. 17 to 24, inclusive.
T. 11 S., R. 27 E.,
Secs. 2 to 9, inclusive, sec. 11, secs. 17 to 23, inclusive, secs. 25, 27, 30, 31, 32, 34, and 36.
T. 11 S., R. 28 E.,
Secs. 17, 18, 20, 30, 31, and 32.
T. 12 S., R. 26 E.,
Secs. 2, 3, 4, 5, 6, secs. 9, 11 to 15, inclusive, secs. 21 to 27, inclusive, secs. 30, 32, 33, 34, and 35.
T. 12 S., R. 27 E.,
Sec. 1 to 8, inclusive, secs. 11, 12, 13, 15, 16, 17, 18, 20, 26, 28, 30, and 34.
T. 12 S., R. 28 E.,
Secs. 4 to 9, inclusive, secs. 17 and 18.
T. 13 S., R. 26 E.,
Secs. 3 to 10, inclusive, secs. 13, 14, 15, secs. 17 to 26, inclusive, secs. 28, 29, and 35.
T. 13 S., R. 27 E.,
Secs. 2, 18, 19, 20, and secs. 28 to 32, inclusive.
T. 14 S., R. 26 E.,
Secs. 1, 2, secs. 12 to 15, inclusive, secs. 22, 23, 25, 26, and 35.
T. 14 S., R. 27 E.,
Secs. 5 to 8, inclusive, secs. 17, 19, 20, 21, and secs. 27 to 35, inclusive.
T. 15 S., R. 26 E.,
Secs. 1 and 2, secs. 12 and 13, secs. 22 to 26, inclusive, and sec. 35.
T. 15 S., R. 27 E.,
Secs. 3 and 4, secs. 6 to 9, inclusive, secs. 11 to 15, inclusive, secs. 17 to 20, inclusive, sec. 22, and secs. 27 to 34, inclusive.
T. 15 S., R. 30 E.,
Sec. 33
T. 16 S., R. 26 E.,
Secs. 1 and 12.
T. 16 S., R. 27 E.,
Secs. 3 to 9, inclusive, secs. 17 to 23, inclusive, and secs. 26 to 35, inclusive.
T. 16 S., R. 30 E.,
Sec. 1.
T. 16 S., R. 31 E.,
Sec. 23.
T. 16 S., R. 32 E.,
Secs. 8, 22, 23, and 27.
T. 17 S., R. 26 E.,
Secs. 13, 17, 20, 22, 25, 29, 30, 31, 32, and 35.
T. 17 S., R. 27 E.,
Secs. 1 to 6, inclusive, secs. 8 to 13, inclusive, secs. 15, 17, 18, and secs. 21 to 31, inclusive, secs. 33 and 34.
T. 17 S., R. 28 E.,
Sec. 7, secs. 17 to 20, inclusive, secs. 29, 30, 33, and 35.
T. 17 S., R. 29 E.,
Secs. 6 and 19.
T. 17 S., R. 31 E.,
Secs. 11, 13, 14, 15, 22, 23, 24, 26, and 27.
T. 18 S., R. 26 E.,
Secs. 1, 2, 4, 5, 8, 9, 10, 12, 13, 17, 19, 21, 25, 26, and 28.
T. 18 S., R. 27 E.,
Secs. 1 to 6, inclusive, and secs. 8 to 12, inclusive.
T. 18 S., R. 28 E.,
Secs. 2 to 12, inclusive, secs. 14, 15, 17, secs. 20 to 24, inclusive, secs. 27, 28, and 33.
T. 18 S., R. 29 E.,
Secs. 7, 18, and 19.
T. 18 S., R. 31 E.,
Secs. 4, 5, 12, 13, and 14, secs. 22 to 26, inclusive, and sec. 35.
T. 18 S., R. 32 E.,
Secs. 3 to 9, inclusive, secs. 17 to 22, inclusive, and secs. 27 to 34, inclusive.

The areas described aggregate approximately 130,960 acres of public land.

3. For a period of 60 days from the publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 74 South Alvord Street, Burns, Oreg. 97720.

A public hearing on the proposed classification will be held on May 12, 1970, at 2 p.m. in the Grant County Courthouse, Canyon City, Oreg.

IRVING W. ANDERSON,
Acting State Director.

[F.R. Doc. 70-3815; Filed, Mar. 30, 1970; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

National Highway Safety Bureau

STANDARDS FOR TIRES AND RIMS

Notice of Public Meeting

The meeting to discuss Federal Motor Vehicle Safety Standards for tires and rims for use in multipurpose passenger vehicles, trucks, trailers, buses, and motorcycles scheduled for April 7 and 8, 1970 (35 F.R. 4080–4081), has been rescheduled for June 1 and June 2, 1970. The meeting will begin at 9 a.m. in the Department of Commerce Auditorium, 14th and E Streets NW., Washington, D.C.

Issued: March 25, 1970.

BRADFORD M. CRITTENDEN,
Acting Director,
National Highway Safety Bureau.

[F.R. Doc. 70–3791; Filed, Mar. 30, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

SPECIAL SERVICES FOR DISADVANTAGED AND PHYSICALLY HANDICAPPED STUDENTS

Closing Date for Receipt of Application for Funds

Notice of establishment of closing date for receipt of application for funds under the special services for disadvantaged students in institutions of higher education program.

The Higher Education Act of 1965, Title IV, Part A, section 408, as amended, provides for programs of special services for disadvantaged and physically handicapped students already enrolled or accepted for enrollment at institutions of higher education. Such programs may include, among other things, (A) counseling, tutorial, or other educational services, including special summer programs, to remedy such students' academic deficiencies, (B) career guidance, placement, or other student personnel services to encourage or facilitate such students' continuance or reentrance in higher education programs, or (C) identification, encouragement, and counseling of any such students with a view to their undertaking a program of graduate or professional education.

Notice is hereby given that in order to be assured of consideration for support under the Special Scrvices for Disadvantaged Students Program from funds appropriated for the Fiscal Year 1970, applications must be received no later than April 30, 1970.

Every effort will be made to mail the application forms by March 31, 1970 to the Presidents of all institutions of higher education on the Office of Education mailing list, as well as to faculty and administrators of institutions of higher education who have already indicated an intent to apply for assistance under this program. Such forms as well as further information may be obtained from, and applications are to be filed with, the Talent Search/Special Services Branch, Division of Student Special Services, Bureau of Higher Education, Office of Education, Washington, D.C. 20202.

Dated: March 20, 1970.

PETER P. MUIRHEAD,
Associate Commissioner for Higher Education.

Approved: March 26, 1970.

JAMES E. ALLEN, Jr.
U.S. Commissioner of Education.

[F.R. Doc. 70–3873; Filed, Mar. 30, 1970; 8:52 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT REGIONAL ADMINISTRATOR AND DEPUTY ASSISTANT REGIONAL ADMINISTRATOR FOR HOUSING ASSISTANCE, REGION IV (CHICAGO)

Redelegation of Authority With Respect to College Housing Program

SECTION A. *Authority Redelegated.* The Assistant Regional Administrator for Housing Assistance, and the Deputy Assistant Regional Administrator for Housing Assistance, Region IV (Chicago), each is hereby authorized to exercise the following power and authority of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749–1749c), with respect to the College Housing Program:

1. To execute loan and grant agreements.

2. To execute amendments or modifications of such loan and grant agreements.

3. To execute approvals, consents, amendments, or modifications to bonds, bond resolutions, indentures, notes, mortgages, and other collateral security instruments.

SEC. B. *Revocation.* The redelegation of authority to the Assistant Regional Administrator and Deputy Assistant Regional Administrator for Housing Assistance, Region IV (Chicago), with respect to the College Housing Loan Program, section A, 1, published at 32 F.R. 2826, February 11, 1967, as amended at 32 F.R. 11897, August 17, 1967, is hereby revoked as of the date of publication of this document in the FEDERAL REGISTER.

(Redelegation of authority by Assistant Secretary for Renewal and Housing Assistance to Regional Administrators and Deputy Regional Administrators effective July 1, 1969 (34 F.R. 17041, Oct. 18, 1969))

Effective date. This redelegation of authority shall be effective as of the date of publication in the FEDERAL REGISTER.

FRANCIS D. FISHER,
Regional Administrator, Region IV.

[F.R. Doc. 70–3848; Filed, Mar. 30, 1970; 8:50 a.m.]

ASSISTANT REGIONAL ADMINISTRATOR AND DEPUTY ASSISTANT REGIONAL ADMINISTRATOR FOR HOUSING ASSISTANCE, REGION V (FORT WORTH)

Revocation of Redelegations of Authority With Respect to Rent Supplements for Disadvantaged Persons in Program of Housing for Elderly or Handicapped

The redelegations of authority to the Assistant Regional Administrator for Housing Assistance and the Deputy Assistant Regional Administrator for Housing Assistance, Region V (Fort Worth), with respect to rent supplements for disadvantaged persons in program of housing for elderly or handicapped, effective December 27, 1966, published at 32 F.R. 2793, February 10, 1967, are hereby revoked as of the date of publication of this document in the FEDERAL REGISTER.

LEONARD E. CHURCH,
Acting Regional Administrator, Region V.

[F.R. Doc. 70–3849; Filed, Mar. 30, 1970; 8:50 a.m.]

DIRECTOR, NORTHWEST AREA OFFICE, AT SEATTLE, WASH., REGION VI

Redelegations of Authority With Respect to Historic Preservation Grant Program

SECTION A. *Redelegations of authority.* The Director, Northwest Area Office, at Seattle, Wash., Region VI, is hereby authorized within the entire State of Washington, Oregon, Alaska, and Montana, together with the Northern portion of Idaho, including the counties of Adams, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Shoshone, Valley, and Washington, to exercise the power and authority of the Secretary of Housing and Urban Development described below with respect to the following program, except as specified under section B:

1. Historic Preservation Grant Program under title VII of the Housing Act of 1961, as amended (42 U.S.C. 1500–1500e).

SEC. B. *Authority excepted.* There is excepted from the authority redelegated under section A the power to:

(a) Authorize loans, grants, and advances and to amend or modify the terms thereof.

(b) Provide technical assistance and undertake studies and publish information under section 708 (42 U.S.C. 1500d).

(c) Determine further terms and conditions under section 702(d) (42 U.S.C. 1500a(d)).

(Redelegations of authority by Assistant Secretary for Metropolitan Development effective May 18, 1966 (31 F.R. 7359-7360, May 20, 1966), as amended at 31 F.R. 8969, June 29, 1966; and at 33 F.R. 11099, Aug. 3, 1968)

Effective date. This redelegation of authority is effective as of November 1, 1969.

ROBERT B. PITTS,
Regional Administrator, Region VI.

[F.R. Doc. 70-3850; Filed, Mar. 30, 1970; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20291; Order 70-3-123]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Conditions of Service

Issued under delegated authority March 24, 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 Traffic Conference 1 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been asisgned the above-desginated CAB agreement number.

The agreement amends economy class conditions of service by providing that Cia. Mexicana de Aviacion, S. A. shall be permitted to use Boeing 727 and Comet 4C aircraft having a maximum seat pitch of 36 inches on its routes between the United States, Mexico, and Kingston. This exceeds the maximum seat pitch of 34 inches permitted by the basic terms of the resolution.

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 Resolution 100(Mail 837)060, incorporated in the above-indicated agreement, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That: Action on agreement CAB 21684 be and hereby is deferred with a view toward eventual approval.

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 the 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. 70-3861; Filed, Mar. 30, 1970; 8:51 a.m.]

[Docket No. 20993; Order 70-3-124]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority March 24, 1970.

By Order 70-3-60, dated March 12, 1970, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 70-3-60 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21380, R-24, be and it hereby is approved: *Provided,* That approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-3862; Filed, Mar. 30, 1970; 8:51 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

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 Agriculture to fill by noncareer executive assignment in the excepted service the position of Assistant Deputy Administrator for International Trade, Foreign Agricultural Service.

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

[F.R. Doc. 70-3835; Filed, Mar. 30, 1970; 8:49 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 "Assistant Administrator for International Trade" to "Deputy Administrator for International Trade".

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

[F.R. Doc. 70-3836; Filed, Mar. 30, 1970; 8:49 a.m.]

DEPARTMENT OF THE ARMY

Notice of Grant of Authority To Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Army to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Personnel Policies and Programs, Office of the Assistant Secretary (Manpower and Reserve Affairs).

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

[F.R. Doc. 70-3869; Filed, Mar. 30, 1970; 8:51 a.m.]

DEPARTMENT OF THE ARMY

Notice of Grant of Authority To Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Army to fill by noncareer executive assignment in the excepted service the position of Deputy for Reserve Affairs and Personnel Practices, Office of the Assistant Secretary (Manpower and Reserve Affairs).

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

[F.R. Doc. 70-3871; Filed, Mar. 30, 1970; 8:51 a.m.]

DEPARTMENT OF THE ARMY

Notice of Revocation of Authority To Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Army to fill by noncareer executive assignment in the excepted service the position of Assistant

to the Deputy Under Secretary of the Army (International Affairs).

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

[F.R. Doc. 70-3870; Filed, Mar. 30, 1970; 8:51 a.m.]

DEPARTMENT OF THE ARMY

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 of the Department of the Army to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary of the Army for Personnel Management and Training.

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

[F.R. Doc. 70-3872; Filed, Mar. 30, 1970; 8:51 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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 Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary (Dental Affairs), Office of the Assistant Secretary for Health and Scientific Affairs.

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

[F.R. Doc. 70-3838; Filed, Mar. 30, 1970; 8:49 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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 Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Executive Vice President, Government National Mortgage Association.

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

[F.R. Doc. 70-3868; Filed, Mar. 30, 1970; 8:51 a.m.]

DEPARTMENT OF THE INTERIOR

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 the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Bureau of Commercial Fisheries.

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

[F.R. Doc. 70-3834; Filed, Mar. 30, 1970; 8:49 a.m.]

DEPARTMENT OF LABOR

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 Department of Labor to fill by noncareer executive assignment in the excepted service the position of Director, Intergovernmental and Interagency Relations Staff in the Manpower Administration.

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

[F.R. Doc. 70-3832; Filed, Mar. 30, 1970; 8:49 a.m.]

ELECTRONIC TECHNICIAN

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on March 12, 1970, for certain specialized positions of Electronic Technician, GS-856-9/11, GSA (limited to positions requiring at least 6 months experience on H-200 or GE-400 EDP systems), Washington, D.C.

Assuming other legal requirements are met, appointees to these positions may be paid for the expense of travel and transportation to first post of duty.

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

[F.R. Doc. 70-3833; Filed, Mar. 30, 1970; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 16495; FCC 70-306]

ESTABLISHMENT OF DOMESTIC COMMUNICATION-SATELLITE FACILITIES BY NONGOVERNMENTAL ENTITIES

Report and Order

I. *Preliminary statement.* 1. This proceeding was instituted by the Commission on March 2, 1966 (Notice of Inquiry, 31 F.R. 3507; Supplemental Notice of Inquiry, October 20, 1966, 31 F.R. 13763), to explore various legal, technical and policy questions associated with possible authorization of domestic communications satellite facilities to nongovernmental entities. The responses are listed infra in Appendix A.[1] A full description of the background of the proceeding, the issues designated by the Commission, and a summary of the responses are set forth in Appendix B.[1] There has also been appropriate liaison with agencies of the executive branch, which have studied the matter of domestic satellites, along with a number of other related issues discussed herein.

2. The principal points raised in our inquiry related, first, to whether there were any legal constraints on our power to authorize the construction and operation of communications satellite facilities for domestic use, and, secondly, to the extent that we had such legal authority, whether it should be exercised, and, if so, in what manner.

3. For the reasons set forth in the attached memorandum of law (Appendix C), we conclude that we may authorize any non-Federal Government entity, including the Communications Satellite Corp., other common carriers, and noncarriers, to construct and operate (either individually or jointly) communications satellite facilities for domestic use. We have also concluded that appropriate authorization of satellite facilities solely for domestic purposes is not inconsistent with the multilateral 1964 Executive Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System, to which the United States is a signatory, and its related Special Agreement (TIAS No. 5646).

4. In this connection we note that the Presidential message of August 4, 1967 (H. Rep. Doc. No. 157, 90th Cong., 1st Sess.), while specifically stating that any nation desiring to use satellites for domestic communications could "* * * elect to operate a separate satellite for its own domestic use," stressed that (p. 6):

> In view of the international nature of satellite communications and our commitments under the INTELSAT Agreement of 1964, we should take no action in the establishment

[1] Appendixes A and B filed as part of the original document.

of a domestic system which is incompatible with our support of a global system.

As a very minimum there thus must be coordination with INTELSAT on such matters as use of frequencies, use of particular parking positions in synchronous orbit and prevention of interference. In addition, we should explore with INTELSAT the feasibility and desirability of such matters as joint research and development, use of available facilities for tracking, telemetry and control, joint spares on the ground and in orbit, etc., so as to promote not only domestic operations but also the global system.

5. In short, recognition of the right of nations to establish separate domestic systems is not inconsistent with continued strong support of the global system envisaged through INTELSAT. We conclude further that we should not propose to authorize the establishment of any domestic satellite facilities that did not accord fully with the U.S. obligations under the interim arrangements or under the definitive arrangements now being negotiated, or derogate in any manner from continued full U.S. support of the global system. We feel sure that the course we propose herein would not do so. Rather, it would be in accord with the above cited Presidential statement.

6. The filings before us contain much valuable data and suggestions as to the manner in which our authority should be exercised. Certain basic differences among respondents emerge from the filings. All agree on the desirability of proceeding with a domestic satellite program. The major differences of opinion relate to the kind of systems to be authorized and to the purposes for which the systems are to be used. A multipurpose common carrier operation was favored by common carrier parties.[2] On the other hand, noncommon carrier respondents—principally the telvision networks, the Ford Foundation, the Department of Health, Education, and Welfare, and educational, press and airline interests[3]—urge that specialized systems should be authorized or at least not foreclosed. Proposals for multipurpose systems have been submitted by American Telephone and Telegraph Co. (A.T. & T.) and the Communications Satellite Corp. (Comsat). Proposals for a specialized system for transmission of commercial and noncommercial broadcast programs have been submitted by American Broadcasting Co., Inc. (ABC) and the Ford Foundation. In addition Comsat and the Ford Foundation suggest that we may not want to make definitive decisions at this time, but might consider the advisability of authorizing a pilot or demonstration system, which could provide operating experience valuable in reaching ultimate policy determinations in the future. Each has submitted a proposal for such a program (see Appendix B). Finally, General Electric Co. (GE) has submitted suggestions as to a system specifically engineered to provide record (data, message and video) communications services, which would also have capacity for other uses (see Appendix B, sec. K).

II. *Discussion.* 7. Type of action to be taken, if any: The threshold question before us is whether satellites offer sufficient promise as a mode of domestic communications to warrant the assignment of frequencies and use of orbital parking positions. Secondly, we must address ourselves to the question of the type of system or systems to be authorized if the threshold question is answered affirmatively.

8. The satellite technology has proven itself in the international field. Three generations of satellites have been launched by INTELSAT. Satellites now in orbit are capable of providing the means of international communications to all countries which have access to earth stations. There is a general consensus that satellites will continue to play an important, if not a major role, in providing future international communication facilities. There is now substantial reason to expect that satellites can also play an important role in the field of domestic communications. First, they are readily adaptable as a means of communication to complement long-haul terrestrial facilities used to provide point-to-point communication. Second, they appear to offer unique promise as an economical means of providing service from one transmission point to many reception points, e.g., for the relay of radio and television programs for entertainment, educational, and instructional purposes, and for reaching remote or relatively inaccessible areas. Third, they may also offer special advantages and economies in the provision of new and expanded record communications services of the nature suggested by GE, principally by eliminating distance as a factor, as well as part of the switching involved on terrestrial networks, and through the potential flexibility that might result from the use of the satellite technology. Finally, past experience with new means of providing communication services also leads us to believe that an operating domestic system or systems may be expected to disclose other advantages which cannot now be foreseen.

9. We are also impressed by the fact that we have been urged to proceed with authorization of domestic satellite facilities by such organizations as Comsat, A.T. & T., the Ford Foundation, GE, the broadcast industry, and other potential user groups, which represent a broad spectrum of diverse interests. Studies in the executive branch have resulted in recommendations in favor of authorizing domestic satellite operations. See paragraphs 16–18 below. The technology is available, several potential suppliers of service have expressed interest in investing in a satellite system, and some potential users, anticipating that satellites will provide them with new or improved communications services, have indicated that they are eager to avail themselves of satellite services. Other nations are moving rapidly to exploit the potential benefits of the new technology domestically.

10. We are aware that there are risks and uncertainties associated with a proposed satellite system that do not accompany additions to the existing terrestrial systems. Moreover, technological advances in terrestrial transmission facilities over the years have reduced the costs of point-to-point transmission, and are expected to continue to reduce costs in the future. Thus, it may be that the potential of satellite communications lies more in the development of new or complementary services which could exploit any special advantages inherent in the unique characteristics of the satellite technology.

11. In addition to such presently unknown factors as the extent of demand for domestic satellite services, the particular services that can be provided most effectively and efficiently via this medium, and the costs involved, there is some doubt as to whether domestic satellite operations can be fully and economically accommodated in the only frequency bands presently available for commercial domestic satellite communications services, i.e. the 4 and 6 GHz bands. It seems desirable from the standpoint of economics that earth stations be located as close as possible to population centers in order to avoid dissipating any savings in long terrestrial interconnections. Terrestrial use has substantially saturated the 4 and 6 GHz bands near several population centers throughout the United States and quite generally in the northeastern States. Moreover, there may be a further problem of sporadic interference from transmitting earth stations in the 6 GHz band to terrestrial microwave systems in that band, and from terrestrial stations in the 4 GHz band to receiving earth stations, via anomalous propagation, such as interfering signals scattered from common volumes, though the extent of any such problem is not yet known. Thus, there may be considerable difficulty in coordinating satellite earth station facilities with terrestrial systems in the 4 and 6 GHz bands without some readjustments by certain stations in the terrestrial networks. While it is anticipated that the next international space conference in 1971 will allocate additional spectrum for communication satellite services, which could facilitate the location of earth stations at desirable sites, the precise nature of such allocations is not now known.

12. The foregoing discussion (pars. 10–11) is meant to point up the uncertainties involved in the threshold question whether the public interest is furthered

[2] Communications Satellite Corp., American Telephone and Telegraph Co., Western Union Telegraph Co., General Telephone and Electronics Service Corp., United States Independent Telephone Association, Hawaiian Telephone Co., ITT World Communications, Inc., and Western Union International.

[3] E.g., American Broadcasting Co., Inc.; Columbia Broadcasting System, Inc.; National Broadcasting Co., Inc.; Aeronautical Radio, Inc. and Air Transport Association; American Newspaper Publishers Association; National Association of Educational Broadcasters; National Education Association; National Education Television and Radio Center.

by the authorization of domestic satellite communications services at this time. In our judgment, however, these uncertainties cannot be resolved by another round of written comments or by additional studies. Indeed, a critical consideration in this respect would appear to be what persons, with what plans, are presently willing to come forward to pioneer the development of domestic communications satellite services according to the dictates of their business judgment, technical ingenuity, and any pertinent public interest requirements laid down by the Commission. In short, on the basis set out in paragraph 8, supra, it appears to us that domestic satellite communciations do have the potential of making a substantial contribution to the Nation's communications system. That being so, we should proceed with the authorizing process as promptly as possible, consistent with the public interest,[4] since considerable lead time is required for research, design, development, construction, and launch of the satellite before any authorized facilities would become operational. The next issue is how best to proceed and whether the public interest would be served by the delineation at this time of the system or systems to be authorized.

13. Type of domestic communication-satellite facilities to be authorized: The parties to this proceeding have made various proposals for domestic systems, both permanent and pilot in nature. It has been proposed by the Ford Foundation and ABC that there be a special purpose system devoted primarily to the distribution of television programs. They urge that domestic satellites offer unique advantages for such a system which would involve one of a limited number of transmission points and a large number of reception points. Since the satellite can transmit the same signal to all areas from which it is visible, transmission costs would not be affected by either distance or the number of receiving points. The receive/only stations are relatively inexpensive. Therefore, it is urged that such a specialized system should be in a position to satisfy television needs at substantial savings in program transmission costs compared to the costs of existing services. It is also asserted that the policy commitments with respect to future action would be minimized, and that such a system would demonstrate the economic feasibility of the satellite technology for this purpose.

14. Others, particularly Comsat and the domestic carriers, have recommended a multipurpose system. It is asserted that a multipurpose system could not only accommodate television distribution service but also provide experience with respect to various types of communication and make whatever benefits domestic satellite service can offer available to the widest possible range of users. A.T. & T. submitted a comprehensive proposal for an integrated space-earth communications system in two phases to meet anticipated growth in long-distance communications requirements through 1980 (see Appendix B, pages 11–12). Comsat also proposed a phased multipurpose system, as well as a pilot demonstration program (see Appendix B, pages 12, 20–23).

15. GE has suggested a system which would be in part dedicated to specialized record services, and in part available for multipurpose use. It urges that the satellite communication technology would provide a means for revitalizing business usage of the nation's record communications system and offers potential for new and expanded data and video services to the public. It further claims that economies would be realized because distance is not a factor in the use of this technology and much of the hierarchy of switching on terrestrial systems could be eliminated. The basic services suggested by GE (see Appendix B, section K) are: Multiple access digital services (record communications in the nature of Telex, TWX, and private wire systems; "Telemail" for business-to-business transaction mail; and remote access computer services for computer-to-computer and computer-to-individual user purposes) and multiple access video services (random assembled video networks for use by business, professional, governmental, educational, and social organizations; public video exchange service for persons or groups with insufficient needs to require a dedicated facility; and private video exchange service for customers with large usage).

16. In addition, two studies on domestic satellites have been conducted by the executive branch. The Presidential message of August 4, 1967 announced the appointment of a task force on communications policy to study domestic satellites and other communications matters (see Appendix B, pages 25–26). The final report of that task force, dated December 7, 1968, concluded, inter alia that satellites may play a significant role in meeting domestic requirements, but that it would be premature to establish full-scale domestic satellite operations at this time. The task force recommended that the Commission establish a pilot program consisting of a multipurpose system. It was further recommended that Comsat should own the space segment as trustee and manage the pilot system; Comsat, terrestrial carriers and prospective users of wideband services should be eligible to own earth stations as trustees; and an advisory committee should be created to protect the interests of all potential users. After 2 to 3 years' operation, it was recommended, the Commission with the assistance of the executive branch should evaluate the results of the pilot program to determine the broader issues involved: "The future role of domestic satellites and whether they offer sufficient promise to justify continuation beyond the pilot period; whether domestic satellites should be general purpose or specialized, and whether there should be more than one system; and the ownership and regulatory framework that should govern domestic satellite operations."

17. On January 23, 1970, the present administration recommended to the Commission that initial Government policy in the domestic communications satellite field should be to encourage and facilitate the development of systems to the extent that private enterprise finds them economically and operationally feasible. (For the full text of this memorandum, see Appendix B, pages 33–40:) On the question of eligibility the recommendation stated:

> Subject to appropriate conditions to preclude harmful interference and anticompetitive practices, any financially qualified public or private entity, including Government corportions, should be permitted to establish and operate domestic satellite facilities for its own needs; join with related entities in common-user, cooperative facilities; establish facilities for lease to prospective users; or establish facilities to be used in providing specialized carrier services on a competitive basis. Within the constraints outlined below, common-carriers should be free to establish facilities for either switched public message or specialized services, or both.

It was further recommended that: There should be no arbitrary limitation on the number of classes of potential offerers of satellite services or a priori ranking of potential types of systems (common carrier vs. specialized carrier vs. private; or satellite vs. terrestrial); public interest exclusion of proposals would be warranted only in the event that specific applications pose immediate and irreconcilable conflict in the use of radio and orbital resources; and the potential economic impact of private or common-user satellite systems on terrestrial common carrier or specialized carriers should not be a factor in the authorization of such systems.

17a. As guidelines for the authorization of systems, the Administration recommended the following:

> (1) Facilities to be established by independent entities for their own private use should be required to demonstrate only the financial and technical qualifications to implement their system proposals. There is no valid public interest requirement in such cases to require a showing of economic viability or optimization, nor should the potential economic impact of such operations on common or specialized carriers be a factor in the authorization of such facilities.
>
> (2) Facilities to be established as part of a common-user cooperative system should be authorized in accord with the same principles as for fully independent facilities. However, to avoid restraints on competition, the opportunity should be made available for all potential users of similar services to

[4] When this proceeding was instituted in 1966, it appeared that a number of years might elapse before the spectrum allocations for communications satellites services would be re-examined by an international space conference. In view of the imminence of the 1971 space conference, prospective applicants may now prefer to await the outcome instead of proceeding at 4 and 6 GHz. While this factor may also present a pertinent public interest question, we think that it should be resolved in the context of our consideration of concrete applications for the 4 and 6 GHz bands which will contain analyses of potential interference vis-a-vis terrestrial operations and specify the length and cost of the terrestrial interconnections for earth stations.

participate without discrimination in such cooperatives as a condition of their authorization.

(3) Facilities to be used by specialized carriers (i.e., carriers having no monopoly over switched public message services) should be authorized under essentially the same terms and conditions as private or common-user facilities. Furthermore, such specialized carriers should not be constrained to serve as a "carrier's carrier" nor to share ownership of space or earth station facilities with other carriers. We also urge the Commission to allow competition to limit the rates charged for specialized services via satellite. Specialized carriers should, however, be required to serve similar users at equal rates and on a nondiscriminatory basis.

(4) Facilities to be used by common carriers solely for the transmission of switched public message services should be authorized under the same terms and conditions that apply for terrestrial radio facilities. However, facilities to be used by such carriers in the transmission of specialized message services should be authorized only after a determination by the Commission on each application, based on public evidentiary hearings, that no cross-subsidization between monopoly public message and specialized services would take place in the development, manufacture, installation, or operation of such facilities. This should not be interpreted, however, to preclude the legitimate economies of joint-use facilities.

(5) The use of leased facilities (satellite and/or earth stations) should be authorized under the same terms and conditions as owned facilities, with the responsibility for adherence to those conditions resting with the lessee. Rate-regulated carriers should be permitted to include a portion of the lease costs of such facilities in their rate base.

(6) Local communications common carriers should be required to provide leased interconnection services for user access to earth stations at reasonable rates and without discrimination.

(7) Potential harmful interference between satellite systems and terrestrial installations should be resolved by the Commission according to established procedures. Satellite operating entities should have equal status with terrestrial users in interference problems and in access to the radio spectrum. To accommodate new systems or services, the Commission should affirm its authority to modify or rescind, where appropriate, the operating rights of established spectrum users (satellite or terrestrial) where this would not significantly impair the quality of service or impose undue economic burdens; we believe that the Commission should require compensation of the established users to be paid by the new entrant in such situations.

18. The executive branch recommendation stressed the importance of acting consistently with U.S. obligations and commitments to INTELSAT and the International Telecommunications Union, with other foreign policy considerations, and with national security requirements; stating that it is "particularly important that domestic systems not threaten the operational integrity or economic viability of the global services provided through" the INTELSAT system. The executive branch saw no reason why Comsat should not be permitted to compete for domestic satellite service on an equal basis. Finally, it was recommended that policies should be adopted on an interim basis (3–5 years), during which period the Commission should "monitor the industry structure, service offering, and rates to determine if natural monopoly or other conditions are developing that suggest more restrictive entry conditions or warrant direct rate regulation for specialized satellite services." At the end of the interim period, a full review of the policy and industry structure should be made.

19. Here, again, the Commission is unable to determine on the basis of the information presently before us, whether domestic communications satellite opportunities would be more fully and effectively developed through one or more multi-purpose systems, specialized systems, through a combination of both, or through an essentially "open entry" policy. Nor do we feel that we are now in a postion to authorize any of the specific proposals in the record.[5] In connection with the suggestion of some of the parties that a pilot program might produce information and data which would be of assistance in determining the nature of a regular system or systems, we have considered the possibility of authorizing one or more initial systems in accordance with policies and guidelines specified by the Commission. Upon further deliberation, we have decided against such an approach. It is technically feasible to accommodate more than one system in the 4 and 6 GHz bands, assuming that coordination with terrestrial operations does not pose an economic barrier. Rather than attempting to prescribe arrangements for an initial program we believe it preferable to permit potential applicants to take the initiative in submitting concrete system proposals for the Commission's consideration. Thus, we will consider applications by all legally, technically and financially qualified entities proposing the establishment and operation of domestic communications satellite systems designed to provide the capability for multiple or specialized communications services. Applicants may propose the rendition of such services directly to the public on a common carrier basis or by the lease of facilities to other common carriers, or any combination of such arrangements. Applicants may also propose private ownership and use or the joint cooperative use of the system by the several owners thereof.[6] Applicants may further propose the shared use of some facilities by different systems, or a division in the ownership of various system components (e.g., user ownership of earth stations to afford direct access to the space segment of a common carrier or cooperative system).

20. In considering whether the public interest would be served by a grant of applications, in whole or in part, the Commission will be guided, of course, by the policies and provisions of the Communications Act and other relevant statutes, as well as pertinent judicial authorities. The basic touchstone for decision is our mandate set forth in section 1 of the Communciations Act to regulate "interstate * * * commerce in communication by wire and radio so as to make available, so far as possible, to all people of the United States a rapid, efficient, nationwide * * * wire and radio communication service with adequate facilities at reasonable charges * * *." In short, we believe that we can best render the public interest judgments as to what system or systems are to be authorized in the context of specific proposals. Parties are thus expressly advised that while the Commission will welcome submission of applications and give them all the most serious consideration, the extension of this opportunity to file, and the expenditure involved in preparing an application, do not in any way indicate that the application will be granted in whole or in part.

21. Coordination with INTELSAT and other domestic satellite programs: Insofar as relations with INTELSAT are concerned, as noted above, we believe that the establishment of domestic satellite facilities would be fully consistent with our obligation to the single global system. The U.S. commitment to INTELSAT and the technical constraints on the use of orbital locations in synchronous orbits, as well as limitations on the available frequency spectrum and dangers of mutually harmful interference, establish the necessity for close coordination on these matters. In addition, intelligent planning, the possibility of achieving major economies, and the desirability of continuing to promote the single global system, indicate that the closest possible cooperation should be sought. The areas where coordination is essential include such matters as frequency use, prevention of harmful interference, and orbital space on the geostationary orbit. Before authorizing the use of particular frequencies or the placement of satellites at particular locations, we would bring the matter to INTELSAT for coordination purposes and if the latter has plans which would conflict with the frequencies or orbital spaces proposed, we would work out an accommodation in view of our obligations to the single global system of some 74 nations, including the United States. We would, of course, fulfill any coordination requirements called for by the international radio regulations, as well as those established in the definitive arrangements for INTELSAT which are now under negotiation. We would also encourage and lend our assistance to the exploration of other areas for possible cooperative effort to determine if joint

[5] The proposals before us vary considerably with respect to proposed satellite capacity and design, the number and kind of earth stations, antenna size, areas to be served, types of services to be provided, etc. Moreover, most of these proposals were filed some time ago and may not reflect intervening advances in the state of the art or the requirements of services suggested by others.

[6] This report and order does not deal with applications for facilities to provide direct satellite broadcasting service, or for air-ground or marine services. Proposals for such services are not foreclosed. However, such applications would entail the use of additional frequencies, and involve considerations which should be the subject of separate treatment by the Commission.

action or sharing would be appropriate to achieve mutual benefits.

22. To avoid orbital space problems and possible interference, proposals for domestic satellite systems must also take into account the known plans of other countries who may have an interest in the use of the satellite technology for domestic communications purposes. For example, Canada has already selected two orbital locations for its proposed domestic system, which will require protection.[7] As in the case of INTELSAT, it may be beneficial to explore areas of mutual cooperation to reduce costs, enhance efficiency and share the results of operating experience. There is also the possibility of a shared use of the space segment of a U.S. system or systems to serve the domestic requirements of another country or countries, or vice versa.

III. *Proposed Rule Making.* 23. The Commission is concurrently issuing a notice of proposed rule making on the policies to be followed in the event of technical or economic conflicts between applications, the appropriate initial role of A.T. & T. in the domestic communications satellite field, access to earth stations, and what, if any, policies should be adopted with respect to procurement.

24. Technical conflicts may arise in such areas as proposed orbital locations and frequency usage. Moreover, in the course of coordinating earth stations with terrestrial systems it may prove impossible in some instances to accommodate earth stations at desired sites without some adjustment in the frequencies and routes of terrestrial systems or other measures to avoid interference. Also, arguments of economic incompatibility may be raised, posing questions as to the proper effectuation of the Commission's responsibility under section 1 of the Communications Act to exercise its regulatory functions in such a manner as to make communications services "available, so far as possible, to all people of the United States * * *." It may be that conflicts will not arise, or will be resolved through negotiation or other procedures in a manner consistent with the public interest, so that the promulgation of rules will be unnecessary. However, in order to facilitate attainment of the benefits discussed in paragraphs 8–9 supra, the Commission clearly should follow such procedures as will "best conduce to the proper dispatch of business and to the ends of justice" (sec. 4(j) of the Communications Act). Rule making may be one such procedure. Applicants are therefore requested to submit comments in their proposals on the question of what policies would be appropriate in these areas. An opportunity will be afforded for the filing of reply comments by applicants and comments by other interested persons after the expiration of the time for filing applications (see par. 38 below). Since the rule making will be consolidated with this proceeding, material contained in the comments already on file need not be resubmitted.

[7] The orbital locations chosen by Canada are 88° and 109° west longitude.

25. Comments are also requested on what initial role of A.T. & T. in the domestic communications satellite field would be appropriate. The most important value of domestic satellites at the present time appears to lie in their potential for opening new communications markets, for expanding the beneficial role of competition in the existing markets for specialized communication services, and for developing new and differentiated services that reflect the special characteristics of the satellite technology. Realization of this potential will require innovative technological and service planning and development. A question has been raised by the executive branch as to whether A.T. & T. might discourage or foreclose entry by others into its special service markets through a policy of interservice subsidy. The executive memorandum recommended that facilities to be used by A.T. & T. for specialized communications services "should be authorized only after a determination by the Commission on each application, based on public evidentiary hearings, that no cross-subsidization between monopoly public message and specialized services would take place in the development, manufacture, installation, or operation of such facilities."

26. Aside from the possibility of market foreclosure through cross-subsidization, there is a question as to whether innovative satelilte planning by A.T. & T. would be constrained by its existing terrestrial facilities and services. Any satellite proposal would be supplemental to and compatible with the existing terrestrial network, and would reflect the carrier's necessary and predominant concern over the effects of the satellite technology upon its existing landline investments and markets.[8] Moreover, A.T. & T. is the dominant domestic carrier and other potential common carrier developers of domestic satellite systems cannot approach the problems and possibilities of domestic satellite applications from a reasonably equal competitive opportunity position. Thus, a further question is presented as to whether A.T. & T.'s expansion into the satellite field at this initial stage might pose a substantial constraining factor for such potential entrants in deciding whether to develop system proposals, the kinds of systems that will be proposed, and the types of services and markets that can be developed. Applicants and other interested persons are requested to comment in the rule making on the question of whether the public interest would be better served by: (a) Authorizing domestic satellite facilities to A.T. & T. without restriction as to the type of service; (b) authorizing facilities limited to the provision of public message service; (c) following the procedure recommended by the executive branch; or (d) confining A.T. & T.'s participation in the domestic satellite field, for an initial period, to the leasing of satellite channels in systems established by others.

[8] A.T. & T. has stated that it views satellite transmission as another form of transmission similar in function to terrestrial microwave systems and coaxial cables, and that there are no communications services which could be offered by satellites which cannot now be offered by terrestrial facilities.

27. It is contemplated that a new carrier entrant will be capable of dealing directly with customers for its services. In other words, the "authorized user" policy, which has applied in the field of international communication and under which the satellite carrier is permitted to sell its services directly to users only in special cases, will not be applied to domestic service. This, in turn, raises the question as to the means by which a customer for service of a new carrier will obtain access from his location to the earth station of the carrier. From a technical and operational standpoint, there are a variety of methods by which such access can be provided. For example, the customer may arrange to provide connecting channels which he himself has constructed and owns or has leased under appropriate tariffs from existing carriers. Or it may be preferable for the new carrier to undertake provision of the access facilities by its own construction or by purchase or lease from a terrestrial carrier. Or arrangements for a joint through service may be entered into between the new carrier and the terrestrial carrier. Other types of interconnecting arrangements may also be feasible. Which arrangement will best suit a particular operation in terms of total efficiency and economy can only be determined in light of all of the circumstances of a proposed service offering. These are matters which we expect to be fully addressed by proposed system applicants in connection with their applications and, as necessary, in their responses to the notice of proposed rule making. We will also welcome the views and comments of existing carriers whose full cooperation is clearly needed for effective implementation of this policy. It is our expectation that existing carriers will not thwart or hinder the development of new and expanded common carrier services envisaged by this policy by the imposition of arbitrary restrictions on interconnection or through route arrangements or so-called exchange of facilities among carriers—established and new—or other means of accomplishing the desired objective of providing service directly to the customer. We will also expect that established carriers will review the compatibility of the terms and conditions of their existing tariffs with any new common carrier services which may be proposed by prospective carrier interests and which are determined by the Commission to serve the public interest, and make any necessary or desirable revisions therein. With respect to noncarrier systems, applicants may propose access to earth stations through their own facilities or through interconnection with terrestrial carrier networks. It is expected that the same policies and practices applicable to interconnection of privately owned terrestrial systems with common carrier facilities will also apply to the interconnection of noncarrier satellite systems with terrestrial carrier

systems, unless public interest considerations call for some different treatment.

28. Finally, there is a question as to whether the public interest would be served by the adoption of procurement policies for domestic satellite systems, and, if so, what policies would be appropriate. Pursuant to section 201(c)(1) of the Communications Satellite Act of 1962, the Commission has promulgated rules governing procurement for some facilities used in conjunction with the international system of INTELSAT (Part 25, Subpart B, of the Commission's rules and regulations). Comments are requested on the Commission's authority to adopt domestic procurement rules patterned after those provisions,[9] whether the exercise of such authority would be desirable, and, if so, whether the Commission should adopt rules patterned after Part 25 or what modification therein would be appropriate.

IV. *Procedure for Filing and Contents of Applications.* 29. Pending the adoption of forms and fees and the promulgation of rules governing technical standards for domestic communication-satellite facilities, applications should be filed in accordance with the procedure and technical criteria set forth below and in the attached Appendix D. Applicants making proposals under the technical criteria specified herein may also submit alternative proposals, reflecting what would be requested if there were different technical constraints and showing how the alternative would better serve the public interest.

30. It is expected that applicants will file a complete and comprehensive proposal, for the entire system, describing in detail all pertinent technical and operational aspects of the proposed system, including, among other things: The technical characteristics, capacity, weight, and quantity of satellites; the proposed orbital configuration, frequencies to be used,[10] and launch vehicle; the arrangements for tracking, telemetry, and control; the technical characteristics, quantity, types, and location of earth stations; the coordination with terrestrial facilities to avoid potential interference, the facilities for terrestrial interconnection and local distribution including the nature of any interface with terrestrial facilities that are or will be owned and operated by others and the nature of any agreements with interconnecting carriers; the factors of system quality, reliability, redundancy, and maintenance; the types of services to be provided and the areas and entities to be served; the construction plan including timing of construction, estimated investment costs by year and estimated annual operating costs for the proposed system; the estimated volumes and types of uses to be provided; proposed charges for any operations on a common carrier or lease channel basis; the nature of the agreement by participants in any proposal for joint ownership and use of facilities on a cooperative basis including the arrangements for cost-sharing and for the exercise of managerial and licensee responsibilities; the legal, technical, and financial qualifications of the applicant to implement the proposal; and the estimated time schedule. Where pertinent, applicants should also address the factors discussed in paragraph 34 below. In the course of processing applications, the Commission may, of course, request additional information. Applications will not be considered as accepted for filing until the Commission issues a public notice to that effect. In giving public notice of the first proposal accepted for filing, the Commission will specify a time period for the filing of applications by applicants who desire to have their proposals considered in conjunction with the first proposal, and the time period for the filing of comments on the rule making by other interested persons. In this way, we will have before us the complex of applications and comments we believe necessary for a determination as to policies.

31. We recognize that in an undertaking of this nature applicants may not be in a position to apply now for all of the facilities ultimately contemplated, or to specify some of the design and operational details of the facilities requested for initial operation, and may desire to modify their initial specific proposals in light of subsequent developments. Obviously, considerable flexibility must be afforded. Following any grant, the Commission may from time to time request further information. We also expect to be kept promptly apprised of all pertinent developments in the implementation of the authorizations and any significant modifications in the initial proposals. However, in order that the Commission may be in a position to take definitive action, applicants should, to the extent practicable, make specific application now for construction permits for all facilities requested for the commencement of operations, and describe as fully as possible the nature of any present plans for additional facilities (including at least an outline of the applicant's long range plan for the complete system).

32. A separate application for construction permit will be necessary for each space station and each earth station, including receive/only station,[11] transportable stations and any separate stations used for tracking, telemetry and command. Application should also be made in the appropriate service for any terrestrial interconnection and local distribution facilities to be owned and operated by the applicant. Common carrier applicants should request certification pursuant to section 214 of the Communications Act. Information pertinent to the entire proposal need be submitted only once, and may be incorporated by reference in the individual applications for construction permits and/or section 214 certification. Applications for space and earth stations need not be filed on any prescribed form, but should be complete in all pertinent details and contain the information described in the attached Appendix D. Applications for interconnecting terrestrial facilities should be made on the form prescribed for the service in which the applicant is eligible.

33. The comprehensive proposal for the entire system may be submitted in narrative form, with attached exhibits. In addition to the general system technical information specified on page 7 of Appendix D, the comprehensive proposal should include full and detailed information as to the following:

(a) Name and post office address of the applicant.

(b) Description of overall system facilities and operation, including the arrangements for access to the system between the premises of the users and the earth stations.

(c) Services to be offered and the estimated demand for such services.

(d) For proposed common carrier operations, the prospective customers or customer classifications, the proposed charges, and the basis on which such charges are constructed.

(e) Estimated total system construction and annual operating costs (both for the commencement of operations and, to the extent practicable, for facilities to be added at some later stage), including:

Research and development.
Satellites.
Launching.
Earth stations: Major transmit/receive; minor transmit/receive; receive/only; transportable; tracking, telemetry, and control. (Estimated cost totals for each type of earth station may be calculated on the basis of the estimated average cost of a station of that type. The estimated average cost should be subdivided into components such as equipment, building, land, power, etc. Specific construction cost estimates for each earth station should be submitted with the application for the particular facility.)

[9] It is the Commission's tentative view that in the exercise of our licensing functions pursuant to the Communications Act of 1934 we may properly take account of relevant legislative policies set forth in other statutes, either through appropriate conditions on the particular grant or through rules incorporating such licensing policies.

[10] The only frequencies available for non-Government communication-satellite services are the 3700–4200 MHz band (satellite-to-earth) and the 5925–6425 MHz band (earth-to-satellite) on a shared basis with terrestrial common carrier fixed microwave stations. Pending any additional allocations for communication-satellite services that may result from the 1971 international space conference, all applicants shall request frequencies in these bands whether or not common carrier operations are proposed.

[11] We think that receive/only stations must be licensed by the Commission if they are to be protected from interference, and also to assure the quality of service intended for end use by the public. Our authority to do so stems from the fact that facilities would be an integral link in interstate radio communication. See sections 2(a), 3(b), and 301 of the Communications Act. Cf. Section 103(e) of the Communications Satellite Act; United States v. Southwestern Cable Company, 392 U.S. 157.

Terrestrial interconnection and local distribution facilities to be owned by the applicant, or obtained by purchase or lease from a terrestrial carrier or through some other type of interconnection arrangement.
Other costs (legal, engineering, management, general overhead, and miscellaneous costs).
Annual depreciation, maintenance, and operating costs, indicating the basis on which such costs are calculated.

(f) Financial qualifications of the applicant to construct and operate the proposed system.

(g) Technical qualifications of the applicant to construct and operate the proposed system.

(h) Legal qualifications of the applicant, including direct and indirect ownership data, interests in other communications media, and other business interests. (Applicants whose legal qualifications are already a matter of record before the Commission may incorporate such information by reference. New applicants are referred to FCC Forms 301 and 401 for the type of information generally considered to be pertinent.)

(i) Public interest considerations in support of a grant.

34. All applicants should further address question (a) below, and questions (b), (c), and (d) where pertinent.

(a) Whether the system will be capable of providing service to Hawaii and Alaska. We believe that national unity will be served if domestic systems have the capability of serving these two States, in the absence of overriding considerations to the contrary. Hawaii is presently receiving communications satellite service via the facilities of INTELSAT, though not the type of broadcast program distribution service that has been proposed in this proceeding, and we have authorized an earth station in Alaska. Our belief that domestic systems should be capable of serving Hawaii and Alaska does not reflect any view with respect to the continued use of INTELSAT facilities. But unless the capability is built into the domestic facilities at the outset, the possibility of providing any service to these States by means of these facilities will be precluded.

(b) (1) Where the proposed services include television or radio program transmission, the terms and conditions under which satellite channels will be made available for noncommercial educational networks. We note that parties to this proceeding, such as Comsat and the ABC network, have proposed to provide satellite channels without charge for the interconnection of public and instructional broadcasting. We believe this to be in the public interest. Applicants proposing television or radio program transmission services should also address the possibility of realizing a "peoples' dividend" to provide some funds for programing by noncommercial educational stations, as suggested by the Ford Foundation.

(2) Applicants proposing multipurpose or specialized systems should also discuss the terms and conditions under which satellite services will be made available for data and computer usage in meeting the instructional, educational, and administrative requirements of educational institutions.

(c) Where the applicant is engaged in the business of providing a common carrier public message service, the proposal should provide full and detailed information concerning the manner in which the satellite operations will be integrated with the terrestrial operations technically and economically, including:

(i) The manner and extent to which the facilities of the satellite system will be used at the carrier's option to augment terrestrial facilities for message, private line, and other existing or proposed services;

(ii) The extent, if any, to which satellite facilities will be used for services offered directly to the public, the nature of such services, the proposed charges, and the basis on which such charges are constructed;

(iii) The carrier's market and cost studies that demonstrate that expansion of the integrated system by use of the satellite technology is more economical than expansion by using other available technologies;

(iv) The estimated revenue requirements that will apply to the satellite system during each of the first 3 years of operation;

(v) If the satellite facilities are to be used for services other than common carrier public message service, a demonstration that the public message service will not subsidize the other services;

(vi) A showing that the applicant will maintain books, records, and accounts which will clearly identify, separate and segregate by appropriate plant and expense classifications all investments, reserves, operating expenses, and taxes related to the construction and operation of the proposed system (space segment, earth stations, and tracking, telemetry and command facilities) and any terrestrial interconnection facilities;

(d) Applications proposing a special purpose system for joint use by several entities under a cooperative arrangement should furnish a copy of a written agreement by the participants, which sets forth:

(i) The entity to be licensed who will have full operational control over the facilities except to the extent that earth stations may be licensed to other participants;

(ii) The identity of all participants;

(iii) The manner in which contributions to capital and operating expenses will be equitably prorated among all participants (except to the extent that the considerations discussed in subparagraph (b) herein may be applicable);

(iv) The terms on which potential new users with the same or similar service requirements will be afforded an opportunity to participate in the cooperative arrangement and to have access to the facilities of the system;

It is anticipated that any such cooperative arrangements would be on a nonprofit, cost-sharing basis without charge to participants (except to the extent that the considerations discussed in subparagraph (b) herein may be applicable). In the event that it is proposed to make any of the system capacity available for use by nonparticipants, the application should set forth full and detailed information concerning the type of proposed users and services and the terms, conditions and charges for such use.

35. Applicants may experience considerable difficulty in finding sufficient locations for earth stations which will not have at least one or more potential cases of harmful interference. This is especially true since the procedure for coordination as discussed in Appendix D makes the assumption that each earth station and each radio relay station within the coordination distance contours utilizes the entire pertinent frequency band or bands. Also, an earth station may be planned to point at more than one satellite location. Since the 4 and 6 GHz bands are coequally shared between the communication-satellite service and the fixed common carrier service, the above assumption is made to allow for flexibility and growth in both services. Applicants should therefore endeavor to find suitable locations for earth stations that present the least amount of potential interference problems. After such locations have been chosen, applicant should specify all cases, if any, of potentially harmful interference that may exist with a description of the steps taken thus far, if any, to alleviate the problems. Readjustments to certain stations in the terrestrial network may be a solution in some cases. (See also par. 24.)

36. Transportable earth stations will be considered for authorization only at specified fixed locations chosen by the applicant after a similar coordination procedure as for regular fixed earth stations has been followed. Since transportable earth stations may be used at a given location for a relatively short period of time, or on a one-time basis, the applicant should consider coordinating on discrete frequencies under particular operating conditions, i.e., antenna azimuth and elevation angle. Locations for the use of transportable earth stations will be protected from potentially harmful interference only during the time the station is actually located at the site with reasonable expectation of being used in the near future. Subsequent use of the same location after a lapse of time will require further frequency coordination to take account of any intervening changes in the terrestrial network, and a new authorization by the Commission. Applicants proposing use of transportable earth stations should indicate the general geographic area within which it is proposed to use each such earth station and coordinate at least one location within that area in the application for construction permit.

37. There may be instances where it is anticipated that the applicant might desire to make occasional use of a receiving earth station for transmission (e.g. by "plugging in" a transportable transmitter). Applicants may wish to consider this possibility in the coordination procedure for the receiving earth

station site. In light of the circumstance that full-time transmission is not contemplated, applicants should assume that only one channel, rather than the entire frequency band, will be utilized for transmission.

38. Applications should be submitted to the Federal Communications Commission, Washington, D.C. 20554. Information should be current as of the date of filing, and the applicant should notify the Commission regarding any material change in the facts as they appear in the proposal. An original and 14 copies of the comprehensive proposal and of the individual applications for space and earth stations should be submitted. Applications for interconnecting terrestrial facilities should be submitted in accordance with the requirements governing the service in which application is made with respect to filing fees. There are presently no prescribed fees for the filing of applications for space and earth stations for domestic satellite systems, and none will be required pending the outcome of the rule making in Docket No. 18802. However, this action is without prejudice to the imposition of any fees ultimately adopted in Docket No. 18802 upon grant of any of the applications filed herein.

Conclusion. 39. In view of all of the foregoing, we find and conclude that the national public interest will be served by the consideration of applications for domestic communications satellite systems in accordance with the views expressed above. In order that the Commission may be in a position upon consideration of such applications to take such further action and establish such policies as may be necessary in the public interest and in the effectuation of its statutory responsibilities, we will keep open this proceeding and consolidate the concurrently issued notice of proposed rule making (FCC 70–307).

Order. 40. *It is ordered,* Pursuant to sections 1, 2, 3, 4 (i) and (j), 214, 301, 303, 307–309, and 403 of the Communications Act of 1934 and sections 102(d) and 201(c) of the Communications Satellite Act of 1962, That applications for domestic communications satellite systems will be entertained by the Commission and shall be submitted in accordance with the guidelines specified herein and in the Appendix D below.

41. *It is further ordered,* That the proposed rule making FCC 70–307 is consolidated with this proceeding.

Adopted: March 20, 1970.

Released: March 24, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[12]
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX C

MEMORANDUM ON LEGAL ISSUES

1. With respect to the question of whether the Commission has legal power to authorize any nongovernmental entity (common carrier or noncarrier) to establish and operate domestic communication satellite facilities, the parties commenting in this proceeding have taken several positions. Some, like ABC and the Ford Foundation, urge that the Commission has broad authority under the Communications Act of 1934 and the Communications Satellite Act of 1962 to authorize either type of entity to establish such facilities. A.T. & T. and ITT assert that the Commission has such broad power as a matter of law but urge that a noncarrier system should not be authorized, at least at this juncture, as a matter of policy. Other common carriers allege that legal capacity to authorize a noncommon carrier domestic system is lacking and that such a system should not, in any event, be authorized as a matter of policy. Comsat, in particular, argues that under the 1962 Act it alone may be authorized to own domestic satellites and to utilize earth stations which may be owned by it and other carriers. On the other hand, ARINC and ATA question whether Comsat is legally qualified to provide domestic service in view of its involvement in INTELSAT.

2. After full consideration of the various briefs submitted in support of these positions, the Commission is of the view that the Communications Act of 1934 and the 1962 Act clearly empower the Commission to authorize domestic communications satellite facilities to be owned by any entity, either common carrier—including Comsat—or noncarrier, as the national public interest requires.

3. The 1934 Act, which directs the Commission to provide "a rapid, efficient, Nationwide and worldwide wire and radio communication service" (47 U.S.C. 151), applies to "all interstate and foreign communication by wire or radio and all interstate and foreign transmission of energy by radio, which originates and/or is received within the United States" and to "the licensing and regulating of all radio stations" (47 U.S.C. 152(a)). A license from the Commission is required for all radio stations except Government-owned stations (47 U.S.C. 301, 303, 305, 307, 308, and 309). By definition, "radio station" is "a station equipped to engage in radio communication or radio transmission of energy" (47 U.S.C. 153(k)). "Communication by radio" is defined to include "all instrumentalities, facilities, apparatus, and services" incidental to "the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds" (47 U.S.C. 153(b)), and "transmission of energy by radio" similarly includes both such transmission and "all instrumentalities, facilities, and services incidental to such transmission" (47 U.S.C. 153(d)). These all-inclusive definitions clearly include non-Government satellite and earth station facilities used for interstate communication or transmission of energy by radio, which originates and is received within the United States.

4. The Commission's jurisdiction under the plain language of the 1934 statute to license and regulate domestic satellite facilities is not affected by the circumstance that the radio transmission involves stations located in space and a new technology not explicitly mentioned in that Act. California Interstate Telephone Co. v. Federal Communications Commission, 328 F. 2d 556 (C.A.D.C.). Section 303(g) directs the Commission to "study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest" (47 U.S.C. 303(g)). The policy underlying this section was stated during the Congressional hearings on the 1934 Act. "Our supremacy in radio cannot be maintained except by active encouragement and development of its use. Its possibilities are almost untouched today * * *. Who knows what future developments may bring?" Hearings on H.R. 8310 before the House Committee on Interstate and Foreign Commerce, 73d Cong., second sess., p. 21. Section 303(g) "makes clear that Congress placed an affirmative duty on the Commission to experiment with and develop the most desirable deployment and utilization of the nation's communications facilities" (Connecticut Committee Against Pay-TV v. Federal Communications Commission, 301 F. 2d 835, 837 (C.A.D.C.), cert. den. 371 U.S. 816.

5. The 1934 Act has been uniformly construed as granting broad powers to the Commission which do not depend on a specific reference to the particular service technology or practice in the statute. In National Broadcasting Company v. United States, 319 U.S. 190, 217, 219, the Supreme Court stated with respect to the Commission's comprehensive power over newly developing instrumentalities of radio communication:

> The avowed aim of the Communications Act of 1934 was to secure the maximum benefits of radio to all the people of the United States. To that end Congress endowed the Communications Commission with comprehensive powers to promote and realize the vast potentialities of radio.
>
> * * * True enough, the Act does not explicitly say that the Commission shall have power to deal with network practices found inimical to the public interest. But Congress was acting in a field of regulation which was both new and dynamic. * * * In the context of the developing problems to which it was directed, the Act gave the Commission not niggardly but expansive powers.

The statutory public interest standard "leaves wide discretion and calls for imaginative interpretation." Federal Communications Commission v. RCA Communications, Inc., 346 U.S. 86, 90. See also United States v. Storer Broadcasting Co., 351 U.S. 192, 203 (the Commission's "authority covers new and rapidly developing fields"); Federal Communications Commission v. Pottsville Broadcasting Co., 309 U.S. 134, 138 (underlying the 1934 Act "is recognition of the rapidly fluctuating factors characteristic of the evolution of broadcasting and of the corresponding requirement that the administrative process possess sufficient flexibility to adjust itself to these factors"). See also, United States v. Southwestern Cable Company, 392 U.S. 157.

6. In administering the 1934 Act the Commission has exercised this "wide discretion" and "comprehensive power" to authorize both common carrier and private communications systems according to its judgment as to the requirements of the public interest. See, e.g., Allocation of Frequencies in the Bands above 890 Mc/s, 27 FCC 359, 29 FCC 825.[1] The Commission has also found that the public interest may be served by the joint common carrier ownership of cable facilities (American Telephone and Telegraph Co. et. al., 37 FCC 1151, 1157) and by shared use of private systems on a nonprofit, co-

[12] Commissioners Robert E. Lee and Johnson concurring in the result; Commissioner Cox concurring in part and dissenting in part and issuing a statement which is filed as part of the original document.

[1] Since the "Communications Act must be read as a whole" (United States v. Storer Broadcasting Co., 351 U.S. 192, 203), the Commission has, of course, been mindful that the authorization of private systems not result in such substantially adverse economic effects upon common carriers as to impair their ability to provide adequate service to the general public. By the same token, the Commission "cannot let its decisions in the radio carrier field interfere with its responsibilities in the television broadcasting field. In both fields, it must 'make available, so far as possible, to all people of the United States,' adequate and efficient service." Carter Mountain Transmission Corp. v. Federal Communications Commission, 321 F. 2d 359 (C.A.D.C.), cert. den. 375 U.S. 951.

operative basis (Amendment of the Commission's Rules to Permit Expanded Cooperative Sharing of Operational Fixed Stations, 4 FCC 2d 404). In the latter connection the Commission said (4 FCC 2d at 417):

"The touchstone for the regulation of the use of radio is the public interest and we think that, under that standard, we have ample authority to permit cooperative use of radio stations if we find, as we have, that the public interest would be served and the larger and more effective use of radio would be encouraged."

The Commission also claimed (ibid.) "ample authority to prescribe any special method of regulating the cooperative use of private systems that would best serve the public interest. See Philadelphia Television Broadcasting Co. v. F.C.C., 123 U.S. App. D.C. 298, 359 F. 2d 282."

7. The same licensing flexibility applies to the authorization of non-Government domestic communications satellite facilities by the Commission. We are not persuaded by Comsat's argument that the 1962 Act superseded or restricted the Commission's powers under the 1934 Act in the domestic field by requiring that any domestic system be authorized to Comsat alone (and/or other carriers in the case of earth stations). The Commission's clear jurisdiction over commercial domestic satellite facilities under the 1934 Act was not withdrawn by the 1962 Act, which legislated in the field of international satellite communications. The declared purpose of the 1962 Act was to establish a global satellite communications system "in conjunction and in cooperation with other countries" (section 102(a)) and to provide for "United States participation in the global system * * * in the form of a private corporation, subject to appropriate regulations" (section 102(c)). H.R. Rep. No. 1636, 87th Cong., second sess., p. 7. The attention of Congress centered on the early establishment of an international system to enable the United States to move ahead and assert a position of leadership at the extraordinary administrative radio conference of the International Telecommunications Union called in 1963 to allocate frequencies for communications satellite systems. See, e.g., H.R. Rep. 178, 89th Cong., first sess., p. 22; H.R. Rep. No. 1636, 87th Cong, second sess., p. 8; 108 Cong. Rec. 11825, 15026, 15124, 16416, 16569, 16574 (1962). Moreover, in 1962 the technology consisted of random orbit satellites (like Telstar), orbiting the globe and better suited to international than to domestic use. Synchronous satellites, which make domestic service more economically attractive, were not contemplated in the immediate future. The international thrust of the 1962 Act is also reflected in the bill's referral to the foreign policy committees, in the functions accorded to the President (to be executed by the State Department) in section 201(a), and in the concern with "world peace and understanding" (section 102(a)), "services to economically less developed countries and areas" (section 102(b)), "foreign participation" (section 201(a)(5), 102(a), 305(a)(1)), "communication to a particular foreign point" (section 201(c)(3)), and "business negotiations * * * with any international or foreign entity" (section 402).

8. In asserting that the 1962 Act also superseded the Commission's powers under the 1934 Act in the domestic field, Comsat relies on the last sentence in section 401 which states: "Whenever the application of the provisions of this Act shall be inconsistent with the application of the provisions of the Communications Act, the provisions of this Act shall govern." But this statement was made in the context of making Comsat a common carrier fully subject to the provisions of Title II and Title III of the 1934 Act. It is more reasonably construed as applying to conflicts between the two Acts insofar as the global international system is concerned, than as effecting a substantive extension of the provisions of the 1962 Act to the domestic field. Indeed, many of the provisions of the 1962 Act make sense only in the international field and are anomalous in a domestic context. See, e.g., sections 201(a)(4) and (5), section 201(c)(3), section 305(a)(1), and section 402.

9. "Repeals by implication are not favored" (Federal Trade Commission v. A.P.W. Paper Co., 328 U.S. 193, 202), and it would be unreasonable to assume that Congress, in enacting provisions tailored to an international system established "in conjunction and in cooperation with other countries," would have supplanted the 1934 Act in the domestic field—traditionally only of sovereign concern—without mentioning that it was doing so. The 1962 Act does not contain any express requirement that domestic satellite service shall be provided in accordance with the provisions governing the global system or any statement withdrawing the Commission's powers under the 1934 Act to authorize an additional non-Government domestic system. On the contrary section 102 (d) states:

"It is not the intent of Congress by this Act to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this Act nor to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest."

The denial of intent to preclude domestic use of the global system clearly implies that the 1962 Act might otherwise be construed as prohibiting such use. It makes little sense to argue, as Comsat does based on the use of the phrase "national interest" rather than "public interest," that Congress adopted a scheme whereby the Comsat system was generally given a monopoly both internationally and domestically in the face of the fact that Congress found it necessary to provide explicitly against the possibility that the Comsat system might not be regarded as available for domestic use. Nor is it reasonable to assume that Congress thereby intended to foreclose competition within the domestic field. In short, this permissive language cannot be equated with a mandatory requirement for use of the global system, and militates strongly against such a requirement.

10. The legislative history of the 1962 Act shows that Congress contemplated that an additional system might be authorized to an entity other than Comsat. Language almost identical to section 102(d) appears in the "implementation of policy" provisions (sec. 201), where Congress provided that the President shall:

"(a)(6) Take all necessary steps to insure the availability and appropriate utilization of the communications satellite system for general governmental purposes except where a separate communications satellite system is required to meet unique governmental needs, or is otherwise required in the national interest * * *."

When the bill which became the 1962 Act was reported to the Senate, section 201(a)(6) did not contain the underscored words. Senator Church, a member of the Foreign Relations Committee considering the bill, was concerned with this omission and the fact that the operative language of the bill did not conform with the declaration of policy. To the committee report on the bill he appended his separate views on this point, stating (S. Rept. No. 1873, 87th Cong., 2d Sess., pp. 14–15):

"The wisdom of this last clause 'or if otherwise required in the national interest' is perfectly apparent. We cannot now foretell how well the corporate instrumentality established by this act will serve the needs of our people. If it should develop that the rates charged are too high, or the service is too limited, so that the system is failing to extend to the American people the maximum benefits of the new technology, or if the Government's use of the system for, Voice of America broadcasts to certain other parts of the world proves excessively expensive for our taxpayers, then certainly this enabling legislation should not preclude the establishment of alternative systems, whether under private or public management. And just as certainly is that gateway meant to be kept open, in case we should ever need to use it, by the language to be found in the bill's 'Declaration of Policy and Purposes' to which I have referred."

On the floor, in speaking in support of his amendment to conform these two provisions of the Act, Senator Church repeated these same views verbatim and his amendment was agreed to.

11. The legislative history also refutes ComSat's contention that new legislation would be required for Commission authorization of any additional system different from that prescribed in the 1962 Act. The Senate rejected an attempt by the House to reserve to Congress the right to provide for additional satellite systems. When the legislation was first passed by the House (H.R. 11040, as passed by the House on May 3, 1962), section 102(d) provided:

"The Congress reserves to itself the right to provide for additional communications satellite systems if required to meet unique governmental needs or if otherwise required in the national interest."

However, the Senate refused to accept the House language and substituted the current version of section 102(d), to which the House acceded. Since Congress was repeatedly told

throughout the 1962 hearings that the Commission had jurisdiction to authorize nongovernment communication satellite facilities by virtue of the 1934 Act,[2] the defeat of the House language shows that Congress considered and rejected the position that further legislation is a prerequisite to Commission authorization of different domestic facilities.

12. That the 1962 Act was not intended to withdraw the Commission's licensing flexibility as to domestic systems under the 1934 Act is further indicated by the post-legislative comments of Senator Pastore, floor manager of the 1962 bill, in hearings before the Senate Commerce Committee on August 17, 1966. In questioning representatives of the Ford Foundation and Comsat on the meaning of section 102(d), Senator Pastore stated that it was his understanding then and at the time of the drafting and enactment of the 1962 Act that Comsat was established for the purpose of taking and holding a position of leadership for the United States in the international communications satellite field, but that the law and policy as to domestic systems were left wide open. Senator Pastore stated, inter alia, that it was his "understanding now, as it was then, that this is not a field that belongs exclusively under the Act to Comsat or to anyone else," and that:

"I think we all agree that Comsat could do it. It is a decision of the F.C.C., which way they want to go. They have a perfect right to apply for this under the law. It doesn't preclude anybody—Ford, ITT, anybody else. I think it is an open field."

See Hearings before the Subcommittee on Communications of the Senate, Committee on Commerce, 89th Cong., 2d Sess. (Serial 89–78), pages 103–4, 116, 128–130.

13. And, finally, in light of section 102(d) and Senator Pastore's comments (par. 12 above), we see no merit to the contention that Comsat may be legally disqualified from entering the domestic field because of its involvement in INTELSAT. Since Congress did not intend to preclude use of the global system for domestic communication services, it follows a fortiori that such services may be provided by the U.S. participant in the global system. The possible advantages or disadvantages accruing from Comsat's relationship with INTELSAT are considerations to be weighed as a matter of policy, but we find no legal bar.

14. Accordingly, we conclude that the Commission possesses the requisite legal power under the Communications Act of 1934 and the 1962 Act to authorize any entity, either common carrier or noncommon carrier or some combination of both, to own and operate satellite facilities and earth stations to provide domestic satellite communications services, or to determine that such services should be provided in whole or in part, through the facilities of INTELSAT. The Commission may authorize domestic communications satellite facilities upon finding that such facilities would serve the "public convenience, interest, or necessity" under the 1934 Act and are "required in the national interest" under the 1962 Act.

[2] The Commission's chairman and other commissioners repeatedly told House and Senate Committees that the Commission had power under the 1934 Act to authorize non-Government communications satellite facilities for commercial use. See, e.g., Hearings on Communications Satellites before the House Committee on Interstate and Foreign Commerce, 87th Cong., 1st Sess., pt. 1, pp. 6, 86; Hearings on Communications Satellites before the House Committee on Science and Astronautics, 87th Cong., 1st Sess., pt. 1, pp. 498–499; Hearings on Space Satellite Communications before the Subcommittee on Monopoly of the Senate Select Committee on Small Business, 87th Cong., 1st Sess., pp. 652, 662 (672), 471. Representatives of the Justice Department took the same view as to the Commission's jurisdiction under the 1934 Act. See e.g., Hearings on Communications Satellites before the House Committee on Interstate and Foreign Commerce, 87th Cong., 1st Sess., pt. 1, p. 153; Hearings on S. 2650 and S. 2814 before the Senate Committee on Aeronautical and Space Sciences, 87th Cong., 2d Sess., pp. 405, 407, 408. The following exchange took place between Senator Kefauver and then Assistant Attorney General Katzenbach (Hearings on Antitrust Problems of the Space Communications System before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 87th Cong., 2d Sess., pt. 1, pp. 55–56):

"Senator Kefauver (speaking of Comsat). Why couldn't some of these channels be held open for the television companies * * * for all of these other hundreds of users that would not come under FCC jurisdiction?

"Mr. Katzenbach. They would all come under FCC jurisdiction, sir, because as soon as you are using these facilities, as soon as you are using the radio spectrum, you are under FCC jurisdiction.

"Senator Kefauver. But you are forcing them to make a deal with one of the communications carriers, and what if they don't want to make a deal with a communcations carrier?

"Mr. Katzenbach. Then they have to get into the business themselves, sir. And I suppose that if that is a practical way of doing it, then that is what should be done. But these are responsibilities, as to who is to be licensed for what purposes, which are given to the Federal Communications Commission."

APPENDIX D

INDEX

TECHNICAL ANNEX

Domestic Communication Satellite Systems

TECHNICAL ANNEX

DOMESTIC COMMUNICATION SATELLITE SYSTEMS

The Federal Communications Commission herewith establishes the technical guidelines applicable to the submission of applications for domestic communication satellite proposals including the minimum information necessary for Commission consideration. Applications should be complete and should set forth all pertinent details of the proposal whether or not specific information is requested herein. Technical definitions in Part 25 of the Commission's Rules are applicable to initial filings for domestic communication satellite systems. The following additional definitions are also applicable.

I. Definitions.

A. *Orbit.* The path described by the center of mass of a satellite or other object in space, relative to a specified frame of reference.

B. *Orbital plane.* The plane containing the radius vector and the velocity vector of a satellite, the system of reference being that specified for defining the orbital elements.

C. *Angle of inclination of an orbit.* The acute angle between the orbital plane and the equatorial plane.

D. *Geosynchronous satellite.* A satellite for which the mean sidereal period of revolution about the earth is equal to the sidereal period of rotation of the earth about its own axis.

E. *Geosynchronous satellite orbit.* The orbit of a geosynchronous satellite.

F. *Geostationary satellite.* A geosynchronous satellite having an equatorial and circular orbit such that the satellite appears to remain fixed in relation to the earth.

G. *Orbital longitude.* The mean geographical longitude of the projection of the satellite's position on the surface of the earth.

H. *Receive earth station.* An earth station intended to be used only for the reception of satellite signals.

I. *Transportable earth station.* An earth station capable of being transported from one point to another, but intended only to be used at specified fixed points.

J. *Angle of arrival.* The angle at a point on the surface of the earth between the line of energy travel of the radio signal from the satellite and the horizontal plane at that point.

K. *Elevation angle.* The angle between the horizontal plane and the central axis of the main lobe of the antenna.

L. *Coordination distance contour.* The closed curve drawn on a scaled map around an earth station location which defines the maximum distance from the earth station location at any give azimuth within which harmful interference might be expected.

II. Frequencies.

A. The following frequency bands are available for use by domestic communication satellite systems on a shared basis with terrestrial radio services and with other communication satellite services.

Satellite to Earth	*Earth to Satellite*
3700–4200 MHz [1]	5925–6425 MHz [2]

[1] This band may also be used for the transmission of tracking and telemetry signals associated with space stations operating in the same band.

[2] This band may also be used for the transmission of telecommand signals associated with earth stations operating in the same band.

B. The following frequencies or bands of frequencies are available for space telecommand functions. Precise frequencies and associated bandwidths of emission will be assigned on a case-by-case basis.

148.25 MHz—maximum occupied bandwidth not to exceed 30 kHz.
450.0 MHz—maximum occupied bandwidth not to exceed 0.5 MHz.
1427.0—1429.0 MHz

C. The following frequency bands are available for telemetering from and tracking of domestic communication satellite space stations. Precise frequencies and associated bandwidths of emission will be assigned on a case-by-case basis.

136–137 MHz [1]
137–138 MHz
400.05–401 MHz [1]
401–402 MHz [2]
1525–1540 MHz

III. Frequency coordination between satellite earth stations and terrestrial radio relay stations.

For the purpose of this appendix, it will be assumed that the terrestrial receiving station is a line-of-sight radio relay station designed according to C.C.I.R. recommendations; that the earth station forms a part of a communication satellite system; that any terrestrial station and earth station within 100 km. of each other must be coordinated regardless of whether or not a coordination distance of less than 100 km. is calculated; and that both systems occupy continuously all frequencies allocated to the particular service band to which they are assigned.

A. Coordination distance contours.

1. The applicant shall ascertain in advance of filing if the location of the proposed earth station is such that the coordination distance contours, drawn in accordance with Parts 25.251 and 25.203 of the Commission's rules, assuming geostationary satellites are employed, overlap the boundary of another country. If any part of a coordination distance contour overlaps the boundary of another country the applicant shall submit with its application a map or maps drawn to scale showing the transmitting and receiving coordination distance contours, together with the specific information used to plot such contours. In this case the coordination distance contours could be used by the Commission for coordination with the administration(s) concerned.

2. The coordination distance contours are required in any event for domestic coordination: (a) Within which the earth station transmitter might cause harmful interference to stations in the domestic public radio service sharing the same frequency bands; and (b) within which stations in this service might cause harmful interference to reception at the earth stations. A map or maps drawn to scale shall be provided in the earth station application showing the transmitting and the receiving coordination distance contours with detailed information used to plot such contours.

B. Interference considerations.

1. After the coordination distance contours have been determined, the applicant shall make a complete and detailed analysis for potential interference caused to terrestrial station receivers within the coordination distance contour by the earth station transmitter, and for potential interference caused to reception at the earth station receiver by terrestrial station transmitters within the coordination distance contour. All pertinent data relating to the actual frequency interference study shall be included in the application. The presentation of this showing should be organized in such a manner that a reconstruction of the calculations by the Commission from the basic data using the method described in the application can be accomplished without undue difficulty.

2. Recognized methods for predicting interference should be used and explained. Applicant may wish to refer to Part 25.251 of the rules, latest pertinent C.C.I.R. material including Report 388 vol. IV, Report 244–1 vol. II (Oslo 1966), and the decisions of the C.C.I.R. XIIth Plenary Assembly, New Delhi, 1970 and other recognized sources for guidance in the interference analysis.

3. Interference calculations should be made for each terrestrial station within the coordination distance contours including those proposed stations for which an application has been accepted for filing by the Commission. Ducting via side lobes should be considered. All pertinent data (locations, call signs, antenna azimuth, etc.) and calculations used in the interference study should be included in the showing for each terrestrial station considered.

4. The probability of radio interference resulting from scatter propagation should be considered. This propagation sometimes provides signal levels capable of causing interference by means of scatter from precipitation and/or other dielectric discontinuities in the earth's atmosphere. The propagation path for this mode of propagation may lie off of the great circle path.

IV. Technical Constraints.

A. Orbital location considerations.

1. An orbit which is approximately geostationary shall be employed.

2. Applicant shall consider and submit details regarding the selection of the orbital longitude(s) for its proposed system. In such showing, applicant shall discuss and where appropriate determine the probability of interference between its proposed satellite system and other satellite systems which are either established or proposed systems. The effect of the applicant's proposed system on the overall utilization and management of the available orbital space should be considered and discussed in general and in specifics as to the minimum separation of satellites, use of frequencies, orthogonal feeds, polarization, station keeping, inclination, or other suitable standards that may be required in the future. Broad guidelines such as a 5° minimum separation between satellites and excursions in both longitude and latitude of $\pm 0.5°$ should be observed until more definitive standards can be determined.

3. Satellites shall be capable of reasonable shifts in orbital longitude.

B. Antenna Directivity (Earth Station).

1. The transmitting antenna directivity in the plane of the geostationary orbit shall, as a minimum, be comparable to that of a parabolic antenna with a diameter of 9 meters operating at 6 GHz, and have a sidelobe suppression of at least 25 dB.

2. The receiving antenna directivity in the plane of the geostationary orbit shall, as a minimum, be comparable to that of a parabolic antenna with a diameter of 9 meters operating at 4 GHz, and have a sidelobe suppression of at least 25 dB, unless a waiver has been granted.

C. Minimum angle of antenna elevation.

Within the band 5925–6425 MHz, earth station antennas will not normally be authorized for transmission at elevation angles less than 5°, measured from the horizontal plane to the central axis of the main lobe. However, upon a showing that the transmission path will be seaward and away from land masses or upon special showing of need for lower angles by the applicant, the Commission will consider authorizing transmission at angles between 3° and 5° in the pertinent directions. In certain instances it may be necessary to specify minimum angles greater than 5° because of interference considerations.

D. Power limits.

1. Within the band 5925–6425 MHz the mean equivalent isotropically radiated power transmitted in any direction in the horizontal plane by a communication-satellite earth station shall not exceed +45 dBW in any 4 kHz band.

E. Power flux density limit.

1. Within the 3700–4200 MHz frequency band, the maximum power flux density [1] at the earth's surface produced by a domestic communication satellite space station for all conditions and methods of modulation, shall not exceed $(-152+\theta/15$ dBW/m^2 in any 4 kHz band, where θ is the angle of arrival of the wave in degrees above the horizontal.

2. The design of earth stations should meet the requirements imposed by many communication satellite systems sharing the same frequency spectrum and should make judicious use of techniques such as directivity and cross polarization to minimize interference.[2]

F. Cessation of emissions.

Space stations shall be fitted with appropriate devices to insure immediate cessation by telecommand of radio emissions.

G. Station Identification.

1. The transmission of station identification is not required for domestic satellite earth stations nor for stations the sole function of which is to transmit telecommand signals to satellite space stations.

2. The transmission of station identification is not required for domestic satellite space stations.

V. Applications.

The technical information for a proposed domestic satellite radio system need not be filed on any prescribed form but should be complete in all pertinent details. Each proposal shall contain a complete study for the proposed domestic satellite system accompanied by separate applications for each satellite and for each earth station. The following information should be contained in the system study or in the separate applications, whichever is appropriate.

Certain technical information may not be available at the time the application is filed. This fact should be noted in the application with the best estimate as to when this information will become available.

A. The Domestic Satellite System: General Information.

1. Radio frequency plan.

2. Earth station sites. Sites for earth stations shall be selected, to the extent practicable, in areas where the surrounding terrain and existing frequency usage are such as to minimize the probability of harmful interference between the sharing services.

3. Number of earth stations including estimated construction schedule.

a. Transmit and receive.

b. Receive only.

c. Transmit only.

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[1] This band is basically a space research band and is not intended for regular use by operational domestic communication satellite systems once the desired spacecraft orbit is established.

[2] This band is available for the transmission of tracking signals only for those space stations employing this band for the transmission of telemetry signals. (See footnote 315A in Part 2, FCC Rules and Regulations.)

[1] Free space values are commonly used in the calculations.

[2] Document IV/1008, New Delhi 1970, contains a CCIR recommendation on the maximum amount of interference that should be permitted in any telephone channel of a communication satellite system employing frequency modulation.

4. Number of satellites, including estimated construction and launch schedule.
a. Operational.
b. Spares:
(1) In orbit.
(2) On ground.
5. Proposed satellite system geographical coverage including maps showing calculated spectral power flux density contours on the surface of the earth.
6. Interference calculations for the proposed satellite(s) and earth station(s):
a. To other satellite systems.
b. From other satellite systems.
c. From terrestrial systems.
d. To terrestrial systems.
7. Location(s) of satellite(s).
8. Systems reliability and redundancy:
a. In satellite.
b. In earth station.
c. Solar noise outages.
d. Eclipse conditions.
e. Other.
9. Launch vehicle.
10. Arrangements for tracking, telemetry, and control.
11. The technical standards to be met for the quality of each type of service proposed.
B. Satellites.
1. Orbital longitude.
2. Frequencies:
a. Initial transmit.
b. Initial receive.
3. Emission designator for each frequency channel.
4. Number of communication transponders in each satellite with associated necessary bandwidth and center frequency for each.
5. Antennas.
a. Configuration, including types and sizes.
(1) Beamwidth, in degrees between half power points (described in detail if not symmetrical).
(2) Sidelobe radiation pattern.
(3) Isotropic gain (in dB, taken at 4 GHz) of the antenna in the direction of maximum radiation.
b. Geographical coverage of each antenna beam.
c. Calculations for the receiving antenna gain to receiving system noise temperature ratio (G/T):
(1) Specify G, which is the antenna gain measured at 6 GHz at the input of the preamplifier expressed in dB relative to an isotropic radiator; and
(2) Specify T, which is the receiving system noise temperature referred to the input of the preamplifier, expressed in dB relative to 1° Kelvin.
d. Pointing accuracy and method of maintaining antenna orientation.
e. Transponders associated with each antenna.
f. Polarizations for each frequency.
6. Calculations of the equivalent isotropically radiated power (e.i.r.p.) for each transponder.
7. Station keeping functions.
a. Accuracy with which orbital parameters will be maintained.
1. Orbital inclination.
2. Antenna axis attitude.
3. Longitudinal drift.
b. Provision for pointing antenna toward the earth.
c. Estimated lifetime of station keeping fuel.
8. Primary mode of operation of each transponder (FDM–FM, Voice; FM, Monochrome or color TV; PCM, etc.).
9. Emission limitations. The degree to which spurious emissions are attenuated below the mean power output of the transponder under actual electrical conditions of proposed operation.
a. On any frequency removed from the assigned frequency by more than 50 percent, up to and including 100 percent of the authorized bandwidth.
b. On any frequency removed from the assigned frequency by more than 100 percent, up to and including 250 percent of the authorized bandwidth.
c. On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth.
10. Estimated useful lifetime in orbit with the factors upon which this estimated lifetime is based.
11. Method of stabilization or attitude constancy if antennas are body-mounted or fixed.
12. Electrical energy system description, including provision, if any, for operation during eclipse conditions.
13. Estimated capacity under proposed system operating conditions:
a. Number of TV channels.
b. Number of telephony channels.
c. Other.
14. Physical characteristics:
a. Satellite weight on pad and in orbit.
b. Dimensions.
c. Apogee motor.
(1) weight of motor.
(2) weight of propellant.
C. Earth Stations:
1. Location:
a. City, county, State.
b. Geographical coordinates of antenna.
2. Frequencies:
a. Initial transmit.
b. Initial receive.
3. Emission designator for each frequency.
4. General description:
a. Site plan.
b. General layout.
c. Control building.
d. Accessibility.
e. Other.
5. Power service:
a. Commercial source.
b. Backup source.
6. Functional block diagram of station.
7. List of major equipment.
8. Communication capacity under proposed system operating conditions:
a. Number of TV channels.
b. Number of telephony channels.
c. Other.
9. Transmitters:
a. Type and manufacturer.
b. Frequency range.
c. Frequency stability.
d. Necessary bandwidth.
e. Power output at antenna feed.
f. Emission limitations—the degree to which spurious emissions are attenuated below the mean power output of the transmitter under actual electrical conditions of proposed operation.
(1) On any frequency removed from the assigned frequency by more than 50 percent, up to and including 100 percent of the authorized bandwidth.
(2) On any frequency removed from the assigned frequency by more than 100 percent, up to and including 250 percent of the authorized bandwidth.
(3) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth.
g. Instruction books when available, description of the oscillator circuits and any devices installed for the purpose of frequency stabilization. When circuits or devices are employed for limiting modulation or suppression of spurious radiation, a description of these should be included. The description should be sufficiently complete to develop all factors that may effect a determination as to how effectively the proposed transmitter can be expected to function.
10. Antennas:
a. Types and manufacturer.
b. Size.
c. Gains.
d. Beamwidths, in degrees between half power points (described in detail if not symmetrical).
e. Sidelobe patterns. (The first few sidelobes should be calculated and submitted.)
f. Height above ground level.
g. Height above mean sea level.
h. Polarizations.
i. Tracking mode.
j. Calculations for the receiving antenna gain to receiving system noise temperature ratio (G/T).
1. Specify G, which is the antenna gain measured at 4 GHz at the input of the first R.F. amplifier of the receiving system, expressed in dB relative to an isotropic radiator.
2. Specify T, which is the receiving system noise temperature referred to the input of the first R.F. amplifier of the receiving system, expressed in dB relative to 1° Kelvin.
k. Nominal operating range of azimuths of center of main lobe of radiation and corresponding elevation angles.
l. Equivalent isotropically radiated power (e.i.r.p.).
1. Main beam.
2. Horizontal plane (per any 4 kHz of bandwidth).

[F.R. Doc. 70–3841; Filed, Mar. 30, 1970; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 70–17]

AMERICAN EXPORT ISBRANDTSEN LINES, INC.

Petition for Declaratory Order; To Show Cause

As a result of the proceedings in the Maritime Administration's Docket S. 241, U.S. Lines, Inc., States Marine Lines, Inc., and American Maritime Association entered into an agreement which provides:

1. U.S. Lines does not seek, nor will it accept operating differential subsidy for military carryings whether on break bulk or containerships. It will seek to have included in any new operating differential subsidy agreement granted as a result of the pending application a formula for abatement of operating differential subsidy similar to that for domestic intercoastal service.

2. On the basis of the first paragraph, the AMA and States Marine Lines withdraw from this proceeding with respect to ODS for both break bulk and containership service.

3. Also on the basis of No. 1 above, the first paragraph, neither AMA nor States Marine Lines will oppose any use by U.S. Lines of any nonsubsidized vessel in any nonsubsidized service except that both reserve the right to oppose charter of any CDS built or priced vessel to the military.

4. States Marine Lines and AMA may continue to participate in Docket S–244.

The terms of the above agreement raise the question of the applicability of section 15 of the Shipping Act, 1916, i.e., whether at the very least the agreement represents a "cooperative working arrangement" between the parties thereto

which must be filed with and approved by the Commission under section 15.

Therefore, pursuant to sections 15 and 22 of the Shipping Act, 1916, and Rule 5(f) of the Commission's rules of practice and procedure (46 CFR 502.66):

It is ordered, That U.S. Lines, Inc., States Marine Lines and the American Maritime Association show cause why the above-cited agreement should not be filed with and approved by the Commission under section 15 of the Shipping Act.

It is further ordered, That the proceeding shall be limited to the submission of affidavits of fact, memoranda of law, and oral argument. Should any party feel that an evidentiary hearing is required, it must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavits. Requests for evidentiary hearing shall be filed on or before April 16, 1970. Affidavits of fact and memoranda of law shall be filed by respondents on or before April 16, 1970. Replies thereto shall be filed by American Export/Isbrandtsen Lines, Inc., the Commission's Office of Hearing Counsel, and interveners, if any, on or before May 6, 1970. An original and 15 copies of affidavits of fact and memoranda of law are required to be filed with the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Copies of any papers filed with the Secretary should also be served upon all parties hereto. Oral argument will be heard at a date and time to be announced later.

It is further ordered, That U.S. Lines, Inc., States Marine Lines, Inc. and American Maritime Association are hereby made respondents in this proceeding and American Export/Isbrandtsen Lines, Inc., is made petitioner.

It is further ordered, That this order be published in the FEDERAL REGISTER and served upon respondents and petitioner.

Persons other than respondents, petitioner, and Hearing Counsel who desire to become parties to this proceeding shall file a petition for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practice and procedure no later than April 6, 1970.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

MARCH 26, 1970.

[F.R. Doc. 70-3887; Filed, Mar. 30, 1970; 8:53 a.m.]

DR. AUGUST OETKER NAEHRMITTELFABRIK GMBM ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Edwin Longcope, Hill, Betts, Yamaoka, Freehill & Longcope, 26 Broadway, New York, N.Y. 10004.

Agreement No. 9845 is an agreement between Dr. August Oetker Naehrmittelfabrik GMBM (Columbus Line), Compagnie Fabre/SGTM, S.A. (Fabre Line), and Dart Containerline Co. Ltd., to organize a corporation under the laws of the State of New Jersey to be known as Global Container Services, Inc., which shall (1) operate a container and cargo terminal within the Port of New York for the use of the parties and others and (2) enter into an agreement with Port Jersey Corp., to obtain the use of land, wharves, equipment and terminal facilities of the Port Jersey Corp., for the purpose of operating and constructing such terminal.

Dated: March 26, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-3884; Filed, Mar. 30, 1970; 8:53 a.m.]

[Docket No. 70-16]

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION

Order To Show Cause Regarding Modification of Agreement

The Commission is aware of the continued existence of a serious controversy which has been disturbing carriers serving the North Atlantic/United Kingdom trade which apparently originated with the filing of a through intermodal freight tariff by Container Marine Lines (CML), a division of American Export-Isbrandtsen Lines, Inc. The dispute appears to continue because of the opposition of member lines of the North Atlantic Westbound Freight Association (NAWFA) (excluding CML) to the continued publication of CML's independent tariff and the inability of the member lines to agree upon the establishment of a through intermodal service equivalent to that offered by CML in its independent tariff.

In June 1969 the Commission approved an amendment to the NAWFA agreement authorizing NAWFA to establish a through service.

Although NAWFA has obtained this authority, which, if exercised, might help terminate the controversy, NAWFA has been unable to act in this direction. According to information on file with the Commission, the parties have been meeting periodically in an effort to establish a through intermodal service. However, because of the belief of the parties that the establishment of such a service requires unanimous approval of the member lines under Article 8 of the NAWFA agreement, all efforts in this direction have been unsuccessful. Had the unanimity rule not been applied, furthermore, information before the Commission indicates that several proposals put before the members would have carried.

Article 8 of the NAWFA agreement states in pertinent part:

> All decisions concerning interpretations of, or amendments to, the text of this agreement and absorption costs can be made only by unanimous vote of all the members entitled to vote * * * all other decisions may be made by a majority vote of not less than three-quarters of all members entitled to vote. Where a unanimous or majority vote is required and any member abstains from voting, a decision will be reached on the basis of the votes cast by the remaining members.

In our decision in Disposition of Container Marine Lines Through Intermodal Container Freight Tariffs, 11 F.M.C. 476 (1968), we advised the parties that we expected conferences to "be at the forefront in stimulating and encouraging improvements in transportation", and furthermore stated that the Commission "has sought to facilitate, wherever possible, the implementation of improved shipping systems." 11 F.M.C. at 482, 483. We have also acted in other cases where necessary to remove obstacles which have frustrated the desires of a majority of conference members to take necessary action. Investigation of Passenger Steamship Conferences Regarding Travel Agents, 10 F.M.C. 27 (1966), aff'd sub nom. Federal Maritime Commission v. Aktiebolaget Svenska Amerika Linien, 390 U.S. 238 (1968).

In the present case, it appears that Article 8 has been interpreted by the parties in such a fashion as to frustrate the desires of a strong majority of the members of NAWFA to establish a through service and thus terminate the longstanding controversy among the members. In order to remove this obstacle and assist the parties to settle their differences, we believe that Article 8 of the NAWFA agreement should be modified to permit the establishment of a through

intermodal service by vote of three-quarters of the members voting, as is the case in all other decisions not involving basic changes to the agreement or "absorption costs".

Therefore, pursuant to sections 15 and 22 of the Shipping Act, 1916, and Rule 5(f) of the Commission's rules of practice and procedure (46 CFR 502.66):

It is ordered, That the North Atlantic Westbound Freight Association and its member lines (including Container Marine Lines) show cause why Article 8 of the NAWFA Agreement No. 5850 should not be modified pursuant to section 15 to specify that in any decision concerning the establishment of a through intermodal service, whether or not involving "absorption costs" as defined by NAWFA, the voting requirement shall be three-quarters of the members voting.

It is further ordered, That the proceeding shall be limited to the submission of affidavits of facts, memoranda of law, and oral argument. Should any party feel that an evidentiary hearing is required, it must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavits. Requests for evidentiary hearing shall be filed on or before April 15, 1970. Affidavits of fact and memoranda of law shall be filed by parties other than Hearing Counsel on or before April 15, 1970. Replies thereto shall be filed by parties and the Commission's Bureau of Hearing Counsel on or before May 5, 1970. An original and 15 copies of affidavits of fact and memoranda of law are required to be filed with the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Copies of any papers filed with the Secretary should also be served upon all parties hereto. Oral argument will be heard at a date and time to be announced later.

It is further ordered, That the North Atlantic Westbound Freight Association and its member lines (including Container Marine Lines) are hereby made respondents in this proceeding.[1]

It is further ordered, That this order be published in the FEDERAL REGISTER and served upon respondents.

Persons other than respondents and Hearing Counsel who desire to become parties to this proceeding shall file a petition for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practice and procedure no later than April 6, 1970.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

MARCH 26, 1970.

APPENDIX A

North Atlantic Westbound Freight Association, Atlantic Freight Secretaries, Ltd., Cunard Building, Liverpool 3, England.

American Export Isbrandtsen Lines, Inc. (Container Marine Lines), 26 Broadway, New York, N.Y. 10004.
Atlantic Container Line Ltd., Overline House, Central Station, Southampton, England.
Boston Line G.M.B.H., Postfach 847, Hutfilterstrasse 6/8, 28 Bremen 1, W. Germany.
Bristol City Line of Steamships Ltd., Cumberland Road, Bristol, England.
Cunard Steam-Ship Co., Ltd., Cunard Building, Water Street, Liverpool 3, England.
Dart Containerline Company Limited, Meir 1, Antwerp, Belgium.
Furness, Withy & Co. Ltd., Furness House, Leadenhall Street, London E. C. 3, England.
Hamburg-Amerika Linie, Ballindamm 25, Hamburg 1, Germany.
Independent Gulf Line—South Atlantic Service, de Ruyterkade 107, Amsterdam, Holland.
Irish Shipping Ltd., 19/21 Astons Quay, Dublin, Eire.
Manchester Liners Ltd., Manchester Liners House, St. Ann's Square, Manchester 2, England.
Norddeutscher Lloyd, Gustav Deetjen Allee 2/6, Bremen 1, Germany.
Sea-Land Service, Inc., Post Office Box 1050, Elizabeth, N.J. 07207.
Seatrain Lines, Inc./Seatrain Lines International, S.A., 595 River Road, Edgewater, N.J. 07020.
United States Lines, Inc., One Broadway, New York, N.Y. 10004.
Wilh. Wilhelmsen, Roald Amundsens Gate 5, Oslo 1, Norway.
Swedish Atlantic Line, Packhusplatsen 6, Gothenburg, Sweden.

[1] Appendix A, attached hereto, contains list of respondents.

[F.R. Doc. 70-3886; Filed, Mar. 30, 1970; 8:53 a.m.]

PORT OF SEATTLE AND PACIFIC MOLASSES CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. T. P. McCutchan, Manager, Property Management Department, Port of Seattle, Post Office Box 1209, Seattle, Wash. 98111

Agreement No. T-2392 between the Port of Seattle (Port) and Pacific Molasses Co. (Company) provides for the leasing of certain facilities by the Port to the Company for the storage, handling and shipment of bulk liquid (nonpetroleum) cargo. Rental is based on tonnage transitting the premises with an annual minimum payment. Port will assess and collect dockage and service and facility charges in accordance with its applicable tariffs on all vessels loading or unloading to or from the leased premises. Company shall have the exclusive right to assess and collect charges to or from the premises. Products using the facility and not owned by the Company will be assessed rates established after consultation between Port and Company.

Dated: March 26, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY, *Secretary.*

[F.R. Doc. 70-3885; Filed, Mar. 30, 1970; 8:53 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI70-1386, etc.]

MOBIL OIL CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

MARCH 20, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be

[1] Does not consolidate for hearing or dispose of the several matters herein.

held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order, respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before May 6, 1970.

By the Commission.

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

APPENDIX "A"

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect, subject to refund, in dockets Nos.
RI70-1386	Mobil Oil Corp.	27	[3] 15	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Edinburg Field, Hidalgo County, Tex.) (RR. District No. 4).	$1,079	2-20-70	[4] 2-20-70	[5] 2-21-70	16.00	[6] 16.0591	
RI70-1387	Mobil Oil Corp. (Operator) et al.	320	[7] 22	Natural Gas Pipeline Co. of America (LaGloria Field, Jim Wells and Brooks Counties, Tex.) (RR. District No. 4).	2,312	2-24-70	[4] 2-24-70	[5] 2-25-70	16.0	[6] 16.06	
RI70-1388	Mobil Oil Corp. (Operator).	417	[7] 20	Natural Gas Pipeline Co. of America (LaGloria Field, Brooks County, Tex.) (RR. District No. 4).	97	2-24-70	[4] 2-24-70	[5] 2-25-70	16.0	[6] 16.06	
RI70-1389	Kerr-McGee Corp.	56	[8] 9	The Jupiter Corp. (Rollover Block 39 Field, Vermilion Area, Offshore Louisiana) (Disputed Zone).	18,250	2-19-70	[10] 11-1-69	[11] 11-2-69	18.5	[11] [12] 19.5	

[3] Applicable only to production from the 10,760- and 10,800-foot Frio Sand Reservoirs.
[4] The stated effective date is the date of filing pursuant to the Commission's Order No. 390.
[5] Tax reimbursement increase.
[6] Pressure base is 14.65 p.s.i.a.
[7] Applicable only to production from the Earnest Lower, the Frank Block A, the O'Neil Zone, the 20-F zone and the 7,615-foot Sand Reservoirs.
[8] The suspension period is limited to 1 day.
[9] Includes letter dated Nov. 24, 1969, well completion report and affidavit of the operator (Phillips Petroleum Co.) establishing a discovery date of June 17, 1971 for well No. 2-D. Kerr-McGee's letter to Jupiter requesting agreement or disagreement was not signed by Jupiter.
[10] The stated effective date is the effective date provided by Opinion No. 567.
[11] Rate increase filed pursuant to Opinion No. 561.
[12] Pressure base is 15.025 p.s.i.a.

The proposed rate increases filed by Mobil Oil Corp., Mobil Oil Corp. (Operator), et al., and Mobil Oil Corporation (Operator) (all referred to herein as Mobil), reflect the 0.5-percent increase in the production tax from 7 percent to 7.5 percent enacted by the State of Texas on September 9, 1969, to be effective as of October 1, 1969. Mobil's proposed rate increases exceed the applicable area ceiling rate for the area involved as set forth in the Commission's Statement of General Policy No. 61-1, as amended, and should be suspended for 1 day from the date of filing, pursuant to the Commission's Order No. 390 issued on October 10, 1969.

Kerr-McGee Corp.'s (Kerr-McGee) proposed rate increase from 18.5 cents to 19.5 cents per Mcf involves a sale to The Jupiter Corporation from the Rollover Field, Offshore Louisiana (Disputed Zone). The rate presently being collected by Kerr-McGee for this gas was determined in Opinion No. 470 to be 18.5 cents per Mcf.[14] Kerr-McGee submitted documents pursuant to Opinion No. 567, which indicates that part of the gas is being produced from reservoirs discovered after January 1, 1961, and therefore, such gas is entitled to a second vintage gas well gas price. Kerr-McGee's proposed increase to 19.5 cents for the gas well gas involved herein is equal to the area rate established in Opinion No. 546 for second vintage gas well gas produced from within the State taxing jurisdiction but exceeds the 18 cents rate established for second vintage gas well gas produced from the Federal domain. The Commission has allowed the onshore area rate to apply to gas produced from the disputed zones pending the resolution of the jurisdictional question, but these amounts are subject to refund to the extent that certain of the production is finally held to have been from the Federal domain. Consistent with prior Commission action on similar increases, we conclude that Kerr-McGee's proposed increase should be suspended for 1 day from November 1, 1969, and thereafter Kerr-McGee should be permitted to collect the increased rate subject to refund of those amounts attributable to the 1.5 cents difference in the offshore and onshore area rate paid for gas finally held to have been produced from the Federal domain.

Jupiter transports Kerr-McGee's gas onshore and resells such gas to Tennessee Gas Pipeline Co. By order issued December 13, 1968 in The Jupiter Corp., et al., Docket No. RI63-212, et al., 40 FPC 1455, the Commission in Ordering Paragraph (A) thereof directed Tennessee to pay directly to Kerr-McGee the 18.5 cents price it was entitled to under Opinion No. 470. Consistent therewith, after Kerr-McGee has filed the refund assurance required by this order, Tennessee shall pay directly to Kerr-McGee, on the account of Jupiter, the higher 19.5 cents rate suspended herein effective as of November 2, 1969. In addition, since Tennessee is paying Kerr-McGee directly for this gas and Jupiter is the immediate purchaser, both Tennessee and Jupiter should submit statements in accordance with Opinion No. 567 (§ 2.56(f)(2) of the Commission's rules of practice and procedure) that the gas qualifies for the price sought or why the buyer believes it does not.[15]

[14] As of Oct. 1, 1968, Kerr-McGee has a refund obligation down to 17 cents if the gas is finally held to have been produced in the Federal domain. (First vintage offshore price).

[15] A statement previously submitted by Kerr-McGee requesting Jupiter to agree or disagree with the price sought by Kerr-McGee was not signed by Jupiter.

[F.R. Doc. 70-3750; Filed, Mar. 30, 1970; 8:45 a.m.]

[Docket No. RI70-1390, etc.]

NATIONAL COOPERATIVE REFINERY ASSOCIATION ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

MARCH 20, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before May 6, 1970.

By the Commission.

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

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-1390	National Cooperative Refinery Association (Operator) et al., McPherson, Kans. 67460.	[6] 16	3	Northern Natural Gas Co. (Carthage Field, Texas County, Okla.) (Panhandle Area).	$1,950	2-20-70	[2] 3-23-70	8-23-70	[5] 15.0	[3 4 5] 16.0	RI67-314.
RI68-460	Champlin Petroleum Co.	101	[8] 2-2	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex.) (RR. District No. 8) (Permian Basin Area).	204	[7] 2-20-70	[8] 11-20-69	[10] Accepted	17.5	[4 11] 17.5656	RI68-460.
RI70-1391	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	284	5	Northern Natural Gas Co. (Hansford Field, Hansford County, Tex.) (RR. District No. 10).	9,314	2-24-70	[2] 4-1-70	9-1-70	[12] 17.0638	[3 4 12] 18.0675	RI70-1160.
	do	171	6	Panhandle Eastern Pipe Line Co. (Camrick Pool, Texas County, Okla.) (Panhandle Area).	92	2-24-70	[12] 3-27-70	8-27-70	18.4	[3] 18.6	RI69-600.
	do	361		Michigan Wisconsin Pipe Line Co. (Woodward Area, Major County, Okla.) (Oklahoma "Other" Area).	6,000	2-24-70	[2] 3-27-70	8-27-70	[5 14] 18.46	[3 4 5 14] 22.46	RI70-267.
	do	283	7	Cities Service Gas Co. (Hugoton Field, Seward County, Kans.).	1,590	2-24-70	[2] 4- 8-70	9-8-70	[12] 17.0	[3 4 12] 18.0	RI70-267.
RI70-1392	J. C. Templeton, Beck Bldg., Shreveport, La. 71101.	1	1	Natural Gas Pipeline Co. of America (Erick Area, Beckham County, Okla.) (Oklahoma "Other" Area).	7,441	2-26-70	[2] 3-29-70	8-29-70	[5 13] 15.90	[3 4 5 13] 16.96	
RI70-1393	Sunset International Petroleum Corp. (Operator) et al., 2400 Fidelity Union Tower Bldg., Dallas, Tex. 75201.	54	8	Arkansas Louisiana Gas Co. (Arkoma Basin Area, Sebastion County, Ark., Haskell and Le Flore Counties, Okla.) (Oklahoma "Other" Area).	3,600	2-25-70	[2] 3-28-70	8-28-70	[5] 15.0	[3 4 5] 16.0	
RI70-1394	Leben Drilling, Inc. (Operator) et al., 815 Wichita Plaza, Wichita, Kans. 67202.	3	8	Arkansas Louisiana Gas Co. (Pittsburg and Latimer Counties, Okla.) (Oklahoma "Other" Area).	18,270	2-18-70	[2] 4- 1-70	9- 1-70	[5] 15.0	[3 4 5] 16.015	
RI70-1395	Anadarko Production Co., Post Office Box 9317, Fort Worth, Tex. 76107.	9	9	Colorado Interstate Gas Co. (Southwest Camp Creek Field, Beaver County, Okla.) (Panhandle Area).	1,604	2-19-70	[2] 3-22-70	8-22-70	[5] 15.0	[3 4 5] 17.0	
	do	11	7	Colorado Interstate Gas Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	690	2-19-70	[2] 3-22-70	8-22-70	[5] 15.0	[3 4 5] 17.0	
	do	12	3	Colorado Interstate Gas Co. (Greenwood Field, Morton County, Kans.)	9,816	2-19-70	[2] 3-22-70	8-22-70	[5] 16.0	[3 4 5] 18.0	
	do	85	1	Panhandle Eastern Pipe Line Co. (Arkalon Field, Seward County, Kans.).	100	2-19-70	[2] 3-22-70	8-22-70	16.0	[3 4] 17.0	
RI70-1396	Anadarko Production Co. (Operator) et al.	94	3	Colorado Interstate Gas Co. (Mocane-Laverne Area, Beaver County, Okla.) (Panhandle Area).	6,630	2-19-70	[2] 3-22-70	8-22-70	[12 15] 16.575	[3 4 12 15] 18.785	
RI70-1397	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	110	2	Arkansas Louisiana Gas Co. (Northeast Hillsdale Field, Garfield and Grant Counties, Okla.) (Oklahoma "Other" Area).	672	2-19-70	[2] 3-22-70	8-22-70	[12] 15.0	[4 12 17] 17.0	
RI70-1398	Kingwood Oil Co. (Operator) et al., 100 Park Avenue Bldg., Oklahoma City, Okla. 73102.	16	1	Northern Natural Gas Co. (Camrick Field, Beaver County, Okla.) (Panhandle Area).	660	2-18-70	[13] 3-21-70	8-21-70	[12] 17.0	[3 4 12] 18.0	
RI70-1399	Pan American Petroleum Corp., Post Office Box 1410, Fort Worth, Tex. 76101.	448	3	Michigan Wisconsin Pipe Line Co. (Woodward Gas Area, Major County, Okla.) (Oklahoma "Other" Area).	440	2-18-70	[2] 3-21-70	8-21-70	[5 19] 18.75	[3 5 18 19] 20.26556	RI69-219.
RI70-1400	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	422	7	Panhandle Eastern Pipe Line Co. (Guymon Hugoton Field, Texas County, Okla.) (Panhandle Area).	84	2-20-70	[13] 3-23-70	8-23-70	18.415	[4 18] 18.500	RI69-746.
RI70-1401	do	454	5	do	161	2-20-70	[13] 3-23-70	8-23-70	18.415	[4 18] 18.500	RI69-746.
	Jake L. Hamon, Post Office Box 663, Dallas, Tex. 75221.	55	3	Arkansas Louisiana Gas Co. (Arkoma Area, Red Oak and Kinta Fields, Latimer, Sequoyan, and Le Flore Counties, Okla.) (Oklahoma "Other" Area).	500	2-19-70	[2] 4- 1-70	9- 1-70	15.0	[17] 16.0	

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-1402	Texaco, Inc., Post Office Box 2420, Tulsa, Okla. 74102.	437	1	Arkansas Louisiana Gas Co. (Hillsdale Field, Grant County, Okla.) (Oklahoma "Other" Area).	$3,468	2-20-70	[12] 3-23-70	8-23-70	[3] [20] 18.21	[4] [17] [20] 20.64	
	do	198	7	Natural Gas Pipeline Co. of America (Southeast Camrick Field, Texas County, Okla.) (Panhandle Area).	474	2-20-70	[13] 3-23-70	8-23-70	[13] 17.5	[3] [4] [13] 18.8	RI69-569.
RI70-1403	Seneca Oil Co. (Operator) et al., May-Ex Bldg., 3922 Northwest Expressway, Oklahoma City, Okla. 73112.	1	3	Cities Service Gas Co. (Cherryvale and Wakita Fields, Grant County, Okla.) (Oklahoma "Other" Area).	3,600	2-24-70	[3] 3-27-70	8-27-70	[5] [21] 14.0	[3] [4] [5] [21] 15.0	RI66-610.
RI70-1404	Sun Oil Co., Post Office Box 3383, Tulsa, Okla. 74101.	183	2	Natural Gas Pipeline Co. of America (Quinlan Field, Woodward County, Okla.) (Panhandle Area).	1,549	2-24-70	[3] 4-12-70	9-12-70	[5] [22] 18.156	[3] [4] [5] 21.598	
RI70-1405	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	103	12	Southern Natural Gas Co. (Union and Morehouse Parishes, La.) (North Louisiana).	60,324	2-24-70	[3] 4-1-70	9-1-70	[24] 15.0446	[5] [23] [24] 16.05	
RI70-1406	Sanford P. Fagadau (Operator), Praetorian Bldg., Dallas, Tex. 75201.	2	2	Lone Star Gas Co. (Blue Grove Field, Clay County, Tex.) (RR. District No. 9).	3,000	2-25-70	[13] 3-28-70	8-28-70	14.5	[4] [20] 17.0	
RI70-1407	D. R. Lauck Oil Co., Inc., et al., 301 South Broadway, Wichita, Kans. 67202.	8	3	Panhandle Eastern Pipe Line Co. (State Line Field, Woods County, Okla.) (Oklahoma "Other" Area).	22,995	2-24-70	[13] 3-27-70	8-27-70	[5] [26] 15.750	[4] [5] [25] [26] 17.850	
RI70-1408	Frio Production Co. (Operator) et al., Post Office Box 290, Alice Tex. 78332.	3	8	Valley Gas Transmission, Inc. (Ca. Winn Field, Live Oak County, Tex.) (RR. District No. 2).	2,404	2-25-70	[3] 4-1-70	9-1-70	15.0563	[3] [4] 16.058	RI67-42.
RI70-936	Gulf Oil Corp. (Operator) et al., Post Office Box 1589, Tulsa, Okla. 74102.	77	[27] 1-17	United Gas Pipe Line Co. (Pistol Ridge Field, Lamar, Pearl River, and Forrest Counties, Miss.).	[28] 12,900	2-24-70	[29] 6-4-70	[30] Accepted	[32] 20.0	[32] [31] 23.0	
	do	92	[27] 1-16	do	[33] 18,750	2-24-70	[29] 6-4-70	[30] Accepted	[32] 20.0	[32] [31] 23.0	
	do	134	[27] 1-5	do	[34] 330	2-24-70	[29] 6-4-70	[30] Accepted	[32] 20.0	[32] [31] 23.0	

[3] The stated effective date is the effective date requested by Respondent.
[5] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Subject to upward and downward B.t.u. adjustment.
[6] Formerly Tommy Ward Drilling Co. (Operator) et al. FPC Gas Rate Schedule No. 2.
[7] Corrected by filing of Feb. 27, 1969.
[8] The stated effective date is the date of filing of Feb. 27, 1969.
[9] Substitute filing—replaces filing of Nov. 20, 1969.
[10] Accepted for filing subject to the existing rate proceeding in Docket No. RI68-460 to be effective on Nov. 20, 1969.
[11] Tax reimbursement increase.
[12] Subject to a downward B.t.u. adjustment.
[13] The stated effective date is the first day after expiration of the statutory notice.
[14] Includes 0.46-cent upward B.t.u. adjustment.
[15] Includes base rates of 15 cents before increase and 16 cents after increase plus upward B.t.u. adjustment.
[16] Includes base rates of 15 cents before increase and 17 cents after increase plus upward B.t.u. adjustment.
[17] Filing from initial certificated rate to initial contract rate.
[18] "Fractured" rate increase.
[19] Includes 0.75-cent upward B.t.u. adjustment before increase and 0.75-cent upward B.t.u. adjustment plus 0.01556-cent tax reimbursement after increase.
[20] Includes base price of 15 cents before increase and 17 cents after increase plus upward B.t.u. adjustments.
[21] Buyer deducts 0.75 cent from price shown for dehydration.
[22] Includes base price of 17 cents plus upward B.t.u. adjustment before increase and base price of 19.5 cents plus upward B.t.u. adjustment plus tax reimbursement after increase.
[23] Pressure base is 15.025 p.s.i.a.
[24] Price includes 2 cents paid by buyer to seller for gathering and compression.
[25] Filing from certificated rate to initial contract rate.
[26] Includes base price of 15 cents plus upward B.t.u. adjustment (1,050 B.t.u. gas) before increase and base price of 17 cents plus upward B.t.u. adjustment after increase.
[27] Corrects filing previously submitted on Dec. 4, 1969, which proposed increase to 24 cents (suspended in Docket No. R170-936 until June 4, 1970).
[28] Reflects a decrease of $4,300 in the annual amount of increase previously reported.
[29] The stated effective date is the date of expiration of the suspension period in Docket No. RI70-936.
[30] Accepted for filing subject to the existing suspension proceeding in Docket No. R170-936.
[31] Increase to contract rate.
[32] Settlement rate as approved by Commission order issued Apr. 25, 1963, in Dockets Nos. G-9520 et al.
[33] Reflects decrease of $6,250 in the annual amount of increase previously reported.
[34] Reflects decrease of $110 in the annual amount of increase previously reported.

Kingwood Oil Co. (Operator) et al., request waiver of the statutory notice to permit their proposed rate increase to become effective as of March 1, 1970. Atlantic Richfield Co. requests an effective date of March 22, 1970. Texaco, Inc. requests effective dates of February 20, 1970, and March 21, 1970, for its proposed rate increases. Gulf Oil Corp. requests an effective date of March 22, 1970 for Supplement No. 6 to its FPC Gas Rate Schedule No. 171. Sanford P. Fagadau (Operator) requests an effective date of March 1, 1970, and D. R. Lauck Oil Co., Inc., et al. request an effective date of March 15, 1970, for their proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

Champlin Petroleum Co. (Champlin), has submitted a corrected rate increase reflecting the increase in the Texas production tax from 7 percent to 7.5 percent. Champlin had erroneously deducted a 0.59 cent per Mcf treating charge from the previously filed increase which became effective subject to refund in the existing rate proceeding in Docket No. RI68-460 on November 20, 1969. Champlin requests that the instant filing be substituted in lieu of the previously filed increase to be effective as of November 20, 1969, the effective date of the previous increase. In this situation, we believe that it would be in the public interest to accept for filing Champlin's substitute rate increase subject to the existing rate proceeding in Docket No. RI68-460, to be effective as of November 20, 1969.

Gulf Oil Corp. has filed three corrected rate increases for sales of gas to United Gas Pipe Line Co. in the Pistol Ridge Field, Lamar, Pearl River, and Forrest Counties, Miss. Gulf is proposing a decrease in the price previously proposed for these sales, from 24 cents to 23 cents per Mcf. The prior increases were suspended in Docket No. RI70-936 until June 4, 1970. We believe that it would be in the public interest to accept for filing Gulf's corrected rate changes subject to the existing suspension proceeding in Docket No. RI70-936.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 70-3749; Filed, Mar. 30, 1970; 8:45 a.m.]

[Docket No. CP70-220]

NORTHERN NATURAL GAS CO.

Notice of Application

MARCH 20, 1970.

Take notice that on March 13, 1970, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP70-220 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 one 4,000 horsepower compressor unit at its Carlton compressor station in Minnesota. Authorization for said unit is already pending in Docket No. CP70–71 et al., which is scheduled for formal hearing. Applicant states that the facilities are necessary to provide the presently authorized increased contract demand service to its customers for the 1970–71 heating season, and the uncertainty of the pending authorization makes the current application in Docket No. CP70–220 mandatory to insure service for the 1970–71 heating season.

The total estimated cost of the proposed facilities is $1,627,000, which will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 13, 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. 70–3751; Filed, Mar. 30, 1970; 8:45 a.m.]

[Docket No. G–3566, etc.]

CITIES SERVICE OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

MARCH 24, 1970.

Cities Service Oil Co. and other applicants listed herein, Docket Nos. G–3566 et al.; The Superior Oil Co., Docket No. CI68–1202; Cities Service Oil Co., Docket No. CI69–394.

In the notice of applications for certificates, abandonment of service and petitions to amend certificates, issued March 11, 1970 and published in the FEDERAL REGISTER March 20, 1970 (35 F.R. 4880), Docket No. CI69–1202: Delete all reference pertaining to filing of September 11, 1969. Column 3, Docket No. CI69–394: Change name of purchaser to read "Transwestern Pipeline Co." in lieu of "El Paso Natural Gas Co.".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–3842; Filed, Mar. 30, 1970; 8:49 a.m.]

[Project No. 2390]

LAKE SUPERIOR DISTRICT POWER CO.

Notice of Application for Approval of Exhibit R (Recreational Use Plan) for Constructed Project

MARCH 19, 1970

Public notice is hereby given that application for approval of exhibit R has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a–825r) by Lake Superior District Power Co. (correspondence to: K. S. Austin, president, Lake Superior District Power Co., 101 West Second Street, Ashland, Wis. 54806) as part of the license for the Big Falls Project No. 2390, located on the Flambeau River in Rusk County, Wis., in the vicinity of the city of Ladysmith and village of Tony.

According to the exhibit R, the Big Falls recreation plan was developed in cooperation with the Wisconsin Department of Natural Resources and Rusk County, Wis. The licensee has reserved and developed on a 4-acre site eight picnic tables, three fireplaces, parking for five cars, one tent and two trailer spaces and sanitation facilities. About 1 acre of the 4 has been reserved for future recreational development. All project lands are open to the public for hunting and hiking, and hunting parking spaces will be added as the need arises. While swimming is allowed, no facilities related thereto have been provided. Negotiations are underway for the sale of some project lands to the State of Wisconsin for an addition to Flambeau State Park. In addition, the licensee has agreed to preserve two areas of lands within the project boundary designated by the Wisconsin Department of Natural Resources as fish spawning beds and waterfowl nesting areas, and provides 2.7 acres of project lands to Rusk County under leasing arrangements upon which the county maintains additional recreational facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 19, 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. 70–3801; Filed, Mar. 30, 1970; 8:46 a.m.]

[Docket No. CP70–224]

SEA ROBIN PIPELINE CO.

Notice of Application

MARCH 24, 1970.

Take notice that on March 17, 1970, Sea Robin Pipeline Company (applicant), Post Office Box 1407, Shreveport, La. 71102, filed in Docket No. CP70–224 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 and the transportation of volumes of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport volumes of gas up to 15,300 Mcf per day for United Fuel Gas Co. (United Fuel) from the outer continental shelf, offshore Louisiana, to the terminus of applicant's pipeline near Erath, Vermilion Parish, La., for redelivery to United Fuel pursuant to a common agreement to take effect upon completion by applicant of the herein proposed facilities. Applicant states that it will be necessary for it to construct and operate measuring and regulating facilities near Erath to redeliver the transported gas to United Fuel.

The total estimated cost of the proposed facilities is $113,620, which will be financed initially by short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 17, 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. 70-3803; Filed, Mar. 30, 1970; 8:46 a.m.]

[Docket No. CP70-222]

UNITED GAS PIPE LINE CO.

Notice of Application

MARCH 24, 1970.

Take notice that on March 16, 1970, United Gas Pipe Line Co. (applicant), 1500 Southwest Tower, Houston, Tex. 77002, filed in Docket No. CP70-222 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the shifting of the point of delivery of volumes of natural gas to an existing customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to deliver to Mississippi Power & Light Co. (Mississippi Power) at its Baxter Wilson Power Plant near Vicksburg, Miss., volumes of natural gas up to the total volumes previously authorized (190,000 Mcf per day) for delivery to Mississippi Power at its Rex Brown Power Plant at Jackson, Miss. Applicant states that at times during the year it may still require up to 80,000 Mcf per day for its Rex Brown Plant, but at no time will deliveries to both plants exceed the total authorized volume of 190,000 Mcf per day. Applicant further states that under the proposed shift of delivery pursuant to its new contract with Mississippi Power, Mississippi Power can meet its projected fuel requirements until approximately 1975 without allowing a margin for unanticipated peaks.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 17, 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. 70-3804; Filed, Mar. 30, 1970; 8:46 a.m.]

[Docket No. CP70-223]

UNITED GAS PIPE LINE CO.

Notice of Application

MARCH 25, 1970.

Take notice that on March 16, 1970, United Gas Pipe Line Co. (applicant), 1500 Southwest Tower, Houston, Tex. 77002, filed in Docket No. CP70-223 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of additional volumes of natural gas to an existing customer and the construction and operation of certain facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install 2.09 miles of 2-inch pipeline and appurtenant facilities to serve Louisiana Plywood Corp. (Louisiana Plywood), in Winn Parish, La. Applicant states that Louisiana Plywood is enlarging its production and requires an increase of natural gas above the presently authorized 1,320 Mcf per day to a maximum of 2,000 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 17, 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. 70-3844; Filed, Mar. 30, 1970; 8:49 a.m.]

[Docket No. RP70-24]

UNITED NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges; Correction

MARCH 19, 1970.

In the notice of proposed changes in rates and charges, issued March 17, 1970, and published in the FEDERAL REGISTER March 21, 1970 (35 F.R. 4973), first paragraph, change "$620,974" to "$1,638,986."

GORDAN M. GRANT,
Secretary.

[F.R. Doc. 70-3843; Filed, Mar. 30, 1970; 8:49 a.m.]

[Project No. 2442]

CITY OF WATERTOWN, N.Y.

Notice of Application for Approval for Constructed Project

MARCH 24, 1970.

Public notice is hereby given that application for approval of exhibit R has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a-825r) by city of Watertown, N.Y. (correspondence to: Ronald G. Forbes, City Manager, City Hall, Watertown, N.Y. 13601) as part of the license for the Watertown Project No. 2442, located in the city of Watertown on the Black River in Jefferson County, N.Y.

According to the exhibit R, the recreational potential of the project is limited along the south side of the river owing to commercial development, the project area is located within a light industrial zone and adjacent to a heavy industrial zone and small business area, and the Black River is heavily polluted in the

project area. However, the licensee has set aside 6 acres (within the project boundary which can be used as a games area) to include 10 picnic tables and benches, 5 outdoor grills, and parking spaces for 10 cars.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 19, 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. 70-3802; Filed, Mar. 30, 1970; 8:46 a.m.]

[Docket No. CP70-9]

WEST TENNESSEE PUBLIC UTILITY DISTRICT OF WEAKLEY, CARROLL, AND BENTON COUNTIES, TENN., AND MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Extension of Time and Continuance

MARCH 24, 1970.

On March 18, 1970, Tennessee Gas Pipeline Co., a division of Tenneco Inc., filed a motion requesting that the time for filing prepared testimony, set for March 18, 1970, by order issued on February 25, 1970, be extended 30 days. The motion also requests that the hearing now set for April 7, 1970, be continued 30 days. The motion states that counsel for applicant and respondent support the motion. On March 18, 1970, applicant filed a telegram concurring in the motion.

Upon consideration, notice is hereby given that the time is extended to and including April 17, 1970, for the service of evidence in accordance with paragraph (B) of the order issued on February 25, 1970, and the hearing is continued until May 5, 1970, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-3805; Filed, Mar. 30, 1970; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

FIRST BANCSHARES OF FLORIDA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) by First Bancshares of Florida, Inc., Boca Raton, Florida, for prior approval of the Board of action whereby Applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of the following banks: Citizens Bank of Palm Beach County, West Palm Beach, Florida; First Bank and Trust Company of Boca Raton, National Association, Boca Raton, Florida; First National Bank and Trust Company of Riviera Beach, Riviera Beach, Florida; and University National Bank of Boca Raton, Boca Raton, Florida.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, March 23, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-3807; Filed, Mar. 30, 1970; 8:47 a.m.]

HUNTINGTON BANCSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Huntington Bancshares Inc., which is a bank holding company located in Columbus, Ohio, for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of The Lucas County State Bank, Toledo, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

By order of the Board of Governors, March 23, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-3808; Filed, Mar. 30, 1970; 8:47 a.m.]

NEW HAMPSHIRE BANKSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by New Hampshire Bankshares, Inc., which is a bank holding company located in Nashua,

N.H., for prior approval by the Board of Governors of the acquisition by applicant of up to 100 percent of the voting shares of The Keene National Bank, Keene, N.H.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Boston.

By order of the Board of Governors, March 23, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-3809; Filed, Mar. 30, 1970; 8:47 a.m.]

SECURITY NEW YORK STATE CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Security New York State Corp., which is a bank holding company located in Rochester, N.Y., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The National Bank of Auburn, Auburn, N.Y.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

By order of the Board of Governors, March 23, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-3810; Filed, Mar. 30, 1970; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2440, 812-2480]

E. I. DU PONT DE NEMOURS AND CO. AND REMINGTON ARMS CO.

Notice of Filing of Application for Order Exempting Proposed Transactions

MARCH 25, 1970.

Notice is hereby given that E. I. du Pont de Nemours and Co. ("Du Pont"), Wilmington, Del. 19898, a Delaware corporation, and Remington Arms Co. ("Remington"), Bridgeport, Conn. 06602, a Delaware corporation, have each filed an application pursuant to sections 6(c) and 17(b) of the Investment Company Act of 1940 ("Act") for an order modifying orders of the Commission of June 24, 1953, and February 9, 1959, exempting from section 17(a)(3) of the Act the borrowing of money by employees of each of said applicants from their respective employer under certain circumstances and subject to certain conditions. All interested persons are referred to the application on file with the Commission for a full statement of the representations therein, which are summarized below.

Christiana Securities Co. ("Christiana"), a registered closed-end investment company, owns approximately 29 percent of the outstanding common stock of Du Pont, which in turn owns approximately 60 percent of the outstanding common stock of Remington. Under sections 2(a)(3) and 2(a)(9) of the Act, Du Pont and Remington are each presumed to be controlled by, and each is an affiliate of, Christiana.

By said order of June 24, 1953 (Investment Company Act Release No. 1880), Du Pont was granted an exemption from section 17(a)(3) of the Act to permit it to assist its employees by the making of certain loans for acquiring residential property or emergency funds required because of costly illness in the family and other pressing needs, including those for transportation to and settling of the family's new home. By said order of February 9, 1959 (Investment Company Act Release No. 2826), Remington was granted a similar exemption from section 17(a)(3) with respect to certain loans to its employees. Such exemptions are subject to the limitations: (1) No loan shall be made to any director or officer of Du Pont or Remington, respectively, or of any affiliated company; (2) the amount on loan to an individual at any time shall not exceed $10,000; and (3) the aggregate amount of such loans outstanding at any time shall not exceed $2 million in the case of Du Pont, nor $100,000 in the case of Remington.

Du Pont and Remington state that limitations (2) and (3) above have become unduly restrictive under current conditions, particularly in the case of loans granted to transferred employees who own their own homes, which account for most of their loans to employees. For many years each applicant has had a policy of assisting employees who transfer at applicant's request. One form of such assistance is direct loans to transferred employees to assist them in the purchase of homes at their new locations prior to the sale of their present homes. A transferred employee may have an equity in his present home of more than $10,000. Also, a transferred employee may be required to make a larger down payment on a home at his new location larger than the equity in his present home. To provide adequate assistance to transferred employees and to provide additional flexibility for other forms of employee loans pursuant said orders of June 24, 1953 and February 9, 1959, Du Pont and Remington have requested that limitations (2) and (3) of said orders be modified to provide: (2) The amount on loan to an individual at any time shall not exceed the lesser of $25,000 or 3 years' gross salary of the borrowing employee, and (3) the aggregate amount of such loans outstanding at any time shall not exceed $3 million in the case of Du Pont nor $250,000 in the case of Remington. Limitation (1), above, would remain unchanged.

Section 17(a)(3) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person (including an employee) of such an affiliated person, from borrowing from such company, or any company controlled by such registered investment company, any money or other property,

with certain exceptions. Section 17(b) of the Act provides that the Commission shall upon application exempt a proposed transaction from the provisions of section 17(a), if it finds that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act 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.

Notice is further given that any interested person may, not later than April 8, 1970 at 5:30 p.m., submit to the Commission in writing a request for a hearing on either of said matters accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant or applicants concerned 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 each 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 the 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. 70–3824; Filed, Mar. 30, 1970; 8:48 a.m.]

[812–2708, etc.]

EBASCO INDUSTRIES, INC., ET AL.

Notice of Filing of Application for Order

MARCH 23, 1970.

In the matter of Ebasco Industries, Inc., Brazilian Electric Power Co., Empresas Electricas Argentinas, Boise Cascade Corp., Post Office Box 200, Boise, Idaho 83701 (812–2708), (811–1022), (811–1430), (811–1431).

Notice is hereby given that Ebasco Industries, Inc. ("Ebasco"), a New York corporation, Brazilian Electric Power Co. ("Bepco"), a Florida corporation, and Empresas Electricas Argentinas ("EEA"), a Florida corporation (hereinafter referred to collectively as "applicants"), each registered as a closed-end, nondiversified investment company under the Investment Company Act of 1940 ("Act"), have filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that each of the applicants has ceased to be an investment company as defined in the Act. Bepco and EEA alternatively seek an order of the Commission pursuant to section 6(c) of the Act, exempting Bepco and EEA from all provisions of the Act and the rules and regulations promulgated thereunder, in the event section 8(f) of the Act is deemed not to be applicable under the circumstances. All interested persons are referred to the application on file with the Commission for a statement of applicants' representations made therein which are summarized below.

Ebasco registered under the Act on February 6, 1961. Bepco and EEA, which were then totally-owned subsidiaries of American and Foreign Power Co., Inc. ("AFP"), registered under the Act of September 26, 1966, as did AFP which itself was a majority-owned subsidiary of Ebasco. On December 31, 1967, AFP was merged into Ebasco and Bepco and EAA thereby became totally-owned subsidiaries of Ebasco. On April 15, 1968, AFP received an order of the Commission finding that AFP had ceased to be an investment company and declaring that its registration under the Act was no longer in effect (ICA Release No. 5344).

On April 24, 1969, the respective Boards of Directors of Ebasco and Boise Cascade Corp. ("Boise Cascade"), a Delaware corporation, approved, authorized and adopted at separate meetings an agreement and plan of merger ("merger agreement"), dated as of the same date, providing for the merger of Ebasco into Boise Cascade, with Boise Cascade as the surviving corporation. On July 23, 1969, at separate meetings of the respective shareholders of Ebasco and Boise Cascade, the merger agreement was approved, authorized and adopted by the holders of the requisite percentages of the shares of each corporation. On August 31, 1969, the merger of Ebasco into Boise Cascade became effective, Boise Cascade succeeded to all the assets, rights, liabilities and obligations of Ebasco, and the existence of Ebasco as a separate corporation ceased. Three Ebasco shareholders elected to dissent. Their rights have now been satisfied, and applicants represent that there are no shareholders or former shareholders of Ebasco with any further rights in this connection.

Applicants represent that Boise Cascade is not an investment company as defined in the Act. Boise Cascade does not engage primarily or propose to engage primarily in the business of investing, reinvesting, or trading in securities; it does not hold itself out as being engaged in such activities; and it does not own investment securities having a value exceeding 40 percent of the value of its total assets exclusive of government securities and cash items. At June 30, 1969, on an unconsolidated basis but adjusted proforma to reflect the merger, the percentage of total assets exclusive of government securities and cash items of Boise Cascade represented by investment securities was not in excess of 24.4 percent. Since June 30, 1969, this percentage has declined. It is an issuer primarily engaged, directly and through wholly-owned subsidiaries in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities. Applicants further represent that within the spirit and intent of section 3(b)(3) of the Act, Bepco and EEA have each ceased to be an investment company as that term is defined in the Act, since all their outstanding securities are directly owned by Boise Cascade.

Section 3(b)(3) of the Act excepts from the definition of investment company in section 3(a)(3) any issuer all of the outstanding securities of which are directly or indirectly owned by a company excepted from the definition of investment company by paragraph (1) or (2) of section 3(b). The term, "investment company" is also defined in sections 3(a)(1) and 3(a)(2).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions 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.

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.

Notice is further given that any interested person may, not later than April 6, 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 reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address set forth 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. 70–3821; Filed, Mar. 30, 1970; 8:48 a.m.]

[812–2631]

FIDELITY CAPITAL INVESTMENT PLANS ET AL.

Notice of Application To Permit Offer of Exchange

MARCH 25, 1970.

In the matter of Fidelity Capital Investment Plans, Fidelity Destiny Investment Plans, Fidelity Fund Accumulation Plans, Fidelity Trend Investment Plans, Puritan Accumulation Plans, Salem Investment Plans and Crosby Plans Corporation, 225 Franklin Street, Boston, Mass. 02110.

Notice is hereby given that Crosby Plans Corp. ("Crosby"), a Massachusetts corporation which is the sponsor of six unit investment trusts registered as such under the Investment Company Act of 1940 (the "Act") and entitled Fidelity Capital Investment Plans, Fidelity Destiny Investment Plans, Fidelity Fund Accumulation Plans, Fidelity Trend Investment Plans, Puritan Accumulation Plans and Salem Investment Plans (formerly Dow Theory Investment Plans) ("Plans" and, together with Crosby "Applicants"), has filed on its own behalf as well as on behalf of Plans an application, as amended, pursuant to section 11(c) of the Act requesting an order of the Commission permitting a proposed offer of exchange by each plan and pursuant to section 6(c) of the Act for an order exempting applicants from the provisions of section 22(d) of the Act, all as described below. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

At the present time, Plans issue certificates of various denominations and various durations evidencing periodic investment plans for the accumulation of shares ("certificates") of the particular registered open-end investment company ("fund") identified in the title of each plan. Each such fund has a different investment objective and all have as their adviser Fidelity Management & Research Co. The certificates call for regular monthly payments and require an initial double payment. Plan certificates are sold on a front-end load basis; that is, an amount equal to 50 percent of the payments is deducted from the equivalent of the first 12 monthly payments as a sales charge while the remaining payments or their equivalents are subject to a maximum deduction of 4 percent as a sales charge.

Applicants propose to offer holders who have not yet completed all of their payments on a certificate but who have held their certificates for at least 6 months, the opportunity to exchange their certificates for one of the same face amount and maturity issued by any of the other plans at the relative net asset values of the certificates. Further, for purposes of determining the amount of sales charge to be deducted from payments made following an exchange, Applicants propose to take into account the number of monthly payments or their equivalents made toward completion of the plan evidenced by the certificate originally held.

The schedules and amounts of all creation and sales charges and custodial charges are the same for all plans. The only differences are in the investment policies of the different funds whose shares are being accumulated. Applicants state that an order, properly submitted to exchange a certificate issued by one plan for a certificate issued by another plan will be executed the day it is received at the net asset value of each plan next computed as of the close of business on the day the order is received. Since investors will not be permitted to exchange a certificate of one plan for one issued by another plan which is of a different dollar denomination or different number of years duration, all payments made on the certificate to be exchanged will be credited to the certificate to be acquired, and the remaining payments will be identical to those which would have been scheduled on the certificate exchanged.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such a company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants represent that if the exchanges are permitted, an investor whose investment goal has changed, could acquire another certificate evidencing a plan to accumulate shares of a fund whose investment objectives are more consistent with his revised investment goal, without losing the advantages of his prior investments under his present certificate.

Section 22(d) of the Act provides in part that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus.

Applicants represent that the primary purpose of the front-end sales charge of 50 percent imposed upon initial payments is to provide adequate compensation to sales representatives who solicit purchases of the periodic investment plans evidenced by the certificates. Applicants state that since no comparable sales efforts are incurred in an exchange from one plan certificate to another, it would be inappropriate and inequitable to impose additional front-end load charges on the transaction.

Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an 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.

Applicants consider that the granting of the requested exemption is 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.

Notice is further given that any interested person may, no later than April 10, 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 reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission 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 (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. 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. 70–3823; Filed, Mar. 30, 1970; 8:48 a.m.]

[812-2657]

FLORIDA CAPITAL CORP.

Notice of Filing of Application for Order Exempting Proposed Transaction

MARCH 25, 1970.

Notice is hereby given that Florida Capital Corp. ("applicant"), 450 Royal Palm Way, Palm Beach, Fla. 33480, a Florida corporation registered as a closed-end, nondiversified investment company under the Investment Company Act of 1940 ("Act"), has filed an 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 exchange by applicant of 40,000 shares of its common stock for all of the issued and outstanding stock of B & M Foods, Inc. ("B & M"). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Mr. Jack C. Caddell and Mr. James Moreland each own 50 percent of the outstanding stock of B & M and each will receive 20,000 shares of applicant's common stock in the proposed transaction. Mr. Caddell and members of his family own approximately 15 percent of the outstanding common stock of applicant. Mr. Caddell is a director of applicant and is chief executive officer, president, treasurer, and a director of Jack's International, Inc., a wholly owned subsidiary of applicant. Mr. Moreland is an employee of Jack's International, Inc. Accordingly, under section 2(a)(3) of the Act, Mr. Caddell is an affiliated person, and Mr. Moreland is an affiliated person of an affiliated person, of applicant.

B & M, an Alabama corporation, was organized as a partnership in 1962 and incorporated in 1966. It operates four "Jack's Hamburgers" outlets, which were franchised by Jack's Franchising Co., Inc., between October 1962 and October 1968, and it purchases products in the ordinary course of business from Jack's Distributing Co., Inc.

In March 1969 all of the outstanding stock of Jack's Hamburgers, Inc.; Jack's Franchising Co., Inc.; and Jack's Distributing Co., Inc., was acquired by applicant from Mr. Caddell and members of his family in exchange for the issuance of 200,000 shares of applicant's common stock. The three companies then became wholly owned subsidiaries of Jack's International, Inc., organized by applicant as its wholly owned subsidiary. Jack's Hamburgers, Inc., has approximately 55 units in operation, which prepare and sell food items under trade-marks and trade names. Certain of these units are company-owned and operated, and others are owned and operated by franchisees. Jack's Distributing Co., Inc., prepares, warehouses and distributes various items, including food supplies and equipment, connected with Jack's Hamburgers, Inc., to the licensees of Jack's Franchising Co., Inc., and to other restaurants. Jack's Franchising Co., Inc., sells and grants the right to use the trade name consisting of the operation known as "Jack's Hamburgers", and provides services in connection with the operational program.

It is contemplated that applicant, upon acquiring all of the outstanding stock of B & M in the proposed transaction, will contribute such stock to Jack's International, Inc., and B & M will become an operating subsidiary of Jack's International, Inc., or Jack's Hamburgers, Inc. Applicant anticipates that the operation, in conjunction with applicant's wholly owned subsidiaries operating in the fast food business, of the four "Jack's Hamburgers" units presently operated by B & M will result in substantial reductions in expenses.

Mr. Moreland has been associated with B & M since its inception. Mr. Caddell acquired his 50 percent interest in B & M in March 1968 in exchange for his personal assumption of real property mortgages in the amount of $67,771. Thereafter, B & M engaged in a program of expansion, which included the opening of two "Jack's Hamburgers" units in addition to those previously operated by B & M. One of the assets of B & M is a note in the amount of $24,533 receivable from Messrs. Caddell and Moreland. It is contemplated that, upon the completion of the proposed transaction, arrangements will be made by Messrs. Moreland and Caddell to pay this obligation, and that until such obligation is retired, interest at the rate of 7 percent per annum will be paid. The net income of B & M for the years ended December 31, 1967–69 was $16, 885; $16,804; and $26,106, respectively. A change to a straight-line method of depreciation had the effect of increasing net income for 1969 by $5,753.

Applicant's common stock is listed on the American Stock Exchange. The closing price on March 24, 1970 was $4.25 per share.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to such registered company any securities or other property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding 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 transaction is consistent with the policy of such investment company and with the general purposes of the Act.

Notice is further given that any interested person may, not later than April 15, 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 reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address set forth 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. 70-3825; Filed, Mar. 30, 1970; 8:48 a.m.]

[70-4859]

HARTFORD ELECTRIC LIGHT CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds and Preferred Stock

MARCH 23, 1970.

Notice is hereby given that The Hartford Electric Light Co. ("HELCO"), 176 Cumberland Avenue, Wethersfield, Conn. 06109, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder 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.

HELCO proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $20 million principal amount of ____ percent First Mortgage Bonds, 1970 Series, due May 1, 2000. The interest rate of the bonds (which will be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be paid to HELCO (which will be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the first mortgage indenture and deed of trust dated as of January 1, 1958, between HELCO and Old Colony Trust Co., trustee, as heretofore amended and supplemented and as to be further amended and supplemented by a ninth supplemental mortgage indenture to be dated as of May 1, 1970, which prohibits redemption within 5

years of issuance if such redemption anticipates use of funds borrowed at a lower interest cost.

HELCO also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 200,000 shares of its preferred stock, 1970 series, par value $50 per share. The dividend rate of the preferred stock (which will be a multiple of 0.08 percent) and the price, exclusive of accrued dividends, to be paid to HELCO (which will be not less than $50 nor more than $51,375) will be determined by the competitive bidding.

The net proceeds from the sale of the new bonds and preferred stock will be used by HELCO to finance its construction program, to supply funds for its investment in nuclear generating companies and to repay short-term borrowings which were incurred for these and other similar purposes. HELCO's construction program for 1970 is estimated to total approximately $66,500,000.

The application states that the issue of the bonds and preferred stock is subject to the jurisdiction of the Connecticut Public Utilities Commission. Statements of the fees and expenses related to the proposed transactions are to be filed by amendment.

Notice is further given that any interested person may, not later than April 16, 1970, request in writing that a hearing be held in respect of 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 should the Commission 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 applicant 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 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. 70-3828; Filed, Mar. 30, 1970; 8:48 a.m.]

[70-4858]

POTOMAC EDISON CO.

Notice of Proposed Amendment of Charter, and Issue and Sale of First Mortgage Bonds and Cumulative Preferred Stock at Competitive Bidding

MARCH 23, 1970.

Notice is hereby given that The Potomac Edison Co. ("Potomac"), Downsville Pike, Hagerstown, Md. 21740, a registered holding company and an electric utility subsidiary company of Allegheny Power System, Inc. ("Allegheny"), also a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Potomac proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $20 million principal amount of First Mortgage and Collateral Trust Bonds, ____ percent Series due 2000. The interest rate (which shall be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be paid to Potomac (which shall be not less than 100 percent or more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an Indenture dated as of October 1, 1944, between Potomac and Chemical Bank, as trustee, as supplemented and as to be supplemented by a Supplemental Indenture to be dated as of May 1, 1970, which includes a 5-year prohibition against redemption with or in anticipation of moneys borrowed at lower interest costs.

Potomac also proposes to amend its charter to increase the authorized shares of its Cumulative Preferred Stock by 50,000 shares and to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 50,000 shares of its authorized but unissued $_____ cumulative preferred stock, series E, par value $100 per share. The dividend rate (which shall be a multiple of 4 cents) and the price (exclusive of accrued dividends) to be paid to Potomac (which shall be not less than $100 or more than $102.75 per share), will be determined by the competitive bidding.

The net proceeds from the issue and sale of the bonds and stock will be used for the construction program of Potomac and its subsidiary companies (including payment of $20,500,000 of short-term bank loans incurred therefor). Other funds to be used for this purpose include $8 million from the sale in March 1970 of additional common stock to Allegheny, up to $19 million from short-term borrowings in 1970, and funds derived from operations.

The Maryland Public Service Commission has jurisdiction over the proposed issue and sale of the bonds and preferred stock by Potomac, and a copy of that Commission's order authorizing the same will be filed by amendment. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the transactions are estimated at $59,000 for the bonds and $18,000 for the preferred stock, including legal fees of $10,000 for the bonds and $6,000 for the preferred stock. The fees of counsel for the successful bidders, estimated at $9,500 with respect to the bonds and $5,500 with respect to the preferred stock, are to be paid by such bidders.

Notice is further given that any interested person may, not later than April 16, 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-declaration 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 (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant 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-declaration, as filed or as it may be amended, may be granted and permitted to become effective 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. 70-3827; Filed, Mar. 30, 1970; 8:48 a.m.]

[70-4854]

POTOMAC EDISON CO. ET AL.

Notice of Proposed Increase in Authorized Capital Stock and Issue and Sale of Common Stock by Subsidiary Companies, and Acquisition and Pledge Thereof by Holding Company

MARCH 23, 1970.

In the matter of The Potomac Edison Co., Downsville Pike, Hagerstown, Md. 21740, The Potomac Edison Co. of Pennsylvania, The Potomac Edison Co. of

Virginia, The Potomac Edison Co. of West Virginia.

Notice is hereby given that The Potomac Edison Co. ("Potomac Edison"), an electric utility company and a registered holding company, and its subsidiary companies, The Potomac Edison Co. of Pennsylvania ("PE-Pa."), The Potomac Edison Co. of Virginia ("PE-Va."), and The Potomac Edison Co. of W. Va. ("PE-W. Va."), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9, 10, and 12 of the Act and Rules 43 and 44 promulgated thereunder as applicable to the proposed transactions. Potomac Edison is a subsidiary company of Allegheny Power System, Inc., also a registered holding company. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

PE-Pa. and PE-Va. each proposes to amend its charter to increase the authorized shares of its capital stock by the number shown below; PE-Pa., PE-Va., and PE-W. Va. ("subsidiary companies") propose to issue and sell additional shares of their authorized and unissued capital stocks; and Potomac Edison proposes to acquire such shares, in each case in the amounts and for the consideration shown below:

Subsidiary company and title of issue	Proposed increase in authorized shares	Proposed issuance of shares	Cash consideration
PE-Pa., Capital Stock, no par, stated value $5 per share	278,000	278,000	$1,390,000
PE-Va., Common Stock, par value $100 per share	150,000	17,050	1,705,000
PE-W. Va., Common Stock, par value $100 per share		60,300	6,030,000

The application-declaration states that funds derived from the proposed issuance and sale of capital stock will be used by each of the subsidiary companies to finance necessary property additions and improvements. Construction expenditures for 1970 are estimated to be $2,312,000 for PE-Pa., $3,571,000 for PE-Va., and $7,890,000 for PE-W. VA.

Potomac Edison now owns all the outstanding shares of capital stock of each of the subsidiary companies, and such shares are pledged under the Indenture of Potomac Edison dated as of October 1, 1944, as supplemented, securing its first mortgage and collateral trust bonds. The filing states that the additional shares proposed to be acquired by Potomac Edison will be issued by the subsidiary companies from time to time as necessary prior to December 31, 1970, and on issuance will be pledged by Potomac Edison under said Indenture in accordance with the requirements thereof.

The application-declaration states that the Pennsylvania Public Utility Commission has jurisdiction over the issuance of the stock of PE-Pa.; the State Corporation Commission of Virginia has jurisdiction over the issuance and acquisition of the stock of PE-Va.; and the Public Service Commission of West Virginia has or asserts jurisdiction over the acquisition of the stocks of the subsidiary companies. Appropriate orders of these Commissions are to be filed by amendment. The fees and expenses to be incurred in connection with the proposed transactions are estimated to be $3,460, including legal fees of $300.

Notice is further given that any interested person may, not later than April 10, 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-declaration 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-declarants 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-declaration, as filed or as it may be amended, may be granted and permitted to become effective 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. 70-3826; Filed, Mar. 30, 1970; 8:48 a.m.]

[812-2665]

W. C. LANGLEY & CO.

Notice of Filing of Application for Order of Exemption

MARCH 23, 1970.

Notice is hereby given that W. C. Langley & Co. ("Applicant"), 115 Broadway, New York, N.Y. 10006, prospective representative of a group of underwriters of a proposed public offering of shares of Common Stock of the Colwyn Risk Fund, Inc. ("Colwyn"), a registered closed-end investment company has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting applicant, its co-underwriters and dealers from section 30(f) of the Act to the extent that this section adopts section 16(b) of the Securities Exchange Act of 1934 ("Exchange Act") in respect of their transactions incident to the distribution of such shares of Common Stock of Colwyn. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Shares of Colwyn are to be purchased by the underwriters pursuant to an underwriting agreement to be entered into between Colwyn and the underwriters represented by applicant. Each underwriter shall, irrespective of its expected underwriting commitment, be entitled and obligated to purchase only the number of shares for which purchase orders have been received by such underwriter prior to 2 p.m. (New York City time) on the third business day preceding the Closing Date specified in the Underwriting Agreement: *Provided, however,* That the applicant is also entitled to purchase, to cover additional purchase orders received by it up to the closing date, any remaining shares of its expected underwriting commitment plus any shares not purchased by other underwriters. While the underwriting agreement will specify the closing date, it will provide that such closing date may be extended for a period not later than 7 full days as the applicant and Colwyn shall determine.

If less than 250,000 shares are covered by purchase orders at the closing date, no shares of common stock will be sold.

The applicant, acting on behalf of itself and the other underwriters, may engage in stabilizing transactions in accordance with the provisions of the Exchange Act and the rules and regulations of the Commission thereunder, and may dispose of any shares of Colwyn's Common Stock acquired as a result of stabilization activities.

The applicant expects to purchase from Colwyn more than 10 percent of the initial amount of common stock of Colwyn to be outstanding upon the completion of the initial public offering, thereby becoming an "insider" subject to section 16(b) of the Exchange Act.

Rule 16b-2 under the Exchange Act exempts certain underwriters from the operation of section 16(b) of the Exchange Act. Applicant states that the purpose of the purchase by applicant and the other underwriters is for resale in connection with the initial distribution of shares of Colwyn. It will thus be a transaction effected in connection with a distribution of substantial block of securities within the purpose and spirit of the Commission's Rule 16b-2.

The applicant and its counderwriters, however, may not be exempted from section 16(b) by the operation of Rule 16b-2. They may not meet the requirements stated in paragraph (a)(3) of Rule 16b-2 that the aggregate participation of underwriters not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of underwriters receiving the exemption under Rule 16b-2, since it is possible that

one or more of the underwriters who take more than 10 percent of the shares may be obligated to purchase more than 50 percent of the shares of Colwyn which will be outstanding at the time of the closing.

An employee of an underwriter is a director of Colwyn.

Applicant states that no underwriter has any inside information, that there is no possibility of using inside information and, in fact, that there is no inside information in existence since Colwyn, prior to the initial distribution, will have virtually no assets or business of any sort.

Applicant represents that the requested exemption from the provisions of section 30(f) of the Act 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 Act. It states that the transactions sought to be exempted cannot lend themselves to the practices to which section 16(b) of the Exchange Act was enacted to apply.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated 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.

Notice is further given that any interested person may, not later than April 6, 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 reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-3820; Filed, Mar. 30, 1970; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[License No. 02/03-0034]

CAPITAL FOR TECHNOLOGY CORP.

Notice of Application for Change in Ownership and Control of Licensed Small Business Investment Company

Capital for Technology Corp. (Technology), 75 East 55th Street, New York, N.Y. 10022, is a Federal licensee under the Small Business Investment Act of 1958, as amended. Technology has asked the Small Business Administration (SBA) to approve a proposed change in its ownership and control. Such prior approval is required under § 107.701 of the regulations (33 F.R. 326, 13 CFR Part 107).

Technology has agreed to sell and Hartford Financial Corp. (Hartford), 777 Main Street, Hartford, Conn. 06115, has agreed to purchase authorized, unissued common stock of Technology in such quantity or quantities that upon completion of the last of such sales, Hartford shall have purchased 49 percent of the common stock of Technology then issued and outstanding.

Hartford is a wholly owned subsidiary of Hartford National Corp. (HNC). Business activities conducted by HNC include the ownership and operation of Hartford General Services Corp. and Hartford National Bank and Trust Co., all of 777 Main Street, Hartford, Conn. 06115. Hartford will designate one individual to serve as an officer and director of Technology.

Prior to final action on the application, consideration will be given to any comments pertaining thereto which are submitted in writing to the Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, within 10 days after the publication of this notice.

A similar notice shall be published in a newspaper of general circulation in New York City and Hartford, Conn., and a copy thereof shall be furnished to SBA within 10 days after such publication.

Dated: March 17, 1970.

A. H. SINGER,
Associate Administrator for Investment.

[F.R. Doc. 70-3830; Filed, Mar. 30, 1970; 8:48 a.m.]

ENTERPRISE CAPITAL CORP.

Notice of Application for a License as Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing Small Business Investment Companies (33 F.R. 326, 13 CFR Part 107) under the name of Enterprise Capital Corp., 202 Central National Bank Building, Houston, Tex. 77002, for a license to operate in the State of Texas as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) (Act).

The proposed officers and directors are as follows:

Paul Z. Brochstein, 5150 Braesheather Street, Houston, Tex. 77035, President, General Manager, Director.

Robert C. Cochran, 8713 Sandpiper Street, Houston, Tex. 77036, Vice President, Director.

Stanley L. Lipman, 5606 Darnell Street Houston, Tex. 77035, Secretary, Treasurer, Director.

Terry Seal, 1219 Thornton Street, Houston, Tex. 77018, Director.

The company's initial capitalization will be $305,000 and Mr. Paul Z. Brochstein will be the only initial shareholder. It intends to maintain a diversified investment policy covering all fields of endeavor. A concentration in equity type investments is planned.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management, and the probability of successful operations of the new company under their management, including adequate profitablity and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA in writing relevant comments on the proposed company. Any communication should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Houston, Tex.

Dated: March 18, 1970.

For SBA (pursuant to delegated authority).

A. H. SINGER,
Associate Administrator for Investment.

[F.R. Doc. 70-3829; Filed, Mar. 30, 1970; 8:48 a.m.]

TARIFF COMMISSION

BROOM CORN BROOMS

Report to the President

MARCH 26, 1970.

In accordance with Executive Order 11377 of October 23, 1967 (copy attached), to assist the President in the exercise of his authority under headnote 3 to schedule 7, part 8, subpart A, of the Tariff Schedules of the United States (79 Stat. 948; 19 U.S.C. 1202), the U.S. Tariff Commission herein reports its judgment as to the estimated domestic consumption of broom corn brooms for the year 1969, and the basis for that estimate. For convenience, the Commission also reports corresponding data for the years 1965 and 1968.

ESTIMATED CONSUMPTION OF BROOM CORN BROOMS

In the judgment of the Commission, the consumption in the calendar years 1965, 1968, and 1969 of brooms wholly or in part of broom corn was as follows (in dozens):

Type of broom	1965 [1]	1968 [2]	1969
Whiskbrooms of a kind provided for in items 750.26 to 750.28, inclusive, of the tariff schedules	470,612	400,215	445,675
Other brooms of a kind provided for in items 750.29 to 750.31, inclusive, of the tariff schedules	2,878,995	2,813,681	3,103,345

[1] As reported to the President on May 2, 1968.
[2] As reported to the President on May 23, 1969.

BASIS FOR THE COMMISSION'S JUDGMENT WITH RESPECT TO BROOM CORN BROOMS

The Commission estimated consumption of broom corn brooms in 1969 by the same methods it used to estimate consumption in its previous reports pursuant to Executive Order 11377. Apparent annual consumption was determined by adding the quantity of shipments by domestic producers to the quantity of imports and subtracting therefrom the quantity of exports. Data on imports were obtained from the Bureau of Customs of the U.S. Treasury Department; data on production and exports were estimated from responses to questionnaires sent to all known domestic producers of broom corn brooms.

The data for each of the components used in the computation of apparent annual consumption of broom corn brooms are as follows (in dozens):

Item	1965 [1]	1968 [2]	1969
	Whiskbrooms of a kind provided for in TSUS items 750.26 to 750.28, inclusive		
U.S. producers' shipments	318,691	288,947	350,891
Imports	152,686	111,953	96,271
Exports	765	685	1,487
Apparent consumption	470,612	400,215	445,675
	Other brooms of a kind provided for in TSUS items 750.29 to 750.31, inclusive		
U.S. producers' shipments	2,596,457	2,615,760	2,904,935
Imports	296,897	202,308	204,844
Exports	14,359	4,387	6,434
Apparent consumption	2,878,995	2,813,681	3,103,345

[1] As reported to the President on May 2, 1968.
[2] As reported to the President on May 23, 1969.

By direction of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[F.R. Doc. 70-3793; Filed, Mar. 30, 1970; 8:46 a.m.]

WATCHES AND WATCH MOVEMENTS FROM INSULAR POSSESSIONS

Determination of Apparent U.S. Consumption of Watch Movements in 1969 and of Quotas for Duty-Free Entry in 1970 of Watches and Watch Movements From Insular Possessions

In accordance with headnote 6(c) of schedule 7, part 2, subpart E, of the Tariff Schedules of the United States (TSUS), the Tariff Commission has determined that the apparent U.S. consumption of watch movements for the calendar year 1969 was 45,191,000 units, and that the number of watches and watch movements, the product of the Virgin Islands, Guam, and American Samoa, which may be entered free of duty during the calendar year 1970 under headnote 6(b) of said subpart E of the TSUS is as follows:

	Units
Virgin Islands	4,393,375
Guam	418,249
American Samoa	209,376

By direction of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

MARCH 26, 1970.

[F.R. Doc. 70-3794; Filed, Mar. 30, 1970; 8:46 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

WORKER REQUEST FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigation

A petition requesting certification of eligibility to apply for adjustment assistance has been filed, on March 19, 1970, with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the United Glass and Ceramic Workers, AFL–CIO, and the Window Glass Cutters League of America, AFL–CIO, on behalf of workers of the Arnold, Pa., sheet glass plant of the American St. Gobain Corp. The petition points out that the request for certification is made under Proclamation 3967 ("Adjustment of duties on certain Sheet Glass") of February 27, 1970. In that proclamation, the President, among other things, acted to provide under sec. 302(a)(3) with respect to the sheet glass industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance under Chapter 3, Title III of the Trade Expansion Act of 1962.

The Trade Expansion Act, sec. 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under Chapter 3 any group of workers in an industry with respect to which the President has acted under sec. 302(a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof.

In view of the petition and the responsibilities of the Secretary of Labor, the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.11. The investigation relates, as above indicated, to the determination of whether any of the group of workers covered by the request should be certified as eligible to apply for adjustment assistance, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart C of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C., on or before April 17, 1970.

Signed at Washington, D.C., this 25th day of March 1970.

EDGAR I. EATON,
Director, Office of Foreign Economic Policy.

[F.R. Doc. 70-3859; Filed, Mar. 30, 1970; 8:51 a.m.]

INTERSTATE COMMERCE COMMISSION

[S.O. 994; ICC Order 30, Amdt. 5]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 30 (Chicago, Rock Island and Pacific Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 30 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., April 30, 1970, unless otherwise modified, changed or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 31, 1970, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 25, 1970.

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

[F.R. Doc. 70-3858; Filed, Mar. 30, 1970; 8:51 a.m.]

[Notice 49]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 25, 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 30837 (Sub-No. 389 TA), filed March 20, 1970. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Kenosha, Wis. 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Camper trailers*, set up, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from Three Rivers, Mich., to points in the United States (excluding Alaska and Hawaii), for 180 days. Supporting shipper: Way We Go, Inc., 1300½ North Main Street, Three Rivers, Mich. 49093; (Dennis Shea, President). Send protests to: District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 59264 (Sub-No. 48 TA), filed March 20, 1970. Applicant: SMITH & SOLOMON TRUCKING COMPANY, How Lane, New Brunswick, N.J. 08903. Applicant's representative: Herbert Burstein, 30 Church Street, New York, N.Y. 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing ink*, in bulk, in tank vehicles from Monmouth Junction, N.J., to Providence, R.I.; restricted to shipments originating at the plantsite of Levey Division, Cities Service Co., for 150 days. Send protests to: District Supervisor Robert S. H. Vance, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, N.J. 07102.

No. MC 100666 (Sub-No. 165 TA), filed March 23, 1970. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, La. 71107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, and accessories* used in the installation thereof from Louisville, Ky., to points in Arkansas, Florida, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, for 180 days. Supporting shipper: Cabot Corp., 125 High Street, Boston, Mass. 02110. Send protests to: W. R. Atkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 102567 (Sub-No. 134 TA), filed March 23, 1970. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Bossier City, La. 71010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from DeRidder, La., to points in Texas, for 180 days. Supporting shipper: American Cyanamid Co., Industrial Chemicals Division, Wayne, N.J. 07470. Send protests to: W. R. Atkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 119531 (Sub-No. 144 TA), filed March 20, 1970. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Raymond C. Minks, 5391 Wooster Road, Cincinnati, Ohio 45226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles, liquid capacity not exceeding 1 gallon, and closures therefor*, from Vienna, W. Va., to Baltimore, Frederick, Lansdowne, Riverdale, and Silver Spring, Md., for 180 days. Supporting shipper: Universal Glass Products Co., Parkersburg, W. Va. 26100. Send protests to: Emil P. Schwab, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 125844 (Sub-No. 18TA), filed March 20, 1970. Applicant: BIO-MEDHU, INC., 8603 Preston Highway, Louisville, Ky. 40219. Applicant's representative: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, Ky. 40202. Authority sought to operate as a *comcon carrier*, by motor vehicle, over irregular routes, transporting: *Blood and derivatives of blood*, from points in Kentucky to points in Missouri and Texas, for 180 days. Supporting shipper: American Blood Components, Inc., 118 Jefferson Avenue, Memphis, Tenn. 38103. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 125844 (Sub-No. 19 TA), filed March 20, 1970. Applicant: BIO-MEDHU, INC., 8603 Preston Highway, Louisville, Ky. 40219. Applicant's representative: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, Ky. 40202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Blood and derivatives of blood*, from points in California, to points in Illinois, Indiana, Kentucky, Michigan, New Jersey, New York, and Pennsylvania, for 180 days. Supporting shipper: H. M. Lindsey, president, Biotechnics Research, Inc., 1517 E Street, Sacramento, Calif. 95814. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 133646 (Sub-No. 3 TA), filed March 20, 1970. Applicant: YELLOWSTONE MOLASSES SERVICE, INC., Post Office Box 404, Billings, Mont. 59103. Applicant's representative: J. F. Meglen, 2822 Behner Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Animal feeds*, in bulk, requiring special pneumatic equipment, from points in Montana to Athena and Ontario, Oreg., and Pasco and Warden, Wash., for 180 days. Supporting shipper: Farr Better Feeds, Division of W. R. Grace & Co., 1406 Industrial Avenue, Billings, Mont. 59102. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 134403 (Sub-No. 2 TA), filed March 20, 1970. Applicant: WALTER ENICK, doing business as GATEWAY TRUCKING, 169 Station Street, Aliquippa, Pa. 15001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except commodities in bulk, in tank vehicles, between Butler, Pa., and points in Allegheny, Beaver, Butler, and Mercer Counties, Pa.; restricted to traffic having a prior or subsequent movement by rail in trailer-on-flatcar service, for 150 days. Supporting shipper: Bessemer and Lake Erie Railroad Co., Greenville, Pa. 16125. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

MOTOR CARRIER OF PASSENGERS

No. MC 134410 (Sub-No. 1 TA), filed March 20, 1970. Applicant: INTERNATIONALE BEGEGUNGSFAHRTEN, doing business as ROTEL TOURS, 18 Blackrock Terrace, Ringwood, N.J. 07456. Applicant's representative: Ernst A. Jahn, 18 Blackrock Terrace, Ringwood, N.J. 07456. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, and their baggage*, when moving in the same vehicle and at the same time in personally conducted, all-expense, round-trip, special operations, beginning and ending at New York, N.Y., and extending to points in the United States (except Alaska and Hawaii), in a completely self-contained bus with cabins for the passengers to sleep in, bathrooms, showers, and kitchen, as well as a lounge for the people, for 150 days. Supporting shipper: Internationale Begegnungsfahrten, doing business as Rotel Tours, 18 Blackrock Terrace, Ringwood, N.J. 07456. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, N.J. 07102.

By the Commission.

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

[F.R. Doc. 70-3852; Filed, Mar. 30, 1970; 8:50 a.m.]

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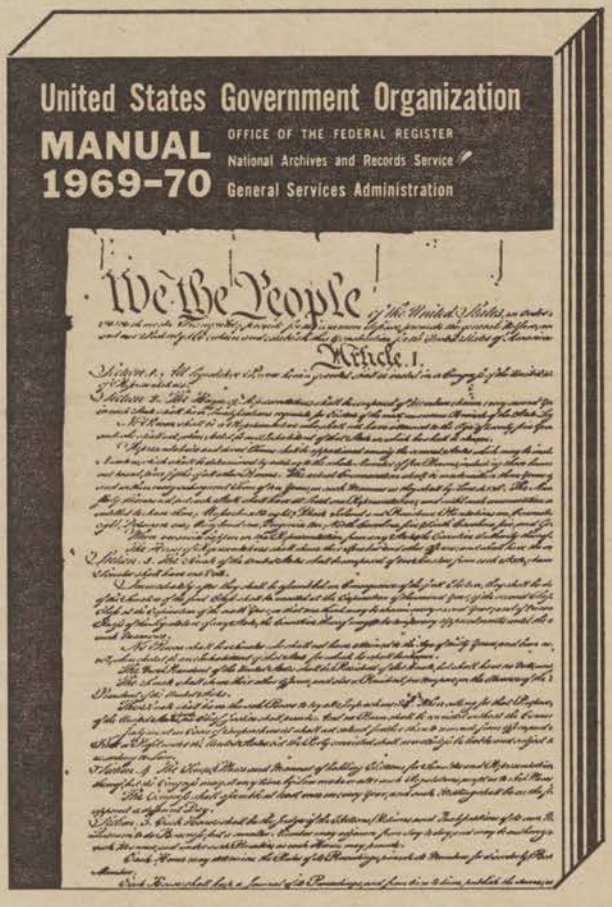

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