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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Farm Credit Administration

Section 213.3343 is amended to show that the position of Deputy Director of Credit Service excepted under Schedule C has been abolished. Effective on publication in the FEDERAL REGISTER, paragraph (b) of § 213.3343 is 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. 70-4608; Filed, Apr. 14, 1970; 8:50 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 General Counsel is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (14) is added to paragraph (a) of § 213.3373 as set out below.

§ 213.3373 **Office of Economic Opportunity.**

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

(14) One Special Assistant to the General Counsel.

* * * * *

(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. 70-4609; Filed, Apr. 14, 1970; 8:50 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER A—COMMODITY STANDARDS AND STANDARD CONTAINER REGULATIONS

PART 29—TOBACCO INSPECTION

Designation of Tobacco Auction Market of Yadkinville, N.C.

Upon a referendum conducted, pursuant to prior notice (35 F.R. 4014), during the period March 16, 1970–March 20, 1970, both dates inclusive, among tobacco growers, who during the 1969–70 marketing season, sold tobacco at auction on the market at Yadkinville, N.C., it is found that more than two-thirds of the growers voting in such referendum favor the designation of such market under section 5 of the Tobacco Inspection Act (7 U.S.C. 511 et seq.) for the free and mandatory inspection and certification of tobacco sold on such market. Therefore, pursuant to the authority vested in the Administrator of the Consumer and Marketing Service, and for the purposes of said Act, the orders of designation of tobacco markets (7 CFR 29.8001) are amended by adding thereto at the end thereof the following paragraph (vv):

§ 29.8001 **Designation of tobacco markets.**

(vv) *The tobacco market at Yadkinville, N.C.*

Effective 30 days after the date of publication hereof no tobacco of any type shall be offered for sale at auction on the market at Yadkinville, N.C., until such tobacco shall have been inspected and certified by an authorized representative of the U.S. Department of Agriculture according to standards established under the Tobacco Inspection Act (7 U.S.C. 511 et seq.): *Provided, however,* That such requirement of inspection and certification may be suspended at any time when it is found impracticable to provide inspection or when the quantity of tobacco available for inspection is not sufficient to justify the cost of such service.

(49 Stat. 731; 7 U.S.C. 511 et seq.)

Done at Washington, D.C., this 10th day of April 1970.

ROY W. LENNARTSON,
Administrator.

[F.R. Doc. 70-4584; Filed, Apr. 14, 1970; 8:48 a.m.]

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

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

Subpart A—Regulations

KIND AND AVAILABILITY OF SERVICE

Pursuant to the authority contained in sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the provisions of 7 CFR 53.100 describing kind and availability of service are hereby deleted.

This amendment is necessary to repeal an obsolete provision in the regulations. In the April 13, 1962, issue of the FEDERAL REGISTER, § 53.100 was incorporated into the regulations to permit a practical evaluation in connection with proposed standards for dual determination of quality and retail cut yield of beef carcasses under the Agricultural Marketing Act of 1946, as amended. Provision was made at that time for interested persons to submit comments on the proposed standards. The Department—on September 13, 1963—announced its decision against adoption of the proposed standards for dual grading. As a result, § 53.100 is repealed as being obsolete. Therefore, under the provisions of 5 U.S.C. 553, it is found that notice and other public procedure with respect to this amendment are impracticable and unnecessary, and good cause is found to make this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

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

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

Done at Washington, D.C., this 10th day of April 1970.

JOHN C. BLUM,
Acting Deputy Administrator, Marketing Services.

[F.R. Doc. 70-4585; Filed, Apr. 14, 1970; 8:48 a.m.]

SUBCHAPTER K—FEDERAL SEED ACT

PART 201—FEDERAL SEED ACT REGULATIONS

Miscellaneous Amendments

On November 19, 1969, there was published in the FEDERAL REGISTER (34 F.R. 18422) a notice of rule making and hearing with respect to proposed amendments to the regulations (7 CFR Part 201 as amended) under the Federal Seed Act, as amended (7 U.S.C. 1551 et seq.). On January 7, 1970, there was published in the FEDERAL REGISTER (35 F.R. 231) a notice of extension of time for written comments to January 23, 1970. After consideration of all relevant matters, including those presented at the hearing and in writing, pursuant to said notices, and under authority of section 402 of the Federal Seed Act, the proposed amendments to the regulations are adopted as published except as indicated below:

1. The part of proposals No. 1 and No. 15 that would have established the scientific name of "bermudagrass, giant" as "*Cynodon dactylon* var. *aridus* Harlan" is changed to recognize the scientific name as "*Cynodon dactylon* var. *aridus* Harlan et de Wit."

2. The part of proposal No. 10–C which would have permitted KNO_3 to be used in testing water cress seed is changed to delete "KNO_3."

The amendments as adopted are as follows:

1. Sections 201.2(h), 201.46 Table 1, and 201.58(c) Table 2, are amended by changing the name "Bermudagrass, Common" to "Bermudagrass" and changing the scientific name for "Bermudagrass, giant" from "*Cynodon* sp." to "*Cynodon dactylon* var. *aridus* Harlan et de Wit."

2. Section 201.2(h) is amended by adding in proper alphabetical order in the list of "Agricultural Seeds" the following:

Crambe—*Crambe abyssinica* Hockst. ex R. E. Fries.
Triticale—*Triticosecale* Wittmack.

3. Section 201.10 is amended by adding to the list of agricultural seeds in proper alphabetical order, "Crambe" and "Triticale."

4. Section 201.12a is amended as follows:

a. Add to the list of fine-textured kinds in paragraph (a) in proper alphabetical order the name "fescue, hard" and the following wording:

Ryegrass, perennial (the following varieties only):
Lamora.
Manhattan.
NK–100.
Norlea.
Pelo.

b. In paragraph (a) change the name "Bermudagrass, common" to "Bermudagrass."

c. Change the wording of paragraph (b) to read as follows:

(b) The term "coarse kinds" means all kinds (or varieties of perennial ryegrass) not listed in paragraph (a) of this section.

5. Section 201.17 is amended as follows:

Change the name "common bermudagrass" to "bermudagrass"; and change the scientific name of giant bermudagrass from "(*Cynodon* sp.)," to "(*Cynodon dactylon* var. *aridus*)," and immediately following add the name "annual bluegrass (*Poa annua*)."

6. Section 201.31 is amended by adding to the list of vegetable seeds in proper alphabetical order the following:

Kale, Siberian 75

7. Following § 201.30a a new section is added as follows:

§ 201.30b Lot number or other lot identification of vegetable seed in containers of more than 1 pound.

The lot number or other lot identification of vegetable seed in containers of more than 1 pound shall be shown on the label and shall be the same as that used in the records pertaining to the same lot of seed.

8. In § 201.46, Table 1 is amended by adding in proper alphabetical order under "Agricultural Seed" in the respective columns the following:

Crambe	15	150	154
Triticale	100	500	25

9. Section 201.47(e) is amended by changing the date of July 1, 1966, referred to therein to July 1, 1967.

10. Section 201.58 is amended as follows:

a. Section 201.58(a)(8) is amended by deleting the last sentence and the following wording in the next to the last sentence "except where 15°–25° C. is prescribed as an alternate temperature."

b. Under the listing of "Agricultural Seed" is Table 2 in § 201.58(c) the information in the temperature column for "Bluegrass: Kentucky," "Brome: Field," "Ryegrass: Annual (Italian)," "Ryegrass: Perennial" and "Ryegrass: Wimmera" is amended to show the 15–25 temperature first, and the information in said column for "Timothy" is changed to read "15–25; 20–30."

c. Under the listing of "Vegetable Seed" in Table 2 in § 201.58(c), the information for "Cress: Water" in the respective columns is amended to read, "P ____ 20–30 4 ____ 14 ____ Light."

d. Table 2 in § 201.58(c) is amended by adding in proper alphabetical order under the listing of "Agricultural Seed" in the respective columns the following:

Crambe	T		25	3	7	
Triticale	B, T, S	20; 15	4	7		Preehill at 5° or 10° C. for 5 days, or predry.

11. Section 201.5a(a)(3) is amended by adding at the end thereof the statement, "Varieties in commercial channels in the United States which are not subjected to the above formulas include but are not limited to the following:

Ariki.
Magnolia."

12. Section 201.59 is amended by changing the last sentence to read as follows: "All other tolerances, including tolerances for pure-live seed and fluorescence, and tolerances for purity based on 10 to 1,000 seeds, seedlings, or plants shall be determined from the result or results found in the administration of the Act."

13. Section 201.62 is amended as follows:

a. The section heading and the first paragraph of § 201.62 are amended by deleting the word "growing" in each instance.

b. The heading for Table 4 in § 201.62 is amended to read as follows:

Table 4—Tolerances for purity tests, when results are based on 10 to 1,000 seeds, seedlings, or plants used in a test.

14. Section 201.101 is amended by adding to the lists of kinds of seed in proper alphabetical order the names "Crambe" and "Triticale."

15. Section 201.107 is amended by inserting in the list of seeds in paragraph (b) in proper alphabetical order the following:

Bermudagrass, giant—*Cynodon dactylon* var. *aridus*. Harlan et de Wit.

The amendments shall become effective 30 days after publication in the FEDERAL REGISTER except for amendment No. 5 making annual bluegrass (*Poa annua*) seed a noxious-weed seed in the District of Columbia which shall become effective July 1, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

APRIL 10, 1970.

[F.R. Doc. 70-4586; Filed, Apr. 14, 1970; 8:48 a.m.]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 6]

PART 724—BURLEY, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55), AND MARYLAND TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1968–69 and Subsequent Marketing Years

DENIAL OF PRICE SUPPORT TO PRODUCERS WHO USE PESTICIDES CONTAINING DDT OR TDE ON THEIR TOBACCO

Basis and purpose. This amendment of the regulations (33 F.R. 15521, 15947; 34 F.R. 1225, 12127, 13521; 35 F.R. 3901) provides that if the farm operator or a producer of burley (type 31), Fire-cured (type 21), Fire-cured (types 22, 23, and 24), Dark air-cured (types 35 and 36), Virginia Sun-cured (type 37), Cigar-binder (types 51 and 52), Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco for the 1970 and subsequent crops, used DDT or TDE on any of such kinds of tobacco in a field or after it is harvested, he shall report such fact to the county ASCS office where his farm is located and shall be issued a marketing card which will not entitle him to price support on the tobacco.

This amendment is necessitated by the probability that tobacco on which DDT or TDE have been used may be excluded from major foreign markets. Some foreign countries that are now large buyers of U.S. tobacco have indicated that they will set very narrow pesticide (DDT or TDE) tolerance on cured leaf. It is essential for growers to meet these standards now because most of the 1970 crop that will be consigned to the Commodity Credit Corporation under the price support program will not likely be sold and exported prior to 1973, since tobacco is usually stored and aged for extended periods before being used. Accordingly, in order to protect the salability of tobacco and avoid undue losses to producers and Commodity Credit Corporation, it was determined to condition price support on a farm certification of the

absence of the use of the pesticides, and the regulations appearing in Part 1464 will be amended to so provide.

Since tobacco farmers will soon begin to make plans for their 1970 crop of tobacco, it is essential that the amendment be effective at the earliest possible date. Accordingly, it is found and determined that compliance with the notice, public procedure and 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest. The amendment contained herein shall become effective upon the date of filing with the Director, Office of the Federal Register. This subpart is further amended by adding a new section to read as follows:

RESTRICTION ON USE OF DDT AND TDE

§ 724.111 Determination of use of DDT and TDE.

(a) *Definition.* DDT means a pesticide bearing the chemical, or a mixture of 1,1,1-trichloro-2,2 bis (p-chlorophenyl) ethane and 1,1,1-trichloro-2 (o-chlorophenyl) -2-(p-chlorophenyl) ethane. TDE means a pesticide bearing the chemical or a mixture of 1,1-dichloro 2,2-bis (p-chlorophenyl) ethane. In addition, DDT or TDE shall include any products containing derivatives of such pesticides.

(b) *Producer's report.* For each farm on which burley (types 31), Fire-cured (type 21), Fire-cured (types 22, 23, and 24), Dark air-cured (types 35 and 36), Virginia Sun-cured (type 37), Cigar-binder (types 51 and 52), or Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco is produced, the farm operator or any producer on the farm shall for each year, beginning with the 1970 crop, file with the county office a report on MQ-38, Certification of Use or Nonuse of DDT or TDE on Tobacco, showing whether or not DDT or TDE was used on the tobacco in the field or after being harvested.

(c) *Failure to file report.* If the operator of a farm on which any of the kinds of tobacco cited in paragraph (b) of this section of the 1970 or any subsequent crop is being produced fails or refuses, within 7 days after a request of the county committee to file a report on MQ-38, Certification of Use or Nonuse of DDT or TDE on Tobacco, showing whether or not DDT or TDE was used on the tobacco, all the tobacco of such kind and crop produced on such farm for which he failed or refused to certify on MQ-38 shall be considered by the county committee to have been subjected to such a pesticide unless the county committee finds that failure to file the report was due to circumstances beyond the control of the farm operator.

(d) *Notice to farm operator.* A written notice shall be furnished to the operator of each farm where the county committee determines that tobacco, after being transplanted in the field or after being harvested from the farm, was treated with DDT or TDE. Such determination by the county committee shall be based on (1) the certification on MQ-38, or (2) failure to file MQ-38 or (3) other probative evidence that such pesticides were used on the tobacco. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(e) *Producer's right to recertify.* Any producer on a farm who certified on MQ-38 that the tobacco on the farm was subjected to DDT or TDE when in fact no such pesticides were used, may make a new certification of the facts on another form MQ-38.

(f) *Issuance of marketing cards—Notation on card.* For the tobacco available for marketing from a farm on which DDT or TDE was used, the marketing card issued for the farm shall bear the notation "no price support".

(Sec. 375, 52 Stat. 66, as amended; secs. 101, 106, 401, 63 Stat. 1051, as amended, 1054, 74 Stat. 6; 7 U.S.C. 1375, 1441, 1445, 1421)

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

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

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

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

[F.R. Doc. 70-4581; Filed, Apr. 14, 1970; 8:48 a.m.]

[Amdt. 1]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1970-71 and Subsequent Marketing Years

DENIAL OF PRICE SUPPORT TO PRODUCERS WHO USE PESTICIDES CONTAINING DDT OR TDE ON THEIR TOBACCO

Basis and purpose. This amendment of the regulations published January 28, 1970 (35 F.R. 1083) provides that if the farm operator or a producer of Flue-cured tobacco for the 1970 and subsequent crops, used DDT or TDE on such tobacco in a field or after it is harvested, he shall report such fact to the county ASCS office where his farm is located and shall be issued a marketing card which will not entitle him to price support on the tobacco.

This amendment is necessitated by the probability that tobacco on which DDT or TDE have been used may be excluded from major foreign markets. Some foreign countries that are now large buyers of U.S. tobacco have indicated that they will set very narrow pesticide (DDT and TDE) tolerance on cured leaf. It is essential for growers to meet these standards now because most of the 1970 crop that will be consigned to the Commodity Credit Corporation under the price support program will not likely be sold and exported prior to 1973, since tobacco is usually stored and aged for extended periods before being used. Accordingly, in order to protect the salability of tobacco and avoid undue losses to producers and Commodity Credit Corporation, it was determined to condition price support on a farm certification of the absence of the use of the pesticides, and the regulations appearing in Part 1464 will be amended to so provide.

Since tobacco farmers will soon begin to transplant 1970 crop tobacco in the fields it is essential that the amendment be effective at the earliest possible date. Accordingly, it is found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. The amendment contained herein shall become effective upon the date of filing with the Director, Office of the Federal Register.

This subpart is amended by adding a new section to read as follows:

RESTRICTION ON USE OF DDT AND TDE

§ 725.111 Determination of use of DDT and TDE.

(a) *Definition.* DDT means a pesticide bearing the chemical, or a mixture of 1,1,1-trichloro-2,2-bis (p-chlorophenyl) ethane and 1,1,1-trichloro-2-(o-chlorophenyl) - 2 - (p - chlorophenyl) ethane. TDE means a pesticide bearing the chemical or a mixture of 1,1-dichloro-2,2-bis (p-chlorophenyl) ethane. In addition, DDT or TDE shall include any products containing derivatives of such pesticides.

(b) *Producer's report.* For each farm on which flue-cured tobacco is produced, the farm operator or any producer on the farm shall for each year, beginning with the 1970 crop, file with the county office a report on MQ-38, Certification of Use or Nonuse of DDT or TDE on Tobacco, showing whether or not DDT or TDE was used on the tobacco in the field or after being harvested.

(c) *Failure to file report.* If the operator of a farm on which Flue-cured tobacco of the 1970 or any subsequent crop is being produced fails or refuses, within 7 days after a request of the county committee to file a report on MQ-38, Certification of Use or Nonuse of DDT or TDE on Tobacco, showing whether or not DDT or TDE was used on such tobacco, all Flue-cured tobacco of such crop produced on such farm shall be considered by the county committee to have been subjected to such a pesticide unless the county committee finds that failure to file the report was due to circumstances beyond the control of the farm operator.

(d) *Notice to farm operator.* A written notice shall be furnished to the operator of each farm where the county committee determines that tobacco, after being transplanted in the field or after being harvested from a farm, was treated with DDT or TDE. Such determination by the county committee shall be based on (1) the certification on

MQ–38, or (2) failure to file MQ–38, or (3) other probative evidence that such pesticides were used on the tobacco. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(e) *Producer's right to recertify.* Any producer on a farm who certified on MQ–38 that the tobacco on the farm was subjected to DDT or TDE when in fact no such pesticides were used, may make a new certification of the facts on another form MQ–38.

(f) *Issuance of marketing cards—Notation on card.* If a farm has tobacco available for marketing on which DDT or TDE was used, the marketing card issued for the farm shall bear the notation "no price support".

(Sec. 375, 52 Stat. 66, as amended; secs. 101, 106, 401, 63 Stat. 1051, as amended, 1054, 74 Stat. 6; 7 U.S.C. 1375, 1441, 1445, 1421)

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

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

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

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

[F.R. Doc. 70–4580; Filed, Apr. 14, 1970; 8:48 a.m.]

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

SUBCHAPTER I—DETERMINATION OF PRICES

PART 877—SUGARCANE; PUERTO RICO

Fair and Reasonable Prices for 1969–70 Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation, and due consideration of evidence presented at the public hearing held in San Juan, Puerto Rico, on November 13, 1969, the following determination is hereby issued:

The regulations previously appearing in these sections under "Determination of Prices; Sugarcane; Puerto Rico" remain in full force and effect as to the crops to which they were applicable.

Sec.

AUTHORITY: Secs. 877.21 to 877.30 issued under secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 877.21 General requirements.

A producer of sugarcane in Puerto Rico who is also a processor of sugarcane, to which this part applies as provided in § 877.28 of this part (herein referred to as "processor"), shall have paid, or contracted to pay, for sugarcane of the 1969–70 crop grown by other producers and processed by him, in accordance with the following requirements.

§ 877.22 Definitions.

For the purpose of this part, the term:

(a) "Price of raw sugar" means the simple average of the daily spot price quotations for sugar deliverable under the New York Coffee and Sugar Exchange No. 10 domestic contract (bulk sugar) for the period January 1, 1970, through December 31, 1970, except that if the Director of the Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, determines that any such price quotation does not reflect the true market value of raw sugar because of inadequate volume or other factors, he may designate the price to be effective under this determination which he determines will reflect the true market value of raw sugar.

(b) "Sugar yield period" means any period not exceeding 1 calendar month as may be elected by the processor to determine the yield of raw sugar. The period adopted by the processor shall be used uniformly throughout the grinding season. In instances where odd days occur because a processor begins or ends grinding on a day which does not correspond with the beginning or ending of the sugar yield period, or grinding is interrupted because of holidays or for other reasons, such odd days shall be included either in the prior or subsequent sugar yield period, or treated as a separate sugar yield period.

(c) "Raw sugar" means raw sugar, 96° basis.

(d) "Yield of raw sugar" means the yield of raw sugar per 100 pounds of net sugarcane determined for the sugar yield period in accordance with the formulae set forth in Schedule A attached hereto and made a part hereof.

(e) "Inferior varieties of sugarcane" means sugarcane of the Saccharum Spontaneum or Saccharum Sinense variety (including sugarcane of the Japanese, Uba, Kavangerie, Zuinga, Caledonia, Coimbatore 213, and Coimbatore 281 varieties).

(f) "Net sugarcane" means (1) the gross weight of the sugarcane delivered to the mill determined to contain a quantity of trash not in excess of 5 percent of the gross weight, or (2) the gross weight of the sugarcane delivered to the mill less the quantity of trash determined to be in excess of 5 percent of such gross weight.

(g) "Trash" means green or dried leaves, sugarcane tops above the last formed joint, soil, stones, and all other extraneous material.

(h) "Area office" means Caribbean Area Agricultural Stabilization and Conservation Service Office, Post Office Box 8037, Fernandez Juncos Station, San Juan, Puerto Rico 00910.

§ 877.23 Payment for sugarcane.

(a) The payment for net sugarcane delivered by the producer to the processor shall be made either by the delivery to the producer of his share of raw sugar or by the payment to the producer of the money value of his share of raw sugar, whichever method is agreed upon by the producer and the processor.

(b) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of 9 pounds or more, the producer's share of raw sugar shall be not less than the quantity of raw sugar determined by applying the following applicable percentage to the yield of raw sugar of the producer's net sugarcane.

Pounds of raw sugar per 100 pounds of net sugarcane	*Percentage*
9.0	63.0
9.5	63.5
10.0	64.0
10.5	64.5
11.0	65.0
11.5	65.5
12.0	66.0
12.5	66.5
13.0	67.0
13.5 and over	67.5

Intermediate points within the above scale are to be interpolated to the nearest one-tenth point.

(c) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of less than 9 pounds, the producer's share of raw sugar shall be not less than the quantity determined by subtracting 3⅓ pounds of raw sugar from the yield of raw sugar of the producer's net sugarcane.

(d) If settlement with the producer is made in sugar, delivery shall be made, loaded in the producer's vehicle, at the mill where the sugar is produced, unless the producer and processor agree in writing to delivery at another mill: *Provided*, That the processor shall bear any increase in marketing costs resulting from such agreement.

(e) If settlement with the producer is made in cash, the processor shall pay to the producer the money value of his share of raw sugar determined on the basis of the price of raw sugar converted to an f.o.b. mill price by subtracting therefrom the admissible deductions for selling and delivery expenses on raw sugar in accordance with Schedule B, attached hereto and made a part hereof.

§ 877.24 Payment for molasses.

For each ton of net sugarcane delivered the processor shall either deliver to the producer 66 percent of the average production of blackstrap molasses per ton of net sugarcane of the 1969–70 crop processed at each mill or shall pay to the producer the money value of such quantity of molasses, whichever method is agreed upon between the producer and

the processor. If settlement with the producer is made in cash such settlement shall be based upon the average gross proceeds from the sales of molasses less the admissible deductions for selling and delivery expenses in accordance with Schedule C attached hereto and made a part hereof. A processor operating more than one mill shall compute the average gross proceeds per gallon from the sales of molasses produced at all mills operated by such processor and shall compute the net proceeds per gallon separately for each mill operated by such processor. If a processor has not sold 1969–70 crop molasses by the time he is required to submit to the area office a statement as required by § 877.27 (b), he shall have made a provisional molasses payment to producers based upon not less than 85 percent of the average of the net proceeds per gallon realized by all other processors in Puerto Rico who made cash settlements for 1969–70 crop molasses, as determined by the Director of the area office. Final settlement with producers shall be made promptly after the 1969–70 crop molasses has been sold, based upon the average net proceeds therefrom and the processor shall promptly submit to the area office a statement as required by § 877.27 (b). In the event a processor has transferred all its 1969–70 production of molasses to an affiliate and therefore no sales price for such molasses is available, the average net proceeds per gallon as determined by the Director of the area office for all processors who sold the 1969–70 crop of molasses shall be used in computing molasses payments to growers. Processor is required to make a provisional molasses payment not later than June 1, 1971, based upon not less than 85 percent of the estimated average of net proceeds per gallon realized by all other processors in Puerto Rico, as determined by the Director of the area office from reports submitted under provisions of § 877.27(b). Processor is further required to make a final molasses payment in the amount necessary to base the total molasses payment upon the average net proceeds per gallon for all processors who sold the 1969–70 crop of molasses after the area office has determined such net proceeds and notified the processor.

§ 877.25 Determination of net sugarcane.

(a) The net sugarcane of each producer (including the processor) which is delivered to the mill each day shall be determined as follows: The processor jointly with a representative designated by the producers or the producer organization in any mill area, shall examine the sugarcane deliveries and estimate whether the deliveries contain a quantity of trash (1) not in excess of 5 percent of the gross weight, or (2) in excess of 5 percent of the gross weight. In the absence of a producer representative the processor shall have full responsibility for examining such sugarcane deliveries and for making such estimates. As to the deliveries of sugarcane of any producer which are estimated to contain trash not in excess of 5 percent, the gross weight of the sugarcane delivered shall also be the net weight. As to the deliveries of sugarcane of any producer estimated by both the processor and the representative of producers or by either of such parties to contain trash in excess of 5 percent, the net weight shall be determined by taking a representative sample of not less than 100 pounds of sugarcane from one or more of the deliveries deemed to be representative and separate therefrom all trash, except that when the sugarcane is sampled by means of a core sampler the sample shall be not less than 20 pounds. The weight of trash which is removed from the sample of sugarcane shall be expressed as a percentage of the gross weight of the sample. The net weight of the sugarcane delivery from which the sample was taken shall be determined by deducting from the gross weight of such sugarcane, a percentage thereof which represents the excess, if any, of the trash over 5 percent, and the same adjustments as determined above shall be applied to the gross weight of all other deliveries delivered by that producer during the same day, or in the case of sugarcane handled in bulk during the same sugar yield period, which are estimated to contain trash content reasonably similar to the delivery from which the sample was taken. A written description of the procedure to be used when sugarcane is sampled by means of a core sampler shall be submitted by the processor to the Area office and shall be subject to approval of that office. The determination of net sugarcane shall not be made where the direct cane analysis method is used.

(b) With respect to the sample taken as provided in paragraph (a) of this section, the processor shall make a separate determination of the weight of soil and stones contained in such sample and may charge the producer 5 cents per ton of net sugarcane delivered which is represented by the sample for each one percent, fractions in proportion, by which the weight of soil and stones is in excess of 1 percent of the gross weight of the sample.

(c) The processor may charge the producer 66 percent of the actual cost, but not to exceed $2.64, for each sample taken for trash including soil and stones to cover the cost of sampling and measuring the actual quantity of trash.

§ 877.26 Services and allowances to producers.

(a) When payment is made to the producer by the delivery of raw sugar, the processor shall store and insure all such sugar through December 31, 1970, and shall bear the cost thereof.

(b) Allowances made to producers by the processor for the 1968–69 crop shall be made for the 1969–70 crop at the rates which were effective under comparable conditions in 1968–69; the costs of services which were borne by the processor for the 1968–69 crop shall be borne for the 1969–70 crop: *Provided*, That the processor shall not be required to bear the cost of ocean transportation of sugarcane; and *Provided further*, That nothing in this paragraph shall be construed as prohibiting negotiations between the processor and producer with respect to the amount of allowances to be made to the producer, any change to be approved in writing by the area office upon a determination by the Director of the area office that the change results in allowances which are fair and reasonable.

§ 877.27 Reporting requirements.

(a) The processor shall submit to the area office a statement as to whether settlement with producers is to be made in sugar or in cash, together with a statement as to the sugar yield period which will be used during the grinding season. Such information shall be submitted not later than 14 days after publication of this part in the FEDERAL REGISTER, except that if the Director of the area office determines that the failure to submit such statement by such date was unintentional, an extension of time may be granted by the area office.

(b) If the processor makes settlement in cash he shall submit in duplicate to the area office statements verified by a certified public accountant of the gross proceeds from the sales of molasses and the deductions made in determining the f.o.b. mill price of sugar and the net proceeds from molasses. Such statements shall be submitted not later than June 1, 1971, except that if the Director of the area office determines that the failure to submit such statement by such date was unintentional, an extension of time may be granted by the area office.

§ 877.28 Applicability.

The requirements of this part are applicable to all sugarcane purchased from other producers and processed by a processor who produces sugarcane (a processor-producer is defined in § 893.1 of this chapter); and to sugarcane purchased by a cooperative processor from nonmembers. The requirements are not applicable to sugarcane processed by a cooperative processor for its members.

§ 877.29 Procedures for checking compliance.

The procedures to be followed by the ASCS Caribbean area office in checking compliance with the requirements of this part are set forth under the heading Part 8—"Fair Price Determination" in Handbook 5–SU, issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Handbook 5–SU may be inspected at and copies obtained from the ASCS Caribbean Area Office, Post Office Box 8037, Fernandez Juncos Station, San Juan, Puerto Rico 00910.

§ 877.30 Subterfuge.

The processor shall not reduce the returns to the producer below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the

act, by a producer who processes sugarcane of the 1969–70 crop grown by other producers.

Requirements of the act. Section 301 (c)(2) of the act provides as a condition for payment, that the producer on the farm who is also directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

1969–70 price determination. This determination continues the provisions of the prior determination, except that (1) processors will be permitted to use a core sampler to take samples for trash tests, provided such samples weigh at least 20 pounds, and (2) for the first time, processors will be permitted to use the "direct cane analysis" method in lieu of crusher juice analysis when making determinations of the yield of raw sugar from producers' sugarcane.

A public hearing was held in San Juan, Puerto Rico, on November 13, 1969, at which interested persons were afforded the opportunity to present testimony and make recommendations with respect to fair and reasonable prices for the 1969–70 crop of sugarcane. A representative of the Sugar Board of Puerto Rico recommended that the following be added to the determination: "Whenever the core sampler is used, the cane sample must be taken immediately before or immediately after weighing the cane, and no determination of extraneous matter or adjustments in the cane weight shall be made." The witness stated that his recommendation would permit the use of the "direct cane analysis" method of determining the yield of sugar from sugarcane for settlement purposes in lieu of the "crusher juice analysis" method now in use by all mills in Puerto Rico. He stated that the proposed method makes the separate sampling for trash determinations unnecessary; that the direct cane analysis will provide data on sucrose content, fiber, and trash from the same sample; and that liquidation can be made directly from the formula already approved by the Sugar Board. He testified that the new method would be used experimentally at the Cambalache and Fajardo Centrals during the 1969–70 crop; that samples could be processed in 10 minutes or less; and that the total cost of the core sampler and necessary laboratory equipment will be about $36,000. The witness also stated that the present method of crusher juice analysis used in conjunction with separate tests for trash and extraneous matter is not effective and tends to penalize those producers who deliver "clean" cane while rewarding those whose cane contains large amounts of trash. He said that the Government of Puerto Rico is offering cash incentives to encourage mills to adopt the new method, and that he is confident that when the process has proven its worth the mills will adopt it willingly.

A representative of the Puerto Rico Department of Agriculture testified that the Government of Puerto Rico has instituted a 5-year program to rehabilitate the sugar industry of Puerto Rico which is being supported by a $100 million appropriation of the Puerto Rico legislature. He stated that if the experimental work with the "direct cane analysis" method at Fajardo and Cambalache is successful then it should be adopted as the official method; that increasing use of mechanical harvesters is responsible for increasing quantities of trash and extraneous matter; that 99 percent of all cane delivered is not sampled for trash at all; and that when samples are taken for trash producers retaliate by delivering their cane to another mill. He further stated that other possible solutions to the problem of trash in cane is for the factory to purchase cane standing in the field or to pay producers on the basis of factory average analyses.

A representative of Central Mercedita, Inc., testified that increasing amounts of trash is making it increasingly difficult to correctly determine the amount of sugar that is produced from the cane of a particular producer. He recommended several changes in the determination which he stated would permit the use of the "direct cane analysis" method as proposed by the representative of the Sugar Board, as well as the use of a core sampler at Central Mercedita to take samples for the determination of extraneous matter only in conjunction with the crusher juice analysis method of determining the yield for each producer. The witness stated that both procedures should be used experimentally until proven to be effective or a better method is found; and that where a mill has a system for washing cane prior to processing the mill should be allowed to forego the provision presently in the determination which permits a penalty when the quantity of soil and stones exceeds 1 percent of the gross weight of the cane. The witness endorsed the recommendations of the representative of the Sugar Board.

A representative of the Agriculture Experiment Station testified that experiments at the Cortada factory during the 1967 harvest show that the "direct cane analysis" method is technically acceptable and represents a significant improvement over crusher juice analysis and separate samples for trash analysis. The witness stated that the main objection to adoption of the new method appears to be high initial cost, together with the fact that most mills have a large number of very small producers, but that financial assistance by the Insular Government and a reduction in the number of samples taken would provide incentive to motivate all processors to adopt the new method. He further stated that there appears to be no alternative to the core sample method of direct cane analysis.

A representative of the Puerto Rico Farm Bureau testified that the 1968–69 crop was the worst in the history of the industry. The witness stated that more than 1.5 million tons of cane were left unharvested, and that the present outlook is for about 2.0 million tons to remain unharvested this year. The witness stated that there is a shortage of labor for harvest, and that there are not enough mechanical harvesters, on hand plus on order, to make up for the shortage of hand labor. He stated that increased use of mechanical harvesters will lead to increased amounts of trash and extraneous matter in cane, and that this trend makes it more important than ever to develop a reliable method of cane evaluation. The witness recommended that no changes be made in the pricing provisions of the determination and that no change be made in the method of cane evaluation until there is sound scientific justification for it. He also recommended that whenever a mill washes sugarcane, then all sugarcane should be washed during that period. The witness further stated that in some instances sugarcane from one source is washed while that from another source is not, and that he is concerned that administration cane will get preferential treatment over that of independent producers. The witness also stated that the problems facing the Puerto Rican sugar industry is mainly one of people—not enough labor to harvest the crop; the refusal of the Puerto Rican Government to allow the use of foreign labor—and that the problem is aggravated by the economic inability of producers to adopt technological improvements in the face of unprofitable crops in every year, except one, since 1957.

A witness representing the Association of Sugar Producers of Puerto Rico recommended that the determination be changed in such a way as to permit the experimental use of the core sampler for both the direct cane analysis and for trash tests. The witness also stated that the Caribbean Area ASCS office should be given broad authority to administer the regulations; that the Government assistance program is a joint venture and not just a handout; and that in his opinion the core sampler holds promise but has not yet been proved to be practical in everyday use.

Consideration has been given to the recommendations made at the public hearing; to data on the returns, costs, and profits of producing and processing sugarcane obtained by field survey for recent crops and recast in terms of price and production conditions likely to prevail for the 1969–70 crop; and to other pertinent information. Analysis of these data indicate that, on average, neither producers nor processors are likely to make a profit. The results of the 1968–69 crop were disappointing by whatever standards are applied. Although a long and persistent drouth that plagued the area for several years now appears to have been broken, the total outturn from the 1968–69 crop did not reach 500,000 tons, a decrease of 25 percent from the prior crop. The fact that much cane was left standing is the largest single factor in this decline, but important also was a 16 percent decline in the yield of raw sugar per ton of cane (162 pounds as compared to 193 pounds). The Commonwealth Government has demonstrated its concern for the welfare of the sugar

industry of Puerto Rico by appropriating $100 million for a 5-year rehabilitation program. If prospects as of mid-March are realized, the 1969–70 crop will produce about 475,000 tons of raw sugar from a crop of about 6,000,000 tons of cane harvested, assuming that an average 160 pounds of raw sugar per ton of cane (8 percent) is achieved.

This determination adopts the recommendations made at the hearing that processors be permitted to use the core sampler in connection with both (1) the sampling of sugarcane deliveries for the purpose of determining the amount of trash and extraneous material therein, and (2) the "direct cane analysis" method of determining the yield of raw sugar from the sugarcane of individual producers. The Department has been increasingly concerned in recent years about the worsening problem of trash and other extraneous material now being delivered with sugarcane, especially in connection with the determination, for each producer, of the yield of raw sugar from the net sugarcane delivered (i.e., net of trash and other extraneous material). The Department is encouraged by the prospect that the direct cane analysis method may provide an acceptable solution to the problem of sugarcane evaluation at a reasonable cost. Moreover, the experimental use of the core sampler (as an alternative method of taking samples for trash) may provide the industry with valuable data on another option available to them.

On the basis of an examination of all pertinent factors, the provisions of this determination are deemed to be fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

(The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.)

Effective date. This determination shall become effective upon publication in the FEDERAL REGISTER, and is applicable to the 1969–70 crop of Puerto Rican sugarcane.

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

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

SCHEDULE A

FORMULAE FOR DETERMINING THE "YIELD OF RAW SUGAR" FOR EACH PRODUCER

(A) Where a continuous sample of the crusher juice of the deliveries of sugarcane by a producer is used, the formula for determining the yield of raw sugar shall be:

$$R = TI(S - 0.3B)F$$

Where:

R = Yield of raw sugar, 96° basis;
S = Polarization of the crusher juice obtained from the sugarcane of each producer;
B = Brix of the crusher juice obtained from the sugarcane of each producer;
T = Trash correction factor which varies inversely with the amount of trash contained in the sugarcane of each producer from 1.0 for sugarcane which contains an amount of trash not in excess of 5 percent of the gross weight of sugarcane to 0.76075 for sugarcane which contains an amount of trash in excess of 30 percent; *Provided*, That where sugarcane has been subjected to a washing process prior to milling, the amount of trash that is soil shall be excluded in determining the correction factor.
I = Inferior sugarcane correction factor which is applied only to inferior varieties of sugarcane of each producer and is determined as follows:

(a) When the purity, P (where $P = 100S \div B$), of the crusher juice of sugarcane is equal to 75 or more, the factor $I = 0.9$; or

(b) When the purity, P (where $P = 100S \div B$), of the crusher juice of such sugarcane is less than 75, the factor, $I = 0.9 - 0.02(75 - P)$;

F = Yield factor which is determined as follows:

(a) Determine the "tentative recovery of raw sugar," 96° basis, for each producer delivering sugarcane during the settlement period from the product of the formula $(S - 0.3B)$, the number of hundredweights of net sugarcane, the applicable trash correction factor, T; and where applicable the inferior sugarcane correction factor, I; and

(b) Divide the pounds of raw sugar, 96° basis, produced at the mill during the applicable settlement period by the sum of the "tentative recoveries of raw sugar" for all producers to obtain the yield factor, F.

If part of the sugarcane delivered by producers is subjected to a washing process prior to milling, the polarization and brix of the resulting dilute crusher juice of such sugarcane shall be converted to an undiluted crusher juice basis by application of dilution compensation factors (DCF) computed as follows:

$$\text{Pol } DCF = \frac{\text{Brix of undiluted crusher juice sample}}{\text{Brix of diluted crusher juice sample}}$$

$$\text{Pol } DCF = \frac{\text{Pol of undiluted crusher juice sample}}{\text{Pol of diluted crusher juice sample}}$$

A written description of procedures and the frequency of sampling sugarcane to be used in determining *DCF* factors shall be submitted by the processor to the Area office and shall be subject to approval of that office.

(B) Where the "direct cane analysis" method is used the sampling of sugarcane delivered by producers must be by the core sampler method and the formula for determining the yield of raw sugar shall be:

$$R = F[S - 0.3(B + 0.1f_c)]$$

Where:

R = 96° yield % cane.
S = Pol % cane.
B = Brix % cane.
f_c = Fiber % cane.
F = Factor calculated using the values obtained during the liquidation period, weighted on the basis of the net weight of cane and substituted at the right side of the following equation:

$$F = \frac{R}{S - 0.3\,(B + 0.1f_c)}$$

Whenever the "direct cane analysis" method is used, no determination for extraneous matter nor adjustments in the cane weight and yield shall be made.

A written description of the direct cane analysis method and the core sampling procedures to be used therewith shall be submitted by the processor to the Area office and shall be subject to approval of that office.

(C) Where the sugarcane delivered by producers is sampled by hand or machine and the juice is extracted by a laboratory hand mill, the yield of raw sugar may be determined in accordance with the formula provided under (A) above after the sample mill juice Brix and sucrose for each producer has been factored to a crusher juice basis. A written description of the sampling procedure to be used shall be submitted by the processor to the Area office and shall be subject to approval of that office.

(D) Where sugarcane is handled in bulk, the procedures for sampling the deliveries of sugarcane by a producer shall be representative of all the deliveries of sugarcane of such producer. A written description of the sampling procedure shall be submitted by the processor to the Area office and shall be subject to approval of that office.

(E) The sugar yield of sugarcane which is commingled while being loaded or transported from the Island of Vieques to the processor's mill shall be the total sugar produced from the barge load of sugarcane, determined by applying either formula (A) or (B) prescribed by this Schedule A to the sugarcane of each barge load without segregating the cane of each producer; and the producer's share of such sugar shall be apportioned on the basis of the ratio of the net weight of each producer's sugarcane to the total weight of the barge load of sugarcane. The sugarcane of each grower shall be weighed at scales on the Island of Vieques to determine gross weight. The net weight of commingled cane from the barge load shall be determined at the mill in accordance with the applicable provisions of this determination, and the differences in gross and net weights shall be distributed among the growers who supplied the barge load of cane in proportion to the tonnage delivered by each grower.

SCHEDULE B

ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES ON RAW SUGAR

Admissible deductions for selling and delivery expenses in connection with the payment for sugarcane provided in § 877.23 of the 1969–70 price determination are limited to the sum of the following expenses for each mill operated by a processor, net of any receipts which reduce such expenses:

(1) Freight from the mill directly to the bulk raw sugar loading terminal, including the cost of covering cars or trucks where necessary;

(2) The cost of receiving, handling, and loading aboard ship at the bulk terminal at the rates established by the Puerto Rico Public Service Commission and in effect at the time the sugar is delivered to the bulk sugar terminal facility;

(3) Ocean freight;

(4) Unloading at destination;

(5) Freight demurrage resulting from causes beyond the control of the shipper; and

(6) An allowance of 7.0 cents per hundredweight of 96° raw sugar, in lieu of the following expenses:

(i) Reclaiming, weighing, and loading at mill or where stored;

(ii) Shore risk, marine and war risk insurance;

(iii) Brokerage or commission and exchange;

(iv) Weighing, testing, and sampling at destination;

(v) All other expenses not itemized herein.

When any of the necessary services included in items (1), (3), (4), or (5) above are furnished by the processor, costs incurred may include for each of the services rendered:

(1) Direct and immediate supervisory labor;

(2) Maintenance labor and supplies required for the facilities used;

(3) Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pension, bonuses, and vacation expenses properly allocable to such labor;

(4) Direct supplies; and

(5) Depreciation (at rates allowed by the taxing authority), property taxes, and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities properly apportionable to the necessary service shall be allowed.

The Director of the Area office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the costs incurred by the processor in furnishing the necessary service in the event that the costs incurred therefor cannot be accurately determined.

In determining the f.o.b. mill price of raw sugar sold or processed in Puerto Rico, equivalent selling and delivery expenses as approved by the Director of the Area office shall be computed as follows:

(1) If the processor delivers 33 percent or more of the total quantity of raw sugar produced by the mill to mainland refiners, the allowable per hundredweight selling and delivery expenses to be applied to such total quantity shall be the average of the admissible selling and delivery expenses as approved by the Director of the Area office for that quantity of raw sugar produced by the mill which was delivered to mainland refiners.

(2) If the processor delivers less than 33 percent of the total quantity of raw sugar produced by the mill to mainland refiners, the allowable per hundredweight selling and delivery expenses to be applied to such total quantity shall be an amount equal to the average of the admissible selling and delivery expenses approved by the Director of the Area office for all 1969–70 crop raw sugar produced in Puerto Rico which was delivered to mainland refiners; except that such average of all selling and delivery expenses shall be increased (or reduced as appropriate) by an amount representing the difference between the estimated per hundredweight inland transportation costs which would have been incurred by the processor had all such 1969–70 crop raw sugar been delivered to the bulk sugar terminal to which the Area office determines the sugar could have been transported at the lowest inland transportation costs, and the average per hundredweight of all admissible inland transportation costs for all 1969–70 crop raw sugar that was delivered to the mainland. The average of the admissible selling and delivery expenses shall, as provided above, be increased when the estimated inland transportation costs are greater than such average, and be reduced when the estimated inland transportation costs are less than such average.

The statement as required by § 877.27 of the determination shall include the following certification:

CERTIFICATION

I hereby certify that, as a result of the audit performed on the books of Central _____ as of _____, the deductions as set forth herein are properly chargeable as selling and delivery expenses for sugar in accordance with the determination of fair and reasonable prices for the 1969–70 crop of Puerto Rican sugarcane.

SCHEDULE C

ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES FOR MOLASSES

Admissible deductions for selling and delivery expenses in connection with the molasses payment provided in § 877.24 of the 1969–70 price determination are limited to the sum of the following expenses actually incurred at each mill operated by a processor, net of any receipts which reduce such expenses:

(1) Operation of pumps to deliver molasses from mill tank to shipside or other delivery point;

(2) Freight incurred or which would have been incurred on direct shipment from tanks located at the mill to shipside, or to a waterfront tank facility, or to local buyers when such molasses is sold on a delivered price basis;

(3) Operation of tank barges, tugs, or other marine equipment used in delivering molasses to shipside;

(4) Weighing and testing;

(5) Wharfage, including charges arising from utilization of waterfront facilities such as pipelines (including fees paid for right of way privileges), pumps, and tanks (a) to store molasses in anticipation of shipment; and (b) to deliver such molasses within the hold of the ship;

(6) Shore risk insurance (limited in coverage from mill to shipside);

(7) Freight demurrage resulting from causes beyond the control of the shipper;

(8) Brokerage paid to a bona fide broker.

When any of the necessary services included in items (1) through (8) above are furnished by the processor, costs incurred may include for each of the services rendered:

(1) Direct and immediate supervisory labor;

(2) Maintenance labor and supplies required for facilities used;

(3) Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pensions, bonuses and vacation exenses properly allocable to such labor;

(4) Fuel, energy or direct supplies; and

(5) Depreciation (at rates allowed by the taxing authorities), property taxes and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities, properly apportionable to the necessary service, shall be allowed.

The Director of the Area office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the cost incurred by the processor in furnishing the necessary service in the event that the cost incurred therefor cannot be accurately determined.

The statement as required by § 877.27 of the determination shall include the following certification:

CERTIFICATION

I, hereby certify that, as the result of the audit performed on the books of Central _____ as of _____, the gross proceeds from the sales of molasses as herein stated are true and correct and the deductions set forth herein are properly chargeable as selling and delivery expenses for molasses in accordance with the determination of fair and reasonable prices for the 1969–70 crop of Puerto Rican sugarcane.

[F.R. Doc. 70-4582; Filed, Apr. 14, 1970; 8:48 a.m.]

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

[Lemon Reg. 421, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(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 hereof in the FEDERAL REGISTER (5 U.S.C. 553) because 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 restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (i), (ii), and (iii) of § 910.721, (Lemon Regulation 421, 35 F.R. 5582) are hereby amended to read as follows:

§ 910.721 Lemon Regulation 421.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 9,300 cartons;

(ii) District 2: 209,250 cartons;

(iii) District 3: Unlimited movement.

* * * * *

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

Dated: April 10, 1970.

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

[F.R. Doc. 70-4560; Filed, Apr. 14, 1970; 8:46 a.m.]

PART 971—LETTUCE GROWN IN THE LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Expenses

Notice of rule making regarding the approval of proposed expenses under Marketing Agreement No. 144 and Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in the Lower Rio Grande Valley in south Texas, was published in the FEDERAL REGISTER March 25, 1970 (35 F.R. 5044). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to submit written data, views, or arguments pertaining thereto not later than 15 days following its publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, which was recommended by the South Texas Lettuce Committee, established pursuant to the said marketing agreement and order, it is hereby found and determined that:

§ 971.209 Expenses.

(a) The reasonable expenses that are likely to be incurred by the South Texas Lettuce Committee for its maintenance and functioning and for such other purposes as the Secretary determines to be appropriate, during the fiscal period ending July 31, 1970, will amount to $850.

(b) The terms used in this section have the same meaning as when used in said marketing agreement and this part.

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

Dated: April 10, 1970.

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

[F.R. Doc. 70–4583; Filed, Apr. 14, 1970; 8:48 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:

1. In § 76.2, the introductory portion of paragraph (e) is amended by deleting the name of the State of Iowa, and subparagraph (e)(21) relating to the State of Iowa is deleted.

2. In § 76.2, in subparagraph (e)(3) relating to the State of Georgia, a new subdivision (iv) relating to Marion County is added to read:

(e) * * *

(3) *Georgia.* * * *

(iv) That portion of Marion County bounded by a line beginning at the junction of State Highway 41 and the Juniper Creek; thence, following State Highway 41 in a generally southerly direction to Secondary Route S 640; thence, following Secondary Route S 640 in a generally southwesterly direction to the Marion-Chattahoochee County line; thence, following the Marion-Chattahoochee County line in a generally northerly direction to the Upatoi Creek; thence, following the south bank of the Upatoi Creek in an easterly direction to the Juniper Lake; thence, following the west bank of the Juniper Lake in a generally southeasterly direction to the Juniper Creek; thence, following the south bank of the Juniper Creek in an easterly direction to its junction with State Highway 41.

3. In § 76.2, in subparagraph (e)(19) relating to the State of Virginia, a new subdivision (xiii) relating to Essex and King and Queen Counties is added to read:

(e) * * *

(19) *Virginia.* * * *

(xiii) The adjacent portions of Essex and King and Queen Counties bounded by a line beginning at the junction of U.S. Highway 17 and Secondary Highway 607; thence, following Secondary Highway 607 in a southwesterly direction to Secondary Highway 612; thence, following Secondary Highway 612 in a southeasterly direction to Secondary Highway 617; thence, following Secondary Highway 617 in a southeasterly direction to Secondary Highway 614; thence, following Secondary Highway 614 in a generally easterly direction to Secondary Highway 604; thence, following Secondary Highway 604 in a northeasterly direction to Secondary Highway 719; thence, following Secondary Highway 719 in a southeasterly direction to U.S. Highway 17; thence, following U.S. Highway 17 in a northwesterly direction to its junction with Secondary Highway 607.

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

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

The amendments quarantine a portion of Marion County in Georgia, and portions of Essex County and King and Queen 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 such counties.

The amendments also exclude portions of Madison and Warren Counties in Iowa, from the areas heretofore quarantined because of hog cholera. Therefore, 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 not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 10th day of April 1970.

GEORGE W. IRVING, Jr.,
Administrator, Agricultural Research Service.

[F.R. Doc. 70–4578; Filed, Apr. 14, 1970; 8:48 a.m.]

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended; and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulations designating modified certified brucellosis areas is hereby amended to read as follows:

§ 78.13 Modified certified brucellosis areas.

The following States, or specified portions thereof, are hereby designated as modified certified brucellosis areas:

Alabama. The entire State;
Alaska. The entire State;
Arizona. The entire State;
Arkansas. The entire State;
California. The entire State;
Colorado. The entire State.
Connecticut. The entire State;
Delaware. The entire State;
Florida. Alachua, Baker, Bay, Bradford, Brevard, Broward, Calhoun, Charlotte, Citrus, Clay, Collier, Columbia, Dade, De Soto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hendry, Hernando, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Lee, Leon, Levy, Liberty, Madison, Manatee, Marion, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Putnam, St. Johns, Santa Rosa, Sarasota, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington Counties;
Georgia. The entire State;
Hawaii. The entire State;
Idaho. The entire State;
Illinois. The entire State;
Indiana. The entire State;
Iowa. The entire State;
Kansas. The entire State;
Kentucky. The entire State;
Louisiana. The entire State;
Maine. The entire State;
Maryland. The entire State;
Massachusetts. The entire State;
Michigan. The entire State;
Minnesota. The entire State;
Mississippi. The entire State;
Missouri. The entire State;
Montana. The entire State;
Nebraska. Adams, Antelope, Arthur, Banner, Blaine, Boone, Box Butte, Boyd, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cuming, Custer, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, McPherson, Madison, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Thurston, Valley, Washington, Wayne, Webster, Wheeler, and York Counties;
Nevada. The entire State;
New Hampshire. The entire State;
New Jersey. The entire State;
New Mexico. The entire State;
New York. The entire State;
North Carolina. The entire State;
North Dakota. The entire State;
Ohio. The entire State;
Oklahoma. The entire State;
Oregon. The entire State;
Pennsylvania. The entire State;
Rhode Island. The entire State;
South Carolina. The entire State;
South Dakota. Aurora, Beadle, Bennett, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Marshall, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, and Ziebach Counties; and Crow Creek Indian Reservation;
Tennessee. The entire State;
Texas. Andrews, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Denton, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fayette, Fisher, Floyd, Foard, Freestone, Gaines, Garza, Gillespie, Glasscock, Gray, Grayson, Gregg, Guadalupe, Hale, Hamilton, Hansford, Hardeman, Harrison, Hartley, Haskell, Hays, Hemphill, Hidalgo, Hill, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamb, Lampasas, Lee, Leon, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Mason, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Tyler, Upshur, Upton, Uvalde, Val Verde, Ward, Washington, Webb, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties;
Utah. The entire State;
Vermont. The entire State;
Virginia. The entire State;
Washington. The entire State;
West Virginia. The entire State;
Wisconsin. The entire State;
Wyoming. The entire State;
Puerto Rico. The entire area; and
Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended, 9 CFR 78.16)

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

The amendment adds the following additional areas to the list of areas designated as modified certified brucellosis areas because it has been determined that such areas come within the definition of § 78.1(i): St. Johns County in Florida; Holt County in Nebraska; Aransas, Grayson, and McMullen Counties in Texas.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 10th day of April 1970.

E. E. SAULMON,
Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 70-4579; Filed, Apr. 14, 1970; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. A]

PART 201—ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

Negotiability of Paper

1. Effective April 16, 1970, Part 201 is amended by deleting the word "negotiable" where it occurs in § 201.3 (a)(1), (b), (d), and (e); by deleting subparagraph (2) of § 201.3(i); and by deleting "(1)" immediately after the paragraph heading in § 201.3(i).

2a. The purpose of these amendments is to eliminate the regulatory requirement that paper offered by member banks to the Federal Reserve Banks for discount or as collateral for advances under section 13 of the Federal Reserve Act must in all cases be negotiable. The Act does not require that such paper be negotiable; and, under present regulations, nonnegotiable paper may be used as collateral for advances under section 10(b) of the Act, but such advances must bear a rate of interest higher than the regular Reserve Bank discount rate. It appears unnecessary and undesirable to continue to require that paper otherwise eligible and of good quality shall in all instances meet technical requirements as to negotiability in order to be discounted or used as collateral for advances at the regular discount rate. Elimination of the regulatory requirement will not, however, preclude a Reserve Bank in individual cases from declining to accept nonnegotiable paper for discount or as collateral for advances. The amendments are essentially technical in nature and reflect no change in the Federal Reserve System's general credit and monetary policies.

b. These amendments were adopted by the Board without following the procedures prescribed in section 553 of Title 5, United States Code, relating to notice, public participation, and deferred effective date, since notice and public participation would have been unnecessary and would have served no useful purpose and since the amendments relieve a restriction in present regulations of the Board.

By order of the Board of Governors, April 9, 1970

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

[F.R. Doc. 70-4570; Filed, Apr. 14, 1970; 8:47 a.m.]

[Reg. T]

PART 220—CREDIT BY BROKERS AND DEALERS

Certain Credit by Insurance Companies

1. Section 220.7 is amended by adding a new paragraph (f) to read as follows:

§ 220.7 Miscellaneous provisions.

* * * * *

(f) *Credit by insurance companies that issue variable annuity contracts.* (1) Except as provided in subparagraph (2) of this paragraph, Part 207 of this chapter (Regulation G) rather than this part shall apply to any credit extended, maintained, or arranged for by a life insurance company which (i) meets the definition of "insurance company" set forth in section 2(a)(17) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(17)) and (ii) is engaged in issuing or participating in the issuance of any variable annuity contract, or of any interest in a separate account established by such insurance company, registered under the Securities Act of 1933 (15 U.S.C. 77) or exempt from such registration by Rule 156 of the Securities and Exchange Commission (17 CFR 230.156).

(2) The provisions of this part shall apply to any credit extended to or maintained or arranged for a customer by a life insurance company described in subparagraph (1) of this paragraph that has registered, or is required to register, as a broker or dealer pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) in connection with its activities as such a broker or dealer, including:

(i) the offer or sale of any security or securities registered under the Securities Act of 1933 (15 U.S.C. 77) or exempt from such registration by Rule 156 of the Securities and Exchange Commission (17 CFR 230.156) issued by (*a*) such insurance company, or (*b*) an investment company registered pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8) for which the insurance company is an underwriter, investment advisor or dealer; and

(ii) those activities which are not part of the conventional lending activities of such life insurance companies and which, in accordance with the ordinary usage of the trade, would be considered part of the business of a broker or dealer.

2a. A new paragraph (f) has been added to § 220.7 to permit life insurance companies subject to registration with the SEC under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) (because they offer or sell variable annuity contracts) to extend, maintain, or arrange for credit subject to Part 207 (Regulation G), rather than this Part 220 (Regulation T), where the securities credit they extend is unrelated to transactions involving a variable annuity or a general securities business. Insurance companies subject to registration with the SEC became subject to Regulation T as a result of amendments adopted by the Board on June 2, 1969 (FEDERAL REGISTER of June 11, 1969 (34 F.R. 9196)). Several such companies had previously registered with the Board under Regulation G in connection with their conventional lending operations, which include loans secured by margin securities, as defined by § 207.2(d) of that regulation. The present amendment is designed to allocate the lending operations of such companies between Regulations G and T on a functional basis to clarify that extensions of credit pursuant to normal lending activities of such insurance companies are not appropriately subject to Regulation T, when distinct from any broker-dealer activity of the companies and subject to Regulation G. Extensions of credit related to transactions involving the offer or sale of the insurance companies' variable annuity contracts, or connected with the activity of the companies as a broker or dealer, are subject to Regulation T in the same manner as are the financial relations between any broker or dealer and his customers. Extensions of credit normally associated with conventional lending practices of such insurance companies, however, are governed by the provisions of Regulation G to the extent they are applicable. This functional allocation applies where an insurance company has dealings with the same customer in connection with both types of activities. For example, the fact that a person is or may become a holder of a variable annuity contract issued by the company does not of itself cause credit extended to such person by the company as part of its mortgage, commercial, or industrial loan operations to become subject to Regulation T.

b. In order to provide relief pending the promulgation of this amendment, the Board suspended, until April 16, 1970, the provisions of Regulation T with the purpose of making such provisions inapplicable to credit extended by insurance companies subject to registration with the SEC as broker-dealers if the credit is unrelated to transactions involving variable annuity contracts offered or sold by such insurance companies or affiliated persons thereof (34 F.R. 12132, 16629; July 14, Oct. 13, 1969). The period of such suspension is hereby extended until May 15, 1970.

c. The foregoing amendments are effective May 15, 1970.

3. These amendments were adopted by the Board after consideration of all relevant material that was presented by interested persons.

Dated at Washington, D.C., this 9th day of April 1970.

By order of the Board of Governors.

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

[F.R. Doc. 70-4571; Filed, Apr. 14, 1970; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 70-WE-14-AD; Amdt. 39-972]

PART 39—AIRWORTHINESS DIRECTIVES

Douglas Model DC-3 Airplanes

Amendment 39-264, 31 F.R. 10073, AD-66-18-2; AD-66-182 applies to all DC-3 series airplanes including certain military type airplanes (except the R4D-8 aircraft) and requires inspection and/or replacement of the wing upper attach angles on both the outer wing and center wing sections. Since issuing Amendment No. 39-264, the agency has determined that military type DC-3 airplane models C-41 and C-41A must comply with the requirements of this AD, but are not listed in the applicability statements in AD 66-18-2 and Amendment No. 39-264. Therefore, this AD is being amended to list these additional military type airplanes in the applicability statement.

Since this amendment provides a clarification only, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-264, 31 F.R. 10073, AD 66-18-2, is amended as follows:

Revise the applicability statement to read:

DOUGLAS. Applies to all DC-3 series aircraft including Military Type C-41, C-41A, C-47, C-47A, C-47B, C-48, C-48A, C-49, C-49A, C-49B, C-49C, C-49D, C-49J, C-49K, C-50, C-50A, C-50B, C-50C, C-50D, C-51, C-52, C-52A, C-52B, C-52C, C-53, C-53B, C-53C, C-53D, C-68, C-117A, and R4D series except R4D-8 aircraft, certificated in all categories.

This amendment becomes effective April 16, 1970.

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

Issued in Los Angeles, Calif., on April 3, 1970.

ARVIN O. BASNIGHT, *Director, FAA Western Region.*

[F.R. Doc. 70-4544; Filed, Apr. 14, 1970; 8:45 a.m.]

[Airworthiness Docket No. 70-WE-15-AD; Amdt. 39-973]

PART 39—AIRWORTHINESS DIRECTIVES

Douglas Model DC-3 Airplanes

Amendment 638, Part 507, FEDERAL REGISTER November 5, 1963, AD-63-23-1,

applies to all DC-3 series airplanes including certain military type airplanes (except the R4D-8 aircraft) and requires inspection and/or replacement of the wing upper attach angles on both the outer wing and center wing sections. Since issuing Amendment No. 638, the agency has determined that military type DC-3 airplane models C-41 and C-41A must comply with the requirements of this AD, but are not listed in the applicability statements in AD 63-23-1 and Amendment No. 638. Therefore, this AD is being amended to list these additional military type airplanes in the applicability statement; and, to provide for the issuance of manufacturer's FAA approved Service Bulletin information without requiring an amendment to the AD.

Since this amendment provides a clarification only, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 638, Part 507, FEDERAL REGISTER November 5, 1963, AD 63-23-1, is amended as follows:

(1) Revise the applicability statement to read:

DOUGLAS. Applies to all DC-3 series aircraft including military type C-41, C-41A, C-47, C-47A, C-47B, C-48, C-48A, C-49, C-49A, C-49B, C-49C, C-49D, C-49J, C-49K, C-50, C-50A, C-50B, C-50C, C-50D, C-51, C-52, C-52A, C-52B, C-52C, C-53, C-53B, C-53C, C-53D, C-68, C-117A, and R4D series except R4D-8 aircraft, certificated in all categories.

(2) Insert at the end of paragraph (d), the words, "or later FAA-approved revisions."

(3) Revise the second from the last paragraph in Amendment 638 to read: (Douglas Service Bulletin No. 262, Reissue No. 1, June 14, 1963, or later FAA-approved revisions, covers this same subject.)

This amendment becomes effective April 16, 1970.

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

Issued in Los Angeles, Calif., on April 3, 1970.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[F.R. Doc. 70-4545; Filed, Apr. 14, 1970; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-110; Amdt. 2]

PART 310—INSPECTION AND COPYING OF BOARD OPINIONS, ORDERS AND RECORDS

Availability of Records

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of April 1970.

Appendix A of Part 310 contains a description and location of records generally available for public inspection and copying, and Appendix B lists records generally excluded from availability. The amendments herein bring the appendices up to date.

The following new reports are added to Appendix A:

(1) Foreign air carrier reports of civil aircraft charters (Form 217).

(2) Charter services performed for Military Airlift Command (Form 243).

(3) Unaccommodated passenger reports (Form 250).

(4) Passengers denied confirmed space (Form 251).

(5) Insurance certificates: Air taxi operator certificates of liability insurance (Form 257) and standard endorsements (Form 262).

(6) Air taxi operator registrations for exemption under Part 298 (Form 298-A).

(7) Air taxi operators: Commuter air carrier reports of scheduled services (Form 298-C), except Schedule T-1.[1]

(8) Air taxi operators interest in and operations with large aircraft.

(9) Origin-destination survey of airline passenger traffic, domestic data banks and outputs.

(10) Supplemental air carrier special reports, as required under delegated authority in § 385.17(j).

(11) Affiliates of air carriers reports of ownership of stock and other interests under Part 246.

In addition, to reflect the Board's recent decision to open consumer complaint files to the public,[2] there is included in Appendix A, and deleted from Appendix B, "Consumer complaint files, as distinguished from investigation files."

The following revisions to Appendix A are made. "Local service carrier summarized passenger loads, by flight schedule (Schedule T-5)" is changed to "Local service carrier summarized passenger loads, by flight schedule (Schedule T-5), except subsidy ineligible portion." This revision reflects Board action in Order 69-11-107, withholding the subsidy ineligible portion from public disclosure. "Air carrier Form 2787 reports of domestic passenger origin-destination surveys" is revised to "Air carrier passenger origin-destination survey reports (Form 2787), domestic only. (Subject to prior staff use. Cost of separation and deletion of confidential international data for account of requestor.)" The basis for this change is that Form 2787 now reports both unrestricted domestic and restricted international data.[3] The staff uses the reports extensively and, if the reports were available for outside use, it would nevertheless be expensive and duplicative to segregate the restricted data in advance of the Board's normal processing. Therefore, the cost of such action is placed on the person requesting the processing. Reports of freight traffic and revenue in blocked space markets, interim monthly financial reports, and applications for statements of authorization for inclusive tour charters are no longer required and are therefore deleted from the list, but the accumulated records will remain available until retired to archives. Finally, for purposes of clarification, "Air carrier Forms 41 and 242 financial and operational reports" will be divided into two separate listings: "Air carrier Form 41 reports, consisting of various financial and statistical schedules filed at various frequencies by each certificated air carrier" and "Scheduled all-cargo services report (Form 242)."

With respect to Appendix B, the following substantive changes are made. Added to subparagraph (4) are "Origin-destination survey of airline passenger traffic (international)," [4] and "Local service carrier passenger loads by flight schedule (Schedule T-5), subsidy ineligible portion."[5] Also included in subparagraph (4) as an example of confidential matter is Board correspondence to or from air carriers incident to IATA rate conferences and other international conferences. This statement will clarify Board practice with respect to these documents having an impact on international matters. As indicated previously, "consumer complaint files" is being deleted from Appendix B.

Finally, Part 310 and Appendix A are being amended to reflect organizational changes. In Part 310 references to "Office of Secretary, Record Reference Section", and variations thereof, is amended to "Office of Facilities and Operations, Records Services Section"; and references to "Publications Section" is amended to "Publications Services Section." Appropriate revision of Appendix A, line reading "Forms Used in Dealing With the Public" is also made.

Since this regulation is a rule of agency procedure and practice, notice and public procedure hereon are not necessary. Furthermore, since the amendments reflect present practice, policy and organization, they will be made effective immediately.

Accordingly, the Board hereby amends Part 310 and Appendices A and B thereto, effective April 9, 1970, as follows:

1. Amend § 310.2(c) to read as follows:

§ 310.2 Records available.

* * * * *

(c) Members of the public may also consult the Board's "List of Publications", obtainable from the Board's Publications Services Section, which describes a number of Board documents for which copies are available for a fee or without charge. The documents listed therein may also be inspected without charge upon request made at the Board's Public Reference Room.

2. Amend § 310.8(b) to read as follows:

§ 310.8 Use of records.

* * * * *

(b) Any record which is available for inspection at the Board may be copied.

[1] Schedule T-1 ordered withheld from public disclosure by Regulation ER-605, effective Feb. 24, 1970.

[2] Press release CAB 70-14, Feb. 2, 1970.

[3] See § 399.100 and PS-39, effective May 16, 1969.

[4] See footnote 3, supra.

[5] See Order 69-11-107, supra.

Copy work will be done for a change by the Public Reference Room, Records Services Section, Office of Facilities and Operations, or, in appropriate cases, by a person holding a contract with the Board for the performance of such service. Self-service, coin-operated copy machines are also available in the Public Reference Room.

* * * * *

3. Amend Appendices A and B in the form attached hereto.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324; Freedom of Information Act, 81 Stat. 54, 5 U.S.C. 552)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

APPENDIX A

DESCRIPTION AND LOCATION OF RECORDS GENERALLY AVAILABLE

(NOTE: Any item may be withheld from disclosure if exempted, whether or not the item is listed herein.)

Agreements filed under section 412 of Federal Aviation Act: Copies of, and filings and records in connection therewith.	Bureau of Operating Rights, Agreements Division.
Air freight forwarder applications and operating authorizations, and filings in connection therewith.	Bureau of Operating Rights, Supplementary Services Division.
Aircraft lease or purchase transactions under Part 299, Economic Regulations: Filings in connection therewith.	Bureau of Operating Rights, Agreements Division.
Civil Aeronautics Board Manual: Instructions to staff and index thereof.	Public Reference Room.
Certifications of Secretary of Civil Aeronautics Board.	Office of Secretary, Minutes Section. (Request to be made to Public Reference Room.)
Charters: Requests for waivers of Board regulations.	Bureau of Operating Rights, Supplementary Services Division.
Conferences between Civil Aeronautics Board and other persons, transcripts of.	Office of Secretary, Docket Section.
Consumer complaint files, as distinguished from investigation files.	Bureau of Enforcement, Consumer Complaint Section.
Contracts of the Civil Aeronautics Board: Contracts awarded; invitations to bid.	Office of Facilities and Operations.
Correspondence relating to items listed in Appendix A.	Office of Facilities and Operations, Communications Services Section, and various Board offices. (Request to be made to Public Reference Room.)
Dockets and related material:	Office of Secretary, Docket Section.
Agents: File showing agents designated for service under section 1005(b) of Federal Aviation Act.	
Applications sent to the President under section 801 of Federal Aviation Act: Card record of.	
Docket Binders: Containing material of record in docketed proceedings, and correspondence in connection therewith.	
Docket Indexes: Listing by docket number, the filings in each docket and Board issuances in same—	
By name of applicant or petitioner, each application, petition, etc. bearing a new docket number.	
By name of city, applications for service to said city and disposition thereof.	
By name of carrier and by docket number, a description of pending applications.	
Documents served by Docket Section: Daily record of.	
Oral arguments: List of, by date order.	
Parties to individual docketed proceedings: Lists of, with addresses.	
Flight schedules of air carriers	Office of Facilities and Operations, Records Services Section.
Foreign aircraft permits: Copies of applications (Form 272), permits, reports of cargo operations (Form 321), and other filings in connection therewith.	Bureau of Operating Rights, Supplementary Services Division.
Forms used in dealing with the public:	
Copies of forms	Office of Facilities and Operations, Publications Services Section.
List of forms showing number and title	Public Reference Room.
Inclusive tours: Tour Prospectuses and other documents relating to inclusive tour charters under Part 378; documents relating to bulk inclusive tours under Part 378A.	Bureau of Operating Rights, Supplementary Services Division.
Mail compensation:	Office of Comptroller.
Air carrier claims for mail pay (Forms 398 and 545).	
Carrier payments memoranda (instructions regarding billing).	
Class rate information on Form 548 (local service carriers).	
Monthly listings of summarized passenger loads by flight stages (Schedule T-5, Form 41), except subsidy ineligible portion.	
Summary of obligations and disbursements to air carriers (Form 470).	
Mileage records: Official Board records of mileages.	Office of Facilities and Operations, Records Services Section.
Minutes of the Civil Aeronautics Board: Approved Minutes of the Board on matters that are not pending.	Office of Secretary, Minutes Section. (Request to be made to the Secretary.)
Opinions of the General Counsel	Public Reference Room.
Orders and Opinions of the Civil Aeronautics Board:	
Copies of, including published bound volumes "Civil Aeronautics Board Reports."	Do.
Index of, by subject, summarizing action taken.	Office of Secretary, Docket Section.
Index-Digest of opinions and precedential orders, and citation file.	Office of Secretary, Indices Section.
Weekly summaries of orders	Public Reference Room.
Policy Statements of the Civil Aeronautics Board, and index thereof.	Do.
Public index	Do.
Published Board documents	Do.
Regulations of the Civil Aeronautics Board; Table of Contents of codified regulations.	Do.

APPENDIX A—Continued

DESCRIPTION AND LOCATION OF RECORDS GENERALLY AVAILABLE—continued

Reports of air carriers and related material:	
Affiliates of air carriers, reports of ownership of stock and other interests under Part 246.	Bureau of Operating Rights, Agreements Division.
Air carrier Form 41 Reports, consisting of various financial and statistical schedules filed at various frequencies by each certificated air carrier under Part 241.	Public Reference Room.
Air carrier "on-time" reports (Form 438), and quarterly compilations by market and carrier.	Do.
Air carrier passenger origin-destination survey reports (Form 2787), domestic only. (Subject to prior staff use. Cost of separation and deletion of confidential international data for account of requestor.)	Bureau of Accounts and Statistics, Costs and Statistics Division.
Air freight forwarder reports (Form 244)	Public Reference Room.
Air taxi operator reports required by various Board orders.	Do.
Air taxi operators: Commuter air carrier reports of scheduled services (Form 298–C), except Schedule T–1.	Do.
Air taxi operators: Registrations for exemption under Part 298 (Form 298–A).	Bureau of Operating Rights, Supplementary Services Division.
Air taxi operators: Interests in and operations with large aircraft.	Do.
Carrier accounting plans of specified accounting and statistical procedures required to be filed by carriers under Part 241.	Public Reference Room.
Carrier officers and directors reports of ownership of stock and other interests (Form 2786).	Bureau of Operating Rights, Agreements Division.
Charter services performed for Military Airlift Command (Form 243).	Public Reference Room.
Extensions of time for report filing	Do.
Foreign air carrier reports of civil aircraft charters (Form 217).	Do.
Foreign indirect air carrier reports	Do.
Freight traffic and revenues in Puerto Rico market (Form T–94).	Do.
General interpretation letters, interpreting provisions of Uniform System of Accounts and Reports.	Do.
Insurance certificates and notices:	
Air freight forwarders certificates of insurance (Form 350).	Do.
Air taxi operators certificates of insurance (Form 257) and standard endorsements (Form 262).	Bureau of Operating Rights, Supplementary Services Division.
Supplemental air carriers: Certificates of insurance and endorsements (Forms 606, 607 and 608).	Public Reference Room.
Notice of cancellation of insurance by insurer (Form 609A).	
Notice of cancellation of insurance by carrier (Form 609B).	
Letters to Chief Accounting Officers of air carriers requesting specific information to supplement or amplify reports.	Do.
Local service carrier summarized passenger loads by flight schedule (Schedule T–5), except subsidy ineligible portions.	Office of Comptroller.
MAC charter services reports, consisting of financial and statistical schedules (Form 243).	Public Reference Room.
Magnetic tapes prepared by the Board from reports filed by air carriers.	Director, Bureau of Accounts and Statistics.
Manuals of air carrier accounts and reporting instructions prescribed by the Board.	Bureau of Accounts and Statistics, Regulations and Reports Division.
National Air Carrier Assoc. (NACA), commercial charter exchange activity, membership roster and flight data (Form 492).	Public Reference Room.
Origin-destination survey of airline passenger traffic, domestic data banks and outputs.	Director, Bureau of Accounts and Statistics.
Passengers denied confirmed space (Form 251).	Public Reference Room.
Public Accountants reports and reconciliation with Form 41 reports.	Do.
Scheduled all-cargo services report (Form 242).	Do.
Standard practice letters prescribing standard accounting and reporting procedures, supplemental to Uniform System of Accounts and Reports.	Do.
Supplemental air carrier special reports, as required under § 385.17(j).	Do.
Unaccommodated passenger reports (Form 250).	Do.
Waivers of accounting and reporting requirements and record retention.	Do.
Route and service authorizations:	Office of Facilities and Operations, Records Services Section.
"Book of Official C.A.B. Airline Route Maps and Airport-to-Airport Mileages." (publication)	
Certificates of public convenience and necessity.	
Foreign air carrier permits.	
Historic and current records and indexes of points served, airports, dates of service inauguration, service deletions, suspensions and restorations, and Board actions affecting carrier service authorizations.	
Statements of authorization for off-route charter trips by foreign air carriers (Part 212): Copies of applications for, filings in connection therewith and copies of authorizations.	Bureau of Operating Rights, Supplementary Services Division.

APPENDIX A—Continued

DESCRIPTION AND LOCATION OF RECORDS GENERALLY AVAILABLE—continued

Tariff matters	Bureau of Economics, Tariffs Section.
Agent matters:	
Alternate agents' affidavits as to disability of principal tariff publishing agent.	
Corporate tariff agents' designation of issuing officer.	
Powers of attorney (issued by carriers to tariff publishing agents).	
Tariff publishing instructions (from carriers to agents).	
Certifications of tariff publications and requests for copies.	
Concurrences (issued by carriers to tariff publishing carriers).	
Correspondence with carriers or agents requesting correction of Part 221 violations in tariffs.	
Free or reduced-rate transportation:	
Access to aircraft or free-transportation requests (SF 160).	
Application for, under § 223.8 of Economic Regulations.	
Carrier manuals containing instructions, rules, regulations and practices governing issuance and interchange of passes.	
Reports by carriers of free transportation of technical representatives of aircraft manufacturers (§ 223.2 (c), (d) of Economic Regulations).	
Postponed Board actions: Notices of, on tariffs filed on 45 days notice, and not acted upon by Board 15 days prior to effective date, under § 399.36 of Policy Statements.	
Rejection notices.	
Special tariff permissions.	
Tariffs and tariff transmittal letters.	
Tariff embargo notices.	
Trade agreements filed under Part 225 of Economic Regulations.	
Waivers from Part 221 of Economic Regulations.	
Trade association manuals	Bureau of Operating Rights, Agreements Division.
Unpublished statistical compilations:	
Air freight forwarder statistics, compiled from Form 244 semiannually.	Bureau of Accounts and Statistics, Statistical Reports Section.
Air carrier route miles statistics, quarterly compilations.	Do.
Financial results of scheduled all-cargo operations, semiannual compilation.	Do.
Interim quarterly financial reports of air carriers: Selective summarization of balance sheet factors, first three quarters.	Public Reference Room.
Supplemental air carrier statistics: Quarterly report of traffic and financial data.	Bureau of Accounts and Statistics, Statistical Reports Section.
Votes of Board Members: Final votes of Board members in Board proceedings.	Office of Secretary, Minutes Section. (Request to be the Secretary.)

APPENDIX B

TYPES OF RECORDS GENERALLY EXCLUDED FROM AVAILABILITY

The following list contains by way of example those records which are "exempted records" under this part. The examples of exempted records are listed according to the applicable subsections of 5 U.S.C. 552(b).

(1) *Documents classified pursuant to Executive Order No. 10501.* Classified Board Minutes and classified exhibits in formal proceedings.

(2) *Personnel rules and practices.* Files pertaining to the Board's personnel.

Technical manuals and instructions pertaining to the Board's audit of carrier accounts.

(3) *Material exempted by statute.* Matter which heretofore has been exempt from public disclosure under Sections 902(f) and 1104 of the Federal Aviation Act, or by specific Board order will continue to be exempt. Such matters include carrier audit papers and correspondence relating thereto, and matters on which the Board has granted a motion for nondisclosure pursuant to § 302.39 of its Rules of Practice.

(4) *Trade secrets and commercial or financial information.* Past or future matter submitted to the Board in confidence but for which no formal request under § 302.39 of the Board's Rules of Practice has been made and granted will be held in confidence by the Board to the extent deemed allowable. No assurance of withholding material is implied by this, however, and affected persons should formally request withholding under § 302.39 where they deem it necessary to protect their interests.

Examples of confidential matters under this subsection include: Carrier accounting manuals; local service carrier passenger loads by flight schedules, Schedule T-5, subsidy ineligible portion; origin-destination survey of airline passenger traffic (international); MAC charter rate information submitted in advance of MAC rate proceedings; on-line origin and destination of traffic of commuter air carriers (Schedule T-1, Form 298-C); materials related to informal subsidy conferences; certain conference materials and traffic statistics submitted by IATA; Board correspondence to or from air carriers incident to IATA rate conferences and other international conferences; and air carrier or ATA letters, information or views used in developing U.S. positions in international aviation matters.

(5) *Inter/intra-agency memoranda.* Board Minutes involving items that are pending, and Minutes not approved.

Reference or supporting material keyed to the Board Minutes.

Copies of Board decisions awaiting Presidential action.

Notation, Calendar, and *For Information* memoranda.

Budget, Management, Program evaluation, Records Disposal, Research, Planning and Program files.

Internal memoranda on the Administrative Conference of the United States.

Files regarding Board requisitions, equipment and space.

Memoranda regarding Interagency Committees.

Intergovernmental communications on Loan Guarantee matters.

Staff analyses not published by the Board.

Research and legislative reference files of the General Counsel.

Memoranda and studies regarding Board positions in international aviation matters.

Developmental files, research materials, and workpapers.

(6) *Invasion of personal privacy.* Correspondence and inquiries regarding Board personnel.

Individual personnel files and records.

(7) *Law enforcement investigatory files.* Files of the Bureau of Enforcement or other Bureaus regarding alleged violations of the Federal Aviation Act; e.g. (a) formal and informal case files; (b) civil complaint files involving cases resulting in nonmonetary penalties; and (c) correspondence regarding complaints or alleged violations of the Federal Aviation Act not otherwise filed.

[F.R. Doc. 70-4593; Filed, Apr. 14, 1970; 8:49 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-362; Order 383-2]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Reliability and Adequacy of Electric Service

APRIL 10, 1970.

This order states the policies which this Commission will observe in implementing the cooperative procedures and voluntary action concepts of section 202(a) of the Federal Power Act, 16 U.S.C. 824a(a), relative to reliability and adequacy of electric service throughout the United States.

Order No. 383, Statement of Policy, issued June 25, 1969, 41 FPC 846, 34 F.R.

11,200, July 3, 1969, initiated this docket and prescribed § 2.11, Reliability and Adequacy of Electric Service, within Part 2, General Policy and Interpretations, Chapter I, Title 18, Code of Federal Regulations. Order No. 383–1, issued January 13, 1970, ____ FPC ____, 35 F.R. 3240, February 20, 1970, submitted for public comment a proposed revised form of section 2.11. Our consideration of the comments as received is reflected in the provisions of this order which inter alia delete § 2.11 as prescribed by Order No. 383 and substitute therefor the policies as stated in ordering paragraph (B) below. A total of 24 comments were received.[1] The greater proportion of these favor the Commission's proposed action, some with modifications which we discuss hereafter.

Section 202(a) of the Federal Power Act charges this Commission with responsibilities and duties to promote and encourage the voluntary interconnection and coordination of electric power systems of this Nation in the interests of "* * * assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources * * *". In discharging those responsibilities and duties we will undertake such actions as will strengthen the reliability councils and related organizations which have been established by the utility industry regionally and nationally, to enhance reliability and adequacy of electric service. Reliability and adequacy of electric power supplies are basic to the accomplishment of the goals of section 202(a).

The various investor owned, publicly owned and cooperatively owned utility systems which have joined together to establish regional electric reliability councils participate throughout the contiguous 48 States in nine Councils.[2]

Representation. The first basic action which we shall undertake in support of the work of the electric utility industry reliability councils is to make available to the utilities and councils representatives of the Commission's staff, who shall function in a liaison role communicating such information to and from the councils as may be in the interests of the councils, their constituent members and this Commission or State utility commissions. In our judgment, accomplishment of the goals of section 202(a) requires effective coordination of actions of utility regulatory bodies and those of operating utilities.

Without a continuing relationship between the operating utilities and regulatory authorities the work of the councils could be hampered through lack of knowledge of relevant regulatory commission policies in areas of particular regulatory commission concern. Similarly, the lack of such continuing relationship and knowledge could delay regulatory commission actions needed in the interests of reliable and adequate power supplies as they may affect particular operating systems.

To serve these and other useful purposes we are requesting members of the various regional councils to afford representatives of this Commission and State utility Commissions access to regional council meetings and deliberations. We shall instruct all representatives of this Commission to make available to all councils the maximum amount of information which may be helpful and beneficial to the enhancement of reliable and adequate power supplies. Moreover, we intend that regulatory commission representation be on a nonvoting basis in the affairs of the councils. The regulatory function and managerial responsibilities are separate and distinct.

Basically, the responses to Order No. 383–1 opposing or suggesting changes in the proposed form of regulatory commission representation in the meetings and deliberations of the councils appear to have resulted from our failure to articulate clearly the Commission's purposes in seeking regulatory Commission representation. Our views as reflected herein are deemed to have corrected that deficiency, thus making further comment unnecessary in all respects save one, the response of the National Association of Regulatory Utility Commissioners.[3] The Association proposes the creation and utilization of joint boards of state utility commissions to receive and consider Federal Power Commission views and recommendations on matters of reliability and adequacy of electric power supply, as well as to formulate and transmit to this Commission the views of the states. The boards, as proposed, would be staffed in some degree by staff personnel of this Commission.

In our judgment, this recommendation should not become a part of this policy statement. Our reasons are two-fold. First, we deem it important that participation by all regulatory commission representatives in the work of the councils be directly with the councils. This will maximize the interchange of data, views and comments among regulatory agencies themselves and between such agencies and the operating utility systems. Second, there now exist established procedures for State-Federal conferences or joint boards and provisions for Federal staff assistance to State regulatory commissions. (Sec. 209 of the Federal Power Act, 16 U.S.C. 824h; § 1.37 of the Commission's rules of practice and procedure, 18 CFR 1.37.)

The American Public Power Association and the National Rural Electric Cooperative Association offer suggestions relative to the make-up of the reliability councils, particularly with respect to participation therein by smaller publicly owned or cooperatively owned systems such as distributors which do not themselves own or operate generation or transmission facilities. The latter Association also raises a number of issues bearing upon the purchase and sale of electric power and energy at wholesale between utility systems.

We note these comments and their relevance insofar as they relate to the matter of access to the work of the reliability councils. We assume that all electric systems will have access appropriate to the specific needs of the systems concerned.[4] The councils are voluntary organizations formed by various investor owned, publicly owned and cooperatively owned members of the electric utility industry. They are not governmental authorities. Primary work of the councils is expected to relate to the planning and electrical operation of bulk power supply facilities, large-scale generation and transmission facilities. Distributing systems may or may not wish to participate in such deliberations. Moreover, participant systems may or may not engage in economic transactions such as buying or selling amounts of electric power and energy through the medium of the councils. If they do, those transactions would be subject to established regulatory jurisdiction and protections.

Information. The second basic action which we shall undertake is to establish a system of reporting of advance planning and operating data of all segments of the industry, including those operated by the State or Federal Governments or political subdivisions, agencies or instrumentalities thereof, and cooperatively owned associations, all reporting to and coordinated by regional councils. We ask that the data be coordinated and reported by regional councils on an annual basis to the Federal Power Commission and to the appropriate State regulatory agencies. We do not think it appropriate to prescribe new reporting forms under the existing authority of the Federal Power Act covering the various segments of the utility industry. As indicated in our Order Nos. 383 and 383–1, we believe that the reported information will necessarily change from time to time and that flexibility in securing and collating the reported information is highly desirable. We recognize that several suggestions have been received in response to our

[1] See the following table:

Investor-owned systems	13
Cooperatives	1
Reliability Councils	2
State Utilities Commission	3
Regulatory Commissioners Association	1
Federal Agencies	1
Trade Associations	3
Total	24

[2] East Central Area Reliability Coordination Agreement; Mid-America Interpool Network; Mid-Atlantic Area Coordination Group; Mid-Continent Area Reliability Coordination Agreement; Northeast Power Coordinating Council; Southeastern Electric Reliability Council; Southwest Power Pool; Texas Interconnected System, and Western Systems Coordinating Council.

[3] Concurred in by the Pennsylvania Public Utility Commission.

[4] All nine councils have taken steps to broaden the scope of their membership by encouraging participation of all utilities within their geographic areas having significant generation and transmission facilities and six of these councils provide for direct or indirect participation by small systems having little or no generation.

rulemaking Order Nos. 383 and 383-1, for simplifying the annual reports to be prepared by regional councils. Without having had occasion to test the reporting outlined in Appendix A, we are reluctant to inject additional changes at this time. However, we are making it the responsibility of the Chief of the Commission's Bureau of Power, subject to the general supervision of the Commission, to propose modifications in the data to be requested as well as changes in the reporting specifications, all after appropriate consultation with interested parties, including the existing national and regional reliability organizations, the individual State commissions and the National Association of Regulatory Utility Commissioners.

Various comments raised questions concerning staff's exercise of this responsibility, particularly in regard to securing supplemental or clarifying information from the reliability councils or participant utilities. The points, thus raised, appear to overlook our implicit recognition that the reliability councils are industry organizations controlled administratively by their participant members. Moreover, our suggestion that the Chief of the Bureau may find it necessary to convene industry meetings is necessarily made in the overall context of voluntary industry action and cooperative procedures reflected in this statement. We believe that responsible actions will mark industry participation just as they will govern the conduct of the Commission's staff.

Appendix A, attached hereto, is adopted in the manner hereinafter provided. To the extent that participant councils can complete the reporting of data for the base year 1970 by September 1, 1970, they are requested to do so and to file supplemental information as soon thereafter as possible. A number of responses to Order No. 383-1 suggest the need for additional time to complete reporting of all information requested.

We believe the public interest will be served by maintaining in the public files of this Commission the reported information as set forth in Appendix A. As such, these data will be available for inspection and copying by all interested persons in accordance with established Commission procedures (§ 1.36 Rules of Practice and Procedure, 18 CFR 1.36). In suggesting the usefulness of these data to "* * * each electric utility, pool, or regional organization, the State regulatory commissions and other interested parties," as a part of Order No. 383-1, we did not undertake to suggest (as one comment states), that the regional councils obligate themselves to supply copies of reported data indiscriminately. Our request for copies prepared by the councils is limited to those furnished to this Commission and appropriate State commissions.

The Commission further finds:

(1) The effective date provisions of section 553 of title 5 of the United States Code do not apply with respect to the amendment here adopted.

(2) It is appropriate and in the public interest in administering Part II of the Federal Power Act to promulgate Commission policy on participation of regulatory personnel in the deliberations of voluntary regional councils, and for the collection of data relating to reliability and adequacy of electric service, all in the manner hereinafter provided.

The Commission orders:

(A) Part 2, General Policy and Interpretations, Chapter I, Title 18 of the Code of Federal Regulations, is amended by deleting § 2.11, entitled "Reliability and adequacy of electric service," as prescribed by Order No. 383 issued June 25, 1969.

(B) Part 2, General Policy and Interpretations, Chapter I, Title 18 of the Code of Federal Regulations, is amended by adding a new § 2.11 entitled "Reliability and adequacy of electric service", which reads as follows:

§ 2.11 Reliability and adequacy of electric service.

(a) Participation of Federal Power Commission personnel in regional reliability councils: The Federal Power Commission's responsibilities under section 202(a) of the Federal Power Act, to promote and encourage voluntary efforts by the various segments of the electric utility industry to coordinate their activities, can best be carried out if each regional reliability council or other coordinating organization which is a member of the National Electric Reliability Council permits participation by staff personnel on a nonvoting basis in its deliberations. Accordingly, these organizations are requested to permit nonvoting participation by FPC staff personnel in their principal meetings, and upon occasion, as may be requested by the Chief of the Commission's, Bureau of Power, in their important technical meetings.

(b) Participation of State Commission personnel in regional reliability councils: It is the policy of the Commission that personnel of appropriate State commissions be permitted to participate in the meetings of regional reliability councils or other coordinating organizations which are members of the National Electric Reliability Council on the same basis as personnel of the Federal Power Commission.

(c) Informational reporting:

(1) Advance planning and operating data from all segments of the industry, including those operated by the State or Federal governments or political subdivisions, agencies or instrumentalities thereof, and cooperatively owned associations, all reporting to and coordinated by regional councils, will assist in the accurate forecasting of power demands and in the appropriate and timely installation of generating and transmission facilities to meet these demands.

(2) To this end we establish a system for the voluntary reporting by regional councils on an annual basis of current and projected system data for all components of the electric power industry. It is anticipated that power pools and other utility groups that coordinate their planning and operations will report the coordinated data to their respective councils. Individual utilities that are not members of pools will, of course, report directly to their regional councils. Utilities that are not members of regional councils, or not interconnected with other utilities, are requested to furnish to the reliability council representing their geographic area as much of the information specified in Appendix A as may be pertinent to their circumstances. Cooperation in this respect will lay the foundation for improvement in the reliability and adequacy of our national power supply. We ask that the coordinated data be reported by regional councils to the Federal Power Commission and State commissions.

(3) Upon receipt and evaluation of the requested data, and determination of any need for clarification or extension of the annual reports, the Chief of the Commission's Bureau of Power may request the regional councils or the National Electric Reliability Council to supplement the information reported or to convene meetings of appropriate utilities or groups of utilities for the purpose of clarifying specific items.

(d) The information requested for inclusion in the annual reports is set forth in Appendix A to this order. Initial reporting is to be for the period 1970-79, inclusive. The annual report and four conformed copies are to be filed with the Federal Power Commission. Two conformed copies are to be filed with the commission of each State which is wholly or partly within the geographic boundaries of the reporting council. Reports are to be filed not later than April 1 of each year, except that for the base year 1970 the reporting date is extended to September 1, 1970. Councils which have not yet completed their organizational structure and procedures are requested to furnish by September 1, 1970, as much data as is readily available, and to furnish the balance at the earliest practicable date thereafter.

(C) The amendments prescribed herein will be effective upon the issuance of this order.

By the Commission.

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

APPENDIX A

INFORMATION TO BE REPORTED BY REGIONAL COUNCILS ON COORDINATED REGIONAL BULK POWER SUPPLY PROGRAMS

Information, to be reported annually except as otherwise noted, should include:

1. Estimates of monthly peak loads for the first 2 years of the projection; estimates of summer and winter peak loads for the remaining 8 years; and monthly energy requirements for the first 2 years if energy substantially influences planning and operation.

2. Itemization of all existing capacity resources in the region and new capacity resources (or retirements) as committed or projected for each year 10 years into the future; including, where known, in-service dates, locations, ownership, and types of future generating units, and capacity exchanges with others at the time of summer and winter peak demands.

3. For each year of the 10-year projection, show the indicated capacity margins for reserves at the time of summer and winter peak loads, based on Items (1) and (2) above,

with an assessment of adequacy of reserves for the first 5 years of the projection. Include a statement of the criteria now being used in determining reserve requirements by the Council or its appropriate subdivisions.

4. For each steam generating unit of 300 mw or more, and for which construction has begun; or is scheduled to begin within 2 years from the date of reporting, a status report on the proposed plan of cooling, and for fossil-fired plants, the fuels proposed and the plan for controlling stack emissions; also, the status of principal studies or model tests and the status of consultations with appropriate local, State, or Federal authorities concerned.

5. A plan of the bulk power transmission network of the region in service at the time of the report (including interties with adjoining regions) and the general routing of facilities committed or tentatively projected for service within 6 years including identification of principal substations, operating voltages and projected in-service dates. In addition, show the transmission facilities projected for the balance of the 10-year period based upon the best information available.

6. A plotting and a description of the base case for load flow studies of the bulk power network of the region (or principal subdivisions) as it exists, substantially, at the time of reporting and as projected 4 to 6 years in the future; and a tabulation and brief statements on the results of a representative number of contingency cases studied; and similarly, information on stability analyses of the network, and including the criteria adopted by the regional council relating to network stability.

7. A description of the principal communication and control systems operating or planned within the region and listing of functions performed by such facilities. (To be reported initially and updated in subsequent reports when significant changes occur.)

8. For each transmission segment designed to operate at 230 kv (nominal) or higher for which construction has begun or is scheduled to begin within 2 years from the date of the report, information on the status of consultations with affected local communities and groups, and status of applications to State or regional authorities, as appropriate.

9. Information on the following coordinated regional practices: (To be reported initially and updated in subsequent reports when significant changes occur.)

a. Load shedding programs, including estimated steps of load reduction at various steps in declining frequency.

b. Emergency power and shutdown facilities to prevent damage to equipment if station loses system power.

c. Power facilities available for unit startup in the event of total loss of system power.

d. Availability of continuous power independent of system sources for communication and control facilities.

e. Provisions for sustaining the operation of generating units on local loads.

f. Programs for scheduling maintenance outages of generation and transmission facilities.

g. Programs for the selection, setting and maintenance of relays that affect the overall reliability of the interconnected network.

[F.R. Doc. 70-4595; Filed, Apr. 14, 1970; 8:49 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. 108.618]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT AS AMENDED

Miscellaneous Amendments

Parts 41 and 42, Chapter I, Title 22 of the Code of Federal Regulations are being amended to implement the amendments to the Immigration and Nationality Act made by the Act of April 7, 1970.

1. Section 41.12 is amended by the insertion between "Temporary worker * * * H–2" and "Principal permanent representative * * * NATO–1" of the classes listed below:

§ 41.12 Classification symbols.

* * * * *

Class	Citation	Symbol to be inserted in visa
* * *	* * *	* * *
Trainee	101(a)(15)(H)(iii) 66 Stat. 168, 84 Stat. 116.	H–3
Spouse or child of alien classified H–1, H–2, or H–3.	101(a)(15)(H) 84 Stat. 116.	H–4
Representative of foreign information media, spouse, and children.	101(a)(15)(I) 66 Stat. 168.	I
Exchange visitor	101(a)(15)(J) 66 Stat. 167, 75 Stat. 527.	J–1
Spouse or child of exchange visitor.	101(a)(15)(J) 75 Stat. 527.	J–2
Fiance or fiancee of U.S. citizen.	101(a)(15)(K) 84 Stat. 116.	K–1
Minor child of fiance or fiancee of U.S. citizen.	101(a)(15)(K) 84 Stat. 116.	K–2
Intracompany transferee (Executive, managerial, and specialized personnel continuing employment with international firm or corporation).	101(a)(15)(L) 84 Stat. 116.	L–1
Spouse or minor child of alien classified L–1.	101(a)(15)(L) 84 Stat. 116.	L–2

* * * * *

2. Section 41.55 has been amended as follows:

§ 41.55 Temporary workers and trainees.

(a) An alien shall be classifiable as a nonimmigrant temporary worker or trainee if he establishes to the satisfaction of the consular officer that he qualifies under the provisions of section 101(a)(15)(H) of the Act and if the consular officer shall have received from the Immigration and Naturalization Service a petition filed by the alien's prospective employer and approved in accordance with the provisions of section 214(c) of the Act. Upon receipt of, and within the validity period of, such a petition, the consular officer shall grant the nonimmigrant status indicated in the petition. The approval of a petition shall not, of itself, establish that the alien is a bona fide nonimmigrant or that he is otherwise eligible to receive a nonimmigrant visa.

* * * * *

(c) The term "trainee", as used in section 101(a)(15)(H)(iii) of the Act, means a nonimmigrant alien who seeks to enter the United States at the invitation of an individual, organization, firm, or other trainer for the purpose of receiving instruction in any field of endeavor, including agriculture, commerce, communication, finance, government, transportation, and the professions as well as in a purely industrial establishment. (For provisions relating to the ineligibility of former exchange visitors to receive visas under section 101(a)(15)(H) of the Act see § 41.91(d)).

(Sec. 101, 66 Stat. 166, as amended by Public Law 225; 8 U.S.C. 1101)

3. A new § 41.66 has been added to read as follows:

§ 41.66 Fiancee or fiance of a United States citizen.

(a) An alien shall be classifiable as a nonimmigrant fiancee or fiance if he submits evidence that he qualifies under the provisions of section 101(a)(15)(K) of the Act and if the consular officer shall have received from the Immigration and Naturalization Service a petition filed by the alien's U.S. citizen fiance or fiancee and approved in accordance with the provisions of section 214(d) of the Act.

(b) Upon receipt of such a petition, and upon submission by the alien of a sworn statement of ability and intent to conclude a valid marriage with the petitioner within 90 days of arrival in the United States, the consular officer shall grant the status accorded in the petition and shall determine the eligibility of the alien to receive a visa.

(c) Determination of the eligibility of an alien to receive a visa under section 101(a)(15)(K) of the Act shall be made, insofar as practicable, as if the alien were an applicant to receive an immigrant visa.

(d) If it is determined that the alien would be eligible in all respects to receive an immigrant visa, the consular officer may issue a nonimmigrant visa under the provisions of this section to the alien. If it is determined that the alien would be ineligible to receive an immigrant visa under one or more paragraphs of section 212(a) of the Act the consular officer shall submit to the Department a complete report of the facts of the case before taking further action thereon. If section 212 (g), (h), or (i) of the Act would provide relief from the ground or grounds of ineligibility for an immigrant visa applicant, the consular officer shall state in his report whether he recommends that a waiver of ineligibility under section 212(d)(3)(A) of the Act be sought from the Attorney General.

(Sec. 101, 84 Stat. 116; 8 U.S.C. 1101)

4. A new § 41.67 has been added to read as follows:

§ 41.67 Executives, managers, and specialists (intra-company transferees).

(a) An alien shall be classifiable under the provisions of section 101(a)(15)(L) of the Act if he submits evidence that he meets the criteria set forth in that section and if the consular officer shall have received from the Immigration and Naturalization Service a petition filed by the prospective employer in accordance with the provisions of section 214(c) of the Act. Upon receipt of, and within the validity period of, such a petition, the consular officer shall grant the nonimmigrant status indicated in the petition.

(b) If a consular officer knows or has reason to believe that an alien applying for a visa under section 101(a)(15)(L) of the Act has not been continuously employed for 1 year by the same employer or an affiliate or subsidiary thereof, or has not been employed in a managerial or executive capacity, or does not possess specialized knowledge, as specified in the employer's petition approved by the Attorney General, he shall suspend action on the alien's application and submit a report to the Department in order that the matter may be brought to the attention of the Immigration and Naturalization Service for whatever action appears to be warranted.

(Sec. 101, 84 Stat. 116; 8 U.S.C. 1101)

5. Paragraph (d) of § 41.91 has been amended as follows:

§ 41.91 Aliens ineligible to receive visas.

* * * * *

(d) *Former exchange visitors.* An alien who was admitted into the United States as an exchange visitor, or who acquired such status after admission, who is within the purview of section 212(e) of the Immigration and Nationality Act as amended by the Act of April 7, 1970 (84 Stat. 116), shall not be eligible to apply for and receive a nonimmigrant visa under section 101(a)(15)(H) or (L) of the Act, notwithstanding the approval of a petition as provided in section 214(c) of the Act, unless

(1) it has been established that the alien has resided and has been physically present abroad in the country of his nationality or last residence for an aggregate of at least 2 years following the termination of his exchange visitor status as required by section 212(e) of the Act, or

(2) the foreign residence requirement of section 212(e) of the Act has been waived by the Attorney General in his behalf.

* * * * *

6. Paragraph (a) of § 41.113 has been amended as follows:

§ 41.113 Medical examination.

(a) An alien shall be required to be medically examined if * * * (3) he is an applicant for a nonimmigrant visa as a fiancee or fiance of a U.S. citizen, or as the child of such applicant, (4) he is coming from an area which indicates that a medical examination is advisable, or (5) the consular officer has reason to believe that a medical examination would disclose that the alien is ineligible to receive a visa.

* * * * *

7. Paragraph (b)(1)(ii) of § 41.116 has been amended as follows:

§ 41.116 Registration and fingerprinting.

* * * * *

(b) *Fingerprinting.* (1) * * * (ii) An alien who is a national of a country whose government does not require fingerprinting in connection with an application for, or the issuance of, a visa to a national of the United States who intends to proceed to such country for a similar purpose, and who is classifiable as a nonimmigrant under the provisions of section 101(a)(15)(B), (C), (D), (E), (F), (H), (I), (J), (K), or (L) of the Act, including a nonimmigrant alien who is classifiable under the visa symbol NATO–1, NATO–2, NATO–3, NATO–4, NATO–5, NATO–6, or NATO–7.

* * * * *

8. Section 41.124(d)(2) has been amended as follows:

§ 41.124 Procedure in issuing visas.

* * * * *

(d) *Insertion of name, petition and derivative status notations.* * * * (2) if the visa is being issued upon the basis of a petition approved by the Attorney General, the number of the petition, if any, shall be noted in the visa stamp and the period for which the alien's admission has been authorized and the name of the petitioner shall be noted immediately below the visa stamp. * * *

* * * * *

9. Section 42.91(c) has been amended as follows:

§ 42.91 Aliens ineligible to receive visas.

* * * * *

(c) *Former exchange visitors.* An alien who was admitted into the United States as an exchange visitor, or who acquired such status after admission, who is within the purview of section 212(e) of the Immigration and Nationality Act as amended by the Act of April 7, 1970 (84 Stat. 116), shall not be eligible to apply for and receive an immigrant visa unless—

(1) It has been established that the alien has resided and has been physically present abroad in the country of his nationality or last residence for an aggregate of at least 2 years following the termination of his exchange visitor status as required by section 212(e) of the Act, or

(2) The foreign residence requirement of section 212(e) of the Act has been waived by the Attorney General in his behalf.

* * * * *

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER.

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

Dated: April 9, 1970.

BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs.

[F.R. Doc. 70-4611; Filed, Apr. 14, 1970; 8:51 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

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

SUBCHAPTER N—PROJECTS FOR LOWER INCOME FAMILIES

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS

Subpart A—Eligibility Requirements for Mortgage Insurance

OCCUPANCY REQUIREMENTS

In § 236.70 paragraph (c) is amended to read as follows:

§ 236.70 Occupancy requirements.

* * * * *

(c) *Preference for displacees.* In all projects (except those originally initiated by an application for a loan under section 202 of the Housing Act of 1959 which are subsequently financed with a mortgage insured under this part) preference or priority to occupy dwelling units shall be given to those who have been displaced from an urban renewal area, or as a result of governmental action, or as a result of a disaster determined by the President to be a major disaster.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 236, 82 Stat. 498; 12 U.S.C. 1715z-1)

Issued at Washington, D.C., April 8, 1970.

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

[F.R. Doc. 70-4549; Filed, Apr. 14, 1970; 8:45 a.m.]

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

SUBCHAPTER A—NATIONAL INSURANCE DEVELOPMENT PROGRAM

PART 1906—STANDARD REINSURANCE CONTRACT

Part 1906 is revised to read as follows:

Sec.
1906.20 Statement of applicable law.
1906.21 Definitions.
1906.22 Offer to provide reinsurance.

AUTHORITY: The provisions of this Part 1906 issued under title XII, National Housing Act, added by the Urban Property Protection and Reinsurance Act of 1968, as amended (secs. 405-407, Public Law 91-152, Dec. 24, 1969), 12 U.S.C. 1749bbb—1749bbb-21; 5 U.S.C. 553; and Secretary's delegation of authority to Federal Insurance Administrator, effective Feb. 27, 1969 (34 F.R. 2680).

§ 1906.20 Statement of applicable law.

Title XII of the National Housing Act (hereinafter referred to as the Act), added by the Urban Property Protection and Reinsurance Act of 1968, as amended (secs. 405-407, Public Law 91-152, Dec. 24, 1969), 12 U.S.C. 1749bbb—1749bbb-21, provides for a National Insurance Development Program. Pursuant to title XII of the Act, the Secretary of Housing and Urban Development is authorized to offer to any insurer reinsurance against losses resulting from riots or civil disorders in any one or more States, in all standard lines of property insurance enumerated under subparagraphs (A) through (E) of section 1203 (a)(10) together, and, with respect to any State in which such reinsurance is purchased, to offer reinsurance on any one or more standard lines of property insurance enumerated under subparagraphs (F) through (J) of section 1203 (a)(10) of the Act.

§ 1906.21 Definitions.

As used in this part:

(a) "Aggregate losses" means the sum total of losses resulting from riots or civil disorders occurring in a State, or allocable to a State;

(b) "Civil disorder" means:

(1) Any pattern of unlawful incidents taking place within close promixity as to time and place and involving property damage intentionally caused by persons apparently having civil disruption, civil disobedience, or civil protest as a primary motivation, at least two of which incidents result in property damage in excess of $1,000 each; or

(2) Any occurrence of property damage in excess of $2,000 caused by persons whose unlawful conduct in causing the occurrence clearly manifests their primary purpose of civil disruption, civil disobedience, or civil protest;

(c) "Company" means any company authorized to engage in the insurance business under the laws of any State, except that if there are two or more companies within a State in which reinsurance is to be provided under the contract which, as determined by the reinsurer:

(1) Are under common ownership and ordinarily operate on a group basis; or

(2) Are under single management direction; or

(3) Are otherwise determined by the reinsurer to have substantially common or interrelated ownership, direction, management, or control;

then all such related, associated, or affiliated companies, excluding nonadmitted companies which are not State pool participants, shall be reinsured only as one aggregate entity;

(d) "Continuing organization, pool, or association of insurers" means an industry pool created to provide direct insurance to meet special problems of insurability, such as for a particular class or type of business;

(e) "Contract" means the Standard Reinsurance Contract;

(f) "Direct premiums earned" means direct premiums earned as reported in column 2 on page 14 of the company's Fire and Casualty Annual Statement for the specified calendar year, in the form adopted by the National Association of Insurance Commissioners, subject to (1) adjustment as approved by the reinsurer for cessions to pools, facilities, and associations, and for the inclusion of participations in such pools, facilities, and associations, and (2) such other appropriate adjustments as may be approved or required by the reinsurer, which shall include adjustments for dividends paid or credited to policyholders and reported in column 3 on page 14, subject to a maximum credit of 20 per centum of direct premiums earned for any one line of insurance;

(g) "Excess aggregate losses" means that part of aggregate losses which is equal to the sum of—

(1) 90 percent of the company's aggregate losses in excess of its net retention until the company's 10 percent share of aggregate losses under this provision (1) equals the amount of its net retention;

(2) 95 percent of the company's remaining aggregate losses (after deducting the reinsurer's share of aggregate losses under (1)) in excess of twice its net retention, until the company's 5 percent share of aggregate losses under this provision (2) equals the amount of its net retention; and

(3) 98 percent of the company's remaining aggregate losses (after deducting the reinsurer's share of aggregate losses under (1) and (2)) in excess of an amount equal to three times its net retention;

(h) "Losses" means all claims proved, approved, and paid by the company under reinsured policies, resulting from riots or civil disorders during the period of the contract, after making proper deduction for salvage and for recoveries other than reinsurance, together with an allowance for expense in connection therewith, hereby agreed to equal an amount per claim of eight per centum (8%) of the first $25,000 of any such claim, plus three per centum (3%) of the amount by which such claim exceeds $25,000 but is less than $100,000, plus one per centum (1%) of the amount by which the claim exceeds $100,000;

(i) "Net retention" means the amount of aggregate losses that the company must stand before the reinsurer's liability attaches under the contract and shall be one aggregate figure for each State which shall be the larger of either $1,000 or the amount determined by applying a factor of two and one-half per centum (2½%) to the specified percentage of the company's direct premiums earned in the State for the calendar year 1970 on those lines of insurance reinsured;

(j) "Property owner" means any individual or group of individuals, corporation, partnership, or association, or any other organized groups of persons having an insurable interest in any real, personal, or mixed real and personal property;

(k) "Reinsurer" means the Federal Insurance Administrator;

(l) "Riot" means any tumultuous disturbance of the public peace by three or more persons mutually assisting one another, or otherwise acting in concert, in the execution of a common purpose by the unlawful use of force and violence resulting in property damage of any kind;

(m) "Specified percentage" means one hundred per centum (100%) of the direct premiums earned for each line of insurance reinsured under the contract, except that the specified percentage of Homeowners multiple peril shall be eighty-five per centum (85%) and that of Commercial multiple peril shall be sixty-five per centum (65%);

(n) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions, and the Trust Territory of the Pacific Islands; and

(o) "State pool" means any State pool or other facility required under State law or approved by the State insurance authority which is formed, associated, or otherwise created as part of a statewide plan for the purpose of making property insurance more readily available.

§ 1906.22 Offer to provide reinsurance.

Pursuant to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended, and subject to the terms and conditions set forth in this part, the reinsurer offers to enter into a contract to pay, as reinsurance of the company, the amount of the company's excess aggregate losses resulting from riots or civil disorders in such lines of mandatory and optional coverage as may be designated by the company separately for each State.

§ 1906.23 Effective date of offer.

The reinsurer's offer to provide reinsurance under the terms and conditions set forth in this part is effective at the time this document is filed for public inspection at the Office of the Federal Register.

§ 1906.24 Acceptance of offer.

(a) Acceptance of this offer shall be by telegraphed or mailed notice of acceptance to the reinsurer. The date of

dispatch of this notice of acceptance, which date should be no later than 12 p.m., e.s.t., April 30, 1970, must be clearly shown either by telegraph dispatch notation or postmark.

(b) The telegram or letter accepting this offer of reinsurance must indicate the States in which reinsurance on lines of mandatory coverage is to be provided and must specifically designate for each such State the lines of optional coverage for which reinsurance is to be provided. This notice of acceptance shall be in substantially the following form:

The [name of insurer or insurers] hereby accepts the offer as filed with the FEDERAL REGISTER of a Standard Reinsurance Contract pursuant to the Urban Property Protection and Reinsurance Act of 1968 for the mandatory and [specify] optional lines in the following States: [specify].

(c) Any company accepting this offer of reinsurance in accordance with paragraphs (a) and (b) of this section shall be supplied copies of the Standard Reinsurance Contract, HUD–1601, for execution and return to the reinsurer.

§ 1906.25 Policies reinsured.

(a) Reinsurance, under a Standard Reinsurance Contract provided pursuant to this offer, shall apply to:

(1) All policies or contracts of direct property insurance issued by the company to any property owner, except for policies for which the business is handled for or through any State pool or any other continuing organization, pool, or association of insurers, and

(2) The company's participations in State pools and, as may be approved by the reinsurer, in other continuing organizations, pools, or associations of insurers, which policies, contracts, or participations are in force on the effective date of the contract or which commence or are renewed on or after such effective date in all the mandatory and in such optional standard lines of property insurance listed under paragraphs (b) and (c) of this section as may be designated separately for each State.

(b) The lines of mandatory coverage are:

(1) Fire and extended coverage;
(2) Vandalism and malicious mischief;
(3) Other allied lines of fire insurance;
(4) Burglary and theft; and
(5) Those portions of multiple peril policies covering similar perils to those provided in subparagraphs (1), (2), (3), and (4) of this paragraph.

(c) The lines of optional coverage are:

(1) Inland marine;
(2) Glass;
(3) Boiler and machinery;
(4) Ocean marine; and
(5) Aircraft physical damage.

§ 1906.26 Premiums.

(a) The aggregate basic premium due the reinsurer for the reinsurance coverage provided under the contract shall be computed by applying an annual rate of three-tenths of one per centum (0.3%) to an aggregate premium base consisting of the sum of the products of the company's direct premiums earned in each State in each reinsured line for the calendar year 1970 multiplied by the specified percentage of such earned premiums, as defined in § 1906.21 (f) and (m). If any reinsurance coverage existed between the reinsurer and the company with respect to any State for which there is unused renewal credit under the immediately prior contract (1969–70), and reinsurance with respect to any lines of insurance in the same State is continued under the contract with no lapse upon termination of the prior contract, the unused renewal credit arising from such prior reinsurance coverage will be applied as a credit against the basic premium hereby required to be paid with respect to all line of insurance reinsured in the same State: *Provided, however,* That the minimum basic premium which shall be payable to the reinsurer under the contract for reinsurance in any State for any portion of the contract year shall not be less than twenty-five hundredths of one per centum (0.25%) of the premium base of that State.

(b) An advance premium, which shall be an estimated premium only, shall be computed by the company on the basis of its direct premiums earned in the calendar year 1969 in the manner required for the computation of the aggregate basic premium, less any applicable renewal credit. If any State is added during the term of the contract for which the company had no premium writings in the immediately prior year, the premium base for that State for the advance premium shall be estimated for the period from the date of attachment of coverage in that State to the expiration date of the contract. At least one half of the aggregate advance premium then payable shall be paid to the reinsurer without demand within 15 days from the effective date of coverage. The balance, if any, of the advance premium shall be paid without demand on or before September 1, 1970. Interest shall accrue at 6 percent per annum on any portion of the advance premium which is not paid on or before 15 days from its due date. The actual amount of the aggregate basic premium shall subsequently be computed and adjusted in accordance with the provisions of this § 1906.26 and § 1906.31.

(c) If at any time the total amount of excess aggregate losses incurred by the reinsurer under the contract and all like Standard Reinsurance Contracts issued during the period between May 1, 1970, and April 30, 1971, exceeds the total net amount of all advance premiums collected by the reinsurer during the same period under all such contracts, the company shall be obligated to pay to the reinsurer as an additional premium an amount equal to 0.1 percent of its aggregate premium base as defined above. Such additional premium shall be payable within 15 days after the demand of the reinsurer, either as an additional advance premium estimated on the basis of direct premiums earned for the year 1969 (and subject to adjustment in accordance with § 1906.31) or as a final amount after adjustment, whichever the reinsurer may determine to be appropriate.

(d) The aggregate basic premium, together with any additional premium which may be due the reinsurer in accordance with the preceding paragarph, shall constitute the minimum reinsurance premium payable for coverage under the contract; and such reinsurance premium shall be deemed fully earned on the date that such reinsurance coverage attaches, except as otherwise provided in § 1906.30.

§ 1906.27 Assessments.

If any other company (or companies) reinsured by the reinsurer under a like Standard Reinsurance Contract incurs aggregate losses in reinsured lines in any State during the period of the contract, which in total exceed its net retention for all such lines, and as a result lodges claims against the reinsurer, then the company, on demand of the reinsurer, shall pay to the reinsurer an assessment sufficient to meet the company's equitable share of all such excess aggregate losses incurred in the State, but only to the extent that such losses exceed the unused net amount of all reinsurance premiums paid or payable by all reinsured companies into the National Insurance Development Fund for the period from August 1, 1968, through April 30, 1971 (including interest earned thereon), for reinsurance in such State. Such share shall be in the proportion that—

(a) The amount, if any, by which the company's net retention in lines reinsured under the contract in such State exceeds the company's aggregate losses in such lines, bears to,

(b) The aggregate amount of unabsorbed net retention for all the lines of insurance of all companies reinsured under the contract in such State,

but such share shall not exceed the amount of the company's unabsorbed net retention under paragraph (a) of this section. An assessment will be required only after the termination of coverage provided by the contract.

§ 1906.28 Claims.

(a) The company shall advise the reinsurer by letter (1) of all losses from a single occurrence which exceed $50,000 and (2) whenever it appears that aggregate losses have been incurred in an amount equal to ninety per centum (90%) of the company's net retention in any State, on the basis of its direct premiums earned and reported to the reinsurer for the calendar year 1969.

(b) When the company incurs aggregate losses which exceed its net retention in any State, the company may make claim upon the reinsurer for the payment of excess aggregate losses in that State by filing a certification of loss and thereafter such supporting documentation of such losses as may be required by the reinsurer, and following the receipt of such certifications and documentation the reinsurer shall, as promptly as possible, in such installments and on such conditions as may be determined by the reinsurer to be appropriate (including advance payments made on the basis of preliminary certifications of loss filed in

advance of the final determination of the ultimate amount of losses paid), pay to the company the amount of such excess aggregate losses subject to adjustments on account of underpayments or overpayments.

(c) If the ultimate amount of losses to be paid by the company has not been finally determined when the certification of loss is filed, the company shall, in due course, file one or more supplementary certifications of loss and thereafter the reinsurer or the company, as the case may be, shall pay the balance due.

(d) Claims paid pursuant to computations of net retentions based upon the direct premiums earned for the calendar year 1969 shall be recomputed and adjusted at the termination of the coverage provided by the contract on the basis of direct premiums earned in reinsured lines for the calendar year 1970.

§ 1906.29 Inception and expiration dates.

(a) Provided the company has requested reinsurance by States and lines of coverage on or before April 30, 1970, the Standard Reinsurance Contract shall be in effect from 12:01 a.m. e.s.t., on May 1, 1970, and shall expire at 12 p.m. (midnight), e.s.t., on April 30, 1971, unless sooner terminated.

(b) If the company applies for coverage on or after May 1, 1970, the contract shall be effective from 12:01 a.m., e.s.t., on the day after such application is dispatched, as determined by the date of postmark or telegram, provided the company requests coverage by State and line and otherwise complies with the eligibility requirements of the contract.

(c) The contract applies only to losses occurring during the term of the contract as follows:

(1) If at the inception of the contract any riot or civil disorder is in progress, no coverage shall be provided for losses resulting therefrom unless the contract is a continuation of coverage from the previous year's contract.

(2) If the contract terminates while a riot or civil disorder is in progress, no coverage shall be provided for any losses resulting therefrom which occur after the date and time of termination of the contract.

§ 1906.30 Cancellations.

(a) Reinsurance under the contract may be canceled by the company in its entirety or with respect to any State upon written notice by the company to the reinsurer stating that it desires to cancel the reinsurance coverage specified and that it will pay any premium due the reinsurer in accordance with the provisions of the contract, subject to any adjustments which may be required under § 1906.31: *Provided, however,* That no coverage shall attach under the contract if the company has willfully concealed or misrepresented any material fact with respect thereto.

(b) Reinsurance under the contract may be canceled by the reinsurer in its entirety or with respect to any State upon 30 days written notice to the company of such cancellation, stating the reasons for cancellation, which shall be limited to one or more of the following grounds: Fraud or misrepresentation subsequent to the inception of the contract, nonpayment of premium or any other amount due the reinsurer, and the grounds set forth in paragraph (b) of § 1906.36.

(c) Whenever the reinsurer determines, in his discretion, that any cancellation of reinsurance is involuntary and without fault on the part of the company, the premium due the reinsurer for the coverage afforded under the contract shall be prorated in the ratio of—

(1) The number of days for which coverage was provided prior to the cancellation of such coverage plus 30 to

(2) The total number of days of coverage provided under the contract from the inception of such coverage up to and including April 30, 1971.

(d) In the event of any cancellation of reinsurance coverage under this § 1906.30, the net retention and assessment of such company shall be computed, without proration, on the basis of the direct premiums earned for the calendar year 1970. Refunds of premiums, if any, due the company upon cancellation may, at the discretion of the reinsurer, be deferred until after final adjustments have been made in accordance with the provisions of § 1906.31.

§ 1906.31 Adjustments.

(a) On or before May 30, 1971, the company shall report to the reinsurer its direct premiums earned for the calendar year 1970 in all reinsured lines in all States for which reinsurance was provided under the contract, for the purpose of computing and adjusting the reinsurance premium due to the reinsurer with respect to the coverage provided.

(b) On or before July 31, 1971, or such later date as may be permitted at the option of the reinsurer, the company gate losses, for the purpose of computing and adjusting excess aggregate losses and assessments.

(c) Any overpayment or underpayment between the reinsurer and the company shall be adjusted and paid in accordance with the obligations assumed under the contract.

§ 1906.32 Insolvency.

(a) In the event of insolvency of the company the reinsurance under the contract shall be payable by the reinsurer to the company or to its liquidator, receiver, or statutory successor on the basis of the liability of the company under all policies, contracts, or participation shares reinsured without diminution because of the insolvency of the company.

(b) It is further agreed that the liquidator, or receiver, or statutory successor of the company shall give written notice to the reinsurer of the pendency of any claim against the company on the policies, contracts, or participation shares reinsured within a reasonable time after such claim is filed in the insolvency proceeding, and that during the pendency of such claim the reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which may be deemed available to the company or its liquidator, receiver, or statutory successor. The expense thus incurred by the reinsurer shall be chargeable, subject to court approval, against the company as part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the company solely as a result of the defense undertaken by the reinsurer.

§ 1906.33 Errors and omissions.

Inadvertent delays, errors, or omissions made in connection with any transaction under the contract shall not relieve either party from any liability which would have attached had such delay, error, or omission not occurred, provided always that such delay, error, or omission is rectified as soon as possible after discovery.

§ 1906.34 Restriction of benefits.

No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to the contract if made with a corporation for its general benefit.

§ 1906.35 Participation in statewide plans.

(a) No reinsurance shall be offered or effective under the contract in any State unless there is in effect in such State, on the date coverage commences, a continuing statewide plan to make essential property insurance more widely available, and the company is fully participating in such plan on a risk-bearing basis and is certified by the State insurance authority as meeting the requirements of this § 1906.35. Except with respect to its runoff business after ceasing to do business within a State, the company shall not be eligible for reinsurance under the contract in any State in which it is not engaged in the direct writing of property insurance at the time coverage is requested, or in which it is writing business on a nonadmitted basis, unless it reports such nonadmitted business to the State insurance authority and participates in the statewide plan of such State on the basis of such reported business. The company shall file and maintain with the State insurance authority in each State in which it is participating in the statewide plan a statement pledging its full participation and cooperation in carrying out the plan and shall file a copy of each such statement with the reinsurer. The company shall not direct any agent, broker, or other producer not to solicit business through such plans and shall not penalize in any way any agent, broker, or other producer for submitting applications for insurance under such plans. The company shall also establish and carry out an education and public information program to encourage agents, brokers, and other producers to

utilize the programs and facilities available under such statewide plans.

(b) In the event that the company after the inception of the contract voluntarily withdraws from any State plan, pool, or other facility required by the provisions of this section, such withdrawal shall be deemed to constitute cancellation by the company with respect to that State as of the effective date of the withdrawal.

§ 1906.36 Limitations on reinsurance.

(a) Reinsurance hereunder shall not be applicable to insurance policies subsequently written in a State by the company after the close of the second full regular session of the appropriate State legislative body following August 1, 1968, if the State has not enacted legislation to reimburse the reinsurer, as necessary, for the portion of the aggregate losses specified in section 1223(a)(1) of the National Housing Act, as amended (12 U.S.C. 1749bbb-9(a)), paid by the reinsurer under the contract.

(b) The reinsurer shall cancel coverage, in accordance with the provisions of the contract, with respect to any State in which—

(1) The reinsurer has found (after consultation with the State insurance authority) that (i) it is necessary to have a suitable program adopted, in addition to required statewide plans, to make essential property insurance available without regard to environmental hazards and that such a program has not been adopted, or (ii) the company is not fully participating in the statewide plan; and, where it exists, in a State pool or other facility; and, where it exists, in any other program found necessary to make essential property insurance more readily available in the State; or

(2) Following a merger, acquisition, consolidation, or reorganization involving the company and one or more insurers with or without such reinsurance, the surviving insurer does not meet all criteria of eligibility for reinsurance and within 10 days pay any reinsurance premiums due; or

(3) The reinsurer has found (after consultation with the State insurance authority) that a statewide plan is not complying with the reinsurer's statutory or regulatory criteria or has become inoperative.

(c) Notwithstanding the foregoing provisions, reinsurance may at the election of the company be continued, up to and including April 30, 1971, for the term of such policies and contracts reinsured prior to the date of termination of reinsurance under this § 1906.36, provided the company pays the reinsurance premiums in such amounts as may be required. For the purposes of this § 1906.36, the renewal, extension, modification, or other change in a policy or contract for which any additional premium is charged, shall be deemed to be a policy or contract written on the date such change was made.

§ 1906.37 Arbitration.

(a) If any misunderstanding or dispute arises between the company and the reinsurer with reference to the amount of premium due, the amount of loss, or to any other factual issue under any provision of the contract, other than as to legal liability or interpretation of law, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding only upon approval by the reinsurer. The company and the reinsurer may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make his determination. If the company and the reinsurer cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the company and one by the reinsurer.

(b) The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the reinsurer. The company and the reinsurer shall bear equally all expenses of the arbitration.

(c) Findings, proposed awards and determinations resulting from arbitration proceedings carried out under this § 1906.37, shall, upon objection by the reinsurer or the company, be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

§ 1906.38 Access to books and records.

The reinsurer and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of the company that are pertinent to the business reinsured under the contract. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities. The company shall keep records which fully disclose all matters pertinent to the business reinsured, including premiums and claims paid or payable under the contract. Records relating to premiums shall be retained and available for three (3) years after final adjustment of premiums, and to reinsurance claims three (3) years after final adjustment of such claims.

§ 1906.39 Information and annual statements.

The company shall furnish to the reinsurer such summaries and analyses of information in its records as may be necessary to carry out the purposes of the Urban Property Protection and Reinsurance Act of 1968, as amended, 12 U.S.C. 1749bbb—1749bbb-21, in such form as the reinsurer, in cooperation with the State insurance authority, shall prescribe; and the company shall file with the reinsurer a true and correct copy of the company's Fire and Casualty Annual Statement, or amendment thereof, as filed with the State insurance authority of the company's domiciliary State, at the time it files such statement or amendment with the State insurance authority. The company shall also file with the reinsurer an equivalent of page 14 of such annual statement for each State in which reinsurance is provided under the contract.

Effective date. This part is effective at the time this document is filed for public inspection at the Office of the Federal Register.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70-4610; Filed, Apr. 14, 1970; 8:50 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER T—OPERATION AND MAINTENANCE

PART 221—OPERATION AND MAINTENANCE CHARGES

Flathead Indian Irrigation Project, Montana

On page 4215 of the FEDERAL REGISTER of March 6, 1970, there was published a notice of intention to modify §§ 221.16 and 221.17 of Title 25, Code of Federal Regulations, dealing with the irrigable lands of the Flathead Indian Irrigation Project, Montana, that are not subject to the jurisdiction of the several irrigation districts. The purpose of the amendment is to establish the assessment rate for nondistrict lands of the Flathead Indian Irrigation Project for 1970 and thereafter until further notice.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received, and the proposed amendment is hereby adopted without change as set forth below.

Section 221.16 is amended to read as follows:

§ 221.16 Charges, Jocko Division.

(a) An annual minimum charge of $3.49 per acre, for the season of 1970 and thereafter until further notice, shall be made against all assessable irrigable land in the Jocko Division that is not included in an Irrigation District organization, regardless of whether water is used.

(b) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to 1½ acre-feet per acre for the entire assessable area of the farm unit, allotment, or tract. Additional water, if available, will be delivered at the rate of two dollars and thirty-three cents ($2.33) per acre-foot or fraction thereof.

Section 221.17 is amended to read as follows:

§ 221.17 Charges, Mission Valley and Camas Divisions.

(a)(1) An annual minimum charge of $3.69 per acre, for the season of 1970

and thereafter until further notice, shall be made against all assessable irrigable land in the Mission Valley Division that is not included in an Irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to 1½ acre-feet per acre for the entire assessable area of the farm unit, allotment, or tract. Additional water, if available, will be delivered at the rate of two dollars and forty-six cents ($2.46) per acre-foot or fraction thereof.

(b) (1) An annual minimum charge of $4.22 per acre, for the season of 1970 and thereafter until further notice, shall be made against all assessable irrigable land in the Camas Division that is not included in an Irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to 1½ acre-feet per acre for the entire assessable area of the farm unit, allotment, or tract. Additional water, if available, will be delivered at the rate of two dollars and eighty-one cents ($2.81) per acre-foot or fraction thereof.

GEORGE L. MOON,
Project Engineer.

[F.R. Doc. 70-4555; Filed, Apr. 14, 1970; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

PART 180—IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

Correction

In F.R. Doc. 70-4278, appearing at page 5683 in the issue for Wednesday, April 8, 1970, in § 180.3, the figure "8" in the third line of paragraph (a) under Category I of the U.S. Munitions Import List, should read "18".

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGFR 70-42]

PART 19—WAIVERS OF NAVIGATION AND VESSELS INSPECTION LAWS AND REGULATIONS

Extension of Time of Waiver Order

Part 19 is concerned with the waiver of compliance with Coast Guard administered navigation and vessel inspection laws in the interest of national defense. Part 19 is also codified in 46 CFR Part 6.

In the FEDERAL REGISTER of December 2, 1969 (34 F.R. 19076), Part 6 was redesignated from 46 CFR Part 154. In addition to the redesignation, this document also made a change in the citation of authority, and amended § 6.20(g) by extending the waiver of the provisions of 46 U.S.C. 672 from December 31, 1969 to December 31, 1971.

Since Part 19 duplicates Part 6, it should also reflect the above changes. This document revises the citation of authority in Part 19 and extends the time of the waiver order in § 19.20(g), to bring this Part into conformance with 46 CFR Part 6.

Accordingly, it is hereby found that compliance with the provisions of the Administrative Procedure Act relating to notice of proposed rule making, public procedures thereon and effective date requirement is unnecessary.

1. The authority note for Part 19 is revised to read as follows:

AUTHORITY: The provisions of this Part 19 issued under Sec. 1, 64 Stat. 1120, Sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. Note prec. 1, 49 U.S.C. 1655(b)(1); 49 CFR 1.4(a)(2).

2. Section 19.20(g) is revised to read as follows:

§ 19.20 Service requirements for certification as able seamen or qualified member of the engine department.

* * * * *

(g) This waiver order shall remain in effect until December 31, 1971, unless sooner terminated by notice of cancellation published in the FEDERAL REGISTER.

(R.S. 4405, as amended, 4462, as amended, sec. 1, 64 Stat. 1120, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 416, 46 U.S.C. Note prec. 1, 49 U.S.C. 1655(b)(1); 49 CFR 1.4(a)(2))

Effective date. These amendments shall become effective on the date of their publication in the FEDERAL REGISTER.

Dated: April 9, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[F.R. Doc. 70-4602; Filed, Apr. 14, 1970; 8:50 a.m.]

SUBCHAPTER J—BRIDGES

[CGFR 70-36]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Lafayette River, Granby Street Bridge, Norfolk, Va.

1. The City of Norfolk, Va. by a letter dated November 11, 1969 to the Commander, 5th Coast Guard District requested that the operation regulations for the Granby Street Bridge across the Lafayette River, mile 3.3 Norfolk, Va., be revised to permit this bridge to be maintained in a fixed position. The present regulations governing operation of this bridge provide that the draw shall be opened on signal for the passage of vessels. However, in fact, the draw has been opened only on one occasion since the bridge was completed in 1931. Vertical clearance through the channel span under the closed draw is 14 feet at mean high water for the horizontal distance of 40 feet between fenders. Vertical clearance at the center of the drawspan is 16 feet above mean high water. The City of Norfolk proposes to remove the present deck of this bridge and the street car tracks located thereon, and in conjunction with installing the new deck to convert the drawbridge to a fixed bridge.

2. The Commander, 5th Coast Guard District issued Public Notice 5-76 dated December 5, 1969 which sets forth the proposed revision of the regulations governing this drawbridge. This notice was made available to all persons known to have an interest in the subject. Comments or protests to the proposal were invited through January 5, 1970. In addition, a special notice to the same effect was published in the Local Notice To Mariners, No. 51 dated December 16, 1969, issued by the Commander, 5th Coast Guard District to all shipping interests in the area. A newspaper article concerning the proposal, with prominent headlines and a picture of the bridge, was carried in a local daily newspaper on December 9, 1969. No comments or objections were received by the Commander, 5th Coast Guard District in response to these notices or the newspaper article.

3. After a consideration of all these facts, it is concluded that the revision of the operation regulations for this bridge proposed by the City of Norfolk should be adopted. It is hereby determined that Public Notice 5-76, the notice in the Local Notice To Mariners, No. 51, and the newspaper article of December 9, 1969, provided effective notice to all interested parties. Therefore, it is concluded in accordance with the provisions of 5 U.S.C. 553 that compliance with the requirement of the Administrative Procedure Act relating to publication of the notice of proposed rule making in the FEDERAL REGISTER is unnecessary.

4. Accordingly, § 117.245 is amended by adding a new paragraph (f) (23-a) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(23-a) *Lafayette River, Granby Street bridge.* The draw of this bridge need not be opened for the passage of vessels and paragraphs (a) through (e) of this section shall not apply to this bridge.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 30 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.4(a)(3)(v))

Effective date. This revision shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Dated: April 9, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[F.R. Doc. 70-4603; Filed, Apr. 14, 1970; 8:50 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

J. Clark Salyer National Wildlife Refuge, N. Dak.

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

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

J. CLARK SALYER NATIONAL WILDLIFE REFUGE

Sport fishing on the J. Clark Salyer National Wildlife Refuge, N. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 900 acres or 8 percent of the total water area of the refuge, are delineated on a map and described in a leaflet available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) The open season for sport fishing on the refuge extends from May 2, 1970, through September 15, 1970, daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 15, 1970.

ROBERT C. FIELDS,
Refuge Manager, J. Clark Salyer National Wildlife Refuge, Upham, N. Dak.

APRIL 6, 1970.

[F.R. Doc. 70-4605; Filed, Apr. 14, 1970; 8:50 a.m.]

PART 33—SPORT FISHING

Sand Lake National Wildlife Refuge, S. Dak.

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

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Sand Lake National Wildlife Refuge, S. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 150 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refugee extends from April 10 through December 31, 1970, inclusive, during daylight hours only.

(2) The use of boats is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuges areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1970.

LYLE J. SCHOONOVER,
Refuge Manager, Sand Lake National Wildlife Refuge, Columbia, S. Dak.

APRIL 6, 1970.

[F.R. Doc. 70-4550; Filed, Apr. 14, 1970; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 914]

[Docket No. AO-369]

HANDLING OF ORANGES GROWN IN INTERIOR DISTRICT IN FLORIDA

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to a Proposed Marketing Agreement and Order

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of oranges grown in the Interior District of Florida, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act". Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the close of business of the 20th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate. All such communications will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing, on the record of which the proposed marketing agreement and order (hereinafter referred to collectively as the "order") were formulated, was held at Lakeland, Fla., on June 24, 25, 26, and 27, 1969, pursuant to a notice thereof which was published June 3, 1969, in the FEDERAL REGISTER (34 F.R. 8705), and pursuant to a correction of such notice which was published on June 24, 1969, in the FEDERAL REGISTER (34 F.R. 9754). Such notice set forth a proposed marketing agreement and order which had been presented to the Department of Agriculture by R. V. Phillips, John T. Lesley, and Tom Brandon on behalf of Florida Citrus Exchange (Sealed-Sweet Growers, Inc.), Adams Packing Co., Alturas Packing Co., Battaglia Fruit Co., Carter Fruit Co., Florida Orange Packers, Haines City Citrus Growers Association, Herman J. Heidrich & Sons, Heller Brothers Packing Co., Holly Hill Fruit Products, Lake Hamilton Cooperative, Lake Region Packing Association, Lake Wales Citrus Growers Association, Lakeland Packing Co., Newbern Groves, Inc., Peoples Packing Co., South Lake Apopka Citrus Growers Association, Spada Fruit Sales, and Waverly Growers Cooperative, with a petition for a hearing thereon.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(2) The existence of the right to exercise Federal jurisdiction in this instance;

(3) The definition of the commodity and determination of the production area to be affected by the order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the order including the definition of terms used therein which are necessary and incidental to attainment of the declared objectives of the act, and including all those set forth in the notice of hearing among which are those applicable to the following additional terms and provisions;

(a) The establishment, maintenance, composition, powers, duties, and operation of a committee for the local administration of the order;

(b) The incurring of expenses and the levying of assessments;

(c) The method for regulating shipments of oranges grown in the production area;

(d) The provision for continued regulation of the flow of shipments of Interior District oranges during periods when the season average price for such oranges is above parity, in order to avoid unreasonable fluctuations in supplies and prices;

(e) The specification of exceptions from regulation of oranges handled in certain types of shipments or for certain specified purposes;

(f) The requirement for inspection and certification of oranges handled;

(g) The establishment of recordkeeping and reporting requirements for handlers;

(h) The requirement of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(i) Additional terms and conditions as set forth in sections 57 through 65 and published in the FEDERAL REGISTER (34 F.R. 8705) on June 3, 1969, which are common to marketing agreements and orders, and certain other terms and conditions as set forth in sections 66 through 68 and also published in said issue of the FEDERAL REGISTER, which are common to marketing agreements only.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on evidence adduced at the hearing and the record thereof, are as follows:

(1) Florida's commercial citrus fruit producing area is confined to the part of the State lying south and east of the Suwannee River. This producing area is subdivided under Order No. 905 (7 CFR Part 905) into the Interior District and the Indian River District (Regulation Areas I and II). The Indian River District is comprised of six counties or parts of counties, which form a narrow strip of land along the Indian River which borders the Atlantic Ocean in Eastern Florida. The Interior District consists of the rest of the producing area and is bordered by the Suwannee River, the Georgia border, the Atlantic Ocean, the Indian River District, and the Gulf of Mexico.

Based on the five seasons from 1963–64 through 1967–68, Florida produced an average of about 94,600,000 boxes of round oranges (early and midseason types, except for Temple oranges; and late type oranges which include the Valencia and related type oranges) each season. Out of this amount, about 14,700,000 boxes or 16 percent was sold as fresh fruit, while most of the remaining 84 percent was processed. About 9,600,000 boxes or two-thirds of the fruit sold in fresh form moved in interstate commerce. Of the total interstate fresh shipments, the Interior District in Florida shipped about 8,500,000 boxes or about 90 percent, while the Indian River District shipped the remaining 10 percent.

Florida's round orange production has increased considerably during the last few years. It is expected to increase, as hereinafter shown, even more during the next few years.

The fresh orange market usually returns more money per unit of fruit than any other outlet. Hence, producers try to market as much of their fruit in this outlet as possible. However, this outlet will take only about 16 percent of the total orange crop at prices which will provide favorable returns to producers. With only a limited volume of oranges being marketed in the fresh market outlet, there are during a season many more oranges available for the fresh market than can be marketed at satisfactory prices. Thus, it is imperative that the fresh market be protected so as to provide an adequate volume of oranges in this outlet. The order is designed to do that by tailoring the supply more nearly to the demand during those weeks when an oversupply appears imminent.

The need to protect the fresh market will probably be greater in the future than at present. This is due to the large increase in orange plantings and the anticipated larger crops in the future. During the last few years, approximately 148,000 additional acres have been planted to oranges. In December 1967, about 22 percent of the orange trees were not of bearing age. As these trees reach bearing age in the next few years and as other young trees develop more bearing surface, larger orange crops may be

expected. Production of 200 million boxes may be attained within the next few years. Production during the 1966–67 season was 139,500,000 boxes. During the 1967–68 season, 100,500,000 boxes were produced. The June 1969 USDA production estimate for the 1968–69 season was 132 million boxes. There is no indication that fresh sales, though increasing, can keep pace with the projected production.

About 90 percent of the fresh orange shipments originate in the Interior district and consist of oranges produced in that district. The other orange shipments, approximately 10 percent of the fresh orange sales, consist of oranges produced in the Indian River District. This ratio is likely to remain or swing slightly more to the Interior district because of recent plantings and anticipated production.

The average on-tree returns for Florida oranges were 2.48 per box for the period, 1963–64 through 1967–68. During this period, Florida growers received on an average of 71 percent of parity for their oranges for fresh use. The on-tree returns for fresh Florida oranges was $4.48 per box or 140 percent of parity during the 1963–64 season, but such price declined to $.91 per box or 25 percent of parity during the record 1966–67 season. While the 1966–67 crop was unusually large, it reflects the potential production of Florida's orange industry, under good growing conditions.

The record evidence indicates that in a given period there is an inverse relationship between the volume of orange shipments for fresh use and prices received, and that shipment of a relatively few carloads of oranges in excess of market demand has in the past weakened the market and depressed prices. After such prices begin to decline, it is difficult to reestablish a reasonable price level and stabilize the market without volume control. It was reported that under such conditions, receivers, jobbers, and buyers for retail chainstores buy very sparingly whenever there is a threat that over supplies of oranges will lower prices and there is danger that anyone with a substantial quantity of oranges on hand will sustain a loss. It was further indicated that considerable time is required to stabilize the market if the market is glutted with oranges, and that the quality of the fruit held over in wholesale and retail channels deteriorates and becomes unattractive to consumers. Thus, consumption is curtailed, and spoilage losses are magnified at the retail level. The record indicates that when prices in fresh orange outlets decline to a certain level, relative to the price of oranges for processing, shippers then dump fruit into the processing market. Thus, the processing market is depressed and this reduces total returns received by the producers. Moreover, the record shows that, although the industry is aware of the detrimental effect of unstabilized market conditions resulting from overshipments, several factors operate which tend to encourage overshipment during certain periods and, in the absence of any restraint, are beyond the individual control of handlers. One of these factors is the urge among handlers to make full use of harvest labor and packing facilities. This often results in the shipment to market of Interior oranges far in excess of market demand and contributes to unstable marketing conditions.

The foregoing indicates that Florida's orange production has increased considerably during the past few years and further increases are expected in the near future. In addition, the Florida orange industry experiences occasional chaotic marketing conditions, especially during periods of heavy shipments, which result in serious price declines. Although such price declines usually occur during the months of heavy shipments, they can occur any time during the marketing season when a few carloads of oranges in excess of the market demand are shipped. From a marketing standpoint, the foregoing portends a situation where it will be necessary in the interest of producers and consumers to maintain an orderly flow of fresh oranges to market closely equated with market demand throughout the marketing season to avoid market gluts and

The record indicates that the industry extreme price fluctuations.
has made an effort to exert some degree of control over shipments of oranges through its recommendations for restriction of grades and sizes under Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. However, the supply of oranges which could be shipped under any reasonable grade or size restriction, particularly during periods of heavy production, far exceeds the market demand because about 90 percent of the Interior District's orange crop is utilized in channels other than interstate fresh shipments and much of this amount in the absence of volume limitation could be shipped into the interstate fresh market. Therefore, grade and size restrictions do not offer a practical solution to the problem of overshipment.

Florida grapefruit are subject to volume regulation under Order No. 912 (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, and under Order No. 913 (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida. Evidence of record shows that limitations established under the volume prorate provisions of these grapefruit marketing orders tend to stabilize the market for grapefruit. Limiting shipments when the market is burdened with or threatened with excessive supplies prevents excessive shipments into marketing channels. This encourages buyers to maintain purchases since prices are likely to remain relatively stable after they have purchased their fruit. The record indicates that marketing conditions for fresh grapefruit are similar to those for fresh oranges.

The authority to limit weekly shipments of Interior oranges to fresh market channels under a marketing order would provide a means whereby the quantity of fruit shipped could be adjusted to that required in such marketing channels. Moreover, such regulations would make information readily available as to the quantity of such oranges which could be shipped during a particular week, and market receivers could maintain their commercial operations on the basis of the rate at which the supply of oranges would be available to them. This would tend to promote more orderly marketing conditions for oranges, than would exist in the absence of a program providing restraint on the volume of oranges shipped. Individual handlers cannot successfully bring about such conditions by reducing shipments, or delaying shipments, as other handlers can nullify such action by increasing the volume of their shipments.

Therefore, a volume prorate for oranges should stabilize and strengthen the market for oranges, increase total sales, and thereby tend to increase returns to producers. Thus, it is concluded that a marketing order is needed to establish orderly marketing conditions for Interior oranges by providing a means of limiting the quantity of such oranges that can be shipped in fresh market channels as hereinafter set forth.

(2) Oranges grown in Florida's Interior District are distributed throughout the United States and exported to several foreign countries. Markets within the State of Florida are also important outlets for Interior oranges. Last season about one-third of the fresh Interior oranges were sold in Florida markets. Sometimes such oranges, which are initially shipped to destinations in the part of Florida south and east of the Suwannee River, are later shipped to markets in western Florida or outside the State. However, some shipments are sent directly to destinations west of the Suwannee River in Florida. Once the fruit reaches this western part of Florida, it moves freely into the Alabama and Georgia markets. Wholesale distributors, some of which are located near the northern border of Florida, ship oranges to markets throughout the United States. Fruit sold in this western Florida market is subject to the same price changes as other markets in the United States. Obviously, there is considerable competition between oranges that are sold in Florida west of the Suwannee River and those which are sold in the southern parts of the neighboring States of Georgia and Alabama. From the foregoing it is apparent that interstate commerce is affected by Interior orange shipments to west Florida, and oranges shipped to that area should be subject to volume limitations under the order.

The Suwannee River is designated as the boundary line for regulations under Orders No. 905, No. 912, and No. 913. The Suwannee River is a natural boundary and is recognized as such by the State of Florida in its citrus laws. The Florida State Department of Agriculture has stationed compliance personnel at road guard stations located on the various highways which cross the Suwannee River and the Georgia border. Here they check all the fruit as it moves out of

the citrus producing areas south and east of this line.

Any handling of Interior oranges in fresh market channels exerts a direct influence upon all other handling of such oranges in fresh form. It is the primary objective of all handlers of Interior oranges to obtain the highest possible return for their oranges. Markets within the State of Florida provide the same opportunities to dispose of fresh oranges as do markets within other States. Whenever the price of oranges in one market, whether within the State or outside thereof, is higher than that in other markets, supplies tend to be diverted to the market having the highest price.

It is found, therefore, that all handling of Interior oranges is either in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce. Hence, except as hereinafter provided, all handling of oranges grown in the Interior District of Florida should be subject to the authority of the act and of the order.

(3) The term "oranges" should be defined in the order to identify the commodity to be regulated thereunder. Such term, as used in the order, should include all varieties of the fruit classified botanically as citrus sinensis, Osbeck (commonly called sweet oranges or round oranges) grown in the Interior District in the State of Florida. This group of oranges includes Early, Midseason, and Late Types belonging to citrus, sinensis, of varieties such as Parson Brown, Hamlin, Navel, Pineapple, seedling oranges, Valencia, Lue Gim Gong, and Pope Summer. It does not include such fruits as tangerines, tangelos, Temple oranges, Murcott Honey oranges, or King oranges, which are either hybrids or belong to the Citrus reticulata grouping. The term should be limited to the oranges grown in the Interior District inasmuch as the order is to apply only to such oranges.

The two terms "Early and Midseason Type oranges" and "Late Type oranges" should be defined in the order because the prorate bases, hereinafter provided for, are predicated on the amounts of oranges of each of these two groupings shipped during a historical base period. In the order, the term "Early and Midseason Type oranges" should apply to all oranges except "Late Type oranges". An example of varieties within the Early and Midseason Type grouping, are Parson Brown, Hamlin, Navel, Pineapple, and seedling oranges. Within this grouping there are Early Type oranges, which are usually harvested from September through February, and Midseason Type oranges which usually are harvested from late November through March. Late Type oranges are normally harvested from February through June. The term "Late Type oranges" should refer to those varieties of oranges which usually mature later in the season and consist of Valencia, Lue Gim Gong, Pope Summer, and similar late maturing varieties of oranges.

A definition of the term "Interior District" or "district" should be set forth in the order to delineate the production area in which the oranges to be regulated are grown. The boundary of such district should be established as hereinafter set forth. This boundary is identical with that of Regulation Area I prescribed in Order No. 905 and with the Interior District prescribed in Order No. 913. The Interior District, defined in Order No. 905 as Regulation Area I, lies south and east of the Suwannee River comprising all of that portion of Florida having commercial orange production except the Indian River District, defined in Order No. 905 as Regulation Area II.

Oranges produced in the Interior District move freely throughout the district after they are harvested. They often move considerable distances to packinghouses after they are picked. When the fruit is stored in the coloring rooms, graded and packed, it often loses its identity as to where it was grown. All of the oranges in the packinghouse are treated in a similar manner, and they are all graded in the same way. In the Interior District, all oranges of a specific quality and variety sell for similar prices, regardless of whether they were grown in the northern, eastern, southern, or western part of the district. However, oranges from the Indian River District sell for higher prices, on an average, than oranges from the Interior District, reportedly because Indian River fruit is of higher internal quality.

In order for the committee to accurately distinguish shipments of Interior District oranges from shipments of oranges produced in the Indian River District, the order should authorize the committee, with the approval of the Secretary, to require handlers to report that the oranges in question were produced in the Interior District or the Indian River District, as the case may be.

When deemed appropriate by the committee, handlers should provide this information by means of a notation on the shipping manifest. They may also provide such information to the Federal or Federal-State Inspection Service with written authority for such service to include a notation to that effect on the inspection certificate. Handlers may send the information directly to the committee in the form of a report.

It is concluded that, for the purpose of the order, the Interior District, as hereinafter defined, is the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act.

(4) The term handler or shipper should be defined in the order to identify the persons who are subject to regulation under the program. Since it is the handling of Interior oranges that is to be regulated, the term should apply to all persons who place such oranges in commerce by performing any of the activities within the scope of the term handle, as hereinafter described. In other words, any person who is responsible for the sale or transportation of Interior oranges, or who in any other way directly or indirectly places such oranges in commerce, should be a handler under the order and be required to carry out such activities in accordance with the order provisions. However, the transportation by a common or contract carrier of oranges owned by another person should not be considered as making such carrier a "handler" as, in such instances, the carrier is performing services for hire and is not responsible for the quantity or pack of the commodity. Of course, if the carrier is the owner of the oranges being transported, such carrier would be the handler the same as any other person who may primarily be engaged in another business—such as producer or retailer—but at times is also a handler of oranges.

The term "handle" or "ship" should be defined to identify those activities that it is necessary to regulate in order to effectuate the declared policy of the act. Such activities include all phases of selling and transporting which place Interior oranges in the channels of commerce between the "Regulation area", as hereinafter defined, and any point outside thereof in the United States, Canada, or Mexico. The handling of such oranges begins at the time the fruit is picked from the trees and includes each of the successive selling and transporting activities until the fruit reaches its final destination. The performance of any one or more of these activities, such as selling (including consignment and delivery), or transporting by any person, either directly or through others, should constitute handling. In order to effectuate the declared policy of the act, each such person should be required, except as hereinafter indicated, to limit such handling of Interior oranges to fruit which conforms to the applicable requirements of the order.

It is usual for oranges, after picking, to be sorted, graded, packed, or otherwise prepared for market. Such preparation for market generally is performed at a packinghouse within the Interior District. However, it is the practice of a few handlers, who have packinghouses located outside the Interior District but within the regulation area, to transport limited quantities of Interior oranges to such packinghouses where they are prepared for market. All oranges grown in the Interior District should be subject to the provisions of the order, regardless of where they are packed. The grower, in such instances, properly relies on the person preparing the oranges for market to see that they meet all requirements for marketing. Moreover, such activities, if performed, are preliminary to placing the fruit in marketing channels. It would not be practical, and would unnecessarily complicate the administration of the order, to require persons engaged in the preparation of oranges for market to meet the requirements of regulations under the order at any time except after such preparation. Therefore, the movement of oranges from the grove where grown to the place within the regulation area where the fruit is to be prepared for market, and activities in connection with such preparation, should not be covered as handling subject to regulation.

While some oranges are handled for consumption within the regulation area,

most of the transportation of oranges within such area is from groves to packinghouses and processing plants or from packinghouses to destinations outside the regulation area. The quantity of oranges handled for consumption within the regulation area is small, in relation to the total movement, and the difficulties of enforcing regulations for fruit so marketed would be great. Moreover, it is not necessary that such handling be regulated in order to accomplish the objectives of the program.

The State of Florida laws require the inspection and certification of all citrus shipments by the Federal-State Inspection Service, and each handler is required to furnish the inspector with copies and duplicates of a manifest of each truckload or carload of fruit that leaves his packinghouse. Order No. 905 currently requires the inspection and certification of all fruit regulated under it, which includes oranges, by the Federal-State Inspection Service, and similar requirements are proposed for this order. The inspection certificates show the time, place, and quantity of each lot of fruit inspected and shipped. So that the committee will have knowledge as to the destination of each shipment for assessment purposes and determinations relative to allotments, each handler should be required to furnish information to the committee showing the destination of each shipment of oranges produced in the Interior district. This information may, if deemed appropriate by the committee and with the Secretary's approval, be in the form of a notation on the shipping manifest. Also, the handler may provide the information to the Federal-State Inspection Service and request that it be noted on the inspection certificate. He may provide such information directly to the committee in the form of a report. However, the committee should determine the manner in which handlers should provide such information.

The term "handle" should relate to transactions involving only the markets in the 48 contiguous States of the United States, the District of Columbia, Canada, or Mexico. All of these areas are considered by handlers of Interior oranges to be one "domestic" market. Methods of shipment to these markets are the same and shipments may readily be diverted from one market destination to another after the oranges leave the regulation area. Most exported oranges are transported by boat and as such shipments are in transit a considerable length of time, it would be impracticable to determine what volume of oranges should be shipped to a particular export market. It is the policy of the Florida citrus industry to promote the exportation of all citrus fruits, including oranges.

The primary responsibility for determining whether a particular lot of oranges conforms to the order requirements should rest with the person who places such oranges, or causes oranges to be placed, in the current of the regulated commerce. In most cases, such person will be the one who was responsible for packing or otherwise preparing the oranges for market. However, the order should not excuse a subsequent handler of the fruit from complying with such requirements, as such oranges may have been handled contrary to the provisions of the order. Each person who handles oranges should be responsible for seeing that all order requirements are met at the time such person handles the fruit.

As all handling of Interior oranges is in interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce, it is concluded that, except as indicated herein and as specifically exempted by the act and order, all such handling should be subject to the order and regulations issued pursuant thereto.

(5) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the order. These terms should be defined for the purpose of designating specifically their applicability and establishing appropriate limitations on their respective meanings wherever they are used.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the U.S. Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citation for the statute pursuant to which the proposed regulatory program is to be operative and avoids the need for referring to these citations.

The definition of "person" follows the definition of that term as set forth in the act, and will insure that it will have the same meaning as it has in the act.

The term "fiscal period" should be defined to set forth the period with respect to which financial records of the Interior Orange Marketing Committee—the agency which will administer the program locally—are to be maintained. It is desirable to establish the fiscal period as a 12-month period beginning on the first day of August of each year. Such a period would fix the end of the fiscal period and the beginning of the next at a time of relative inactivity in the marketing of Interior oranges. This would facilitate fixing the term of office of members and alternates to coincide with such period as it would allow sufficient time prior to the time shipments begin for the committee to organize and develop information necessary to its functioning during the ensuing year, and would still insure that a minimum of expense would be incurred during a fiscal period prior to the time assessment income is available to defray such expenses. However, since the order, if it becomes operative, cannot be effective at the beginning of such period, the initial fiscal period should begin on the effective date of the order. Therefore, it is concluded that such term should be defined as hereinafter set forth.

A definition of "committee" should be incorporated in the order to identify the administrative agency established under the provisions of the program. Such committee is authorized by the act, and the definition thereof, as hereinafter set forth, is merely to avoid the necessity of repeating its full name each time it is referred to.

The term "standard packed box" should be defined, as hereinafter set forth, to provide a specific unit of measure for purposes as assessment, volume limitations, and handler allotments. Interior District oranges are packed in a number of different containers of varying sizes and capacities. The common unit of measure throughout the industry for statistical and other purposes is the standard 1⅗ bushel box. Hence, the establishment of assessments, regulations, and allotment in terms of a container equivalent to 1⅗ bushels will have specific meaning to growers, handlers, and others within the industry.

The term "regulation area" should be defined so as to include therein all of the State of Florida that is south and east of the Suwannee River. As indicated heretofore, substantial quantities of oranges move within this area for processing. Also, a few handlers transport from the Interior District to packinghouses located at other points within this area for the purpose of preparing such oranges for market. It would complicate the administration of the order to apply regulations to fruit handled for consumption within the area; and it is not necessary to do so in order to accomplish the purposes of the order.

It is desirable to fix the boundaries of the regulation area so as to coincide with established check points employed by the State in connection with its regulations concerning citrus fruits. A large portion of the shipments of Florida citrus fruits, including Interior oranges, are made by truck and there have been established so-called road guard stations to check truck shipments of citrus fruits and other commodities. These stations are located near the highway crossings of the Suwannee River and on the major roads near the Georgia border leading out of the State that do not cross that river. As all Interior oranges marketed in fresh form are prepared for market within the regulation area, there are already available facilities for checking compliance with the regulations under the order. The exclusion of any portion of the State other than that west of the Suwannee River would increase the number of routes by which oranges could move by truck from the regulation area and would correspondingly increase the difficulty and expenses of effecting compliance with the order provisions.

It is desirable to define the terms "week" or "full week" as a 7-day period beginning with Monday. The use of such period would make the weekly period coincide with the period used by all segments of the industry for record keeping purposes. Therefore, the order should contain such definition.

The term "producer" should be synonymous with "grower" and should be

defined to include any person who is engaged, in the Interior District, in the production of oranges for market and who has a proprietary interest therein. A definition of the term grower is necessary for such determinations as who is eligible to vote in referenda and whether producer approval requirements for issuance of the order have been met.

(a) It is desirable to establish an agency to administer the order locally under and pursuant to the act, as an aid to the Secretary in carrying out the declared policy of the act. The term "Interior Orange Marketing Committee" is a proper identification of the agency and accurately reflects its character.

The record evidence indicates that selection of the members and alternates of the Growers Administrative and Shippers Advisory Committees, designated under Order No. 905, and whose residences and principal places of business are in the Interior District, as the members and alternates of the Interior Orange Marketing Committee would be a practical means of staffing such committee and this would avoid many of the objectionable problems which often are involved in establishing and dealing with an additional group. The number of members on each of the aforesaid committees under the current provisions of Order No. 905 from the Interior District is 7. Hence, such selection would provide a well balanced committee, with respect to grower and handler representation. In addition, Order No. 913 provides that this same method be used in selecting members to the Interior Grapefruit Marketing Committee. Therefore, both the Interior Orange Marketing Committee and the Interior Grapefruit Marketing Committee would be similarly constituted. It was pointed out that these committeemen gain considerable knowledge about the marketing problems, particularly oversupply situations, for several types of citrus when considering grade and size regulations for oranges, grapefruit, tangerines, and tangelos under Order No. 905 and volume regulations for Interior grapefriut under Order No. 913. Moreover, most growers and shippers, who are likely to be nominated and selected to represent the industry in connection with Order No. 905, are likely to be familiar with both the growing and marketing of citrus fruits, including Interior oranges. Hence, such committeeman would be well qualified to perform the functions of committeemen on the Interior Orange Marketing Committee.

It is, therefore, concluded that the order should provide, as hereinafter set forth, that the members and alternates of the Growers Administrative and Shippers Advisory Committees selected under Order No. 905, whose residences and principal places of business are in the Interior District shall be the members and alternates of the Interior Orange Marketing Committee.

A vacancy on the proposed Interior Orange Marketing Committee would occur as the result of a vacancy on the Growers Administrative Committee or Shippers Advisory Committee under Order No. 905. Appointment by the Secretary to fill a member or alternate member vacancy on either such committee would automatically fill the corresponding vacancy on the proposed committee.

The term of office of committee members and alternates (under the order) should be concurrent with the term of office of the Growers Administrative and Shippers Advisory Committees. Such term of office is for 1 year beginning on August 1 and ending the last day of July. Hence, the term of office will begin sufficiently in advance of the beginning of Interior orange shipments each season to allow adequate time for the committee to organize and start functioning.

It was testified at the hearing that in order to provide for continuity of operations, should there be any termination or suspension of Order No. 905, continuation of the Interior Orange Marketing Committee should be authorized until an alternate method of nomination and selection of members and alternates by the Secretary, by amendment of the order, could be accomplished. In order that there would be an administrative committee in existence to function at all times, the Secretary should be authorized to select committee members and alternates without regard to provisions of the order.

Since the order, if made effective, obviously cannot become effective until after the 1969–70 marketing year is in progress, the initial members and alternates should be the eligible incumbent members and alternates of the Growers Administrative and Shippers Advisory Committees designated under Order No. 905.

The order should provide that an alternate member shall serve in the place of a member of the committee, in appropriate circumstances, in order to help insure full representation at meetings. If any committee member is sick, or otherwise unable to attend a meeting, the alternate member should attend and serve for the member at such meeting. Also, the alternate should act for the member for whom he is an alternate should the member die, be removed from office, or be disqualified, and should serve in this capacity until a successor to such member has been appointed and has qualified. So that as large a representation as possible will be present at meetings, the order should provide that in the event neither a member nor his alternate is able to attend a meeting, the chairman of the committee may designate any other alternate member who is not acting as a member to serve in such member's place and stead. To the extent practicable, such designation should be made so as to maintain the composition of the committee as prescribed in the order.

The committee should be given those specific powers which are set forth in section 8c(7)(C) of the act. Such powers are necessary to enable an administrative agency of this character to function.

The committee's duties, as set forth in the order, are necessary for the discharge of its responsibilities. It is intended that any activities undertaken by the members of the committee will be confined to those which reasonably are necessary for the committee to carry out its responsibilities as prescribed in the program. It should be recognized that these specified duties are not necessarily all inclusive, and that it may develop that there are other duties which the committee may need to perform.

A simple majority of the members should constitute a quorum when the committee is acting on matters other than recommendations for volume regulation. Moreover, any decision or action on any such matter should require concurrence by such a majority. Such a provision is necessary to assure consideration of such matters by at least a majority of the committee and encourage full attendance and opportunity for discussion by committee members at assembled meetings. To this end, it should also be provided that all committee votes must be cast in person.

It was emphasized at the hearing that regulation of volume of shipments of Interior oranges should not be recommended unless such regulation is favored by a substantial majority of the committee after full discussion and consideration of the need for such regulation as evidenced by market price and supply factors. Therefore, the order should provide that any committee vote to recommend volume regulation should require concurrence by not less than 60 percent of the full committee, except when regulations have been in effect for 3 continuous weeks or longer. Since the purpose of volume regulation as herein contemplated is to restrict the flow of oranges to fresh markets only during weeks when market supplies are, or are expected to be, excessive rather than to restrict the volume for the season as a whole, the order should provide that after regulations have been in effect for 3 continuous weeks or more, not less than 80 percent of the full committee shall concur before any recommendation for volume regulation is made to the Secretary. This larger percentage of concurrence would insure adequate committee discussion and recognition of the need for regulation by at least 12 members of the committee. It would also tend to prevent any recommendation for volume regulation, except during periods of extremely poor marketing conditions. However, in recommending amendment of an existing regulation, concurrence by 60 percent of the full committee would be sufficient since this action would be to increase the quantity of oranges permitted to be shipped.

The number of votes necessary to constitute a majority favorable to volume regulation is stated in terms of percentages to allow for a possible change in the number of members on the committee. Since the membership would be limited to the same persons serving on the Growers Administrative and the Shippers Advisory Committees under Order No. 905, whose residences and principal places of business are in the Interior district, it is possible that in the future the membership of the committees administering Order No. 905 may be changed by amendment or that a different number of

members and alternates of either committee may have their residences and principal places of business in the Interior district. By prescribing a majority in terms of percentage of the committee rather than as a specific number, the necessary flexibility is provided in the order to deal with such possible changes.

Under the presently constituted Growers Administrative and Shippers Advisory Committees the order would have an administrative committee of 14 members. Therefore, under present circumstances, the requirement for 60 percent concurrence on recommended volume regulations would mean that 9 of the 14 members of the proposed committee should be favorable to such action and a requirement for 80 percent concurrence for continued volume regulation would mean that 12 of the 14 committee members should be favorable.

In order for an alternate to serve adequately in place of an absent member, it may be desirable that he should have attended previous meetings along with the member so as to have full understanding of all background discussions leading up to actions that may be taken at the meeting. Also, an alternate may, in future years, be selected as a member on the committee, hence attendance at meetings as an alternate member could provide helpful experience. Although only committee members and alternates acting as members have authority to vote on actions taken by the committee, an alternate from a different part of the regulation area than the member, could, by attending the meeting, provide additional information to be considered in connection with a proposed volume regulation or other matters. In addition, as heretofore discussed, certain actions by the committee require concurrence of not less than a specified proportion of the members. In the event that members are absent, the presence of alternates to serve in their place would help assure that business could be conducted. Therefore, the order should provide that the committee, at its discretion, may request the attendance of alternate members at any or all meetings, notwithstanding the expected or actual presence of the respective members, when a situation so warrants. The order should also provide for reimbursement of reasonable out-of-pocket expenses incurred by members and alternates in performance of their designated duties under the order. It would not be reasonable to require members or alternates to bear personally such expenses incurred in the interest of all growers and handlers. The same reimbursement of expenses that is available to members should be made available to alternate members for attendance at meetings when they are requested to attend meetings.

(b) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it for its maintenance and functioning and to enable it to exercise its powers and perform its duties pursuant to the order. The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of expenses by the administrative agency established under an order, and requires that each order of this nature contain provisions requiring handlers to pay, pro rata, the necessary expenses.

Opponents on brief contended that administrative assessments to be imposed on handlers under the order are unlawful taxes and that the power to impose such "taxes" cannot lawfully be delegated to the administrative committee. These contentions are without merit and are denied. The assessments are not "taxes" but are fully lawful assessments imposed on regulated handlers to defray the cost of their regulation as expressly provided by the act (section 10). Also, although the committee is to recommend a budget and rate of assessment, it is the Secretary and not the committee who approves the budget and fixes the rate of assessment.

As his pro rata share of such expenses, each handler who first handles oranges during a fiscal period should pay assessments to the committee, at a rate fixed by the Secretary, on all oranges so handled. In this way, each handler's total payments of assessments during a fiscal period would be proportionate to the quantity of oranges handled by each such handler and assessments would be levied on the same oranges only once.

The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of the income and expenditures necessary for the administration of the order during such period. Each such budget should be submitted to the Secretary with an analysis of its components. Such budget and report should also recommend to the Secretary the rate of assessment believed necessary to secure the income required for that period. The committee, because of its knowledge of the prospective crop, will be in a good position to ascertain the necessary assessment rate and make recommendations in this regard.

The rate of assessment to be applicable during a fiscal period should be fixed by the Secretary on the basis of the recommendation of the committee, or from other available information, so as to assure such assessments are consistent with the act. Such rate should be fixed on a fair and equitable unit basis and in an amount designed to secure sufficient funds to cover the expenses which may be incurred during the fiscal period.

The Secretary should have the authority to increase the assessment rate, at any time during the fiscal period or thereafter, when necessary to obtain sufficient funds to cover the expenses of the committee applicable to such period. Since the act requires that the administrative expenses shall be paid by handlers, this is the only source of income to meet such expenses. The increased assessment rate should be applied to all oranges handled during the particular fiscal period so that the total payments by each handler during each fiscal period will be proportionate to the total volume of oranges handled during that period. Likewise, should the provisions of the order be suspended, during any portion or all of a fiscal period, it will be necessary to secure funds to cover expenses during such period. The committee will incur expenses each fiscal period even though the order may be inoperative during a particular period. To cease incurring any expenses when operations under the order were suspended for short periods would tend to increase rather than decrease total expenses as complete liquidation of the committee's affairs would be necessary to eliminate the payment of any salaries, rent, or utilities. Thereafter, when operations were resumed, it would be necessary to hire and train new personnel and new quarters would have to be obtained and outfitted. Such costs probably would exceed the expenses of maintaining an office and a minimum staff during a period of suspension. Moreover, the committee should be in a position to resume its functions fully at any time conditions are such that a period of suspension of operations should be terminated. Since expenses will not cease when the order is suspended or inoperative for a period, authorization should be provided to require the payment of assessments during such periods, as authorized by the act for the maintenance and functioning of the committee.

Prior to each marketing season, the committee should estimate committee expenditures and the volume of orange shipments for the forthcoming fiscal period, and based on these estimates an assessment rate, pursuant to the order, should be fixed prior to each fiscal period; so that, the committee may operate efficiently and conduct its affairs in a businesslike manner. However, the anticipated crop for any season is susceptible to reduction by adverse weather since a substantial part of the orange crop is still unharvested at the times of the year when hurricanes and freezing conditions occur. If the crop were reduced sufficiently to result in assessment income falling below program expenses, there would arise the necessity for handlers to pay an increased rate of assessment, in order to avoid or cover a budget deficit, and the order should so provide, as hereinafter set forth.

Funds received by the committee pursuant to the levying of assessments should be used solely for the purposes of the order. The committee should be required, as a matter of good business practice, to maintain books and records clearly reflecting the true, up-to-date operation of its affairs so that its administration could be subject to inspection at any time by the Secretary. All such fiscal and financial records should be audited at least once each year by a certified or registered public accountant. The committee should provide the Secretary with periodic reports at appropriate times, such as at the end of each month and each marketing season or at such other times as may be necessary, to

enable him to maintain appropriate supervision and control over the committee's activities and operations. Each member and each alternate, as well as employees, agents, or other persons working for or on behalf of the committee, should be required to account for all receipts and disbursements, funds, property, and records for which they are responsible, should the Secretary at any time ask for such an accounting. Also, whenever any person ceases to be a member or alternate of the committee, he should similarly be required to account for all funds, property, and other committee assets for which he is responsible and to deliver such funds, property, and other assets to the committee. Such person should also be required to execute assignments and such other instruments which may be appropriate to vest in the committee the right to all such funds and property and all claims vested in such person. This is a matter of good business practice.

Hearing testimony emphasized that it would be far less burdensome for handlers to contribute to a reserve fund during years of normal production than to be required to pay a sharply increased rate of assessment on a materially reduced crop. Except for a few exceptions, the same handlers ship oranges year after year. Thus, the same persons who contribute to the reserve fund would receive the benefit from it. The reserve fund should be established by using surpluses, including amounts budgeted for the reserve, arising from assessments levied at rates designed to yield a surplus during years of normal production. Although a reserve fund would be established gradually, attainment of the full amount should not be unduly delayed because the need for a financial reserve could occur during any season due to the unpredictable nature of the weather hazards involved.

The reserve fund could properly be used for several purposes. One important purpose would be its use in covering a deficit which occurred during a season when assessment income was insufficient to cover expenses, without encountering the problems associated with changing the assessment rate well after the season has begun. A reserve fund would also allow the setting of a relatively stable assessment rate from year to year, as such funds could be used to augment assessment income during periods of low production. In addition, at the beginning of each fiscal period operating costs are incurred but there is little income from assessments until shipments are being made in volume often 2 to 3 months later. Unless an operating reserve is available or handlers choose to leave their credits on deposit with the committee, funds to cover these costs must be borrowed, the costs of which are an expense which handlers must pay. Also, should the order be terminated at some future date, funds in the reserve would be available to pay liquidation costs rather than assessing handlers to secure the necessary funds. It is appropriate for all handlers who have benefited from the operation of the program to participate in the payment of the costs of liquidating the program upon its termination.

In order that such a reserve fund would not be accumulated beyond a reasonable amount, it should be limited to approximately one-half of the usual expenses of one fiscal period. It was shown that such an amount should be sufficient to cover any foreseeable need especially since some assessment income may be expected during any year. After the reserve fund has reached the proposed limit, to assure that the reserve does not exceed such approximate limit, the assessment rate could be set at a level calculated to result in a deficit and such deficit covered from the reserve.

Upon termination of the order, any funds in the reserve which are not used to defray the necessary expenses of liquidation should, to the extent practicable, be returned to the handlers from whom such funds were collected. However, should the order be terminated after many years of operation, and there have been several withdrawals and redeposits in the reserve, the precise equities of handlers may be difficult to ascertain and any requirement that there be a precise accounting of the remaining funds could involve such costs as to nearly equal the funds to be distributed. Therefore, it is desirable and necessary to permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances.

It is concluded, therefore, that the order should permit excess assessments to be placed in a reserve and used to cover all expenses authorized under the order and any necessary expenses of liquidation.

(c) The declared policy of the act is, among other things, to establish and maintain such orderly marketing conditions for oranges, among other commodities, as will tend to establish parity prices therefor, and be in the public interest. The regulation of Interior orange shipments, as authorized in the order, would provide a means of carrying out such policy.

In order to facilitate the operation of the program, the committee should each year, and prior to recommending regulation of orange shipments, prepare and adopt a marketing policy for the ensuing marketing season. A report on such policy should be submitted to the Secretary and made available to growers and handlers. The policy so established would serve to inform the Secretary and persons in the industry, in advance of the marketing of the crop, of the committee's plans for regulation and the basis therefor. Handlers and growers could then plan their operations in accordance therewith. The policy also would be useful to the committee and the Secretary when specific regulatory actions are being considered, since it would provide basic information necessary to the evaluation of such regulation.

In preparing its marketing policy, the committee should give consideration to the supply and demand factors, hereinafter set forth in the order, affecting marketing conditions for oranges since consideration of such factors is essential to the development of an economically sound and practical marketing policy.

The committee should be permitted to revise its marketing policy so as to give appropriate recognition to the latest known conditions when changes in such conditions since the beginning of the season are sufficiently marked to warrant modification of the marketing policy previously adopted. Such action is necessary if the marketing policy is to appropriately reflect the probable regulatory proposals of the committee and be of maximum benefit to all persons concerned. A report of each revised marketing policy should be submitted to the Secretary and made available to growers and handlers, together with the data considered by the committee in making the revision.

The committee should, as the local administrative agency under the order, be authorized to recommend regulations limiting the total quantity of oranges which may be shipped during weekly periods whenever it believes that such regulation will tend to effectuate the declared policy of the act. It is the key to successful operation of the order that the committee should have such responsibility. The Secretary should look to the committee, as the agency reflecting the thinking of the industry, for its views and recommendations for promoting more orderly marketing conditions in the interest of producers and consumers. In arriving at its recommendations for regulation, the committee should consider current information with respect to the factors affecting marketing conditions for oranges.

The record indicates that the authority for volume regulation is needed primarily to facilitate the establishment of a more orderly flow of fruit to market during critical periods when a market glut appears imminent. Therefore, authority for continuous regulation during each week of the season is not necessary and the authority of the order to regulate the volume of shipments should be limited to that which will permit a maximum of 12 weekly volume regulations in any fiscal period. Furthermore, provision for volume regulation on such limited basis should result in more judicious consideration of recommendations by the committee, and would encourage the committee to recommend such regulation only at such times and to the extent such are needed to effect orderly marketing. Also, limiting regulation to a number of weeks, as specified, would be desirable from the standpoint of permitting handlers ample opportunity to ship oranges during weeks when no regulations are prescribed. In view of the foregoing, it is concluded that authority for volume regulation as hereinafter set forth would be a reasonable means by which to effect orderly marketing and the order should so provide.

The demand for oranges varies depending upon the volume of available supplies, the quality of such supplies, the

availability of competing commodities, and other factors. It is not possible to anticipate precisely the quantities of oranges that may be sold advantageously during a particular week, because factors, such as changing weather conditions and varying supplies of competing fruits, cause market conditions to change quite rapidly. Consequently, when conditions change so that the then current regulation does not appear to the committee to be carrying out the declared policy of the act, the committee should have the authority to recommend an increase in the quantity of oranges which may be handled during the particular week or the suspension or termination of such regulations, whichever the situation warrants. The quantity of oranges, fixed by a regulation, to be shipped during a given week should not be decreased as handlers cannot be expected to reduce shipping schedules after being notified of the quantities of oranges that they may individually handle. Moreover, inequities could result if some handlers had already shipped their allotments prior to such a decrease.

The order should authorize the Secretary, on the basis of committee recommendations or other available information, to fix, or increase, the quantity of oranges that may be handled during a particular week to help producers to obtain favorable returns or to regulate the flow of oranges in the interest of producers and consumers through establishment of more orderly marketing conditions for oranges and to avoid unreasonable fluctuations in supplies and prices. The Secretary should not be precluded from using such information as he may have, and which may or may not be available to the committee for consideration, in issuing or amending such regulations as may be necessary to effectuate the declared policy of the act. Also, when the Secretary determines that any regulation does not tend to effectuate such policy, he should have authority to suspend or terminate the regulation.

The order should provide a method for apportioning equitably to handlers the total quantity of oranges that may be shipped under regulation during each week such regulations are in effect. The evidence of record shows that such equitable apportionment can be achieved by allocating to each applicant handler, on the basis of the handler's prorate base computed from such handler's past performance in the handling of oranges to reflect the same relationship his shipments bore to the shipments of all applicant handlers during the representative period. Such equitable apportionment may be achieved by allocating such quantity to applicant handlers on the basis of the relationship existing among such handlers in a representative previous period. The proportion of the total allotment given the individual handler should bear the same relationship to the total allotment as the volume of shipments of that handler bore to the total volume shipped by all applicant handlers in the representative period. This should be achieved by the application of each handler's prorate base (computed as hereinafter set forth to reflect such relationship) to the total allotment.

The order should authorize a method for computing the prorate bases for handlers. The method should be based on the total shipments made by the handler during a representative period. The Agricultural Marketing Agreement Act of 1937, as amended, specifies that the allotment of the amount which each handler may market shall be based upon amounts which each handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative or both. Record evidence clearly establishes that because of the large volume of oranges that are processed and the existence of cash buyers who purchase oranges throughout the season, it is not feasible to establish and operate an orange prorate program in the Interior District in Florida at the present time on the basis of amounts handlers have available for current shipments. The order should authorize that the calculation of the respective amounts which each handler may handle should be based upon shipments he made during a representative period. Such period should comprise the past 3 years and the elapsed weeks in the current season so as to include shipments made by all handlers. Three years is a long enough period for each handler's shipments to reflect his proportion of the total fresh orange shipments. A shorter period may not truly reflect such position, and a longer period would serve no useful purpose.

There are handlers each year who made no shipments in one or more seasons within the aforesaid 3-year-period; and there are a number of reasons why a handler would make no shipments during an entire season. It is appropriate however that the shipments made by a handler during the immediately preceding seasons, if any, of the 3 year period be used in the calculation of the prorate bases for handlers. For illustrative purposes only, let us assume that a handler made shipments during the 1966–67 season, made no shipments during the 1967–68 season, then made shipments during the 1968–69 season, and during the current season (1969–70). Only the shipments made during the 1968–69 season and the shipments made during the current season should be used in computing a prorate base for such handler. According to the evidence of record, the fact that the handler made no shipments for an entire season (1967–68) indicates that something drastic may have happened to his operations as a handler. For example, he may have suffered a serious illness, or experienced labor troubles, or a loss of packing facilities through fire. When such handler resumed the business of handling during the 1968–69 season, the shipments made during the 1966–67 season should not be used in the computation of his prorate base. Such shipments would not necessarily reflect the handler's present position in the industry. Furthermore, a handler may reenter the business on a very limited scale or through reorganization or refinancing or otherwise may reenter the business with a much larger volume than he formerly handled. In the operation of the order, only the shipments made within the immediately preceding seasons within the representative period may be used in the computation of prorate bases for handlers.

According to the record, it would be equitable to provide in the order for the computation of prorate bases for all handlers on the basis of prior shipments, including those made during certain weeks, as hereinafter discussed, of the current season. The representative period for all such shipments would thus become the three preceding seasons together with the designated elapsed portion of the current season.

The order should specify the method for computing two separate prorate bases for handlers—one for early and midseason type oranges and another for late type oranges. Such method for computing a prorate base for each handler of early and midseason type oranges should specify that the computation shall be made by adding together the handler's shipments of early and midseason type oranges made in the current season and his shipments of such oranges in the immediately preceding seasons, if any, within the representative period, in which he shipped such oranges and dividing the total by a divisor computed by adding together the number of elapsed weeks of the current season and 32 weeks for each of such immediately preceding seasons within the representative period in which the handler shipped such oranges. In connection with determining the prorate base for each handler of early and midseason type oranges, the term "representative period" should mean the three previous seasons together with the current season; the term "season" should mean the 32-week period beginning with the first full week in September; and the term "current season" should mean the period beginning with the first full week in September of the current fiscal period through the fourth full week preceding the week of regulation, except that when official shipping records of the handlers are available to the committee the term "current season" should extend through the third full week preceding the week of regulations. Such method for computing a prorate base for each handler of late type oranges should specify that the computation shall be made by adding together the handler's shipments of late type oranges in the current season and his shipments of such oranges in the immediately preceding seasons, if any, within the representative period, in which he shipped such oranges and dividing the total by a divisor computed by adding together the number of weeks elapsed in the current season and 21 weeks for each of such immediately preceding seasons within the representative period in which the handler shipped such oranges. In connection with determining the prorate base for each

handler of late type oranges, the term "representative period" should mean the three previous seasons together with the current season; the term "season" should mean the 21-week period beginning with the first full week in February and the term "current season" should mean the period beginning with the first full week in February of the current fiscal period through the fourth full week preceding the week of regulation, except that when official shipping records of all handlers are available to the committee the term "current season" shall extend through the third full week preceding the week of regulation.

Thirty-two weeks should be the portion of the fiscal period used in the divisor for computing the prorate for early and midseason oranges because such total weeks represent the period during which early and midseason oranges are likely to be shipped during any season. For the same reason, 21 weeks should be the portion of the fiscal period used in the divisor for computing the prorate base for late type oranges.

The official records of shipments of handlers are provided to the committee by the Federal-State Inspection Service. Shipments are tabulated by said service after the conclusion of the weekly shipping period without reference to the particular day of the week the shipments are in fact made. When the tabulation has been completed, the report is mailed to the committee. The evidence of record shows that, on the basis of past performance, the information concerning handler's shipments through the third full week preceding the week of regulation will generally be available when the committee meets to consider the need for regulation. It is not possible, at the present time, to define the term "current season" so as to include in each instance shipments of said third week as there have been occasions, and there may continue to be occasions, when the information concerning handlers shipments extends only through the fourth full week preceding the week of regulation.

It is important for the committee to have record of the latest shipments of handlers for inclusion in the calculation of the prorate bases. Often, the orange shipments made early in the season are of small volume due to lack of maturity, small size fruit, or for other reasons. Later shipments are often in larger amounts as more fruit becomes mature, size becomes larger, and the demand for such fruit may improve. Since the prorate base is to be computed each week when volume regulation is likely to be recommended, it would be equitable and in keeping with the desires of the industry, to include all the shipments of record that have been made during the current season. Thus, it would not be appropriate to require the computation in each instance to include only those shipments made up to and including the fourth full week prior to the week of regulation if information concerning shipments made 1 week later was available to the committee. Accordingly, the prorate base computation, and the terms "representative period", "season" and "current season" should be on the basis heretofore discussed and as hereinafter set forth.

The order should provide that each handler who desires to handle oranges during regulated periods should make application to the committee for a prorate base and allotments. Such application is necessary in order that the committee will have knowledge of the handlers for whom the prorate bases and allotments are to be computed. Each such application should be supported by such information and substantiated in such manner as the committee may require. In most instances, such information probably would include only a certification as to past shipments of oranges which can readily be checked against records of the Federal-State Inspection Service. However, the committee should have authority, with approval of the Secretary, to require such information as may be necessary in order to assure that the allotments computed for individual handlers are appropriate.

The committee should check the accuracy of the information submitted with the application for a prorate base and allotments and correct any error, omission, or inaccuracy in such information; and the person submitting the information should be given an opportunity to discuss with the committee the factors considered in making the correction. Only in this manner can the determination of correct allotments to individual handlers be assured.

Whenever the Secretary has fixed the total quantity of oranges that may be handled during any week, the order should provide a method for equitably allocating such quantity between early and midseason type oranges and late type oranges during the period when both types of oranges are being shipped. The allocation as between the two types is desirable and necessary due to the different dates when the two types of oranges reach maturity.

A method which is equitable and which should be used in the order is based on the following two factors: (1) The rate of decrease of the percentage of early and midseason type oranges in weekly shipments of oranges during that portion of the last three fiscal periods when shipments of both types of oranges were being made, and (2) the relative proportions of the two types of oranges shipped in the current fiscal period as reflected by shipments made during the first or second week preceding the week in which the committee meets to consider the need for regulation. The committee can obtain a preliminary report of handlers shipments from the Federal-State Inspection Service. It is likely that this report will include sufficient shipments made during the week immediately preceding the week in which the committee meets to provide the committee with a basis for a reasonable estimate of the respective proportions. However, there may be occasions when the information is insufficient or not available and the method should permit the committee to use the records of shipments made the second week prior to the week of the committee meeting. The respective proportions of shipments computed from shipment data of the last three seasons' overlapping periods would provide an index to which the weekly data may be applied to estimate probable proportions in subsequent weeks of the current season. An examination of the shipping data for the past several fiscal periods reveals a pattern of decline of early and midseason type orange shipments and an increase in late type orange shipments, once the shipment of late type oranges begins for a particular shipping season. Shipments of late type oranges do not begin during the same week of each shipping season because of maturity factors. But, once shipments begin, it is possible to predict, with a fair degree of precision, what proportion of each type of oranges will likely be shipped during the next week or the following week.

It is not practical to fix in the order the precise allocation of allotment of the two types of oranges for each week. In some seasons, shipments of late type oranges may be early, while in others they may be late. Also, it is desirable for such allocation to reflect the latest marketing trends. This should be accomplished by basing the allocation on shipments made during the last three seasons, rather than on the three seasons included in the initial calculation.

The quantity which may be handled during a specified week as fixed by the Secretary should be allocated between the two types in the manner heretofore discussed. However, during that portion of any fiscal period beginning with the first full week in January and ending with the first full week in May, the allocation to either type of oranges should be not less than 5 percent. This requirement makes available to all handlers the benefits of the overshipment, borrowing, and transfer provisions. Historically, the period beginning with the first full week in January and ending with the first full week in May is the period when both early and midseason type oranges and late type oranges might be shipped simultaneously. Such period begins sufficiently early in the fiscal period to include the shipment of early-maturing late type oranges and extends sufficiently late in the fiscal period to include the shipment of late-maturing early and midseason type oranges.

The committee should, at the beginning of each fiscal period, adopt rules and regulations with the approval of the Secretary for implementing the procedure for determining allocation of the fixed quantity between the respective types of oranges.

Such rules and regulations should set forth a formula which reflects the respective proportions of weekly shipments of each type of orange during the preceding three fiscal periods showing the weekly differences in the proportions of each type and the proportion of the two types as reflected by shipments during a specified week of the current season.

The method for computing an allotment for each handler should be specified in the order. An allotment should be

the quantity of oranges, without regard to type, which may be handled during any week by each handler who has applied for and received a prorate base, whenever the Secretary has fixed the total quantity of oranges that may be handled during such week. Such allotment should be based on two components: (1) Such handler's historical shipments of early and midseason type oranges, and (2) such handler's historical shipments of late type oranges. Each handler should be allowed to use his allotment to handle both types of oranges. Allowing a person to use his allotment to handle either type of oranges will add flexibility to the order, in that a handler can use his allotment to ship either type of oranges as he prefers. Without this provision, such handler may not be permitted to handle oranges during a particular week because his allotment was for the other type or he may handle such oranges only if he could borrow allotment. A person's allotment should be the sum total of two components. One of these components should be computed by multiplying the "fixed quantity" of early and midseason type oranges, by a percentage obtained by dividing each person's prorate base for early and midseason type oranges by the aggregate total of the prorate bases of all handlers so computed for early and midseason type oranges. Similarly, the other component should be computed by multiplying the "fixed quantity" of late type oranges by a percentage obtained by dividing such person's prorate base for late type oranges by the aggregate total of the prorate bases of all handlers so computed for late type oranges.

The order should provide that whenever volume regulation is likely to be recommended by the committee, it should compute a prorate base or bases for each person who has applied therefor and for an allotment. Also, if volume regulation is recommended and the Secretary fixes the total quantity of oranges that may be handled during a particular week, the committee should determine each handler's allotment. The committee should make these computations and provide reasonable notice to each such person of the allotment so computed for him.

The order should contain provisions permitting, to the extent practicable, flexibility in handler activities under the program regulations. Such flexibility can be provided by authorizing the overshipment and undershipment of allotments and allotment loans of transfers between handlers.

During any week for which the Secretary has fixed the total quantity of oranges which may be handled, any person who has received an allotment should be permitted to handle, in addition to the allotment available to him, an amount of oranges equal to 10 percent of such allotment or 500 boxes, whichever is greater. The Secretary, on the basis of recommendations of the committee or other available information should be authorized to increase the quantity from 500 boxes to 1,000 boxes. The order should provide for repayment of such overshipment in subsequent weeks. However, the order should permit such a person to make successive overshipments when regulations continue in effect for two or more successive weekly periods, until such overshipments total the amount authorized by the Secretary before such overshipments are charged against his allotments.

Under the overshipment procedure a handler may overship during each of the consecutive weeks of regulation until a total of such overshipments reaches 500 boxes or the amount authorized by the Secretary. This provision will provide needed flexibility in the order. It will also allow those handlers who have been issued small allotments an opportunity to make overshipments and take advantage of marketing opportunities that presently are not open to such handlers. Because of the total small quantity that is likely to be overshipped during a particular week under this provision, no adverse marketing conditions are expected to result from it. The subsequent weekly allotments issued to the handler should then be used to repay such overshipments. However, if the handler does not make any shipments of oranges during a weekly period for which an allotment was issued to him, the entire allotment should be used to offset, to the extent thereof, any permitted overshipment by such handler during the immediately preceding week or weeks of continuous regulation. But, if a person's allotment for such week is less than the excess shipments authorized by the Secretary, the remaining quantity should be deducted from succeeding weekly allotments issued to such person until such excess has been entirely offset. The authority permitting the Secretary to increase the amount of allowable overshipments from 500 boxes to not more than 1,000 boxes should afford handlers greater flexibility in the handling of oranges during periods of regulation. Such an increase should be made effective, insofar as possible, at the start of a fiscal period and continue throughout the season. In any event, if the situation warrants such a change at any time, such change should be made promptly and the order should permit such action. In addition to providing authority for the Secretary to increase the total quantity that may be overshipped, the order should contain authority for him to decrease such amount but not below 500 boxes. Suppose, for example, that the amount was increased from 500 boxes to 1,000 boxes. After a period of operation, if the committee determines that 1,000 boxes are too large an amount to be permitted for overshipment, the Secretary, on the basis of a committee recommendation or other available information, should be authorized to prescribe such lesser amount as he deems appropriate in the circumstances, as for example, 750 boxes or the original 500 boxes, instead of the 1,000 boxes.

The order should provide that all requirements to undership allotment because of previous overshipments shall be canceled any time there is no regulation in effect. A period of no regulation would indicate that the burdensome situation which called for a limitation of shipments had passed and now handlers should be permitted to ship freely.

The limitations on the amount of overshipment allowed is necessary to assure that the quantity fixed by the Secretary for the particular week is not exceeded by more than a reasonable amount.

Similarly, provision should be made to permit a handler who has handled a quantity of oranges less than the total allotment available to him for a particular week to handle during the following week, if volume regulation is in effect, an additional quantity of oranges equal to such undershipment but not exceeding 25 percent of the allotment available to such handler during the week of undershipment. This provision for, in effect, carrying forward allotment that has not been used is desirable and is needed because at times weather or other conditions may not permit a handler to ship all of his allotment. The limitation on the amount of carryover allowed is also desirable as it will tend to cause each handler to endeavor to use the allotment or lend or transfer it to others. Shipment of the quantity fixed by the Secretary should be encouraged since otherwise marketing opportunity may be lost. The order should, therefore, provide that this percentage may be changed (i.e. increased or decreased) by the committee with the approval of the Secretary, so that an adjustment may be made if necessary to improve order operations or be in response to the then existing conditions as may warrant such action.

Provision should be made for the lending, borrowing, and transferring of allotment. This would enable handlers who have allotment in excess of their needs and those who have less to adjust their operations accordingly. The committee must, of course, have knowledge of all allotment loans and transfers so it can determine whether handlers are in compliance with the order provisions. All loan and transfer transactions should, therefore, be subject to the prior approval of the committee so as to assure that such transactions are made in accordance with the provisions of the order. The committee should be authorized to assist handlers in the arrangement of allotment loans and transfers. Some handlers may at times have excess allotment but do not know who desires additional allotment.

Each loan agreement should provide for repayment and the loan should be repaid as agreed except for loans falling due during any week when no volume regulation is in effect. In the latter situation the loan should be deemed canceled the same as when a handler's obligation to repay an overshipment falls in a week when no regulation is in effect for the reasons heretofore discussed. In any event the lending handler would be free to handle any amount desired without the repayment of the borrowed allotment.

(d) The order should also contain authority for issuance of such volume

regulations in above-parity price situations as will tend to establish and maintain such orderly marketing conditions for oranges as will provide, in the interests of producers and consumers, an orderly flow thereof to market throughout the normal marketing season and avoid unreasonable fluctuations in supplies and prices. The need for such authority is illustrated by the fluctuating price and supply factors. The issuance of volume regulations during periods of above-parity prices, subject to the limitations on total weeks allowable, could well serve the same objective of stabilizing prices and supplies available to consumers as regulations issued during periods of below-parity prices. Such regulations would make it possible to extend the supply over a longer period during seasons of short supply and thus preclude the ill effect of the occurrence of even short periods of oversupply to the market.

(e) The order should provide for the exemption from its provisions of such handling of oranges which it is not necessary to regulate in order to effectuate the declared purposes of the act. Insofar as practicable, such exempted handling should be stated explicitly in the order so that handlers will have knowledge of such handling as is not subject to all of the provisions of the program.

Oranges which are handled by parcel post, to a charitable institution for consumption by the institutions, or to relief agencies for distribution by them have little influence on the level of prices for oranges sold for fresh consumption in the domestic markets. Also, oranges which are shipped for commercial processing into canned or frozen products or a beverage base are marketed in a manner distinctly dissimiliar to the marketing of fresh oranges. Hence, oranges handled for such purposes should be exempted from compliance with the regulations pursuant to or under the order such as the requirements for payment of assessments and for inspection and certification of orange shipments.

In addition, provision should be made to authorize the committee, with the approval of the Secretary, to exempt the handling of oranges, in such specified small quantities, or types of shipments, or shipments made for such specified purposes as it is not necessary to regulate in order to effectuate the declared purposes of the act. Such authorization is necessary to enable the exemption of such handling as may be found not feasible administratively to regulate or which does not materially effect marketing conditions in commercial channels. It would be impracticable to set forth these exemptions in detail in the order, because to do so could destroy the flexibility which is necessary to reflect the differing conditions affecting the handling of oranges. Therefore, it should be discretionary with the committee, subject to the approval of the Secretary, whether small quantities or types of shipments, or shipments made for specified purposes, should also be exempted from regulation, inspection, and assessments, and the period during which such exemptions should be in effect.

The allowance of such exemptions may be found to result in avenues of escape from regulation which, if they are found to exist, should be closed. Hence, the committee should be authorized to prescribe, with the approval of the Secretary, such rules, regulations, including procedures and safeguards as are necessary to prevent oranges handled for any of the exempted purposes from entering into regulated channels of trade other than for such purposes and thereby tend to defeat the objective of the program. For example, should it be found that a portion of the oranges moving to commercial processors was being diverted to fresh fruit markets, it may be necessary for the committee to establish procedures to govern the movement of fruit for processing even though such oranges may not have to comply with other requirements of, or pursuant to, the order. These procedures might include such requirements as filing applications for authorization to move oranges in exempted channels and certification by the receiver that such oranges would be used only for the purpose indicated, if it is found that such requirements are necessary to the effective enforcement of the program regulations.

(f) Provision should be made in the order requiring all oranges handled, whenever regulations are effective, to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation. The requirement of inspection and certification of all oranges subject to regulation is needed to provide evidence of compliance with the regulations in effect. Handlers are familiar with the Federal and Federal-State Inspection Services and with the procedures for inspection and certification of oranges in the production area. All oranges are required under Florida laws and by Order No. 905 to be inspected by the Federal-State Inspection Service. The record indicates that no additional cost would accrue by reason of the inspection requirement in the order as only the one inspection would be performed to meet the requirements of all such programs. After the first handler of a lot of oranges has had such lot inspected and certified as meeting the applicable regulations, subsequent handlers would be permitted to handle such fruit without incurring the expense of another inspection. However, should it develop that the first handler had not complied with such inspection requirements, this should not excuse the subsequent handler or handlers from complying with the inspection and certification requirements.

(g) The committee should have the authority to require that handlers submit to the committee such reports and information as may be needed to perform such agency's functions under the order and to maintain for prescribed periods of time, such records as may be necessary to verify reports pursuant to this section. It is anticipated that much of the information needed by the committee in order to carry out its functions can be obtained from copies of inspection certificates. However, prompt reports of over- and undershipment of allotment will be necessary in order for the committee to advise the handlers of the allotment each has available for use during a particular week. Under a program of this nature, it would be practically impossible to anticipate every type of report or kind of information which the committee may find necessary in the conduct of its operations under the order. Therefore, the committee should have the authority to request, with the approval of the Secretary, reports and information, as needed and at such times and in such manner as may be necessary.

The Secretary should retain the right to approve, change, or rescind any requests by the committee for information in order to protect handlers from unreasonable requests for reports.

Each handler should be required to maintain records pertaining to the handling of oranges for such period as the committee with the approval of the Secretary may specify. This requirement is necessary so that the reports submitted to the committee by handlers can be verified. Including this requirement in the order will make it clear to all handlers that appropriate records must be maintained.

(h) Except as provided in the order, no handler should be permitted to handle oranges, the handling of which is prohibited pursuant to the order; and no handler should be permitted to handle oranges except in conformity with the order. If the program is to operate effectively, compliance therewith is essential; and, hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

(i) The provisions of §§ 914.57 through 914.65, as hereinafter set forth, are similar to those which are included in other marketing agreements and orders now operating. The provisions of §§ 914.66 through 914.68, as hereinafter set forth, also are included in other marketing agreements now operating. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the recommended marketing agreement and order and to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision.

Those provisions which are applicable to both the proposed marketing agreement and the proposed order, identified by section number and heading, are as follows: § 914.57 *Right of the Secretary;* § 914.58 *Effective time;* § 914.59 *Termination;* § 914.60 *Proceedings after termination;* § 914.61 *Duration of immunities;* § 914.62 *Agents;* § 914.63 *Derogation;* § 914.64 *Personal liability;* and § 914.65 *Separability.*

Those provisions which are applicable to the proposed marketing agreement

only, identified by section number and heading, are as follows: § 914.66 *Counterparts;* § 914.67 *Additional parties;* and § 914.68 *Order with marketing agreement.*

Rulings on proposed findings and conclusions. September 1, 1969, was initially fixed as the latest date for interested parties to file proposed findings and conclusions, and written arguments or briefs, with respect to the facts presented in evidence at the hearing. On August 8, 1969, the Hearing Examiner filed an announcement extending such time until September 15, 1969, and on September 9, 1969, he further extended such time until October 1, 1969.

A brief was filed on behalf of Consolidated Financial Corp., and Vaughen-Griffin Packing Co. by Charles E. Davis of Fishback, Davis, Dominick, and Salfi, 170 East Washington Street, Orlando, Fla., attorneys for opponents.

The brief touches on many points, including matters relating to: (1) notice of the hearing; (2) objections to the Hearing Examiner's rulings; (3) a suggested evaluation of the evidence, (4) a summary of the evidence of many witnesses and (5) a summary of exhibits.

Opponents objected in their brief to rulings of the Hearing Examiner not admitting in evidence certain exhibits proffered by them at the hearing and requested that such rulings be overruled. Except as otherwise indicated herein such requests are denied.

These exhibits generally were tendered by the opponents without testimony to support their authenticity and relevance. This procedure presented difficulties noted by the Hearing Examiner at various places in the record. For example, Exhibit No. 11 for identification clearly was not admissible per se without supporting testimony and shows on its face that it is incomprehensible without explanation. Other exhibits which were refused because of failure to show authenticity per se but were never retendered through a witness include Exhibits No. 16 and No. 17 for identification. Other proffered exhibits related to periods or subject matter so remote as to be of little assistance in the resolution of the questions presented at the hearing, particularly in the absence of a showing of the connection, if any, between such exhibits and the periods and issues under consideration at the hearing. Still other proffered exhibits, not sufficiently authenticated, dealt with orange shipments by handlers which information became generally available for the record by the Hearing Examiner's ruling that the best evidence was contained in the public records of the Federal-State Inspection Service, of which official notice was taken by the Hearing Examiner with the full acquiescence of counsel for the opponents.

Opponents also offered an exhibit entitled "Interior Grapefruit Weekly Shipments Interstate Only, for the Seasons 1963–64, 1964–65, and 1965–66 for the following handlers: Lake Hamilton Cooperative, Inc.; Lakeland Packing Co.; Lake Region Packing Association; Minute Maid Groves Corp.; Keen Fruit Corp.; Blue Goose Growers, Inc." This proffer was rejected by the Hearing Examiner. This same exhibit had previously been received in evidence, as Exhibit P. 19, in a proceeding under section 608c(15)(A) of the act entitled In re Vaughn-Griffin Packing Co., AMA Docket No. F&V 913–1, and was a part of the record certified to the District Court and later to the Court of Appeals on statutory review of the ruling in that proceeding. It had also been received as Exhibit No. 11 in an amendment proceeding involving the Interior Grapefruit marketing order, Order No. 913, Docket No. AO–353–A1–RO–1. In the circumstances here presented, the exhibit is considered as part of this record and for that purpose official notice is taken thereof, it being part of the official public records of the Department. The content of the exhibit, however, is such that it does not alter the findings and conclusions reached elsewhere in this decision.

At the hearing, and on brief, opponents objected to the procedure whereby handler member nominations are weighted on the basis of the volume of fruit handled by the respective handlers. This is the procedure for nominating handlers to the Shippers Advisory Committee under Order No. 905 and under the presently proposed order Interior District members of that committee would become the handler members of the administrative committee under the proposed order. In this connection, these opponents sought to introduce exhibits showing the certified vote in 1968 for present members of the Shippers Advisory Committee under Order No. 905 and the certified nomination vote for proposed members of that committee to take office August 1, 1969. These exhibits were refused on the grounds that the names of the existing committeemen were a matter of record in the proceeding and that, as of the date of the hearing, the names of nominees would not necessarily represent the Shippers Advisory Committee to be selected by the Secretary under Order No. 905 for the term of office beginning August 1, 1969. The rejection of these exhibits by the Hearing Examiner is affirmed.

It seems evident that under Order No. 905, and under the Interior Grapefruit Order (Order No. 913), as well as under the order here being proposed that the volume of handling will be an important factor in the nomination of handler (but not producer) members of the administrative committees. There is nothing inherently unlawful in such an arrangement and if this results in some handlers having representatives on the committee from year to year, this likewise is not unlawful.

It is not unlawful, arbitrary or capricious to give proper weight, in the selection by the industry of nominees for handler members, to the volume of fruit handled by the voting handlers. There is nothing in the Constitution or in the act which would compel the selection of committee members on a one-person, one-vote basis, as contended by opponents. Section 8c(7)(C) of the act does not restrict the Secretary in this fashion and, in fact, gives him wide discretion in the nature of the agency or agencies to be employed by him to administer an order and how that agency will be established. It is also to be noted that the act (section 8c (8) and (9)) expressly recognizes that the volume of the commodity handled is to be a controlling factor on the important question of whether a marketing order is to be issued and made effective with or without a marketing agreement.

Opponents' contention that under Order No. 905 cooperatives may bloc vote their individual members in making nominations for membership on the Growers Administrative Committee and Shippers Advisory Committee, is inaccurate. There is no such provision in Order No. 905 for bloc voting by cooperatives. If the cooperative is a handler, its nomination for membership on the Shippers Advisory Committee (but that committee only) is weighted on the basis of the volume of fruit handled the same as any other handler.

Opponents contention that the order will unlawfully discriminate in favor of handlers with large volumes of fruit likewise is without merit. All handlers, large or small, will be subject to regulation based upon their handlings of fruit in the representative period as authorized by section 8c(6)(C) of the act.

Opponents contend that they were denied opportunity by the Hearing Examiner for certain cross-examination and that this constituted prejudicial error. This contention is overruled. Under the Administrative Procedure Act and the aforesaid rules of practice of the Department, cross-examination is permitted "to the extent required for a full and true disclosure of the facts." A review of the record discloses that in all material respects the Hearing Examiner permitted adequate cross-examination with respect to the substantive facts pertinent to the hearing within the scope of this standard for cross-examination. It is not uncommon in quasi-legislative hearings of this kind, or in congressional hearings, for witnesses to testify from prepared statements. In making such a statement, the witness thereby represents that it is his testimony and he may be subject to cross-examination, where appropriate, with respect to the substantive content of his testimony. In the present proceeding, the Hearing Examiner clearly permitted such cross-examination and his refusal to permit examination of witnesses with respect to whether other persons assisted in the preparation of such statements was not prejudicial error.

Opponents also contend that there was insufficient notice of the public hearing held in this matter. This contention is without merit and is overruled. All interested persons, including the opponents, were provided lawful notice of the public hearing in this proceeding as required by the act, the rules of practice (7 CFR 900.1 et seq.), and the Administrative Procedure Act. Complete notice of this hearing was duly published in the FEDERAL REGISTER on June 3, 1969, having been duly filed with the Division of the

Federal Register on June 2, 1969, in accordance with FEDERAL REGISTER regulations (Exh. 2–A, 34 F.R. 8705). This constituted legal notice of hearing as provided by law. Moreover, on June 2, 1969, a press release was issued to news media in the area proposed to be subject to regulation (Exh. No. 4). In addition, as soon as practicable following reprinting of the hearing notice, reprints were mailed to all persons known to be interested (Exh. No. 5).

Prior to the hearing, a request was submitted by opponents for the issuance of subpoenas addressed to numerous persons for the production of records and for their personal appearance of the desired witnesses.

The Agricultural Marketing Agreement Act of 1937, as amended, and the relevant rules of practice and procedure issued thereunder pertaining to the promulgation and amendment of marketing agreements and orders, do not provide for the issuance of such subpoenas. The request, therefore, was properly denied and Opponents' Exhibit No. 1 was properly refused. It should be noted in this connection that these proceedings are rule-making proceedings and not quasi-judicial in nature. There is no denial of due process in such circumstances.

Opponents' objections to the proposed order on constitutional grounds also are overruled. The act and orders authorized by it have been found by the courts to be fully constitutional.

Each point included in the brief was carefully considered, along with the evidence in the record, in making the findings and reaching the conclusions hereinbefore set forth. To the extent that any suggested findings and conclusions contained in the brief are inconsistent with the findings and conclusions contained herein, the request to make such findings or reach such conclusions are denied on the basis of the facts found and stated in connection with the decision.

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

(1) The marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said marketing agreement and order regulate the handling of oranges, grown in the Interior District in Florida, in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, the marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of oranges grown in the Interior District in Florida which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of oranges grown in the Interior District, as defined in said marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs or affects such commerce.

Recommended marketing agreement and order. The following marketing agreement and order [1] are recommended as the detailed means by which the foregoing conclusions may be carried out.

DEFINITIONS

§ 914.1 **Secretary.**

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretobefore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 914.2 **Act.**

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, (secs. 1–19, 48 Stat., 31, as amended; 7 U.S.C. 601–674).

§ 914.3 **Person.**

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 914.4 **Oranges.**

"Oranges" means all varieties of Citrus sinensis, Osbeck, grown in the Interior District of Florida but not oranges of the so-called kid glove type such as Temple, Murcott, Honey and King oranges.

§ 914.5 **Early and midseason type oranges.**

"Early and midseason type oranges" means all oranges except late type oranges.

§ 914.6 **Late type oranges.**

"Late type oranges" means Valencia oranges, and Lue Gim Gong and similar late maturing oranges of the Valencia type.

§ 914.7 **Producer.**

"Producer" is synonymous with "grower" and means any person who is engaged in the production for market of oranges grown in the Interior District in Florida and who has proprietary interest in the oranges so produced.

§ 914.8 **Handler or shipper.**

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier transporting oranges owned by another person) who, as owner, agent, or otherwise, handles oranges in fresh form, or causes oranges to be so handled.

§ 914.9 **Handle or ship.**

"Handle" or "ship" means to sell or transport oranges, or in any other way to place oranges in the current of the commerce between the regulation area and any point outside thereof in the 48 contiguous States, or the District of Columbia, of the United States, Canada, or Mexico, or cause oranges to be sold, transported, or placed in such commerce.

§ 914.10 **Standard packed box.**

"Standard packed box" means a unit of measure equivalent to one and three-fifths (1⅗) U.S. bushels of oranges, whether in bulk or in any container.

§ 914.11 **Week or full week.**

"Week" or "full week" means a 7-day period beginning with Monday.

§ 914.12 **Fiscal period.**

"Fiscal period" means the period of time from August 1 of any year until July 31 of the following year, both dates inclusive: *Provided*, That the initial fiscal period shall begin on the effective date of this part.

§ 914.13 **Committee.**

"Committee" means the Interior Orange Marketing Committee.

§ 914.14 **Regulation area.**

"Regulation area" means that portion of the State of Florida, which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico.

§ 914.15 **Interior district or district.**

"Interior district" or "district" means the production area, comprised of the following areas in the State of Florida: The counties of Hillsborough, Pinellas, Manatee, Citrus, Sumter, Hernando, Pasco, Lake, Orange, Osceola, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, Suwannee, Polk, Hardee, Sarasota, Monroe, Highlands, Okeechobee, Glades, De Soto, Charlotte, Lee, Hendry, Collier, Dade, Broward, and County Commissioner's Districts One, Two, and Three of Volusia County and shall include the portions of the counties of Brevard, Indian River, Martin, and Palm Beach except as particularly described as follows: Beginning at a point on the shore of the Atlantic Ocean where the line between Flagler and Volusia Counties intersects said shore, thence follow the line between said two counties to the southwest corner of sec. 23, T. 14 S., R. 31 E.; thence continue south to the southwest corner of sec. 35, T. 14 S., R. 31 E.; thence east to the northwest corner of T. 18 S., R. 32 E.; thence south to the southwest corner of T. 17 S., R. 32 E.; thence east to the northwest corner of T. 18 S., R. 33 E.; thence south to the St. Johns River; thence along the main channel of the St. Johns River and through Lake Harney, Lake Poinsett, Lake Winder, Lake Washington, Sawgrass Lake, and Lake Hellen Blazes to the range line between Rs. 35 E. and 36 E.; thence south to the south line of Brevard County; thence east to the line between Rs. 36 E. and 37 E.; thence south to the southwest corner of St. Lucie County; thence east to the line

[1] The provisions identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed order.

between Rs. 39 E. and 40 E.; thence south to the south line of Martin County, thence east to the line between Rs. 40 E. and 41 E.; thence south to the West Palm Beach Canal (also known as the Okeechobee Canal); thence follow said canal eastward to the mouth thereof; thence east to the shore of the Atlantic Ocean; thence northerly along the shore of the Atlantic Ocean to the point of beginning.

§ 914.20 Establishment and membership.

There is hereby established an Interior Orange Marketing Committee. The members and alternate members of such committee shall be those members and alternate members of the Growers Administrative Committee and Shippers Advisory Committee selected under Order No. 905 (Part 905 of this chapter), whose residence and principal place of business are in the Interior district: *Provide*, That in the event the membership of such committees is not selected as aforesaid, the Secretary may select the members and alternate members of the Interior Orange Marketing Committee until such time as a method for the selection of the membership of such committee is prescribed in the provisions of this part.

§ 914.21 Inability of members to serve.

An alternate for a member of the committee shall act in the place and stead of such member in his absence, or in the event of his removal, resignation, disqualification, or death, and until a successor for his unexpired term has been selected.

§ 914.22 Powers of the Interior Orange Marketing Committee.

The committee, in addition to the power to administer the terms and provisions of this part, as provided in this part, shall have the power (a) to make, only to the extent specifically permitted by the provisions contained in this part, administrative rules and regulations; (b) to receive, investigate, and report to the Secretary complaints of violations of this part; and (c) to recommend to the Secretary amendments to this part.

§ 914.23 Duties of the Interior Orange Marketing Committee.

It shall be the duty of the committee: (a) To select a chairman from its membership, and to select such other officers and adopt such rules and regulations for the conduct of its business as it may deem advisable; (b) to keep minutes, books, and records which will clearly reflect all of its acts and transactions, which minutes, books, and records shall at all times be subject to the examination of the Secretary; (c) to act as intermediary between the Secretary and producers and handlers; (d) to furnish the Secretary with such available information as he may request; (e) to appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees; (f) to cause its books to be audited by one or more certified or registered public accountants at least once for each fiscal period, and at such other times as it deems necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports; (g) to prepare and issue a monthly statement of financial operations of the committee; and (h) to provide an adequate system for determining the total crop of oranges and to make such determinations as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part.

§ 914.24 Compensation and expenses of committee members.

The members and alternate members of the committee shall serve without compensation but may be reimbursed for expenses necessarily incurred by them in attending committee meetings and in the performance of their duties under this part.

§ 914.25 Procedure of committee.

(a) Except as provided in paragraphs (b) and (c) of this section, a majority of the members shall constitute a quorum and any decision or action shall require concurrence by a majority of the committee.

(b) For any recommendation for regulation to be valid, not less than 60 percent of the committee shall concur, except as provided in paragraph (c) of this section.

(c) Not less than 80 percent of the committee shall concur to make a recommendation for regulation for any week following 3 or more weeks of continuous regulations. The requirement of this paragraph shall not apply to recommendations to amend an existing regulation.

(d) The vote of each member cast for or against any recommendation made pursuant to this part, shall be duly recorded. Each member must vote in person.

(e) In the event any member of the committee and his alternate are not present at any meeting of the committee, any alternate present who is not acting for any other member may be designated by the chairman of the committee to serve in the place and stead of the absent member.

(f) The committee shall give to the Secretary the same notice of meetings of the committee as is given to the members thereof.

§ 914.26 Funds.

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes herein specified and shall be accounted for in the manner provided in this part.

(b) The Secretary may, at any time, require the committee and is members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee such member shall account for all receipts and disbursements and deliver all property and funds, together with all books and records in his possession, to his successor in office, and shall execute such assignment and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds and claims vested in such member pursuant to this part.

EXPENSES AND ASSESSMENTS

§ 914.30 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as provided in § 914.31.

§ 914.31 Assessments.

(a) Each handler who first handles oranges shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by such committee for its maintenance and functioning during each fiscal period. Each such handler's share of such expenses shall be that proportion thereof which the total quantity of oranges shipped by such handler as the first handler thereof during the applicable fiscal period is of the total quantity of oranges so shipped by all handlers during the same fiscal period. The Secretary shall fix the rate of assessment per standard packed box of fruit to be paid by each such handler. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) At any time during or after the fiscal period, the Secretary may increase the rate of assessment so that the sum of money collected pursuant to the provisions of this section shall be adequate to cover the said expenses. Such increase shall be applicable to all fruit shipped during the given fiscal period. In order to provide funds to carry out the functions of the committee handlers may make advance payment of assessments.

§ 914.32 Handler's accounts.

If, at the end of a fiscal period the assessments collected are in excess of expenses incurred, the committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not exceed approximately one-half one fiscal period's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period unless he demands payment of the sum due him, in which case such sum shall be paid to him. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the

extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

§ 914.40 Marketing policy.

(a) Prior to the first recommendation for regulation during any marketing season, the committee shall submit to the Secretary its marketing policy for such season. Such marketing policy shall contain the following information: (1) The estimated available crop of oranges, including estimated quality; (2) the estimated utilization of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments of oranges during the ensuing season; (4) the available supplies of competitive deciduous fruits in all producing areas of the United States; (5) level and trend in consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of oranges. In the event that it becomes advisable substantially to modify such marketing policy, the committee shall submit to the Secretary a revised marketing policy.

(b) All meetings of the committee held for the purpose of formulating such marketing policies shall be open to growers and handlers.

(c) The committee shall transmit a copy of each marketing policy report and each revision thereof to the Secretary and to each grower and handler who files a request therefor. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

§ 914.41 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding week: *Provided*, That such volume regulations shall not be recommended for more than an aggregate of 12 weeks during any fiscal period.

(b) In making its recommendations the committee shall give due consideration to the following factors:

(1) Market prices for oranges;

(2) Supply of oranges on track at, and en route to, the principal markets;

(3) Supply, maturity, and condition of oranges in the production area;

(4) Market prices and supplies of citrus fruit from competitive producing areas, and supplies of other competitive fruits;

(5) Trend and level of consumer income; and

(6) Other relevant factors.

(c) At any time during a week for which the Secretary, pursuant to § 914.42, has fixed the quantity of oranges which may be handled, the committee may recommend to the Secretary that such quantity be increased for such week. Each such recommendation, together with the committee's reason for such recommendation, shall be submitted promptly to the Secretary.

§ 914.42 Issuance of volume regulations.

Whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of oranges which may be handled during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided*, That such regulations during each fiscal period shall not in the aggregate exceed 12 weeks. The quantity so fixed for any week may be increased by the Secretary at any time during such week. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of oranges is in excess of the parity price specified therefor in the act. The Secretary may upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation at any time.

§ 914.43 Prorate bases.

(a) Each person who desires to handle oranges shall submit to the committee, at such time and in such manner as may be designated by the committee and upon forms made available by it, a written application for a prorate base or bases and for allotments as provided in this section and §§ 914.44 and 914.45.

(b) Such application shall be substantiated in such manner and shall be supported by such information as the committee may require.

(c) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction.

(d) Each week during the marketing season when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base or bases for each handler who has made application in accordance with the provisions of this section.

(e) The prorate base for each handler of early and midseason type oranges shall be computed as follows: Add together the handler's shipments of early and midseason type oranges in the current season and his shipments of such oranges in the immediately preceding seasons, if any, within the representative period, in which he shipped such oranges and divide the total by a divisor computed by adding together the number of elapsed weeks of the current season and 32 weeks for each of such immediately preceding seasons within the representative period in which the handler shipped such oranges. For purposes of this paragraph, "representative period" means the three previous seasons together with the current season; the term "season" means the 32-week period beginning with the first full week in September; and the term "current season" means the period beginning with the first full week in September of the current fiscal period through the fourth full week preceding the week of regulation: *Provided*, That when official shipping records of all handlers are available to the committee the term "current season" shall extend through the third full week preceding the week of regulations.

(f) The prorate base for each handler of late type oranges shall be computed as follows: Add together the handler's shipments of late type oranges in the current season and his shipments of such oranges in the immediately preceding seasons, if any, within the representative period, in which he shipped such oranges and divide the total by a divisor computed by adding together the number of weeks elapsed in the current season and 21 weeks for each of such immediately preceding seasons within the representative period in which the handler shipped such oranges. For purposes of this paragraph "representative period" means the three previous seasons together with the current season; the term "season" means the 21-week period beginning with the first full week in February; and the term "current season" means the period beginning with the first full week in February of the current fiscal period through the fourth full week preceding the week of regulation: *Provided*, That when official shipping records of all handlers are available to the committee the term "current season" shall extend through the third full week preceding the week of regulation.

§ 914.44 Allotments.

(a) Whenever the Secretary has fixed the quantity of oranges which may be handled during any week, the committee shall calculate the quantity of oranges which may be handled during such week by each person who has applied for and received a prorate base.

(b) The allotment of each person shall be computed as follows:

(1) The quantity of early and midseason oranges to be allocated for the week as determined pursuant to § 914.45 shall be multiplied by a percentage obtained by dividing the prorate base of the handler computer pursuant to § 914.43 (e) by the aggregate total of the prorate bases of all handlers so computed.

(2) The quantity of late type oranges to be allocated for the week as determined pursuant to § 914.45 shall be multiplied by a percentage obtained by dividing the prorate base of the handler computed pursuant to § 914.43(f) by the aggregate total of the prorate bases of all handlers so computed.

(3) The total of the quantities computed for the handler in accordance with subparagraphs (1) and (2) of this paragraph shall be the allotment of such handler. Such allotment may be used to ship oranges during the week without regard to type. The committee shall give reasonable notice to each person of the allotment computed for him pursuant to this section.

§ 914.45 Allocating fixed quantity.

In recognition of the differences in maturity as between early and midseason

type oranges and late type oranges the total quantity of oranges fixed by the Secretary which may be handled during any week shall be allocated between the two types of oranges.

(a) Such allocation shall reflect the respective average proportions of both types of oranges that were shipped during a specified week in the previous three fiscal periods, as prescribed in rules and regulations, approved by the Secretary, formulated in accordance with paragraph (b) of this section, subject to adjustment to reflect as nearly as may be the respective proportions as estimated by the committee of the two types of oranges shipped by all handlers in the second week preceding the one for which the committee recommends the Secretary fix such total quantity of oranges: *Provided*, That data from the third preceding week shall be used for such adjustment if sufficient data is not available from the second week: *And provided further*, That during that portion of a fiscal period that begins with the first full week in January and ends with the first full week in May, the allocation to either type of oranges during any week thereof shall be not less than 5 percent of the total quantity of oranges fixed by the Secretary for such week.

(b) Such rules and regulations shall be based on the weekly shipments of, and shall set forth the average percentage of, the total shipments of each type of oranges, in the previous three fiscal periods, and shall describe the manner in which the shipment data of a specified week in the current season shall be applied to arrive at an appropriate division of allotment between the two types of oranges.

§ 914.46 Overshipment.

During any week for which the Secretary has fixed the total quantity of oranges which may be handled, any person who has received an allotment may handle, in addition to the total allotment available to him, an amount of oranges equivalent to 10 percent of such allotment or 500 boxes, whichever is greater: *Provided*, That the Secretary, on the basis of a recommendation of the committee or other available information, may set such amount at any figure not less than 500 boxes and not more than 1,000 boxes. Handlers may overship (a) during such week the entire 500 boxes or other amount not in excess of 1,000 boxes as may be set by the Secretary, or (b) during two or more consecutive weekly periods when regulations are in effect, any portion of such 500 boxes or other amount set by the Secretary until the accumulated overshipments reach the applicable maximum number of boxes permitted to be overshipped. The quantity of oranges so overshipped when regulations are in effect shall be deducted from such person's allotment for the week following the one in which the total permitted overshipment is reached or for the week in which such person makes no shipments of oranges. If such person's allotment for such week is an amount less than the excess shipments permitted under this section, the remaining quantity shall be deducted from succeeding weekly allotments issued to such person until such excess has been entirely offset: *Provided*, That any time there is no volume regulation in effect it shall be deemed to cancel all requirements to undership allotment because of previous overshipments pursuant to this part.

§ 914.47 Undershipments.

If any person handles during any week a quantity of oranges, covered by a regulation issued pursuant to § 914.42, in an amount less than the total allotment available to him for such week, he may handle during the next succeeding week a quantity of oranges, in addition to that permitted by the allotment available to him for such week, equivalent to such undershipment or 25 percent of the allotment issued to him for the week during which the undershipment was made, whichever is the lesser: *Provided*, That the committee, with the approval of the Secretary, may increase or decrease such percentage.

§ 914.48 Allotment loans or transfers.

(a) A person to whom allotments have been issued may lend or transfer all or part of such allotments to other persons to whom allotments have also been issued. Each party to any such loan or transfer agreement shall, prior to completion of the agreement, notify the committee of the proposed loan or transfer and the applicable date of repayment, if any, and obtain the committee's approval of the agreement.

(b) The committee may act on behalf of persons desiring to arrange allotment loans or participate in the transfer of allotment. In each case the committee shall confirm all such transactions immediately after the completion thereof by memorandum addressed to the parties concerned, which memorandum shall be deemed to satisfy the requirements of paragraph (a) of this section as to notifying the committee and obtaining committee approval.

§ 914.49 Inspection and certification.

Whenever the handling of oranges is regulated pursuant to § 914.42, each handler who handles any oranges shall, prior to the handling of any lot of oranges, cause such lot to be inspected by the Federal or Federal-State Inspection Service, and certified by it as meeting all applicable requirements of such regulation: *Provided*, That such inspection and certification shall not be required if the particular lot of fruit previously had been so inspected and certified.

§ 914.50 Reports and records.

(a) Upon request of the committee, made with approval of the Secretary, each handler shall furnish to the committee in such manner and at such time as it may prescribe, reports of overshipments and undershipments and such other reports and information as may be necessary for the committee to perform its duties under this part. Each handler shall maintain for such period of time as the committee shall prescribe, with the approval of the Secretary, such records of oranges handled as may be necessary to verify reports required to be submitted pursuant to this section.

(b) Whenever a handler ships oranges from the Interior district which were not grown in that district, he shall make a notation on the copy of the manifest of such shipments to be furnished to the Federal-State Inspection Service clearly indicating that the oranges contained in the shipment were not grown in the Interior district.

(c) Prior to shipping any lot of oranges, the handler shall furnish the committee with written information showing the destination of such oranges. Such information may be in the form of (1) a notation on the shipping manifest, (2) a notation on the inspection certificate when based upon information furnished the Federal or Federal-State Inspection Service by the handler with written authority to so mark the certificate, or (3) a report filed with the committee by the handler. The destination may be stated as a point or points outside of the regulation area. The manner in which such information is to be furnished, shall be prescribed by the committee with the Secretary's approval.

Miscellaneous Provisions

§ 914.55 Fruit not subject to regulation.

Except as otherwise provided in this section, any person may, without regard to the provisions of § 914.42 through § 914.49 and the regulations issued thereunder, ship oranges for the following purposes:

(a) To a charitable institution for consumption by such institution;

(b) To a relief agency for distribution by such agency;

(c) To a commercial processor for conversion by such processor into canned or frozen products or into a beverage base;

(d) By parcel post; and

(e) In such minimum quantities, types of shipments, or for such purposes as the committee with the approval of the Secretary may specify. No assessment shall be levied on fruit so shipped. The committee shall, with the approval of the Secretary, prescribe such rules, regulations, or safeguards as it may deem necessary to prevent oranges handled under the provisions of this section from entering channels of trade for other than the purposes authorized by this section. Such rules and regulations, and safeguards may include the requirements that handlers shall file applications with the committee for authorization to handle oranges pursuant to this section, and that such application be accompanied by a certification by the intended purchaser or receiver that the oranges will not be used for any purpose not authorized by the application approved pursuant to this section.

§ 914.56 Compliance.

Except as provided in this part, no person shall handle oranges during any week in which a regulation issued by the Secretary pursuant to § 914.42 is in effect, unless such oranges are, or have been,

handled pursuant to an allotment therefor, or unless such person is otherwise permitted to handle such oranges under the provisions of this part; and no person shall handle oranges except in conformity with the provisions of this part and the regulations issued under this part.

§ 914.57 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 914.58 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in § 914.59

§ 914.59 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least 1 day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal period, have been engaged in the production for market of oranges: *Provided*, That such majority have, during such period, produced for market more than 50 percent of the volume of such oranges produced for market, but such termination shall be effective only if announced on or before July 31 of the then current fiscal period.

(c) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 914.60 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the then functioning members of the committee shall continue as joint trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of such administrative committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees (1) shall continue in such capacity until discharged by the Secretary; (2) shall, from time to time, account for all receipts and disbursements or deliver all property on hand, together with all books and records of the committee and of the joint trustees, to such person as the Secretary may direct; and (3) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee, or the joint trustees pursuant to this part.

(c) Any funds collected pursuant to § 914.31, over and above the amounts necessary to meet outstanding obligations and expenses necessarily incurred during the operation of this part and during the liquidation period, shall be returned to handlers to the extent practicable after the termination of this part. The refund to each handler shall be represented by the excess of the amount paid by him over and above his pro rata share of the expenses.

(d) Any person to whom funds, property, or claims have been transferred or delivered by the committee, or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon the said joint trustees.

§ 914.61 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 914.62 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any agency or division in the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 914.63 Derogation.

Nothing contained in this part, is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 914.64 Personal liability.

No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty.

§ 914.65 Separability.

If any provision of this part is declared invalid, or the applicability thereof to any person, circumstances, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 914.66 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

§ 914.67 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. * * *

§ 914.68 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of oranges in the same manner as is provided for in this agreement. * * *

Dated: April 9, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-4561; Filed, Apr. 14, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 70-36]

CERTAIN NAVIGABLE WATERS

Drawbridge Operation Regulations

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 1.46(c)(5)) is considering a request by the Maryland State Roads Commission to provide special operation regulations for its bridge across the Choptank River at Denton, Md. This bridge is presently required to open on signal.

2. It is proposed to prescribe a new § 117.245(f)(11) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) Waterways discharging into Chesapeake Bay. * * *

(11) *Choptank River, Denton, Md., highway bridge, State route 404.* Three (3) hours' advance notice is required for openings between the hours of 6 p.m. and 6 a.m. At all other times the draw shall be opened promptly on signal.

* * * * *

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before May 15, 1970. All submissions should be made in writing to the Commander, 5th Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Va. 23705.

4. 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.

5. 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, 5th Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, 5th Coast Guard District will forward the record, including all written 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: April 9, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-4597; Filed, Apr. 14, 1970; 8:49 a.m.]

[33 CFR Part 117]

[CGFR 70-43]

BOGUE SOUND (ATLANTIC INTERCOASTAL WATERWAY), N.C.; NORTH CAROLINA STATE HIGHWAY COMMISSION BRIDGE AT ATLANTIC BEACH

Drawbridge Operation Regulations

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 1.46 (c)(5)) is considering a request by the North Carolina State Highway Commission to amend the special operation regulations for its highway bridge across Bogue Sound. This amendment would limit the times on weekends and holidays when this bridge would be required to open for certain vessels from 1 May through 14 June. This bridge is presently required to open on signal for this period.

2. Accordingly, it is proposed to revise § 117.355 to read as follows:

§ 117.355 Bogue Sound (Atlantic Intracoastal Waterway), N.C.; North Carolina State Highway Commission bridge at Atlantic Beach.

(a) From 1 May through 14 June on Saturdays, Sundays, and national holidays from 12 noon to 6 p.m. local time the draw need be opened only on the hour and half hour for the passage of vessels, except as provided in paragraphs (c) and (d) of this section.

(b) From June 15 through Labor Day, on Saturdays and Sundays, and national holidays the draw need not be opened for the passage of vessels between the hours of 12 m. and 6 p.m. local time, except at 2 p.m. and 4 p.m. when it shall be opened to allow all accumulated vessels to pass, and except as provided in paragraphs (c) and (d) of this section.

(c) The drawspan shall be opened promptly on signal for the passage of towboats with tows, freight boats, and vessels owned or operated by the United States.

(d) The draw shall be opened promptly for the passage of any vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn or similar device.

(e) The owner of or agency controlling the bridge shall erect and maintain on both sides thereof, signs acceptable to the District Commander setting forth the salient features of the special regulations of this section.

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before May 15, 1970. All submissions should be made in writing to the Commander, 5th Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Va. 23705.

4. 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.

5. 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, 5th Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, 5th 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: April 8, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-4598; Filed, Apr. 14, 1970; 8:49 a.m.]

[33 CFR Part 117]

[CGFR 70-47]

CERTAIN NAVIGABLE WATERS

Drawbridge Operation Regulations

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 1.46 (c)(5)) is considering a request by the Delaware State Highway Department to amend the special operation regulations for its bridges across the Broad Creek River at Poplar Street and U.S. Route 13A at Laurel, Del. The requested amendment would require 4 hours' advance notice at all times for obtaining an opening of either bridge. Presently the draws of these bridges are opened on signal between the hours of 7 a.m. and 5 p.m. with 4 hours' advance notice required at all other times.

2. In addition, the Delaware State Highway Department drawbridge across the Broad Creek River at Bethel has been removed and a fixed bridge has been built that replaces it. Reference to that drawbridge is hereby deleted.

3. Accordingly, it is proposed to revise 117.245(f)(14) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) *Waterways discharging into Chesapeake Bay.*

* * * * *

(14) *Broad Creek River, Del.*—(i) *Highway bridges at Poplar Street and U.S. 13A, and Penn Central railroad bridge at Laurel.* At least 4 hours' advance notice is required at all times.

(ii) *Delaware State Highway Department bridge, Delaware Avenue at Laurel.* The draw need not be opened for the passage of vessels, and paragraphs (b), (c), and (d) of this section shall not apply to this bridge.

* * * * *

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before May 15, 1970. All submissions should be made in writing to the Commander, 5th Coast Guard District, 610 Federal Building, Portsmouth, Va. 23705.

4. 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.

5. 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, 5th Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, 5th 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: April 8, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-4599; Filed, Apr. 14, 1970; 8:49 a.m.]

[33 CFR Part 117]

[CGFR 70-48]

TEMPORARY DEPARTURES FROM REGULATIONS

Drawbridge Operation Regulations

1. The Commandant, U.S. Coast Guard is considering a proposal to amend 33 CFR 117.1a(c)(2) to require an immediate notification (instead of the present 24-hour requirement) to the District Commander by the owner or agency controlling a drawbridge whenever the bridge is closed for emergency repairs, vital maintenance or structural damage. The purpose of this amendment is to permit the rapid dissemination of the information by a Notice to Mariners, or by other means, to enhance safety and to minimize disruption to water traffic. Authority for this action is set forth in 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 1.46(c)(5).

2. Accordingly, it is proposed to revise § 117.1a(c)(2) to read as follows:

§ 117.1a Temporary departures from regulations in this part.

* * * * *

(c) * * *

(2) When a draw is closed for repairs in case of emergency or damage to the structure or for vital maintenance that may not be delayed, the owners of or the agency controlling the drawbridge shall immediately inform the District Commander concerned of the closure, the reasons for the closure, and the expected completion date of the emergency repairs. Normally, the extension of any period of emergency closure to include the accomplishment of routine maintenance or for other nonemergent purposes will not be authorized.

* * * * *

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before May 15, 1970. All submissions should be made in writing to the Commandant, U.S. Coast Guard (OAN-5), 400 Seventh Street SW., Washington, D.C. 20591.

4. It is requested that each submission state 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.

5. 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 Commandant, U.S. Coast Guard (OAN-5) Room 7323, 400 Seventh Street SW., Washington, D.C. 20591.

6. After the time set for the submission of comments by the interested parties, the Commandant will make a final determination with respect to these proposals.

Dated: April 8, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-4600; Filed, Apr. 14, 1970; 8:49 a.m.]

[33 CFR Part 117]

[CGFR 70-56]

CERTAIN NAVIGABLE WATERS

Drawbridge Operation Regulations

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 1.46(c)(5) is considering a request by the Maryland State Roads Commission to provide special operation regulations for the drawbridge across Sinepuxent Bay at Ocean City, Md. Present regulations require the draw to open on signal. The proposed special operation regulations would require at least 3 hours' advance notice between the hours of 6 p.m. to 6 a.m. from October 1 through April 30. The draw would still be opened on signal from May 1 through September 30 and between the hours of 6 a.m. to 6 p.m. from October 1 through April 30.

2. Accordingly, it is proposed to amend 33 CFR 117.245 by adding paragraph (f)(16) which shall read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) *Waterways discharging into Chesapeake Bay* * * *

(16) *Sinepuxent Bay, Ocean City, Md., U.S. 50 Bridge.* The draw shall be opened promptly on signal at all times except that between the hours of 6 p.m. to 6 a.m. from October 1 through April 30 at least 3 hours' advance notice is required.

* * * * *

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before May 15, 1970. All submissions should be made in writing to the Commander, 5th Coast Guard District, 610 Federal Building, Portsmouth, Va. 23705.

4. 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.

5. 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, 5th Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, 5th 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: April 8, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-4601; Filed, Apr. 14, 1970; 8:50 a.m.]

[33 CFR Part 117]

[CGFR 70-33]

EAST PASCAGOULA RIVER AT PASCAGOULA, MISS., U.S. 90 HIGHWAY BRIDGE

Drawbridge Operation Regulations

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 1.46 (c)(5)) is considering a request by the Mississippi State Highway Department to provide special operation regulations for the U.S. Highway 90 bridge across the East Pascagoula River, mile 1.8, at Pascagoula, Miss. This bridge is presently required to open on signal for the passage of vessels.

2. Accordingly, it is proposed to prescribe a new § 117.495 which shall read as follows:

§ 117.495 East Pascagoula River at Pascagoula, Miss., U.S. 90 Highway Bridge.

The draw shall be opened on signal for the passage of vessels except it need not be opened between the hours of 6:15 a.m. and 6:45 a.m., 7:15 a.m. and 8:15 a.m., 3:30 p.m. and 4:15 p.m., and 4:45 p.m. and 5:30 p.m. Monday through Friday.

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before May 15, 1970. All submissions should be made in writing to the Commander, 8th Coast Guard District, Customhouse, New Orleans, La. 70130.

4. 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.

5. 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, 8th Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, 8th 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: April 8, 1970.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-4596; Filed, Apr. 14, 1970; 8:49 a.m.]

Federal Highway Administration

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[49 CFR Part 393]

[Docket No. MC-18; Notice 70-2]

FUEL SYSTEMS

Motor Carrier Safety Regulations; Correction

In F.R. Doc. 70-2080 beginning on page 3177 of the issue for Thursday, February 19, 1970, the following corrections should be made. On page 3177, subparagraph 5 of § 393.66(a) should read:

"(5) A fuel line may not pass from a bus, truck or truck-tractor to a trailer."

On page 3178, subparagraph (3) of § 393.67(e) should read:

"(3) Paragraphs (a)(11), (b), (c), and (d) of this section do not apply to a liquid fuel tank manufactured before January 1, 1972, and mounted on a truck or truck-tractor unless the tank is a side-mounted gasoline tank."

Dated: April 9, 1970.

DAVID E. WELLS,
Chief Counsel,
Federal Highway Administration.

[F.R. Doc. 70-4566; Filed, Apr. 14, 1970; 8:47 a.m.]

Hazardous Materials Regulations Board

[49 CFR Part 174]

[Docket No. HM-45; Notice No. 70-6]

TRANSPORTATION OF HAZARDOUS MATERIALS

Cargo Tanks in Trailer-on-Flatcar Service

The Hazardous Materials Regulations Board is considering a proposal to amend § 174.533 of the Department's hazardous materials regulations to prohibit the transportation of cargo tanks containing hazardous materials by rail in trailer-on-flatcar service except under conditions approved by the Federal Railroad Administrator.

Interested persons are invited to give their views on the proposal discussed herein. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before June 16, 1970 will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

The Board believes that the transportation of hazardous materials in cargo tanks of certain designs and construction in trailer-on-flatcar service can present an unacceptable hazard and may not be in the public interest. The Board considered the following factors in reaching this conclusion:

(1) Because of their design and construction, cargo tanks are capable of withstanding the dynamic loadings experienced during the normal course of highway transportation. The design criteria for specification cargo tanks for highway use require a resistance to forces of 2G. Railroad tankcars are designed to withstand forces of 7G longitudinally and 3G vertically and transversely. Since tankcars are designed to maintain their integrity in impacts and derailments with a certain degree of safety, it follows that cargo tanks would be much more susceptible to damage or failure in the same transportation environments.

(2) When a loaded cargo tank vehicle is placed on a flatcar, the center of gravity of the vehicle is approximately 120 inches or more above the top of the rail. The Association of American Railroads has specified acceptable safe limits of 98 inches for loaded railcars. This, combined with lateral instability resulting from the flexibility in motor vehicle suspensions and tires, creates a hazardous situation when not compensated for by additional design and structural requirements for cargo tanks.

(3) In rail accidents, particularly derailments (5,487 in 1968), there is little probability that any cargo tank, unless of extraordinary design and construction, could sustain the rail accident environment without failure and resulting discharge of its contents.

Section 174.533(c) presently authorizes cargo tanks that are mounted on truck bodies or trailer chassis and that contain hazardous materials to be transported by rail only under conditions approved by the Bureau of Explosives. The Board proposes to withdraw this delegation of authority and to prohibit such transportation except under conditions approved by the Federal Railroad Administrator.

In consideration of the foregoing, the Hazardous Materials Regulations Board proposes to amend paragraph (c) of § 174.533 to read as follows:

§ 174.533 Truck bodies or trailers on flat cars.

* * * * *

(c) Cargo tanks containing hazardous materials must not be transported in trailer-on-flatcar service except under conditions approved by the Federal Railroad Administrator.

This proposal is made under the authority of sections 831-835 of Title 18, United States Code, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C. on April 10, 1970.

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

[F.R. Doc. 70-4604; Filed, Apr. 14, 1970; 8:50 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 1-18; Notice No. 2]

MOTOR VEHICLE SAFETY STANDARDS

Control Location, Identification and Illumination

Federal Motor Vehicle Safety Standard No. 101 (33 F.R. 19705) specifies

requirements for location and identification of certain controls on passenger cars to facilitate their selection and ensure their accessibility.

On October 14, 1967, an advance notice of proposed rule making establishing Docket No. 1–18 was published in the FEDERAL REGISTER (32 F.R. 14280) which proposed extending the applicability of the requirements of Standard No. 101 to multipurpose passenger vehicles, trucks, and buses. A public technical meeting was held on May 1, 1968, and a paper discussed which was based in part on comments submitted in response to the advance notice. The proposal in this notice, in addition to an extension of applicability, also specifies certain new requirements which would apply to passenger cars, multipurpose passenger vehicles, trucks, and buses manufactured on or after January 1, 1971.

These new requirements would include identification of the following controls, where provided on an applicable motor vehicle: Engine start and stop, emergency spring brake release valve, spring brake valve, tractor protection valve, vehicular hazard warning flasher, clearance lamps, identification lamps, hand throttle, automatic speed maintenance, and air vent other than windows. Identification would be required whether or not these controls are mounted on the instrument panel. Identification would be specified by words and in several instances a symbol would also be mandatory. To minimize the likelihood of confusion, the use of symbols as identification for certain other controls would be prohibited. The special problem associated with identifying controls that actuate more than one item is recognized and particular recommendations from interested persons on this issue are invited.

This notice also proposes that the following controls for items, where provided, would be illuminated whenever the headlamps are illuminated: engine stop, spring brake valve, emergency spring brake release valve, tractor protection valve, automatic speed maintenance device, vehicular hazard warning flasher, clearance lamps, identification lamps, windshield wiping and washing system, windshield defrosting and defogging system, heating and air conditioning system. The intent is to achieve effective illumination of the specified controls without adversely affecting the driver's performance under nighttime driving conditions. Such interior lights as dome or pillar lights do not appear desirable for this purpose since they may degrade the driver's night vision capability. Internal illumination, spot illumination or equivalent techniques properly engineered from the standpoint of safety might satisfy this proposed objective.

Finally, the proposal would extend applicability of the present control location requirements to multipurpose passenger vehicles, trucks, and buses. Anthropometric reach specifications are desirable but are not yet proposed due to a current lack of data. The requirements specify accessibility of controls to a restrained driver and the proposal anticipates amendment of Federal Standards Nos. 208 and 210 to require seat belt assemblies and anchorages in multipurpose passenger vehicles, trucks, and buses as of January 1, 1971 (see Docket No. 2–13; notice No. 2, 34 F.R. 14660; Docket No. 2–14; notice No. 2, 34 F.R. 14658).

Interested persons are invited to submit written data, views, or arguments on these proposals. It is further requested that comments include discussion of leadtime and costs directly related to compliance with the proposed requirements. These comments should contain supporting statements and data to justify all conclusions and recommendations. Comments must identify the docket number and the notice number and be submitted pursuant to the requirements of 49 CFR § 553.11 et seq. (33 F.R. 19701), in 10 copies to the Docket Section, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591.

All comments received on or before the close of business July 15, 1970, will be considered and will be available in the docket section for examination both before and after the closing date for comments.

In consideration of the foregoing, it is proposed to amend Motor Vehicle Safety Standard No. 101 as set forth below. This notice of proposed amendment is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegation of authority from the Secretary of Transportation to the Director, National Highway Safety Bureau, 49 CFR Part 1.

Issued on April 8, 1970.

DOUGLAS W. TOMS,
Director,
National Highway Safety Bureau.

FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 101

CONTROL LOCATION, IDENTIFICATION AND ILLUMINATION

S1. *Purpose and Scope.* This standard specifies requirements for location, identification, and illumination of certain motor vehicle controls to insure their accessibility and to facilitate their selection under daylight and nighttime conditions.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses manufactured on or after January 1, 1971.

S3. *Definitions.*

S3.1 "Restrained" means restrained by—

(a) A Type 2 seat belt assembly that conforms to Motor Vehicle Safety Standard No. 209, installed where required by Motor Vehicle Safety Standard No. 208, and adjusted with 4 inches between the sternum of the person and the upper torso restraint and no slack between the pelvis of the person and the pelvic restraint; or

(b) (Where Motor Vehicle Safety Standard No. 208 does not require a Type 2 seat belt assembly) a Type 1 seat belt assembly that conforms to Motor Vehicle Safety Standard No. 209, installed where required by Motor Vehicle Safety Standard No. 208 and adjusted with no slack between the pelvis of the person and the pelvic restraint.

S4. *Requirements.*

S4.1 *Location.*

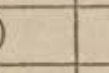
Control of the following shall be provided within operational reach of a person restrained and seated at the controls:

(a) Steering.
(b) Horn.
(c) Transmission, except transfer case.
(d) Ignition.
(e) Headlamps.
(f) Turn signal.
(g) Windshield wiping system.
(h) Windshield washing system.
(i) Manual choke.
(j) Driver's sun visor.

S4.2 *Identification.* If the control for any item of motor vehicle equipment listed in Column 1 Table 1 is provided on a motor vehicle, such control shall be identified by the word or words shown in Column 2 and any corresponding symbol in Column 3, placed on or adjacent to the control. If the word "none" appears in Column 3, no symbol may be provided.

S4.3 *Illumination.* If the control for any item of motor vehicle equipment listed in Column 1 Table 1 is provided on a motor vehicle and an "X" appears in the corresponding space in Column 4, the control and its identification shall be illuminated whenever the headlamps are illuminated, except when the headlamps are being flashed. Means shall be provided by which a person restrained and seated at the controls may modulate the intensity of such illumination.

TABLE 1—Control Identification, and Illumination Requirement

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Motor Vehicle Equipment	Word	Symbol	Illumination
Engine Start	START	None	
Engine Stop	OFF	None	X
Manual Choke	CHOKE	None	
Hand Throttle	THROTTLE	None	
Automatic Speed Maintenance		None	X
Spring Brake Valve	SPRING BRAKE	None	X
Emergency Spring Brake Release Valve	EMERGENCY SPRING BRAKE RELEASE	None	X
Tractor Protection Valve	TRACTOR PROTECTION	None	X
Headlamps and Taillamps	LIGHTS		
Vehicular Hazard Warning Flasher	FLASHER		X
Clearance Lamps	CL LTS		X
Identification Lamps	ID LTS	None	X
Windshield Wiping System	WIPE		X
Windshield Washing System	WASH		X
Windshield Defrosting and Defogging System	DEF	None	X
Heating and Air Conditioning System		None	X

[F.R. Doc. 70-4514; Filed, Apr. 14, 1970; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 208, 295]

[Docket No. 22094]

TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION AND TRANSATLANTIC SUPPLEMENTAL AIR TRANSPORTATION

Protection of Customers' Deposits Made With Supplemental Air Carriers

APRIL 9, 1970.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Parts 208 and 295 of the Economic Regulations (14 CFR, Parts 208 and 295) so as to require supplemental air carriers under certain circumstances to provide security for the protection of customers' deposits made with air carriers as advance payment for air transportation. The principal features of the proposed amendments are explained in the attached explanatory statement, and the text of the proposed amendments is also attached. The amendments are proposed under authority of sections 204 and 401 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754 (as amended by 76 Stat. 143 and 82 Stat. 867); 49 U.S.C. 1324, 1371).

Interested persons may participate in the rule making proceeding 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 matters received on or before May 11, 1970, will be considered by the Board before taking action on the proposal. In addition, all interested parties are invited to submit twelve (12) copies of written data, views, or arguments pertaining solely to the communications previously filed by other interested parties. All relevant communications of this nature received on or before May 25, 1970, will be considered by the Board before taking action.

Copies of all 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.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

Explanatory statement. Section 401 (n)(2) of the Act provides that in order to protect travelers and shippers by aircraft operated by supplemental air carriers, the Board may require any supplemental air carrier to file a performance bond or provide equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon the carrier's making appropriate compensation to such travelers and shippers, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor. Up to the present time the Board has not found that the public interest required that supplemental air carriers file performance bonds or provide equivalent security arrangements or less than equivalent security arrangements pursuant to section 401(n)(2) of the Act. Recent events—in particular the petition for reorganization in bankruptcy of a supplemental air carrier—have caused the Board to reconsider the need to require supplemental carriers to provide security arrangements as authorized by the statute. Based upon such reevaluation, the Board now tentatively finds a need for some form of security arrangements to be imposed upon supplemental air carriers to protect the public with respect to customers' deposits with air carriers for the cost of air transportation in the event that such carriers are unable to perform contracts for, or otherwise default in the furnishing of, such air transportation. The proposed rule is intended to accomplish this purpose.

While a variety of tests exist which could be used for determining when a supplemental carrier's financial situation is presumed to be so marginal as to require the taking of security measures for the protection of the public, this proposed rule establishes a single standard for the carriers to follow. The net worth test requires that carriers place in escrow the amount of deposits which exceeds 25 percent of the carrier's net worth.[1] This simple relationship of customers' deposits to net worth is direct and easily understood; it will be practicable in operation, less burdensome to the carrier than other tests might be and will be generally adequate for the protection of the customer.

Although the rule proposes only one test which would trigger the carrier's obligation to set up an escrow account for customers' deposits, comments are invited with respect to additional or alternative tests or standards to ascertain when customer deposits should be placed in escrow and in what amounts.

The determination of the precise point where it becomes necessary for a carrier to take prescribed actions to safeguard its customers' deposits is admittedly a matter of judgment and it is recognized that special cases may exist where the application of this 25-percent net worth test could prove to be an undue hardship for a particular carrier. The proposed rule was designed to produce a means of protecting customers' deposits, but it is not intended to impose an unwarranted burden on any supplemental carrier. Therefore, where such special cases do exist or arise they should be resolved under the Board's procedure of a showing by the carrier of the peculiar or unusual circumstances by which it is affected on an individual basis.

Also, the rule permits a carrier to file a performance bond in lieu of maintaining a cash escrow for the protection of customers' deposits. The minimum amount of this bond would be the minimum amount of customers' deposits which would otherwise be required to be placed in a cash escrow. In addition, the rule provides for the processing on a pro rata basis of claims against funds in escrow or the surety who issued the performance bonds.

It is proposed to amend Part 208 and Part 295 (14 CFR, Parts 208 and 295) as follows:

[1] The rule provides that the escrow agreement shall be subject to Board approval.

1. In Part 208 amend the table of contents by adding a new division of Subpart A to read as follows:

PROTECTION OF CUSTOMERS' DEPOSITS

Sec.
208.40 Escrow of cash for protection of customers' deposits.
208.41 Performance bond in lieu of escrow of cash.
208.42 No priority in payment of claims.

2. Amend § 208.3 by adding the definition of "net worth" as follows:

§ 208.3 Definitions.

For the purposes of this part:

* * * * *

(v) "Net worth" means the net stockholder equity as specified in Form 41 balance sheet account 2995 of the Uniform System of Accounts and Reports.

3. Add a new division of Subpart A to read as follows:

PROTECTION OF CUSTOMERS' DEPOSITS

§ 208.40 Escrow of cash for protection of customers' deposits.

(a) Except as provided in § 208.41, no supplemental air carrier shall engage in air transportation unless it maintains, in accordance with the following standard, an escrow of cash as security for customers' deposits with the carrier for prepayment of air transportation.

(b) Whenever the gross amount of customers' deposits exceeds 25 percent of the carrier's net worth, as defined herein, computed as of the last day of each month, the carrier shall place in escrow with a bank, on or before the 15th day of the succeeding month, cash in an amount equal to the amount by which such deposits exceed 25 percent of its net worth. The escrow agreement between a bank and the air carrier shall not be effective until approved by the Board. As used in this section, the term "bank" includes a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

§ 208.41 Performance bond in lieu of escrow of cash.

The carrier may elect, in lieu of placing cash in escrow pursuant to § 208.40 of this part, to file with the Board's Bureau of Operating Rights, in a form satisfactory to the Bureau, a performance bond which guarantees to the U.S. Government the performance of air transportation pursuant to contracts entered into by such carrier, but to be performed, in whole or in part, after the date of execution of the bond. The amount of such bond shall be not less than the amount of cash that would be required to be placed in escrow by the carrier pursuant to § 208.40.

§ 208.42 No priority in payment of claims.

If an air carrier is required to maintain cash in escrow for the protection of customers' deposits pursuant to § 208.40 of this part, there shall be no priority in the payment of claims against such funds held in escrow or against the bonding company in the event that a performance bond is filed by the carrier in lieu of placing cash in escrow, but such claims shall be processed and paid on a pro rata basis.

4. In Part 295 amend the table of contents by adding new sections 295.7, 295.8, and 295.9 as follows:

PROTECTION OF CUSTOMERS' DEPOSITS

Sec.
295.7 Escrow of cash for protection of customers' deposits.
295.8 Performance bond in lieu of escrow of cash.
295.9 No priority in payment of claims.

5. Amend § 295.2 by adding the definition of "net worth" as follows:

§ 295.2 Definitions.

As used in this part, unless the context otherwise requires—

* * * * *

(n) "Net worth" means the net stockholder equity specified in Form 41 balance sheet account 2995 of the Uniform System of Accounts and Reports.

6. Add new §§ 295.7 through 295.9 to read as follows:

PROTECTION OF CUSTOMERS' DEPOSITS

§ 295.7 Escrow of cash for protection of customers' deposits.

(a) Except as provided in § 295.8, no supplemental air carrier shall engage in air transportation unless it maintains, in accordance with the following standard, an escrow of cash as security for customers' deposits with the carrier for prepayment of air transportation.

(b) Whenever the gross amount of customers' deposits exceeds 25 percent of the carrier's net worth, as defined herein, computed as of the last day of each month, the carrier shall place in escrow with a bank, on or before the 15th day of the succeeding month, cash in an amount equal to the amount by which such deposits exceed 25 percent of its net worth. The escrow agreement between a bank and the air carrier shall not be effective until approved by the Board. As used in this section, the term "bank" includes a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

§ 295.8 Performance bond in lieu of escrow of cash.

The carrier may elect, in lieu of placing cash in escrow pursuant to § 295.7, to file with the Board's Bureau of Operating Rights, in a form satisfactory to the Bureau, a performance bond which guarantees to the U.S. Government the performance of air transportation pursuant to contracts entered into by such carrier, but to be performed, in whole or in part, after the date of execution of the bond. The amount of such bond shall be not less than the amount of cash that would be required to be placed in escrow by the carrier pursuant to § 295.7.

§ 295.9 No priority in payment of claims.

If an air carrier is required to maintain cash in escrow for the protection of customers' deposits pursuant to § 295.7 of this part, there shall be no priority in the payment of claims against such funds held in escrow or against the bonding company in the event that a performance bond is filed by the carrier in lieu of placing cash in escrow, but such claims shall be processed and paid on a pro rata basis.

[F.R. Doc. 70-4594; Filed, Apr. 14, 1970; 8:49 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1969 Rev., Supp. No. 19]

ALLIED FIDELITY INSURANCE CO.

Surety Companies Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $62,000 has been established for the company.

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

Allied Fidelity Insurance Co.
Indianapolis, Indiana
Indiana

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

Dated: April 9, 1970.

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

[F.R. Doc. 70-4568; Filed, Apr. 14, 1970; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

AREA DIRECTORS ET AL.

Delegation of Authority; Revocation of Exception

APRIL 4, 1970.

Section 3.3C(2) of Part 10 of the Bureau of Indian Affairs Manual, published at 34 F.R. 637 (F.R. Doc. 69-537) in the issue for January 16, 1969, is hereby revoked. This revocation removes certain limitations on the authority delegated to Area Directors.

SIDNEY CARNEY,
Acting Associate Commissioner.

[F.R. Doc. 70-4563; Filed, Apr. 14, 1970; 8:46 a.m.]

[Phoenix Area Office Redelegation Order 3, Amdt. 2]

SUPERINTENDENTS ET AL., PHOENIX Delegation of Authority

MARCH 17, 1970.

On July 1, 1969, Phoenix Redelegation Order 3 was published in 34 F.R. 11108.

The following additional redelegation to Superintendents et al., is made under Social Services.

SEC. 2.4 *Issuance of Deputy Special Officers Commissions.* The issuance of Deputy Special Officers' Commissions to persons working in law enforcement for maintenance of law and order on Indian Reservations.

W. WADE HEAD,
Area Director.

Approved: April 6, 1970.

JAMES F. CANAN,
Acting Associate Commissioner of Indian Affairs.

[F.R. Doc. 70-4562; Filed, Apr. 14, 1970; 8:46 a.m.]

Bureau of Land Management

[Serial No. N-3849]

NEVADA

Notice of Classification of Public Lands for Transfer Out of Federal Ownership

Correction

In F.R. Doc. 70-3427 appearing at page 4974 in the issue for Saturday, March 21, 1970, the tenth line from the bottom in paragraph 2, page 4974, should read "SW¼NE¼, NW¼, NW¼SE¼ sec. 10, T. 19 N.," and the eleventh line under the heading "Washoe County" on page 4975 should read "Sec. 16, N½, SE¼;".

[Montana 12079]

MONTANA

Notice of Proposed Classification of Public Lands for Multiple Use Management

APRIL 7, 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 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 Executve 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 and are shown on maps on file in the Miles City District Office, Bureau of Land Management, Miles City, Mont., and on plats in the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

PRINCIPAL MERIDIAN, MONTANA

GARFIELD COUNTY

T. 22 N., R. 38 E.,
  Sec. 25.
T. 24 N., R. 42 E.,
  Secs. 1 to 4, inclusive;
  Sec. 13.

The public lands described above aggregate approximately 1,416 acres.

M'CONE COUNTY

T. 25 N., R. 42 E.
T. 26 N., R. 42 E.
  Secs. 1 to 6, inclusive, portions lying south of the Missouri River;
  Secs. 7 to 36, inclusive.
T. 19 N., R. 43 E.,
  Secs. 3 to 8, inclusive;
  Secs. 17 to 20, inclusive;
  Secs. 28 to 33, inclusive.
T. 20 N., R. 43 E.,
  Secs. 1 to 24, inclusive;
  Secs. 26 to 34, inclusive.
T. 21 N., R. 43 E.
T. 22 N., R. 43 E.
T. 23 N., R. 43 E.
T. 24 N., R. 43 E.
T. 25 N., R. 43 E.
T. 26 N., R. 43 E.,
  Secs. 7 to 11, inclusive, portions lying south of the Missouri River;
  Secs. 13 to 15, inclusive, portions lying south of the Missouri River;
  Secs. 16 to 36, inclusive.
T. 20 N., R. 44 E.,
  Secs. 1 to 19, inclusive;
  Sec. 22.
T. 21 N., R. 44 E.
T. 22 N., R. 44 E.
T. 23 N., R. 44 E.
T. 24 N., R. 44 E.
T. 25 N., R. 44 E.
T. 26 N., R. 44 E.,
  Portions lying south of the Missouri River.
T. 20 N., R. 45 E.,
  Secs. 4 to 9, inclusive;
  Secs. 16 to 18, inclusive.
T. 21 N., R. 45 E.,
  Sec. 1, lots 1 and 2;
  Secs. 4 to 9, inclusive;
  Secs. 16 to 21, inclusive;
  Secs. 30 to 32, inclusive.
T. 22 N., R. 45 E.
T. 23 N., R. 45 E.
T. 24 N., R. 45 E.
  Secs. 5 to 10, inclusive;
  Secs. 15 to 23, inclusive;
  Secs. 25 to 36, inclusive.

T. 25 N., R. 45 E.,
Secs. 6 and 7.
T. 26 N., R. 45 E.,
Secs. 15 to 20, inclusive, portions lying south of the Missouri River;
Secs. 30 and 31.
T. 21 N., R. 46 E.,
Secs. 5 and 6.
T. 22 N., R. 46 E.,
Secs. 1 to 6, inclusive;
Secs. 8 to 24, inclusive;
Secs. 27 to 32, inclusive.
T. 23 N., R. 46 E.,
Secs. 2 to 11, inclusive;
Sec. 13, W½SW¼;
Secs. 14 to 23, inclusive;
Secs. 30 and 31;
Sec. 35, S½SE¼.
T. 24 N., R. 46 E.,
Secs. 1 to 5, inclusive;
Secs. 8 to 17, inclusive;
Secs. 20 to 22, inclusive;
Secs. 27 to 34, inclusive.
T. 25 N., R. 46 E.,
Secs. 1 to 5, inclusive;
Secs. 8 to 11, inclusive;
Sec. 12, NW¼NW¼;
Secs. 14 to 17, inclusive;
Secs. 21 to 28, inclusive;
Secs. 32 to 36, inclusive.
T. 22 N., R. 47 E.,
Sec. 6, lots 4 to 7, inclusive, E½SW¼;
Secs 7, 18, and 19.
T. 24 N., R. 47 E.,
Secs. 3 to 8, inclusive;
Sec. 9, N½N½;
Secs. 17 and 18.
T. 25 N., R. 47 E.,
Secs. 10 and 11;
Sec. 12, NW¼NE¼, NW¼, and NW¼SW¼;
Secs. 13 to 17, inclusive;
Secs. 19 to 24, inclusive;
Sec. 27, N½N½ and SW¼NW¼;
Secs. 28 to 33, inclusive.
T. 26 N., R. 47 E.,
Sec. 25.
T. 26 N., R. 48 E.,
Secs. 17 to 20, inclusive;
Sec. 30.
T. 27 N., R. 48 E.,
Secs. 25 and 26;
Sec. 35, NW¼NE¼.
T. 27 N., R. 49 E.,
Secs. 16, 17, and 18, portions lying south of the Missouri River;
Secs. 19 to 22, inclusive;
Secs. 27 to 32, inclusive;
Sec. 33, W½NE¼, N½NW¼, and NW¼SE¼.

The public lands described above aggregate approximately 177,093 acres.

Total public lands within the areas described aggregate approximately 179,409 acres.

3. For a period of sixty (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 District Manager, Bureau of Land Management, Miles City, Mont. 59301.

4. A public hearing on the proposed classification will be held on May 19, 1970, at 2 p.m., at the McCone County Courthouse, Circle, Mont.

EUGENE H. NEWELL,
Acting State Director.

[F.R. Doc. 70-4553; Filed, Apr. 14, 1970; 8:45 a.m.]

[New Mexico 1239]

NEW MEXICO

Notice of Proposed Classification of Public Lands for Multiple-Use Management; Amendment

APRIL 7, 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 maps designated 30–02–01, on file in the Socorro District Office, Bureau of Land Management, Post Office Box 1456, Socorro, N. Mex. 87801, and Land Office, U.S. Post Office and Federal Building, Santa Fe, N. Mex. 87501.

The overall description of the areas is as follows:

NEW MEXICO PRINCIPAL MERIDIAN

UNIT 2–01

T. 1 N., R. 20 W.,
Sec. 36.
T. 2 N., R. 20 W.,
Sec. 36, E½.
T. 1 S., R. 20 W.,
Sec. 2, lots 1 to 16, inclusive and S½;
Sec. 16.

UNIT 2–02

T. 1 S., R. 19 W.,
Sec. 2, lots 1 to 12, inclusive and NW¼SW¼.
T. 1 N., R. 18 W.,
Sec. 2;
Sec. 16, N½, SE¼SW¼ and SE¼;
Sec. 32.
T. 2 N., R. 18 W.,
Sec. 1, lot 2, SW¼NE¼, SE¼NW¼, NE¼SW¼ and NW¼SE¼;
Sec. 2;
Sec. 4, lots 2, 3, and 4;
Sec. 5, lot 1 and SE¼NE¼;
Sec. 6, lots 1 to 7, inclusive, S½NE¼ and SE¼NW¼;
Sec. 7, lots 1, 2, 3, E½, and E½SW¼;
Sec. 8, S½N½;
Sec. 9, N½N½;
Sec. 12, NW¼NE¼, S½NW¼, N½SW¼, and SW¼SW¼;
Sec. 13, N½NW¼ and SW¼NW¼;
Sec. 15, W½;
Sec. 16, E½, E½NW¼, SW¼NW¼, and SW¼;
Sec. 20, S½NW¼;
Sec. 21;
Sec. 22, W½;
Sec. 26, SE¼;
Sec. 27, W½;
Sec. 28, N½, NE¼SW¼, and SE¼;
Sec. 32;
Sec. 33, E½, SE¼NW¼, and SW¼;
Sec. 34, NW¼, W½SW¼, and SE¼SW¼;
Sec. 36.
T. 3 N., R. 18 W.,
Sec. 29, S½SW¼;
Sec. 31, lot 4, SE¼SW¼ and W½SE¼;
Sec. 32.
T. 1 N., R. 19 W.,
Sec. 2;
Sec. 16, N½, N½SW¼, and NW¼SE¼;
Sec. 36.
T. 2 N., R. 19 W.,
Sec. 1, lots 1, 2, 3, 4, SE¼NE¼, S½NW¼, and S½;
Sec. 11, E½, E½W½, NW¼NW¼, and SW¼SW¼;
Sec. 12, N½, N½SW¼, and SE¼;
Sec. 13, NE¼;
Sec. 14, W½E½ and W½;
Secs. 15, 16, 17, 32, and 36.
T. 3 N., R. 19 W.,
Sec. 24, E½, NE¼NW¼, W½W½, and SE¼SW¼;
Sec. 36, W½NE¼, NW¼, and S½.

UNIT 2–03

T. 4 N., R. 8 W.,
Sec. 6, lots 3, 4, 6, and SE¼NW¼;
Sec. 7, lots 1, 2, 3, 4, NE¼, E½W½, N½SE¼, and SE¼SE¼.
T. 4 N., R. 9 W.,
Sec. 1, lots 1, 2, 3, 4, S½N½, NW¼SW¼, NE¼SE¼, and S½S½;
Secs. 2 and 5;
Sec. 6, lots 1, 2, 4, and 5;
Sec. 7, lots 1, 2, 3, 4, NE¼, E½W½, N½SE¼, and SW¼SE¼;
Sec. 9, E½, E½NW¼, SW¼NW¼, and SW¼;
Sec. 11, N½, SW¼, NE¼SE¼, and W½SE¼;
Sec. 12, E½NE¼ and E½NW¼;
Sec. 13, N½, SW¼, NE¼SE¼, and W½SE¼;
Sec. 14, N½NE¼;
Secs. 15, 16, and 17.
T. 5 N., R. 9 W.,
Secs. 1 and 2;
Sec. 3, lots 1, 2, 4, S½N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 4, SE¼NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 5;
Sec. 6, lot 7, SE¼SW¼, and S½SE¼;
Secs. 7 and 9;
Sec. 10, N½NW¼, and NW¼SW¼;
Sec. 11;
Sec. 12, SW¼SW¼, NE¼SE¼, and SW¼SE¼;
Sec. 13;
Sec. 14, NW¼NE¼, S½NE¼, and SE¼;
Sec. 15;
Sec. 16, N½, W½SW¼, SE¼SW¼, and SE¼;
Sec. 17;
Sec. 19, lots 1, 2, 3, 4, NE¼, E½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 21, NE¼NE¼, W½NE¼, NW¼, and S½;
Sec. 23;
Sec. 24, E½W½;
Sec. 25, E½, NE¼NW¼, W½NW¼, and SW¼;
Sec. 26, E½NE¼, NW¼NE¼, W½, and SE¼;
Sec. 27, N½, E½SW¼, SW¼SW¼, and SE¼;
Sec. 28;
Sec. 29, NE¼NE¼, N½NW¼, S½N½, and S½;
Sec. 30, N½NE¼, SE¼NE¼, SE¼SW¼, and SW¼SE¼;
Secs. 31, 32, 33, 35, and 36.
T. 4 N., R. 10 W.,
Secs. 1, 3 and 5.

T. 5 N., R. 10 W.,
Sec. 33;
Sec. 34, SW¼;
Sec. 35, NW¼NE¼, S½NE¼, NW¼, and S½.
T. 7 N., R. 10 W.,
Sec. 22, NW¼;
Sec. 28, NW¼NE¼, N½NW¼, and SW¼NW¼;
Sec. 32, W½NW¼.
T. 4 N., R. 11 W.,
Secs. 3, 10, and 13;
Sec. 14, NE¼ and S½;
Secs. 15 and 16;
Sec. 22, SW¼NW¼, SW¼, NW¼SE¼, and S½SE¼;
Secs. 23 and 25;
Sec. 26, NE¼, N½NW¼, SW¼NW¼, and S½;
Secs. 27, 32, and 33;
Sec. 34, S½N½ and S½;
Secs. 35 and 36.
T. 5 N., R. 12 W.,
Secs. 5 and 6;
Sec. 7, lots 1, 2, 3, 4, NE¼, and E½W½.
T. 6 N., R. 11 W.,
Sec. 32.
T. 6 N., R. 12 W.,
Sec 35.
T. 7 N., R. 12 W.,
Sec. 19, lot 1;
Sec. 29.

UNIT 2–06

T. 2 N., R. 1 E.,
Sec. 5, lots 1, 2, 3, and 4;
Sec. 6, lots 1, 2, 3, 4, and N½.
T. 3 N., R. 1 E.,
Sec. 6, lots 1, 4, 5, 6, and 7;
Sec. 7, lots 1, 2, and 3;
Sec. 18, lots 1, 2, and 3;
Sec. 19, lots 1, 2, 3, 4, and W½W½;
Sec. 30, lots 1, 2, 3, 4, NW¼NW¼, S½NW¼, and SW¼;
Sec. 31, lots 1, 2, 3, 4, 5, SW¼NE¼, NE¼NW¼, S½NW¼, SW¼, and W½SE¼.
T. 3 N., R. 1 W.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 8, N½N½;
Sec. 12, N½SE¼ and SW¼SE¼;
Sec. 13, lots 3, 4, 6, 7, and SW¼;
Sec. 14, N½NE¼, SW¼NE¼, NE¼NW¼, and S½NW¼;
Sec. 16;
Sec. 24, lots 1 to 6, inclusive, W½E½ and E½W½;
Sec. 25, lots 1, 2, 3, W½NE¼, W½, N½SE¼, and SW¼SE¼;
Sec. 36.
T. 1 N., R. 3 W.,
Sec. 4, lots 1, 2, 3, and 4;
Sec. 5, lots 2, 3, 4, 6, SW¼NW¼, and W½SW¼.
T. 2 N., R. 3 W.,
Sec. 32, lots 1 to 7, inclusive, SW¼NE¼, NW¼, N½SW¼, and NW¼SE¼;
Sec. 36, N½, N½SW¼, SW¼SW¼, NE¼SE¼, and S½SE¼.
T. 3 N., R. 3 W.,
Sec. 2.
T. 2 N., R. 4 W.,
Sec. 2;
Sec. 16, N½, SW¼, NW¼SE¼, and S½SE¼.

UNIT 2–08

T. 1 S., R. 1 W.,
Sec. 7, lots 1, 2 and 4;
Sec. 16, lots 1, 2, 3, 4, S½NW¼, and S½.
T. 1 S., R. 2 W.,
Sec. 12, lots 1, 2, 3, and SE¼NE¼.

UNIT 2–09

T. 2 S., R. 1 E.,
Sec. 16.
T. 4 S., R. 1 E.,
Sec. 36.

UNIT 2–10

T. 5 S., R. 1 E.,
Sec. 2.

UNIT 2–11

T. 1 S., R. 4 E.,
Sec. 20, NE¼ and S½;
Sec. 21, N½SW¼ and NW¼SE¼;
Sec. 25, E½ and NE¼NW¼;
Sec. 26, SE¼NW¼, NE¼SW¼, SW¼SW¼, and NE¼SE¼;
Sec. 27, S½;
Sec. 28, S½;
Secs. 29 and 33;
Sec. 34, N½ and N½S½;
Sec. 35, SE¼NE¼ and SW¼NW¼.
T. 2 S., R. 4 E.,
Sec. 1, lots 1, 2, S½NE¼, and S½;
Sec. 3, S½;
Sec. 4;
Sec. 5, lot 1, SE¼NE¼, and SE¼;
Sec. 10, N½;
Sec. 11, E½E½;
Sec. 12;
Sec. 13, E½ and SW¼;
Sec. 24, E½.
T. 1 S., R. 5 E.,
Sec. 28, W½;
Secs. 30 and 31.
T. 2 S., R. 5 E.,
Sec. 4, N½;
Sec. 5, N½;
Secs. 6 and 19;
Sec. 30, lot 1, NE¼ and NE¼NW¼.
T. 3 S., R. 5 E.,
Sec. 3;
Sec. 4, E½SE¼;
Sec. 9, NE¼NE¼;
Sec. 10, W½NE¼ and NW¼;
Sec. 13, E½SE¼.
T. 4 S., R. 5 E.,
Sec. 10, NE¼;
Sec. 11, E½, NW¼, and N½SW¼;
Sec. 12, E½ and N½NW¼;
Sec. 13, E½;
Sec. 14, E½.
T. 3 S., R. 6 E.,
Secs. 4, 5 and 6;
Sec. 7, lots 1, 2, 3, 4, and E½W½;
Sec. 9;
Sec. 18, lots 1, 2, 3, 4, and E½W½;
Sec. 19, lots 1, 2, 3, 4, NE¼, E½W½, and N½SE¼;
Sec. 20, N½, and N½SW¼;
Sec. 21, SE¼;
Sec. 22, S½;
Sec. 24;
Sec. 26, W½;
Sec. 27;
Sec. 28, E½ and NW¼;
Sec. 29, E½, S½NW¼, and N½SW¼;
Sec. 30, lots 1, 2, 3, 4, and E½W½;
Sec. 31, lots 1, 2, 3, 4, and E½W½;
Sec. 33, NE¼;
Sec. 34;
Sec. 35, W½.
T. 4 S., R. 6 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 3, S½N½ and N½S½;
Sec. 4, S½N½ and N½S½;
Secs. 5 and 6;
Sec. 7, lots 1, 2, 3, 4, and E½W½;
Sec. 9, SW¼;
Sec. 10, SE¼;
Sec. 11, NW¼ and S½;
Sec. 12, NE¼;
Sec. 14;
Sec. 18, lots 1, 2, 3, 4, and E½W½;
Secs. 19 and 20;
Sec. 24, N½ and SW¼;
Sec. 27, S½;
Sec. 28, S½;
Sec. 29, S½;
Sec. 30, lots 1, 2, 3, 4, E½W½, and SE¼;
Sec. 33, E½.

The areas described aggregate 101,960.29 acres in Catron, Socorro, and Valencia Counties.

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 Socorro District Manager, Post Office Box 1456, Socorro, N. Mex. 87801.

4. A public hearing on the proposed classification will be held May 5, 1970, at 8 p.m., in the District Court Room, County Court House, Socorro, N. Mex.

W. J. ANDERSON,
State Director.

[F.R. Doc. 70-4554; Filed, Apr. 14, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CIBA AGROCHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 0F0958) has been filed by CIBA Agrochemical Co., Post Office Box 1105, Vero Beach, Fla. 32960, proposing the establishment of tolerances (21 CFR Part 120) for negligible residues of the herbicide *p*-nitrophenyl-2-nitro-4-(trifluoromethyl) phenylether and its metabolites in or on the raw agricultural commodities soybeans and soybean forage at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure with an electron-capture detector.

Dated: April 8, 1970.

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

[F.R. Doc. 70-4546; Filed, Apr. 14, 1970; 8:45 a.m.]

DOW CHEMICAL CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0H2519) has been filed by The Dow Chemical Co., 2020 Abbott Road Center, Midland, Mich. 48640, proposing that § 121.2520 *Adhesives* (21 CFR 121.2520) be amended to provide for the safe use of 2,3,5,6-tetrachloro-4-(methylsulfonyl) pyridine as a preservative for food-packaging adhesives.

Dated: April 8, 1970.

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

[F.R. Doc. 70-4547; Filed, Apr. 14, 1970; 8:45 a.m.]

SYRACUSE UNIVERSITY RESEARCH CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0H2522) has been filed by Syracuse University Research Corp., 600 East Genesee Street, Syracuse, N.Y. 13202, proposing that § 121.2505 *Slimicides* (21 CFR 121.2505) be amended to provide for the safe use of the ethyl ester of 4-bromoacetoacetic acid as a slimicide in the manufacture of paper and paperboard that contact food.

Dated: April 8, 1970.

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

[F.R. Doc. 70-4548; Filed, Apr. 14, 1970; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CERTAIN HUD EMPLOYEES IN REGION VI (SAN FRANCISCO)

Redelegation of Authority To Administer Oaths Under Title VIII (Fair Housing) of Civil Rights Act of 1968

Each of the following named employees in the Department of Housing and Urban Development, Region VI (San Francisco), is hereby authorized to administer oaths under section 811(a) of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a):

1. Floyd C. Covington.
2. Lee A. Merriwether.
3. Sara J. Swanson.
4. Robert C. Magnusson.
5. June C. Radtke.
6. Richard T. Williams.
7. Marvin R. Smith.
8. Weilan E. Potts.
9. Thomasina W. Williams.
10. Frances F. Tashquinth.

(Redelegation of authority by Regional Administrator effective November 16, 1969, 35 F.R. 1024, Jan. 24, 1970)

Effective date. This redelegation of authority shall be effective as of March 1, 1970.

CLIFTON R. JEFFERS,
Assistant Regional Administrator for Equal Opportunity, Region VI.

[F.R. Doc. 70-4612; Filed, Apr. 14, 1970; 8:51 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22073; Order 70-4-52]

AIR TRANSPORT ASSOCIATION

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of April 1970.

Air Transport Association request for permission to hold multicarrier discussions and make arrangements for certain flight and schedule adjustments.

By letter dated April 9, 1970, the Air Transport Association on behalf of certain member carriers [1] requests an extension of the authority granted by Order 70-4-5, dated April 2, 1970, which authorized all scheduled air carriers "to hold discussions and to enter into joint arrangements to reduce or otherwise arrange schedules to alleviate air traffic congestion problems arising as a result of reduced capacity of air traffic control systems," subject to various conditions. In support of its present request, the Association states the authority granted by Order 70-4-5 will expire on April 12, 1970; that the problems in the traffic control system which furnished the basis for the previously granted authority continue to exist; and that the authority granted in Order 70-4-5 represents the only practical means of dealing with these problems.

Upon consideration of the matters set forth in the above application, the Board finds that the public interest warrants a continuation of the authority granted by Order 70-4-5, for an additional 10-day period, subject to the conditions previously imposed.[2] The factual situation and the rationale for the Board's action are generally the same as those set forth in Order 70-4-5 supra, and, accordingly, there is no need for a further detailed discussion of these matters at this time.

Accordingly, it is ordered, That:

1. The second ordering paragraph of Order 70-4-5, be and it hereby is amended to read as follows:

"2. The authorization granted herein shall expire on April 22, 1970, or sooner upon the termination of the existing emergency, and may be earlier revoked or amended at any time in the discretion of the Board;"

2. A copy of this order shall be served upon all scheduled air carriers, the Air Transport Association, the Federal Aviation Administration, the Department of Transportation, the Department of Justice, the Professional Air Traffic Controllers Organization, the Air Traffic Controllers Association, and the National Association of Government Employees.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-4589 Filed, Apr. 14, 1970; 8:48 a.m.]

[1] American, TWA, and United.

[2] We shall also require that any carriers holding meetings give notice to the Director, Bureau of Operating Rights, and we reserve the right for Board observers to attend any such meetings. The requirement of advance notice is not intended to apply to discussions conducted solely by telephone.

[Docket No. 20993; Order 70-4-44]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority April 9, 1970.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated March 26, 1970, names additional specific commodity rates, as set forth below, which reflect significant reductions from the general cargo rates.

R-26:
Commodity Item No. 9516—Handicraft Products, Namely Textiles, Metal, Wood, Straw, Leather, Clay, Wicker, Onyx, Mother-of-Pearl, and Glass Articles 135 cents per kg., minimum weight 100 kgs., Niamey to New York.

R-27:
Commodity Item No. 8500—Safety Equipment and Apparatus 181 cents per kg., minimum weight 100 kgs., Sydney to San Juan.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act: *Provided,* That tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 21380, R-26 and R-27, be and hereby is deferred with a view toward eventual approval: *Provided,* That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-4588; Filed, Apr. 14, 1970; 8:48 a.m.]

[Docket No. 21881; Order 70-4-43]

OWENSBORO AVIATION

Order To Show Cause

Issued under delegated authority April 9, 1970.

Final service mail rate established by Order E-24625 in Docket 17941 for the

transportation of mail by aircraft between Owensboro, Ky.; Evansville, Ind., and Chicago, Ill., is currently in effect for L. S. Cox, Jr., doing business as Owensboro Aviation (Owensboro), an air taxi operator under 14 CFR Part 298.

On February 2, 1970, Owensboro filed a petition requesting the Board to fix a new final service mail rate for its route in Docket 17941. On April 1, 1970, the Postmaster General filed a reply to Owensboro's petition. The Postmaster General stated that it was in agreement with Owensboro that the present rate was no longer fair and reasonable because of increased costs experienced by Owensboro which were not known or reasonably foreseeable at the time the rate was set.

The present rate for this service by Owensboro is 46.36 cents per great circle aircraft mile. Owensboro petitioned for a new rate of 53.29 cents. The Postmaster General, however, concludes that upon thorough analysis he can support an increased rate of 49.26 cents. The Postmaster General states that Owensboro, after due consideration, has agreed that the rate supported by the Postmaster General, as set forth above, is a fair and reasonable rate of compensation.

The Board finds it is in the public interest to determine, adjust and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petitions and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

On and after February 2, 1970, the fair and reasonable final service mail rate per great circle aircraft mile to be paid in its entirety by the Postmaster General to L. S. Cox, Jr., doing business as Owensboro Aviation pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Owensboro, Ky., Evansville, Ind., and Chicago, Ill., shall be 49.26 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's regulations 14 CFR Part 302, 14 CFR Part 298 and the authority duly delegated by the Board in its organization regulations 14 CFR 385.14(f),

It is ordered, That:

1. All interested persons and particularly L. S. Cox, Jr., doing business as Owensboro Aviation, and the Postmaster General are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rates of compensation to be paid L. S. Cox, Jr., doing business as Owensboro Aviation;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified in the attached appendix; and

3. This order shall be served upon L. S. Cox, Jr., doing business as Owensboro Aviation, and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 70-4590; Filed, Apr. 14, 1970; 8:48 a.m.]

[Docket No. 21555; Order 70-4-41]

LING-TEMCO-VOUGHT, INC.

Order Tentatively Approving Control Relationships

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of April 1970.

Application of Ling-Temco-Vought, Inc. for a disclaimer of jurisdiction or for approval under section 408 of the Federal Aviation Act of the creation by LTV Aerospace Corporation of a wholly owned subsidiary.

By application filed October 30, 1969, and supplemented thereafter, Ling-Temco-Vought, Inc. (LTV) [2] requests that the Board disclaim jurisdiction over, or in the alternative approve, under section 408 of the Federal Aviation Act of 1958, as amended (the Act), the creation by LTV Aerospace Corp. (Aerospace), a subsidiary of the applicant, of a wholly owned subsidiary, Vought Helicopter, Inc. (Vought Helicopter). Vought Helicopter was created for the sole purpose of executing the terms of a contract entered into between Aerospace and Sud-Aviation, Societe Nationale de Constructions Aeronautiques (Sud-Aviation) under which Vought Helicopter will sell and service certain types of helicopters produced by Sud-Aviation.[3]

The agreement between Aerospace and Sud-Aviation calls for the former to sell and service within the United States and certain Canadian provinces, the Alouette II and Alouette III helicopters as well as the semirigid rotor SA-341 helicopter. The Alouette II and Alouette III are five-place and seven-place turbine-powered helicopters, respectively. Neither the Alouettes nor the SA-341 have useful loads greater than 2,000 pounds.

The applicant states that Aerospace, upon consummation of the agreement with Sud-Aviation on July 18, 1969, immediately created Vought Helicopter for the primary purpose of carrying out its portion of the agreement with the French aircraft manufacturer and accordingly assigned its interest in the Sud-Aviation contract to the latter. Assets were transferred to Vought Helicopter by Aerospace who in turn received all of the stock in the newly created company. LTV states that whether or not the creation of a subsidiary is deemed to be an "acquisition" of control within the meaning of section 408 of the Act, ample grounds exist for the Board either to disclaim jurisdiction or to approve the subject transaction.

No objections to the application or requests for a hearing have been received.

Upon consideration of the foregoing, it is concluded that Vought Helicopter is a person engaged in a phase of aeronautics within the meaning of section 408 of the Act, and that the Board has jurisdiction over the transaction.[4] However, it is further concluded that the control relationships do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly and do not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing and it is

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[1] As this order to show cause is not a final action but merely provides for interested persons to be heard on these matters, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[2] LTV is a multiproduct corporation which controls Braniff Airways, Inc. (Braniff), a certificated trunkline carrier. Approval of this control relationship was granted by Order E-25989, Ling-Temco-Vought, Inc., dated Nov. 17, 1967. Currently LTV is engaged, among other things, either directly or through its subsidiaries, in the research, development and production of space vehicles, aircraft, missiles and surface vehicles.

[3] Vought Helicopter, which will in essence be acting in the capacity of distributor for Sud-Aviation helicopters both here in the United States and parts of Canada, is currently a wholly owned subsidiary of Aerospace. However, it will become in the near future a wholly owned subsidiary of Vought Aeronautics Corp. (also controlled by Aerospace) when the former's assets are transferred to the latter party.

[4] See Order 69-10-74, Ling-Temco-Vought, Inc., dated October 16, 1969 whereby the Board approved LTV's creation of LTV Jet Fleet Corp. Also, the Board in Order E-25989, approving LTV's acquisition of Braniff, retained jurisdiction for the purpose, among other things, of approving without hearing formal simplifications of the corporate structure of LTV if the Board finds any such actions to be in the public interest.

concluded that the public interest does not require a hearing.[4] The control relationships do not appear to present any new substantive issues concerning the control of Braniff by LTV. In this context we note LTV's representations that Vought Helicopter acts as sales agent, and provides certain support services, for helicopter aircraft manufactured by Sud-Aviation; that none of these helicopters holds useful loads in excess of approximately 2,000 pounds or has a seating capacity of more than seven positions, and none could be used in airline operations for which Braniff is certificated; and that Braniff does not operate helicopter aircraft and has no plans to purchase or operate such aircraft. In view of these considerations, and since Braniff is precluded from having commercial transactions involving in the aggregate more than $100,000 per year with LTV and all of its subsidiaries, we do not believe any regulatory problems are faced by the subject relationships.[5] We therefore tentatively conclude that the common control by LTV of Vought and Braniff should be approved.

In accordance with section 408(b) of the Act, this order constituting notice of the Board's tentative findings, will be published in the FEDERAL REGISTER and interested persons will be afforded an opportunity to file comments or request a hearing on the Board's tentative decision.[6]

Accordingly, It is ordered, That:

1. The application herein insofar as it requests approval under section 408 of the Act be and it hereby tentatively is granted;

2. Interested persons are hereby afforded a period of ten (10) days from the date of issuance of this order within which to file comments or request a hearing with respect to the Board's proposed action; [7] and

3. The Attorney General of the United States be furnished a copy of this order within one day of publication.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-4591; Filed, Apr. 14, 1970; 8:49 a.m.]

[4] To the extent that the control relationships discussed herein may have been effective without prior Board approval, it has been decided not to enforce the doctrine expressed in Sherman, Control and Interlocking Relationships, 15 CAB 876 (1952) and to consider the application on its merits.

[5] Order E-25989, supra, ordering paragraph 2(f).

[6] In its final order, the Board will reserve jurisdiction over the transaction to take whatever action may be required in the public interest.

[7] Comments so filed shall conform to the requirements of the Board's rules of practice (14 CFR 302) for the filing of documents. Further, since an opportunity to file comments is provided for, petitions for reconsideration of this order will not be entertained.

[Docket No. 21770; Order 70-4-38]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority April 9, 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 Joint Conference 1-2 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB Agreement number.

The agreement would extend the availability of affinity-group fares for 40, 80, and 100 passengers to U.S. military personnel stationed abroad and their dependents traveling at their own expense. The use of such fares would be subject, inter alia, to the same peak, shoulder, and off-season periods of availability established for public use, including a restriction on weekend travel in June and July in the eastbound direction and in August and September in the westbound direction.

We are herein disclaiming jurisdiction over similar provisions relating to group fares for Canadian military personnel.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found, on a tentative basis, that Resolution JT12(Mail 731)095c, which is incorporated in Agreement CAB 21693, R-1, is adverse to the public interest or in violation of the Act; and

2. It is not found that Resolution JT12(Mail 731)095d, which is incorporated in Agreement CAB 21693, R-2, affects air transportation within the meaning of the Act.

Accordingly, it is ordered, That:

1. Action on Agreement CAB 21693, R-1, be and hereby is deferred with a view toward eventual approval; and

2. Jurisdiction is disclaimed with respect to Agreement CAB 21693, R-2.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-4592; Filed, Apr. 14, 1970; 8:49 a.m.]

CIVIL SERVICE COMMISSION

NINHYDRIN SPECIALIST

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on April 7, 1970, for the single position of Ninhydrin Specialist, GS-072-9, Identification Section, Secret Service, Treasury Department, Washington, D.C.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty. The finding is self-canceling when the position is filled.

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

[F.R. Doc. 70-4607; Filed, Apr. 14, 1970; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

CHANDRIS AMERICA LINES S.A.

Notice of Issuance of Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Chandris America Lines S.A., 83 Kolokotroni Street, Piraeus, Greece.

Dated: April 9, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-4558; Filed, Apr. 14, 1970; 8:46 a.m.]

CHANDRIS AMERICA LINES S.A.

Notice of Issuance of Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Chandris America Lines S.A., 83 Kolokotroni Street, Piraeus, Greece.

Dated: April 9, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-4559; Filed, Apr. 14, 1970; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

WACCAMAW CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Correction

In F.R. Doc. 70-4421 appearing at page 6024 in the issue for Saturday, April 11, 1970, in the ninth line of the first paragraph, the reference to "10 percent" should read "100 percent".

SECURITIES AND EXCHANGE COMMISSION

[812-2701]

NARRAGANSETT CAPITAL CORP.

Notice of Filing of Application for Order Exempting and Permitting Transactions

APRIL 9, 1970.

Notice is hereby given that Narragansett Capital Corp. ("Narragansett"), 10 Dorrance Street, Providence, R.I. 02903, a Rhode Island corporation, registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 ("Act") and licensed as a small business investment company under the Small Business Investment Act of 1958, has filed an application pursuant to section 17(b) of the Act to exempt from section 17(a) of the Act the acquisition by Amtel, Inc. ("Amtel"), of the assets, subject to liabilities, of The Thomson Corp. ("Thomson") in exchange for Amtel common stock, and for an order under Rule 17d-1 of the Act authorizing such transaction.

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.

Background. On December 31, 1969, the managements of Amtel and Thomson reached an agreement in principle calling for Thomson to transfer substantially all of its assets to Amtel in exchange for voting common stock of Amtel and the assumption by Amtel of substantially all of the liabilities of Thomson. Under the terms of the agreement Amtel would issue up to 500,000 shares of its common stock to Thomson as follows: (i) 200,000 shares on closing; (ii) up to 50,000 additional shares at closing or thereafter, to the extent outstanding stock purchase warrants for the purchase of 12,500 shares of Thomson common stock are exercised, in the ratio of four shares of Amtel common stock for each shares of Thomson common stock purchased by exercise of such warrants (As indicated, infra, subsequent to Dec. 31, 1969, the terms of the warrants were amended); and (iii) on April 1, 1974, a number of additional shares of Amtel common stock equal to the average after tax earnings of the Thomson business during the 5 fiscal years January 1, 1969, through December 28, 1973, in excess of $450,000, multiplied by 10 and divided by the average closing prices of Amtel's common stock on the New York Stock Exchange for the 20 business days preceding April 1, 1974, but not in excess of the number of shares issued on closing.

Amtel is a diversified concern engaged in the manufacture of fastener products, industrial machinery, aircraft machine, and aircraft parts and components, cutting tools, forgings and automotive cushioning material and is also engaged in the publishing, engineering, and novelty and giftware industries. Its common stock is listed on the New York Stock Exchange. For the year ended December 28, 1968, net sales were approximately $57,544,000; net income was $3,180,000; and net income per share was 98¢. For the 9 months ended October 4, 1969, sales totaled $75,165,000; net income totaled $2,751,000; and net income per share was 68¢. A report of G. H. Walker & Co. submitted with the application estimates 1969 net earnings per share between $1.05 and $1.10.

Thomson is a closely held corporation. It is engaged in the manufacture of metal trim and other functional parts for the automotive industry. For its fiscal year ended December 28, 1968, net sales totaled $9,223,000; net income was $364,000; and net income per share was $7.28. Comparable figures for the year ended January 3, 1970, were $8,192,536, $477,384, and $9.55. If all the warrants, as amended (infra, page 3) are exercised, the net income per share for the 2 years are reduced to $6.22 and $8.19, respectively.

Based on the market value of Amtel's common stock on December 31, 1969, the date of the agreement in principle, Thomson would receive Amtel common stock upon closing with a value of $2,860,000.

Narragansett now holds 339,350 shares, or approximately 8.3 percent, of the approximately 4,100,000 outstanding shares of Amtel common stock. Narragansett also now holds 25,000, or 50 percent, of the 50,000 outstanding shares of common stock of Thomson. If the proposed transaction is consummated, Narragansett's percentage ownership of Amtel common stock could increase to approximately 10 percent.

Management stockholders of Thomson hold stock purchase warrants for the purchase of Thomson common stock. The warrants to purchase Thomson shares were issued in 1963 when Thomson was organized. Narragansett does not now hold, and has not held such warrants. The warrants, prior to their modification which took place after December 31, 1969, if exercised in full, would have increased the outstanding common stock of Thomson to 62,500 shares and reduced Narragansett's percentage ownership of Thomson to 40 percent. As a result of the warrant modification, Narragansett's percentage ownership in Thomson could be reduced to approximately 43 percent.

Under the terms of the warrants, a warrantholder retains his right to purchase shares of the surviving company, in the event of a merger. In view of the desire of Amtel that the warrants be exercised prior to the closing, Thomson's management, subsequent to December 31, 1969, amended the terms of the warrants, to enable the warrantholders to expend a nominal sum, while preserving the dollar value of the warrants. The warrants originally enabled their holders to acquire a Thomson share for $20, which share would be exchanged in the acquisition for four shares of Amtel. Under the amended terms of the warrants, the holders thereof may acquire 0.683 shares of Thomson for $1, which would be exchangeable into 2.73 shares of Amtel. At the time the modification of the warrants was effected, the market price of Amtel was approximately $15 per share. Thus, under the original terms, a warrantholder would have expended $20 for which he would, after the exchange, have received Amtel stock with a value of $60; under the new terms, a warrantholder would expend $1 while receiving Amtel stock worth $41. The $40 value of the warrant under the original terms is, according to applicants, preserved under the modified terms.

Certain affiliated persons of Narragansett, specifically some of its officers and directors, hold shares of Amtel common stock. No affiliated persons of Narragansett own shares of stock of Thomson, or otherwise have a financial interest therein. However, Willard G. Van Saun, a director of Amtel until April 1969, and still the president of its Janesville Division, but not a company officer, owns 4,000, or 8 percent of the 50,000 outstanding shares of Thomson's common stock and warrants for the purchase of 2,000 additional shares of such stock. Certain officers and directors of Narragansett are officers and directors of both Amtel and Thomson.

The consummation of the acquisition of the assets of Thomson by Amtel is subject, among other things, to the approval thereof by the shareholders of Thomson and Amtel.

Commission jurisdiction. Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company from selling any security to or purchasing any security or other property from such registered investment company or any company controlled by any such registered investment company. The proposed acquisition, whereby Thomson and then Narragansett will acquire common stock of Amtel, involves the sale and purchase of a security within the meaning of section 17(a), and the transfer of Thomson's assets to Amtel constitutes a prohibited sale of property under that section. The Commission, upon application pursuant to section 17(b), may grant an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, as

here pertinent, that it shall be unlawful for an affiliated person of a registered investment company or any affiliated person of such person, acting as principal, to participate in, or to effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by the Commission. In passing upon such application, the Commission must consider whether the participation of such registered company or controlled company in such arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Narragansett seeks an exemption to the extent necessary to permit the acquisition of Thomson's assets by Amtel.

Supporting statements. Narragansett alleges that the proposed merger is fair and reasonable to all parties involved. The terms of the proposed transaction, it is asserted, were determined in arms-length negotiations between Amtel and Thomson. Narragansett has received a report of G. H. Walker, an investment banking concern, indicating that the terms of the transaction are fair and reasonable to the stockholders of both Amtel and Thomson. The report is attached to the application as an exhibit.

The report concentrates on the contribution of Thomson to Amtel and the advantages from the Thomson standpoint. It notes that, on the basis of estimated 1969 earnings of Thomson of between $450,000 and $500,000, Thomson would bring earnings of $1.80 to $2[1] per share of Amtel to be issued at closing, against estimated Amtel earnings for 1969 of between $1.05 and $1.10 per share. Thomson will also increase Amtel's net worth per share. From Thomson's point of view, while the consummation of the transaction would result in reduced earnings for Thomson stockholders, as an offset they would be receiving a listed marketable stock, which G. H. Walker believes is selling at a reasonable multiple on the basis of current prices. The report also stresses that the value of the stock to be received represents as favorable a price as could be obtained elsewhere for the assets of Thomson as a concern engaged in the auto parts industry.

The application also states that the proposed transaction does not involve overreaching on the part of any person concerned or any preference or special treatment for any affiliated person of Narragansett or any affiliate of such an affiliated person. As an acquisition of assets for stock, akin to a merger, each stockholder of Thomson will be entitled to Amtel stock in direct proportion to present holdings of Thomson. Amtel stockholders, including affiliates of Narragansett, will share in the benefits of the Thomson acquisition solely in proportion to their respective stock holdings in Amtel.

Narragansett represents that the proposed transaction is consistent with its investment policy, as recited in its Registration Statement and reports filed under the Act, and is consistent with the general purposes of the Act. The transaction does not involve an additional investment by Narragansett and it does not involve any concentration in a given industry. It will result in a divestiture by Narragansett of what might be deemed to be control of the affairs of Thomson and it will not favor any insiders or special class of security holders.

With specific reference to Rule 17d–1, the application contends the participation of Narragansett in the proposed transaction is not on a basis different from or less advantageous than that of any other participant, including the affiliates of Narragansett, and such affiliates would not participate on a different or more advantageous basis.

Notice is further given that any interested person may, not later than April 29, 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 act 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 Narragansett at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, That the Secretary of the Commission shall send a copy of this notice by certified mail to the Director, Office of Investment Assistance, Small Business Administration, Washington, D.C. 20416.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-4564; Filed, Apr. 14, 1970; 8:46 a.m.]

[1] The $1.80–$2 estimate assumed exercise of all warrants at their original terms.

[File No. 24D–2739]

FRED A. HUFFMAN MANUFACTURING, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor and Notice of Opportunity for Hearing

APRIL 7, 1970.

I. Fred A. Huffman Manufacturing, Inc. (issuer), a New Mexico corporation, with offices stated to be located at Post Office Box 69, Highway 17–E and Basin Road, Farmington, N. Mex., filed with this Commission on August 22, 1966, a notification and offering circular relating to a proposed offering of 148,176 shares of its $1 par value stock at $1 per share, for an aggregate of $148,176 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof, and Regulation A promulgated thereunder. The offering commenced on October 13, 1966, with Fred A. Huffman, president of the issuer, indicated as the underwriter. The offering has continued to date, the offering circular having been revised as of November 4, 1967, November 26, 1968, and December 24, 1969, respectively, and the total amount raised as stated in the Form 2–A report filed as of December 31, 1969, was $105,488.

II. The Commission, on the basis of information reported to it by its staff has reasonable cause to believe that:

(A) In connection with the offer and sale of securities covered by the aforementioned filings untrue statements of material facts, and omissions to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, have been and are being made, particularly with respect to:

(1) Guarantees that the market price of securities of the issuer only could go up and not down in amount.

(2) That the issuer would be merged with or acquired by a company (Summit Industries) soon to be formed and that such company would have more than $4 million in assets and 43 products to market.

(3) The existence of a $5 million loan commitment to Fred Huffman personally from National Lead Co., the proceeds of which must be placed with either Fred Huffman Manufacturing, Inc., or Summit Industries.

(4) Projections of the issuer's income for 3 years, wherein it is represented, among other things, that the issuer will have sales in excess of $1,800,000 in 1970 with profits of $341,901, and profits in the years 1971, 1972, and 1973 of $480,000, $1,440,000, and $3 million respectively.

(5) Representations that shares of the issuer will be listed on the American Stock Exchange in the near future.

(6) Representations that the issue was qualified for sale in every State in the United States.

(7) The use of financial statements which falsely state the issuer's financial condition.

(8) Representations that Fred Huffman Manufacturing was "approved" by

the Securities and Exchange Commission.

(9) The failure to provide prospective investors with copy of the issuer's offering circular.

(B) The terms and conditions of Regulation A have not been complied within that:

(1) The issuer has offered and sold its securities without providing an offering circular to persons to whom the securities were offered or sold as required by Rule 256.

(2) The issuer and underwriter have used offering literature in the offer and sale of the issuer's securities which was not filed with the Commission pursuant to the applicable provisions of Regulation A and which did not comply with the technical provisions or make the disclosures required by the regulation.

(3) Offers and sales of the issuer's securities have been made in jurisdictions other than as stated Item 8 of Form 1–A.

(C) The offering, as made, was made in violation of sections 5 and 17 of the Securities Act of 1933, as amended, and if the offering would continue to be made such further offerings would be in violation of sections 5 and 17 of the Securities Act of 1933, as amended, for reasons described above.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended,

It is ordered, Pursuant to Rule 261(a), subparagraphs (1) and (2) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of Fred A. Huffman Manufacturing, Inc. under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for a hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-4543; Filed, Apr. 14, 1970; 8:45 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

PINOLE POINT WORKS, BETHLEHEM STEEL CORP.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of March 16, 1970, the U.S. Tariff Commission made a report of the results of an investigation (TEA–W–12) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of the production and maintenance workers of the Bethlehem Steel Corp., Tower Department, Pinole Point Works, located at Pinole Point, Calif. The report contained the Commission's affirmative finding that, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with transmission towers and parts produced by the Bethlehem Steel Corp., Tower Department, Pinole Point Works are being imported into the United States in such increased quantities as to cause unemployment or underemployment of a significant number or proportion of the workers of such plant.

Upon receipt of the Commission's report, the Department's Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation following which he made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigations, 34 F.R. 18342; 35 F.R. 5184; 29 CFR Part 90). In that recommendation he noted that workers moved between the tower department and the heavy fabricating department at the Pinole Point Works and the reduction of employment in the tower department caused extensive "bumping" in the heavy fabricating department. He further noted that layoffs from the Pinole Point Works since early 1969 have been the result of decreased operations in the transmission tower department. After due consideration, I make the following certification:

Those workers of the transmission tower department and the heavy fabricating department of the Pinole Point Works, Fabricated Steel Construction Division of Bethlehem Steel Corp., located at Pinole Point, Calif., who became or will become unemployed or underemployed on or after January 18, 1969, are eligible to apply for adjustment assistance.

Signed at Washington, D.C., this 10th day of April 1970.

GEORGE H. HILDEBRAND,
Deputy Under Secretary, International Affairs.

[F.R. Doc. 70-4606; Filed, Apr. 14, 1970; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

APRIL 10, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. Case MT 405, filed March 30, 1970. Applicant: TORREY DELIVERY, INC., 219 Brigham Road, Post Office Box 508, Dunkirk, N.Y. 14048. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202. Certificate of public convenience and necessity sought to operate a freight service as follows: *General commodities*, as defined in 16 NYCRR No. 800.1 from Chautauqua, Fredonia, Jamestown, and Westfield (all in Chautauqua County), N.Y., to Buffalo, N.Y. NOTE: Applicant already holds authority to perform the subject transportation in one direction and only here seeks authority in the reverse direction under the decision of the Commission in Case MT–1120, *Application of Jungerman*, decision adopted October 23, 1953. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Requests for procedural information, including the time for filing protests concerning this application should be addressed to the New York State Public Service Commission, 44 Holland Avenue, Albany, N.Y. 12208, and should not be directed to the Interstate Commerce Commission.

State Docket No. M–5454, filed March 24, 1970. Applicant: BATESVILLE TRUCK LINE, INC., Batesville, Ark. 72501. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Building, Little Rock, Ark. 72201. Certificate of public convenience and necessity sought to operate a freight service as follows: *General commodities*, between Batesville and Newark, Ark.; (1) from Batesville to Newark over Arkansas Highway 69, and return over the same route, serving all intermediate points; (2) from Batesville over Arkansas Highway 69 to intersection with unmarked W.P.A.-Gap Road, approximately 3 miles east of Batesville, and thence over W.P.A.-Gap

Road to the junction of Arkansas Highway 69 near Magness, Ark., and thence over Arkansas Highway 69 to Newark, and all other unmarked public roads connecting with said W.P.A.-Gap Road and Arkansas Highway 69 between Batesville and Newark, Ark., and return over the same routes and serving all intermediate and off-route points on and adjacent to the highways described in (1) and (2) herein. Both intrastate and interstate authority sought.

HEARING: Thursday, May 21, 1970, at 10 a.m., at the Arkansas Commerce Commission, Justice Building, Little Rock, Ark. 72201. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Arkansas Commerce Commission, Justice Building, Little Rock, Ark. 7221, and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[F.R. Doc. 70-4573; Filed, Apr. 14, 1970; 8:47 a.m.]

[Notice 4]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

APRIL 10, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 543), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed March 31, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Scranton, Pa., over Interstate Highway 81 to Interchange No. 37 of the Northeast extension of the Pennsylvania Turnpike, thence over the northeast extension of the Pennsylvania Turnpike to Interchange No. 33 (Interstate Highway 78), thence over Interstate Highway 78 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Interstate Highway 83, thence over Interstate Highway 83 to Harrisburg, Pa., (2) from Scranton, Pa., over Interstate Highway 81 to junction Pennsylvania Highway 115, thence over Pennsylvania Highway 115 to Wilkes-Barre, Pa., (3) from Wilkes-Barre, Pa., over Pennsylvania Highway 115 to junction access road approximately 9 miles south of Wilkes-Barre, Pa., thence over access road to Interchange No. 36 of the northeast extension of the Pennsylvania Turnpike, and (4) from Harrisburg, Pa., over U.S. Highway 22 to junction Interstate Highway 83 just east of Progress, Pa., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Scranton, Pa., over U.S. Highway 11 to Pittston, Pa., thence over unnumbered highway (River Road) to Wilkes-Barre, Pa., thence over Pennsylvania Highway 115 to junction U.S. Highway 11 near Kingston, Pa., thence over U.S. Highway 11 to Amity Hall, Pa., thence over U.S. Highway 22 to Harrisburg, Pa. (also from Northumberland, Pa., over Pennsylvania Highway 147 (formerly Pennsylvania Highway 14), to Clark's Ferry), and return over the same route.

By the Commission.

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

[F.R. Doc. 70-4574; Filed, Apr. 14, 1970; 8:47 a.m.]

[Notice 13]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

APRIL 10, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 75320 (Deviation No. 31), CAMPBELL SIXTY-SIX EXPRESS INC., Post Office Box 807, Springfield, Mo. 65801, filed March 31, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Tulsa, Okla., over U.S. Highway 75 to junction Oklahoma Highway 7, thence over Oklahoma Highway 7 to junction Oklahoma Highway 99, thence over Oklahoma Highway 99 to Tishomingo, Okla.; and (2) from Pryor, Okla., over U.S. Highway 69 to Atoka, Okla., thence over U.S. Highway 75 to Sherman, Tex., thence over U.S. Highway 82 to Wichita Falls, Tex., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Ardmore, Okla., over U.S. Highway 70 to junction U.S. Highway 177, thence over U.S. Highway 177 to junction Oklahoma Highway 18, thence over Oklahoma Highway 18 to junction Interstate Highway 44 (Turner Turnpike), thence over Interstate Highway 44 to Tulsa, Okla.; (2) from Durant, Okla., over Oklahoma Highway 78 via Nida, Emet, Milburn, and Tishomingo, Okla., to junction Oklahoma Highway 12, thence over Oklahoma Highway 12 to Russett, Okla., thence over U.S. Highway 70 to Ardmore, Okla.; (3) from Pryor, Okla., over Oklahoma Highway 20 to Claremore, Okla.; (4) from Baxter Springs, Kans., over U.S. Highway 66 to Tulsa, Okla.; (5) from Wichita Falls, Tex., over Texas Highway 79 via Petrolia, Tex., to the Texas-Oklahoma State line, thence over Oklahoma Highway 79 to junction U.S. Highway 70, about 2 miles west of Waurika, Okla., thence over U.S. Highway 70 via Waurika and Lone Grave, Okla., to Ardmore, Okla., and return over the same routes.

By the Commission.

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

[F.R. Doc. 70-4575; Filed, Apr. 14, 1970; 8:47 a.m.]

[Notice 35]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 10, 1970.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 69394 (Sub-No. 9) (Republication), filed September 3, 1969, published in the FEDERAL REGISTER, issue of September 11, 1969, and republished this issue. Applicant: THE GRAY LINE, INC., 25 Webber Street, Roxbury (Boston), Mass. 02119. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. By application filed September 3, 1969, as amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier, by motor vehicle, over regular and irregular routes, of passengers and their baggage, and express, mail and newspapers in the same vehicle with passengers, over specified regular routes, as previously published, but failed to indicate service at all intermediate points. An order of the Commission, Operating Rights Board, dated March 11, 1970, and served March 31, 1970, finds, the part here pertinent, that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a common carrier by motor vehicle; (a) over regular routes, of passengers and their baggage and express and newspapers, in the same vehicle with passengers; (1) between Boston, Mass., and Woonsocket, R.I., from Boston over Interstate Highway 90 to junction Massachusetts Highway 30, thence over Massachusetts Highway 30 to junction Massachusetts Highway 126, and thence over Massachusetts Highway 126 to Woonsocket, and return, serving all intermediate points; (2) between Boston, Mass., and Milford, Mass., from Boston over U.S. Highway 1 to junction Massachusetts Highway 109, and thence over Massachusetts Highway 109 to junction Massachusetts Highway 16, and thence over Massachusetts Highway 16 to Milford, and return, serving all intermediate points;

(3) Between the junction of Interstate Highway 90 and Massauchetts Highway 128 and the junction of Massachusetts Highway 109 and Massachusetts Highway 128, over Massachusetts Highway 128, serving all intermediate points; (4) between Framingham, Mass., and the junction of unnumbered highway and Massachusetts Highway 126, from Framingham over Massachusetts Highway 135 to Ashland, Mass., and thence over unnumbered highway southeastward to junction Massachusetts Highway 126 and return, serving all intermediate points; (5) between Holliston, Mass., and Milford, Mass., from Holliston over unnumbered highway via Medway, Mass., to junction Massachusetts Highway 140, thence over Massachusetts Highway 140 to junction Massachusetts Highway 16 south of Milford, and thence over Massachusetts Highway 16 to Milford (also from junction unnumbered highway and Massachusetts Highway 140 south of Milford, over unnumbered highway to Milford), and return, serving all intermediate points; (6) between the junction of unnumbered highway and Massachusetts Highway 140 west of Franklin, Mass., and Franklin, Mass., over Massachusetts Highway 140, serving all intermediate points; (7) between the junction of Massachusetts Highway 16 and unnumbered highway southwest of Holliston, Mass., and the junction of Massachusetts Highway 140 and unnumbered highway west of Franklin, Mass., over unnumbered highway via West Medway, Mass., serving all intermediate points; and (8) between the junction of Massachusetts Highway 16 and 126 and the junction of Massachusetts highway 16 and 109 near Milford, Mass., over Massachusetts Highway 16, serving all intermediate points; and that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 10914 (Sub-No. 9) (republication), filed September 16, 1969, published in the FEDERAL REGISTER issue of October 8, 1969, and republished this issue. Applicant: THE O'BRIEN & NYE CARTAGE CO., a corporation, 308 Central Viaduct, Cleveland, Ohio 44115. Applicant's representative: J. A. Kundtz, 1050 Union Commerce Building, Cleveland, Ohio 44115. By application filed September 16, 1969, The O'Brien & Nye Cartage Co., of Cleveland, Ohio, seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of the commodities and from and to the points substantially as indicated below. An order of the Commission, Operating Rights Board, dated March 15, 1970, and served March 31, 1970, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from Coldwater, Mich., to Toledo, Ohio; that applicant is fit, willing, and able properly to perform such service and conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 116473 (Sub-No. 4) (republication), filed October 6, 1969, published in the FEDERAL REGISTER issue of October 30, 1969, and republished this issue. Applicant: THOMAS HANLEY, doing business as HANLEY TRUCKING, 266 Magnolia Avenue, Hillsdale, N.J. 07642. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. By application filed October 6, 1969, Thomas Hanley doing business as Hanley Trucking, of Hillsdale, N.J., seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of such commodities as are dealt in by a manufacturer of wadding, and materials, equipment and supplies used in the conduct of such business (except commodities in bulk), between the points indicated below. An Order of the Commission, Operating Rights Board, dated March 23, 1970, and served April 3, 1970, finds; that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *synthetic wadding and synthetic quilting, and materials, equipment, and supplies* used in the manufacture thereof (except commodities in bulk), between the plantsite of Carlee Corp., at Rockleigh, N.J., on the one hand, and on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New York, North Carolina, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, under a continuing contract with Carlee Corp., of Rockleigh, N.J., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition or for other appropriate relief, setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 119880 (Sub-No. 26) (Republication), filed November 27, 1968, published in the FEDERAL REGISTER issue of January 16, 1969, and republished this issue. Applicant: DRUM TRANSPORT, INC., Post Office Box 2056, East Peoria, Ill. 61611. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. By application filed November 27, 1968, as amended, Drum Transport, Inc., of East Peoria, Ill., seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of alcoholic liquors, in bulk, in tank vehicles; (1) from Toledo, Ohio; Chicago, Ill.; New Orleans, La.; and Detroit, Mich., to Peoria and Pekin, Ill.; San Francisco, Burlingame, and Union City, Calif.; and Petersburg, Va.; and (2) from Pekin, Ill., to Petersburg, Va., and Baltimore, Md. A report and order of the Commission, Review Board No. 2, decided March 24, 1970, and served March 27, 1970, on further proceedings, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce as a *common carrier* by motor vehicle, over irregular routes, of *alcoholic liquors*, in bulk, in tank vehicles; (1) from Toledo, Ohio; Chicago, Ill.; New Orleans, La.; and Detroit, Mich.; to Peoria and Pekin, Ill.; Burlingame, Calif.; and Petersburg, Va.; and Baltimore, Md.; and (2) from Pekin, Ill., to Petersburg, Va.; and Baltimore, Md.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons who have relied upon the notice of the application as published, may have an interest in, and would be prejudiced by lack of proper notice of the authority actually described in the findings in the said report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate herein will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen the proceeding, or for other appropriate relief, setting forth in detail the precise manner in which it has been prejudiced.

No. MC 1515 (Sub-No. 34), (Notice of Filing of Petition for Modification of Certificate and Motion to Consolidate With AMERICAN BUSLINES, INC., Petition for Modification of Certificate in No. MC 2890 (Sub-No. 25)), filed March 11, 1970. Petitioner: GREYHOUND LINES, INC., Chicago, Ill. Petitioner's representatives: Robert J. Bernard and Robert D. Rierson, 10 South Riverside Plaza, Chicago, Ill. 60606. Petitioner states it is authorized in No. MC 1515 (Sub-No. 34), to transport passengers and their baggage, express and newspapers, in the same vehicle with passengers, between Philadelphia, Pa., and the New Jersey Turnpike, serving all intermediate points and the interchanges, from Philadelphia over city streets and the Delaware River Bridge to Camden, N.J., thence over New Jersey Highway 38 to the junction New Jersey Highway 73 (formerly New Jersey Highway S41), thence over New Jersey Highway 73, via the Camden-Philadelphia interchange, to the New Jersey Turnpike, and return over the same route. From Philadelphia, Pa., to Camden, as specified above, thence over New Jersey Highway 168 (formerly known as New Jersey Highway 42), via the Woodbury-South Camden interchange, to the New Jersey Turnpike, and return over the same route. Restriction: The service authorized herein is subject to the following conditions: No traffic may be transported under this authority which originates at or is destined to Philadelphia, Pa., or New York, N.Y. Any duplication between the authority granted herein and any other authority held by carrier shall result in a single operating right only, and shall not be severable by sale or otherwise. This certificate authorizes petitioner to transport traffic between Camden and New York City or between Camden and Philadelphia, but only in connection with traffic which originates or terminates beyond New York City, or originates or terminates beyond Philadelphia. By the instant petition, petitioner seeks that the restriction in the Sub-No. 34 certificate be modified so as to show it to serve all intermediate points between Philadelphia, on the one hand, and, on the other, the intersection of New Jersey Highway 73 and the interchange approach roads to the New Jersey Turnpike at the Camden interchange; and that this petition be consolidated with American Buslines, Inc., petition for modification of certificate No. MC 2890 Sub-No. 25, and handled on a modified procedure basis. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 30508 (Sub-No. 2), filed January 27, 1970. Applicant: DEARBORN'S MOTOR EXPRESS, INC., 140 Epping Road, Exter, N.H. 03833. Applicant's representative: John F. Curley, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular and regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those articles which because of size or weight require special equipment, (1) Irregular routes: (a) Between points in Massachusetts within 35 miles of the State House, Boston, Mass., (2) Regular routes: (a) Between Boston and Amesbury, Mass., over U.S. Highway 1 to Amesbury, Mass., and return over the some route, with service to all intermediate points. NOTE: Applicant states it will tack in (1) above at points within 5 miles of Boston, Mass., and tack in (2) above in points in Massachusetts on and east of Massachusetts Highway 28 between Boston, Mass., and the Massachusetts-New Hampshire State line. Common control may be involved. This matter is directly related to MC-F-10737 published in the FEDERAL REGISTER issue of February 4, 1970. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

TRANSFER APPLICATION TO BE ASSIGNED FOR ORAL HEARING

No. MC-FC-71678. Authority sought by transferee, CONLEY VAN LINES, INC., 2540 North 27th Street, Post Office Box 4586, Lincoln, Nebr. 68504, for acquisition of the operating rights of transferor, EARL ROY, doing business as ROY'S TRANSFER AND STORAGE COMPANY, 355 North 34th Street, Lincoln, Nebr. 68504. Transferee's and transferor's representative: J. F. Miller, 6415 Willow Lane, Shawnee Mission, Kans. 66208. Operating rights in certificate No. MC-133057 sought to be transferred: emigrant movables and household goods, as defined by the Commission, between Belle Fourche, S. Dak., and points within 75 miles thereof (except Deadwood, Lead, and Rapid City, S. Dak.), on the one hand, and, on the other, points in Montana, South Dakota, and Wyoming.

The above-entitled application under section 212(b) of the Interstate Commerce Act is to be assigned for hearing at a time and place to be fixed for the purpose of determining whether transferee is the real party in interest; whether transferee is fit, willing, and able properly to perform operations under the operating rights sought to be acquired, and whether the application otherwise conforms with the Rules and Regulations Governing Transfers of Rights to Operate as a Motor Carrier in Interstate or Foreign Commerce (49 CFR Part 1132).

Interested parties have 30 days from the date of this publication in which to file petitions for leave to intervene. Such petitions should set forth the reason or reasons for the intervention, the place where the petitioner desires the hearing to be held, the number of witnesses it expects to present, and the estimated time for presentation of its evidence. The Bureau of Enforcement will participate.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10797. Authority sought for control by M. LEE MITCHELL, 200 Office Park Drive, Birmingham, Ala. 35223,

of MERIT TRANSPORT CORPORATION, 1911 Kenilworth Avenue NE., Washington, D.C. 20027. Applicants' attorneys: Walter T. Evans, 915 Pennsylvania Building, Washington, D.C. 20004 and A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Operating rights sought to be controlled: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes, between points in New Jersey, on the one hand, and, on the other, Washington, D.C., between points in Philadelphia, Pa. M. LEE MITCHELL, holds no authority from this Commission. However, he is affiliated with DEATON, INC., Post Office Box 1271, 317 Avenue, West Ensley, Birmingham, Ala. 35201 which is authorized to operate as a *common carrier* in Alabama, Louisiana, Missouri, Tennessee, Georgia, South Carolina, North Carolina, Kentucky, Oklahoma, Texas, Arkansas, Kansas, Virginia, Iowa, Wisconsin, Michigan, Illinois, Indiana, Maine, Ohio, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, West Virginia, Massachusetts, Rhode Island, Vermont, New Hampshire, and the District of Columbia. Application has been filed for temporary authority under section 210a(b). NOTE: Applicants also include motion to dismiss application for lack of jurisdiction.

No. MC-F-10798. Authority sought for purchase by DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46621, of the operating rights of ROBERT R. WALKER, INC., Post Office Box 206, South Bend, Ind. 46624, and for acquisition by PAUL A. MAVIS, 4000 West Sample Street, South Bend, Ind. 46621, of control of such rights through the purchase. Applicants' attorney: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Operating rights sought to be transferred: *New automobiles, new trucks, and new chassis*, in initial movements, in truckaway service, as a common carrier over irregular routes, from South Bend, Ind., to points in Arkansas, Indiana, Louisiana, Mississippi, and Texas, from South Bend, Ind., to points in South Carolina and certain specified points in North Carolina, traversing Ohio, West Virginia, Virginia, Kentucky, Tennessee, and Georgia for operating convenience only; *new automobiles and new trucks*, in driveaway service, from places of manufacture and assembly at South Bend, Ind., to points in Arkansas, Arizona, Louisiana, Mississippi, Montana, New Mexico, Texas, and Wyoming, and those in that part of California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, authority is granted to traverse Washington, Oregon, Idaho, Nevada, Utah, Wyoming, Colorado, South Dakota, Nebraska, Iowa, Illinois, Kansas, Kentucky, Tennessee, Missouri, and Oklahoma for operating convenience only; *new motor vehicles*, except trailers, in initial movements, by truckaway method, from points in Madison County, Ala., to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin, traversing Mississippi and Kansas for operating convenience only; *new motor vehicles*, except trailers, in initial movements, by driveaway method, from points in Madison County, Ala., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Mississippi, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Wisconsin, traversing Kentucky, and West Virginia for operating convenience only;

New automobiles, new trucks, and new chassis, in secondary movements in truckaway service, between points in Arkansas, Indiana, Louisiana, Mississippi, Texas, South Carolina, and certain specified points in North Carolina, traversing Ohio, West Virginia, Alabama, Georgia, Virginia, Illinois, Kansas, Kentucky, Missouri, Oklahoma, and Tennessee for operating convenience only, with restriction; *motor vehicles* except trailers, in initial movements, in truckaway service, from South Bend, Ind., to points in Alabama, Georgia, New Mexico, Tennessee, and certain specified points in North Carolina; *motor vehicles* except trailers, in secondary movements, in truckaway service, limited to the transportation of such shipments as have been transported by carrier, or other carriers, in initial movements from South Bend, Ind., and restricted against the transportation of such traffic as has had an immediately prior movement by water, between points in Alabama, Georgia, New Mexico, Tennessee, and certain specified points in North Carolina; *imported automobiles* in secondary movements, in truckaway service, from South Bend, Ind., to points in Indiana, Louisiana, Texas, South Carolina, Mississippi, Arkansas, and certain specified points in North Carolina; *automobiles*, in truckaway service, restricted to foreign commerce only, from New Orleans, La., to points in North Carolina and South Carolina; and *new passenger automobiles, and new trucks* (but not including trailers), in initial movements in truckaway service, and *new passenger automobiles* (imported from foreign countries), in secondary movements, in truckaway service, from South Bend, Ind., to points in Arizona, California, Nevada, and Utah. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-10799. Authority sought for control by CHAMPION INVESTMENTS, INC., 1815 West Market Street, Suite 211, Akron, Ohio 44313, of RENNER MOTOR LINES, INC. (All of its stock is owned by R.T.C., a holding company) 662 West Waterloo Road, Akron, Ohio 44314, and for acquisition by JAMES S. PEDLER and E .T. PEDLER (CO-EXECUTORS), 1500 Akron Center Building, Akron, Ohio 44308, of control of RENNER MOTOR LINES, INC., through the acquisition by CHAMPION INVESTMENTS, INC. Applicants' attorneys: Homer S. Carpenter, 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004 and Noel George, 100 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be controlled: *General commodities*, excepting among others classes A and B explosives, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between Barberton, Ohio, on the one hand, and, on the other, points in Ohio, between Blaine, Ohio, on the one hand, and, on the other, points in Ohio, with restriction; *such commodities as are manufactured, processed*, or dealt in by rubber or rubber products manufacturers, from points in Summit County, Ohio, to points in West Virginia, Pennsylvania, Maryland, and the District of Columbia, from Mogadore, Ohio, to points in Pennsylvania, West Virginia, Maryland, and the District of Columbia, from Du Bois and Oaks, Pa., to Akron, Ohio, from certain specified points in Pennsylvania to Barberton and Akron, Ohio, from Blaine, Ohio, to points in West Virginia, Pennsylvania, Maryland, and the District of Columbia, from certain specified points in Pennsylvania to Blaine, Ohio;

Chemicals, from Barberton, Ohio, to points in West Virginia and Pennsylvania; *petroleum products*, in containers, *grease guns, fittings for oil pumps and grease equipment*, in truckloads, from Bradford, Pa., to certain specified points in Ohio; *petroleum products*, in containers, *grease guns and fittings for oil pumps and grease equipment*, from Bradford, Pa., and points in Pennsylvania within 1 mile of Bradford to points in Franklin County, Ohio, from points in Pennsylvania within 1 mile of Bradford, excluding Bradford, to certain specified points in Ohio, from Bradford, Pa., and points within 1 mile thereof, to points in Wyandot County, Ohio; *rubber tires and tubes*, from points in West Virginia, Maryland, and the District of Columbia, and those in Pennsylvania, except Du Bois and Oaks, Pa., to Mogadore, Ohio, and points in Summit County, Ohio, from points in West Virginia, Maryland, Pennsylvania, and the District of Columbia, to Blaine, Ohio; *rubber soles and heels*, from Wadsworth, Ohio, to points in Pennsylvania; *molds, machinery, and fabric* used in the manufacture of rubber products, from Cumberland, Md., to Akron, Ohio, from Cumberland, Md., to Blaine, Ohio; *salt*, in packages, and *pepper, sugar, or mineral mixtures*, in packages, not exceeding 10 percent of the weight of the shipment of salt, when included as an incidental part of a shipment of salt, from Akron, Ohio, to certain specified points in New York, points in Pennsylvania on and east of U.S. Highway 219, and points in Delaware, Maryland, and the District of Columbia; *beer and ale*, between Akron, Ohio, on the one hand, and, on the other, points in Ohio; and *household goods, office furniture and fixtures*, between points in Summit County, Ohio, on the one hand, and, on the other, points in Ohio. CHAMPION INVESTMENTS, INC.,

holds no authority from this Commission. However, it controls P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary St., Waltham, Mass. 02154, which is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, West Virginia, Virginia, Wisconsin, Vermont, Maryland, Michigan, Delaware, California, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10800. Authority sought for purchase by CITY TRANSFER, INC., 13901 Mica Street, Santa Fe Springs, Calif. 90670, of a portion of the operating rights of CERTIFIED FREIGHT LINES, INC., Post Office Box 455, Arroyo Grande, Calif. 93420, and for acquisition by CHARLES W. OWEN, also of Santa Fe Springs, Calif. 90670, of control of such rights through the purchase. Applicants' attorney: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Operating rights sought to be transferred: *Urea and manufactured fertilizer*, as a *common carrier*, over irregular routes, from points in Ventura County, Calif., to Port Hueneme, Calif., and points in the Los Angeles Harbor, Calif., commercial zone, as defined by the Commission; and a portion under a certificate of registration, in Docket No. MC-99899 Sub 2, covering the transportation of properties, as a common carrier, in interstate commerce, within the State of California. (This includes all the authority except that portion authorizing the transportation of fruits and vegetables.) Vendee is authorized to operate as a *common carrier* in California and under a certificate of registration within the State of California. Application has been filed for temporary authority under section 210a(b).

PASSENGER

No. MC-F-10801. Authority sought for purchase by MID AMERICA COACH LINES, INC., 16900 Pheasant Drive, Brookfield, Wis. 53005 of the operating rights of CHECKERWAY CHARTER COACH COMPANY (DANIEL W. HOWARD, RECEIVER), 208 East Wisconsin Avenue, Milwaukee, Wis. 53202. Applicants' attorneys: Claude J. Jasper and Nancy J. Johnson, both of 111 South Fairchild Street, Madison, Wis. 53703 and Louis R. Gentili, 3250 One First National Plaza, Chicago, Ill. 60670. Operating rights sought to be transferred: Passengers and their baggage, restricted to traffic originating at the point and in the territory indicated, in charter operations, as a common carrier, over irregular routes, from Chicago, Ill., and points in Illinois, Wisconsin, Indiana, and Michigan, within 100 miles of Chicago, to points in the United States east of but not including New Mexico, Utah, Idaho, and Montana. Vendee holds on authority from this Commission. However, it is affiliated with MITCHELL J. VAN DER AA, JOHN VAN DER AA, and JOHN G. VAN DER AA, doing business as VAN DER AA BROTHERS SCHOOL BUS SERVICE, 170th and Torrence Avenue, South Holland, Ill. 60473, which is authorized to operate as a *common carrier* in Illinois and Indiana and SAFEWAY TRANSPORT, INC., Elm Grove, Wis. 53122, which is authorized to operate as a *common carrier* in Wisconsin and Illinois. Application has been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 70-4576; Filed, Apr. 14, 1970; 8:47 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 10, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41938—*Fertilizer and fertilizer materials from Beamer, Alberta, Canada.* Filed by Southwestern Freight Bureau, agent (No. B-149), for interested rail carriers. Rates on fertilizers, dry and fertilizer materials, dry, in carloads, as described in the application, from Beamer, Alberta, Canada, to specified points in Missouri.

Grounds for relief—Market competition.

Tariff—Third revised page 73-V, original page 73-Z, and original page 73-ZZ to Canadian National Railways tariff ICC W.766.

By the Commission.

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

[F.R. Doc. 70-4577; Filed, Apr. 14, 1970; 8:47 a.m.]

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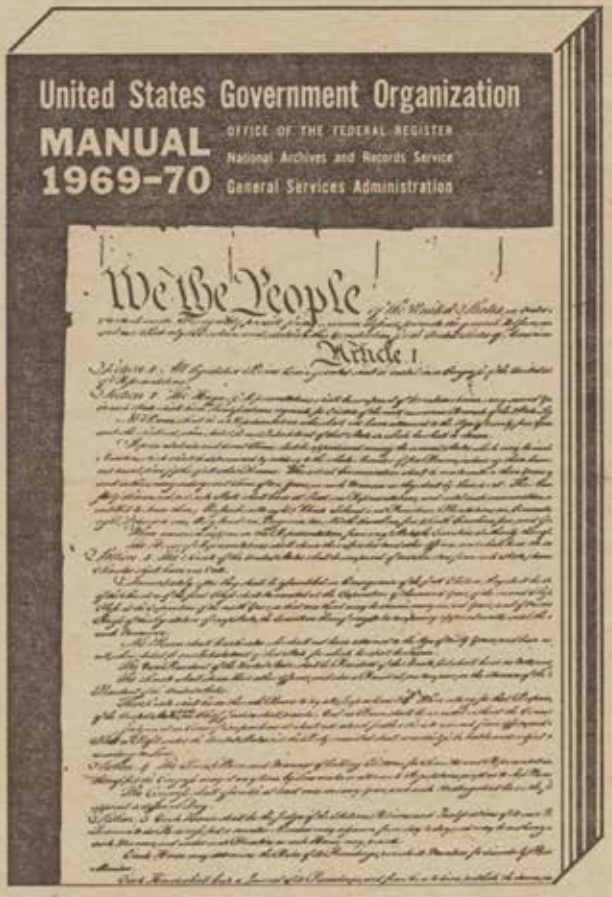

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