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Part I

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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.

Presidential Documents

Title 3—THE PRESIDENT

Reorganization Plan No. 1 of 1970

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, February 9, 1970, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.[1]

OFFICE OF TELECOMMUNICATIONS POLICY

SECTION 1. *Transfer of functions.* The functions relating to assigning frequencies to radio stations belonging to and operated by the United States, or to classes thereof, conferred upon the President by the provisions of section 305(a) of the Communications Act of 1934, 47 U.S.C. 305(a), are hereby transferred to the Director of the Office of Telecommunications Policy hereinafter provided for.

SEC. 2. *Establishment of Office.* There is hereby established in the Executive Office of the President the Office of Telecommunications Policy, hereinafter referred to as the Office.

SEC. 3. *Director and deputy.* (a) There shall be at the head of the Office the Director of the Office of Telecommunications Policy, hereinafter referred to as the Director. The Director shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(b) There shall be in the Office a Deputy Director of the Office of Telecommunications Policy who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Director shall perform such functions as the Director may from time to time prescribe and, unless the President shall designate another person to so act, shall act as Director during the absence or disability of the Director or in the event of vacancy in the office of Director.

(c) No person shall while holding office as Director or Deputy Director engage in any other business, vocation, or employment.

SEC. 4. *Performance of functions of Director.* (a) The Director may appoint employees necessary for the work of the Office under the classified civil service and fix their compensation in accordance with the classification laws.

(b) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance of any function transferred to him hereunder by any other officer, or by any organizational entity or employee, of the Office.

SEC. 5. *Abolition of office.* That office of Assistant Director of the Office of Emergency Preparedness held by the Director of Telecommunications Management under Executive Order No. 10995 of February 16, 1962, as amended, is abolished. The Director of the Office of Emergency Preparedness shall make such provisions as he may deem to be necessary with respect to winding up any outstanding affairs of the office abolished by the foregoing provisions of this section.

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[1] Effective April 20, 1970, under the provisions of 5 U.S.C. 906.

SEC. 6. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, or used by, or available or to be made available to, the Office of Emergency Preparedness in connection with functions affected by the provisions of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Office of Telecommunications Policy at such time or times as he shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 7. *Interim Director.* The President may authorize any person who immediately prior to the effective date of this reorganization plan holds a position in the Executive Office of the President to act as Director of the Office of Telecommunications Policy until the office of Director is for the first time filled pursuant to the provisions of section 3 of this reorganization plan or by recess appointment, as the case may be. The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office of Director. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

[F.R. Doc. 70-4934; Filed, Apr. 21, 1970; 8:49 a.m.]

Rules and Regulations

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 State of Maryland is deleted from the introductory portion of paragraph (e); paragraph (e)(5) relating to the State of Maryland is deleted; and the State of Maryland is added to the list of hog cholera eradication States contained in § 76.2(f).

2. In § 76.2, in paragraph (e)(3) relating to the State of Georgia, subdivision (i) relating to Johnson County is amended to read:

(3) *Georgia.* (i) That portion of Johnson County bounded by a line beginning at the junction of State Highway 15 and the Johnson-Washington County line; thence, following State Highway 15 in a southeasterly direction to Federal Aid Secondary Route S1473; thence, following Federal Aid Secondary Route S1473 in a southwesterly direction to the Johnson-Laurens County line; thence following the Johnson-Laurens County line in a generally northwesterly direction to the Johnson-Wilkinson County line; thence, following the Johnson-Wilkinson County line in a northerly direction to the Johnson-Washington County line; thence, following the Johnson-Washington County line in a generally northeasterly direction to its junction with State Highway 15.

(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 exclude a portion of Johnson County in Georgia, and portions of Wicomico and Worcester Counties in Maryland 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 excluded areas.

The foregoing amendments also add the State of Maryland to the list of hog cholera eradication States in § 76.2(f).

The amendments relieve certain restrictions presently imposed and must be made effective immediately 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, and unnecessary, 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 17th day of April 1970.

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

[F.R. Doc. 70-4900; Filed, Apr. 21, 1970; 8:48 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that two additional positions of Special Assistant to the Secretary are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (2) of paragraph (a) of § 213.3312 is amended as set out below.

§ 213.3312 Department of the Interior.

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

(2) Five Special Assistants to the Secretary.

* * * * *

(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. 70-4865; Filed, Apr. 21, 1970; 8:46 a.m.]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that the positions of Coordinator, Youth Affairs Program; Coordinator, Older Persons Program; Coordinator, Voluntary Action Program; and Coordinator, Rural Affairs Program, in the Office of Special Programs are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (e) is added as set out below.

§ 213.3373 Office of Economic Opportunity.

* * * * *

(e) *Office of Special Programs.* (1) One Coordinator, Youth Affairs Program.

(2) One Coordinator, Older Persons Program.

(3) One Coordinator, Voluntary Action Program.

(4) One Coordinator, Rural Affairs Program.

(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. 70-4866; Filed, Apr. 21, 1970; 8:46 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 814.8, Amdt. 1]

PART 814—ALLOTMENT OF SUGAR QUOTAS, MAINLAND CANE SUGAR AREA

1970 Quota

Basis and purpose. This amendment is issued under section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 922), hereinafter called the "Act", for the purpose of amending Sugar Regulation 814.8

which established preliminary allotments for the Mainland Cane Sugar Area for the calendar year 1970.

This amendment is necessary to revise allotments to reflect more up-to-date estimates of 1969 crop sugar available for marketing in 1970 on the basis of end of harvest data which have become a part of the official records of the Department.

In accordance with paragraph (4) of the finding and conclusions set forth in S.R. 814.8 (35 F.R. 172) and pursuant to paragraph (e) of § 814.8, paragraph (5) of such findings and conclusions is amended to read as follows:

(5) January 1, 1970, effective inventories of sugar are physical inventories of sugar on January 1, 1970, plus sugar produced from 1969 crop sugarcane in 1970. Such estimated January 1, 1970, effective inventories of sugar in short tons, raw value, which could not be marketed under 1969 allotments are shown as follows for each named allottee.

Breaux Bridge Sugar Co-op	7,994
Cajun Sugar Co-op, Inc	21,598
Cora-Texas Manufacturing Co., Inc	9,087
Dugas & LeBlanc, Ltd	13,418
LaFourche Sugar Co	14,183
Louisiana State Penitentiary	3,718
Meeker Sugar Co-op, Inc	11,882
Milliken & Farwell, Inc	8,801
St. James Sugar Co-op., Inc	20,764
South Coast Corp	60,184
Southdown, Inc	28,791
Valentine Sugars, Inc	10,002
Atlantic Sugar Association, Inc	28,201
Florida Sugar Corp	19,662
Glades County Sugar Growers Co-op, Association	46,982
Osceola Farms Co	50,130
South Puerto Rico Sugar Co., Inc	64,443
Sugarcane Growers Co-op of Florida	101,792
Talisman Sugar Corp	45,062
United States Sugar Corp	215,619

The allotment established for each such named allottee in this order is not less than such listed quantity. The individual preliminary allotments for all other allottees determined at 75 percent of each allottee's 1969 allotments as provided in finding (4) above exceeds their respective January 1, 1970, effective inventories.

Pursuant to the provisions of section 205(a) of the Act and in accordance with paragraph (e) of § 814.8 of this chapter, paragraph (a) of such § 814.8 is amended to read as follows:

§ 814.8 Allotment of the 1970 sugar quota for the Mainland Cane Sugar Area.

(a) *Allotments.* For the period January 1, 1970, until the date allotments of the entire 1970 calendar year sugar quota for the Mainland Cane Sugar Area are prescribed on the basis of a subsequent hearing, the 1970 quota for the Mainland Cane Sugar Area is hereby allotted to the extent shown in this section, to the following processors in the quantities which appear opposite their respective names:

Processors	*Allotments (short tons, raw value)*
Albania Sugar Co	6,847
Alma Plantation, Ltd	7,458
J. Aron & Co., Inc	10,851
Billeaud Sugar Factory	7,212
Breaux Bridge Sugar Co-op	7,994
Wm. T. Burton, Industries, Inc	5,092
Caire & Graugnard	4,318
Cajun Sugar Co-op, Inc	21,598
Caldwell Sugars Co-op, Inc	11,207
Columbia Sugar Co	6,584
Cora-Texas Manufacturing Co., Inc	9,087
Dugas & LeBlanc, Ltd	13,418
Duhe & Bourgeois Sugar Co	7,416
Evan Hall Sugar Co-op, Inc	19,072
Frisco Cane Co., Inc	1,646
Glenwood Co-op, Inc	13,957
Helvetia Sugar Co-op, Inc	10,258
Iberia Sugar Co-op, Inc	15,679
Lafourche Sugar Co	14,183
Harry L. Laws & Co., Inc	12,014
Levert-St. John, Inc	10,088
Louisa Sugar Co-op, Inc	8,586
Louisiana State Penitentiary	3,718
Louisiana State University	38
Meeker Sugar Co-op, Inc	11,882
Milliken & Farwell, Inc	8,801
M. A. Patout & Son, Ltd	11,810
Poplar Grove Planting & Refining Co	7,288
Savoie Industries	13,532
St. James Sugar Co-op, Inc	20,764
St. Mary Sugar Co-op, Inc	11,479
South Coast Corp	60,184
Southdown, Inc	28,791
Sterling Sugars, Inc	20,930
J. Supple's Sons Planting Co., Inc	4,226
Valentine Sugars, Inc	10,002
Vida Sugars, Inc	3,488
A. Wilbert's Sons Lumber & Shingle Co	7,118
Young's Industries, Inc	4,742
Louisiana subtotal	453,358
Atlantic Sugar Association	28,201
Florida Sugar Corp	19,662
Glades County Sugar Growers Co-op Association	46,982
Osceola Farms Co	50,130
South Puerto Rico Sugar Co., Inc	64,443
Sugarcane Growers Co-op of Florida	101,792
Talisman Sugar Corp	45,062
United States Sugar Corp	215,619
Florida subtotal	571,891
Total, all mainland cane	1,025,249

* * * * *

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies secs. 205, 209; 61 Stat 926, as amended, 928; 7 U.S.C. 1115, 1119)

Effective date. The preliminary allotment method provides that all allottees may be permitted to market in 1970 all sugar produced from 1969 crop cane. However, due to low 1969 crop production estimates, the allotments initially established on January 1, 1970, for many processors would not permit the marketing of all 1969 crop sugar. The allotments established herein provide that all 1969 crop sugar as reported to the Department by each allottee may now be marketed. To afford adequate opportunity to plan and to market the additional quantities of sugar established by this amendment in an orderly manner, it is imperative that this amendment become effective as soon as possible. Accordingly, it is hereby found that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and consequently, this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on April 17, 1970.

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

[F.R. Doc. 70-4886; Filed, Apr. 17, 1970; 2:27 p.m.]

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

[Lemon Reg. 422, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

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.

Order, as amended. The provisions in paragraph (b)(1) (i) and (ii) of § 910.722 (Lemon Regulation 422, 35 F.R. 5996) are hereby amended to read as follows:

* * * * *

§ 910.722 Lemon Regulation 422.

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

(i) District 1: 9,300 cartons;

(ii) District 2: 223,200 cartons.

* * * * *

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

Dated: April 16, 1970.

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

[F.R. Doc. 70-4861; Filed, Apr. 21, 1970; 8:45 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

Appendix C

On August 10, 1968, the Atomic Energy Commission published in the FEDERAL REGISTER (33 F.R. 11414) proposed amendments to Parts 30, 31, 32, and 35 of its regulations. The proposed amendments would (a) exempt from licensing small quantities of byproduct material; (b) revoke the existing general license set out in § 31.4 for similar quantities of byproduct material; (c) establish requirements in Part 32 for the issuance of specific licenses for distribution of exempt quantities of byproduct material; and (d) clarify wording in Part 35 that exempt quantities of byproduct material are not to be used in humans.

On the same date, the Commission published (33 F.R. 11413) proposed amendments to Appendix C of Part 20 of its regulations. Appendix C currently consists of a list of radioisotopes in which the kinds and quantities of byproduct material are identical to those generally licensed "not as a sealed source" by §§ 31.4 and 31.100, Schedule A, 10 CFR Part 31. The list of quantities in Appendix C, 10 CFR Part 20, is referred to in providing exceptions from labeling requirements pursuant to § 20.203 and in specifying quantities of byproduct material which may be disposed by release into sanitary sewerage systems pursuant to § 20.303(b)(2) or by burial in soil pursuant to § 20.304.

The proposed amendments to Part 20 would conform the microcurie amounts of byproduct material listed in Appendix C, 10 CFR Part 20, with the quantities proposed for exemption in the new § 30.71, Schedule B, 10 CFR Part 30. Americium-241, while not included in § 30.71, Schedule B, would be added to Appendix C, Part 20, and the quantities listed in Appendix C for radium-226, uranium-233, uranium-234, uranium-235, and plutonium-239 would be reduced to values more consistent with the toxicity of those nuclides and the criteria used to derive the exempt quantities. The quantities listed for natural uranium and natural thorium would not be reduced because of the low specific activity of those source materials and the attendant low risk of human intake of the materials. The last entry of Appendix C, Part 20, presently provides a quantity for "unidentified radioactive materials or any of the above in unknown mixtures." The amendment would provide two listings, one for unlisted alpha emitting radionuclides or mixtures of alpha emitters of unknown composition, and one for any radionuclides not listed in Appendix C or mixtures of beta emitters of unknown composition.

Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 60 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. After consideration of the comments received on the notices of proposed rule making and other factors involved, the Commission has adopted the proposed amendments to Part 20 with the following minor modifications: (1) The quantity of carbon-14 listed in Appendix C has been reduced from 1,000 to 100 microcuries; (2) the quantity for iodine-134 has been reduced from 100 to 10 microcuries; and (3) the quantities of carbon-14 used in the note at the end of Appendix C have also been revised to conform to the revised quantity.

Concurrent with publication of this present notice, the Commission is publishing a notice of rule making to make effective, with some minor modifications, the amendments to Parts 30, 31, 32, and 35. The above described changes in the proposed amendments to Appendix C of Part 20 have been made to conform to similar reductions in § 30.71, Schedule B, 10 CFR Part 30.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 20, are published as a document subject to codification, to be effective thirty (30) days after publication in the FEDERAL REGISTER.

Appendix C of 10 CFR Part 20 is amended to read as follows:

APPENDIX C

Material	*Microcuries*
Americium-241	.01
Antimony-122	100
Antimony-124	10
Antimony-125	10
Arsenic-73	100
Arsenic-74	10
Arsenic-76	10
Arsenic-77	100
Barium-131	10
Barium-140	10
Bismuth-210	1
Bromine-82	10
Cadmium-109	10
Cadmium-115m	10
Cadmium-115	100
Calcium-45	10
Calcium-47	10
Carbon-14	100
Cerium-141	100
Cerium-143	100
Cerium-144	1
Cesium-131	1,000
Cesium-134m	100
Cesium-134	1
Cesium-135	10
Cesium-136	10
Cesium-137	10
Chlorine-36	10
Chlorine-38	10
Chromium-51	1,000
Cobalt-58m	10
Cobalt-58	10
Cobalt-60	1
Copper-64	100
Dysprosium-165	10
Dysprosium-166	100
Erbium-169	100
Erbium-171	100
Europium-152 9.2 h	100
Europium-152 13 yr	1
Europium-154	1
Europium-155	10
Fluorine-18	1,000
Gadolinium-153	10
Gadolinium-159	100
Gallium-72	10
Germanium-71	100
Gold-198	100
Gold-199	100
Hafnium-181	10
Holmium-166	100
Hydrogen-3	1,000
Indium-113m	100
Indium-114m	10
Indium-115m	100
Indium-115	10
Iodine-125	1
Iodine-126	1
Iodine-129	0.1
Iodine-131	1
Iodine-132	10
Iodine-133	1
Iodine-134	10
Iodine-135	10
Iridium-192	10
Iridium-194	100
Iron-55	100
Iron-59	10
Krypton-85	100
Krypton-87	10
Lanthanum-140	10
Lutetium-177	100
Manganese-52	10
Manganese-54	10
Manganese-56	10
Mercury-197m	100
Mercury-197	100
Mercury-203	10
Molybdenum-99	100
Neodymium-147	100
Neodymium-149	100
Nickel-59	100
Nickel-63	10
Nickel-65	100
Niobium-93m	10
Niobium-95	10
Niobium-97	10
Osmium-185	10
Osmium-191m	100
Osmium-191	100
Osmium-193	100
Palladium-103	100
Palladium-109	100
Phosphorus-32	10
Platinum-191	100
Platinum-193m	100
Platinum-193	100
Platinum-197m	100
Platinum-197	100
Plutonium-239	.01
Polonium-210	0.1
Potassium-42	10
Praseodymium-142	100
Praseodymium-143	100
Promethium-147	10
Promethium-149	10
Radium-226	.01
Rhenium-186	100
Rhenium-188	100
Rhodium-103m	100
Rhodium-105	100
Rubidium-86	10
Rubidium-87	10
Ruthenium-97	100
Ruthenium-103	10
Ruthenium-105	10
Ruthenium-106	1
Samarium-151	10

APPENDIX C—Continued

Material	Microcuries
Samarium-153	100
Scandium-46	10
Scandium-47	100
Scandium-48	10
Selenium-75	10
Silicon-31	100
Silver-105	10
Silver-110m	1
Silver-111	100
Sodium-24	10
Strontium-85	10
Strontium-89	1
Strontium-90	0.1
Strontium-91	10
Strontium-92	10
Sulphur-35	100
Tantalum-182	10
Technetium-96	10
Technetium-97m	100
Technetium-97	100
Technetium-99m	100
Technetium-99	10
Tellurium-125m	10
Tellurium-127m	10
Tellurium-127	100
Tellurium-129m	10
Tellurium-129	100
Tellurium-131m	10
Tellurium-132	10
Terbium-160	10
Thallium-200	100
Thallium-201	100
Thallium-202	100
Thallium-204	10
Thorium (natural)	50
Thulium-170	10
Thulium-171	10
Tin-113	10
Tin-125	10
Tungsten-181	10
Tungsten-185	10
Tungsten-187	100
Uranium (natural)	50
Uranium-233	.01
Uranium-234—Uranium-235	.01
Vanadium-48	10
Xenon-131m	1,000
Xenon-133	100
Xenon-135	100
Ytterbium-175	100
Yttrium-90	10
Yttrium-91	10
Yttrium-92	100
Yttrium-93	100
Zinc-65	10
Zinc-69m	100
Zinc-69	1,000
Zirconium-93	10
Zirconium-95	10
Zirconium-97	10
Any alpha emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	.01
Any radionuclide other than alpha emitting radionuclides, not listed above or mixtures of beta emitters of unknown composition	.1

NOTE: For purposes of §§ 20.203 and 20.304, where there is involved a combination of isotopes in known amounts the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" (i.e., "unity"). Example: For purposes of § 20.304, if a particular batch contains 20,000 μc of Au^{198} and 50,000 μc of C^{14}, it may also include not more than 300 μc of I^{131}. This limit was determined as follows:

$$\frac{20{,}000\ \mu c\ Au^{198}}{100{,}000\ \mu c} + \frac{50{,}000\ \mu c\ C^{14}}{100{,}000\ \mu c} + \frac{300\ \mu c\ I^{131}}{1{,}000\ \mu c} = 1$$

The denominator in each of the above ratios was obtained by multiplying the figure in the table by 1,000 as provided in § 20.304.

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

Dated at Germantown, Md., this 7th day of April 1970.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 70-4556; Filed, Apr. 21, 1970; 8:45 a.m.]

EXEMPTION OF SMALL QUANTITIES OF BYPRODUCT MATERIAL

On August 10, 1968, the Atomic Energy Commission published in the FEDERAL REGISTER (33 F.R. 11414) proposed amendments to 10 CFR Parts 30, 31, 32, and 35 of its regulations. The proposed amendments to Part 30 would exempt from licensing requirements the receipt, possession, use, transfer, ownership, or acquisition of small quantities of byproduct material. The proposed amendments to Part 31 would revoke the general license for small quantities of byproduct material currently set forth in §§ 31.4 and 31.100. Schedule A. Conforming amendments would also be made to the title and to § 31.2 of 10 CFR Part 31. The proposed amendments to Part 32 would establish (a) criteria for the issuance of specific licenses for the manufacture, processing, production, packaging, repackaging, import or commercial distribution of the exempt quantities of byproduct material, and (b) certain license conditions for these specific licenses. The proposed amendment to Part 35 would clarify that the proposed exempt quantities of byproduct material are not for use in humans.

On the same date, the Commission published (33 F.R. 11413) proposed amendments to 10 CFR Part 20, "Standards for Protection Against Radiation," to conform the byproduct material portions of Appendix C, 10 CFR Part 20, to the quantities to be exempted in Part 30. The proposed amendments would also add americium-241 and change certain other quantities listed in Appendix C, 10 CFR Part 20.

Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 60 days after publication of the notices of proposed rule making in the FEDERAL REGISTER. After consideration of the comments and other factors involved, the Commission has adopted the proposed amendments with certain additions and modifications discussed below.

The quantity of iodine-134 in the proposed schedule of exempt quantities, § 30.71, Schedule B, was incorrectly listed as 100 microcuries and has been reduced to 10 microcuries.

The proposed exempt quantity of carbon-14 in § 30.71, Schedule B, has been reduced from 1,000 microcuries to 100 microcuries. The 1,000-microcurie quantity was derived on the basis of limits on concentrations in air for soluble forms of carbon-14. The reduced quantity reflects consideration in the criteria used to arrive at the scheduled exempt quantities, of a permissible concentration of carbon-14 in air in insoluble form.

The note at the end of proposed § 30.71, Schedule B, was misleading at that location and has been deleted. Clarification that an exempt quantity may be composed of fractional parts of one or more of the exempt quantities in § 30.71, Schedule B, provided that the sum of such fractions does not exceed unity, has been incorporated into § 32.19, the section which sets forth conditions of specific licenses to be issued to commercial suppliers of exempt quantities.

The proposed exemption from licensing requirements for small quantities of byproduct material would not have included the distribution of products containing such material. The effect of revoking the general license, § 31.4 of Part 31, would be to limit distribution of products now being distributed under that general license to specific licensees or to persons exempted or generally licensed by other provisions of AEC regulations, such as the general license for certain measuring, gauging, or controlling devices set forth in § 31.5 of Part 31. In order to emphasize the distinction between the exemption for quantities of byproduct material and exemptions for products containing byproduct material, proposed § 32.18 of Part 32 has been modified to indicate more clearly the types of material which commercial suppliers may distribute as exempt quantities. In addition, a new § 30.15(a)(9) has been added to Part 30 to provide exemption from licensing requirements for possession and use of ionizing radiation measuring instruments containing internal calibration or standardization sources of byproduct material in amounts not exceeding the pertinent schedule of exempt quantities. Such sources, when installed inside instruments, constitute a smaller risk than as separate quantities, and specific provision for their use under exemption is warranted.

In order to avoid causing undue hardship to distributors of other products which are presently being transferred as generally licensed quantities, the revocation of the general license in § 31.4 will not become effective until 6 months after publication of this notice of rule making in the FEDERAL REGISTER. If a petition for exemption of such a product from specific licensing requirements is filed prior to revocation of the general license, the Director of Regulation will consider extending the general license until such time as the petition for exemption is finally determined. The 6-month delay in revocation will also permit commercial suppliers now distributing quantities of byproduct material under the general license, to obtain the required specific licenses or license amendments and to implement requirements regarding labels and brochures.

The terms and conditions of § 31.2(b) applicable to the general licenses for certain devices and equipment (§ 31.3) and for small quantities (§ 31.4) are considered to be of such small significance to the remaining generally licensed

devices and equipment that they will be revoked concurrently with revocation of the general license for small quantities, rather than modified to remove references to quantities as was proposed.

Proposed § 32.19(b) has been revised to permit the presentation of some of the information required in a label on immediate containers of exempt quantities to be presented instead on an accompanying brochure. In many cases, it is impractical to put all of the wording on the immediate container because of size or use limitations. Under the revised § 32.19(c), the immediate container of each quantity, or separately packaged fractional quantity, is required, as a minimum, to bear a durable, legible label identifying the isotope and the quantity of radioactivity, as well as the words "Radioactive Material."

Proposed § 32.20 has been revised to clarify the requirement for an annual summary report of the total quantity of each isotope transferred under a specific license issued pursuant to § 32.18. Records must be maintained of individual transactions, indicating the name and address of the recipient and the kinds and quantities of byproduct material transferred, but such detailed information is not required to be included in the annual report. The revised reporting requirement would require the licensee to furnish the specified information or state that no transfers were made during the reporting period.

The rules set forth below would (a) exempt from licensing small quantities of byproduct material, (b) revoke the existing general license for similar quantities of byproduct material, (c) exempt from licensing specified quantities of byproduct material contained in calibration sources installed in ionizing radiation measuring instruments, (d) establish requirements for issuance of specific licenses for distribution of exempt quantities of byproduct material, and (e) clarify wording in Part 35 regarding use of exempt quantities of byproduct material in humans. Persons holding an AEC or an Agreement State byproduct material license authorizing manufacture, processing, or production of byproduct material are authorized under the exemption to make transfers, on a noncommercial basis, of exempt quantities of byproduct material possessed under the license, on an exempt basis. This provision is designed to accommodate the occasional transfers between laboratories of small quantities of byproduct material in tissue samples, bioassay samples, tagged compounds, counting standards, etc., which involve negligible risks. A producer, packager, repackager, or importer who intends to distribute, on a commercial basis, quantities of byproduct material for use under the exemptions, even if licensed to manufacture, process, or produce such quantities by an Agreement State, would be required to obtain a specific license from the Commission authorizing the import or commercial distribution of such quantities. To obtain a license, the applicant must meet the criteria of § 32.18, 10 CFR Part 32.

The Commission has found that the exemption from licensing of small quantities of byproduct material and of ionizing radiation measuring instruments containing certain internal calibration or standardization sources under the conditions set forth in the following amendments will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 30, 31, 32, and 35 are published as a document subject to codification. The amendments to 10 CFR Parts 30, 32, and 35 shall become effective thirty (30) days after publication in the FEDERAL REGISTER, and the amendments to 10 CFR Part 31 shall become effective 6 months after publication in the FEDERAL REGISTER.

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

1. In § 30.15(a) of 10 CFR Part 30, a new subparagraph (9) is added to read as follows:

§30.15 Certain items containing byproduct material.

(a) Except for persons who apply byproduct material to, or persons who incorporate byproduct material into, the following products, or persons who import for sale or distribution the following products containing byproduct material, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in Parts 20 and 30–36 of this chapter to the extent that such person receives, possesses, uses, transfers, exports, owns, or acquires the following products:

* * * * *

(9) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, a source of byproduct material not exceeding the applicable quantity set forth in § 30.71, Schedule B.

* * * * *

2. A new § 30.18 is added to 10 CFR Part 30 to read as follows:

§ 30.18 Exempt quantities.

(a) Except as provided in paragraphs (c) and (d) of this section, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in Parts 30–34 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material in individual quantities each of which does not exceed the applicable quantity set forth in § 30.71, Schedule B.

(b) Any person who possesses byproduct material received or acquired prior to October 22, 1970 under the general license then provided in § 31.4 of this chapter is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in Parts 30–34 of this chapter to the extent that such person possesses, uses, transfers or owns such byproduct material.

(c) This section does not authorize the production, packaging, repackaging, or import of byproduct material for purposes of commercial distribution, or the incorporation of byproduct material into products intended for commercial distribution.

(d) No person may, for purposes of commercial distribution, import or transfer byproduct material in the individual quantities set forth in § 30.71 Schedule B, knowing or having reason to believe that such quantities of byproduct material will be transferred to persons exempt under this section or equivalent regulations of an Agreement State, except in accordance with a license issued under § 32.18 of this chapter, which license states that the byproduct material may be transferred by the licensee to persons exempt under this section or the equivalent regulations of an Agreement State.

3. A new § 30.71 *Schedule B* is added to 10 CFR Part 30 to read as follows:

§ 30.71 Schedule B.

Byproduct material	*Microcuries*
Antimony 122 (Sb 122)	100
Antimony 124 (Sb 124)	10
Antimony 125 (Sb 125)	10
Arsenic 73 (As 73)	100
Arsenic 74 (As 74)	10
Arsenic 76 (As 76)	10
Arsenic 77 (As 77)	100
Barium 131 (Ba 131)	10
Barium 140 (Ba 140)	10
Bismuth 210 (Bi 210)	1
Bromine 82 (Br 82)	10
Cadmium 109 (Cd 109)	10
Cadmium 115m (Cd 115m)	10
Cadmium 115 (Cd 115)	100
Calcium 45 (Ca 45)	10
Calcium 47 (Ca 47)	10
Carbon 14 (C 14)	100
Cerium 141 (Ce 141)	100
Cerium 143 (Ce 143)	100
Cerium 144 (Ce 144)	1
Cesium 131 (Cs 131)	1,000
Cesium 134m (Cs 134m)	100
Cesium 134 (Cs 134)	1
Cesium 135 (Cs 135)	10
Cesium 136 (Cs 136)	10
Cesium 137 (Cs 137)	10
Chlorine 36 (Cl 36)	10
Chlorine 38 (Cl 38)	10
Chromium 51 (Cr 51)	1,000
Cobalt 58m (Co 58m)	10
Cobalt 58 (Co 58)	10
Cobalt 60 (Co 60)	1
Copper 64 (Cu 64)	100
Dysprosium 165 (Dy 165)	10
Dysprosium 166 (Dy 166)	100
Erbium 169 (Er 169)	100
Erbium 171 (Er 171)	100
Europium 152 9.2 h (Eu 152 9.2 h)	100
Europium 152 13 yr (Eu 152 13 yr)	1
Europium 154 (Eu 154)	1
Europium 155 (Eu 155)	10
Fluorine 18 (F 18)	1,000
Gadolinium 153 (Gd 153)	10
Gadolinium 159 (Gd 159)	100
Gallium 72 (Ga 72)	10
Germanium 71 (Ge 71)	100
Gold 198 (Au 198)	100
Gold 199 (Au 199)	100
Hafnium 181 (Hf 181)	10
Holmium 166 (Ho 166)	100

Byproduct material	Microcuries
Hydrogen 3 (H 3)	1,000
Indium 113m (In 113m)	100
Indium 114m (In 114m)	10
Indium 115m (In 115m)	100
Indium 115 (In 115)	10
Iodine 125 (I 125)	1
Iodine 126 (I 126)	1
Iodine 129 (I 129)	.1
Iodine 131 (I 131)	1
Iodine 132 (I 132)	10
Iodine 133 (I 133)	1
Iodine 134 (I 134)	10
Iodine 135 (I 135)	10
Iridium 192 (Ir 192)	10
Iridium 194 (Ir 194)	100
Iron 55 (Fe 55)	100
Iron 59 (Fe 59)	10
Krypton 85 (Kr 85)	100
Krypton 87 (Kr 87)	10
Lanthanum 140 (La 140)	10
Lutetium 177 (Lu 177)	100
Manganese 52 (Mn 52)	10
Manganese 54 (Mn 54)	10
Manganese 56 (Mn 56)	10
Mercury 197m (Hg 197m)	100
Mercury 197 (Hg 197)	100
Mercury 203 (Hg 203)	10
Molybdenum 99 (Mo 99)	100
Neodymium 147 (Nd 147)	100
Neodymium 149 (Nd 149)	100
Nickel 59 (Ni 59)	100
Nickel 63 (Ni 63)	10
Nickel 65 (Ni 65)	100
Niobium 93m (Nb 93m)	10
Niobium 95 (Nb 95)	10
Niobium 97 (Nb 97)	10
Osmium 185 (Os 185)	10
Osmium 191m (Os 191m)	100
Osmium 191 (Os 191)	100
Osmium 193 (Os 193)	100
Palladium 103 (Pd 103)	100
Palladium 109 (Pd 109)	100
Phosphorus 32 (P 32)	10
Platinum 191 (Pt 191)	100
Platinum 193m (Pt 193m)	100
Platinum 193 (Pt 193)	100
Platinum 197m (Pt 197m)	100
Platinum 197 (Pt 197)	100
Polonium 210 (Po 210)	0.1
Potassium 42 (K 42)	10
Praseodymium 142 (Pr 142)	100
Praseodymium 143 (Pr 143)	100
Promethium 147 (Pm 147)	10
Promethium 149 (Pm 149)	10
Rhenium 186 (Re 186)	100
Rhenium 188 (Re 188)	100
Rhodium 103m (Rh 103m)	100
Rhodium 105 (Rh 105)	100
Rubidium 86 (Rb 86)	10
Rubidium 87 (Rb 87)	10
Ruthenium 97 (Ru 97)	100
Ruthenium 103 (Ru 103)	10
Ruthenium 105 (Ru 105)	10
Ruthenium 106 (Ru 106)	1
Samarium 151 (Sm 151)	10
Samarium 153 (Sm 153)	100
Scandium 46 (Sc 46)	10
Scandium 47 (Sc 47)	100
Scandium 48 (Sc 48)	10
Selenium 75 (Se 75)	10
Silicon 31 (Si 31)	100
Silver 105 (Ag 105)	10
Silver 110m (Ag 110m)	1
Silver 111 (Ag 111)	100
Sodium 24 (Na 24)	10
Strontium 85 (Sr 85)	10
Strontium 89 (Sr 89)	1
Strontium 90 (Sr 90)	0.1
Strontium 91 (Sr 91)	10
Strontium 92 (Sr 92)	10
Sulphur 35 (S 35)	100
Tantalum 182 (Ta 182)	10
Technetium 96 (Tc 96)	10
Technetium 97m (Tc 97m)	100
Technetium 97 (Tc 97)	100
Technetium 99m (Tc 99m)	100
Technetium 99 (Tc 99)	10
Tellurium 125m (Te 125m)	10
Tellurium 127m (Te 127m)	10
Tellurium 127 (Te 127)	100
Tellurium 129m (Te 129m)	10
Tellurium 129 (Te 129)	100
Tellurium 131m (Te 131m)	10
Tellurium 132 (Te 132)	10
Terbium 160 (Tb 160)	10
Thallium 200 (Tl 200)	100
Thallium 201 (Tl 201)	100
Thallium 202 (Tl 202)	100
Thallium 204 (Tl 204)	10
Thulium 170 (Tm 170)	10
Thulium 171 (Tm 171)	10
Tin 113 (Sn 113)	10
Tin 125 (Sn 125)	10
Tungsten 181 (W 181)	10
Tungsten 185 (W 185)	10
Tungsten 187 (W 187)	100
Vanadium 48 (V 48)	10
Xenon 131m (Xe 131m)	1,000
Xenon 133 (Xe 133)	100
Xenon 135 (Xe 135)	100
Ytterbium 175 (Yb 175)	100
Yttrium 90 (Y 90)	10
Yttrium 91 (Y 91)	10
Yttrium 92 (Y 92)	100
Yttrium 93 (Y 93)	100
Zinc 65 (Zn 65)	10
Zinc 69m (Zn 69m)	100
Zinc 69 (Zn 69)	1,000
Zirconium 93 (Zr 93)	10
Zirconium 95 (Zr 95)	10
Zirconium 97 (Zr 97)	10
Any byproduct material not listed above other than alpha emitting byproduct material	0.1

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

4. The title of 10 CFR Part 31 is revised to read as set forth above.

5. Section 31.1 of 10 CFR Part 31 is amended to read as follows:

§ 31.1 Purpose and scope.

This part establishes general licenses for the possession and use of byproduct material contained in certain items and a general license for ownership of byproduct material. Part 30 of this chapter also contains provisions applicable to the subject matter of this part.

6. Sections 31.2(b), 31.4, and 31.100 of 10 CFR Part 31 are revoked.

PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE OR IMPORT EXEMPTED AND GENERALLY LICENSED ITEMS CONTAINING BYPRODUCT MATERIAL

7. New §§ 32.18, 32.19, and 32.20 are added to 10 CFR Part 32 to read as follows:

§ 32.18 Manufacture, distribution and transfer of exempt quantities of byproduct material: requirements for license.

An application for a specific license to manufacture, process, produce, package, repackage, import, or transfer quantities of byproduct material for commercial distribution to persons exempt pursuant to § 30.18 of this chapter or the equivalent regulations of an Agreement State will be approved if:

(a) The applicant satisfies the general requirements specified in § 30.33 of this chapter: *Provided, however,* That the requirements of § 30.33(a) (2) and (3) of this chapter do not apply to an application for a license to transfer byproduct material manufactured, processed, produced, packaged, or repackaged pursuant to a license issued by an Agreement State;

(b) The byproduct material is not contained in any food, beverage, cosmetic, drug, or other commodity designed for ingestion or inhalation by, or application to, a human being;

(c) The byproduct material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources, or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product, or device intended for commercial distribution; and

(d) The applicant submits copies of prototype labels and brochures and the Commission approves such labels and brochures.

§ 32.19 Same: conditions of licenses.

Each license issued under § 32.18 is subject to the following conditions:

(a) No more than 10 exempt quantities set forth in § 30.71, Schedule B of this chapter shall be sold or transferred in any single transaction. For purposes of this requirement, an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in § 30.71, Schedule B, provided that the sum of such fractions shall not exceed unity.

(b) Each quantity of byproduct material set forth in § 30.71, Schedule B of this chapter shall be separately and individually packaged. No more than 10 such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to § 30.18 of this chapter. The outer package shall be such that the dose rate at the external surface of the package does not exceed 0.5 millirem per hour.

(c) The immediate container of each quantity or separately packaged fractional quantity of byproduct material shall bear a durable, legible label which (1) identifies the radioisotope and the quantity of radioactivity, and (2) bears the words "Radioactive Material."

(d) In addition to the labeling information required by paragraph (c) of this section, the label affixed to the immediate container, or an accompanying brochure, shall also (1) state that the contents are exempt from AEC or Agreement State licensing requirements; (2) bear the words "Radioactive Material—Not for Human Use—Introduction Into Foods, Beverages, Cosmetics, Drugs, or Medicinals, or Into Products Manufactured for Commercial Distribution is Prohibited—Exempt Quantities Should Not be Combined"; and (3) set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage, and disposal of the radioactive material.

§ 32.20 Same: records and material transfer reports.

Each person licensed under § 32.18 shall maintain records identifying, by name and address, each person to whom byproduct material is transferred for use under § 30.18 of this chapter or the equivalent regulations of an Agreement State, and stating the kinds and quantities of byproduct material transferred. An annual summary report stating the total quantity of each isotope transferred under the specific license shall be filed with the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. Each report shall cover the year ending June 30, and shall be filed within thirty (30) days thereafter. If no transfers of byproduct material have been made pursuant to § 32.18 during the reporting period, the report shall so indicate.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

8. Section 35.2 of 10 CFR Part 35 is amended to read as follows:

§ 35.2 License requirements.

No person subject to the regulations in this chapter shall receive, possess, use, or transfer byproduct material for any human use except in accordance with a specific or general license issued pursuant to the regulations in this part and Parts 30 and 32 or 33 of this chapter.

(Sec. 81, 68 Stat. 935; 42 U.S.C. 2111; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 7th day of April 1970.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 70-4557; Filed, Apr. 21, 1970; 8:45 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

PART 3—CLAIMS REGULATIONS

The Department of the Treasury finds it necessary to revise the Claims Regulations in this part in order to remove references to, and regulations relating exclusively to, the U.S. Coast Guard since the U.S. Coast Guard was transferred to the Department of Transportation, Public Law 89-670, 80 Stat. 931, and to revise regulations covering the administrative determination of claims under the Federal Tort Claims Act, 28 U.S.C. 2672, to conform with the regulations of the Attorney General appearing at 28 CFR Part 14.

The Department further finds that notice and public procedure under the provisions of 5 U.S.C. 553 are not necessary in this case, since these regulations consist only of rules of agency procedure and practice.

Accordingly, Part 3 of Title 31 of the Code of Federal Regulations is revised to read as follows:

Subpart A—Claims Under the Federal Tort Claims Act

Subpart B—Claims Under the Small Claims Act

AUTHORITY: The provisions of this Part 3 issued under sec. 2672, 62 Stat. 983, as amended by Public Law 89-506, sec. 1, 80 Stat. 306; sec. 2, 42 Stat. 1066; 28 U.S.C. 2672; 28 CFR Part 14.

Subpart A—Claims Under the Federal Tort Claims Act

§ 3.1 Scope of regulations.

(a) The regulations in this part shall apply to claims asserted under the Federal Tort Claims Act, as amended, 28 U.S.C. 2672, accruing on or after January 18, 1967, for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an employee of the Department while acting within the scope of his office or employment, under circumstances where the United States if a private person, would be liable to the claimant for such damage, loss, injury, or death, in accordance with the law of the place where the act or omission occurred. The regulations in this subpart do not apply to any tort claims excluded from the Federal Tort Claims Act, as amended, under 28 U.S.C. 2680.

(b) Unless specifically modified by the regulations in this part, procedures and requirements for filing and handling claims under the Federal Tort Claims Act shall be in accordance with the regulations issued by the Department of Justice, at 28 CFR Part 14, as amended.

§ 3.2 Filing of claims.

(a) *When presented.* A claim shall be deemed to have been presented upon the receipt from a claimant, his duly authorized agent or legal representative of an executed Standard Form 95 or other written notification of an incident, accompanied by a claim for money damages in a sum certain for injury to or loss of property, or personal injury, or death alleged to have occurred by reason of the incident.

(b) *Place of filing claim.* Claims shall be sumitted directly or through the local field headquarters to the head of the bureau or office of the Department out of whose activities the incident occurred, if known; or if not known, to the General Counsel, Treasury Department, Washington, D.C. 20220.

(c) *Contents of claim.* The evidence and information to be submitted with the claim shall conform to the requirements of 28 CFR 14.4.

§ 3.3 Legal review.

All claims shall be forwarded to the legal division of the bureau or office out of whose activities the claim arose. The claim, together with the reports of the employee and the investigation, shall be reviewed in the legal division which shall thereupon make a recommendation that the claim be approved, disapproved, or compromised, and shall advise on the need for referral of the claim to the Department of Justice. This recommendation and advice, together with the file, shall be forwarded to the head of the bureau or office or his designee.

§ 3.4 Approval of claims not in excess of $25,000.

(a) Claims not exceeding $25,000 and not otherwise requiring consultation with the Department of Justice pursuant to 28 CFR 14.6(b) shall be approved, disapproved, or compromised by the head of the bureau or office or his designee, taking into consideration the recommendation of the legal division.

§ 3.5 Limitation on authority to approve claims.

(a) All proposed awards, compromises or settlements in excess of $25,000 require the prior written approval of the Attorney General.

(b) All claims which fall within the provisions of 28 CFR 14.6(b) require referral to and consultation with the Department of Justice.

(c) Any claim which falls within paragraph (a) or (b) of this section shall be reviewed by the General Counsel. If the claim, award, compromise, or settlement receives the approval of the General Counsel and the head of the bureau or office or his designee, a letter shall be prepared for the signature of the General Counsel transmitting to the Assistant Attorney General, Civil Division, Department of Justice, the case for approval or consultation as required by 28 CFR 14.6. Such letter shall conform with the requirements set forth in 28 CFR 14.7.

§ 3.6 Final denial of a claim.

The final denial of an administrative claim shall conform with the requirements of 28 CFR 14.9 and shall be signed by the head of the bureau or office, or his designee.

§ 3.7 Action on approved claims.

(a) Any award, compromise, or settlement in an amount of $2,500 or less shall be processed for payment from the appropriations of the bureau or office out of whose activity the claim arose.

(b) Payment of an award, compromise, or settlement in excess of $2,500 and not more than $100,000 shall be obtained by the bureau or office by forwarding Standard Form 1145 to the Claims Division, General Accounting Office.

(c) Payment of an award, compromise, or settlement in excess of $100,000 shall be obtained by the bureau by forwarding Standard Form 1145 to the Bureau of Accounts, Department of the Treasury, which will be responsible for transmitting the award, compromise, or settlement to the Bureau of the Budget for inclusion in a deficiency appropriation bill.

(d) When an award is in excess of $25,000, Standard Form 1145 must be accompanied by evidence that the award, compromise, or settlement has been approved by the Attorney General or his designee.

(e) When the use of Standard Form 1145 is required, it shall be executed by the claimant. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and his attorney as payees; the check shall be delivered to the attorney, whose address shall appear on the voucher.

(f) Acceptance by the claimant, his agent, or legal representative, of any award, compromise or settlement made pursuant to the provisions of section 2672 or 2677 of title 28, United States Code, shall be final and conclusive on the claimant, his agent or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the within 2 years after the claim accrued. same subject matter.

§ 3.8 Statute of limitations.

Claims under this subpart must be presented in writing to the Department within 2 years after the claim accrued.

Subpart B—Claims Under the Small Claims Act

§ 3.20 General.

The Act of December 28, 1922, 42 Stat. 1066, the Small Claims Act, authorized the head of each department and establishment to consider, ascertain, adjust, and determine claims of $1,000 or less for damage to, or loss of, privately owned property caused by the negligence of any officer or employee of the Government acting within the scope of his employment. The Federal Tort Claims Act superseded the Small Claims Act with respect to claims that are allowable under the former act. Therefore, claims that are not allowable under the Federal Tort Claims Act, for example, claims arising abroad, may be allowable under the Small Claims Act.

§ 3.21 Action by claimant.

Procedures and requirements for filing claims under this section shall be the same as required for filing claims under the Federal Tort Claims Act as set forth in Subpart A of this part.

§ 3.22 Legal review.

Claims filed under this subpart shall be forwarded to the legal division of the bureau or office out of whose activities the claim arose. The claim, together with the reports of the employee and the investigation, shall be reviewed in the legal division which shall thereupon make a recommendation that the claim be approved, disapproved or compromised.

§ 3.23 Approval of claims.

Claims shall be approved, disapproved, or compromised by the head of the bureau or office or his designee, taking into consideration the recommendation of the legal division.

§ 3.24 Statute of limitations.

No claim will be considered under this subpart unless filed within 1 year from the date of the accrual of said claim.

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

Dated: April 15, 1970.

[SEAL] A. E. WEATHERBEE,
Assistant Secretary for Administration.

[F.R. Doc. 70-4881; Filed, Apr. 21, 1970; 8:47 a.m.]

Title 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent Office, Department of Commerce

SUBCHAPTER A—GENERAL

PART 5—SECRECY OF CERTAIN INVENTIONS AND LICENSES TO FILE APPLICATIONS IN FOREIGN COUNTRIES

Requirements of Other Agencies Relating to Export of Technical Data

Sections 5.18 and 5.19 of Title 37, Code of Federal Regulations, are hereby revised as set forth below.

The revised sections provide a summary and cross-reference to the recently published regulations of both the Department of State and the Bureau of International Commerce of the Department of Commerce. (See 35 F.R. 1008 and 35 F.R. 3029.)

Since the revision imposes no burden on any person, notice, and public procedure thereon are deemed unnecessary.

§ 5.18 Arms, ammunition, and implements of war.

(a) The exportation of technical data relating to arms, ammunition, and implements of war generally is subject to the International Traffic in Arms Regulations of the Department of State (22 CFR Parts 121–128); the articles designated as arms, ammunition, and implements of war are enumerated in the U.S. Munitions List, 22 CFR 121.01. However, if a patent applicant complies with regulations issued by the Commissioner of Patents under 35 U.S.C. 184, no separate approval from the Department of State is required unless the applicant seeks to export technical data exceeding that used to support a patent application in a foreign country. This exemption from Department of State regulations is applicable regardless of whether a license from the Commissioner is required by the provisions of §§ 5.11 and 5.15 (22 CFR 125.04 (b), 125.20(b)).

(b) When a patent application containing subject matter on the Munitions List (22 CFR 121.01) is subject to a secrecy order under § 5.2 and a petition is made under § 5.5 for a modification of the secrecy order to permit filing abroad, a separate request to the Department of State for authority to export classified information is not required (22 CFR 125.05(d)).

§ 5.19 Export of technical data.

(a) Under regulations established by the U.S. Department of Commerce, a validated export license from the Bureau of International Commerce may be required for the foreign filing of a patent application, under certain conditions. The pertinent regulations are set forth in 15 CFR Parts 370–372 and 379.

(b) A validated export license is required for the foreign filing of patent applications:

(1) Containing certain technical data, unless such foreign filing is in accordance with the regulations of the U.S. Patent Office (15 CFR 379.4 (c), (d)); or

(2) In certain designated countries or areas,[1] if the application contains any restricted technical data[2] not exportable under provisions of 15 CFR 379.3.

(c) A validated export license is not required for the foreign filing of a patent application in any case where:

(1) The data contained in the patent application is generally available to the public in any form (15 CFR 379.3(a)); or

(2) The foreign filing is in accordance with the regulations of the U.S. Patent Office and (i) the patent application has been previously filed abroad in one of the "early publication countries,"[3] or (ii) the data contained in the application is the same as that in an application for which the U.S. Patent Office has issued a notice that the patent has been scheduled for printing and publication (15 CFR 379.3(c)(2)).

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[1] Albania, Bulgaria, China (Mainland) [including Inner Mongolia, the provinces of Tsinghai and Sikang, Sinkiang, Tibet, and Manchuria (includes the former Kwantung Leased Territory, the present Port Arthur Naval Base Area, and Liaoning Province), but excluding Republic of China (Taiwan) (Formosa) and Outer Mongolia], Communist-controlled area of Vietnam, Cuba, Czechoslovakia, East Germany (Soviet Zone of Germany and the Soviet Sector of Berlin), Estonia, Hungary, Latvia, Lithuania, North Korea, Outer Mongolia, Poland (including Danzig), Rumania, Southern Rhodesia, and Union of Soviet Socialist Republics (15 CFR Part 370, Supplement No. 1).

[2] 15 CFR 379.4 (a), (b).

[3] Belgium, Costa Rica, Denmark, Ecuador, Finland, France, Honduras, Iceland, Jamaica, Luxembourg, Netherlands, Nicaragua, Norway, Panama, Portugal, Sweden, Trinidad, Turkey, Republic of South Africa, Uruguay, Venezuela, and West Germany (Federal Republic of Germany) (15 CFR 379.3(c)(2)).

(d) A validated export license is not required for data contained in a patent application prepared wholly from foreign origin technical data where such application is being sent to the foreign inventor to be executed and returned to the United States for subsequent filing in the U.S. Patent Office (15 CFR 379.3 (c)(1)).

(e) Inquiries concerning the export control regulations for the foreign filing of patent applications should be made to the Office of Export Control, Bureau of International Commerce, Department of Commerce, Washington, D.C. 20230.

(Sec. 1, 66 Stat. 793; 35 U.S.C. 6)

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

WILLIAM E. SCHUYLER, Jr.,
Commissioner of Patents.

Approved: April 14, 1970.

MYRON TRIBUS,
Assistant Secretary for Science and Technology.

[F.R. Doc. 70-4859; Filed, Apr. 21, 1970; 8:45 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGFR 70-10]

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

PART 98—SPECIAL CONSTRUCTION, ARRANGEMENT, AND PROVISIONS FOR CERTAIN DANGEROUS CARGOES IN BULK

SUBCHAPTER O—CERTAIN BULK DANGEROUS CARGOES

PART 151—UNMANNED BARGES

Certain Bulk Dangerous Cargoes on Unmanned Tank Barges; Correction

In F.R. Doc. 70-1991, appearing at page 3706 in the issue of Wednesday, February 25, 1970, the following corrections should be made:

1. In § 98.10-15 paragraph (c) is corrected to read as follows:

§ 98.10-15 Pressure-vessel type cargo tanks.

* * * * *

(c) Tanks designed, inspected, and tested as required by Department of Transportation Specification 103A, 103A-W, 103B, or 103B-W will be accepted as pressure-vessel type cargo tanks, provided the maximum pressure to which the tanks may be subjected does not exceed 30 pounds per square inch. Prior to installing such tanks on a self propelled cargo vessel, the owner shall furnish the Commandant with a copy of the inspection report certifying that the tanks and appurtenances comply with Department of Transportation specifications.

* * * * *

§ 98.25-70 [Amended]

2. In Table 98.25-70(b), appearing on page 3712, the heading is corrected by changing the word "Holders" to "Headers".

§ 151.01-10 [Amended]

3. In Table 151.01-10(b) of § 151.01-10, appearing on page 3715, the 46th item is corrected by changing "Ethyleneimide" to "Ethyleneimine".

4. In Table 151.01-10(d), appearing on page 3716, the second item under the heading "Miscellaneous oils, including:" is corrected by changing the words "Coat tar" to "Coal tar".

5. In § 151.05-1, appearing on page 3720, paragraphs (n) and (o) following paragraph (e) are corrected to read as follows:

§ 151.05-1 Explanation of column headings in Table 151.05.

* * * * *

(f) *Cargo segregation/piping and venting.* This column indicates the required separation of piping and venting used for the cargo from piping and venting used for other cargo. Terms are explained in § 151.13-10 and in the footnotes of Table 151.05.

* * * * *

§ 151.45-4 [Amended]

6. In § 151.45-4, appearing on page 3731, paragraph (a)(1) is corrected by changing in the first sentence the words "in this part" to "in this chapter".

Dated: April 15, 1970.

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

[F.R. Doc. 70-4899; Filed, Apr. 21, 1970; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18604; FCC 70-384]

PART 1—PRACTICE AND PROCEDURE

Retention Period for Material Made Available for Public Inspection

In the matter of amendment of § 1.526 of the Commission's rules to specify a retention period for material made available for public inspection, RM-1386.

Report and order. 1. On July 9, 1969, the Commission adopted a notice of proposed rule making (FCC 69-764, released July 11, 1969) in this proceeding, pursuant to a petition filed by the National Association of Broadcasters on December 27, 1968, seeking a 3-year limitation on the time licensees must retain various documents in their public inspection files. Our notice proposed (in view of the material set out in it) an amendment of our rule, § 1.526(e),[1] directed toward creating a retention period of 7 years for material in licensees' public files. At the present there is no limitation on the time such material must be maintained in the licensee's public file.[1]

2. Interested parties were afforded an opportunity to comment on or before August 20, 1969, and to reply to such comments on or before September 5, 1969. Comments were timely filed by: The North Carolina Association of Broadcasters, Inc. (North Carolina Association); Time-Life Broadcast Stations, WQOK, Inc. and Central Broadcasting Corp. filing jointly (Time-Life et al.); Palmer Broadcasting Co. (Palmer); Columbia Broadcasting System, Inc. (CBS); RKO General, Inc. (RKO); Doubleday Broadcasting Co. (Doubleday); the National Association of Broadcasters (NAB); and the American Broadcasting Co., Inc. (ABC). No reply comments were received by the Commission.

3. At the present time § 1.526 of the Commission's rules (adopted Mar. 31 and made effective May 13, 1965) requires that applicants and licensees keep local inspection files which are to contain applications and various other material filed with the Commission. The purpose of the rule is to have such material available to the public at a convenient local point. The rule facilitates the policy expressed by Congress, i.e., the need for informed public participation in the regulation of broadcasting.

4. Although NAB's original petition requested, inter alia, that we reconsider the total concept of the maintenance of a local file for public inspection, only one commenting party (Doubleday) advanced the proposition that such files might well be eliminated. Most of the other commenting parties urged that the required retention period be reduced to cover only one license term, 3 years, as the NAB originally urged. However, RKO supported the 7-year limitation proposal as a needed improvement over the present unlimited time for retention, one which at the same time would provide the public with an opportunity to examine station activity over a reasonable period of time which is necessary for the correct evaluation of trends in licensees' policies and practices. Time-Life et al. stated that while the NAB's proposed 3-year period would be adequate, the 7-year period would cause no undue burden. CBS regarded a 7-year period as possibly too long, and suggested that a shorter period, such as 3 years, be further considered.

5. One contention set out by a number of the participants in this proceeding relies primarily on the NAB survey attached to its petition, which indicates that in a survey of 1,286 stations covering the year 1967, only 50 stations reported

[1] When § 1.526, the "local file" rule, was adopted in 1965, it was stated that no retention period was then being specified. "We shall consider establishing limits on the useful duration of the period for which the files would have to be maintained as experience under the new provisions accrues." Report and Order in Docket 14864, FCC 65-273, 4 R.R. 2d 1664, 1673 (1965); this position was affirmed on reconsideration, FCC 65-913, 6 R.R. 2d 1527, 1531.

requests for examination of their public files. It is contended from these figures that the public does not have an interest in having the requisite information available to it in public files at local points of access. Palmer states that there have been no requests to see the local files of its television and radio stations in Des Moines and Cedar Rapids, Iowa, and only requests to see the political advertising file (during the 1968 election period) at its stations in Naples, Fla. Doubleday refers to "minimal use" of these files, even though numerous groups are presently engaged in monitoring stations and analyzing broadcast material for various purposes (it is stated that "a negligible number and in some cases no" requests have been made at Doubleday stations).

6. We suggest that the conclusions drawn from these facts, set out in the NAB survey and by other parties, are not necessarily correct as to the present situation. It must be kept in mind that the files were not required to be maintained until May 1965, and that the NAB survey was taken covering a period only 2 years later, 1967. It is our belief, in view of the short passage of time between these two dates, that the figures presented do not indicate a significant present lack of interest in the files among knowledgeable members of the public. The general public, it appears, simply was not aware as of 1967 of the source of information available to it.[2] As public knowledge grows about our rule and the potential source of information it provides, we expect that there will be increasing use of the files by individuals who wish to bring significant matters they uncover to the attention of this Commission so as to permit us to more effectively carry out the task assigned us under the Communications Act of 1934, as amended, i.e., advancing the public interest, convenience and necessity.

7. A number of the commenting parties (particularly ABC) assert that the files are voluminous and therefore burdensome to licensees. ABC in its comment described one hypothetical set of circumstances under which nine major filings would have to be kept in a station's public file over a 7-year period, plus other material, and suggested that this number of filings would grow each successive year of maintenance.[3] The Commission has considered what, if any, matter can be deleted from the list of material required to be retained in the licensee public file and has come to the conclusion that the only material which can be disposed of as irrelevant is engineering material pertaining to a former mode of operation after it has been retained for 3 years. Hence, we are amending the rules by eliminating the requirement, that the above described engineering material be retained past a 3-year retention time. In view of this action, we wish to point out that we have required, after careful consideration, that only that material be maintained in public files which will provide essential material to members of the public who are interested in reviewing all of the pertinent facts involved in respect to a licensee's relationship with its public and this Commission. It is our belief that the required public files balance off and strike a reasonable medium, both with respect to the scope of the material and the time limitation now being specified. They may contain more material than many persons are interested in; they probably contain less than some seriously concerned with a particular station would like. We can see that the maintenance of a public file may be in some instances considered burdensome by some licensees; however, in light of the valuable function such files facilitate, informed participation by the public, we conclude that the inconvenience is small and does not overcome the public interest in having adequate factual information available to interested parties.[4] The broadcast industry today is substantial. Participants in it, as any business undertaking today, must maintain accurate and complete files. The public files that our rules require, we wish to point out, do not contain what would usually be considered additional material to that normally kept, but simply contain duplicates (so as not to have the public handling licensees' copies) of material most licensees would ordinarily retain as a matter of sound business practice. Too, we wish to emphasize that this proceeding is directed toward the alleviation of any unnecessary burden by placing a time limitation on the retention of material in public files—a limitation that does not presently exist. RKO, CBS, and other parties recognized the beneficial character of the proposed change.

8. Each of the commenting parties except for RKO advanced the argument that the time for material to be kept in public files should be geared to one license renewal period, 3 years, because material older than that, it is alleged, is irrevelant. It is said that this is true from a legal point of view—since the Commission has passed on the significance of material concerning a particular period in passing on the renewal following that period—and also as a matter of fact, in view of the passage of time and sometimes changes in ownership or the station's mode of operation. We have considered these factors and come to what we consider is an appropriate conclusion in respect to them. In respect to the relevance of material older than 3 years concerning licensees, we consider it important to have material brought to our attention which is based on a reasonable period of station activity. The existence of this rule making proceeding indicates our belief that material, to have a reasonable basis, need not be founded on the entire history of a station. However, after examining all of the material on the record we cannot come to the judgment that a 3-year period for retention of material is sufficient to provide a lucid picture of trends of station activity.

9. In support of its comment proposal for a 39-month period in place of a 3-year period, NAB urges that most public interest in local file material occurs during the 3 months between the filing of a given renewal application and expiration of the current license; and that, with a 39-month period, this will permit interested persons to examine and compare programing now proposed for the future, that presented during the current 3-year period, the proposals contained in the previous renewal application, and the programing of the previous 3-year period as set forth in the previous renewal application, or information as to operation during two complete license terms plus the proposals for the future. We do not regard this as sufficient.[5] Rather, we believe it desirable, to effectuate fully the policy of the Communications Act and § 1.526, to have the two previous renewal applications and related material, as well as the application now pending, available. We point out in this connection that the rule requires the filing of material not related to applications, which could be revelant in evaluating a station's operation during the previous license period and would not necessarily be available under the NAB proposal. With respect to the legal argument, we recognize that unconditional grant of a renewal is a Commission finding that operation during the past license period has been sufficiently in the public interest to warrant grant of continued authority to operate in the future. But this does not mean that earlier material may not be relevant in determining trends in a station's operation, or, as it is sometimes called, its "track record", which may be relevant in later determinations. We agree with RKO that it is in the public interest to provide for a 7-year retention period.

10. Two other arguments in this area are that (1) we said in adopting § 1.526 that would determine the retention period in light of "experience", and the only experience shown, it is asserted, is that of great lack of public interest in local files; and that (2) the local file is not intended to, and could not, be a substitute for the Commission's own files so

[2] The vast amount of correspondence the Commission receives from the public concerning the broadcast industry clearly indicates the citizenry's interest in the activities of the industry and individual broadcasters.

[3] The filings mentioned by ABC included an initial application for a new AM station, two changes in frequency and an increase in power (all within 7 years), two complete changes in ownership (assignments or transfers), plus possibly pro forma assignments or transfers, and three renewals. A station having all of these filings in 7 years would be highly unusual. ABC also refers to the many categories of material required to be kept in the file, including various kinds of applications, amendments thereto, exhibits and correspondence relating thereto, hearing orders and decisions if the matter goes to hearing, ownership reports, various types of contracts, and other items required to be filed with the Commission.

[4] Based on the Commission's own experience in keeping the files of nearly 7,000 broadcast stations, it appears that not often would the file of a single station exceed one file drawer over a 7-year period, and extremely seldom more than two drawers.

[5] We point out that at other times during the license period, under the NAB's 39-month proposal there would be substantially less material available, often little more than the last renewal application.

as to supply answers to some sophisticated questions such as a long-term pattern of "trafficking", which may require analysis of material over a long period. With respect to the first argument, as mentioned above we do not evaluate the showings advanced as necessarily indicative of the present situation, in view of the recent institution of the local file requirement and the great, and growing, public interest in broadcast station operation. As to the second, obviously there are limits to what the local file can be expected to show, and reference to the Commission's files in Washington is often necessary. We have struck what we believe to be an appropriate balance, providing for the filing of material, and now for the limitation on its retention, usually sufficient to give the public convenient access to information for its use in playing an informed part in broadcast regulation. The 7-year retention proposal set out in our notice, we are convinced, will eliminate the public retention of unnecessary material, easing the task of broadcasters, while at the same time providing a sufficient local publicly available record on which sound presentations can be made to this Commission.

11. In one respect we are adopting a 3-year period, as suggested by the parties. This is engineering material concerning a former mode of operation (frequency, power, a different directional pattern or transmitter location), which may be discarded 3 years after the station commences operation under a new mode. This will permit early elimination of sometimes bulky material.

Subsidiary matters. 12. The proposed rule contained certain subsidiary provisions which CBS seeks to have revised. First, it would have added to the text the material set out below in brackets: "* * * Material [filed with the Commission as] relating to a matter which is the subject of a claim against the licensee, a Commission investigation or a complaint * * *". This portion of the rule relates to retention after 7 years, of material related to a private claim or Commission investigation or complaint to the Commission. CBS cites, as an example of material which should not have to be retained for more than 7 years, an ownership report listing the name of a subsidiary corporation which is involved in a lawsuit (mentioned in a renewal application). It is stated that such information, though related to the lawsuit as showing ownership, has no bearing whatever on the claim. CBS would therefore limit the rule to material which the Commission has required to be filed as relating to a claim, investigation or complaint.

13. We do not agree that the rule should be limited in precisely this fashion, since the Commission normally does not require the filing of material relating to private lawsuits, even though it could be highly pertinent to them. We do believe it is appropriate to limit the scope of this provision to material having a substantial bearing on, instead of "relating to," private claims, and the rule as adopted so provides. Since the required retention period is 7 years in any event, it does not appear that use of one phrase rather than another is of great significance.

14. Second, CBS asks that the proposed rule be amended by deletion of the bracketed material below: "* * * the permittee or licensee * * * shall permit public inspection of the material [in the file] as long as it is retained by the licensee even though the request for inspection is made after the conclusion of the required retention period specified in this subparagraph." It is CBS's contention that material referred to in the preceding passage, i.e., material that is voluntarily retained beyond the required retention time, should be permitted to be kept in distant storage facilities and in forms such as microfilm rather than directly in the public file.

15. We think, particularly in view of the voluntary nature of the retention, that CBS's suggestion is reasonable and meets the public interest requirements. Hence, we are deleting the language "in the file" and adopting additional new language as follows, substantially as suggested by CBS:

> However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee.

16. Authority for the amendment to our rules adopted herein is contained in sections 4(i), 303(r), and 311 of the Communications Act of 1934, as amended.

17. In view of the foregoing: *It is ordered*, That effective May 25, 1970, § 1.526(e) of the Commission's rules and regulations is amended, as set forth below.

18. *It is further ordered*, That this proceeding (Docket 18604, RM–1386) is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: April 15, 1970.

Released: April 17, 1970.

FEDERAL COMMUNICATIONS COMMISSION,*
[SEAL] BEN F. WAPLE,
Secretary.

* Commissioners Johnson and H. Rex Lee absent.

Section 1.526(e)(2) of the Commission's rules and regulations is amended to read as follows:

§ 1.526 Records to be maintained locally for public inspection by applicants, permittees, and licensees.

* * * * * * *

(e) *Period of retention.* * * *

(2) The permittee or licensee shall maintain such a file so long as an authorization to operate the station is outstanding, and shall permit public inspection of the material as long as it is retained by the licensee even though the request for inspection is made after the conclusion of the required retention period specified in this subparagraph. However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee. Applications and other material placed in the file shall be retained for a period of 7 years from the date the material is tendered for filing with the Commission, with two exceptions: First, engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a mode; and second, all of the material shall be retained for whatever longer period is necessary to comply with the following requirements: (i) Material shall be retained until final Commission action on the second renewal application following the application or other material in question; and (ii) material having a substantial bearing on a matter which is the subject of a claim against the licensee, or relating to a Commission investigation or a complaint to the Commission of which the licensee has been advised, shall be retained until the licensee is notified in writing that the material may be discarded, or, if the matter is a private one, the claim has been satisfied or is barred by statutes of limitations. Where an application or related material incorporates by reference material in earlier applications and material concerning programing and related matters (section IV and related material), the material so referred to shall be retained as long as the application referring to it.

[F.R. Doc. 70–4889; Filed, Apr. 21, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 814]

1970 SUGAR QUOTA FOR MAINLAND CANE SUGAR AREA

Hearing on Proposed Allotment

Pursuant to the authority contained in the Sugar Act of 1948, as amended (61 Stat. 922, as amended), and in accordance with the applicable rules of practice and procedure (7 CFR 801.1 et seq.) the Secretary of Agriculture has, after due notice (34 F.R. 18764) and hearing, found that allotment of the 1970 sugar quota for the Mainland Cane Sugar Area is necessary to prevent disorderly marketing and to afford all interested persons an equitable opportunity to market sugar, and has established preliminary allotments of a portion of such quota, until the date allotments of the 1970 calendar year sugar quota for the Mainland Cane Sugar Area are prescribed on the basis of a subsequent hearing.

Notice is hereby given that a public hearing will be held in Miami Beach, Fla., at the Eden Roc Hotel on May 22, 1970, at 10 a.m., e.d.t., for the purpose of receiving evidence to enable the Secretary of Agriculture to make a fair, efficient, and equitable distribution of the abovementioned quota for the entire calendar year 1970 among persons who process and market sugar produced from sugarcane grown in the Mainland Cane Sugar Area. It will be appropriate at the hearing to present evidence on the basis of which the Secretary may affirm, modify, or change the finding which has been made with respect to necessity for allotment and make or withhold allotment of any such quota in accordance therewith.

In addition, the subjects and issues of this hearing include (1) the manner in which consideration should be given to the statutory factors as well as the need for establishing allotments as may be necessary to avoid unreasonable carryover of sugar, as provided in section 205 (a) of the Act; (2) the manner in which marketings within allotments shall be restricted; and (3) a provision for the transfer of allotments.

Notice also is given hereby that it will be appropriate at the hearing to present evidence on the basis of which the Secretary may revise or amend the allotment of the quota or proration thereof for the purposes of (1) allotting any increase or decrease in the quota; (2) prorating any deficit in the allotment for any allottee; and (3) substituting revised estimates or final data for estimates of such data wherever estimates are used in the formulation of an allotment of the quota.

Signed at Washington, D.C., on April 17, 1970.

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

[F.R. Doc. 70-4885; Filed, Apr. 17, 1970; 2:27 p.m.]

Consumer and Marketing Service

[7 CFR Part 1098]

[Docket No. AO-184-A29]

MILK IN NASHVILLE, TENN., MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Statler-Hilton Airport Inn, Nashville Municipal Airport, Nashville, Tenn., beginning at 9:30 a.m. local time on May 6, 1970, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Nashville, Tenn., marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculutre.

Proposed by Dairymen, Inc.:

Proposal No. 1. Revise § 1098.7 as follows:

§ 1098.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority or produces milk acceptable for fluid consumption at Federal, State, or municipal establishments within the marketing area, which milk is received at a pool plant or diverted from the farm directly to a nonpool plant. "Producer" shall not include a person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act. Milk so diverted shall be deemed to have been received at the pool plant from which diverted.

Proposal No. 2. In § 1098.13 add a new paragraph (c) as follows:

§ 1098.13 Producer milk.

* * * * *

(c) Diverted from a pool plant to an other order plant if a Class II classification (or its equivalent) is designated for such milk pursuant to the provisions of another order issued pursuant to the Act.

* * * * *

Proposal No. 3. Revise the introductory text of § 1098.44, the introductory text to paragraph (e) of § 1098.44 and subparagraphs (2) and (3) of paragraph (e) as follows:

§ 1098.44 Transfers.

Skim milk or butterfat transferred or diverted in the form of a fluid milk product shall be classified as:

* * * * *

(e) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (2) or (3) of this paragraph:

* * * * *

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

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

* * * * *

Proposal No. 3a. Revise § 1098.81(a) as follows:

§ 1098.81 Payments to Market Administrator.

(a) On or before the 25th day of each month each handler receiving milk from producers or from a handler pursuant to § 1098.8(c) (except for producers having made deliveries for less than 20 days during the month or for producers who request that no advance payment be made to them) shall pay to the market administrator for deposit into the producer settlement fund an amount of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class II price for the preceding month;

* * * * *

Proposal No. 4. Revise § 1098.91 as follows:

§ 1098.91 Handlers subject to other Federal orders.

In the case of a handler in his capacity as operator of a plant specified in paragraphs (a), (b), and (c) of this section the provisions of this part shall not apply except as specified in paragraphs (d) and (e) of this section:

(a) A distributing plant qualified pursuant to § 1098.11 which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as Class I route disposition in the marketing area regulated by the other order than as Class I route disposition in the Nashville, Tennessee, marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its Class I route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this paragraph: *And provided further*, On the basis of a written application made either by the plant operator or by the cooperative association supplying milk to such operator's plant, at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the Class I route dispositions in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) Class I disposition made under limited term contracts to governmental bases and institutions;

(b) A distributing plant qualified pursuant to § 1098.11 which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk, except filled milk, is disposed of during the month in the Nashville, Tenn., marketing area as Class I route disposition than as Class I route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation even though such plant has greater Class I route disposition in the marketing area of the Nashville, Tenn., order;

(c) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to the proviso of § 1098.11(b) during the preceding August through January period;

(d) The operator of a plant specified in paragraph (a), (b), or (c) of this section shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator; and

(e) Each handler operating a plant specified in paragraph (a) or (b) of this section, if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class II price.

Proposed by Borders Pure Milk Co., Brown's Dairy Foods, Inc., Country Maid Dairy, W. E. Davis & Son, Jersey Farms Milk Service, Inc., Jersey Pride Creamery, Perfection Dairy Products Co., Purity Dairies, Inc., Sealtest Foods, Division of Kraftco Corp., and Strader's Dairy, Inc.:

Proposal No. 5. Revise § 1098.61 by adding a new paragraph (d):

§ 1098.61 Base rules.

* * * * *

(d) (1) During the base price-excess price pay periods under the Order 98 base-excess plan, milk may not be supplied to a plant other than a Nashville, Tenn., Order No. 98 pool plant from the farm of a dairy farmer who is a "producer" under the Nashville, Tenn., order; except to the extent permitted as a diversion under Order 98, with such milk involved remaining producer milk under Order 98.

(2) If milk from the farm of such Order 98 "producer" is so supplied to a plant other than an Order 98 plant and is not supplied within the said stated conditions of exception, the total quantity of the milk of said "producer" that is delivered to an Order 98 plant during the month, shall be treated as "excess milk" under the Order 98 base-excess plan.

Proposal No. 6. Revise § 1098.91 as follows:

§ 1098.91 Handlers subject to other milk orders.

(a) Notwithstanding the provisions of any other order issued pursuant to the Act: A plant that is regulated by Order 98 and also meets the pooling requirements of another order issued pursuant to the Act, shall not become regulated by said other order until the third consecutive month in which the disposition of Class I products or fluid milk products in said other order marketing area exceeds such disposition in the Order 98 marketing area (including in both cases the Class I products or fluid milk products disposition made under limited term contracts to governmental bases or institutions).

(b) Notwithstanding the provisions of any other issued order pursuant to the Act: If for 3 consecutive months a plant regulated as a pool plant by an other order issued pursuant to the Act also meets the pooling requirements of Order 98 for said 3 months, and if for each of said 3 months the disposition of Class I products and fluid milk products in the Order 98 marketing area exceeds such disposition in said other order marketing area (including in both cases the Class I products or fluid milk products disposition made under limited term contracts to governmental bases or institutions) said plant shall become regulated by Order 98 and shall be subject to the provisions of Order 98 beginning with said third month.

(c) The provisions of this part shall not apply to a handler with respect to the operation of a plant during any month in which said plant is fully regulated by another marketing agreement or order issued pursuant to the Act and the milk received at said plant is subject to the classification, pricing and payment provisions of said marketing agreement or order.

(d) The operator of a plant which is exempted from the provisions of this part pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 7. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, J. B. McCroskey, Suite 251, Theater Office Building, 100 Oaks Shopping Center, Nashville, Tenn. 37204, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C. on April 17, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-4901; Filed, Apr. 21, 1970; 8:48 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 602, 610, 612, 615, 619, 661, 672, 721, 722, 723, 724, 725, 726, 728, 729]

[Administrative Order 613]

INDUSTRY COMMITTEES FOR VARIOUS INDUSTRIES IN PUERTO RICO

Appointment To Investigate Conditions and Recommend Minimum Wages; Notice of Hearings

1. Pursuant to section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR Part 311, I hereby appoint the following industry committees for the indicated industries:

Committee No.	Industry
95–A	Construction Industry in Puerto Rico.
95–B	Local Transit Industry in Puerto Rico.
95–C	Alcoholic Beverage and Industrial Alcohol Industry in Puerto Rico.
	Banking, Insurance and Finance Industry in Puerto Rico.
	Construction, Business Service, Motion Picture and Miscellaneous Industry in Puerto Rico.
95–D	Men's and Boys' Clothing and Related Products Industry in Puerto Rico.
	Needlework and Fabricated Textile Products Industry in Puerto Rico.
	Children's Dress and Related Products Industry in Puerto Rico.
	Leather, Leather Goods, and Related Products in Puerto Rico.
96–A	Retail Trade Industry in Puerto Rico.
96–B	Laundry and Cleaning Industry in Puerto Rico.
97–A	Hotel and Motel Industry in Puerto Rico.
97–B	Restaurant and Food Service Industry in Puerto Rico.
98–A	Education Industry in Puerto Rico.
98–B	Hospitals and Related Institutions Industry in Puerto Rico.

2. These industries are defined as follows:

(a) The construction industry in Puerto Rico, to which this order shall apply, is defined as follows: The design, construction, reconstruction, alteration, repair and maintenance of buildings, structures, and other improvements on land; the assembling at the construction site and the installation of machinery and other facilities in or upon such improvements; and the dismantling, wrecking, or other demolition of such improvements: *Provided, however,* That the construction industry shall not include any activity carried on by an establishment in Puerto Rico for its own use to which another wage order for the primary business of such establishment would otherwise be applicable: *And provided further,* That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

(b) The local transit industry in Puerto Rico, to which this order shall apply, is defined as follows: The operation of a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by governmental authority, regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit, and the business of operating taxicabs: *Provided, however,* That the industry shall not include any activities to which the Fair Labor Standards Act of 1933 would have applied prior to the Fair Labor Standards Amendments of 1966.

(c) The alcoholic beverage and industrial alcohol industry in Puerto Rico, to which this order shall apply, is defined as follows: The manufacture, including, but without limitation, the distilling, rectifying, blending, or bottling of rum, gin, vodka, whisky, brandy, cordials, liqueurs, wines, ale, beer, and similar malt beverages with or without alcohol, other alcoholic beverages, industrial alcohol (such as amyl, butyl, and ethyl alcohol) acetone, antifreeze, and any related byproduct resulting from the manufacture of any of the foregoing products.

(d) The banking, insurance, and finance industry in Puerto Rico to which this order shall apply is defined as follows: The business, whether or not for profit, carried on by any banking, insurance, or other financial institution or enterprise.

(e) The construction, business service, motion picture, and miscellaneous industry in Puerto Rico is defined as follows: The design, construction, reconstruction, alteration, repair, and maintenance of buildings, structures, and other improvements; the assembling at the construction site and the installation of machinery and other facilities in or upon buildings, structures, and other improvements; the dismantling, wrecking, or other demolition of buildings, structures, and other improvements; the activity carried on by any business or nonprofit enterprise performing real estate, professional, advertising, education, or research activities, or engaged in the furnishing of other facilities or services to industrial or commercial establishments or to the consumer; and the production of photographs and blueprints, the production and distribution of motion pictures and all activities incidental thereto; and all activities which are not included in the definitions of other industries in Puerto Rico for which wage orders have been issued: *Provided, however,* That the industry shall not include any activity carried on by an establishment primarily engaged in another industry in Puerto Rico for its own use.

(f) The men's and boys' clothing and related products industry in Puerto Rico is defined as follows: The manufacture from any material of men's and boys' clothing, furnishings, accessories, and related products: *Provided, however,* That the industry shall not include the manufacture of handmade straw hats, gloves, hosiery, footwear, belts (except fabric), sweaters, handkerchiefs, scarves, mufflers, or any product or activity included in the children's dress and related products industry in Puerto Rico (29 CFR Part 610), or in the women's and children's underwear and women's blouse industry in Puerto Rico (29 CFR Part 609).

(g) The needlework and fabricated textile products industry in Puerto Rico is defined as follows: The manufacture from any material of all apparel and apparel furnishings and accessories made by knitting, crocheting, cutting, sewing, embroidering, or other process; and the manufacture of all textile products and the manufacture of like articles in which a synthetic material in sheet form is the basic component: *Provided, however,* That the industry shall not include any product or activity included in the artificial flower, decoration, and party favor industry in Puerto Rico (29 CFR Part 688), the button, jewelry, and lapidary work industry in Puerto Rico (29 CFR Part 616), the corsets, brassieres, and allied garments industry in Puerto Rico (29 CFR Part 614), the fabric and leather glove industry in Puerto Rico (29 CFR Part 603), the hosiery industry in Puerto Rico (29 CFR Part 687), the men's and boys' clothing and related products industry in Puerto Rico (29 CFR Part 615), the shoe and related products industry in Puerto Rico (29 CFR Part 601), the straw hat, hair, and related products industry in Puerto Rico (29 CFR 613), the textile and textile products industry in Puerto Rico (29 CFR Part 699), the handkerchief, scarf, and art linen industry in Puerto Rico (29 CFR Part 603), the women's and children's underwear and women's blouse industry in Puerto Rico (29 CFR Part 609), the sweater and knit swimwear industry in Puerto Rico (29 CFR Part 611), and the children's dress and related products industry in Puerto Rico (29 CFR Part 610), as defined in the wage orders for these industries.

(h) The children's dress and related products industry in Puerto Rico is defined as follows: The manufacture from woven or knit fabric or from waterproof materials of the following garments: Dresses, blouses, shirts, and similar garments for girls, shirts and blouses for boys size 6X and under; dresses, creepers, rompers, waterproof pants, diaper covers, bibs, sportswear, and play apparel for infants 3 years of age or under, and clothing and accessories for dolls: *Provided, however,* That the industry shall not include products manufactured by heat sealing, cementing, vulcanizing, or any operation similar thereto; or the outlining or embroidery of lace by machine, or the embroidery of any article or trimming by a crochet beading process or with bullion thread.

(i) The leather, leather goods, and related products industry in Puerto Rico is defined as follows: The curing, tanning, or other processing of hides, skins, leather, or furs, and the manufacture of products therefrom; the manufacture

from artificial leather, fabric, plastics, paper or paperboard, or similar materials of trunks, suitcases, brief cases, wallets, billfolds, coin purses, card cases, key cases, cigarette cases, watch straps, pouches, tie cases, toilet kits, checkbook covers, sport and athletic gloves and mittens, belts (except fabric belts), and like articles; and the manufacture of baseballs, softballs, footballs, and basketballs covered with leather, artificial leather, fabric, plastics, or similar materials: *Provided, however,* That the industry shall not include any product or activity included in the button, jewelry, and lapidary work industry (29 CFR Part 616), the needlework and fabricated textile products industry (29 CFR Part 612), the shoe and related products industry (29 CFR Part 601), the fabric and leather glove industry (29 CFR Part 603), or the rubber products industry (29 CFR Part 720), as defined in the wage orders for those industries in Puerto Rico.

(j) The retail trade industry in Puerto Rico, to which this order shall apply, is defined as follows: The selling at retail, and incidental activities performed by employees of an establishment so engaged including services on the goods sold and food service in such establishments: *Provided, however,* That the industry shall not include the activities of employees who are engaged in wholesaling, warehousing and other distribution of products manufactured by their employer in Puerto Rico, or any activities included in the definitions of the communications, utilities, and transportation industry in Puerto Rico (29 CFR Part 671), the hotel and motel industry in Puerto Rico (29 CFR Part 728), or the restaurant and food service industry in Puerto Rico (29 CFR Part 729), or any activities to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

(k) The laundry and cleaning industry in Puerto Rico to which this order shall apply is defined as follows: Laundering, dry cleaning, and incidental work such as repair of clothing and fabrics on which such work is done and the work done in family and commercial power laundries, linen supply and industrial launderers, diaper services, self-service laundries, hand laundries, cleaning and dyeing plants, and rug cleaning and repairing plants: *Provided, however,* That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

(l) The hotel and motel industry in Puerto Rico, to which this order shall apply, is defined as follows: The operation of hotels, motels, apartment hotels which provide accommodations for transients, and tourist courts, engaged in providing lodging, with or without meals, for the general public, including all activities incidental to any of the foregoing: *Provided, however,* That the hotel and motel industry in Puerto Rico shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

(m) The restaurant and food service industry in Puerto Rico, to which this order shall apply, is defined as follows: The operation of restaurants and other food service establishments engaged in the preparation or offering of food or beverages for human consumption either on the premises or by such other services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs: *Provided, however,* That the restaurant and food service industry in Puerto Rico shall not include food service in retail establishments, or any activity included in the hotel and motel industry: *And provided, further,* That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

(n) The education industry in Puerto Rico, to which this order shall apply, is defined as follows: The operation of elementary or secondary schools, or institutions of higher education, or schools for mentally or physically handicapped or gifted persons, regardless of whether public or private or operated for profit or not for profit: *Provided, however,* That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

(o) The hospital and related institutions industry in Puerto Rico, to which this order shall apply, is defined as follows: The performance of activities in connection with the operation of hospitals, nursing homes, sanitariums, rest homes, convalescent homes, and related institutions primarily engaged in the care of persons who are sick, aged, or the mentally ill or defective who reside on the premises of such institutions, regardless of whether or not such a hospital or institution is public or private or operated for profit or not for profit: *Provided, however,* That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

3. Pursuant to section 8 of the Fair Labor Standards Act of 1938 (29 U.S.C. 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949–1953 Comp., p. 1004), and 29 CFR Part 511, I hereby:

(a) Convene the above-appointed industry committees;

(b) Refer to the industry committees the question of the minimum rates of wages to be fixed for the above-mentioned industries in Puerto Rico to which section 6 of the Fair Labor Standards Act applies solely by reason of the Fair Labor Standards Amendments of 1966 as those industries are herein defined;

(c) Give notice of the hearings to be held by the several committees at the times and place indicated below. The committees shall investigate conditions in the industries, and the committees, or any authorized subcommittee thereof, shall hear witnesses and receive such evidence as may be necessary or appropriate to enable the committees to perform their duties and functions under the aforementioned Act.

(1) Industry Committee No. 95–A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Tuesday, October 13, 1970. Following this hearing, Industry Committee No. 95–B will immediately convene to conduct its investigation and to hold its hearing followed in seriatim by Industry Committee No. 95–C and No. 95–D in meeting to conduct their investigations and hold their hearings.

(2) Industry Committee No. 96–A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Monday, October 19, 1970. Following this hearing, Industry Committee No. 96–B will immediately convene to conduct its investigation and to hold its hearing.

(3) Industry Committee No. 97–A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Monday, October 26, 1970. Following this hearing, Industry Committee No. 97–B will immediately convene to conduct its investigation and to hold its hearing.

(4) Industry Committee No. 98–A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Monday, November 16, 1970. Following this hearing, Industry Committee No. 98–B will immediately convene to conduct its investigation and to hold its hearing.

4. The hearings will take place in the offices of the Wage and Hour Division on the seventh floor of the Condominio San Alberto Building, 1200 Ponce de Leon Avenue, Santurce, P.R.

5. Each industry committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, or American Samoa. However, no industry committee shall recommend minimum wage rates in excess of $1.45 an hour for the period ending January 31, 1971, nor in excess of $1.60 an hour thereafter.

6. Whenever an industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities in the industry than may be determined for other employees in that industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10 which will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or

sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications, each industry shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

7. The Administrator shall prepare an economic report for each industry committee containing such data as he is able to assemble pertinent to the matters referred to them. Copies of such reports may be obtained at the national and Puerto Rican offices of the Wage and Hour Division of the U.S. Department of Labor as soon as they are completed and prior to the hearings. The industry committees shall take official notice of the facts stated in the economic reports to the extent that they are not refuted at the hearing.

8. The procedure of industry committees shall be governed by 29 CFR Part 511. Interested persons wishing to participate in any of the hearings shall file prehearing statements, as provided in 29 CFR 511.8 containing the data specified in that section not later than 10 days before the first hearing date set for each committee as set forth in this notice of hearing, i.e., October 3, 1970, for matters to be considered by Industry Committees Nos. 95–A, B, C, or D; October 9, 1970, for matters to be considered by Industry Committees Nos. 96–A or B; October 16, 1970, for matters to be considered by Industry Committees Nos. 97–A or B; and November 6, 1970, for matters to be considered by Industry Committees Nos. 98–A or B.

Signed at Washington, D.C., this 16th day of April 1970.

GEORGE P. SHULTZ,
Secretary of Labor.

[F.R. Doc. 70-4883; Filed, Apr. 21, 1970; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-SO-27]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Birmingham, Ala., control zone and transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Area Manager, Memphis Area Office, Air Traffic Branch, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Birmingham control zone described in § 71.171 (35 F.R. 2054) would be redesignated as:

Within a 5-mile radius of Birmingham Municipal Airport (lat. 33°33'50" N., long. 86°45'30" W.); within 2 miles each side of Birmingham ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the OM; within 3 miles each side of the 056° and 236° bearings from Roebuck RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN.

The Birmingham transition area described in § 71.181 (35 F.R. 2134) would be amended as follows: "* * * point of beginning * * *" is deleted and "* * * point of beginning; within 5 miles each side of Birmingham ILS localizer southwest course, extending from the 17-mile radius area to 11.5 miles southwest of the OM * * *" is substituted therefor.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to Birmingham terminal area requires the following actions:

Control zone. 1. Designate extensions predicated on the 056° and 236° bearings from Roebuck RBN 6 miles in width and 8.5 miles in length.

2. Revoke the extensions predicated on the 055° and 235° bearings from Roebuck RBN.

Transition area. Designate an extension predicated on Birmingham ILS localizer southwest course 10 miles in width and 11.5 miles in length.

The proposed alterations are required to provide controlled airspace protection for IFR operations in climb to 1,200 feet above the surface and in descent from 1,500 feet above the surface.

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

Issued in East Point, Ga., on April 13, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-4855; Filed, Apr. 21, 1970; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-24]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Gulfport, Miss., control zone and transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Area Manager, Chief, Air Traffic Branch, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Gulfport control zone described in § 71.171 (35 F.R. 2054) would be redesignated as:

Within a 5-mile radius of Gulfport Municipal Airport (lat. 30°24'27.5" N., long. 89°04'05" W.); within 3 miles each side of Gulfport VORTAC 050°, 129°, 213°, and 325° radials, extending from the 5-mile radius zone to 8.5 miles northeast, southeast, southwest, and northwest of the VORTAC; excluding the portion that coincides with the Biloxi, Miss., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

The Gulfport transition area described in § 71.181 (35 F.R. 2134) would be amended as follows: "* * * within an 8.5-mile radius of Keesler AFB * * *" would be deleted and "* * * within 9.5 miles southwest and 4.5 miles northeast of Gulfport VORTAC 235° radial, extending from the VORTAC to 18.5 miles northwest of the VORTAC; within an 8.5-mile radius of Keesler AFB * * *" would be substituted therefor.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to the Gulfport terminal area requires the following actions:

1. Increase the control zone extensions predicated on Gulfport VORTAC 050°, 129°, 213°, and 325° radials 2 miles in width and 0.5 mile in length.

2. Designate a transition area extension predicated on Gulfport VORTAC 325° radial 14 miles in width and 18.5 miles in length.

The proposed alterations are required to provide controlled airspace protection for IFR operations in climb to 1,200 feet above the surface and in descent from 1,500 feet above the surface.

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

Issued in East Point, Ga., on April 13, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-4856; Filed, Apr. 21, 1970; 8:45 a.m.]

Hazardous Materials Regulations Board

[49 CFR Parts 172, 173, 174, 177, 178]

[Docket No. HM-46; Notice 70-7]

TRANSPORTATION OF HAZARDOUS MATERIALS

Reclassification of Fusees

The Hazardous Materials Regulations Board is considering amending the Department's Hazardous Materials Regulations to reclassify railway fusees and highway fusees as flammable solids.

Presently the regulations classify railway and highway fusees as class C explosives. The Bureau of Explosives of the Association of American Railroads, pursuant to requests from manufacturers of these types of fusees, has performed detonation and fire tests on regular 15-minute highway fusees. There was no evidence of any explosion in either test. In a wood-kerosene bonfire the fusees were consumed in about 6 minutes after the burning was well started without evidence of any explosion. Based upon these test results the Bureau has recommended that the regulations be amended to change the classification of railway and highway fusees from class C explosives to flammable solid.

It is the Board's opinion that the petition has merit. Class C explosives in general are certain types of manufactured articles that contain class A or class B explosives, or both, as components, in restricted quantities, and certain types of fireworks. Railway and highway fusees are devices designed to produce visible effects for signal purposes. Historically they have been placed in the explosive category and at one time were in the fireworks group. When a distinction was made between special fireworks (class B explosives) and common fireworks (class C explosives) over 15 years ago, the fusees were relegated to the category of common fireworks. Subsequently, fusees were withdrawn from the fireworks category but were retained in the class C explosives classification.

For the purposes of transportation, an explosive is defined as any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified in the regulations.

A fusee is designed to function by rapid combustion instead of by explosion. Although it may contain small quantities of explosives it appears appropriate to reconsider its classification in light of its current design, function, use, and real hazard. In view thereof and based on the test data submitted in support of the petition, it appears that a regulatory change is warranted.

In conjunction with the reclassification, the petitioner also requested that shipments of fusees be exempted from the labeling and placarding requirements. The Board's general view on labeling packages and placarding transport vehicles are reflected in Notice No. 68-5 (Docket No. HM-7). The petitioner's request in this matter is not consistent with the Board's projected goals in these areas and therefore has not been included in this proposed rule making.

Additionally, it is proposed to insert the name, "signal flares" in § 173.100(y) which has been inadvertently omitted for many years.

In consideration of the foregoing, 49 CFR Parts 172, 173, 174, 177, and 178 would be amended as follows:

I. Part 172 would be amended as follows:

A. Section 172.5 paragraph (a) Commodity List would be amended as follows:

§ 172.5 List of explosives and other dangerous articles.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in one outside container by rail express
(Cancel)				
Highway fusees	Expl. C	No exemption, 173.108		200 pounds.
Railway fusees	Expl. C	No exemption, 173.108		200 pounds.
(Add)				
Fusees	F.S	No exemption, 173.154a	Yellow	200 pounds.
* * *	* * *	* * *	* * *	* * *

II. Part 173 would be amended as follows:

A. In Part 173 Table of Contents § 173.108 would be amended; § 173.154a would be added to read as follows:

Sec.
173.108 Common fireworks, signal flares, hand signal devices, smoke signals, smoke candles, smoke grenades, smoke pots, and Very signal cartridges.
173.154a Fusees.

B. In § 173.100 paragraph (y) would be amended to read as follows:

§ 173.100 Definition of Class C explosives.

* * * * *

(y) Smoke candles, smoke pots, smoke grenades, smoke signals, signal flares, hand signal devices, and Very signal cartridges are devices designed to produce visible effects for signal purposes. These devices must contain no bursting charges and no more than 200 grams of pyrotechnic composition each (see Note 1), exclusive of smoke composition (see Note 2), unless greater weight of composition is approved by the Bureau of Explosives.

[No change in Notes 1 and 2.]

* * * * *

C. In § 173.108 the heading, the introductory text of paragraph (a), and paragraph (a)(5) would be amended; paragraph (a)(6) would be added; paragraph (b) would be canceled; paragraph (d) would be amended to read as follows:

§ 173.108 Common fireworks, signal flares, hand signal devices, smoke signals, smoke candles, smoke grenades, smoke pots, and Very signal cartridges.

(a) Class C explosives covered by this section must, unless otherwise specifically provided for, be securely packed in packages complying with the following specifications:

* * * * *

(5) Fireworks, such as sparklers, with match tip or head, or similar ignition point or surface, must have each individual tip, head, or similar ignition point or surface entirely covered and securely protected against accidental contact or friction.

(6) Signal flares may be packed with nonexplosive or nonflammable articles provided the outside packages are marked as prescribed in this section.

(b) [Canceled].

* * * * *

(d) Each outside package must be plainly marked in letters not less than seven-sixteenth inch in height "Common Fireworks," "Signal Flares," "Hand Signal Devices," "Smoke Signals," "Smoke Candles," "Smoke Pots," "Smoke Grenades," or "Very Signal Cartridges", as appropriate, and with the additional words "Handle Carefully—Keep Fire Away."

D. Section 173.154a would be added to read as follows:

§ 173.154a Fusees.

(a) A fusee is a device designed to burn at a controlled rate and to produce visible effects for signaling purposes. It consists of a pasteboard or fiber tube containing a colored flare mixture and with or without a means of support. The composition of the fusee must be such that spontaneous ignition does not occur when the moistened composition is exposed to a temperature of 212° F. for 72 consecutive hours. Fusees must have individual tip, head, or similar ignition point or surface entirely covered and

securely protected against accidental contact or friction. Fusees must be securely packed in packages complying with the following specifications:

(1) Specification 15A, 15B, 15C, 16A, 19A, or 19B (§§ 178.168, 178.169, 178.170, 178.185, 178.190, 178.191 of this chapter). Wooden boxes. Gross weight not to exceed 150 pounds for specification 19B boxes; 200 pounds for the other boxes. When specification 15C boxes are used, devices must be packed in air-tight inside metal receptacles.

(2) Specification 12B (§ 178.205 of this chapter). Fiberboard boxes. Boxes must have reinforced ends proven to be capable of preventing penetration of spikes through the outside box when a sample package, prepared as for shipment, is subjected to two drops from a height of 4 feet onto a solid surface. The package must be dropped so as to strike diagonally with the spikes in a downward position. Gross weight not to exceed 65 pounds except that gross weight not to exceed 75 pounds is authorized in boxes made in accordance with § 178.205–24 of this chapter.

(3) Specification 29 (§ 178.226 of this chapter). Mailing tubes, provided the penetration of the spikes of the fusees through the outside container is prevented by the method specified for fiberboard boxes, specification 12B, in subparagraph (2) of this paragraph. Gross weight not to exceed 5 pounds.

(4) Fusees without spikes when offered for shipment may be packed in packages prescribed in this paragraph, omitting the protection required for these devices when equipped with spikes.

(5) Fusees may be packed with nonexplosive or nonflammable articles provided the outside packages are marked as prescribed in this section.

(b) Each outside package must be plainly marked in letters not less than seven-sixteenths inch in height "Fusees" and with the additional words "Handle Carefully—Keep Fire Away."

III. Part 174 would be amended as follows:

A. In Part 174 Table of Contents § 174.538 would be amended to read as follows:

Sec.
174.538 Loading and storage chart of hazardous materials.

B. In § 174.538 the heading would be amended; in paragraph (a) item 9 of the loading and storage chart would be amended in both the vertical and horizontal columns to read as follows:

§ 174.538 Loading and storage chart of hazardous materials.

(a) * * *

Item 9—Fireworks, common.

* * * * *

IV. Part 177 would be amended as follows:

A. In Part 177 Table of Contents § 177.848 would be amended to read as follows:

Sec.
177.848 Loading and storage chart of hazardous materials.

B. In § 177.848 the heading would be amended; in paragraph (a) item 9 of the loading and storage chart would be amended in both the vertical and horizontal columns to read as follows:

§ 177.848 Loading and storage chart of hazardous materials.

(a) * * *

Item 9—Fireworks, common.

* * * * *

V. Part 178 would be amended as follows:

A. In § 178.205–24 the heading and paragraph (a) would be amended to read as follows:

§ 178.205 Specification 12B; fiberboard boxes.

§ 178.205–24 Special box; authorized only for fusees.

(a) Must comply with this specification except that the box must be constructed of double faced corrugated fiberboard at least 400-pound test or solid fiberboard of same strength. Lining and pads are not required. Authorized gross weight is 75 pounds. For fusees equipped with spikes, box-end protection as required in § 173.154a(a)(2) of this chapter must be provided.

Interested persons are invited to give their views on this proposal. 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 10, 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.

This proposal is made under the authority of sections 831–835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C., on April 16, 1970.

J. B. McCarty, Jr.,
Captain, U.S. Coast Guard, by direction of Commandant, U.S. Coast Guard.

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

F. C. Turner,
Federal Highway Administrator.

Sam Schneider,
Board Member, for the Federal Aviation Administration.

[F.R. Doc. 70-4888; Filed, Apr. 21, 1970; 8:47 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 70–2; Notice 1]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires; Passenger Cars

The National Highway Safety Bureau has conducted an investigation which discloses that more than 185,000 tires were manufactured for normal highway use during 1969 and, due to some manufacturing defect affecting the tire's performance capabilities, were reclassified and branded with some restrictive language such as "Farm Use Only" or "Non-Highway Use". Many of these tires are being sold for normal highway use by unscrupulous distributors and dealers who buff off the restrictive labeling information and sell them to the unsuspecting public as sound, highway use tires. The use of these tires on passenger cars can present an extreme safety hazard. In addition, because the tires do not contain the DOT symbol (which is part of the labeling requirements of Standard No. 109) their sale for passenger car use is a violation of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

To control the relatively large number of tires being reclassified and provide a means for a viable enforcement program, it is proposed that the tire standard be amended to require (1) that tires that are unsafe for highway use be branded with the phrase "Unsafe for Normal Highway Use", (2) that each tire have a label attached indicating that the sale of the tire for passenger car use subjects the person selling it to a $1,000 civil penalty and (3) that all tire manufacturers report to the Bureau periodically the number of these tires sold and the names of distributors or dealers who purchase them.

The proposed effective date of the amendment is October 1, 1970.

Interested persons are invited to participate in the making of this proposed rule by submitting written data, views, or arguments. It is requested, but not required, that 10 copies of comments be submitted to the National Highway Safety Bureau, Attention: Rules Docket, Room 4223A, National Highway Safety Bureau, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20591. All comments received within 30 days from the date of publication of this notice will be considered before action is taken on the proposed rule. All comments submitted, both before and after the closing date, will be available in the docket room for examination by interested persons.

In consideration of the foregoing, it is proposed that Title 49—Transportation, Chapter V—National Highway Safety Bureau, Department of Transportation, Subchapter A—Motor Vehicle Safety Regulations, Part 571—Federal Motor Vehicle Safety Standard No. 109; New

Pneumatic Tires—Passenger Cars, be amended to change the Purpose and Scope paragraph S1., add a definition of "nonhighway use tire" in paragraph S3., change the general requirement subparagraph to refer to nonhighway use tires and add paragraph S6. establishing requirements for nonhighway use tires as set forth below:

(1) S1. *Purpose and scope.* This standard specifies tire dimensions and laboratory test requirements for bead unseating resistance, strength, endurance, and high speed performance; defines tire load ratings; specifies labeling requirements; and sets forth the limited conditions under which passenger car tires that are not certified as complying with this standard may be sold.

(2) Insert in paragraph S3., the following definition: "Non-Highway Use Tire" means a tire that is not certified as complying to the requirements of this standard but is capable of being used on a passenger car.

(3) Change S4.2.1 to read as follows:

S4.2.1 *General.* Except as provided in S6., each tire shall conform to each of the following:

* * * * *

(4) Add a new paragraph S6., to read as follows:

S6. *Requirements for nonhighway use tires.* "Non-Highway Use Tires" may be sold by the manufacturer under the following conditions only:

S6.1 *Labeling requirements.* Each "Non-Highway Use Tire" shall be conspicuously labeled in both side walls with the following information which shall be permanently molded into or onto the tire:

(a) Size designation;

(b) Maximum permissible inflating pressure;

(c) Maximum load rating;

(d) Name of manufacturer; and

(e) A separate serial number which enables the manufacturer to identify the week, month, and year of production.

All other labeling information shall be removed.

S6.1.1 Each "Non-Highway Use Tire" shall have the term "Unsafe for Normal Highway Use" impressed into both sidewalls superimposed upon the unaltered manufacturer's name or the brand name in letters not less than three-fourths inch high. The depth of the letters shall be not less than one-sixteenth inch or one-half the thickness of the layer of material covering the ply material, whichever is less.

S6.1.2 Each "Non-Highway Use Tire" shall have two labels affixed to the tread surface, approximately 180° apart, in a manner so that they are not easily removable, containing the following information in the English language in lettering not less than three thirty-seconds inch high:

(a) Name of manufacturer;

(b) Month and year of manufacture, spelled out, as "June 1970" or expressed in numerals, as "6/70".

(c) The following statement "(1) This tire does not conform to the requirements of the Federal Motor Vehicle Safety Standard for passenger car tires and should not be used for passenger cars. Anyone selling this tire for passenger car use is subject to a civil penalty of up to $1,000 for each tire sold. (2) This label is not to be removed before sale to the user. Anyone removing this label before sale to the user is subject to a civil penalty of $1,000 for each violation. (3) Anyone removing or altering the legend 'Unsafe for normal highway use' imprinted on this tire is subject to a civil penalty of up to $1,000."

S6.2 *Reporting requirements.* Manufacturers branding tires for nonhighway use shall submit to the National Highway Safety Bureau, 400 Seventh Street SW., Washington, D.C. 20591, on each May 31 and November 30, beginning on May 31, 1971 a report containing the following information for the preceding 6 months:

(a) The number of tires reclassified "Non-Highway Use Tires";

(b) A list of the serial numbers of the tires sold; and

(c) A list of distributors or dealers to whom the tires were sold.

This notice is issued under the authority of sections 103, 112, 119, and 201 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1401, 1407, and 1421) and the delegation of authority contained in § 1.51 of Part 1 of the regulations of the Office of the Secretary (35 F.R. 4955).

Issued on April 15, 1970.

DOUGLAS W. TOMS,
Director,
National Highway Safety Bureau.

[F.R. Doc. 70-4858; Filed, Apr. 21, 1970; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18434; FCC 70-360]

ADVERTISEMENT OF CIGARETTES

Order Terminating Proceeding

1. On February 6, 1969, the Commission released its notice of proposed rule making in this proceeding, 16 FCC 2d 289 (1969), wherein the Commission proposed a complete ban on the broadcasting of cigarette advertising. We noted there that "Congress must be the final arbiter of this matter and must signal what action is to be taken." Notice, supra, p. 292.

2. The President, on April 1, 1970, signed Public Law 91-222, which in pertinent part provides:

> After January 1, 1971, it shall be unlawful to advertise cigarettes on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.

In view of the enactment of Public Law 91-222, we find no reason to continue this proceeding.

3. *Accordingly, it is ordered,* That the rule making proceeding, Docket No. 18434, is hereby terminated.

Adopted: April 15, 1970.

Released: April 17, 1970.

FEDERAL COMMUNICATIONS COMMISSION[1],
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-4890; Filed, Apr. 21, 1970; 8:47 a.m.]

[47 CFR Part 73]

[Docket No. 18808; RM-1532]

TELEVISION BROADCAST STATIONS

Table of Assignments, Terre Haute, Ind.; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.606, *Table of assignments,* television broadcast stations (Terre Haute, Ind.); Docket No. 18808, RM-1532.

1. This proceeding was begun by notice of proposed rule making (FCC 70-226) adopted February 26, 1970, released March 6 and published in the FEDERAL REGISTER on March 11, 1970 (34 F.R. 4334). The dates for filing comments and reply comments are presently April 13 and April 23, 1970, respectively.

2. On April 15, 1970, the National Association of Educational Broadcasters (NAEB) filed a request to extend the time for filing comments to April 20, 1970, and reply comments to April 30, 1970. NAEB states it has been in contact with local and State educational representatives concerning this proceeding but has not to date received supporting materials from those representatives which are essential to the preparation of meaningful comments. NAEB further states its difficulty in preparing such comments has been compounded by the fact that the NAEB representatives have been in attendance at the Public Television Conference held in New York City last week.

3. We are of the view that the additional time requested is warranted and would serve the public interest. *Accordingly, it is ordered,* That the time for filing comments and reply comments in Docket 18808 is extended to and including April 20, 1970, and April 30, 1970, respectively.

4. This action is taken pursuant to authority found in section 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: April 14, 1970.

Released: April 16, 1970.

[SEAL] GEORGE S. SMITH,
Chief, Broadcast Bureau.

[F.R. Doc. 70-4891; Filed, Apr. 21, 1970; 8:47 a.m.]

[1] Commissioners Johnson and H. Rex Lee absent.

[47 CFR Part 74]

[Docket No. 18838; FCC 70-406]

COMMUNITY ANTENNA RELAY STATIONS

Local Distribution Service

In the matter of amendment of Part 74, Subpart J, of the Commission's rules and regulations relative to community antenna relay stations (local distribution service); Docket No. 18838.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission, on November 7, 1969 (FCC 69-1241, 34 F.R. 18386), adopted proposed rule amendments which had been considered in Docket No. 18452. These amendments established with the Community Antenna Relay Service, a new class of stations identified as Local Distribution Service (LDS) stations, and provided technical standards and appropriate rules governing their operation which were designed to accommodate the LDS system proposed by Hughes-TelePrompTer in its petition for rule making. Simultaneous and parallel action also was taken in Docket No. 17999. Proceedings in both dockets were terminated.

3. Subsequently, a petition for reconsideration in part, was filed by Laser Link Corp. on December 15, 1969. It endorsed the Commission's action in establishing the Local Distribution Service category, but requested revision of certain of the LDS rules so as to permit the use of Laser Link's proprietary transmission system in that service. By a separate memorandum opinion and order in Docket No. 18452 we are today denying Laser Link's petition, on the ground that it would be inappropriate to amend the rules in the manner sought by Laser Link at that stage of the proceedings. However, since the Laser Link proposal appears to have merit and since we believe the public interest would be served by competing LDS systems to the extent technically feasible, we are, on our own motion, proposing amendments to the rules designed to accommodate Laser Link's LDS system.

4. Laser Link designates the transmission system which they propose for LDS as a "Filtered Pulse Width Modulation" (FPWM) system. Upon analysis of the information they have supplied us,[1] we find that the radiated signal is of a class which customarily would be described as a frequency-division multiplexed FM emission and we shall so treat it in ensuing discussion. The feature of the transmission system which Laser Link claims as proprietary involves a method of producing a frequency-modulated emission. Insofar as formulating technical standards in this proceeding is concerned, Laser Link's proprietary scheme is not crucial. In short, the radio frequency signal to which LDS technical standards might apply may be generated by means other than Laser Link's proprietary "FPWM" modulation system. In this connection, however, we take note of the final paragraph in Laser Link's petition for reconsideration in part which promises,

> * * * If Petitioner's patent applications for the equipment used in FPWM transmissions are granted, Petitioner will grant to any responsible party, at reasonable royalties, licenses for the manufacture of the apparatus covered thereby.

In view of these circumstances, we are assured that if rule changes in line with those proposed by Laser Link are adopted, an inequitable economic or patent advantage will not accrue to that company.

5. The rule amendments which we are proposing involve,

a. Alternative channeling arrangements in the 12.70-12.95 MHz CARS band,

b. A schedule of permissible power limitations applicable to FM multiplexed emissions, and

c. Certain necessary editorial revisions.

In general, the amendments follow the pattern suggested by Laser Link, but specific mention of "FPWM" techniques is avoided. We consider the proposed amendments to be generally applicable to any frequency-division multiplexed FM signals in which the baseband is comprised of a group of standard television signals (an F3 aural signal spaced 4.5 MHz above an A5C visual signal).

6. The radio frequency channeling scheme we are proposing is based upon the contemplated use of a baseband channeling arrangement as follows:

Baseband channel	*Baseband frequency limits (MHz)*
1	6-12
2	12-18
3	18-24
4	24-30
5	30-36
6	36-42
7	42-48
8	48-54
9	54-60
10	60-66
11	66-72
12	72-78
13	78-84
14	84-90
15	90-96
16	96-102
17	102-108
18	108-114

Other channeling arrangements can be devised, but technical considerations make it advisable to keep the highest baseband frequency as low as possible. It thus seems problematical whether specific baseband allocations, such as that above, should be required or whether LDS users should be permitted freedom to use whatever baseband arrangement they find convenient provided the RF channel bandwidth requirements are not derogated. Accordingly, we have elected not to propose at this time a specific baseband channeling scheme. There may be considerations, however, which might be brought out in the rule making which would make it desirable to require a standard baseband channeling. Comment on this point is requested.

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before May 22, 1970, and reply comments on or before June 5, 1970. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it in addition to the specific comments invited by this notice.

8. In connection with the above due dates, we wish to stress that in light of the circumstances, and particularly that we have already authorized one LDS system which could thus obtain an unfair competitive advantage were there to be undue delay in the resolution of this proceeding, we intend to adhere to the above-specified filing dates. We do not of course indicate in any way our final disposition of this matter, the resolution of which will be made only after careful study of the comments filed. Our point is simply that that resolution, whatever its outcome, should be effected promptly, and we therefore intend to proceed as expeditiously as possible.

9. Authority for the amendments proposed herein is contained in sections 4(i), 303, and 307, and 403 of the Communications Act of 1934, as amended. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs and other documents shall be furnished the Commission.

Adopted: April 15, 1970.

Released: April 17, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]

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

Part 74, Subpart J, is amended as follows:

1. In § 74.1003, subparagraph (3) is added to paragraph (a), paragraph (d) is amended, paragraph (g) is redesignated as paragraph (h), and a new paragraph (g) is added to read as follows:

§ 74.1003 Frequency assignments.

(a) * * *

(3) For community antenna relay stations using frequency modulation to transmit a baseband of frequency-division multiplexed standard television signals:

[1] On Jan. 20, 1970, Laser Link, in connection with a renewal application for their Experimental (Research) License and an accompanying application for an Experimental (Developmental) License, provided the Commission with details of their proprietary modulation system supplementing the information accompanying its petition for reconsideration in part in Docket No. 18452. This disclosure, a substantial portion of which the Commission recognizes as proprietary in nature, and which Laser Link has requested be made available only to appropriate Commission personnel, has been carefully reviewed by Commission engineers and discussed informally with Laser Link officials. As a result of these discussions, additional information has been supplied by Laser Link so that the Commission now has in its files certain information about the Laser Link system which heretofore has not been made generally available to the public.

[2] Commissioners Johnson and H. Rex Lee absent.

(i) When the baseband comprises 3 or 4 standard television signals:

Group E MHz	*Group F* MHz
12700–12775	12725–12800
12775–12850	12800–12875
12850–12925	12875–12950

(ii) When the baseband comprises 5 to 8 standard television signals:

Group G MHz
12700–12825
12825–12950

(iii) When the baseband comprises 9 or more standard television signals:

Group H MHz
12700–12950

* * * * *

(d) For community antenna relay stations using frequency modulation to transmit a single television signal, channels normally shall be selected from Group A. Channels in Group B will be assigned only on a case-by-case basis upon an adequate showing that Group A channels cannot be used and that such use will not degrade the technical quality of service provided in Group A channels to the extent that the Group A channels could not be used. On-the-air tests may be required before channels in Group B are permitted to be placed in regular use.

* * * * *

(g) For community antenna relay stations using frequency modulation to transmit a baseband of frequency-division multiplexed standard television signals, channels will be assigned from Groups E, F, G, and H according to the number of standard television signals which comprise the baseband, as set forth in paragraph (a)(3) of this section. The station license will indicate the number of standard television signals authorized to be multiplexed for transmission in the assigned channel. The transmission of additional standard television signals may be authorized upon a showing that such can be provided without degradation of the technical quality of the service, and that interference will not be caused to existing operations.

* * * * *

2. Section 74.1039 is amended to read as follows:

§ 74.1039 Power limitations.

(a) Transmitter peak output power shall not be greater than necessary, and in any event, shall not exceed 5 watts on any channel; except that, stations using frequency modulation to transmit a baseband of frequency-division multiplexed standard television signals may be authorized to use peak power of 15 watts on frequency assignments in Groups E and F, 30 watts on frequency assignments in Group G, and 60 watts on assignments in Group H.

(b) LDS stations shall use for the visual signal either vestigial sideband AM transmission or frequency-division multiplexed FM transmission. When vestigial sideband AM transmission is used, the peak power of the visual signal on all channels shall be maintained within 2 decibels of equality. The mean power of the aural signals on each channel shall not exceed a level 7 decibels below the peak power of the visual signal.

3. In § 74.1041, the introductory text of subparagraph (1) of paragraph (b) is amended to read as follows:

§ 74.1041 Emissions and bandwidth.

* * * * *

(b) * * *

(1) For CAR stations using FM transmission (including those modulated by a frequency-division baseband of standard television signals):

* * * * *

4. In § 74.1061, paragraph (a) is revised to read as follows:

§ 74.1061 Frequency tolerance.

(a) The frequency of the unmodulated carrier as radiated by a community antenna relay station using FM transmission (including those modulated by a frequency-division baseband of standard television signals) shall be maintained within 0.02 percent of the center of the assigned channel.

* * * * *

[F.R. Doc. 70-4892; Filed, Apr. 21, 1970; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-2835]

IDAHO

Notice of Proposed Classification of Public Lands for Multiple-Use Management; Correction

APRIL 14, 1970.

In F.R. Doc. 70-4023; filed April 2, 1970, appearing on pages 5560 and 5561 of the issue for April 3, 1970, the following corrections should be made: "T. 1 S., R. 36 E., Sec. 4, lots 2, 3, and 4, SW¼NE¼, S½NW¼, SW¼, and W½SE¼, should read:

T. 1 S., R. 36 E.,
Sec. 4, lots 2, 3, and 4, SE¼NE¼, S½NW¼, SW¼, and W½SE¼;

and "T. 2 N., R. 36 E., Sec. 33, lots 1 through 6, inclusive, S½N½, and N½, S½;" should read:

T. 2 N., R. 36 E.,
Sec. 33, lots 1 through 6 inclusive, S½N½ and N½S½;

JOE T. FALLINI,
State Director.

[F.R. Doc. 70-4853; Filed, Apr. 21, 1970; 8:45 a.m.]

[New Mexico 929; Amdt. 1]

NEW MEXICO

Notice of Classification of Public Lands for Multiple-Use Management

APRIL 15, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and the regulations in 43 CFR Parts 2410 and 2411, the public lands described below, which were classified for multiple-use management on March 9, 1967 (32 F.R. 3894-3895), are hereby further classified for multiple-use management.

2. Publication of this notice has the effect of further segregating the lands described in paragraph 3 below from all forms of appropriation under the public land laws, including the general mining, but not from the mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose. No adverse comments were received following publication of a notice of proposed classification (34 F.R. 5083-5084). The record showing the comments received and other information is on file and can be examined in the Roswell District Office, Bureau of Land Management, 1902 South Main Street, Roswell, N. Mex. 88201.

3. The public lands located within the following described areas have high recreational values and are shown on maps designated SE-14 on file in the Roswell District Office. The description of the area is as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 10 S., R. 30 E.,
Sec. 28, S½ and that part of S½N½ lying south of U.S. Highway 380;
Sec. 33.
T. 11 S., R. 30 E.,
Secs. 11, 12, 13, 14, 23, 24, 25, and 26;
Sec. 35, N½.
T. 11 S., R. 31 E.,
Sec. 7, lots 1, 2, 3, 4, and E½W½;
Sec. 19, lots 1, 2, 3, 4, and E½W½;
Sec. 30;
Sec. 31, E½.

The areas described above aggregate 8,058.19 acres, more or less.

4. Publication of this notice has the effect of further segregating the following described lands from all forms of appropriation under the public land laws, including the general mining and the mineral leasing laws and from issuance of rights-of-way. The lands have unique recreational value and are in proximity to planned recreation improvements. The description of the lands is as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 10 S., R. 30 E.,
Sec. 26, SW¼ and that part of the S½NW¼ lying south of U.S. Highway 380;
Sec. 27, S½ and that part of S½N½ lying south of U.S. Highway 380;
Secs. 34 and 35.
T. 11 S., R. 30 E.,
Sec. 1, lots 1, 2, 3, 4, and S½;
Sec. 35, S½.
T. 11 S., R. 31 E.,
Sec. 6, lots 3, 4, 5, 6, and E½SW¼;
Sec. 31, lots 1, 2, 3, 4, and E½W½.
T. 12 S., R. 30 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and SW¼;
Secs. 11 and 12;
Sec. 13, E½;
Sec. 14, N½, N½S½, S½SW¼ and SW¼SE¼;
Sec. 23, SW¼NE¼ and S½NW¼;
Sec. 24, SW¼NE¼ and S½NW¼.
T. 12 S., R. 31 E.,
Sec. 6, lots 1, 2, 3, 4, 5, 7, S½NE¼, SE¼NW¼, SE¼SW¼ and S½SE¼;
Secs. 7 and 18;
Sec. 19, lot 2, SW¼NE¼ and SE¼NW¼.

The area described aggregates 7,735.31 acres, more or less.

5. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2c. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240.

W. J. ANDERSON,
State Director.

[F.R. Doc. 70-4898; Filed, Apr. 21, 1970; 8:48 a.m.]

National Park Service

WASHINGTON, D.C., METROPOLITAN AREA

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with S. G. Leoffler Co. authorizing it to provide concession facilities and services for the public within the Washington, D.C., metropolitan area, for a period of 1 year from January 1, 1970, through December 31, 1970.

The foregoing concessioner has performed its obligations under the expired contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Office of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: April 14, 1970.

THOMAS FLYNN,
Assistant Director,
National Park Service.

[F.R. Doc. 70-4854; Filed, Apr. 21, 1970; 8:45 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 595 (31 F.R. 12981) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the

establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Angelica Corp., Plant No. 22, Mountain View, Mo.; 3-11-70 to 3-10-71 (work clothing).

Ardmore Industries, Inc., Ardmore, Tenn.; 3-8-70 to 3-7-71 (men's and boys' pants).

The Arrow Co., Jasper, Ala.; 3-10-70 to 3-9-71 (men's dress shirts).

Carthage Garment Corp., Carthage, Miss.; 3-13-70 to 3-12-71 (boys' and men's shirts).

Dover Mills, Inc., Pisgah, Ala.; 3-13-70 to 3-12-71 (children's shirts, pants, and tops).

F. Jacobson & Sons, Inc., Seymour, Ind.; 3-6-70 to 3-5-71 (men's dress shirts).

Kenrose Manufacturing Co., Inc., Buchanan, Va.; 3-9-70 to 3-8-71 (women's dresses).

Manhattan Shirt Co., Ashburn, Ga.; 3-13-70 to 3-12-71 (men's pajamas and shirts).

Mercer Clothing Manufacturers Inc., Mercersburg, Pa.; 3-10-70 to 3-9-71; 5 learners (juniors' and misses' dresses).

Quality Frocks Corp., New Bedford, Mass.; 3-11-70 to 3-10-71; 5 learners (women's dresses).

Reidbord Brothers Co., Buckhannon, W. Va. 3-7-70 to 3-6-71 (men's pants).

Reidbord Brothers Co., Plant No. 2, Elkins, W. Va.; 3-11-70 to 3-10-71 (men's and boys' slacks).

Solomon Brothers Co., Camden, Ala.; 3-12-70 to 3-11-71 (men's shirts).

Solomon Brothers Co., Toxey, Ala.; 3-12-70 to 3-11-71 (men's shirts).

Somerville Manufacturing Co., Inc., Somerville, Tenn.; 3-10-70 to 3-9-71 (men's pants).

Twin City Manufacturing Co., Twin City, Ga.; 3-11-70 to 3-10-71 (men's shirts).

Woolfolk Manufacturing Corp., Plant No. 2, Bremo Bluff, Va.; 3-12-70 to 3-11-71; 10 learners (men's and boys' pants).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Good Luck Glove Co., Metropolis, Ill.; 3-10-70 to 3-9-71 (work gloves).

Good Luck Glove Co., Rosiclare, Ill.; 3-12-70 to 3-11-71 (work gloves).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Lady Jane Manufacturing Co., Inc., Kulpmont, Pa.; 3-11-70 to 3-10-71; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' underwear).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods and the number of learners authorized to be employed, are indicated.

Ginny Lynn Mills, Inc., Quebradillas, P.R.; 1-26-70 to 1-25-71; 20 learners for normal labor turnover purposes in the occupations of (1) seaming; knitting; preboarding; examining and inspecting, each for a learning period of 240 hours at the rate of $1.15 an hour; and (2) pairing, for a learning period of 360 hours at the rate of $1.15 an hour (women's seamless hosiery).

Ginny Lynn Mills, Inc., Quebradillas, P.R.; 1-26-70 to 7-25-70; 12 learners for plant expansion purposes in the occupations of (1) seaming; preboarding; examining and inspecting, each for a learning period of 240 hours at the rate of $1.15 an hour; and (2) pairing, for a learning period of 360 hours at the rate of $1.15 an hour (women's seamless hosiery).

Maria Mills, Inc., Las Marias, P.R.; 2-16-70 to 2-15-71; 13 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of $1.17 an hour (fatigues, military trousers, and men's and boys' jeans).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 13th day of April 1970.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 70-4871; Filed, Apr. 21, 1970; 8:46 a.m.]

CIVIL SERVICE COMMISSION

DENTAL HYGIENISTS, CALIFORNIA AND NEVADA

Notice of Adjustment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates and rate ranges as follows:

GS-682—DENTAL HYGIENIST

Geographic coverage: States of California and Nevada.
Effective date: First day of the first pay period on or after April 19, 1970.

PER ANNUM RATES

Grade	1[1]	2	3	4	5	6	7	8	9	10
GS-4	$7,178	$7,362	$7,546	$7,730	$7,914	$8,098	$8,282	$8,466	$8,650	$8,834
GS-5	8,030	8,236	8,442	8,648	8,854	9,060	9,266	9,472	9,678	9,884
GS-6	8,485	8,714	8,943	9,172	9,401	9,630	9,859	10,088	10,317	10,546
GS-7	9,169	9,424	9,679	9,934	10,189	10,444	10,699	10,954	11,209	11,464

[1] Corresponding statutory rates: GS-4—tenth; GS-5—tenth; GS-6—eighth; GS-7—seventh.

All new employees in the specified occupational level will be hired at the new minimum rate.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational level. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3-2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty, under 5 U.S.C. 5723, of new appointees to position cited.

[SEAL]

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

[F.R. Doc. 70-4863; Filed, Apr. 21, 1970; 8:46 a.m.]

NURSES, GALVESTON, TEX.

Notice of Adjustment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has increased the minimum rates and rate ranges for certain nurse positions in the following location:

GS-610 NURSE SERIES
GS-615 PUBLIC HEALTH NURSE SERIES

Geographic coverage: Galveston, Tex.
Effective date: First day of the first pay period beginning on or after April 19, 1970.

PER ANNUM RATES

Grade	1[1]	2	3	4	5	6	7	8	9	10
GS-4	$7,178	$7,362	$7,546	$7,730	$7,914	$8,098	$8,282	$8,466	$8,650	$8,834
GS-5	7,618	7,824	8,030	8,236	8,442	8,648	8,854	9,060	9,266	9,472
GS-6	7,798	8,027	8,256	8,485	8,714	8,943	9,172	9,401	9,630	9,859
GS-7	8,149	8,404	8,659	8,914	9,169	9,424	9,679	9,934	10,189	10,444
GS-8	8,731	9,013	9,295	9,577	9,859	10,141	10,423	10,705	10,987	11,269

[1] Corresponding statutory rates: GS-4—tenth; GS-5—eighth; GS-6—fifth; GS-7—third; GS-8—second.

All new employees in the specified occupational levels will be hired at the new minimum rate.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory or special rates shall receive basic compensation at the corresponding numbered rate authorized by this letter on and after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

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

[F.R. Doc. 70-4864; Filed, Apr. 21, 1970; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[Files Nos. 7-3364—7-3373]

ALLOYS UNLIMITED, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 16, 1970.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Alloys Unlimited, Inc.	7-3364
American Medical Enterprises, Inc.	7-3365
Astrodata, Inc.	7-3366
Automated Building Components, Inc	7-3367
Canadian Superion Oil, Ltd.	7-3368
Champion Home Builders Co.	7-3369
Computing & Software, Inc.	7-3370
Damon Corp.	7-3371
Data Processing Financial & General Corp	7-3372
Desert Pharmaceutical Co.	7-3373

Upon receipt of a request, on or before May 1, 1970, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-4874; Filed, Apr. 21, 1970; 8:46 a.m.]

[File No. 7-3402]

COLUMBIA PICTURES INDUSTRIES, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 16, 1970.

In the matter of application of the Midwest Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Columbia Pictures Industries, Inc. (Delaware) ---------- File No. 7-3402

Upon receipt of a request, on or before May 1, 1970, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-4876; Filed, Apr. 21, 1970; 8:46 a.m.]

[File No. 1-3241]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

APRIL 16, 1970.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 17, 1970, through April 26, 1970, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-4878; Filed, Apr. 21, 1970; 8:46 a.m.]

[Files Nos. 7-3374—7-3383]

FEDERAL SIGN AND SIGNAL CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 16, 1970.

In the matter of applications of the Boston Stock Exchange For unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Federal Sign and Signal Corp. (Delaware)	7-3374
General Cinema Corp.	7-3375
Great Lakes Chemical Corp.	7-3376
Guerdon Industries, Inc.	7-3377
Helmerich & Payne, Inc.	7-3378
Instron Corp.	7-3379
International Flavors & Fragrances, Inc.	7-3380
Kaiser Cement & Gypsum Corp.	7-3381
Kansas Gas and Electric Co.	7-3382
McCulloch Oil Corp.	7-3383

Upon receipt of a request, on or before May 1, 1970, from any interested person, the Commisison will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest

of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-4872; Filed, Apr. 21, 1970; 8:46 a.m.]

[Files Nos. 7-3403—7-3406]

MARSHALL INDUSTRIES ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 16, 1970.

In the matter of applications of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Marshall Industries	7-3403
Milgo Electronic Corp	7-3404
STP Corp	7-3405
Teleprompter Corp	7-3406

Upon receipt of a request, on or before May 1, 1970, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-4877; Filed, Apr. 21, 1970; 8:46 a.m.]

[Files Nos. 7-3384—7-3393]

MOLYBDENUM CORPORATION OF AMERICA ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 16, 1970.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Molybdenum Corp. of America	7-3384
Planning Research Corp	7-3385
Plough, Inc	7-3386
Ramada Inns, Inc	7-3387
Redman Industries, Inc	7-3388
Rochester Telephone Corp	7-3389
Savin Business Machines Corp	7-3390
Saxon Industries, Inc	7-3391
Schaefer (F & M) Corp	7-3392
Technical Operations, Inc	7-3393

Upon receipt of a request, on or before May 1, 1970, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-4875; Filed, Apr. 21, 1970; 8:46 a.m.]

[Files Nos. 7-3394—7-3401]

TELEX CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 16, 1970.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Telex Corp	7-3394
Tool Research & Engineering Corp	7-3395
Town & Country Mobile Homes, Inc	7-3396
Trans Union Corp	7-3397
Tyco Laboratories, Inc	7-3398
Varo, Inc	7-3399
Wang Laboratories, Inc	7-3400
Williams Brothers Co	7-3401

Upon receipt of a request, on or before May 1, 1970, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-4873; Filed, Apr. 21, 1970; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 757]

NEW HAMPSHIRE

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of April 1970, because of the effects of certain disasters, dam-

age resulted to business property located in the city of Claremont, N.H.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected:

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property, situated in the aforesaid city, suffered damage or destruction resulting from fire occurring on April 1, 1970.

OFFICE

Small Business Administration Regional Office, 55 Pleasant Street, Concord, N.H. 03301.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to October 31, 1970.

Dated: April 13, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-4879; Filed, Apr. 21, 1970; 8:47 a.m.]

TARIFF COMMISSION

[TEA-W-20]

WORKERS' PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the production and maintenance workers of the Bicycle Tire and Tube Division of Uniroyal Tire Co., Indianapolis, Ind., the U.S. Tariff Commission, on the 17th day of April 1970, instituted an investigation under section 301(c)(2) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with bicycle tires and bicycle tubes produced by the Uniroyal Tire Co. are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such manufacturing company.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: April 17, 1970.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[F.R. Doc. 70-4902; Filed, Apr. 21, 1970; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Nos. 35203, 35203 (Sub-Nos. 4, 5, 6)]

INTRASTATE FREIGHT RATES AND CHARGES IN SOUTHERN STATES, 1969

No. 35203 (Sub-No. 4), Florida; No. 35203 (Sub-No. 5), Alabama; and No. 35203 (Sub-No. 6), Mississippi.

Present: Laurence K. Walrath, Commissioner, to whom the matters which are the subject of this order have been referred for action thereon.

It appearing, that by order dated December 24, 1969, the Commission, Division 2, granted the petition filed December 12, 1969, by the common carriers by railroad operating in the South and instituted an investigation pursuant to section 13 of the Interstate Commerce Act into the matter of increasing the intrastate freight rate level within nine southern States, including Florida, Alabama, and Mississippi, to the level authorized by this Commission on interstate commerce in Ex Parte No. 262, Increased Freight Rates, 1969, which became effective November 18, 1969, subject to investigation;

And it further appearing, that upon consideration of the records in the above-entitled proceedings, these matters are ones which should be referred to a hearing examiner for hearing and require the adoption of special procedure for the purpose of expediting the hearings; and for good cause shown:

It is ordered, That the above-entitled proceedings be, and they are hereby, referred to a hearing examiner (to be later designated) for hearings and for the recommendation of an appropriate order or orders thereon, accompanied by the reasons therefor.

It is further ordered, That on or before May 8, 1970, the respondents and any persons in support thereof shall file with the Commission three copies of the verified statements of their witnesses, in writing, together with any studies to be offered at the hearings with a statement where the underlying work papers to such studies will be available for inspection by parties to the proceedings and at the same time, serve a copy of such prepared material upon all persons listed in Appendices A, B, or C attached hereto[1] and any additional persons who make known their desire to actively participate in the respective proceedings on or before April 30, 1970.

It is further ordered, That on or before June 15, 1970, protestants shall file with the Commission three copies of reply verified statements of their witnesses, in writing, and at the same time, serve a copy of such prepared material upon all persons listed in Appendices A, B, or C hereto[1] and any additional persons who make known their desire to actively participate on or before April 30, 1970. Attached hereto as Appendices A, B, and C[1] are lists of all known persons who have indicated their desire to actively participate in the respective proceedings. Any additional persons who desire to actively participate and receive copies of the prepared material to be served shall notify the Commission, in writing, on or before April 30, 1970, as well as all persons listed in Appendices A, B, or C attached hereto.[1] Otherwise, any interested person desiring to participate in these proceedings may make his appearance at the hearings.

It is further ordered, That parties desiring to cross-examine witnesses who have submitted verified statements shall give notice to that effect, in writing, to the affiant and his counsel, if any, on or before June 22, 1970, a copy of such notice to be filed simultaneously with the Commission together with a request for any underlying data that the witnesses will be expected to have available for immediate reference at the hearings. All verified statements and attachments as to which no cross-examination is requested will be considered as part of the record. Any witness who has been requested to appear for cross-examination but fails to do so, subjects his verified statement to a motion to strike.

It is further ordered, That a hearing will be held in proceeding No. 35203 (Sub-No. 4) commencing on July 7, 1970, 9:30 a.m., d.s.t. (or 9:30 a.m., U.S. standard time, if that time is observed), at the Main Hearing Room, Florida Public Service Commission Building, 700 South Adams Street, Tallahassee, Fla., for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the examiner deems necessary to complete the record.

It is further ordered, That a hearing will be held in proceeding No. 35203 (Sub-No. 5) commencing on July 13, 1970, 9:30 a.m., d.s.t. (or 9:30 a.m., U.S. standard time, if that time is observed), in Room 702, State Office Building, Dexter Avenue and Decatur Street, Montgomery, Ala., for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the examiner deems necessary to complete the record.

It is further ordered, That a hearing will be held in proceeding No. 35203 (Sub-No. 6) commencing on July 20, 1970, 9:30 a.m., d.s.t. (or 9:30 a.m.,

[1] Not filed with the Office of the Federal Register.

U.S. standard time, if that time is observed), at the Second Floor Auditorium, Woolfolk State Office Building, 501 North West Street, Jackson, Miss., for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the examiner deems necessary to complete the record.

And it is further ordered, That a copy of this order be served upon the respondents and protestants; that the States of Florida, Alabama, and Mississippi be notified by sending a copy of this order by certified mail to the Governors of Florida, Tallahassee, Fla.; Alabama, Montgomery, Ala.; and Mississippi, Jackson, Miss.; and that further notice be given to the public by depositing a copy of this order in the Office of the Secretary of this Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 15th day of April 1970.

By the Commission, Commissioner Walrath.

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

[F.R. Doc. 70-4897; Filed, Apr. 21, 1970; 8:48 a.m.]

[Notice 37]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 17, 1970.

The following publications are governed by the new § 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.

MOTOR CARRIERS OF PROPERTY

No. MC 4761, and Sub-Nos. 16 and 17 (Republication) filed December 2, 1969, published in the FEDERAL REGISTER, issue of January 21, 1970, and republished, this issue. Petitioner: LOCK CITY TRANSPORTATION COMPANY, a corporation, Menominee, Mich. Petitioner's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, Wis. 53705. By petition filed December 2, 1969, and published in the FEDERAL REGISTER issue of January 21, 1970, under MC 4761 et al., petitioner seeks modification of its certificates by the removal of certain restrictions in the commodity description therein. Certificates Nos. MC 4761 (Subs 16 and 17 were inadvertently omitted in the previous publication, although the commodity descriptions of such certificates and the relief sought were set forth. An order of the Commission, Operating Rights Board, dated March 31, 1970, and served April 9, 1970, finds; that in Nos. MC-4761, MC-4761 (Sub-No. 16) and MC-4761 (Sub-No. 17), the present and future public convenience and necessity require operation by petitioner, in interstate or foreign commerce, as a common carrier by motor vehicle, over regular and irregular routes, of the commodities and between the points in said certificates, as modified and described herein below; that petitioner 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. Modification Authorized: In No. MC 4761, dated August 12, 1959; Delete restrictive phase "in bulk, in tank vehicles," from fourth commodity description, Sheet No. 2 "*Sulphur dioxide*, in bulk, in tank vehicles,"). In No. MC 4761 (Sub-16), dated January 11, 1961: Delete restrictive phrase "in bulk, in tank vehicles," from commodity description ("*Sulphur dioxide*, in bulk, in tank vehicles,"). In No. MC 4761 (Sub-No. 17), dated December 19, 1962: Delete restrictive phrase "in bulk, in multiunit tank vehicles," from commodity description ("*Methyl chloride*, in bulk, in multiunit tank vehicles,"). Because it is possible that other parties, who have relied upon the notice of the petition as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority modified by this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of amended certificates in the appropriate proceedings 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 for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 20793 (Sub-No. 44) (Republication), filed October 8, 1969, published in the FEDERAL REGISTER issue of October 30, 1969, and republished this issue. Applicant: WAGNER TRUCKING CO., INC., Jobstown, N.J. 08041. Applicant's representative: G. Donald Bullock, 128 Greenwood Avenue, Wyncote, Pa. 19095. The modified procedure has been followed in this proceeding, and a subsequent Order of the Commission, Operating Rights Board, dated March 26, 1970, and served April 8, 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 *building blocks*, from Trenton, N.J., to points in Connecticut, Delaware, Maryland, New York, and Pennsylvania; 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 parties, who have relied on the notice of the application as published, may have an interest in and would be prejudiced by lack of proper notice described in the findings in this order, a notice of the authority 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 for leave to intervene in this proceeding; setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 70101 (Sub-No. 2) (Republication), filed September 8, 1969, published in the FEDERAL REGISTER issue of October 9, 1969, and republished this issue. Applicant: VICKSBURG TRANSFER & STORAGE COMPANY, a corporation, 1801 Washington Street, Vicksburg, Miss. 39180. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Building, Post Office Box 22628, Jacksonville, Miss. 39205. The modified procedure has been followed in this proceeding, and a subsequent report and order of the Commission, Review Board No. 1, decided March 31, 1970, and served April 7, 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 *used household goods* between the points indicated below, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic; between Vicksburg, Miss., on the one hand, and, on the other, points in Adams, Claiborne, Copiah, Hinds, Lincoln, Jefferson, Rankin, Madison, Issaquena, Sharkey, and Warren Counties, Miss., 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 parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without all of the requested restriction, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the 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 for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 117565 (Sub-No. 19), filed August 18, 1969, published in FEDERAL REGISTER issue of December 4, 1969, and

republished this issue. Applicant: MOTOR SERVICE COMPANY, INC., 237 South Fifth Street, Coshocton, Ohio 43812. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, Ky. 42101. By application filed August 18, 1969, as amended, Motor Service Company, Inc., of Coshocton, 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 travel trailers, in initial movements, as previously published in the FEDERAL REGISTER. An order of the Commission, Operating Rights Board, dated March 26, 1970, and served April 8, 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 *trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from Henderson, Ky., to points in Oklahoma, Texas, and those in that part of the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochicling Counties, Minn., to the International Boundary line between the United States and Canada (except those in Kentucky, Maine, and New Hampshire); 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 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 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 for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128207 (Sub-No. 3) (Republication), filed July 18, 1969, and published in the FEDERAL REGISTER issue of August 27, 1969, under State Docket No. 69-260-MF/A, and republished this issue. Applicant: JOHN W. AND JOANNE C. HOOGLAND, doing business as CITY EXPRESS, Box 305, Fourth and Washington Street, Seward, Alaska 99664. Applicant's representative: Roger McShea, 1503 K Street, Anchorage, Alaska 99501. Applicant has made timely application for a certificate of registration as evidence of the right to conduct operations, in interstate or foreign commerce, within limits which do not exceed the scope of the intrastate operations for which applicant holds a State certificate as a common carrier by motor vehicle, solely within the single State of Alaska. An order of the Commission, Operating Rights Board, dated March 18, 1970, and served March 25, 1970, finds: That upon full compliance with the requirements of the Act and the rules and regulations of the Commission thereunder, a certificate of registration shall be issued to applicant, as evidence of a right to engage in operations in interstate or foreign commerce, as a common carrier by motor vehicle, transporting the commodities from, to, or between the points, or over the routes, or within the territory and in the manner described and subject to such additional and further conditions as may be necessary to give effect to the provisions of section 206(a)(6) of the Interstate Commerce Act, as amended. The authority granted in said report is as follows: "(I) Regular route, scheduled service; *general commodities* (except classes A and B explosives, commodities of unusual value; household goods; commodities in bulk and commodities, which because of unusual size, weight or shape require the use of special equipment) restricted to shipments not exceeding 20,000 pounds each; from Seward, Alaska to Anchorage, Alaska via Alaska Highway 9 to its junction with Alaska Highway 1, thence via Alaska Highway 1 to Anchorage, Alaska and return over the same route serving all intermediate points in both directions and all off-route points within 10 miles of either side of this route.

"(II) Irregular route: A. *General Commodities* (except, classes A and B explosives; articles of unusual value; commodities in bulk and household goods), between all points and places within a ten (10) mile radius of Seward, Alaska including Seward and between Seward, Alaska and points within a ten (10) mile radius thereof on the one hand, and, all points and places within a forty (40) mile radius of Seward, Alaska on the other hand. B. *Household goods*, between all points and places within a ten (10) mile radius of Seward, Alaska including Seward, Alaska. C. *Empty liquified pressure gas cylinders* from Seward, Alaska to points in zone 3."; that the previous publication in the FEDERAL REGISTER of the State authority sought is somewhat more limited than that authorized by the State Commission and that because it is possible that interested parties, who have relied upon the notice of the application as published in the FEDERAL REGISTER, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in this order, a notice of the authority granted by this order will be published in the FEDERAL REGISTER and issuance of a certificate of registration 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 pleading with this Commission to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133417 (Sub-No. 1) (Republication), filed August 27, 1969, published in the FEDERAL REGISTER issue of September 25, 1969, and republished this issue. Applicant: JOSEPH G. KENNELLY, JR., doing business as JOSEPH KENNELLY MOVING AND STORAGE, 2720 Myrtle Avenue North, Jacksonville, Fla. 32206. Applicant's representative: Sol H. Procter, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. The modified procedure has been followed in this proceeding, and a subsequent report and order of the Commission, Review Board No. 1, decided March 31, 1970, and served April 7, 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 *used household goods* between the points indicated below, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic; (1) between points in Nassau, Duval, St. Johns, Flagler, Putnam, Clay, Baker, Union, Bradford, Alachua, Gilchrist, Columbia, Marion, Hamilton, and Suwanee Counties, Fla.; and (2) between points in Camden and Glynn Counties, Ga., on the one hand, and, on the other, points in the territory described in (1) above; 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 parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without all of the requested restriction, a notice of the authority actually granted will be pubished in the FEDERAL REGISTER and issuance of the 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 for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134043 (Sub-No. 1) (Republication), filed September 18, 1969, published in the FEDERAL REGISTER issue of October 23, 1969, and republished this issue. Applicant: ART KNIGHT, INC., 316 Southeast Market Street, Post Office Box 14626, Portland, Oreg. 97204. Applicant's representative: Seymour L. Coblens, Corbett Building, Portland, Oreg. 97204. The modified procedure has been followed in this proceeding, and a subsequent order of the Commission, Operating Rights Board, dated March 31, 1970, and served April 13, 1970, finds: that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *wooden shingles and wooden shakes* from points in Washington and Oregon to points in California under

continuing contracts with Fluhrer Bros., a partnership, of Astoria, Oreg., and Wasser Fluhrer, Inc., a Washington corporation; 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 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 the 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 a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 2253 (Sub-No. 43), filed January 8, 1970. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, Post Office Box 697, Cherryville, N.C. 28021. Applicant's representative: James E. Wilson, 1735 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between Charlotte, N.C., and points within 30 miles thereof, and Scranton, Wilkes-Barre, Pittston, Nanticoke, Dupont, Forth Fort, Edwardsville, Plymouth, Wyoming, Exeter, Dallas, Ashley, Avoca, Kingston, Luzerne, Swoyersville, West Pittston, Larksville, Duryea, Old Forge, Taylor, Glen Lyon, West Nanticoke, Georgetown, Miners Mills, Parsons, and Plains, Pa. NOTE: Applicant states that it intends to tack the authority sought here so as to be able to provide a through service between points sought in this application on the one hand, and, on the other, points in Florida, Georgia, South Carolina, North Carolina, and all points in Russell County, Ala. The purpose of this application is to convert a certificate of registration into a Certificate of Public Convenience and Necessity. This is a matter directly related to MC-F-10714, published in the FEDERAL REGISTER issue of January 14, 1970. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

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-10802. Authority sought for purchase by DODDS TRUCK LINE, INC., 623 Lincoln, West Plains, Mo. 65775, of the operating rights of SMOCK TRANSPORTATION COMPANY, INC., Post Office Box 363, Poplar Bluff, Mo. 63901, and for acquisition by M. DODDS, DAVID DODDS, and PAUL D. DODDS, all also of West Plains, Mo., of control of such rights through the purchase. Applicants' attorneys: John H. Dalton, 203 College Street, Kennett, Mo., and F. W. Taylor, Jr., and W. E. Griffin, both of 1221 Baltimore, Kansas City, Mo. Operating rights sought to be transferred. *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those commodities requiring special equipment, as a *common carrier*, over regular routes, between Hoxie, Ark., and National Stock Yards, Ill., serving the intermediate points of State Line Filling Station, Neelyville, Poplar Bluff, and St. Louis, Mo., East St. Louis, Ill., and those in Arkansas, between Doniphan, Mo., and Poplar Bluff, Mo., serving the intermediate and off-route points in Ripley County, Mo., and those in Randolph County, Ark., within 10 miles of the Missouri-Arkansas State Line, between Corning, Ark., and Walnut Ridge, Ark., serving all intermediate points and the off-route points of Brookins and Beech Corner, Ark.; and *petroleum lubricating oils and greases*, between Roxana, Ill., and Doniphan, Mo., serving no intermediate points. Vendee is authorized to operate as a *common carrier* in Missouri, Arkansas, and Illinois. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10803. Authority sought for purchase by WIDING TRANSPORTATION, INC., Post Office Box 03159, Portland, Oreg. 97203, of the operating rights and property of EVERTS' COMMERCIAL TRANSPORT, INC., Post Office Box 1541, Lake Grove, Oreg. 97034, and for acquisition by GLENN A. WIDING, also of Portland, Oreg., of control of such rights and property through the purchase. Applicants' attorneys: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201, and Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97204. Operating rights sought to be transferred: *Heavy machinery, lumber and heavy timbers, and contractor's supplies and equipment*, as a *common carrier*, over irregular routes, from points in Grays Harbor and Pacific Counties, Wash., to points in Oregon west of the summit of the Cascade Mountains; *manufactured forest products*, from points in Grays Harbor and Thurston Counties, Wash., to Olympia and Tacoma, Wash., from Raymond, Wash., to Aberdeen and Hoquiam, Wash.; *liquid glue*, in bulk, in tank vehicles, from points in King and Pierce Counties, Wash., to points in Oregon west of the Cascade Mountains, from Portland and Springfield, Oreg., to Anderson, Calif., from Seattle, Wash., to points in Oregon east of the Cascade Mountains, from Springfield, Oreg., to points in Del Norte and Humboldt Counties, Calif.; *dry glue*, in bulk, in tank vehicles, from Seattle and Tacoma, Wash., to points in Oregon, west of the Cascade Mountains, and certain specified points in California, from Portland and Springfield, Oreg., to points in Washington west of the Cascade Mountains, and certain specified points in California;

Seed oysters, between certain specified points in Washington, on the one hand, and, on the other, Astoria, Oreg., and points on Coos Bay, Oreg.; *veneer*, from Tillamook, Oreg., to Aberdeen, Wash.; *liquid glue*, in tank vehicles, from Springfield, Oreg., to points in that part of Washington in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, from Seattle, Wash., to the boundary of the United States and Canada at or near the port of entry of Blaine, Wash.; *formaldehyde*, in tank vehicles, from Springfield, Oreg., to points in that part of Washington in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, except those in Pierce, Grays Harbor, and King Counties, from Seattle, Wash., to points in Oregon, and to the port of entry at the boundary of the United States and Canada at or near Blaine, Wash., from Springfield, Oreg., to Redding and Santa Clara, Calif.; *lumber and plywood*, from certain specified points in Washington, to Tacoma and Seattle, Wash.; *phenol*, in tank vehicles, from Avon, Calif., to Springfield and Portland, Oreg., and Seattle, Wash.; *formaldehyde*, in bulk, in tank vehicles, from Springfield, Oreg., to certain specified points in Washington, from Springfield, Oreg., to certain specified points in California, points in Ada and Canyon Counties, Idaho, and points in Grant and Yakima Counties, Wash.; *liquid chemicals, and acids*, in bulk, in tank vehicles, between points in California, Oregon, and Washington, except shipments of liquid fertilizers in foreign commerce to points on the United States-Mexico boundary line between California and Mexico; and *acids and chemicals*, in bulk, in tank vehicles, except fertilizer and fertilizer solutions, and liquid hydrogen, oxygen, and nitrogen, between points in Union County, Oreg., on the one hand, and, on the other, points in Idaho and Montana. Vendee is authorized to operate as a *common carrier* in Oregon, California, Washington, Idaho, Montana, and Utah. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10804. Authority sought for control and merger by ROSS NEELY EXPRESS, INC., 1500 Pratt Highway, Birmingham, Ala. 35214, of the operating rights and property of HALL MOTOR EXPRESS, INC., 1500 Pratt Highway,

Birmingham, Ala. 35214, and for acquisition by ROSS NEELY, JR., also of Birmingham, Ala., of control of such rights and property through the transaction. Applicants' attorney: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203. Operating rights sought to be controlled and merged: Under a certificate of registration, in No. MC-98780 Sub-1, covering the transportation of commodities generally, as a common carrier, in interstate commerce, solely within the State of Alabama. ROSS NEELY EXPRESS, INC., is authorized to operate under certificates of registration, as a common carrier, in interstate commerce, solely within the State of Alabama. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10806. Authority sought for purchase by ROBBINS MOTOR TRANSPORTATION, INC., Industrial Highway and Saville Avenue, Eddystone, Pa. 19029, of the operating rights and certain property of WILLIAM A. KELLY, INC., 1526-32 North American Street, Philadelphia, Pa. 19122, and for acquisition by MAURICE ROBBINS, also of Eddystone, Pa., of control of such rights and property through the purchase. Applicants' attorney: Paul F. Sullivan, 701 Washington Building, 15th and New York Avenue NW., Washington, D.C. 20005. Operating rights sought to be transferred: *Heavy machinery and equipment* requiring rigging or special handling and *such materials and supplies* as are used in the installation, operation, and maintenance thereof, when transported in the same vehicle with such commodities, as a *common carrier*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in Maryland, Delaware, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Ohio, North Carolina, South Carolina, Virginia, West Virginia, and the District of Columbia; *electrical appliances and electrical equipment*, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware and Maryland, and those in Cumberland, Salem, Gloucester, Camden, Burlington, Mercer, and Atlantic Counties, N.J.; *soil pipe, pipe fittings, and cast iron plumbing specialties*, from East Greenville and Linfield, Pa., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Rhode Island, and the District of Columbia; and *materials* used or useful in the manufacture of cast iron soil pipe, cast iron pipe fittings, and cast iron plumbing specialties, and *returned or rejected shipments* of cast iron soil pipe and cast iron soil pipe fittings, from points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Rhode Island, and the District of Columbia, to East Greenville and Linfield, Pa. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, New York, Iowa, Missouri, Arkansas, Oklahoma, Virginia, Michigan, Wisconsin, Delaware, Mississippi, Minnesota, Louisiana, Texas, Tennessee, Kentucky, Ohio, Indiana, Illinois, Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Georgia, Florida, Alabama, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

PASSENGER AND PROPERTY

No. MC-F-10805. Authority sought for control by STEPHEN R. KEREK, 275 Blossom Hill Drive, Lancaster, Pa. 17601, and EDWARD G. GRANGER III, 351 Blossom Hill Drive, Lancaster, Pa. 17601, of AIRPORT TRANSPORTATION SERVICE, INC., 1001 East Philadelphia Street, York, Pa. 17403. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Operating rights sought to be controlled: Passengers and their baggage, in special operations, in nonscheduled door-to-door service, limited to the transportation of not more than eight passengers in any one vehicle (not including the driver thereof), as a *common carrier*, over irregular routes, from points in York County, Pa., to Washington National Airport, Gravelly Point, Va., Dulles International Airport, Loudoun-Fairfax County, Va., John F. Kennedy International Airport and La Guardia Airport, New York, N.Y., and Newark Airport, Newark, N.J., between points in York County, Pa., on the one hand, and, on the other, Friendship International Airport, Baltimore, Md., with restriction; and *general commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in York County, Pa., on the one hand, and, on the other, Philadelphia International Airport, Philadelphia, Pa. (restricted to transportation in passenger vehicles), Friendship International Airport, Baltimore, Md., Dulles International Airport, Loudoun-Fairfax Counties, Va., Washington National Airport, Gravelly Point, Va., John F. Kennedy International Airport, New York, N.Y., La Guardia Airport, New York, N.Y., and Newark Airport, Newark, N.J., with restriction. STEPHEN R. KEREK, nor EDWARD G. GRANGER III, holds authority from this Commission. However they control KEREK AIR FREIGHT CORPORATION, Post Office Box 213, Route 230 Bypass and Flory Mill Road, Lancaster, Pa. 17604, which is authorized to operate as a *common carrier* in Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 70-4895; Filed, Apr. 21, 1970; 8:48 a.m.]

[Notice 63]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 17, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 11113), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 71459 (Sub-No. 18 TA), filed April 14, 1970. Applicant: HOPPER TRUCK LINES, 2800 West Bayshore Road, Palo Alto, Calif. 94303. Applicant's representative: Clifford J. Boddington (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous articles, classes A and B explosives, household goods, commodities in bulk, commodities requiring special equipment, commodities injurious, or contaminating to other lading); (a) between Florence Junction, Ariz., and Silver City, N. Mex., serving all intermediate points and the off-route points within 25 miles thereof; (b) serving the off-route point of Morenci, Ariz., and points within 10 miles thereof; (c) without restriction against interchange at Silver City, N. Mex.; (1) from Florence Junction, Ariz., over U.S. Highway 70 to New Mexico Highway 90 thence over New Mexico Highway 90 to Silver City, N. Mex., and return over the same route serving all intermediate points; (2) serving from or to the off-route points within 25 miles of the above-named routes; (3) serving from or to the off-route point of Morenci, Ariz., and points within 10 miles thereof, for 180 days. NOTE: Applicant intends to tack with MC 71459 and subs thereto at Florence Junction, Ariz., and interline at Silver City, N. Mex. Supporting shippers: There are approximately 81 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commisson, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 84428 (Sub-No. 16 TA), filed April 13, 1970. Applicant: CHESTER JACKSON CO., 478 Schuyler Avenue, Kearney, N.J. 07032. Applicant's representative: Edward Bowes, 744 Broad

Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitric acid*, in bulk, in tank vehicles, from Kenvil, N.J., to Glen Falls, N.Y., for 150 days. Supporting shipper: Hercules, Inc., Wilmington, Del. 19899. Send protests to: District Supervisor W. J. Grossman, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 103993 (Sub-No. 517 TA), filed April 13, 1970. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Campers*, designed to be installed on pickup trucks from Covington, Ohio; Jonestown, Pa., and Perry, Ga., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Vesely Co., Lapeer, Mich. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 105671 (Sub-No. 4 TA), filed April 13, 1970. Applicant: McFARLAND & STAMPLE TRUCKING COMPANY, 1007 Dixwell Avenue, Hamden, Conn. 06514. Applicant's representative: Thomas W. Murrett, Society Plaza Building, 342 North Main Street, West Hartford, Conn. 06117. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newark, N.J., to Bristol, Conn., limited to transportation to be performed under a continuing contract or contracts with W. H. Cawley Co. and P. Ballantine & Sons, for 180 days. Supporting shippers: P. Ballantine & Sons, 57 Freeman Street, Newark, N.J. 07101; W. H. Cawley Co., 24 South Bridge Street, Somerville, N.J. Send protests to: District Supervisor David J. Kernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 106674 (Sub-No. 71 TA), filed April 13, 1970. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 122, Delphi, Ind. 46923. Applicant's representative: Thomas R. Schilli (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Fertilizer and fertilizer compounds*, in bulk, in dump vehicles, over iregular routes, from Joliet, Ill., to points in Indiana, Michigan, Ohio, and Wisconsin, for 180 days. Supporting shipper: Olin, Post Office Box 991, Little Rock, Ark. 72203. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 107295 (Sub-No. 362 TA), filed April 13, 1970. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tubular steel products and building products*, from the plantsite of Adjusta-Post Manufacturing Co., at Akron, Ohio, to points in Iowa and Minnesota, for 180 days. Supporting shipper: Adjusta-Post Manufacturing Co., 605 West Bowery Street, Akron, Ohio 44300. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams, Springfield, Ill. 62704.

No. MC 107496 (Sub-No. 775 TA), filed April 13, 1970. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solution*, in bulk, from Alta and Masonville, Iowa, to points in Minnesota, for 150 days. Supporting shipper: Gulf Oil Co.—U.S., Dwight Building, Kansas City, Mo. 64105. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 134401 (Sub-No. 1 TA), filed April 9, 1970. Applicant: SHERWOOD W. HUME, doing business as HUME EQUIPMENT COMPANY, 141 Bell Street, Milton, Ontario, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except those with vehicle beds, bed frames, or fifth wheels), *agricultural implements and machinery, attachments for, and equipment designed for use with the foregoing articles when moving in mixed loads with such articles*, between the United States-Canadian border crossings at Port Huron and Detroit, Mich.; Alexandria Bay, Buffalo, and Niagara Falls, N.Y., on the one hand, and, on the other, points in Michigan, Ohio, Indiana, Illinois, Wisconsin, Minnesota, New York, and Pennsylvania; restricted to traffic originating at or destined to points in the Dominion of Canada, for 180 days. NOTE: Applicant, of course, intends to joinder its authority issued by the Ontario Highway Transportation Board. Supporting shipper: White Farm Equipment, A Division of White Motor Corp. of Canada, Ltd., Brantford, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 134490 TA, filed April 13, 1970. Applicant: CONSTELLATION FREIGHT AGENCY, INC., 136–25 Springfield Boulevard, Jamaica, N.Y. 11413. Applicant's representative: Samuel B. Zinder, Station Plaza East, Great Neck, N.Y. 11021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radios, televisions, hi-fi equipment, tape recorders and parts and materials thereof*, from Moonachie, N.J., to New York, N.Y., for 180 days. Supporting shipper: Sony Corporation of America, 47–47 Van Dam Street, Long Island City, N.Y. 11101. Send protests to: Anthony Chiusano, District of Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 134496 TA, filed April 13, 1970. Applicant: A & B EXPRESS COMPANY, a corporation, 6314 Dewey Avenue, West New York, N.J. 07093. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquors* (except in bulk), for the account of Monsieur Henri Wine, Ltd., from Brooklyn, N.Y., Albany, Buffalo, Rochester, Syracuse, and points in Nassau, Suffolk, Orange, Rockland, Westchester Counties, N.Y., for 150 days. Supporting shipper: Monsieur Henri Wines, Ltd., 131 Morgan Avenue, Brooklyn, N.Y. 11237. Send protests to: District Supervisor W. J. Grossmann, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, N.J. 07102.

By the Commission.

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

[F.R. Doc. 70-4896; Filed, Apr. 21, 1970; 8:48 a.m.]

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PART II

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

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Qualifications of Drivers of Commercial Motor Vehicles

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-7; Notice 70-5]

PART 391—QUALIFICATIONS OF DRIVERS

PART 392—DRIVING OF MOTOR VEHICLES

Miscellaneous Amendments

On June 2, 1969, the Federal Highway Administrator announced that he was considering a complete substantive and editorial revision of Part 391 of the Motor Carrier Safety Regulations (34 F.R. 9080). Part 391 deals with qualifications of drivers of commercial motor vehicles operating in interstate or foreign commerce. Interested persons were invited to submit comments on the proposed rules by the close of business on September 3, 1969. The closing date for comments was later extended to October 6, 1969 (34 F.R. 13610).

Some 10,000 filings, representing the views of approximately 14,000 named parties, were received. These comments have been carefully considered. As will appear more fully below, several changes in the regulations have been made, in response to problems and issues raised by respondents.

In the main, however, the Administrator has adhered to the belief that a complete revision of the driver qualification rules is necessary and appropriate at this time. He remains convinced that the public interest in motor vehicle safety requires upgrading the training and ability of drivers, hiring as drivers only persons whose records demonstrate their capability for safe operation of heavy vehicles, and insuring that drivers of modern, more complex vehicles can safely withstand the increased physical and mental demands that their occupation now imposes. Therefore, the Administrator does not agree with the contentions that any Federal regulations setting forth more stringent minimum qualifications for drivers of commercial vehicles are unlikely to prove effective.

A number of respondents argued that the proposal to revise Part 391 in its entirety placed undue emphasis on the driver as a causal element in highway accidents. The Administrator realizes, of course, that there are many factors which contribute to the dismal toll of deaths, injuries, and property damage. He fully intends to continue to cover as many of them as his authority permits. However, it cannot reasonably be denied that adherence to improved driver qualification rules will play a vital part in the overall effort to improve motor vehicle safety. After carefully considering the available evidence, both in docket comments and elsewhere, the Administrator remains convinced that his statement in the preamble to the proposed rules (34 F.R. 9081) still holds true:

> Accident experience in recent years has demonstrated that reduction of the effects of organic and physical disorders, emotional impairments, and other limitations of the good health of drivers are increasingly important factors in accident prevention. Technological advances in equipment and highway engineering, together with increased knowledge in the areas of highway safety and the various skills that today's commercial motor vehicle drivers must possess, make it necessary that criteria for determining whether individuals are qualified to drive commercial motor vehicles be upgraded. The mobility of the modern labor force requires access to more information by which a potential driver's ability, training, mental attitude, and experience in the operation of commercial motor vehicles can be determined. Medical advances, improved diagnostic techniques, and modern man's increased exposure to physical hazards call for revision of the regulations' physical qualifications for driving commercial motor vehicles.

In general, the format of the revised part has been altered only slightly from the proposal. The major changes are the addition of a new section (§ 391.63), providing certain exemptions in cases where drivers are hired on an intermittent, casual, or occasional basis, and the transfer of the so-called "grandfather" exemptions, for drivers who are regularly employed as drivers on the effective date of the new rules, to Subpart G. The substantive aspects of these provisions are discussed in more detail below.

The principal changes in Subpart A, the general provisions of the part, reflect an attempt to provide more definite guidance for the situation in which the driver of a commercial motor vehicle is also the owner of the equipment he operates. A new paragraph (c) has been added to § 391.1 to make it clear that when the owner-driver is acting in the capacity of a motor carrier, he is responsible for compliance with both the rules that apply to motor carriers and the rules that apply to drivers. In addition, the definition of the term "motor carrier" in § 391.3(a) has been revised so that the owner-driver will be regarded solely as a driver for purposes of Part 391 when he is driving his equipment on behalf of a motor carrier, whether under a lease arrangement or otherwise. A new definition of the term "employs" in § 391.3(c) makes it clear that, in general, a motor carrier is responsible for insuring that every driver who operates a commercial vehicle in furtherance of the carrier's business is a qualified driver, regardless of the form of contractual or other arrangement between the carrier and the driver.

Subpart B, dealing with general qualifications and disqualifications of drivers, was the subject of most of the comments received. In the preamble to the proposal, the Administrator specifically invited comments on the provision, in § 391.11 (b)(1), that precludes a person who is less than 21 years of age from driving a commercial vehicle. Comments in response to this invitation generally favored retention of the 21-years-or-older prerequisite. Many respondents noted that statistics collected by liability insurance companies indicate that persons who have not yet attained the age of 21 are in a higher risk category than older persons. There were some respondents who favored lowering the minimum age of 19, on the ground that motor carriers should be allowed to establish apprenticeship training programs to attract younger persons into driving as an occupation. The Administrator has concluded that the minimum age should be retained at this time. However, he will give further consideration to establishing conditions under which persons who are less than 21 years old can be permitted to drive under close supervision for the purpose of training them to become journeyman drivers.

The requirement that a driver must be able to write the English language has been deleted from § 391.11(b)(2). The deletion was made in response to comments which pointed out that in some border areas of the United States and in a few urban centers drivers frequently are literate only in a language other than English. It was felt that retention of the requirement that a driver must be able to write English would, in those cases, lead to unnecessary loss of employment by experienced and capable drivers.

Subparagraphs (4) and (5) of § 391.11 (b) were the subject of many comments that appear to have stemmed from misunderstanding of what those provisions were meant to require. As originally written, their purport was to insure that every driver is capable of ascertaining that the cargo he transports is properly loaded. Some respondents read into these provisions a requirement that drivers must personally load, block, and brace the cargo. The Administrator has therefore revised these subparagraphs to make it clear that a driver must be able to determine whether loading is proper by visual inspection or handling characteristics of the vehicle, so that he can require corrective action if it is necessary. However, there is no requirement that the driver must personally perform the corrective actions, or enter a sealed cargo compartment.

Section 391.15, dealing with disqualification of drivers, was easily the most controversial provision of the proposed revision. In it, the Administrator proposed to disqualify drivers who commit offenses of a nature that would ordinarily lead to loss of driving privileges under State laws. The section has been changed in two principal ways. First, the disqualification of drivers who are convicted of, or forfeit bond under charges of, three or more moving traffic violations within 3 years has been deleted. It appears that the proposal was too draconian for implementation at this time, in view of the unevenness of motor vehicle law enforcement from State-to-State, the lack of a uniform rule as to what constitutes a moving violation, and the hardships it would work on many drivers. A companion rule has been changed so that only conviction of serious motor vehicle offenses committed after the effective date of the rule will be grounds for disqualification. Some respondents argued that serious offenses committed while a driver is operating his personal vehicle should not be grounds for disqualification. The Administrator has concluded, however, that the commission

of a serious offense while operating a vehicle indicates that the perpetrator is unfit to drive a commercial vehicle irrespective of whether or not the offense was committed while on duty. For this reason, he has not limited the grounds for disqualification to offenses committed while a commercial vehicle is being driven.

Subpart C of the regulations requires drivers to furnish, and motor carriers to obtain, information about the background and driving records of drivers. It also requires carriers to act on that information, both at the time of the driver's initial application for employment and thereafter while he is in the carrier's employ, to insure that the driver can safely operate a commercial vehicle. There were some respondents who opposed adoption of these rules on the grounds that they preempted the right of a motor carrier unilaterally to remove a driver from the highway for safety reasons. They do not do so, as § 391.1(b) makes clear. It was suggested that the rules encroach upon the arbitration procedures created by collective bargaining agreements. The Administrator recognizes the right of labor and management to regulate most aspects of their relationship through collective bargaining agreements within the framework of Federal and State law. However, he does not concur with the viewpoint that the safety of the motoring public is a proper subject to be hazarded by procedural arrangements in those agreements. The overwhelming weight of the available evidence establishes, beyond rational doubt, that a driver's predilection for involvement in serious accidents can frequently be foretold by his past driving record and his general character. Since this is the case, drivers whose records demonstrate that they are likely to cause highway accidents should not continue operating heavy commercial vehicles. In the absence of a showing of the feasibility of screening of drivers by a Federal agency, reliance on motor carriers' enlightened self-interest in careful screening of their drivers appears to be the only viable approach to the problem. For these reasons, the Administrator has declined to make any basic changes in the subpart. As written, it requires persons seeking employment as drivers to fill out an application form with the details of their past employment and driving record. The carrier must use that information to investigate the applicant's driving and employment history. In addition, motor carriers are required to make an annual review of the driving record of each regularly employed driver. Drivers must furnish their employers with a listing of the violations of which they have been convicted during the preceding year. The list must be furnished at least once every 12 months; however, in the initial year of the rule's operation, carriers may spread the reporting requirement over the entire year, so that every driver has complied with it by the end of 1971.

There was little objection in principle to the proposals for making successful completion of both a road test and a written examination prerequisites for qualification to drive a commercial motor vehicle. The Administrator has retained the substance of both requirements. The interests of commercial motor vehicle safety would, in his view, be promoted by insuring that drivers have demonstrated their skill and knowledge of applicable regulations by completion of approved tests.

The road test is to be given by the motor carrier or a person the carrier designates. While it is arguable that the purpose of the testing requirement would be better served by a test given by a Federal agency, there are at present insufficient administrative resources to undertake that task. Under the regulation, a potential driver must be tested on his skill at operating the type of motor vehicle the motor carrier intends to assign to him. In this context, the term "assign" does not mean "permanently (or exclusively) dedicate." It requires only that the carrier make a fair assessment of the types of equipment the applicant is likely to operate if he is hired. Section 391.33 permits the road test to be waived when the applicant can show that he has recently and successfully completed the same, or an equivalent, test. In the notice of proposed rule making, a waiver was permitted if the driver held a so-called "classified license" issued by a State which licenses individuals to drive specified categories of large commercial vehicles. It has come to the Administrator's attention that some classified licenses are issued without first requiring the applicant to take a road test on the particularly type of vehicle involved. Therefore, language has been added to § 391.33(a)(1) to make it clear that such a license may be accepted as equivalent to the road test only when it is issued after successful completion of a road test on a commercial vehicle.

The written examination requirement in § 391.35 has been modified by requiring the examination questions to be taken from a list prepared and published by the Bureau of Motor Carrier Safety. The Administrator has taken this step in response to contentions that carrier prepared questions may open the door to arbitrary and discriminatory hiring practices. He is also cognizant of the fact that written examinations have historically been used as a method of foreclosing minority groups from access to certain occupations. In order to avoid the possibility of invidious use of the written examination requirement, a list of 100 approved questions (and their answers) will be published as Appendix C to the Motor Carrier Regulations and will be periodically revised. The questions asked must be drawn from the list. Carriers are required to retain the questions asked an applicant and his answers to those questions so that they can be audited if necessary.

The physical qualifications for drivers in § 391.41 have been revised in the light of discussions with the Administration's medical advisers. A misprint in § 391.41 (b)(1) that had evoked considerable comment has been corrected. The disqualification of diabetics, found in § 391.41(b)(3), has been changed in response to a number of comments arguing that only diabetics who are actually using insulin to control their conditions should be disqualified. A number of respondents opposed the proposal to disqualify persons having blood pressure in excess of 160/90. The Administrator agrees that it is not medically sound to establish a maximum blood pressure level without regard to the age and physical structure of the individual under consideration. Therefore, § 391.41(b)(6) has been modified so that only persons who have high blood pressure likely to interfere with their ability to operate a vehicle safely will be disqualified. Finally, the disqualification of a person who consumes alcoholic beverages "to excess" has been deleted because it seemed to set too subjective a standard. Instead, only persons having current clinical diagnoses of alcoholism will be disqualified under § 391.41(b)(13).

Under the rules, a driver will have to take and pass a physical examination every 2 years. This is a change from the proposal, which would have required an annual examination. There were some respondents who argued that the interval between mandatory physical examinations should vary inversely with the age of the driver, rather than being the same for all drivers. The Administrator recognizes the merit of that position; nevertheless, he has elected to adhere to a universally-applicable time span because of the enforcement difficulties that a sliding scale would present. The requirement for a physical examination between periodic examinations (contained in § 391.45(c)) has been rewritten to make it clear that additional examinations are necessary only in cases in which drivers suffer serious injuries or diseases of a type likely to impair their ability to drive. No additional examination is required if, for example, a driver is unable to work for a brief period of time owing to a cold or a minor attack of influenza.

In § 391.47 of the proposal, the Administrator provided a procedure under which the Director of the Bureau of Motor Carrier Safety could resolve conflicts between medical examiners on the question whether a particular person is physically qualified to drive. Among other things, the proposal would have required a person seeking such a determination from the Director to obtain a favorable opinion from either a Federal medical examiner, the medical advisory committee of a State motor vehicle administration, or an advisory committee of the medical association in the State that licensed him to drive. Some respondents pointed out that it would be impossible in many instances for an applicant to secure an opinion from any of those three sources. The Administrator has therefore deleted this requirement.

Section 391.49 permits the Director to grant waivers of certain physical defects which would otherwise disqualify a driver. Under the procedure, a driver's application for a waiver must be joined in by the motor carrier that will employ him, and a waiver is valid only so long

as the driver continues to be employed by that carrier. Several respondents objected to the latter requirement on the ground that it would unduly tie the beneficiary of a waiver to the employ of a particular carrier. It is clear, however, that the advisability of granting a waiver is, in part, dependent on knowledge of the conditions under which the individual will drive if a waiver of his defect is granted. Those conditions vary greatly as between the operations of various carriers. Hence, the Administrator has determined that no waivers will be granted without prior review of the nature of the transportation that the driver in question intends to undertake. Other evidence of the nature of the work those applicants intend to undertake may also be required.

Subpart F provides for record keeping requirements. As the result of comments, the Administrator has made an editorial change in § 391.51 so that the mandatory record for each driver is now called a "driver qualification file," rather than a "personnel file." The purpose of this change is to make clear that the records required by this section need not be maintained physically in the same file as other records—such as payroll records—that a carrier maintains for each driver it employs.

The exemptions contained in Subpart G have been extensively altered. Section 391.61 contains provisions relating to drivers who are regularly employed in that capacity on January 1, 1971, the effective date of the revision of Part 391. As long as those drivers continue to be regularly employed by the carriers for whom they were driving on or before December 31, 1970, they are exempt from the requirements pertaining to employment applications, road tests, and written examinations. Some respondents objected to the absence of a continuing exemption for older drivers who incur breaks in service or who change their employers. The Administrator has concluded that the interests of safety would be best served if those drivers were required to requalify under the revised rules. A driver who has had a break in service should be required to demonstrate that his driving skill and knowledge of applicable regulations have remained current. Similarly, a driver who changes his employer may be called upon to operate equipment with which he may not be thoroughly familiar. In addition, his new employer should be given the basic information needed to make the investigations and inquiries required by § 391.23. Consequently, that driver will be required to file an application for employment and to complete a road test and written examination.

Section 391.61 of the proposed rules exempted so-called "single-trip" driver (drivers who are employed to drive for one round trip having a duration of 7 days or less) from certain of the requirements of Part 391. In response to comments from several motor carriers, the Administrator has expanded the section (now denominated § 391.63) to include intermittent, casual, or occasional drivers, even though those drivers may drive for more than a single trip. At the same time, the exemptions have been revised to specify with more precision the requirements from which drivers who are not regularly employed will be exempt. It was the purpose of the proposal to eliminate only the requirements pertaining to employment application and the investigation of drivers' characters and backgrounds with respect to intermittent, casual, or occasional drivers. The revised rules make this clear.

In addition to rules dealing with driver qualification, the notice also proposed to locate two closely allied rules in Part 392, which governs the driving of motor vehicles. A new § 392.9a requires drivers who must wear corrective lenses in order to meet minimum standards of visual acuity to wear spectacles while they are driving. Language to this effect is found in the medical history form following § 391.11 of the existing regulations. Some respondents asked the Administrator to permit drivers to wear contact lenses as well as spectacles. However, the Administrator has concluded that the risk that contact lenses will become lost or cause eye irritation while a vehicle is in motion is too great to justify granting the requested modification.

Section 392.42 of the proposal would have required drivers who receive notification of revocation or suspension of their operators' licenses promptly to notify their employers of that fact. There was no adverse comment on the proposal, and it is being adopted without change.

In consideration of the foregoing, Chapter III of Title 49, CFR, is amended: (a) By revising Part 391 of Subchapter B to read as set forth below; (b) by amending Part 392 of Subchapter B as set forth below; and (c) by adding a new Appendix C after Subchapter B, reading as set forth below.

Effective date. These amendments are effective on January 1, 1971.

(Sec. 204, Interstate Commerce Act, as amended, 49 U.S.C. 304; sec. 6, Department of Transportation Act, 49 U.S.C. 1655; delegation of authority in 49 CFR Part 1)

Issued on April 16, 1970.

F. C. TURNER,
Federal Highway Administrator.

I. Part 391 of Title 49, CFR is revised to read as follows:

Subpart A—General

Subpart B—Qualification and Disqualification of Drivers

Subpart C—Background and Character

Subpart D—Examination and Tests

Subpart E—Physical Qualifications and Examinations

Subpart F—Files and Records

Subpart G—Exemptions

AUTHORITY: The provisions of this Part 391 issued under sec. 204, Interstate Commerce Act, as amended, 49 U.S.C. 304; sec. 6, Department of Transportation Act, 49 U.S.C. 1655; delegation of authority in 49 CFR Part 1.

Subpart A—General

§ 391.1 Scope of the rules in this part; additional qualifications; duties of carrier-drivers.

(a) The rules in this part establish minimum qualifications for persons who drive motor vehicles as, for, or on behalf of motor carriers. The rules in this part also establish minimum duties of motor carriers with respect to the qualifications of their drivers.

(b) The rules in this part, and in other parts of this subchapter, do not prevent a motor carrier from imposing more stringent or additional qualifications, requirements, examinations, or certificates than are imposed by those rules.

(c) A motor carrier who employs himself as a driver must comply with both the rules in this part that apply to motor carriers and the rules in this part that apply to drivers.

§ 391.3 Definitions.

(a) The term "motor carrier" includes a motor carrier and the agents, officers, representatives, and employees of a motor carrier who are responsible for the hiring, supervision, training, assignment, or dispatching of drivers.

(b) The term "Director" means the Director of the Bureau of Motor Carrier Safety.

(c) A motor carrier "employs" a person as a driver within the meaning of this part whenever it requires or permits that person to drive a motor vehicle (whether or not the vehicle is owned by the motor carrier) in furtherance of the business of the motor carrier.

§ 391.5 Familiarity with rules.

Each motor carrier and each driver shall know, and be familiar with, the rules in this part.

§ 391.7 Aiding or abetting violations.

No person shall aid, abet, encourage, or require a motor carrier or a driver to violate the rules in this part.

Subpart B—Qualification and Disqualification of Drivers

§ 391.11 Qualifications of drivers.

(a) A person shall not drive a motor vehicle unless he is qualified to drive a motor vehicle. Except as provided in § 391.63, a motor carrier shall not require or permit a person to drive a motor vehicle unless that person is qualified to drive a motor vehicle.

(b) Except as provided in § 391.61, a person is qualified to drive a motor vehicle if he—

(1) Is at least 21 years old;

(2) Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;

(3) Can, by reason of experience, training, or both, safely operate the type of motor vehicle he drives;

(4) Can, by reason of experience, training, or both, determine whether the cargo he transports (including baggage in a passenger-carrying motor vehicle) has been properly located, distributed, and secured in or on the motor vehicle he drives;

(5) Is familiar with blocking, bracing, and other methods of securing cargo in or on the motor vehicle he drives;

(6) Is physically qualified to drive a motor vehicle in accordance with § 391.41;

(7) Has been issued a currently-valid motor vehicle operator's license or permit;

(8) Has prepared and furnished the motor carrier that employs him with the list of violations or the certificate as required by § 391.27;

(9) Is not disqualified to drive a motor vehicle under the rules in § 391.15;

(10) Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with § 391.31, or has presented an operator's license or a certificate of road test which the motor carrier that employs him has accepted as equivalent to a road test in accordance with § 391.33;

(11) Has successfully completed a written examination and has been issued a certificate of written examination in accordance with § 391.35, or has presented a certificate of written examination which the motor carrier that employs him has accepted as equivalent to a written examination in accordance with § 391.37; and

(12) Has completed and furnished the motor carrier that employs him with an application for employment in accordance with § 391.21.

§ 391.15 Disqualification of drivers.

(a) A driver who is disqualified shall not drive a motor vehicle. A motor carrier shall not require or permit a driver who is disqualified to drive a motor vehicle.

(b) A driver is disqualified if—

(1) He has, within the preceding 3 years and after December 31, 1970, been convicted of, or forfeited bond or collateral upon, any of the following charges:

(i) A felony, the commission of which involved the use of a motor vehicle by that driver; or

(ii) A crime involving the manufacturing, knowing transportation, knowing possession, sale, or habitual use of amphetamines, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug; or

(iii) Operating a motor vehicle under the influence of alcohol, an amphetamine, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug; or

(iv) Leaving the scene of an accident which resulted in personal injury or death; or

(2) Any license, permit, or privilege to operate a motor vehicle which he has held has been suspended, revoked, withdrawn, or denied and has not been reinstated by the authority that suspended, revoked, withdrew, or denied it.

Subpart C—Background and Character

§ 391.21 Application for employment.

(a) Except as provided in Subpart G of this part, a person shall not drive a motor vehicle unless he has completed and furnished the motor carrier that employs him with an application for employment that meets the requirements of paragraph (b) of this section.

(b) The application for employment shall be made on a form furnished by the motor carrier. Each application form must be completed by the applicant, must be signed by him, and must contain the following information:

(1) The name and address of the employing motor carrier;

(2) The applicant's name, address, date of birth, and social security number;

(3) The addresses at which the applicant has resided during the 3 years preceding the date on which the application is submitted;

(4) The date on which the application is submitted;

(5) The issuing State, number, and expiration date of each unexpired motor vehicle operator's license or permit that has been issued to the applicant;

(6) The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment (such as buses, trucks, truck tractors, semitrailers, full trailers, and pole trailers) which he has operated;

(7) A list of all motor vehicle accidents in which the applicant was involved during the 3 years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused;

(8) A list of all violations of motor vehicle law or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the 3 years preceding the date the application is submitted;

(9) A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no such denial, revocation, or suspension has occurred;

(10) A list of the names and addresses of the applicant's employers during the 3 years preceding the date the application is submitted, together with the dates he was employed by, and his reason for leaving the employ of, each employer; and

(11) The following certification and signature line, which must appear at the end of the application form and be signed by the applicant:

This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.

---------- ----------
(Date) (Applicant's signature)

(c) A motor carrier may require an applicant to provide information in addition to the information required by paragraph (b) of this section on the application form.

(d) Before an application is submitted, the motor carrier shall inform the applicant that the information he provides in accordance with paragraph (b) (10) of this section may be used, and the applicant's prior employers may be contacted, for the purpose of investigating the applicant's background as required by § 391.23.

§ 391.23 Investigation and inquiries.

(a) Except as provided in Subpart G of this part, each motor carrier shall make the following investigations and inquiries with respect to each driver it employs, other than a person who has been a regularly employed driver of the motor carrier for a continuous period which began before January 1, 1971:

(1) An inquiry into the driver's driving record during the preceding 3 years to the appropriate agency of every State in which the driver held a motor vehicle operator's license or permit during those 3 years; and

(2) An investigation of the driver's employment record during the preceding 3 years.

(b) The inquiry to State agencies required by paragraph (a)(1) of this section shall be made in the form and manner those agencies prescribe. A copy of the response by each State agency, showing the driver's driving record or certifying that no driving record exists for that driver, shall be retained in the carrier's files as part of the driver's qualification file.

(c) The investigation of the driver's employment record required by paragraph (a)(2) of this section must be made within 30 days of the date his employment begins. The investigation may

consist of personal interviews, telephone interviews, letters, or any other method of obtaining information that the carrier deems appropriate. Each motor carrier must make a written record with respect to each past employer who was contacted. The record must include the past employer's name and address, the date he was contacted, and his comments with respect to the driver. The record shall be retained in the motor carrier's files as part of the driver's qualification file.

§ 391.25 Annual review of driving record.

Except as provided in Subpart G of this part, each motor carrier shall, at least once every 12 months, review the driving record of each driver it employs to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive a motor vehicle pursuant to § 391.15. In reviewing a driving record, the motor carrier must consider any evidence that the driver has violated applicable provisions of the Motor Carrier Safety Regulations and the Hazardous Materials Regulations. The motor carrier must also consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, and must give great weight to violations, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public.

§ 391.27 Record of violations.

(a) Except as provided in Subpart G of this part, each motor carrier shall, at least once every 12 months, require each driver it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he has forfeited bond or collateral during the preceding 12 months.

(b) Each driver shall furnish the list required in accordance with paragraph (a) of this section. If the driver has not been convicted of, or forfeited bond or collateral on account of, any violation which must be listed, he shall so certify.

(c) The form of the driver's list or certification shall be prescribed by the motor carrier. The following form may be used to comply with this section:

MOTOR VEHICLE DRIVER'S CERTIFICATION

I certify that the following is a true and complete list of traffic violations (other than parking violations) for which I have been convicted or forfeited bond or collateral during the past 12 months.

Date	*Offense*	*Location*	*Type of vehicle operated*

If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violation required to be listed during the past 12 months.

(Date of certification) (Driver's signature)

(Motor carrier's name) (Motor carrier's address)

(Reviewed by: Signature) (Title)

(d) The motor carrier shall retain the list or certificate required by this section, or a copy of it, in its files as part of the driver's qualification file.

Subpart D—Examinations and Tests

§ 391.31 Road test.

(a) Except as provided in §§ 391.33 and 393.61, a person shall not drive a motor vehicle unless he has first successfully completed a road test and has been issued a certificate of driver's road test in accordance with this section.

(b) The road test shall be given by the motor carrier or a person designated by it. However, a driver who is a motor carrier must be given the test by a person other than himself. The test shall be given by a person who is competent to evaluate and determine whether the person who takes the test has demonstrated that he is capable of operating the vehicle, and associated equipment, that the motor carrier intends to assign him.

(c) The road test must be of sufficient duration to enable the person who gives it to evaluate the skill of the person who takes it at handling the motor vehicle, and associated equipment, that the motor carriers intends to assign to him. As a minimum, the person who takes the test must be tested, while operating the type of motor vehicle the motor carrier intends to assign him, on his skill at performing each of the following operations:

(1) The pretrip inspection required by § 392.7 of this subchapter;

(2) Coupling and uncoupling of combination units, if the equipment he may drive includes combination units;

(3) Placing the vehicle in operation;

(4) Use of the vehicle's controls and emergency equipment;

(5) Operating the vehicle in traffic and while passing other vehicles;

(6) Turning the vehicle;

(7) Braking, and slowing the vehicle by means other than braking; and

(8) Backing and parking the vehicle.

(d) The motor carrier shall provide a road test form on which the person who gives the test shall rate the performance of the person who takes it at each operation or activity which is a part of the test. After he completes the form, the person who gave the test shall sign it.

(e) If the road test is successfully completed, the person who gave it shall complete a certificate of driver's road test in substantially the form prescribed in paragraph (f) of this section.

(f) The form for the certificate of driver's road test is substantially as follows:

CERTIFICATION OF ROAD TEST

Driver's name _____
Social Security No. _____
Operator's or Chauffeur's License No. _____ State _____
Type of power unit _____ Type of trailer(s) _____
If passenger carrier, type of bus _____

This is to certify that the above-named driver was given a road test under my supervision on _____ 19__ consisting of approximately _____ miles of driving.

It is my considered opinion that this driver possesses sufficient driving skill to operate safely the type of commercial motor vehicle listed above.

_____ _____
(Signature of examiner) (Title)

_____
(Organization and address of examiner)

(g) A copy of the certificate required by paragraph (e) of this section shall be given to the person who was examined. The motor carrier shall retain in the driver qualification file of the person who was examined—

(1) The original of the signed road test form required by paragraph (d) of this section; and

(2) The original, or a copy of, the certificate required by paragraph (e) of this section.

§ 391.33 Equivalent of road test.

(a) In place of, and as equivalent to, the road test required by § 391.31, a person who seeks to drive a motor vehicle may present, and a motor carrier may accept—

(1) A valid operator's license which has been issued to him by a State that licenses drivers to operate specific categories of motor vehicles and which, under the laws of that State, licenses him after successful completion of a road test in a motor vehicle of the type the motor carrier intends to assign to him; or

(2) A copy of a valid certificate of driver's road test issued to him pursuant to § 391.31 within the preceding 3 years.

(b) If a driver presents, and a motor carrier accepts, a license or certificate as equivalent to the road test, the motor carrier shall retain a legible copy of the license or certificate in its files as part of the driver's qualification file.

(c) A motor carrier may require any person who presents a license or certificate as equivalent to the road test to take a road test or any other test of his driving skill as a condition to his employment as a driver.

§ 391.35 Written examination.

(a) Except as provided in §§ 391.37 and 391.61, a person shall not drive a motor vehicle unless he has first successfully completed a written examination and has been issued a certificate of written examination in accordance with this section.

(b) The written examination shall be given by the motor carrier or a person

designated by it on a form prescribed by the motor carrier. The examination shall be administered by a competent person.

(c) The examination shall consist of at least 30 questions, testing the examinee's knowledge of Parts 390–397 of this subchapter, taken from the list of questions published by the Bureau of Motor Carrier Safety.[1] A person who correctly answers at least 70 percent of the questions has successfuly completed the examination.

(d) If the examinee successfully completes the examination, the person who administered it shall advise him of the correct answers to any questions he failed to answer correctly and shall complete a certificate in substantially the following form:

CERTIFICATION OF WRITTEN EXAMINATION

This is to certify that the person whose signature appears below, has successfully completed the written examination under my supervision in accordance with the provisions of § 391.35 of the Motor Carrier Safety Regulations.

(Signature of person taking examination)	(Date of examination)
(Location of examination)	
(Signature of examiner)	(Title)
(Organization and address of examiner)	

(e) A copy of the certificate required by paragraph (d) of this section shall be given to the person who was examined. The motor carrier shall retain, in the driver qualification file of the person who was examined—

(1) The original, or a copy of, the certificate required by paragraph (d) of this section;

(2) The questions asked on the examination; and

(3) The person's answers to those questions.

§ 391.37 Equivalent of written examination.

(a) In place of, and as equivalent to, the written examination required by § 391.35, a person who seeks to drive a motor vehicle may present, and a motor carrier may accept, a valid certificate of written examination issued pursuant to paragraph (d) of that section within the preceding 3 years.

(b) If a motor carrier accepts a certificate as equivalent to the written examination, it shall retain a legible copy of the certificate in its files as part of the driver's qualification file.

(c) A motor carrier may require any person who presents a certificate as equivalent to the written examination to take a written examination or any other test of his knowledge of Parts 390–397 of this subchapter as a condition to his employment as a driver.

[1] Copies of the list of questions (and answers to the questions) may be obtained by writing to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20591, or to any Regional Federal Highway Administrator at the address given in § 390.40 of this subchapter.

Subpart E—Physical Qualifications and Examinations

§ 391.41 Physical qualifications for drivers.

(a) A person shall not drive a motor vehicle unless he is physically qualified to do so and has on his person the original, or a photographic copy, of a medical examiner's certificate that he is physically qualified to drive a motor vehicle.

(b) A person is physically qualified to drive a motor vehicle if he—

(1) Has no loss of a foot, a leg, a hand, or an arm, or has been granted a waiver pursuant to § 391.49;

(2) Has no impairment of the use of a foot, a leg, a hand, fingers, or an arm, and no other structural defect or limitation, which is likely to interfere with his ability to control and safely drive a motor vehicle, or has been granted a waiver pursuant to § 391.49 upon a determination that the impairment will not interfere with his ability to control and safely drive a motor vehicle.

(3) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control;

(4) Has no clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;

(5) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his ability to control and drive a motor vehicle safely;

(6) Has no clinical diagnosis of high blood pressure likely to interfere with his ability to operate a motor vehicle safely;

(7) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with his ability to control and operate a motor vehicle safely;

(8) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle;

(9) Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his ability to drive a motor vehicle safely;

(10) Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridan in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;

(11) First perceives a forced whispered voice at not less than 5 feet in the better ear without use of a hearing aid, or, if tested by use of an audiometric device, does not have a loss greater than 25–30 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz in the better ear without a hearing aid.

(12) Does not use an amphetamine, narcotic, or any habit-forming drug; and

(13) Has no current clinical diagnosis of alcoholism.

§ 391.43 Medical examination; certificate of physical examination.

(a) Except as provided in paragraph (b) of this section, the medical examination shall be performed by a licensed doctor of medicine or osteopathy.

(b) A licensed optometrist may perform so much of the medical examination as pertains to visual acuity, field of vision, and the ability to recognize colors as specified in subparagraph (10) of § 391.41(b).

(c) The medical examination shall be performed, and its results shall be recorded, substantially in accordance with the following instructions and examination form:

INSTRUCTIONS FOR PERFORMING AND RECORDING PHYSICAL EXAMINATIONS

The examining physician should review these instructions before performing the physical examination. Answer each question yes or no where appropriate.

The examining physician should be aware of the rigorous physical demands and mental and emotional responsibilities placed on the driver of a commercial motor vehicle. In the interest of public safety the examining physician is required to certify that the driver does not have any physical, mental, or organic defect of such a nature as to affect the driver's ability to operate safely a commercial motor vehicle.

General information. The purpose of this history and physical examination is to detect the presence of physical, mental, or organic defects of such a character and extent as to affect the applicant's ability to operate a motor vehicle safely. The examination should be made carefully and at least as complete as indicated by the attached form. History of certain defects may be cause for rejection or indicate the need for making certain laboratory tests or a further, and more stringent, examination. Defects may be recorded which do not, because of their character or degree, indicate that certification of physical fitness should be denied. However, these defects should be discussed with the applicant and he should be advised to take the necessary steps to insure correction, particularly of those which, if neglected, might lead to a condition likely to affect his ability to drive safely.

General appearance and development. Note marked overweight. Note any posture defect, perceptible limp, tremor, or other defects that might be caused by alcoholism, thyroid intoxication, or other illnesses. The Motor Carrier Safety Regulations provide that no driver shall use a narcotic or other habit-forming drug.

Head-eyes. When other than the Snellen chart is used, the results of such test must be expressed in values comparable to the standard Snellen test. If the applicant wears corrective lenses, these should be worn while applicant's visual acuity is being tested. If appropriate, indicate on the Medical Examiner's Certificate by checking the box, "Qualified only when wearing corrective spectacles." In recording distance vision use 20 feet as normal. Report all vision as a fraction with 20 as numerator and the smallest type read at 20 feet as denominator. Note ptosis, discharge, visual fields, ocular muscle imbalance, color blindness, corneal scar, exophthalmos, or strabismus, uncorrected by corrective

lenses. Monocular or aphacic drivers are not qualified to operate commercial motor vehicles under existing Motor Carrier Safety Regulations.

Ears. Note evidence of mastoid or middle ear disease, discharge, symptoms of aural vertigo, or Meniere's Syndrome. When recording hearing, record distance from patient at which a forced whispered voice can first be heard. If audiometer is used to test hearing, record decibel loss at 500 Hz, 1,000 Hz, and 2,000 Hz.

Throat. Note evidence of disease, irremediable deformities of the throat likely to interfere with eating or breathing, or any laryngeal condition which could interfere with the safe operation of a motor vehicle.

Thorax-heart. Stethoscopic examination is required. Note murmurs and arrhythmias, and any past or present history of cardiovascular disease, of a variety known to be accompanied by syncope, dyspnea, collapse, enlarged heart, or congestive heart failures. Electrocardiogram is required when findings so indicate.

Blood pressure. Record with either spring or mercury column type of sphygomomanometer. If the blood pressure is consistently above 160/90 mm. Hg., further tests may be necessary to determine whether the driver is qualified to operate a motor vehicle.

Lungs. If any lung disease is detected, state whether active or arrested; if arrested, your opinion as to how long it has been quiescent.

Gastrointestinal system. Note any diseases of the gastrointestinal system.

Abdomen. Note wounds, injuries, scars, or weakness of muscles of abdominal walls sufficient to interfere with normal function. Any hernia should be noted if present. State how long and if adequately contained by truss.

Abnormal masses. If present, note location, if tender, and whether or not applicant knows how long they have been present. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Tenderness. When noted, state where most pronounced, and suspected cause. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Genito-urinary. Urinalysis is required. Acute infections of the genito-urinary tract, as defined by local and State public health laws, indications from urinalysis of uncontrolled diabetes, symptomatic albumin-urea in the urine, or other findings indicative of health conditions likely to interfere with the control and safe operation of a motor vehicle, will disqualify an applicant from operating a motor vehicle.

Neurological. If positive Rhomberg is reported, indicate degrees of impairment. Pupillary reflexes should be reported for both light and accommodation. Knee jerks are to be reported absent only when not obtainable upon reinforcement and as increased when foot is actually lifted from the floor following a light blow on the patella, sensory vibratory and positional abnormalities should be noted.

Extremities. Carefully examine upper and lower extremities. Record the loss or impairment of a leg, foot, toe, arm, hand, or fingers. Note any and all deformities, the presence of atrophy, semiparalysis or paralysis, or varicose veins. If a hand or finger deformity exists, determine whether sufficient grasp is present to enable the driver to secure and maintain a grip on the steering wheel. If a leg deformity exists, determine whether sufficient mobility and strength exist to enable the driver to operate pedals properly. Particular attention should be given to and a record should be made of, any impairment or structural defect which may interfere with the driver's ability to operate a motor vehicle safely.

Spine. Note deformities, limitation of motion, or any history of pain, injuries, or disease, past or presently experienced in the cervical or lumbar spine region. If findings so dictate, radiologic and other examinations should be used to diagnose congenital or acquired defects; or spondylolisthesis and scoliosis.

Recto-genital studies. Diseases or conditions causing discomfort should be evaluated carefully to determine the extent to which the condition might be handicapping while lifting, pulling, or during periods of prolonged driving that might be necessary as part of the driver's duties.

Laboratory and other special findings. Urinalysis is required, as well as such other tests as the medical history or findings upon physical examination may indicate are necessary. A serological test is required if the applicant has a history of luetic infection or present physical findings indicate the possibility of latent syphilis. Other studies deemed advisable may be ordered by the examining physician.

Diabetes. If insulin is necessary to control a diabetic condition, the driver is not qualified to operate a motor vehicle. If mild diabetes is noted at the time of examination and it is stabilized by use of a hypoglycemic drug and a diet that can be obtained while the driver is on duty, it should not be considered disqualifying. However, the driver must remain under adequate medical supervision.

The physician must date and sign his findings upon completion of the examination.

EXAMINATION TO DETERMINE PHYSICAL CONDITION OF DRIVERS

Driver's name _____ ☐ New Certification
Address _____ ☐ Recertification
Social Security No. _____
Date of birth _____ Age _____

HEALTH HISTORY

Yes	No	
☐	☐	Head or spinal injuries.
☐	☐	Seizures, fits, convulsions, or fainting.
☐	☐	Extensive confinement by illness or injury.
☐	☐	Cardiovascular disease.
☐	☐	Tuberculosis.
☐	☐	Syphilis.
☐	☐	Gonorrhea.
☐	☐	Diabetes.
☐	☐	Gastrointestinal ulcer.
☐	☐	Nervous stomach.
☐	☐	Rheumatic fever.
☐	☐	Asthma.
☐	☐	Kidney disease.
☐	☐	Muscular disease.
☐	☐	Suffering from any other disease.
☐	☐	Permanent defect from illness, disease or injury.
☐	☐	Psychiatric disorder.
☐	☐	Any other nervous disorder.

If answer to any of the above is yes, explain:
_____
_____
_____

PHYSICAL EXAMINATION

General appearance and development:
Good _____ Fair _____ Poor _____
Vision: For distance:
Right 20/_____ Left 20/_____
☐ Without corrective lenses.
☐ With corrective lenses if worn.
Evidence of disease or injury:
Right _____ Left _____
Color Test _____
Horizontal field of vision:
Right _____° Left _____°
Hearing:
Right ear _____ Left ear _____
Disease or injury _____
Audiometric Test (complete only if audiometer is used to test hearing) decibel loss as 500 Hz _____, at 1,000 Hz _____, at 2,000 Hz _____
Throat _____
Thorax:
Heart _____
If organic disease is present, is it fully compensated? _____
Blood pressure:
Systolic _____ Diastolic _____
Pulse: Before exercise _____
Immediately after exercise _____
Lungs _____
Abdomen:
Scars _____ Abnormal masses _____
Tenderness _____
Hernia: Yes ____ No _____
If so, where? _____
Is truss worn? _____
Gastrointestinal:
Ulceration or other disease:
Yes _____ No _____
Genito-Urinary:
Scars _____
Urethral discharge _____
Reflexes:
Rhomberg _____
Pupillary _____ Light R _____ L _____
Accommodation Right _____ Left _____
Knee Jerks:
Right:
Normal _____ Increased _____ Absent _____
Left:
Normal _____ Increased _____ Absent _____
Remarks _____
Extremities:
Upper _____
Lower _____
Spine _____
Laboratory and other Special Findings:
Urine: Spec. Gr. _____ Alb. _____
Sugar _____
Other laboratory data (Serology, etc.) _____
_____
Radiological data _____
Electrocardiograph _____
General comments _____
_____

_____ (Date of examination)	_____ (Address of examining doctor)
_____ (Name of examining doctor (Print))	_____ (Signature of examining doctor

NOTE: This section to be completed only when visual test is conducted by a licensed optometrist.

_____ (Date of examination)	_____ (Address of optometrist)
_____ (Name of optometrist (Print))	_____ (Signature of optometrist)

(d) If the medical examiner finds that the person he examined is physically qualified to drive a motor vehicle in accordance with § 391.41(b), he shall complete a certificate in the form prescribed in paragraph (e) of this section and furnish one copy to the person who was examined and one copy to the motor carrier that employs him.

(e) The medical examiner's certificate shall be in accordance with the following form:

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined _____ in accordance with
(Driver's name (Print))
the Motor Carrier Safety Regulations (49 CFR 391.41–391.49) and with knowledge of his duties, I find him qualified under the regulations.

☐ Qualified only when wearing corrective spectacles.

A completed examination form for this person is on file in my office at _____ (Address)

_____ (Date of examination)

_____ (Name of examining doctor (Print))

_____ (Signature of examining doctor)

_____ (Signature of driver)

_____ (Address of driver)

§ 391.45 Persons who must be medically examined and certified.

The following persons must be medically examined and certified in accordance with § 391.43 as physically qualified to drive a motor vehicle:

(a) Any person who has not been medically examined and certified as physically qualified to drive a motor vehicle;

(b) Any driver who has not been medically examined and certified as qualified to drive a motor vehicle during the preceding 24 months; and

(c) Any driver whose ability to perform his normal duties has been impaired by a physical or mental injury or disease.

§ 391.47 Conflict of medical evaluations.

(a) If, having performed medical examinations of a person pursuant to § 391.43, two or more medical examiners disagree as to whether that person is physically qualified to drive a motor vehicle, the Director, on application of that person or a motor carrier, may determine whether that person is physically qualified to drive a motor vehicle.

(b) An application under this section must be accompanied by the physical examination reports of the disagreeing medical examiners. The application must demonstrate to the Director's satisfaction that before he found the person physically qualified to drive, an examiner who did so was fully aware of the person's complete medical history and of the nature of the work the person would perform if he were found physically and otherwise qualified to drive a motor vehicle. As a minimum, the examiner must have been informed of the type, size, and weight of the vehicles the person would drive, the distances he would traverse, the number of hours he would spend in an on-duty status, and the related duties (such as loading, unloading, climbing onto and descending from vehicles, and making repairs en route (if he would be required to do so)) that the person would perform.

(c) If the Director determines that the person is physically qualified to drive a motor vehicle, a medical examiner's certificate may be issued to that person pursuant to § 391.43.

§ 391.49 Waiver of certain physical defects.

(a) A person who is not physically qualified to drive under § 391.41(b) (1) or (2) and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle, other than a motor vehicle which transports passengers or a motor vehicle which must be placarded or marked in accordance with § 177.823 of this Title 49 (relating to placards or markings upon vehicles which transport hazardous materials), if the Director has granted an application for a waiver with respect to that person.

(b) An application for a waiver must be submitted jointly by the person who seeks a waiver of his physical disqualification (the individual applicant) and by the motor carrier that will employ him if the application is granted. The application must be addressed to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20591.

(c) An application for a waiver must contain—

(1) A description of the type, size, and special equipment (if any) of the vehicles the individual applicant intends to drive, the general area and type of roads he intends to traverse while driving, the distances he intends to drive, the periods of time he will be on duty while driving, the nature of the commodities or cargo he intends to transport, the methods he or any other person will use to load and secure those commodities or cargo, and the nature and extent of his experience at operating motor vehicles of the type he intends to drive;

(2) An agreement by both applicants that the motor carrier will promptly file with the Director such reports as he may require, including reports about the driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the individual applicant; and

(3) An agreement that, if a waiver is granted, it authorizes the individual applicant to drive in interstate commerce only when employed by the motor carrier that joined in his application.

(d) An application for a waiver must be accompanied with—

(1) At least two reports of medical examinations made pursuant to § 391.43, at least one of which was conducted by a medical examiner selected and compensated by the motor carrier, each of which includes the medical examiner's opinion concerning the individual applicant's ability to operate safely a motor vehicle of the type he intends to drive;

(2) A copy of the certificate of driver's road test that was issued to the individual applicant pursuant to § 391.31;

(3) A copy of the certificate of written examination that was issued to the individual applicant pursuant to § 391.35; and

(4) A copy of the individual applicant's application for employment made pursuant to § 391.21.

(e) An application for a waiver shall be signed by both the individual applicant and the motor carrier. If the motor carrier is a corporation, the application shall be signed by an officer of the corporation. If the motor carrier is a partnership, the application shall be signed by a partner. If the motor carrier is an individual proprietorship, the application shall be signed by the proprietor.

(f) The Director may deny the application or he may grant it in whole or in part and issue a waiver subject to such terms, conditions, and limitations as he deems consistent with safety and the public interest. A waiver is valid for a period not exceeding 2 years, and it may be renewed upon submission of a new application pursuant to this section.

(g) If the Director grants a waiver, he will notify each applicant by a letter, which sets forth the terms, conditions, and limitations of the waiver. The motor carrier shall retain the letter (or a legible copy of it) in its files as long as the individual applicant is employed by that motor carrier and for 3 years thereafter. The individual applicant shall have the letter (or a legible copy of it) in his possession whenever he drives a motor vehicle or is otherwise on duty.

(h) The Director may suspend a waiver at any time. The Director may revoke a waiver after the persons to whom it was issued are given notice of the proposed revocation and a reasonable opportunity to be heard.

Subpart F—Files and Records

§ 391.51 Driver qualification files.

(a) Each motor carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his personnel file.

(b) The qualification file for a driver who has been a regularly employed driver of the motor carrier for a continuous period which began before January 1, 1971, must include—

(1) The medical examiner's certificate of his physical qualification to drive a motor vehicle or a legible photographic copy of the certificate;

(2) The Director's letter granting a waiver of a physical disqualification, if a waiver was issued under § 391.49;

(3) The list or certificate relating to violations of motor vehicle laws and ordinances required by § 391.27; and

(4) Any other matter which relates to the driver's qualifications or ability to drive a motor vehicle safely.

(c) The qualification file for a regularly employed driver who has not been regularly employed by the motor carrier for a continuous period which began before January 1, 1971, must include—

(1) The documents specified in paragraph (b) of this section;

(2) The driver's application for employment completed in accordance with § 391.21;

(3) The responses of State agencies to the motor carrier's inquiries concerning the driver's driving record pursuant to § 391.23(d);

(4) The certificate of driver's road test issued to the driver pursuant to § 391.31 (e), or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to § 391.33; and

(5) The questions asked, the answers the driver gave, and the certificate of written examination issued to him pursuant to § 391.35, or a copy of a certificate which the motor carrier accepted as

equivalent to a written examination pursuant to § 391.37.

(d) The qualification file for an intermittent, casual, or occasional driver employed under the rules in § 391.63 must include—

(1) The medical examiner's certificate of his physical qualification to drive a motor vehicle or a legible photographic copy of the certificate;

(2) The certificate of driver's road test issued to the driver pursuant to § 391.31(e), or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to § 391.31;

(3) The questions asked, the answers the driver gave, and the certificate of written examination issued to him pursuant to § 391.35, or a copy of a certificate which the motor carrier accepted as equivalent to a written examination pursuant to § 391.37; and

(4) The driver's name, his social security number, and the identification number, type, and issuing State of his motor vehicle operator's license.

(e) The qualification file for a driver furnished by another motor carrier and employed under the rules in § 391.65 must include—

(1) The medical examiner's certificate of his physical qualification to drive a motor vehicle or a legible photographic copy of the certificate; and

(2) A copy of a certificate from the motor carrier that regularly employs the driver stating that the driver is fully qualified to drive a motor vehicle under the rules in this part.

(f) Except as provided in paragraph (g) of this section, each driver's qualification file shall be kept at the motor carrier's principal place of business for as long as a driver is employed by that motor carrier and for 3 years thereafter.

(g) Upon a request in writing to, and with the approval of, the Director, a motor carrier may keep one or more of its drivers' qualification file or parts of files at a regional or terminal office that the Director approves.

Subpart G—Exemptions

§ 391.61 Drivers who were regularly employed before January 1, 1971.

The provisions of § 391.21 (relating to applications for employment), § 391.23 (relating to investigations and inquiries), § 391.31 (relating to road tests), and § 391.35 (relating to written examinations) do not apply to a driver who has been a regularly employed driver (as defined in § 395.2(f) of this subchapter) of a motor carrier for a continuous period which began before January 1, 1971, as long as he continues to be a regularly employed driver of that motor carrier. Such a driver is qualified to drive a motor vehicle if he fulfills the requirements of subparagraphs (1) through (9) of § 391.11(b) (relating to qualifications of drivers).

§ 391.63 Intermittent, casual, or occasional drivers.

(a) If a motor carrier employs a person who is not a regularly employed driver (as defined in § 395.2(f) of this subchapter) to drive a motor vehicle for a single trip or on an intermittent, casual, or occasional basis, the motor carrier shall comply with all requirements of this part, except that the motor carrier need not—

(1) Require the person to furnish an application for employment in accordance with § 391.21;

(2) Make the investigations and inquiries specified in § 391.23 with respect to that person,

(3) Perform the annual review of the person's driving record required by § 391.25; or

(4) Require the person to furnish a record of violations or a certificate in accordance with § 391.27.

(b) Before a motor carrier permits a person described in paragraph (a) of this section to drive a motor vehicle, the motor carrier must obtain his name, his social security number, and the identification number, type and issuing State of his motor vehicle operator's license. The motor carrier must retain that information in its files for 3 years after the person's employment by the motor carrier ceases.

§ 391.65 Drivers furnished by other motor carriers.

(a) A motor carrier may employ a driver who is not a regularly employed driver of that motor carrier without complying with the rules in this part with respect to the driver if—

(1) The driver is a regularly employed driver of another motor carrier;

(2) The motor carrier that regularly employs the driver furnishes a certificate that the driver is fully qualified to drive a motor vehicle under the rules in this part; and

(3) The motor carrier that uses the driver has in its files a copy of the driver's medical examiner's certificate.

(b) A motor carrier that obtains a certificate in accordance with paragraph (a)(2) of this section shall retain that certificate and the copy of the driver's medical examiner's certificate in its files for 3 years.

II. Part 391 of Title 49, CFR is amended by adding the following new section to Subpart A:

§ 392.9a Spectacles to be worn.

A driver whose visual acuity meets any of the minimum requirements of § 391.41 of this subchapter only when he wears corrective lenses shall wear properly prescribed spectacles at all times while he is driving.

III. Part 392 of Title 49, CFR is amended by revising the title of Subpart E thereof to read: "Subpart E—Accidents and License Revocations; Duties of Driver."

IV. Part 392 of Title 49, CFR is amended by adding the following new section at the end of Subpart E:

§ 392.42 Notification of license revocation.

A driver who receives a notice that his license, permit, or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn shall notify the motor carrier that employs him of the contents of the notice before the end of the business day following the day he received it.

V. Subchapter B of Chapter III in Title 49, CFR is amended by adding the following new Appendix C at the end of that subchapter.

Appendix C—Questions for Written Examination

As required in § 391.35, the written examination shall consist of a least 30 questions, and they shall be chosen in such manner as to test the examinee's knowledge of Parts 390-397 of the Motor Carrier Safety Regulations.

Questions shall be taken from those formulated below and reproduced in such form and manner as to be answered, True or False. Each question is preceded by the applicable section of the Motor Carrier Safety Regulations and the correct answer in parentheses.

Sections	*Questions*
391.1(b)---------- (True)	A motor carrier may require drivers to meet additional or more stringent requirements than those in the Federal regulations.
391.1(c)---------- (True)	A motor carrier who employs himself as a driver must comply with both the rules in this part that apply to motor carriers and the rules in this part that apply to drivers.
391.11(b)(1)---------- (True)	A driver engaged in over-the-road interstate transportation must be at least 21 years of age.
391.11(b)(2)---------- (True)	A driver must be able to understand highway traffic signs in the English language.
391.15(b)(2)---------- (False)	Under the Motor Carrier Safety Regulations, a driver's traffic record does not affect his qualification to drive in interstate commerce.
391.15(b)(2)---------- (False)	A driver may drive a commercial vehicle in interstate commerce if his State operator's license has been suspended.
391.41(a)---------- (True)	A driver required to have a physical examination must carry on his person the Medical Examiner's Certificate or a photographically reproduced copy of the certificate whenever he is on duty.
391.41(b)(3)---------- (True)	A person who has diabetes and must take insulin for its control is not qualified to drive a commercial vehicle.
391.41(b)(10)---------- (False)	A driver who is color blind as to red, green, and amber is qualified to drive.
391.41(b)(10)---------- (True)	A driver is qualified even though he must wear spectacles to meet minimum vision requirements.
391.41(b)(11)---------- (False)	A driver is qualified even though he needs to use a hearing aid to meet the minimum hearing level.
391.41(12)---------- (True)	A driver may not be addicted to or use narcotics or habit-forming drugs.

APPENDIX C—QUESTIONS FOR WRITTEN EXAMINATION—Continued

Sections	Questions
391.45(b) (True)	A driver must be physically examined at least every 24 months.
391.45(c) (True)	If a driver suffers a physical or mental injury or impairment which could affect his ability to perform normal duties, he must undergo a new physical examination and recertification before returning to driving.
392.1 (True)	A driver must be familiar with the rules set forth in the Motor Carrier Safety Regulations.
392.2 (False)	A driver may exceed the posted speed limit if he is late and must make a scheduled arrival.
392.2 (False)	A driver operating in interstate commerce is required to comply with only Federal regulations, not State laws.
392.3 (False)	A driver may continue to drive if he is ill or fatigued in order to complete his run.
392.5(a)(2) (False)	A driver may drink an alcoholic beverage while on duty.
392.9 (True)	No motor vehicle shall be driven unless the driver assures himself that the emergency equipment (fire extinguishers, flares, flags, etc.) is in place and ready for use.
392.9(a) (True)	A driver may not drive if the load or other objects obscure his view of interfere with his driving.
392.9(c) (True)	If the emergency equipment or exit from the cab is blocked by a person, cargo, or other objects, the driver may not operate the unit.
392.9(e) (False)	A driver of a bus transporting passengers need not be concerned with the loading of baggage, miscellaneous express or freight aboard the vehicle.
392.10 (False)	All commercial motor vehicles must stop at railroad crossings.
392.11 (True)	The driver of a vehicle approaching a railroad crossing, who is not required to stop, should slow down so that he can stop in the event of danger before he reaches the rails and should proceed only if it is safe to cross.
392.15(e) (True)	Drivers shall not use turn signals as "do pass," or "okay to pass" for vehicles approaching from the rear.
392.21 (False)	There are no regulations for parking of trucks in the Motor Carrier Safety Regulations.
392.22(c) (1), (2) (True)	If your vehicle becomes disabled, an emergency signal must be placed at a minimum of 100 feet to the front, another 10 feet from the rear, and a third 100 feet to the rear of the disabled vehicle on a straight and level road.
392.25 (False)	Flame-producing emergency signals may be carried on motor vehicles transporting explosives.
392.33 (True)	A motor vehicle may not be driven if any of the required lights or reflectors are obscured by dirt or part of the load.
392.40(e) (True)	A driver must report all details of an accident in which he is involved, to the motor carrier employing him, regardless of the amount of property damage.
392.41 (True)	After his vehicle strikes a parked vehicle, a driver must stop immediately and attempt to locate the owner of the parked vehicle.
392.41 (False)	If, after striking a parked vehicle, the driver has been unable to find the owner or operator, he can leave the scene without taking any further action.
392.42 (True)	If a driver receives a notice that his license, permit or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn, he must notify the carrier that employs him before the end of the following business day.
392.50(b) (False)	A driver may smoke in the vicinity of his vehicle while it is being fueled.

APPENDIX C—QUESTIONS FOR WRITTEN EXAMINATION—Continued

Sections	Questions
392.60 (False)	There are no restrictions in the Motor Carrier Safety Regulations preventing a driver from transporting passengers on a vehicle other than a bus.
392.62 (True)	No driver, while driving a bus, may engage in any unnecessary conversation or other activities tending to distract his attention from the operation of the bus.
392.65 (True)	If there is direct access between the sleeper berth and cab, a driver does not have to stop the vehicle when the codriver enters or leaves the sleeper berth.
392.68 (False)	A driver may disengage the gears while going down a slight grade in order to pick up speed.
393.1 (True)	The regulations prohibit driving a motor vehicle if certain of its parts and accessories are not in working order.
393.12(a) (True)	All buses and trucks over 80 inches wide must have three identification lamps mounted on the vertical centerline.
393.18(b) (False)	During hours of darkness, loads projecting beyond the sides and over 4 feet beyond the rear of a motor vehicle must be marked by red flags only.
393.32 (True)	Detachable connections cannot be made by twisting together wires from the towed and towing units.
393.41(a) (True)	Parking brakes must be adequate to hold the vehicle on any grade on which it is operated.
393.42(c) (False)	Truck-tractors having only two axles need not have brakes on the front wheels.
393.43(d) (True)	Trailer brakes must automatically apply when the trailer "breaks loose" from the tractor.
393.60(c) (False)	Labels and stickers required by law may be affixed at the top of motor vehicle windshields.
393.65(e)(1) (True)	The filling opening of every fuel tank must be covered by a secure cap or similar device.
393.70(f)(5) (True)	Full trailers and converter dollies must have safety chains in addition to the tow bar, attaching them to the towing vehicle.
393.77(a)(6) (False)	Portable heaters may be used in the cabs of motor vehicles.
393.80 (False)	Only one rear vision mirror is required on all motor vehicles.
393.82 (True)	All vehicles must be equipped with a speedometer, except driveway-towaway operations.
393.95(a) (True)	All vehicles must be equipped with fire extinguishers.
393.95(d) (True)	Tire chains must be carried when a driver is likely to encounter conditions requiring their use.
393.95(f)(3) (True)	Three red emergency reflectors and two red flags provide adequate warning devices for a stopped or disabled vehicle.
393.96(c) (False)	First aid kits are required on all motor vehicles.
395.1 (True)	Drivers shall be familiar with the rules governing the hours-of-service limitations.
395.1(a)(1) (False)	If a dispatcher notifies you that your truck will not be ready for an hour but that you must stand by until it is ready, your time waiting for the truck is logged as off-duty.
395.2(a) (True)	Meal stops and coffee breaks taken while a driver is enroute to a destination shall be logged as "on-duty" time.
395.2(a)(1) (False)	A driver awaiting dispatch at a carrier's terminal may show his time as off-duty time.
395.2(a)(2) (False)	Time spent inspecting or servicing your vehicle is off-duty time.

APPENDIX C—QUESTIONS FOR WRITTEN EXAMINATION—Continued

Sections	Questions
395.2(a)(4) (True)	In a two-man operation using a conventional cab truck or tractor not equipped with a sleeper berth, time spent by each occupant riding but not driving would be logged as on-duty time.
395.2(a)(5) (False)	Time spent loading or unloading a vehicle may be logged as off-duty time.
395.2(a)(7) (True)	Time spent at the scene of a breakdown, or repairing a disabled vehicle must be logged as on-duty time.
395.2(g) (False)	A driver may use the seat of his vehicle as a sleeper berth and log his time in it as sleeper berth time.
395.3(a) (False)	A driver may drive after having been on duty for 15 hours.
395.3(a) (True)	Off-duty time may be spent resting in a sleeper berth in two periods, neither of which is less than 2 hours.
395.3(a) (False)	Local drivers are not subject to the hours-of-service regulations.
395.3(b) (True)	A driver may not be on duty more than 60 hours in any period of 7 consecutive days, or 70 hours in any 8 consecutive days in the case of a carrier who operates every day of the week.
395.8(a) (True)	Drivers are required to make true and accurate entries on their logs.
395.8(a) (True)	Failure to make logs when required, or making false entries on the logs, make both the driver and the carrier liable to prosecution.
395.8(a) (True)	A driver is accountable for each entry he makes on his daily log even when he makes entries under company instructions.
395.8(b) (True)	A driver's logs must be kept current to the time of his last change of duty status.
395.8(c) (True)	A driver must make out his logs in his own handwriting.
395.8(r) (False)	A driver may wait until the end of a trip to make out his logs even if the trip takes 2 or more days.
395.8(r) (True)	When drivers' logs are required, the driver must forward the original of his log to the carrier each day.
395.8(s) (False)	A driver must retain a duplicate copy of each daily log for 30 days in his files at home.
395.8(t) (True)	If all of your driving is wholly within a 50-mile radius of your home terminal and the carrier keeps required records you do not have to keep a daily log.
395.13 (True)	If a driver is stopped during a road check and is found to be in violation of the on-duty or driving time rules, he may be placed "out of service" at that point.
396.4 (False)	If a motor vehicle, being operated on a highway, is discovered to be in an unsafe condition, likely to be hazardous or to result in a breakdown, the driver may continue to operate it to the carrier's terminal or shop facility, if the terminal or shop is within 200 miles.
396.4 (False)	A driver may drive a motor vehicle, which by reason of its mechanical condition is so imminently hazardous as to be likely to cause an accident or breakdown, if he has reported the vehicle's condition to his supervisor.

APPENDIX C—QUESTIONS FOR WRITTEN EXAMINATION—Continued

Sections	Questions
396.5(a) (True)	Certain representatives of the Bureau of Motor Carrier Safety are authorized to inspect vehicles and cargo of motor carriers in operation.
395.5(c)(1) (True)	Representatives of the Bureau of Motor Carrier Safety may declare a motor vehicle "out of service" if, by reason of its mechanical condition or loading, it is so imminently hazardous as to be likely to cause an accident or a breakdown.
396.5(c)(2) (False)	Vehicles that have been marked "out of service" may be operated before necessary repairs have been made.
396.5(c)(4) (True)	Only the person who makes the repairs may certify that the repairs required by an out-of-service notice have been completed.
396.5(c)(4) (True)	The Motor Carrier Safety Regulations allow drivers to make repairs to their vehicles if assistance is not readily available.
396.6 (True)	Motor vehicles damaged in an accident may not be driven until a qualified inspector determines that they are in safe operating condition.
396.7 (True)	Drivers are required to prepare written daily vehicle condition reports.
396.7 (False)	A written vehicle condition report need not be prepared by a driver who informs his shop steward of all defects or deficiencies of the motor vehicle within two hours after returning to the terminal or shop facility.
397.01(b) (False)	The rules in Part 397, Transportation of Hazardous Materials; Driving and Parking Rules, do not apply to over-the-road drivers (interstate), only to city deliveries.
397.02 (False)	Motor carriers are not required to instruct their employees about the hazardous materials regulations.
397.1(b) (True)	Motor vehicles transporting Class A or Class B explosives must be attended at all times.
397.1(c) (False)	Motor vehicles transporting dangerous articles other than explosives may never be left unattended upon any public street or highway.
397.1(d) (True)	Motor vehicles transporting explosives and other dangerous articles must, when practicable, avoid congested places.
397.1(e) (False)	Motor vehicles may be fueled at any time when transporting any type of hazardous material.
397.1(g) (False)	Smoking is permitted on any motor vehicle transporting hazardous materials.
177.817(c) (True)	When transporting dangerous articles, a driver must have in his possession a shipping paper which shows the proper name and classification of the article in transit.
177.823(a)(3) (True)	When required, hazardous material placards must be on both sides, front and rear of the vehicle.
177.823(b)(1) (True)	A tank vehicle used exclusively for transporting gasoline or other flammable liquids must be marked or placarded, whether it is loaded or empty.
177.823(d) (True)	All hazardous material placards must be removed from a van-type trailer after a hazardous commodity is unloaded from the trailer.

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