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Part I

(Part II begins on page 6791)

Agencies in this issue—

Detailed list of Contents appears inside.

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Contents

(Continued on next page)

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.

7 CFR

301 ... 6747
905 ... 6747
908 ... 6747
944 ... 6747
959 ... 6748
1421 ... 6748

PROPOSED RULES:

1005 ... 6762
1033 ... 6762
1034 ... 6762
1035 ... 6762
1041 ... 6762

9 CFR

76 ... 6748

14 CFR

71 (3 documents) ... 6749

PROPOSED RULES:

39 ... 6761

32 CFR

69 ... 6750

33 CFR

PROPOSED RULES:

117 (2 documents) ... 6760

42 CFR

81 (2 documents) ... 6750

45 CFR

249 (2 documents) ... 6792

46 CFR

502 ... 6751
531 ... 6751
536 ... 6751

PROPOSED RULES:

540 ... 6762

47 CFR

1 ... 6751
2 ... 6752
63 ... 6753
64 ... 6753
74 ... 6752
83 ... 6757

49 CFR

173 ... 6758
177 ... 6758

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—White-Fringed Beetle

REGULATED AREAS

Correction

In F.R. Doc. 70-4715 appearing at page 6261 in the issue for Friday, April 17, 1970, make the following change in § 301.72-2a: Under the State of "Louisiana" paragraph (1), "Webster Parish," line 1, the figure "19" should read "18".

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

[Grapefruit Reg. 68, Amdt. 4]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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 recommendation of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of grapefruit grown in Florida.

(a) *Order.* In § 905.514 (Grapefruit Regulation 68, 34 F.R. 14380, 18449, 19809; 35 F.R. 5460), the provisions of (a)(1)(iii) and (a)(1)(v) are amended to read as follows:

§ 905.514 Grapefruit Regulation 68.

(a) * * *

(1) * * *

(iii) Any seedless grapefruit, grown in Regulation Area I, which do not grade at least U.S. No. 1 Golden;

* * * * *

(v) Any seedless grapefruit, grown in the production area, which are smaller than $3\frac{7}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said U.S. Standards for Florida Grapefruit.

* * * * *

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

Dated April 24, 1970, to become effective April 27, 1970.

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

[F.R. Doc. 70-5223; Filed, Apr. 28, 1970; 8:49 a.m.]

[Valencia Orange Reg. 309, Amdt. 1]

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

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 33 F.R. 19829) regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof 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 Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(iii) of § 908.609 (Valencia Orange Regulation 309, 35 F.R. 6183) are hereby amended to read as follows:

§ 908.609 Valencia Orange Regulation 309.

* * * * *

(b) * * *

(1) * * *

(iii) District 3: 250,000 cartons.

* * * * *

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

Dated: April 23, 1970.

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

[F.R. Doc. 70-5190; Filed, Apr. 28, 1970; 8:46 a.m.]

[Grapefruit Reg. 10, Amdt. 6]

PART 944—FRUIT; IMPORT REGULATIONS

Grapefruit

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the provisions of paragraph (a) of Grapefruit Regulation 10 (§ 944.106, 33 F.R. 14365, 17895; 34 F.R. 7898, 11135, 14383; 35 F.R. 5462), are hereby amended to read as follows:

§ 944.106 Grapefruit Regulation 10.

(a) On and after April 27, 1970, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smalled than $3\frac{15}{16}$ inches in diameter except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Grapefruit;

(2) Seedless grapefruit shall grade at least Improved No. 2 ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.);

(3) Seedless grapefruit shall be not smaller than $3\frac{7}{16}$ inches in diameter, except that a tolerance of 10 percent, by

count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances as specified in the U.S. Standards for Florida Grapefruit.

* * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this amendment beyond that hereinafter specfied (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions on imports of all grapefruit as the grade and size restrictions being made applicable to the shipment of all grapefruit grown in Florida under amended Grapefruit Regulation 68 (§ 905.514); (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of grapefruit.

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

Dated April 24, 1970, to become effective April 27, 1970.

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

[F.R. Doc. 70-5224; Filed, Apr. 28, 1970; 8:49 a.m.]

[Amdt. 1]

PART 959—ONIONS GROWN IN SOUTH TEXAS

Termination

Findings. (a) Pursuant to Marketing Agreement No. 143 and Order No. 959 (7 CFR Part 959), both as amended, regulating the handling of onions grown in designated counties in South Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the South Texas Onion Committee, it is hereby found that continuation in effect of Amendment No. 1 (35 F.R. 5607) to the limitation of shipments, which provided that onions handled for export may be packaged or loaded on Sundays, no longer tends to effectuate the declared policy of the act, and should, therefore, be terminated.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this termination order until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the purpose of Amendment No. 1 was to facilitate the export of onions on a limited basis; i.e., these packaged or loaded on April 5, 1970; (2) such time has already passed, and (3) compliance with this action will not require any special preparation on the part of handlers.

Order. The provisions of subparagraph (4) of paragraph (e) of § 959.310 (34 F.R. 19290 and 35 F.R. 5607) are hereby terminated.

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

Dated: April 23, 1970 to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 70-5191; Filed, Apr. 28, 1970; 8:46 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Reseal Loan Regs., 1965 and Subsequent Storage Periods, Amdt. 5]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—Farm Storage Reseal Loan Program

COMMINGLED COMMODITIES

The regulations issued by Commodity Credit Corporation and published at 33 F.R. 5201, as amended, which contain the regulations governing farm storage reseal loan programs for 1965 and subsequent storage periods, are hereby amended by adding paragraph (c) to § 1421.3490. The change will authorize county committees to permit producers to redeem the commodity from one crop year and deliver the commodity from another crop year in the case of commingled crops in a bin or crib when loans on one or more crops are called. The new paragraph reads as follows:

§ 1421.3490 Commingling.

* * * * *

(c) *Deliveries when commodities from different crop years are commingled.* Notwithstanding any other provisions of this section, when a commodity from two or more crop years has been commingled and one or more of the loans secured by such commodity is called, the county committee, upon request of the producer, may authorize the producer to redeem the quantity of a commodity securing one or more loans and deliver the balance of the commodity in the bin or crib in satisfaction of the remaining outstanding loans subject to the following conditions:

(1) If the producer is permitted to deliver one of the commingled crops from a bin or crib containing a commodity from more than one crop year, the maximum quantity which may be delivered shall not exceed the quantity of the crop predetermined on Form CCC–687–1, Approval to Commingle or Move Loan Collateral, to have been in the bin or crib at the time of commingling, less any quantity redeemed.

(2) The producer shall waive all rights to deliver and receive price support and storage payment for any quantity of a commodity delivered to CCC in excess of the quantity determined under subparagraph (1) of this paragraph. Settlement value for any additional quantity that is inadvertently delivered to CCC shall be the lower of the loan value or the current market price on the date of delivery.

(3) The commodity from other crop years remaining in the bin must be redeemed.

(4) The producer of crops redeemed from the bin shall waive all rights to receive storage payment for any quantity of the commodity from such crops in excess of the quantity predetermined to have been in the bin at the time of the commingling, less any quantity already redeemed.

(5) If it is determined that the total quantity in the bin is less than the total of the predetermined quantity represented to have been in the bin, any such shortage will be considered to have been from the oldest crop in the commingled bin.

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 105, 107, 301, 401, 405, 63 Stat. 1051, as amended; 15 U.S.C. 714(b); 7 U.S.C. 1441, 1447, 1421, and 1425)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on April 23, 1970.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 70-5189; Filed, Apr. 28, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

swine diseases, is hereby amended in the following respects:

1. In § 76.2, in subparagraph (e)(4) relating to the State of Illinois, subdivision (i) relating to Jefferson County is deleted.

2. In § 76.2, the State of Missouri is deleted from the introductory portion of paragraph (e), and subparagraph (e)(9) relating to the State of Missouri is deleted.

3. In § 76.2, in subparagraph (e)(20) relating to the State of Virginia, a new subdivision (xi) relating to Rockingham County is added to read:

(e) * * *

(20) *Virginia.* * * *

(xi) That portion of Rockingham County bounded by a line beginning at the junction of Secondary Highways 726 and 701; thence, following Secondary Highway 701 in a southerly direction to Primary Highway 42; thence, following Primary Highway 42 in a southwesterly direction to Primary Highway 257; thence, following Primary Highway 257 in a generally westerly direction to Secondary Highway 742; thence, following Secondary Highway 742 in a generally northerly direction to Secondary Highway 613; thence, following Secondary Highway 613 in a northeasterly direction to Secondary Highway 732; thence, following Secondary Highway 732 in a northwesterly direction to U.S. Highway 33; thence, following U.S. Highway 33 in an easterly direction to Secondary Highway 612; thence, following Secondary Highway 612 in a northeasterly direction to Secondary Highway 726; thence, following Secondary Highway 726 in a generally southeasterly direction to its junction with Secondary Highway 701.

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

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

The amendments quarantine a portion of Rockingham County in Virginia because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to such county.

The amendments also exclude portions of Jefferson County in Illinois and a portion of Dunklin County in Missouri from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine.

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

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

Done at Washington, D.C., this 23d day of April 1970.

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

[F.R. Doc. 70-5188; Filed, Apr. 28, 1970; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-SW-10]

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

Alteration of Transition Area

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

On March 6, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 4217) stating the Federal Aviation Administration proposed to alter the Guymon, Okla., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 25, 1970, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the Guymon, Okla., transition area is amended to read as follows:

GUYMON, OKLA.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Guymon Municipal Airport (lat. 36°40'45" N., long. 101°30'30" W.), and within 3.5 miles each side of the 006° bearing from the Guymon RBN (lat. 36°42'19" N., long. 101°30'17" W.) extending from the 8-mile radius area to 11 miles north of the RBN; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles west and 4.5 miles east of the 006° and 186° bearings from the Guymon RBN extending from 18.5 miles north to 1 mile south of the RBN.

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

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

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-5182; Filed, Apr. 28, 1970; 8:45 a.m.]

[Airspace Docket No. 70-WE-2]

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

Designation of Transition Area

On March 28, 1970 F.R. Doc. 70-3738 was published in the FEDERAL REGISTER (35 F.R. 5216) adopting an amendment to Part 71 of the Federal Aviation Regulations that designated a transition area for Hanford, Calif., airport.

Subsequent to the publication of this document, it was determined that an error had been made in describing the transition area. Action is taken herein to correct that error.

Since this correction is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the effective date as originally adopted may be retained.

In consideration of the foregoing, in § 71.181 (35 F.R. 5216), the description of the Hanford, Calif., transition area is amended by deleting "* * * 214° radial * * *" where it appears in the text, and substituting "* * * 246° radial * * *" therefor.

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

Issued in Los Angeles, Calif., on April 17, 1970.

NED K. ZARTMAN,
Acting Director, Western Region.

[F.R. Doc. 70-5183; Filed, Apr. 28, 1970; 8:45 a.m.]

[Airspace Docket No. 70-WE-15]

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

Alteration of Control Zone and Transition Area

On March 6, 1970, a notice of proposed rulemaking was published in the FEDERAL REGISTER (35 F.R. 4218) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Lamar, Colo., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t. June 25, 1970.

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

Issued in Los Angeles, Calif., on April 17, 1970.

NED K. ZARTMAN,
Acting Director, Western Region.

In § 71.181 (35 F.R. 2134) the description of the Lamar, Colo., transition area is amended to read as follows:

LAMAR, COLO.

That airspace extending upward from 700' above the surface within a 6-mile radius of Lamar Airport (latitude 38°04'10" N., longitude 102°41'25" W.) and within 3.5 miles each side of the Lamar VOR 001° radial, extending from the 6-mile radius area to 10 miles north of the VOR; that airspace extending upward from 1,200' above the surface within 6 miles east and 9.5 miles west of the Lamar 001° and 181° radials extending from 18.5 miles east to 8 miles south of the VOR.

[F.R. Doc. 70-5184; Filed, Apr. 28, 1970; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL, MILITARY AND CIVILIAN

PART 69—OVERSEAS DEPENDENTS EDUCATION, DEPARTMENT OF DEFENSE

Mission and Concept of Operations; Responsibilities and Functions

The following amendments to §§ 69.4 and 69.5 have been approved: Section 69.4, as amended, now reads as follows:

§ 69.4 Mission and concept of operations.

(a) The mission of the DOD Overseas Dependents Schools is to maintain a school system which provides educational opportunities through 13 years of school (Kindergarten through grade 12); to assure that such educational opportunities are of high quality and are comparable in all respects to the better school systems of the United States; to maintain such schools in sufficient numbers and types, properly staffed and equipped to provide quality education for eligible dependent children of U.S. military and civilian personnel of the Department of Defense stationed in overseas areas.

(b) The DOD Overseas Dependents Schools System shall be divided into three geographical school areas for operation and administration: European, Pacific, and Atlantic. The European and Pacific school areas shall be subdivided into school districts. The Atlantic Area will be a combination school area-district.

(c) In developing school districts and determining the number required, the Secretaries of the Military Departments will:

(1) Consider student load, geographical location of schools, consolidation of academic functions, and personnel economies; and

(2) Seek to achieve maximum consolidation of academic functions which will permit personnel economies without diminution of the quality of education provided to dependent children. The initial proposed district organization and any subsequent changes thereto will be submitted to the ASD(M&RA) for approval prior to implementation.

Section 69.5(a), as amended, now reads as follows:

§ 69.5 Responsibilities and functions.

(a) Under the direction of the Secretary of Defense:

(1) The Assistant Secretary of Defense (Manpower and Reserve Affairs) will be responsible for establishing the policies for the organization, operation and administration of the Overseas Dependents Schools System of the Department of Defense. To carry out the above responsibilities, ASD(M&RA) will perform the following functions:

(i) Determine the general educational goals and objectives of overseas dependents schools.

(ii) Develop appropriate curricula and lists of approved instructional materials for use within the Overseas Dependents Schools System.

(iii) Establish professional standards for all school professional personnel.

(iv) Provide for the common recruitment, selection, assignment, and transfer of all school professional personnel to and between overseas school areas.

(v) Develop standards for the effective operation and administration of the academic program, including staffing criteria.

(vi) Develop policy and guidelines for the establishment and disestablishment of Department of Defense Overseas Dependents Schools, including dormitory facilities; and serve as liaison with the State Department when political considerations are involved.

(2) The Assistant Secretary of Defense (Installations and Logistics) will be responsible for establishing policies for the logistical support of the Overseas Dependents Schools System of the Department of Defense. To carry out this responsibility, ASD(I&L) will perform the following functions:

(i) Provide for the procurement and distribution of school unique items.

(ii) Develop design and engineering criteria for the construction of school facilities based on functional requirements provided by ASD(M&RA).

(iii) Provide for the programing of school facilities in annual military construction programs or otherwise as required, following priorities for individual school projects established by the ASD (M&RA).

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

[F.R. Doc. 70-5187; Filed, Apr. 28, 1970; 8:46 a.m.]

Title 42—PUBLIC HEALTH

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

SUBCHAPTER G—PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

On January 17, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 630) to amend Part 81 by designating the Metropolitan Memphis Interstate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on January 28, 1970. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, section 81.44, as set forth below, designating the Metropolitan Memphis Interstate Air Quality Control Region, is adopted effective on publication.

§ 81.44 Metropolitan Memphis Interstate Air Quality Control Region.

The Metropolitan Memphis Interstate Air Quality Control Region (Arkansas-Mississippi-Tennessee) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in sec. 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:
Crittenden County.
In the State of Mississippi:
De Soto County.
In the State of Tennessee:
Shelby County.

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: April 21, 1970.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-5099; Filed, Apr. 28, 1970; 8:45 a.m.]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

On February 3, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 2411) to amend Part 81 by designating the Metropolitan Atlanta Intrastate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule

making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on February 13, 1970. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, section 81.45, as set forth below, designating the Metropolitan Atlanta Intrastate Air Quality Control Region, is adopted effective on publication.

§ 81.45 Metropolitan Atlanta Intrastate Air Quality Control Region.

The Metropolitan Atlanta Intrastate Air Quality Control Region (Georgia) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in sec. 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Clayton County.	Fulton County.
Cobb County.	Gwinnett County.
De Kalb County.	Henry County.
Douglas County.	

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: April 21, 1970.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-5100; Filed, Apr. 28, 1970; 8:45 a.m.]

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 16; Amdt. 8]

PART 502—RULES OF PRACTICE AND PROCEDURE

Mailing Address; Hours

By notice published in the FEDERAL REGISTER on March 24, 1970 (35 F.R. 5011), the Federal Maritime Commission, because of the emergency caused by the postal strike in the New York area, modified its rules of practice and procedure to allow filings in compliance therewith to be made by persons at the Port of New York at its New York office until further notice. The emergency situation having been removed, no further necessity appears for the continuation of such modification.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), Part 502 of Chapter IV of Title 46 CFR is hereby amended by deleting the third sentence of § 502.2.

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

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5216; Filed, Apr. 28, 1970; 8:49 a.m.]

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Tariff Circular 3]

PART 531—PUBLICATION, POSTING AND FILING OF FREIGHT AND PASSENGER RATES, FARES AND CHARGES IN THE DOMESTIC OFFSHORE TRADE

Filing and Posting of Tariff Publications

By notice published in the FEDERAL REGISTER on March 24, 1970 (35 CFR 5011), the Federal Maritime Commission, because of the emergency caused by the postal strike in the New York area, modified its tariff filing requirements to allow filing by persons at the Port of New York with its New York office until further notice. The emergency situation having been removed, no further necessity appears for the continuance of such modification.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and section 43 of the Shipping Act, 1916 and section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 841(a) and 844), Part 531 of Chapter IV of Title 46 CFR is hereby amended by deleting the third sentence of paragraph (a) of § 531.2.

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

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5217; Filed, Apr. 28, 1970; 8:49 a.m.]

[General Order 13; Amdt. 5]

PART 536—FILING OF TARIFFS BY COMMON CARRIERS BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES AND BY CONFERENCES OF SUCH CARRIERS

Filing of Tariffs; General

By notice published in the FEDERAL REGISTER on March 24, 1970 (35 CFR 5011), the Federal Maritime Commission, because of the emergency caused by the postal strike in the New York area, modified its tariff filing requirements to allow filing by persons at the Port of New York with its New York office until further notice. The emergency situation having been removed, no further necessity appears for the continuance of such modification.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 18(b) and 43 of the Shipping Act, 1916 (46 U.S.C. 817b and 841(a)), Part 536 of Chapter IV of Title 46 CFR is hereby amended by amending paragraph (a) of § 536.2 to delete the second sentence thereof.

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

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5218; Filed, Apr. 28, 1970; 8:49 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 70-414]

PART 1—PRACTICE AND PROCEDURE

Coordination and Use of Radio Frequencies Above 30 Megacycles Per Second Between U.S. and Canada

In the matter of amendment of § 1.955 of the Commission's rules and regulations concerning coordination and use of radio frequencies above 30 megacycles per second between the United States of America and Canada.

Order. 1. Reflecting the result of an agreement between the United States of America and Canada on the "Coordination and Use of Radio Frequencies Above 30 Megacycles per Second", effected by an exchange of notes on October 24, 1962, § 1.955 of the Commission's rules and regulations indicates the frequency bands in which frequency assignment information and engineering comments on proposed assignments are exchanged.

2. At a meeting held in Washington, D.C., on October 1 and 2, 1964, representatives of the two governments, after further discussions of the problems of frequency assignment and use, recommended that certain amendments be made in the technical annex to the aforementioned agreement. Those amendments necessitate a modification of § 1.955 of the Commission's rules and regulations. Because the rule changes involve their conformance with a bilateral international agreement and reflect Agency procedure and practice, the provisions of section 553 of the Administrative Procedure Act relating to public notice are not applicable.

3. Therefore, pursuant to authority provided by sections 4(i) and 303 of the Communications Act of 1934, as amended, *It is ordered*, That effective May 1, 1970, § 1.955 of the Commission's rules and regulations is amended as set forth below.

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

Adopted: April 22, 1970.

Released: April 24, 1970.

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

In Chapter 1, Title 47 of the Code of Federal Regulations, Part 1, § 1.955 is amended to read as follows:

§ 1.955 Frequency coordination, Canada.

(a) As a result of mutual agreements, the Commission has, since May 1950 had an arrangement with the Canadian Department of Transport for the exchange of frequency assignment information and engineering comments on proposed assignments along the Canada-United States borders in certain bands above 30 Mc/s. Except as provided in paragraph (b) of this section, this arrangement involves assignments in the following frequency bands:

Mc/s	*Mc/s*
30.56–32.00	465.275–470.00
33.00–34.00	942.00–960.00
35.00–36.00	1850.0–2200.0
37.00–38.00	2450.0–2690.0
39.00–40.00	3700.0–4200.0
42.00–46.60	5925.0–7125.0
47.00–49.60	*Gc./s.*
72.00–73.00	10.55–10.68
75.40–76.00	10.70–13.25
150.80–174.00	
450.00–464.725	

(b) The following frequencies are not involved in this arrangement because of the nature of the services:

Mc/s	*Mc/s*
156.3	156.95
156.35	157.0 and 161.6
156.4	157.05
156.45	157.1
156.5	157.15
156.55	157.20
156.6	157.25
156.65	157.30
156.7	157.35
156.8	157.40
156.9	

(c) Assignments proposed in accordance with the railroad industry radio frequency allotment plan along the United States-Canada borders utilized by the Federal Communications Commission and the Department of Transport, respectively, may be excepted from this arrangement at the discretion of the referring agency.

(d) Assignments proposed in any radio service in frequency bands below 470 Mc/s appropriate to this arrangement, other than those for stations in the Domestic Public (land mobile or fixed) category, may be excepted from this arrangement at the discretion of the referring agency if a base station assignment has been made previously under the terms of this arrangement or prior to its adoption in the same radio service and on the same frequency and in the local area, and provided the basic characteristics of the additional station are sufficiently similar technically to the original assignment to preclude harmful interference to existing stations across the border.

(e) For bands below 470 Mc/s, the areas which are involved lie between Lines A and B and between Lines C and D, which are described as follows:

Line A—Begins at Aberdeen, Wash., running by great circle arc to the intersection of 48° N., 120° W., thence along parallel 48° N., to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45° N., 85° W., thence southward along meridian 85° W., to its intersection with parallel 41° N., thence along parallel 41° N., to its intersection with meridian 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates; and

Line B—Begins at Tofino, B.C., running by great circle arc to the intersection of 50° N., 125° W., thence along parallel 50° N., to the intersection of 90° W., thence by great circle arc to the intersection of 45° N., 79° 30′ W., thence by great circle arc through the northernmost point of Drummondville, Quebec (lat: 45°52′ N., long: 72°30′ W.), thence by great circle arc to 48°30′ N., 70° W., thence by great circle arc through the northernmost point of Campbellton, N.B., thence by great circle arc through the northernmost point of Liverpool, N.S., at which point it terminates.

Line C—Begins at the intersection of 70° N., 144° W., thence by great circle arc to the intersection of 60° N., 143° W., thence by great circle arc so as to include all of the Alaskan Panhandle; and

Line D—Begins at the intersection of 70° N., 138° W., thence by great circle arc to the intersection of 61°20′ N., 139° W. (Burwash Landing), thence by great circle arc to the intersection of 60°45′ N., 135° W., thence by great circle arc to the intersection of 56° N., 128° W., thence south along 128° meridian to Lat. 55° N., thence by great circle arc to the intersection of 54° N., 130° W., thence by great circle arc to Port Clements, thence to the Pacific Ocean where it ends.

(f) For all stations using bands between 470 Mc/s and 1000 Mc/s; and for any station of a terrestrial service using a band above 1000 Mc/s, the areas which are involved are as follows:

(1) For a station the antenna of which looks within the 200° sector toward the Canada-United States borders, that area in each country within 35 miles of the borders;

(2) For a station the antenna of which looks within the 160° sector away from the Canada-United States borders, that area in each country within 5 miles of the borders; and

(3) The area in either country within coordination distance as described in Recommendation 1A of the Final Acts of the EARC, Geneva, 1963 of a receiving earth station in the other country which uses the same band.

(g) For bands above 1000, coordination of an earth station is required if any portion of the Canada-United States borders lies within the coordination distance as described in Recommendation 1A of the Final Acts of the EARC, Geneva, 1963 of the earth station.

[F.R. Doc. 70-5207; Filed, Apr. 28, 1970; 8:48 a.m.]

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

[Docket No. 18777; FCC 70-415]

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Government Space Research Earth Stations

In the matter of amendment of Parts 2 and 74 of the Commission's rules to permit continued limited access to the frequency band 1990–2110 MHz for Government space research earth stations.

Report and order. 1. On January 8, 1970, the Commission adopted a notice of proposed rule making in the above-captioned matter (35 F.R. 543), calling for comments on or before February 24, 1970, and for reply comments on or before March 11, 1970. Inasmuch as no comments were filed in this proceeding, the Commission will proceed as indicated in its notice of January 8, 1970.

2. Action was initiated in this proceeding on the basis of a request from the Office of Telecommunications Management (OTM) for the Commission's views with respect to a proposal by the National Aeronautics and Space Administration (NASA) for their continued use of the frequency 2106.4 MHz. Their use of the frequencies 2106.4 and 2101.8 MHz is presently authorized until December 31, 1970, in connection with Project Apollo for earth to space transmissions at Goldstone, Calif.; Cape Kennedy, Fla.; Kauai, Hawaii; Corpus Christi, Tex.; and Guam, Mariana Islands by virtue of footnote US96 to the Table of Frequency Allocations, section 2.106 of the Commission's rules. The instant proposal would permit the continued use of the frequency 2106.4 MHz, without time limit, at each of the above sites, for other-than-Apollo projects, with 5000F9 emission and a mean power of 10 kw. for uplink use in tracking, ranging and telecommand functions. However, unlike the provisions of US96 as reflected in Part 74 of the Commission's rules, the accommodation contemplated herein would not require Commission licensees to accept any harmful interference that might be experienced during the flight of spacecraft operating under the provisions of this rule change.

3. The Commission finds that adoption of the proposed rules would serve the public interest, and, accordingly: *It is ordered*, That effective June 1, 1970, Parts 2 and 74 of the Commission's rules are amended as set forth below, pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. *It is further ordered*,

That the proceedings in Docket No. 18777 are terminated herewith.

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

Adopted: April 22, 1970.

Released: April 24, 1970.

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

§ 2.106 [Amended]

1. In § 2.106, the Table of Frequency Allocations is amended by inserting a new footnote indicator (US111) in Columns 6 for the frequency band 1850–2200 MHz, and by adding a new footnote to the list of U.S. footnotes to read as follows:

* * * * *

US111 Government space research earth stations may be authorized to use the frequency 2106.4 MHz for earth-to-space transmissions for tracking, ranging and telecommand purposes at only the sites listed below. Such transmissions shall not cause harmful interference to non-Government operations.

Goldstone, Calif. (35°23'20" N., 116°50'53" W.).
Cape Kennedy, Fla. (28°28'54" N., 80°34'35" W.).
Kauai, Hawaii (22°07'31" N., 159°40'16" W.).
Corpus Christi, Tex. (27°39'19" N., 97°22'49" W.).
Guam, Mariana Islands (13°18'34" N., 144° 44'10" E.).

* * * * *

2. Section 74.602(a) is amended by adding the following paragraph to footnote 1 to read as follows:

§ 74.602 Frequency assignment.

(a) * * *

[1] * * * Additionally, without a specified termination date, the frequency 2106.4 Mc/s may be assigned at the above named locations for earth-to-space transmissions for tracking, ranging and telecommand purposes in connection with other-than-Apollo space research programs. Such transmissions shall not cause harmful interference to TV auxiliary stations.

* * * * *

[F.R. Doc. 70-5208; Filed, Apr. 28, 1970; 8:48 a.m.]

[Docket No. 18509; FCC 70-425]

PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Applications of Telephone Companies for Certificates for Channel Facilities Furnished to Affiliated CATV Systems

In the matter of applications of telephone companies for section 214 certificates for channel facilities furnished to affiliated community antenna television systems.

Memorandum opinion and order. 1. Before us for consideration are a "Petition for Stay" of our final report and order, released February 4, 1970 (FCC 70-115, 21 FCC 2d 307) in the above-captioned proceeding, filed on February 25, 1970, by the General System Cos.;[1] a "Petition for Stay of Final Report and Order" by United Utilities, Inc., and its subsidiary United Telephone Operating Cos., filed on March 3, 1970; a "Response to Petition for Stay" by the United States Independent Telephone Association (USITA), filed on March 3, 1970; a "Petition for Stay of Final Report and Order" filed on March 11, 1970 by T–V Transmission Inc.; a "Petition for Reconsideration" by Tele-Cable Corp. (TeleCable), filed on March 4, 1970; a "Petition for Reconsideration" by the National Association of Educational Broadcasters (NAEB), filed March 12, 1970; and an "Opposition to Petition for Stay" by the National Cable Television Association, Inc. (NCTA), filed on March 6, 1970, and a "Response of Continental Telephone Corp. (Continental) to Petition for Rehearing Submitted in Behalf of Tele-Cable Corp.", filed on March 16, 1970.[2]

2. The petitions for stay request that the effective date of our said Final Report and Order (hereinafter referred to as report or decision) be stayed pendente lite, while it is on appeal before an appropriate U.S. Circuit Court of Appeals. Unless stayed, the report would have been effective March 16, 1970. In the interest of orderly procedure in an order of March 11, 1970 (FCC 70-256) we stayed the effective date of the report pending action on the above pleadings listed in paragraph 1.

3. In the report, among other things, we held that no telephone common carrier subject, in whole or in part, to the Communications Act, shall directly or indirectly through an affiliate, engage in the furnishing of CATV service to the viewing public in its telephone service area. With respect to the existing operations, we required telephone companies to discontinue providing such CATV service within 4 years from March 16, 1970, with the proviso that during the said period temporary section 214 authorizations to provide facilities to existing affiliated or related systems may be granted. We also made provision for a waiver of the rules upon a showing that CATV service could not exist in the community except through a CATV system related to or affiliated with the local telephone common carrier.

I. *The Pleadings.* 4. In support of their requests for stay, petitioners assert that upon the effective date of the rules, all telephone companies would be required immediately to cease providing all CATV services, either directly or indirectly through an affiliate, and all common carrier CATV channel services to any CATV customers with which they are affiliated or related to the extent defined in the rules. They further assert that the only exceptions contemplated by the rules are the following: (1) Existing leased channel services to CATV systems may be resumed until March 16, 1974, upon the grant of a temporary authorization under section 214(a) of the Act (section 63.56); and (2) waiver of the rules may be granted where it is shown that CATV service could not exist in the community except through a CATV system related to or affiliated with the local telephone common carrier (sections 63.55 and 64.602). Petitioners claim that no provision has been made for the temporary continuation of existing CATV services utilizing pole attachment or conduit space arrangements, or for facilities which have been constructed but are not yet in operation, or for extensions of existing systems within the confines of communities presently being served. As a consequence, petitioners urge that stay relief pending judicial review is necessary to prevent a loss or disruption in CATV service to the public, and economic losses to petitioners stemming from the threatened disuse of their present investment in CATV plant, inability to expand present CATV operations, and loss of potential earnings from such CATV investment.

5. In its opposition to the requests for stay, NCTA asserts that petitioners have

[1] Commissioner Cox abstaining from voting; Commissioners H. Rex Lee and Wells absent.

[1] General System participants herein include: General Telephone Company of California; General Telephone Company of Indiana, Inc.; General Telephone Company of Michigan; General Telephone Company of Ohio; General Telephone Company of Pennsylvania; General Telepone Company of the Southwest; Bethel and Mount Aetna Telephone and Telegraph Co.; Brazil Telephone Co.; General Telephone Company of the Midwest; Delaware Valley Telephone Co.; General Telephone Company of Alabama; General Telephone Company of Florida; General Telephone Company of Georgia; General Telephone Company of Illinois; General Telephone Company of Kentucky; General Telephone Company of North Carolina; General Telephone Company of the Northwest, Inc.; General Telephone Company of the Southeast; General Telephone Company of Upstate New York, Inc.; General Telephone Company of Wisconsin; Mutual Telephone Co., Inc.; Northern Ohio Telephone Co.; Pee Dee Telephone Co., Inc.; Princeton Telephone Co.; Wattsburg Telephone Corp.; Western California Telephone Co.; Woodburn Telephone Co., Inc.; York Telephone and Telegraph Co.; and Hawaiian Telephone Co. In addition, comments and reply comments were filed herein by GT&E Service Corp. on behalf of the General System, which includes, in addition to the foregoing, GT&E Communications Inc., and General Telephone & Electronics Corp.

[2] The petition for stay by T–V Transmission Inc., a CATV operator affiliated with The Lincoln Telephone and Telegraph Co., requests a stay pendente lite on the merits of our decision by the Eighth U.S. Circuit Court of Appeals. This petition contains essentially the same grounds as the telephone petitioners' filings, except that T–V Transmission Inc., argues from the standpoint of a CATV operator leasing pole space from its local telephone affiliate. This pleading as well as the petition for reconsideration by NAEB, and the "Response" by Continental, were late filed. However, in view of the importance of the subject matter, we decided to accept them for filing and considered their allegations in our discussion.

failed to show irreparable injury, that they have been on full notice since the issuance of Commission's notice of inquiry and notice of proposed rule making on April 4, 1969, and that to permit petitioners to expand their service pending review would be totally inconsistent with the determinations in the report and order as to the public interest. NCTA requests that "the petition for stay be denied, that existing services be halted pending temporary authorization under the Commission's rules, that new service and continued construction be halted, and that any extension of service or continuance of construction established after February 4, 1970, be terminated immediately as set forth in the Commission's Final Report and Order".

6. TeleCable's petition for reconsideration claims that the rules do not offer adequate protection to "independent CATV operators or public from potential abuses of the telephone monopoly over utility poles and common carrier wire communications." It asserts that the rules apply only to telephone companies "subject in whole or in part to the Communications Act of 1934, and that they can be enforced only against the carrier, not the CATV affiliate." TeleCable proposes that § 64.601 be revised to read:

No telephone communications common carrier * * * nor an affiliate owned or controlled by or under common control with any telephone communications common carrier shall directly or indirectly * * * engage in the furnishing of CATV service by the viewing public in the area served by such telephone communications common carrier.

7. The NAEB in its petition for reconsideration claims that the Final Report and Order in this proceeding did not go far enough, and that the Commission should have resolved other questions relating to CATV and to broadband communications systems in general. Specifically, the NAEB urges that the Commission should have insured that CATV systems, whether owned by telephone companies or not, act only as "distributors or conveyors" of information and programing, and that they do not themselves prepare and present "originated programing." It also urges that the Commission declare a firm intention to establish a national reservations policy, as recommended in NAEB's earlier comments in this proceeding, "which will guarantee that a fair portion of the available channel capacity will be set aside for educational and public service broadcast and nonbroadcast purposes." NAEB states that similar requests have been made in its filings in Docket No. 18397, because it believes that the Commission should make such commitments at the present time in the context of both proceedings.

8. In its response to TeleCable's petition for reconsideration, Continental contends that the Commission lacks authority to adopt § 64.601, either as promulgated, or modified as requested by TeleCable, and also challenges §§ 63.56 and 64.602. In effect, Continental seeks reconsideration not only of the policies and rules adopted in the Report herein, but also a re-examination of the holdings in General Telephone Company of California et al., 13 FCC 2d 448 (1968), affirmed in General Telephone Company of California, et al. v. Federal Communications Commission, 413 F. 2d 390 (1969), cert. den. 396 U.S. 888 (1969).

II. *Discussion*—A. *Requests for Stay Relief.* 9. The assumption in the petitions for stay that all of petitioners' existing CATV operations and leased channel offerings must be terminated immediately upon the effective date of the rules, misconstrues the intent of the Report. The rules were intended to be effective immediately only as to new services or facilities. We made clear in the Report that no precipitous withdrawal of existing CATV service was contemplated, and that all telephone common carriers were being afforded a 4 year grace period until March 16, 1974, within which to discontinue providing existing CATV services directly or through existing affiliated or related CATV systems (paragraphs 50–51 of the Report, §63.56 of the rules). Special provision was made in § 63.56 for the grant of temporary section 214 authorizations in the case of existing channel services, because these services require Commission authorization and we have not yet acted on all of the section 214 applications filed since the General Telephone decision, supra, to cover existing services. Since there is presently no rule requiring Commission authorization for the construction of CATV systems utilizing pole attachment or conduit space arrangements, there is no necessity for temporary authorization of such existing service on a case-by-case basis.[3] Enforcement of the provisions of §§ 63.56 and 64.601, with respect to such services, will be pursuant to the cease and desist provisions of section 312 (b) and (c) of the Communications Act, and no such enforcement will be undertaken as to now existing services until March 16, 1974. It is intended that existing CATV service may be continued during the 4-year grace period whether it is provided by channel service or by pole attachment or conduit space arrangements. Existing service includes new drops from existing trunk lines.

10. Nor is there any requirement for a cessation of existing channel service pending the grant of temporary authorizations under section 214. In the General Telephone case the Commission authorized a continuation of existing channel service pending the filing of and Commission action on section 214 applications with respect to such service. This authorization was not affected by our Report or the rules adopted in this proceeding. Telephone common carriers with section 214 applications on file to cover existing channel services may continue to provide such services pending Commission action on their applications. No disruption in service is called for, and no new application for temporary section 214 authorization is necessary. However, in acting on the pending applications, the Commission will grant temporary authorization only for existing channel service, if it finds that the public convenience and necessity would be served, and will dismiss any application or portion thereof which is for new construction or service contrary to the rules adopted in this proceeding. Such dismissal will be without prejudice to the filing of a petition for waiver of the rules until March 16, 1974, with a showing of good cause as to why such construction or service should be authorized in the public interest.[4]

11. Petitioners further assert as grounds for stay relief that no provision has been made for temporary furnishing of service on facilities which are already constructed or partially constructed but not yet in operation, or for extension of existing systems during the 4-year grace period. This correctly reflects the language of the Report and the rules, which make special provision only for the temporary continuation of existing service. However, § 1.3 of the Commission's rules provides that: "Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown." Here, as in other areas of CATV regulation, we will endeavor to administer our rules in such a way as to avoid inequitable situations or undue hardship to the public and to the industries involved. The rules already provide for waiver upon a showing that the public in a community otherwise would not receive CATV service. There may be other instances where a temporary waiver would be warranted upon a showing of good cause or to provide service which the public would not otherwise receive. However, in view of the purpose of the rules, we believe that our consideration of requests for special temporary relief should be on a case-by-case basis, upon petition for waiver or on the Commission's own motion, rather than by any blanket exemption until March 16, 1974. In the absence of overriding public interest considerations to the contrary, we will grant waivers where no other CATV system is operating within the community or had requested pole attachment or conduit space arrangements with the telephone company prior to March 16, 1970.

12. Since petitioners have construed the rules somewhat differently from the foregoing, we have decided to clarify the rules as set forth in the attached appendix to make our intent explicit. There are two further respects in which clarification appears warranted. While the provisions of §§ 63.54 and 63.56 are applicable to pending and new applications, we think that the showing in

[3] Cf. TeleCable Corp., 19 FCC 2d 574.

[4] Where a section 214 application is dismissed in whole or in part, but it is not returned to the applicant, it will not be necessary to file a new section 214 application with a petition for waiver with respect to such construction or service. All other petitions for waiver involving channel service to a CATV system should be accompanied by the necessary section 214 application.

applications required by § 63.57 should apply only to new applications. In processing pending applications, we will satisfy our selves that the proposed CATV customer now has available the option of pole attachment or conduit space arrangements within the limitations of technical feasibility, at reasonable charges and without undue restrictions as to use, and that such customer still desires channel service from the applicant. We will also condition any grant upon a requirement that the telephone common carrier make pole attachment or conduit space rights available to any other CATV system in the same telephone service area, upon request, on the same terms and conditions. Secondly, we will modify the provisions of §§ 63.55 and 64.602 of the rules to make clear that waivers may be granted upon other showings of good cause and to specify procedures for seeking such relief.[5] Waivers pursuant to these sections will be granted until March 16, 1974. Any renewed request for waiver filed at that time will be considered in light of the circumstances then pertaining. Here, again, we will condition the grant of any waiver upon a requirement that the telephone common carrier make pole attachment or conduit space rights available under reasonable terms and conditions to all CATV systems within its telephone service area.

13. In view of the foregoing and the clarifying modifications in the rules set forth in the appendix, we believe that stay relief pending judicial review is not warranted. The rules are not effective as to petitioners' existing operations until March 16, 1974, and it appears likely that the judicial review will have been concluded prior to that time. Rather than preserving the status quo pending judicial review, a stay of the effectiveness of the rules with respect to new service would permit the growth of a situation which we have found to be contrary to the public interest, and would cause greater disruption in achieving compliance in the event that the rules are sustained. The provisions for waiver afford an administrative avenue for relief in individual instances of hardship to petitioners or the public. In the circumstances, we conclude that the requisite showing of irreparable injury has not been made, and that the public interest would be better served by denying the requests for stay.

B. *Requests for Reconsideration.* 14. TeleCable's request in its petition for reconsideration that § 64.601 be modified to cover "an affiliate owned or controlled by or under common control with any telephone communications common carrier" will be rejected as unnecessary. It is clear from the discussion in the Report and the wording of § 64.601 that the provisions apply to any CATV service whether provided by channel service, pole attachments, conduit space or other rental arrangements which is offered to the viewing public either directly by a telephone company or indirectly through an affiliated or related CATV system in the affiliated telephone company's telephone service area. CATV service offered by an affiliated system is considered CATV operation by a telephone common carrier and is subject to the requirements of the rules without any further necessity of "piercing the corporate veil." Nor is there warrant for TeleCable's concern about the applicability of § 64.601 to connecting carriers and their affiliates. The circumstance that such carriers have "other interstate activities which continue to fall within the legitimate intendment of section 2(b)(2)" of the Act does not bring CATV service within that exception or exempt connecting carriers and their affiliates from the provisions of § 64.601. See General Telephone Company of California v. Federal Communications Commission, 413 F. 2d 390, fn. 19 (1969), *cert. den.* 396 U.S. 888; United States v. Southwestern Cable Co., 392 U.S. 157 (1968).[6]

15. The NAEB in its petition for reconsideration does not challenge the policies and rules adopted in this proceeding, but rather requests action here on broader matters at issue in Docket No. 18397. In light of the Commission's First Report and Order in Docket No. 18397, 20 FCC 2d 201, and the other questions encompassed by the Notice of Proposed Rulemaking and Notice of Inquiry in Docket No. 18397, 15 FCC 2d 417, we believe that NAEB's proposals concerning CATV program origination, priorities for CATV channel usage, and the establishment of policies and rules for wide-spectrum communications services in general would be more appropriately considered in that overall proceeding.[7] The primary purpose of the instant proceeding was to resolve the anomalous competitive situation between CATV systems affiliated with telephone companies and those which have no such affiliation, but which have to rely on the telephone companies either for the provision of channel service or for the use of pole or conduit space for the construction of their own facilities. NAEB's proposals are pertinent to all CATV systems, not just to those affiliated with telephone companies. Moreover, since it has made similar proposals in Docket No. 18397, NAEB is not prejudiced by our refusal to consider such questions in the context of this narrower proceeding.

Conclusion. 16. In view of all the foregoing, we conclud that the public interest would be served by partial reconsideration to clarify the rules adopted in the Final Report and Order, as set forth below. Authority for the modified rules adopted herein is contained in sections 2, 3, 4 (i) and (j), 214, 301, 303, 307, 308, 309, and 403 of the Communications Act. Except to the extent reflected herein, we further find that the public interest would be served by denial of the requests for stay relief pending judicial review, denial of the petitions for reconsideration, and termination of the stay granted in our order of March 11, 1970, herein (FCC 70-256) upon the effective date of this Order.

17. *Accordingly, it is ordered,* That the rules adopted in the Final Report and Order herein (FCC 70-115) are modified as set forth below, and as so modified shall become effective on May 1, 1970.

18. *It is further ordered,* That the various requests made in the pleadings listed in paragraph 1 herein are granted to the extent reflected herein and are otherwise denied.

(Secs. 2, 3, 4, 214, 301, 303, 307, 308, 309, 403, 48 Stat., as amended, 1064, 1065, 1066, 1075, 1081, 1082, 1083, 1084, 1085, 1094; 47 U.S.C. 152, 153, 154, 214, 301, 303, 307, 308, 309, 403)

Adopted: April 22, 1970.

Released: April 24, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[8]
[SEAL] BEN F. WAPLE,
Secretary.

I. Part 63 is amended as follows:

1. Section 63.54 is amended to read as follows:

§ 63.54 Applications of telephone common carrier for construction and/or operation of CATV channel facilities in their service areas.

Applications by telephone common carriers for authority to construct or operate distribution facilities for channel service to community antenna television (CATV) systems in their service areas shall include a showing that applicant is unrelated and unaffiliated, directly or indirectly, with the proposed CATV customer or customers. Applications which do not contain the showing required by this section will be returned as unacceptable for filing, subject to the provisions of § 63.56.

NOTE 1: (a) As used in the above paragraph, the term "unrelated and unaffiliated" bars any financial or business relationship whatsoever by contract or otherwise, directly or indirectly, between the carrier and the customer, except only the carrier-user relationship.

[5] Since the procedures for seeking a waiver fall within the exception in section 553(b)(A) of the Administrative and Judicial Review Act, 5 U.S.C. 553(b)(A), notice of proposed rule making and an opportunity for public comment are not required.

[6] In its response to TeleCable's petition, Continental challenges the validity of the policies and rules promulgated in this proceeding, as well as the holdings in the General Telephone case. For the most part, it simply renews arguments which have already been treated. We reaffirm the applicability of the rules to CATV operations of the type described in the Continental filings, and reject its request for reconsideration.

[7] In view of the nature of the Commission's proposals in Docket No. 18397, the potential influence of telephone company affiliates on CATV program origination during the 4-year grace period does not appear to warrant urgent consideration within the framework of the instant proceeding. Moreover, it is possible that in some communities, there would be no CATV studio or other needed facilities for originations by others without the technical cooperation of the affiliated telephone companies.

[8] Commissioner Bartley concurring in part and dissenting in part and issuing a statement which is filed as part of the original document. Commissioners H. Rex Lee and Wells abeent.

(b) Examples of situations in which a carrier and its customer will be deemed to be related or affiliated include the following among others: where one is the debtor or creditor of the other (except with respect to charges for communication service); where they have a common officer, director, or other employees at the management level; where there is any element of ownership or other financial interest by one in the other; and where any party has a financial interest in both.

NOTE 2: In applying the provisions of the above paragraphs of this section to the stockholders of a corporation which has more than 50 stockholders:

(a) Only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock;

(b) Stock ownership by an investment company, as defined in 15 U.S.C. section 80a-3 (commonly called a mutual fund), need be considered only if it directly or indirectly owns 3 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company. Holdings by investment companies under common management shall be aggregated. If an investment company directly or indirectly owns voting stock in an intermediate company which in turn directly or indirectly owns 50 percent or more of the voting stock of the corporation, the investment company shall be considered to own the same percentage of outstanding shares of such corporation as it owns of the intermediate company; *Provided, however,* That the holding of the investment company need not be considered where the intermediate company owns less than 50 percent of the voting stock, but officers or directors of the corporation who are representatives of the intermediate company shall be deemed to be representatives of the investment company.

(c) In cases where record and beneficial ownership of voting stock is not identical (e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street name for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties), the party having the right to determine how the stock will be voted will be considered to own it for the purposes of this section.

2. Section 63.55 is amended to read as follows:

§ 63.55 Waivers.

(a) In those communities where CATV service demonstrably could not exist except through a CATV system related to or affiliated with the local telephone common carrier or upon other showing of good cause, the provisions of § 63.54 may be waived, on the Commission's own motion or on petition for waiver, if the Commission finds that public interest, convenience and necessity would be served thereby.

(b) A petition for waiver shall be accompanied by an affidavit of service on any existing CATV system, CATV franchise holder, and/or applicant for a CATV franchise within the local telephone service area of the telephone common carrier. The petition shall state fully and precisely all pertinent facts and considerations relied upon to demonstrate the need for the relief requested and to support a determination that a grant of such relief would serve the public interest, convenience or necessity. Factual allegations shall be supported by affidavit of person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(c) Interested persons may submit comments on or opposition to the petition for waiver within thirty (30) days after the Commission gives public notice that the petition has been filed. Upon good cause shown in the petition, the Commission may specify a shorter time for such submissions. Comments or oppositions shall be served on petitioner, and shall contain a detailed full showing, supported by affidavit, of any facts or considerations relied upon.

(d) The petitioner may file a reply to the comments or oppositions within twenty (20) days after their submission, which shall be served on all persons who have filed pleadings.

(e) The Commission, after consideration of the pleadings, may determine whether the public interest, convenience or necessity would be served by the grant or denial of the petition, in whole or in part. The Commission may specify other procedures, such as oral argument, evidentiary hearing, or further written submissions directed to particular aspects, as it deems appropriate.

3. Section 63.56 is amended to read as follows:

§ 63.56 Temporary authorizations under Section 214(a) during period allowed for discontinuance of CATV service by telephone common carriers directly or through affiliates.

All telephone common carriers are required to discontinue providing CATV service directly or through their existing affiliated or related CATV systems within their telephone service areas within 4 years from March 16, 1970; *Provided, however,* That during the said 4 year period temporary authorizations may be granted under section 214(a) of the Act, to cover existing telephone common carrier CATV channel services furnished to an affiliated or related CATV system.

4. Section 63.57 is amended to read as follows:

§ 63.57 Availability of pole (conduit) rights to CATV customer.

Applications by telephone common carriers for authority to construct or operate distribution facilities for channel service to CATV systems shall include a showing (in addition to the conditions set forth in the above sections) that the independent CATV system proposed to be served, had available, at its option, and within the limitations of technical feasibility, pole attachment rights (or conduit space, as the case may be), at reasonable charges and without undue restrictions on the uses that may be made of the channel by the customer. This availability must exist not only at the time of the authorization but also prior to the customer's decision to seek an award of a local franchise, if such is required, and that such policy of the applicant is made known to the local franchising authority. Separate documents, attesting the above conditions, by the CATV customer and, where applicable, by the appropriate local franchising authority, must be annexed to the application.

NOTE: The provisions of this section are applicable to applications filed on or after May 1, 1970. Applications filed prior to May 1, 1970, which do not contain the showing specified in this section, may be granted if the Commission is satisfied that the CATV system proposed to be served now has available such pole attachment or conduit space rights and still desires channel service, upon condition that the applicant shall also make such pole attachment or conduit space rights available on the same terms to any other CATV system within its telephone service area.

II. Part 64, Subpart F, is amended as follows:

1. Section 64.601 is amended to read as follows:

Subpart F—Pole Attachments and Other Arrangements Relative to CATV Service

§ 64.601 Furnishing of facilities for CATV service to the viewing public.

(a) No telephone common carrier subject in whole or in part to the Communications Act of 1934, as amended, shall directly or indirectly through an affiliate owned or controlled by or under common control with said telephone communications common carrier, engage in the furnishing of CATV service to the viewing public in its telephone service area.

(b) No telephone common carrier subject in whole or in part to the Communications Act of 1934, as amended, shall provide channels of communications or pole line, conduit space or other rental arrangements to any entity which is directly or indirectly owned, operated or controlled by or under common control with such telephone communications common carrier, where such facilities or arrangements are to be used for or in connection with the provision of CATV service to the viewing public in the service area of the said telephone common carrier.

NOTE 1: (a) As used above, the terms "control" and "affiliation" bar any financial or business relationship whatsoever by contract or otherwise, directly or indirectly, between the carrier and the customer, except only the carrier-user relationship.

(b) Examples of situations in which a carrier and its customer will be deemed to be controlled or having an interest, include the following, among others; where one is the debtor or creditor of the other (except with respect to charges for communication service); where they have a common officer, director, or other employees at the management level; where there is any element of ownership or other financial interest by one in the other; and where any party has a financial interest in both.

NOTE 2: In applying the provisions of paragraph (a) of this section to the stockholders of a corporation which has more than 50 stockholders:

(a) Only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock;

(b) Stock ownership by an investment company, as defined in 15 U.S.C. section

80a-3 (commonly called a mutual fund), need be considered only if it directly or indirectly owns 3 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company. Holdings by investment companies under common management shall be aggregated. If an investment company directly or indirectly owns 50 percent or more of the voting stock of the corporation, the investment company shall be considered to own the same percentage of outstanding shares of such corporation as it owns of the intermediate company; *Provided, however,* That the holding of the investment company need not be considered where the intermediate company owns less than 50 percent of the voting stock, but officers or directors of the corporation who are representatives of the intermediate company shall be deemed to be representatives of the investment company.

(c) In cases where record and beneficial ownership of voting stock is not identical (e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street name for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties), the party having the right to determine how the stock will be voted will be considered to own it for the purposes of this section.

NOTE 3: The provisions of this section are not effective until March 16, 1974, as to CATV service, channels of communication or pole line, conduit space or other rental arrangements, if such CATV service was being furnished or such facilities or arrangements were being used for or in connection with the provision of CATV service to the viewing public on or before May 1, 1970, or are authorized by the Commission; and in such instances new drops may be made from existing trunk lines during this period.

2. Section 64.602 is amended to read as follows:

§ 64.602 Waivers.

(a) In those communities where CATV service demonstrably could not exist except through a CATV system related to or affiliated with the local telephone common carrier or upon other showing of good cause, the provisions of § 64.601 may be waived, on the Commission's own motion or on petition for waiver, if the Commission finds that public interest, convenience and necessity would be served thereby.

(b) A petition for waiver shall be accompanied by an affidavit of service on any existing CATV system, CATV franchise holder and/or applicant for a CATV franchise within the local telephone service area of the telephone common carrier. The petition shall state fully and precisely all pertinent facts and considerations relied upon to demonstrate the need for the relief requested and to support a determination that a grant of such relief would serve the public interest, convenience and necessity. Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(c) Interested persons may submit comments on or opposition to the petition for waiver within thirty (30) days after the Commission gives public notice that the petition has been filed. Upon good cause shown in the petition, the Commission may specify a shorter time for such submissions. Comments or oppositions shall be served on petitioner, and shall contain a detailed full showing, supported by affidavit, of any facts or considerations relied upon.

(d) The petitioner may file a reply to the comments or oppositions within twenty (20) days after their submission, which shall be served on all persons who have filed pleadings.

(e) The Commisson, after consideration of the pleadings, may determine whether the public interest, convenience or necessity would be served by the grant or denial of the petition, in whole or in part. The Commission may specify other procedures, such as oral argumet, evidentiary hearing, or further written submissions directed to particular aspects, as it deems appropriate.

[F.R. Doc. 70-5210; Filed, Apr. 28, 1970; 8:48 a.m.]

[Docket No. 18715; FCC 70-417]

PART 83—STATIONS ON SHIPBOARD IN MARITIME SERVICES

Ship Radiotelephone Test Procedures

In the matter of amendment of Part 83 of the Commission's rules to revise ship radiotelephone test procedures.

Report and order. 1. A notice of proposed rule making in the above-captioned matter was adopted on October 29, 1969, and published in the FEDERAL REGISTER on November 5, 1969 (34 F.R. 17917). The dates for filing comments and replies thereto have passed.

2. The notice proposed revisions of the rules to:

(a) Permit general calls by ship radiotelephone stations for test purposes;

(b) Prohibit calls on 2182 kc/s to U.S. Coast Guard stations for test purposes except during inspections by Commission representatives or when qualified technicians are installing equipment or correcting deficiencies; and

(c) Permit required testing of compulsorily installed radiotelephone stations on other than distress frequencies.

3. Comments were filed by Lockheed Aircraft Corp. (Lockheed), Southern California Marine Radio Council (SCMRC), and North Pacific Marine Radio Council, Inc. (NPMRC).

4. Lockheed and SCMRC both supported the rule making in all major aspects. SCMRC has suggested that the Commission require a radiofrequency (R.F.) antenna current output indicator and in the case of amplitude modulation (AM) a visual indicating device to readily observe proper modulation. SCMRC believes that visual output and modulation indicators would be of greater value in determining proper equipment operation than two way tests.

5. NPMRC agrees with the underlying premise that superfluous two-way testing on 2182 kHz must cease and substitution of one-way tests preferably on working frequencies be permitted. They recommend, however, that general calls not be legalized for testing purposes as proposed. Their objection to general calls is based on the lack of operator discipline, use of improper procedures and apprehension that the verbosity of some operators would increase, rather than decrease, the amount of test traffic on 2182 kHz. They recommend that the requirement for the vessel to transmit its name and location when making tests be deleted on the basis that this requirement unnecessarily increases the duration of the tests. They further recommended that testing be conducted by use of a visual indicator, such as, an antenna current meter for detecting proper modulation of the transmitter, and observation of receiver performance by listening.

6. While the Commission agrees that antenna current meters and other visual output indicators are useful in testing, the addition of a requirement that all ship station radiotelephone transmitters must be equipped with these devices, which would be necessary to implement the suggestions by SCMRC and NPMRC, is beyond the scope of this docket.

7. The Commission recognizes the potential for operator abuses of the general call for test purposes as predicted by NPMRC. The Commission believes, however, that under some circumstances for safety purposes, it is necessary to call another ship station for a two-way operational test when the identity of another ship station within range is not known. If abuses of the general call for test purposes develop, they can be corrected by educational and/or enforcement measures. The proposal to eliminate the name of the vessel and location has merit, since it is desirable to keep all transmissions to the minimum.

8. The specific comments submitted have been dealt with in the preceding paragraphs. The rules to be adopted are essentially as proposed except for deletion of the phrases "* * *, the name of the ship on which the station is located, and the general location of the ship at the time the test is being made." in § 83.365(a)(5).

9. In view of the foregoing: *It is ordered,* That pursuant to the authority contained in sections 4(i), and 303 (f) and (r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended, effective June 1, 1970, as set forth below.

10. *It is further ordered,* That the proceeding in Docket No. 18715 is terminated.

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

Adopted: April 22, 1970.

Released: April 24, 1970.

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

1. In § 83.178, paragraph (c) is amended as follows:

§ 83.178 Unauthorized transmissions.

* * * * *

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

(c) When using telephony, transmit a general call or transmit signals or communications not addressed to a particular station or stations: *Provided*, That this provision is not applicable to the transmission of distress, alarm, urgency, or safety signals, or to messages preceded by one of these signals, or to transmissions solely for test purposes.

* * * * *

2. In § 83.365, paragraph (a) is amended to read as follows:

§ 83.365 Procedure in testing.

(a) Ship stations must use every precaution to insure that, when conducting operational transmitter tests, the emissions of the station will not cause harmful interference. Radiation must be reduced to the lowest practicable value and if feasible shall be entirely suppressed. When radiation is necessary or unavoidable, the testing procedure described below shall be followed:

(1) The licensed radio operator or other person responsible for operation of the transmitting apparatus shall ascertain by careful listening that the test emissions will not be likely to interfere with transmissions in progress; if they are likely to interfere with the working of a coast or aeronautical station in the vicinity of the ship station, the consent of the former station(s) must be obtained before the test emissions occur; (see required procedures in subparagraphs (2) and (3) of this paragraph following);

(2) The applicable identification of the testing station, followed by the word "test" shall be announced on the radiochannel being used for the test, as a warning that test emissions are about to be made on that frequency;

(3) If, as a result of the announcement prescribed in subparagraph (2) of this paragraph, any station transmits by voice the word "wait", testing shall be suspended. When, after an appropriate interval of time such announcement is repeated and no response is observed, and careful listening indicates that harmful interference should not be caused, the operator shall, if further testing is necessary, proceed as set forth in subparagraphs (4) and (5) of this paragraph;

(4) Testing of transmitters shall, insofar as practicable be confined to working frequencies without two way communications; however, 2182 kc/s and 156.8 Mc/s may be used to contact other ship or coast stations when signal reports are necessary. U.S. Coast Guard stations may be contacted on 2182 kc/s for test purposes only when tests are being conducted during inspections by Commission representatives or when qualified radio technicians are installing equipment or correcting deficiencies in the station radiotelephone equipment. In these cases the test shall be identified as "FCC" or "technical" and logged accordingly;

(5) When further testing is necessary beyond the two "test" announcements specified in subparagraphs (2) and (3) of this paragraph, the operator shall announce the word "testing" followed in the case of a voice transmission test by the count "1, 2, 3, 4, * * * etc." or by test phrases or sentences not in conflict with normal operating signals. The test signals in either case shall have a duration not exceeding 10 seconds. At the conclusion of the test, there shall be voice announcement of the official call sign of the testing station. This test transmission shall not be repeated until a period of at least 1 minute has elapsed; on the frequency 2182 kc/s or 156.8 Mc/s a period of at least 5 minutes shall elapse before the test transmission is repeated.

* * * * *

3. Section 83.502 is amended to read as follows:

§ 83.502 Test of radiotelephone station.

Unless the normal use of the required radiotelephone station demonstrates that the equipment is in proper operating condition, a test communication for this purpose on a required frequency shall be made by a qualified operator each day the vessel is navigated. When this test is performed by a person other than the master and the equipment is found not to be in proper operating condition, the master shall be promptly notified thereof.

4. Section 83.531 is amended to read as follows:

§ 83.531 Test of radiotelephone installation.

Unless the normal use of the required radiotelephone installation demonstrates that the equipment is in proper operating condition, a test communication for this purpose on a required frequency in the 2000 to 3000 kc/s band or the 156–162 Mc/s band shall be made by a qualified operator each day the vessel is navigated. When this test is performed by a person other than the master and the equipment is found not to be in proper operating condition, the master shall be promptly notified thereof.

5. Section 83.548 is amended to read as follows:

§ 83.548 Trial of radiotelephone installation.

At least once during each calendar day in which a vessel of the United States is navigated while subject to the Great Lakes Radio Agreement, a test communication on a required frequency to demonstrate that the radiotelephone installation is in proper operating condition shall be made by a certified person who is required in accordance with § 83.158, unless the normal daily use of the equipment demonstrates that this installation is in proper operating condition for that purpose. Should the equipment be found at any time by a person other than the master not to be in proper operating condition, the master shall be promptly notified thereof. A record shall be made in the radio station log showing the operating condition of the equipment as determined by either the daily normal communication or the daily test communication referred to in this section, and showing that, if an improper operating condition was found, the master was properly notified thereof.

[F.R. Doc. 70-5209; Filed, Apr. 28, 1970; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter I — Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-34; Amdt. Nos. 173-21, 177-11]

PART 173—SHIPPERS

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAYS

Liquefied Petroleum Gas in Cargo Tanks Constructed of Quenched and Tempered Steel

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to make reference to an ASTM copper strip corrosion standard for shipments of liquefied petroleum gas in MC 330 and MC 331 cargo tanks constructed of quenched and tempered steel instead of the present reference to National Gas Processors Association Publication 2140.

On August 20, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-34; Notice No. 69-26 (34 F.R. 13427) to clarify the application of NGPA 2140 by requiring that liquefied petroleum gas meet only the classification 1 corrosion criterion (copper strip method) set forth in ASTM Standard D1838-64. An appropriate amendment to § 173.315(a)(1) note 15 was proposed along with corresponding changes to §§ 173.427 and 177.817 to coordinate shipping paper requirements.

Interested persons were afforded an opportunity to participate in this rule making. Of the comments received no objections were taken to the basic proposal. Comments were received urging that the word "noncorrosive" required to be shown on the shipping papers to indicate the suitability of LPG for such cargo tanks, be permitted to be abbreviated "NONCOR" because of limited space on shipping papers. The Board believes that the abbreviation "NONCOR" is adequate for the purpose intended and the amendment reflects this change.

Another commenter requested that provision be made for the continued use of existing preprinted bills of lading containing the term "NGPA 2140", in place of the notation "NONCORROSIVE", until the supply has been exhausted but no longer than 1 year after the effective date of the amendment.

The Board is aware that alteration or further documentation of preprinted bills of lading poses certain operational problems. The Board believes that by making this amendment effective 6

months after issuance there will be adequate time for depletion of existing stocks. Nothing in this amendment would prevent a shipper from overstamping preprinted shipping papers.

In consideration of the foregoing, 49 CFR Parts 173 and 177 are amended as follows:

I. Part 173 is amended as follows:

(A) In § 173.315(a)(1) note 15 following the table is amended to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

(1) * * *

NOTE 15: Specs. MC 330 and MC 331 cargo tanks constructed of other than quenched and tempered steel (NQT) are authorized for all grades of liquefied petroleum gas. Only grades of liquefied petroleum gases determined to be "noncorrosive" are authorized in specs. MC 330 and MC 331 cargo tanks constructed of quenched and tempered steel (QT). "Noncorrosive" means the corrosiveness of the gas does not exceed the limitations for clasiafication 1 of the ASTM Copper Strip Classifications when tested in accordance with ASTM D1838-64, "Copper Strip Corrosion by Liquefied Petroleum (LP) Gases". (For (QT) and (NQT) marking requirements see § 177.823(b)(5) of this chapter. For special shipping paper requirements, see §§ 173.427(a)(4) and 177.817(a)(2) of this chapter.)

* * * * *

(B) In § 173.427 subparagraph (a)(4) is amended to read as follows:

§ 173.427 Shipping papers.

(a) * * *

(4) For each shipment of "noncorrosive" liquefied petroleum gas in specifications MC 330 and MC 331 cargo tanks constructed of quenched and tempered steel the shipper must also show "NONCORROSIVE" or "NONCOR" to indicate suitability for shipment in such tanks as authorized by § 173.315(a)(1) table, note 15.

* * * * *

II. Part 177 is amended as follows:

(A) In § 177.817 subparagraph (a)(2) is amended to read as follows:

§ 177.817 Shipping papers.

(a) * * *

(2) A carrier must not accept for transportation or transport liquefied petroleum gas in specifications MC 330 and MC 331 cargo tanks constructed of quenched and tempered steel unless the shipping paper is marked "NONCORROSIVE" or "NONCOR" to indicate suitability for shipment in such tanks as authorized by § 173.315(a)(1) table, note 15 of this chapter.

* * * * *

This amendment is effective October 30, 1970. However, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831–835 of title 18, United States Code; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on April 22, 1970.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 70-5222; Filed, Apr. 28, 1970; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 70-55]

CERTAIN BRIDGES IN NEW JERSEY

Drawbridge Operation Regulations

1. Notice is hereby given that the Commandant, U.S. Coast Guard under authority of section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2)) and 49 CFR 1.46 (c)(5) is considering a request by the New Jersey Department of Transportation to amend the special operation regulations for its bridge across Maurice River at Route 49, Millville; its bridge across Oldman's Creek at Route 130, Nortenville and its bridge across the Cooper River at Route 30, Camden. Also under consideration are requests from the Pennsylvania-Reading Seashore Lines and the County of Salem, N.J., to include their drawbridges across Oldmans Creek at and near Pedricktown in this proposed amendment. Current operation regulations set forth in 33 CFR 117.225 (f)(12), (f)(16) and (f)(17-a) respectively, require that the draws of these bridges open on from 4 to 24 hours' advance notice. The New Jersey Department of Transportation, the County of Salem and the Pennsylvania-Reading Seashore Lines, propose that the draws of these bridges remain closed to navigation and that the requirements set forth in 33 CFR 117.225 (b) through (e) shall not apply to these bridges.

2. Accordingly, it is proposed to revise 33 CFR 117.225(f)(12), (f)(16) and (f)(17-a) to read as follows:

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) The bridges to which this section applies, and the regulations applicable in each case, are as follows:

* * * * *

(12) Maurice River; New Jersey State Highway Department bridge near Millville. The draw need not be opened for the passage of vessels and the special regulations contained in paragraphs (b) through (e) of this section shall not apply to this bridge.

* * * * *

(16) Oldmans Creek; Pennsylvania-Reading Seashore Lines railroad bridge near Pedricktown, Salem County highway bridge at Pedricktown and New Jersey State Highway Department bridge near Nortonville. The draws need not be opened for the passage of vessels and the special regulations contained in paragraphs (b) through (e) of this section shall not apply to these bridges. Any or all of these bridges shall be restored to an operable condition within 6 months after notification by the Commandant to take such action.

* * * * *

(17-a) Cooper River; (i) Penn Central railroad bridge at North River Avenue and Camden County highway bridge at Federal Street. At least 4 hours' advance notice is required at all times.

(ii) New Jersey State Highway Department bridge at Admiral Wilson Boulevard. The draw need not be opened for the passage of vessels and the special regulations contained in paragraphs (b) through (e) of this section shall not apply to this bridge. However, it shall be restored to an operable condition within 6 months after notification by the Commandant to take such action.

* * * * *

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before May 25, 1970. All submissions should be made in writing to the Commander, 3d Coast Guard District, Governors Island, New York, N.Y. 10004.

4. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reasons for any recommended change, and the name, address and firm or organization, if any, of the person making the submission.

5. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposals in this document. These proposals may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, 3d Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, 3d Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: April 16, 1970.

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

[F.R. Doc. 70-5220; Filed, Apr. 28, 1970; 8:49 a.m.]

[33 CFR Part 117]

[CGFR 70-60]

COOS BAY BRIDGE, OREGON

Drawbridge Operation Regulations

1. The Commandant, U.S. Coast Guard is considering a request by the Oregon State Highway Department to revise the special operation regulations for its bridge across South Slough, Coos Bay, Oreg. It is presently required to open on signal. The proposed regulations would allow the draw to be opened only on the hour and half-hour between the hours of 7 a.m. to 7 p.m. from 1 June through 30 September, at all other times the draw would open on signal. Authority for this action is set forth in section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2)) and 49 CFR 1.46(c)(5).

2. Accordingly, it is proposed to revise 33 CFR 117.720(a) to read as follows:

§ 117.720 Coos Bay, Oreg.

(a) *Highway bridge across South Slough.* (1) The draw shall be opened promptly on signal except that between the hours of 7 a.m. to 7 p.m. from 1 June through 30 September the draw need be opened only on the hour and half-hour.

(2) The excepted provision of subparagraph (1) of this paragraph shall not apply to vessels in distress, commercial tugs and/or tows, or public vessels of the United States. Such vessels shall be passed at any time upon sounding 4 blasts of a whistle, horn, or otherwise.

(3) The owners of or agencies controlling the drawbridge shall conspicuously post notices both upstream and downstream of the drawbridge, on the bridge or elsewhere, in such a manner that they can readily be read at all times under normal conditions from an approaching vessel. The notices shall contain statements of the special operation regulations applicable to this bridge and how the authorized representatives may be reached.

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before May 25, 1970. All submissions should be made in writing to the Commander, 13th Coast Guard District, 618 Second Avenue, Seattle, Wash. 98104.

4. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address and firm or organization, if any, of the person making the submission.

5. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This

proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, 13th Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, 13th Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: April 22, 1970.

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

[F.R. Doc. 70-5221; Filed, Apr. 28, 1970; 8:49 a.m.]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10039]

ROLLS-ROYCE DART 542-4, 542-4K, 542-10, 542-10J, AND 542-10K ENGINES

Proposed Airworthiness Directive

Amendment 39-913, 35 F.R. 145, AD 70-2-3, requires periodic inspections of the propeller shaft on Rolls-Royce Dart 542-4, 542-10, 542-10J, and 542-10K engines to determine whether the shaft contains material inclusions. The AD also provides for the installation of a placard on all airplanes having the affected Rolls-Royce Dart engines installed to require the feathering of the propeller in the event of abnormal, short duration R.P.M. increase accompanied by a drop in T.G.T. and torque pressure.

After issuing Amendment 39-913, the FAA type certificated the Rolls-Royce Dart Model 542-4K engines and these engines are being delivered with propeller shafts supplied and marked by Rolls-Royce in accordance with paragraph (e) of Amendment 39-913. However, it has been determined that the propeller shafts on all Rolls-Royce Dart engines are interchangeable and the possibility remains that at some point during the service life of these engines a propeller shaft not meeting the requirements of AD 70-2-3 could be installed. Therefore, the FAA is considering amending Amendment 39-913 to apply to Rolls-Royce Dart Model 542-4K engines.

It has also come to the attention of the FAA since issuing Amendment 39-913 that certain of the propeller shafts covered by Amendment 39-913 and identified by serial numbers may contain material flaws which make it necessary to continue the inspections required by that amendment. Therefore, the FAA is considering amending Amendment 39-913 to require that the repetitive inspections of the specified propeller shafts continue as long as they remain in service.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. All communications received on or before May 29, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-913, AD 70-2-3, as follows:

(1) By amending the applicability clause to include the 542-4K engine.

(2) By amending paragraph (a) by striking out the words "and marked in accordance with paragraph (e) of this AD" and inserting in place thereof the words "and marked as specified in paragraph (e) of this AD and which are not listed in paragraph (h) of this AD."

(3) By adding the phrase, "Except for those engines with propeller shafts installed bearing a serial number listed in paragraph (h)," at the beginning of paragraph (e).

(4) By adding the phrase, "Except for those engines with propeller shafts installed bearing a serial number listed in paragraph (h)," at the beginning of paragraph (f).

(5) By adding a new paragraph (g) to read as follows:

(g) For all airplanes with the Rolls-Royce Dart Model 542-4K engines installed, except those having engine propeller shafts which have been supplied and marked, or overhauled (including ultrasonic inspections) and marked as specified in paragraph (e) of this AD, and which are not listed in paragraph (h) of this AD, within 50 hours' time in service after the effective date of this amendment install in clear view of the pilot and as close to the R.P.M. indicators as possible the placard specified in paragraph (a).

(6) By adding a new paragraph (h) to read as follows:

(h) The placard required by paragraphs (a) and (g) may not be removed, and the repetitive inspections required by paragraphs (c) and (d) may not be discontinued, for any aircraft having engines with propeller shafts installed bearing the following serial numbers:

INSPECTION OF DART PROPELLER SHAFTS IN INSTALLED ENGINES—SHAFTS FROM TOP THREE INGOT POSITION

Shaft Serial No.	*Shaft Serial No.*
HA.275	HJ.180
HA.277	HJ.189
HA.281	HJ.190
HB.25	HJ.196
HB.29	HJ.197
HB.30	HJ.199
HC.846	HJ.201
HC.847	HJ.207
HC.849	HJ.212
HC.854	HJ.218
HC.856	HJ.219
HC.857	HJ.223
HC.858	HM.266
HC.861	HM.267
HC.862	HM.272
HD.60	HM.288
HD.61	HM.289
HD.62	HM.294
HD.67	HM.436
HD.69	HR.315
HD.71	HR.319
HD.73	HR.326
HD.74	HR.337
HD.86	HR.345
HD.88	HR.346
HD.94	HR.439
HD.95	HR.442
HD.97	HR.447
HD.103	HR.448
HD.105	HR.511
HD.107	HR.513
HD.110	HR.520
HD.117	HR.527
HD.119	HR.528
HD.373	HR.529
HD.376	HR.532
HD.377	HR.533
HD.391	HR.535
HD.392	HR.536
HD.394	HR.547
HD.399	HR.551
HD.401	HR.552
HD.404	HR.553
HD.413	HR.580
HD.414	HR.581
HD.421	HR.583
HD.425	HR.592
HD.427	HR.595
HE.111	HR.596
HE.115	HR.597
HE.121	HR.600
HE.129	HR.601
HE.135	HR.780
HE.139	HR.781
HE.141	HR.789
HE.142	HR.980
HE.143	HR.981
HG.562	HR.989
HG.563	HR.993
HG.570	HR.995
HG.571	HS.1
HG.572	HS.5
HH.699	HS.7
HH.700	HS.8
HH.714	HS.11
HH.715	HS.13
HH.716	HS.14
HH.717	HS.16
HH.719	HS.24
HH.720	HS.25
HH.721	HS.28
HJ.135	HS.29
HJ.138	HS.30
HJ.143	HS.129
HJ.151	HS.131
HJ.153	HS.139
HJ.157	HS.140
HJ.165	HS.142
HJ.167	HS.149
HJ.168	HS.150
HJ.173	HS.153
HJ.176	HS.156
HJ.178	

INSPECTION OF DART PROPELLER SHAFTS IN INSTALLED ENGINES—SHAFTS FROM UNRECORDED INGOT POSITIONS

Shaft Serial No.	*Shaft Serial No.*
HA.28	HC.563
HA.29	HC.564
HA.30	HC.565
HA.31	HC.566
HA.32	HC.567
HA.37	HC.568
HA.70	HC.569
HA.71	HC.576
HA.72	HC.577
HA.73	HC.578
HA.74	HC.579
HA.75	HC.580
HA.76	HC.581
HA.77	HC.582
HA.78	HC.850
HA.79	HC.852
HA.80	HC.853
HA.81	HC.855
HA.82	HC.859
HA.83	HC.996
HA.84	HD.807
HA.85	HD.808
HA.86	HD.809
HA.87	HD.810
HA.88	HD.811
HA.89	HD.812
HA.90	HD.813
HA.91	HD.814
HA.92	HD.815
HA.93	HD.816
HA.94	HD.817
HA.95	HD.818
HA.96	HD.819
HA.97	HD.820
HA.592	HD.821
HA.595	HD.822
HA.690	HD.823
HA.952	HD.824
HA.953	HD.825
HA.954	HD.826
HA.955	HD.827
HA.956	HD.828
HA.957	HD.829
HA.958	HD.830
HA.959	HD.831
HA.960	HD.832
HA.961	HD.833
HA.962	HD.834
HA.963	HD.835
HA.964	HD.836
HB.35	HD.837
HB.36	HD.838
HB.37	HD.839
HB.38	HD.840
HB.39	HD.841
HB.40	HD.842
HB.41	HD.843
HB.975	HD.844
HB.976	HD.845
HB.977	HD.846
HB.978	HD.847
HB.979	HD.848
HB.980	HD.849
HB.981	HD.850
HB.982	HD.851
HC.539	HD.852
HC.540	HH.638
HC.541	HH.639
HC.542	HH.640
HC.543	HH.641
HC.544	HH.642
HC.545	HH.643
HC.546	HH.644
HC.547	HH.645
HC.548	HH.646
HC.549	HH.647
HC.550	HH.648
HC.558	HH.649
HC.559	HH.650
HC.560	HH.651
HC.561	HH.652
HC.562	HH.653

Shaft Serial No.	*Shaft Serial No.*
HH.654	HM.365
HH.655	HM.366
HH.656	HM.367
HH.657	HM.368
HH.658	HM.369
HH.659	HM.370
HH.660	HM.371
HH.661	HM.372
HH.662	HM.373
HH.663	HM.374
HH.664	HM.375
HH.665	HM.376
HH.666	HM.377
HH.667	HM.378
HH.668	HM.379
HH.669	HM.380
HH.670	HM.381
HH.671	HM.382
HH.672	HM.383
HH.673	HM.384
HH.674	HM.385
HH.675	HM.386
HH.676	HM.387
HH.677	HM.388
HH.678	HM.389
HH.679	HM.390
HH.680	HM.391
HH.681	HM.392
HH.682	HM.393
HH.683	HM.394
HH.684	HM.395
HH.685	HM.396
HH.686	HM.397
HH.687	HM.398
HH.688	HM.399
HH.689	HM.400
HH.690	HM.401
HH.691	HM.402
HH.692	HM.403
HH.693	HM.404
HH.694	HM.405
HH.798	HM.406
HH.799	HM.407
HH.800	HM.408
HH.801	HM.409
HH.802	HM.410
HH.803	HM.411
HH.804	HM.412
HJ.944	HM.413
HJ.945	HM.414
HJ.946	HM.415
HJ.947	HM.416
HJ.948	HM.417
HJ.949	HM.418
HJ.950	HM.419
HJ.951	HM.420
HJ.952	HM.421
HJ.953	HM.422
HJ.954	HM.423
HJ.955	HM.424
HJ.956	HM.425
HJ.957	HM.426
HJ.958	HM.427
HM.355	HM.428
HM.356	HM.429
HM.357	HM.430
HM.358	HM.431
HM.359	HM.432
HM.360	HM.433
HM.361	HM.434
HM.362	HM.435
HM.363	HR.355
HM.364	

These numbers are listed in Appendices A and B of Rolls-Royce Dart Aero Engine Service Bulletin No. DA 72-367, Revision 2, dated February 18, 1970.

Issued in Washington, D.C., on April 22, 1970.

WILLIAM G. SHREVE, Jr.
Acting Director,
Flight Standards Service.

[F.R. Doc. 70-5185; Filed, Apr. 28, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1005, 1033, 1034, 1035, 1041]

[Dockets Nos. AO-166-A40, etc.]

MILK IN THE GREATER CINCINNATI AND CERTAIN OTHER MARKETING AREAS

Notice of Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR part	Market	Docket No.
1033	Greater Cincinnati	AO-166-A40, AO-166-A40-RO2.
1034	Miami Valley, Ohio	AO-175-A29, AO-175-A29-RO2.
1035	Columbus, Ohio	AO-176-A26, AO-176-A26-RO2.
1041	Northwestern Ohio	AO-72-A36, AO-72-A36-RO2.
1005	Tri-State	AO-177-A35, AO-177-A35-RO2.

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Greater Cincinnati; Miami Valley, Ohio; Columbus, Ohio; Northwestern Ohio; and Tri-State marketing areas, which was issued April 3, 1970 (35 F.R. 5764) is hereby extended to May 13, 1970.

The above notice of extension of time for filing exceptions is issued 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).

Signed at Washington, D.C., on April 24, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-5225; Filed, Apr. 28, 1970; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 540]

[Docket No. 70-20]

SECURITY FOR THE PROTECTION OF THE PUBLIC

Notice of Proposed Rulemaking

Pursuant to the provisions of section 4, Administrative Procedure Act (5 U.S.C. 553), and sections 2 and 3 of Public Law 89-777 (80 Stat. 1356, 1357, 1358), notice is hereby given that the Federal Maritime Commission is considering amending respective paragraphs (e) of §§ 540.9 and 540.27; the addition of new paragraph (k) to § 540.9; the addition of new

paragraph (j) to § 540.21; and the addition of new Subpart C to General Order 20. These proposed amendments are for the purpose of attaining more efficient and effective regulations to accomplish the purposes of sections 2 and 3 of Public Law 89–777. A comprehensive review of actual operating experience pursuant to Federal Maritime Commission regulations prescribed in General Order 20, as amended, indicates that certain modification of existing rules and the addition of new rules to provide for the assessment, remission and mitigation of penalties as authorized by §§ 2(c) and 3(c) of Public Law 89–777 may be warranted at this time. Accordingly, the following proposed amendments and additions will be considered.

Respective paragraphs (e) of §§ 540.9 Miscellaneous and 540.27 Miscellaneous are proposed to be amended to provide that the designation of an agent can only be revoked upon three (3) years' notice to the Commission, that a copy of such irrevocable designation must accompany any application for a Certificate (Performance or Casualty); and that in any instance in which the designated agent cannot be served because of death or legal disability, the Secretary, Federal Maritime Commission, will be deemed to be the applicant's agent for service of process.

As proposed to be amended respective paragraphs (e) would read as follows:

§ 540.9 Miscellaneous.

* * * * *

(e) Each applicant, insurer, escrow agent, and guarantor shall, for the purposes of the rules of this subpart, furnish a written designation of a person in the United States as legal agent for service of process for the purposes of the rules of this subpart. Such designation must be irrevocable for a period of three (3) years after notice of cancellation to the Commission, unless a new agent is designated. Such designation must also be acknowledged, in writing, by the designee. In addition, the applicant must also agree, in writing, that in any instance in which the designated agent cannot be served because of his death or disability, the Secretary, Federal Maritime Commission, will be deemed to be the irrevocable agent for service of process.

§ 540.27 Miscellaneous.

* * * * *

(e) Each applicant, insurer and guarantor shall, for the purposes of the rules of this subpart, furnish a written designation of a person in the United States as legal agent for service of process for the purposes of the rules of this subpart. Such designation must be irrevocable for a period of three (3) years after notice of cancellation to the Commission, unless a new agent is designated. Such designation must also be acknowledged, in writing, by the designee. In addition, the applicant must also agree, in writing, that in any instance in which the designated agent cannot be served because of his death or disability, the Secretary, Federal Maritime Commission, will be deemed to be the irrevocable agent for service of process.

New paragraph (k) is proposed to be added to § 540.9 to prohibit any certified carrier from permitting another person in any way to collect fares for passage on its vessels for which the certified carrier would not be responsible.

As proposed, new paragraph (k) would read as follows:

§ 540.9 Miscellaneous.

* * * * *

(k) Every person in whose name a certificate (performance) has been issued shall be deemed to be responsible for any unearned passage money or deposits in the hands of their agents or of any person or organization with which the certificant has made an arrangement under which certificant's tickets will be sold by such agent, person or organization. Certificants shall promptly notify the Commission of any arrangements made by it or its agent with any person pursuant to which the certificant does not assume responsibility for all passenger fares and deposits collected by such person or organization and held by such person or organization as deposits or payment for services to be performed by the certificant. If responsibility is not assumed by the certificant, the certificant also must inform such person or organization of the certification requirements of Public Law 89–777 and not permit use of its name or tickets in any manner unless and until such person or organization has obtained the requisite certificate (performance) from the Commission.

New paragraph (j) is proposed to be added to § 540.21 to define the phrase "passengers embarking at United States ports."

As proposed, new paragraph (j) would read as follows:

§ 540.21 Definitions.

* * * * *

(j) For the purpose of determining compliance with § 540.22 of this subpart, the term "passengers embarking at United States ports" means any persons, not necessary to the business, operation, or navigation of a vessel, whether holding a ticket or not, who board a vessel at a port or place in the United States and are carried by the vessel on a voyage from that port or place.

New Subpart C is proposed to be added to General Order 20 to provide specific regulations pertaining to the assessment, remission, and mitigation of penalties as provided in sections 2(c) and 3(c) of Public Law 89–777.

As proposed, new Subpart C would read as follows:

PART 540—SECURITY FOR THE PROTECTION OF THE PUBLIC

Subpart C—Assessment Remission and Mitigation of Civil Penalties

Sec.
540.30 Scope.
540.31 Definitions.
540.32 Procedure.
540.33 Petition for remission or mitigation of penalty.
540.34 Settlement, execution of agreement form.
540.35 Referral to Department of Justice.
540.36 Payment of Penalties.

AUTHORITY: The provisions of this Subpart C issued under section 2 and section 3, 80 Stat. 1357–1358; 46 U.S.C. ——.

§ 540.30 Scope.

Sections 2 and 3 of Public Law 89–777 subject any person who violates the provisions of those sections to: * * * a civil penalty of not more than $5,000 in addition to a civil penalty of $200 for each passage sold, such penalties to be assessed by the Federal Maritime Commission. These sections further provide that such penalties may be "remitted or mitigated" by the Commission "upon such terms as they in their discretion shall deem proper." This subpart sets forth regulations prescribing standards and procedures for the collection, mitigation, and remission of civil penalties incurred under sections 2 and 3 of Public Law 89–777, and the rules and regulations promulgated pursuant thereto.[1]

§ 540.31 Definitions.

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

(a) "Person" includes individuals, corporations, partnerships, associations, and other legal entities existing under or authorized by the laws of the United States or any State thereof or the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any territory or possession of the United States, or the laws of any foreign country.

(b) "Commission" means the Federal Maritime Commission.

(c) "The Act" (Public Law 89–777 (80 Stat. 1356, 1357, 1358)).

(d) "Violation" includes any violation of (1) either section 2 or section 3 of the Act; (2) the provisions of this part; and (3) all other rules and regulations that may be subsequently promulgated by the Commission pursuant to the authority of sections 2 and 3 of the Act.

(e) "Offender" includes all persons charged with a violation.

§ 540.32 Procedure.

(a) If it is adjudged or otherwise determined that a violation has occurred and it is decided to invoke a statutory penalty, a registered letter will be sent to the offender informing him of the nature of the violation, statutory and factual basis of the penalty, and the amount of the penalty. This notification shall further advise the offender that, within 20 days, or such longer period as the Commission in its discretion may allow, he must either pay the penalty demanded or petition for the remission or mitigation of such penalty.

(b) All correspondence, petitions, forms, or other instruments regarding

[1] Sections 2(d) and 3(d) of Public Law 89–777 authorize the "Federal Maritime Commission" * * * to prescribe such regulations as may be necessary to carry out the provisions of * * * (sections 2 and 3)"

the collection, remission or mitigation of any penalty under this subpart should be addressed to the General Counsel, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573.

§ 540.33 Petition for remission or mitigation of penalty.

(a) An offender may submit any oral or written material or information in answer to the notification letter explaining, mitigating, showing extenuating circumstances, or, where there has been no formal proceeding on the merits, denying the violation. Material or information so presented will be considered in making the final determination as to whether to mitigate the penalty and the amount for which it will be mitigated, or whether to remit it in full.

(b) When no penalty is invoked or the penalty is remitted, no further action by the offender will be necessary. When the penalty is mitigated, such mitigation will be made conditional upon the full payment within 15 days or such longer period as the Commission in its discretion may allow unless offender within that time executes a promissory note as provided by § 540.36 of this subpart.

§ 540.34 Settlement; execution of agreement form.

When a statutory penalty is mitigated and the offender agrees to settle for that amount, he shall be provided with a settlement Agreement Form (Appendix A), to be signed, in duplicate, and returned. This form, after reciting the nature of the violation, will contain a statement evidencing the offender's agreement to settlement of the Commission's penalty claim for the amount set forth in the agreement and shall also embody an "approval and acceptance" provision. Upon settlement of the penalty in the agreed amount, one copy of the Settlement Agreement shall be returned to the debtor with the "Approval and Acceptance" thereon signed by the General Counsel of the Commission.

§ 540.35 Referral to Department of Justice.

(a) The Commission will refer violations to the Department of Justice with the recommendation that action be taken to collect the full statutory penalty, when:

(1) The offender, within the prescribed time, does not explain the violation, petition for mitigation or remission, or otherwise respond to letters or inquiries.

(2) The offender, having responded to such letters or inquiries, fails or refuses to pay the statutory or mitigated penalty, as determined by the Commission, within the time.

(b) No action looking to the remission or mitigation of a penalty shall be taken on any petition, irrespective of the amount involved, if the case has been referred to the Department of Justice for collection.

§ 540.36 Payment of penalties.

Payment of penalties by the offender shall be made by:

(a) A bank cashier's check or other instrument acceptable to the Commission.

(b) Regular installments by check after the execution of a promissory note containing a confess-judgment agreement (Appendix B).

(c) A combination of the above offered alternatives.

All checks or other instruments submitted in payment of claims shall be made payable to "Federal Maritime Commission".

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, prior to the close of business on May 18, 1970, an original and 15 copies of their views or comments pertaining to the proposed rules. Any suggestions for changes in the proposed rules should be accompanied by drafts of the language thought necessary to accomplish the desired change and should be supported by statements and arguments relating the proposed change to the purposes of sections 2 and 3 of Public Law 89-777 (80 Stat. 1356, 1357, 1358).

The Federal Maritime Commission, Bureau of Hearing Counsel, shall participate in the proceeding and shall file Reply to Comments prior to close of business on June 2, 1970, by serving an original and 15 copies on the Federal Maritime Commission and one copy to such party who filed comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission prior to close of business on June 12, 1970.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APRIL 24, 1970.

APPENDIX A—SETTLEMENT AGREEMENT

Whereas, consideration is being given to the institution of civil action against the undersigned respondent for recovery of penalties arising under the provisions of _____, by virtue of certain violations or alleged violations of said provisions, each of which is particularly identified, and set forth below:

_____

_____

_____

_____

_____

_____

Whereas, the undersigned respondent is desirous of expeditiously settling the matter according to the terms and conditions hereof and the avoidance of delay and expense incidental to litigation; and

Whereas, section _____ of Public Law 89-777 (46 U.S.C. ____) authorizes the assessment, collection, remission, and mitigation of penalties incurred under the provisions thereof and any rules and regulations promulgated pursuant thereto by the Federal Maritime Commission,

Now therefore, in consideration of the premises herein, the undersigned respondent herewith tenders, or agrees to tender within 15 days, to the Federal Maritime Commission the sum of $_____[1] upon the following stipulations and terms of settlement:

1. Upon acceptance of this agreement of settlement in writing by the General Counsel of the Federal Maritime Commission, this instrument shall forever bar the commencement or institution of any civil action or oher claim for recovery of penalties from respondent based upon those specific acts or things done or alleged to have been done or arising from those acts or things set forth and described above.

2. The undersigned voluntarily signs his instrument and states that no promises or representations have been made to the respondent other than the agreements and consideration herein expressed.

3. It is expressly understood and agreed that this instrument is not to be construed as an admission of guilt by undersigned respondent to the alleged violations set forth above.[2]

Dated and executed this _____ day of _____ 19__.

_____
(Name of Person or Corporation)

_____
(Signature of Officer of Owner)

APPROVAL AND ACCEPTANCE

Above terms and conditions and amount of consideration approved and accepted:

By the FEDERAL MARITIME COMMISSION:

_____
(General Counsel)

_____
(Date)

APPENDIX B—PROMISSORY NOTE CONTAINING AGREEMENT FOR JUDGMENT

For value received (insert name of debtor) promises to pay to the order of the Federal Maritime Commission the sum of $_____ in monthly installments by a bank cashier's or a certified check of not less than $_____ each, on or before the first day of each calendar month until such obligation arising under Public Law 89-777 (46 U.S.C. ——) and described in Appendix A attached and made a part hereof is fully paid. If any such installment shall remain unpaid for a period of 10 days, the entire amount of this obligation less payments actually made, shall thereupon become immediately due and payable at the option of the Federal Maritime Commission without demand or notice, said demand and notice being hereby expressly waived.

(Insert name of debtor) does hereby authorize and empower the U.S. attorney, any of his assistants or any attorney of any court of record, Federal or State, to appear for it and to enter and confess judgment against it for the entire amount of this obligation, less payments actually made, at any time after the same becomes due and payable, as herein provided, in any court of record, Federal or State; to waive the issuance and service of process upon it in any suit on this obligation; to waive any venue requirement in such suit; to release all errors which may intervene in entering up such judgment or in issuing any execution thereon; and to consent to immediate execution of said judgment.

(Insert name of debtor) hereby ratify and confirm all that said attorney may do by virtue hereof.

Dated and executed this _____ day of _____ 19__.

(Insert Name of Debtor)

_____

_____
(President)

[F.R. Doc. 70-5219; Filed, Apr. 28, 1970; 8:49 a.m.]

[1] Payment will be made in one, or a combination of, the following methods:

(a) A bank cashier's check or other instrument acceptable to the Commission.

(b) Regular installments by check after the execution of a promissory note, copy of which will be attached to this agreement.

[2] This provision will apply only in those instances where there has been no formal proceeding on the merits as to the alleged violations.

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

JOSEPH LEDER

Notice of Granting of Relief

Notice is hereby given that Joseph Leder, 2404 North May Avenue, Oklahoma City, Okla., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 16, 1942, in the County Court, Brooklyn, N.Y., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Joseph Leder because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for Mr. Leder to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Joseph Leder's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Joseph Leder be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 22d day of April 1970.

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

[F.R. Doc. 70-5198; Filed, Apr. 28, 1970; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Filing Plat of Survey

APRIL 21, 1970.

1. Plat of survey of the land described below will be officially filed in the Fairbanks District and Land Office, Fairbanks, Alaska, effective 10 a.m., May 14, 1970.

FAIRBANKS MERIDIAN

T. 1 N., R. 5 E. (Group 119) Tract "A",
Sec. 30, NW¼;
Sec. 31, N½.

The areas described above aggregate 22,782.25 acres.

2. The area surveyed is located about 28 miles northeast of Fairbanks, Alaska. The land is nearly level to rolling hills with numerous muskeg areas. The soil consists chiefly of alluvial silt underlain with gravel. Dense spruce and aspen timber is located throughout the area. The Chena River meanders southwesterly through the southern portion and South Fork of the Chena River meanders northwesterly to the confluence with the Chena River in the southeast portion of the township.

3. The survey of section 30 and the NW¼ of section 31 was initiated to accommodate homestead claims. Tract "A" and the NE¼ of section 31 are to accommodate Alaska State selections in accordance with and subject to the limitations and requirements of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), and the regulations in 43 CFR 2233.9–1(a) and 43 CFR 1840.

4. Inquiries concerning the lands should be addressed to the Manager, Fairbanks District and Land Office, Post Office Box 1150, Fairbanks, Alaska 99701.

ROBERT C. KRUMM,
Manager,
Fairbanks District and Land Office.

[F.R. Doc. 70-5175; Filed, Apr. 28, 1970; 8:45 a.m.]

[Montana 12080]

MONTANA

Notice of Proposed Classification of Public Lands for Multiple Use Management

APRIL 21, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR, Parts 2410 and 2411, it is proposed to classify for multiple use management the public lands within the areas described below. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. parts 7 and 9; 25 U.S.C. Sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands proposed for classification are located within the following described areas and are shown on maps on file in the Miles City District Office, Bureau of Land Management, Miles City, Mont., and on plats in the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

PRINCIPAL MERIDIAN, MONTANA

DAWSON COUNTY

T. 13 N., R. 54 E.,
Sec. 6.
T. 17 N., R. 54 E.,
Secs. 20 thru 22, inclusive;
Secs. 25 thru 36, inclusive.
T. 13 N., R. 55 E.
Secs. 1 thru 4, inclusive;
Secs. 10 thru 14, inclusive;
Sec. 24.
T. 14 N., R. 55 E.
T. 15 N., R. 55 E.
T. 16 N., R. 55 E.,
Sec. 2;
Sec. 24.
T. 17 N., R. 55 E.,
Secs. 20 thru 36, inclusive.
T. 13 N., R. 56 E.,
Secs. 1 thru 24, inclusive.
T. 14 N., R. 56 E.
T. 15 N., R. 56 E.
T. 16 N., R. 56 E.
T. 17 N., R. 56 E.
T. 18 N., R. 56 E.,
Secs. 20 thru 36, inclusive.
T. 14 N., R. 57 E.
T. 15 N., R. 57 E.
T. 17 N., R. 57 E.,
Sec. 4;
Sec. 6;
Sec. 14;
Secs. 20 thru 24, inclusive;
Sec. 26.
T. 18 N., R. 57 E.,
Sec. 2;
Sec. 20.
T. 14 N., R. 58 E.,
Sec. 18.
T. 17 N., R. 58 E.,
Sec. 18.

The public lands described above aggregate approximately 52,718.38 acres.

PRINCIPAL MERIDIAN, MONT.

WIBAUX COUNTY

T. 13 N., R. 56 E.,
Sec. 25;
Sec. 26;
Sec. 35;
Sec. 36.
T. 11 N., R. 57 E.,
Secs. 2 through 4, inclusive;
Sec. 10;
Sec. 14;
Sec. 22.
T. 12 N., R. 57 E.,
Secs. 4 through 10, inclusive;
Secs. 14 through 23, inclusive;
Secs. 26 through 30, inclusive;
Secs. 32 through 34, inclusive.
T. 13 N., R. 57 E.,
Secs. 28 through 32, inclusive.
T. 18 N., R. 57 E.,
Sec. 2.
T. 18 N., R. 58 E.,
Secs. 2 through 10, inclusive.
T. 18 N., R. 59 E.,
Secs. 2 through 12, inclusive.

The public lands described above aggregate approximately 17,706.83 acres.

Total public lands within the areas described aggregate approximately 70,425.21 acres.

3. For a period of sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Miles City, Mont. 59301.

4. A public hearing on the proposed classification will be held on June 2, 1970, at 7 p.m., in the Dawson County Courthouse, Glendive, Mont.

EDWIN ZAIDLICZ,
State Director.

[F.R. Doc. 70-5192; Filed, Apr. 28, 1970; 8:46 a.m.]

[OR 6149]

OREGON

Notice of Proposed Classification of Public Land for Transfer Out of Federal Ownership

APRIL 21, 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, it is proposed to classify the public land described below for transfer out of Federal ownership. As used herein, "public land" means any land 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 is not otherwise withdrawn or reserved for Federal use or purpose.

2. Publication of this notice has the effect of segregating the described land from all forms of disposal under the public land laws, including the mining laws except as to the forms of disposal for which the land is classified. However, publication does not alter the applicability of the public land laws governing the use of the land under lease, license, or permit, or governing the disposal of its mineral and vegetative resources, other than the mining laws.

3. It is proposed to classify the following public land for disposal by sale under the Public Land Sale Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1421–27):

WILLAMETTE MERIDIAN

T. 1 S., R. 1 W.,
Sec. 4, lot 5.

The area described contains about 12.33 acres.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 3550 Liberty Road South, Salem, Oreg. 97302.

ARCHIE D. CRAFT,
State Director.

[F.R. Doc. 70-5200; Filed, Apr. 28, 1970; 8:47 a.m.]

Fish and Wildlife Service

[Docket No. B-483]

VICTOR U. AMES

Notice of Loan Application

Victor U. Ames, Matinicus, Maine 04851, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 40-foot length over-all wood vessel to engage in the fishery for herring, flounders, shrimp, scallops, lobsters and groundfish (haddock, cod, pollock, hake, cusk, and ocean perch).

Notice is hereby given pursuant to the provisions of Public Law 89–85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

C. E. PETERSON,
Chief,
Division of Financial Assistance.

[F.R. Doc. 70-5176; Filed, Apr. 28, 1970; 8:45 a.m.]

National Park Service

VIRGIN ISLANDS NATIONAL PARK

Notice of Intention To Negotiate a 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 negotiate a concession contract with Caneel Bay Plantation, Inc., authorizing it to provide concession facilities and services for the public at Virgin Islands National Park for a period of twenty (20) years from June 1, 1970, through May 31, 1990.

The foregoing concessioner has performed its obligations under expiring permits 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 22, 1970.

THOMAS FLYNN,
Assistant Director,
National Park Service.

[F.R. Doc. 70-5174; Filed, Apr. 28, 1970; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING ASSISTANT SECRETARY FOR METROPOLITAN PLANNING AND DEVELOPMENT

Designation

The officials appointed to the following listed positions, or designated to serve in an acting capacity during a vacancy in such positions, are hereby designated to serve as Acting Assistant Secretary for Metropolitan Planning and Development during the absence of the Assistant Secretary for Metropolitan Planning and Development, with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Metropolitan Planning and Development: *Provided*, That no official is authorized to serve as Acting Assistant Secretary for Metropolitan Planning and Development unless all other officials

whose position titles, whether by appointment or by designation to serve in an acting capacity, precede his in this designation are unable to act by reason of absence:

1. Deputy Assistant Secretary for Metropolitan Planning and Development.

2. Director, Office of Planning Assistance and Standards.

3. Director, Office of Resources Development.

(Sec. E, Secretary's delegation of authority published at 35 F.R. 2745, Feb. 7, 1970)

Effective date. This designation shall be effective as of March 27, 1970.

SAMUEL C. JACKSON,
Assistant Secretary for Metropolitan Planning and Development.

[F.R. Doc. 70-5226; Filed, Apr. 28, 1970; 8:49 a.m.]

ACTING DEPUTY ASSISTANT SECRETARY FOR METROPOLITAN PLANNING AND DEVELOPMENT

Designation

The officials appointed to the following listed positions are hereby designated to serve as Acting Deputy Assistant Secretary for Metropolitan Planning and Development, with all the powers, functions, and duties delegated or assigned to the Deputy Assistant Secretary for Metropolitan Planning and Development: *Provided*, That no official is authorized to serve as Acting Deputy Assistant Secretary for Metropolitan Planning and Development unless all other officials whose position titles precede his in this designation are unable to act by reason of absence:

1. Director, Office of Planning Assistance and Standards.

2. Director, Office of Resources Development.

(Sec. E, Secretary's delegation of authority published at 35 F.R. 2745, Feb. 7, 1970)

Effective date. This designation shall be effective as of March 27, 1970.

SAMUEL C. JACKSON,
Assistant Secretary for Metropolitan Planning and Development.

[F.R. Doc. 70-5227; Filed, Apr. 28, 1970; 8:49 a.m.]

PROTOTYPE SITE DEVELOPERS FOR OPERATION BREAKTHROUGH

Invitation for Applicants

In Invitation for Applicants, Prototype Site Developers for Operation Breakthrough, F.R. Doc. 70-4832, published at 35 F.R. 6333-6335, April 18, 1970, Appendix A should read as follows:

APPENDIX A

Location	Approximate (Gross acreage)
California, Sacramento, Broadway and 57th Street (East Portion of Old Fair Grounds Site)	60
Delaware, New Castle County (Wilmington area), Faulkland Road and Route 141, Lancaster Pike	30
Georgia, Macon, 4215 Chambers Road	50
Indiana, Indianapolis, 2400 North Tibbs Avenue (State Farm Site)	55
Michigan, Kalamazoo, Spring Valley Park, off Gull Road	35
Missouri, St. Louis, 3331 LaClede Avenue, 2801 Market Avenue	15.5
New Jersey, Jersey City, Newark Avenue between John F. Kennedy Boulevard and Summit Avenue	6.5
Tennessee, Memphis, Court Avenue; part of Block 4 and Block 7 in Urban Renewal Project, Tenn-R-49	15
Texas, Clear Lake City (Houston area), El Dorado Boulevard, at the corner of Highway 3	15
Washington, Seattle:	
East Yesler Street & 18th Avenue South	1.7
King County (Seattle area), 124th Avenue NE., and Northeast 144th Street	30

The date for receipt of applications remains unchanged, no later than 15 days after publication of the notice in the FEDERAL REGISTER on April 18, 1970. Since May 3, 1970, is a Sunday, the last date for receipt of applications is May 4, 1970.

RICHARD C. VAN DUSEN,
Under Secretary of Housing and Urban Development.

[F.R. Doc. 70-5239; Filed, Apr. 28, 1970; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 70-426]

CHANNEL SERVICE TO CATV SYSTEMS

FCC Authority Required Before Telephone Company May Construct or Operate Wire Facilities

APRIL 23, 1970.

Telephone companies and other common carriers must apply for and receive certificates of public convenience and necessity under section 214(a) of the Communications Act before constructing or operating facilities to provide channel service to CATV systems. General Telephone Company of California et al., 13 FCC 2d 448 (1968), affirmed in General Telephone Company of California et al. v. Federal Communications Commission, 413 F. 2d 390 (1969), cert. den., 396 U.S. 888 (1969). This requirement applies whether or not a company is classified as a connecting carrier under section 2(b)(2) of the Act for purposes of other common carrier service, and regardless of whether the carrier was a party to the General Telephone proceeding (Docket No. 17333). Ashtabula Cable TV, Inc., et al., 17 FCC 2d 113 (1969). Carriers who do not possess section 214 certificates for the construction and operation of CATV channel distribution facilities are subject to cease and desist procedures under section 312 (b) and (c) of the Communications Act and/or action pursuant to sections 401(a) and 501 of that Act.

In the General Telephone case the Commission, in order to protect the public from interruption or discontinuance of services then being received, authorized carrier parties to that proceeding to continue services which were being provided on the release date of its decision, June 26, 1968, pending Commission action on section 214 applications for certification of such services if filed on or before a specified date. Carriers who were not parties to the General Telephone proceeding are hereby granted interim authority to continue channel service to CATV systems on facilities which were operational on June 26, 1968, pending Commission action on any section 214 application for certification of such facilities filed on or before July 31, 1970. Section 214 applications are also necessary for any facilities which were constructed and/or services commenced after June 26, 1968. Commission consideration of such applications will be without prejudice to any appropriate action found warranted in light of the circumstance that such construction or new service was undertaken subsequent to the June 26, 1968, release of the Commission's decision in the General Telephone case which held that such construction or operation was prohibited under section 214(a) of the Communications Act. Facilities of carriers, who were not parties to the General Telephone proceeding, for which section 214 certification is required by the Commission shall not have interim or other authority to continue operation of such facilities unless the requisite applications for services in existence on June 26, 1968, have been filed on or before July 31, 1970, or such further time as, for good cause shown, may be granted by the Commission.

The Commission's rules and interim procedures applicable to filings by carriers for section 214 certification of CATV distribution facilities and operations are contained in Part 1 and Parts 61 and 63-64 (see especially §§ 63.01, 63.54-57, and 64.601-602) of the Commission's rules and regulations, which may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. They are also in the Code of Federal Regulations, Vol. 47, Parts 1, 61, and 63-64. The interim procedural requirements are set forth at 20 FCC 2d 752, 33 F.R. 11559. An original and nine copies of an application are required, accompanied by the filing fee prescribed in Part 1 of the Commission's rules, presently fifty dollars ($50).

In addition to delineating the service area boundary of a CATV system, all maps submitted in compliance with subparagraph (j) of § 63.01 should show in detail the routes of existing and proposed feeder (trunk) and distribution cables, and the location of the CATV headend.

Action by the Commission April 22, 1970. Commissioners Burch (Chairman), Bartley, Robert E. Lee and Cox, with Commissioner Johnson concurring.

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

[F.R. Doc. 70-5211; Filed, Apr. 28, 1970; 8:48 a.m.]

[Docketa Nos. 18831, 18832; FCC 70-361]

MOUNTAIN MICROWAVE CORP. AND MINNESOTA MICROWAVE, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Mountain Microwave Corp., for construction permits in the Domestic Public Point-to-Point Microwave Radio Service for new facilities at or near Montevideo, Minn., and Toronto, De Smet and Redfield, S. Dak., Docket No. 18831, Files Nos. 1633 through 1635-C1-P-69 and 7705-C1-P-69; Minnesota Microwave, Inc., for construction permits in the Domestic Public Point-to-Point Microwave Radio Services for new or modified facilities at or near Montevideo and Ortonville, Minn., and Toronto, Summit, and Bristol, S. Dak., Docket No. 18832, Files Nos. 3481/3482-C1-P-69 and 985 through 987-C1-P-70.

1. The Commission has before it: (a) The above-captioned applications of Mountain Microwave Corp. (Mountain) filed on September 17, 1968, and April 30, 1969; (b) the competing applications of Minnesota Microwave, Inc. (Minnesota), filed on November 27, 1968, and August 15, 1969; (c) a petition to deny Mountain's applications (Files Nos. 1633 through 1635-C1-P-69) filed by Minnesota and opposition thereto; (d) petitions to deny the Minnesota applications filed by Mountain; and (e) various informal comments and requests by Midcontinent Broadcasting Co. (Midcontinent) and TV Signal Company of Aberdeen (TV Signal). The applications propose common carrier microwave facilities which would be used to relay one television signal (WTCN-TV, Minneapolis) to CATV systems in Huron, Redfield, and Aberdeen, S. Dak.

2. Both Mountain and Minnesota have existing common carrier facilities in the region of the proposed facilities. Mountain's existing route is used primarily to bring Denver television signals from the southwest into South Dakota. Minnesota's, on the other hand, provides Minneapolis television signls into the northern and western parts of the State of Minnesota. Mountain proposes to construct facilities at or adjacent to Minnesota's existing station KCM75 at Montevideo, Minn., where it would obtain the WTCN-TV signal from Minnesota by interconnection. From Montevideo, Mountain would transmit to a new relay station to be constructed at Toronto, S. Dak.; from Toronto to De Smet, S. Dak., where its authorized relay station, WAY46, would be modified to transmit by power split to Huron and Redfield for delivery to the CATV systems in those communities. At Redfield, Mountain would modify its authorized station, WAY26, for subsequent relay to the customer in Aberdeen. Similarly, Minnesota proposes to modify its Montevideo facility and construct a new station at Toronto which would interconnect with Montain at De Smet.[1] However, Minnesota would serve Aberdeen by constructing three new relay stations which would establish a new route (some 50 to 60 miles north of the other proposed route) west from its existing terminal facility at Ortonville, Minn.

3. Each applicant charges the other with invading its service territory and wasteful duplication of facilities. Also, Mountain argues that Minnesota's applications to serve Aberdeen (File Nos. 985 through 987-C1-P-70) and its (Minnesota's) amendment of File No. 3481-C1-P-69 to add De Smet as a point of communication are contrary to § 21.26 (b) of the Commission's rules and should, therefore, be dismissed. Section 21.26(b) provides that an application is not entitled to mutually exclusive consideration with another application if it is filed more than 60 days after public notice of the filing of the other application. Any competing application filed after the prescribed cutoff date is subject to dismissal without prejudice and cannot be refiled until after a final decision is rendered on the first application. For purposes of the cutoff rule a major amendment is considered as a newly filed application, except: "Where major changes which do not relate to the mutually exclusive aspect of a proceeding are warranted, or in the case of multiple mutually exclusive issues where the warranted major changes serve to resolve one or more of the issues but do not relate to the mutually exclusive aspect of the proceeding, such changes or amendments will not serve to alter the existing mutually exclusive status so long as new conflicts are not created."

4. To resolve this question, it is necessary to review the filing history of these applications and their amendments. Mountain, on September 17, 1968, filed a set of three applications (1633 through 1635-C1-P-69) for stations to be located at Montevideo, Lake Hendricks (South Dakota) and De Smet which were placed on public notice on September 30, 1968. On November 27, 1968, Minnesota filed the two applications for Montevideo and Toronto (3481/3482-C1-P-69), which applications were obviously timely with respect to the first three Mountain applications. On June 23, 1969, Mountain filed a major amendment of its proposal which changed its proposed route (but not the service) so that it would coincide with the Minnesota route between Montevideo and Toronto.[2] Such amendment was not challenged by Minnesota, and it is considered within the aforementioned exception because it simplified the contest between the applicants by eliminating the necessity for the Commission to consider two different routes. On April 30, 1969, Mountain filed the application for a station at Redfield (7705-C1-P-69) which would further relay the signal into Aberdeen. That application was placed on public notice on June 23, 1969, and Minnesota filed on August 15, 1969 its set (985 through 987-C1-P-70) to serve Aberdeen via interconnection with its existing facilities at Ortonville. Even though this latter set was timely filed with respect to Mountain's application to serve Aberdeen, Mountain argues that its original set of applications (1633-C1-P-69 et al.) should establish the cutoff date because Minnesota had not earlier elected to provide service west of Watertown-Brookings. We do not concur in Mountain's reasoning. Despite the fact that Mountain's application to serve Aberdeen would interconnect with the proposed Montevideo-Toronto-De Smet facilities, it represents the first proposal to serve Aberdeen. Therefore, it establishes a separate cutoff date respecting applications involving service to that community.[3]

5. On March 9, 1970, Minnesota amended its Toronto application (3481-C1-P-69) to add De Smet as a point of communication so that it could interconnect with Mountain at that point. It is obvious that such amendment was filed well beyond the cutoff date. However, we categorize such amendment as within the aforementioned exception to the rule which permits major amendments that tend to simplify the mutually exclusive issues. Like Mountain's amendment of June 23, 1969, Minnesota's amendment would eliminate the routing conflicts between the proposals for the Montevideo and Toronto stations. Accordingly, we conclude that all of the captioned applications, as amended, are consistent with the provisions of § 21.26 (b) of the rules.

6. Inasmuch as these applications are clearly mutually exclusive, a hearing will be ordered to determine the comparative merits of the proposals. Both applicants have requested interim authorization to construct and operate the facilities pending a final Commission decision. Midcontinent, which owns the CATV systems in operation or under construction in Huron, Redfield, and Aberdeen that would be served, also urges the Commission to grant interim authorization. Midcontinent indicates that it is under particular pressure in Huron where carriage of WTCN-TV is a requirement of its local franchise. Notwithstanding its proposed separate route for serving Aberdeen, Minn., appears to be agreeable to interim authorization to serve Huron, Redfield, and Aberdeen via Mountain's proposed route if it (Minnesota) receives interim authorization for the Montevideo and Toronto stations.

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[1] Both Minnesota and Mountain originally proposed to serve Watertown and Brookings, S. Dak. by power split from Toronto. However, due to the delay caused by the dispute between the carriers, the customer at Brookings elected to construct his own facilities in the Community Antenna Relay Service. Proposed service to Watertown was deleted due to franchise uncertainties of the proposed CATV system there.

[2] The most drastic change was the relocation of the Lake Hendricks site to Toronto.

[3] To follow Mountain's argument that the earlier cutoff date should apply, would necessarily mean that we would have to reject Mountain's Aberdeen application since it was filed after that cutoff date.

Mountain, of course, is agreeable to receiving interim authorization to operate the De Smet and Redfield stations. However, it contends that it should also be permitted to operate or at least participate in the operation of the Toronto station.

7. We are of the opinion that the public should not be deprived of service pending resolution of the issues in an extended hearing proceeding. Furthermore, it does not appear that any substantial conflict exists over the physical nature of the facilities to be located at Montevideo, Toronto, and De Smet. While Mountain's proposed facility between Redfield and Aberdeen does conflict directly with the separate path to Aberdeen proposed by Minnesota, the Mountain proposal essentially involves modifications to previously authorized facilities which modifications could be dismantled without great cost if ordered by the Commission. The only new station would be the one at Toronto, and due to the substantial similarity of technical proposals, we would anticipate that ownership to that station could be transferred according to our final decision. In view of the public need for the service and the lack of substantial prejudicial effect to our final decision in the matter, we will grant an interim authorization.

8. Notwithstanding Mountain's argument concerning interim operation of the Toronto station, we believe the most equitable and practical solution is to grant interim authority to each carrier for two stations—Minnesota at Montevideo and Toronto and Mountain at De Smet and Redfield—with a midair interconnection between Toronto and De Smet. Midcontinent expresses some concern about the effect of midair interconnection may have upon the quality of service. A midair interconnection in this instance merely means that Minnesota will operate the transmitter at Toronto and Mountain, the receiver at De Smet. Such interconnections occur regularly between common carriers in all parts of the nation without problems. Both Mountain and Minnesota are established carriers, and we have no reason to believe that they will not fully meet their responsibilities in rendering interim service of satisfactory quality and reliability. Each has indicated that they expect to be ready to commence service in about 90 days after grant of interim authorization. In the event that either carrier fails to provide reasonably timely or adequate service, we will make provision for appropriate modification of the interim authorization.

9. The Commission has received a letter from TV Signal which operates a CATV system in Aberdeen that is (or soon will be) in competition with the system of Midcontinent. TV Signal indicates it may desire to take service from Mountain but fears possible discriminatory treatment because of Mountain's business association with Midcontinent.[4] Therefore, TV Signal requests that any grant to Mountain be conditioned upon TV Signal having the right to receive service upon equal terms and conditions, including commencement of service on a simultaneous basis. Of course, every interstate common carrier, including Mountain, has an obligation under section 201 of the Communications Act to provide service on an equal and nondiscriminatory basis upon reasonable request therefor. TV Signal does not present any particular facts to support its fears or that it has even discussed the possibility of service with Mountain. Barring technical problems, TV Signal (or any other subscriber) would be entitled to receive service simultaneously with Midcontinent at the same point of delivery. But if TV Signal requires service to be rendered to another point in the Aberdeen area, it would have to expect to order service sufficiently in advance to allow Mountain to plan, receive authorization for, and construct the additional facilities needed. We will provide for enough flexibility in the interim authorization for any modification that may be necessary to serve TV Signal, and we expect Mountain to make all reasonable effort to provide timely service to TV Signal upon request.

10. The proposed rates present another area of dispute. Minnesota purposes an interconnection fee at De Smet of $2,200 per month which Mountain contends is too high. Mountain states that it would charge only $1,200 for the same two hops.[5] With interconnection at De Smet, Mountain proposes a total monthly charge (for Huron, Redfield, and Aberdeen) of $1,755 in addition to any interconnection fee it may have to pay Minnesota. Midcontinent argues that the combined charge of $3,955 is too high; that Minnesota's charge is high in terms of return on investment and in comparison to Mountain's proposed charge for the Montevideo-Toronto segment; and that Mountain's costs for the De Smet facilities do not provide for proper cost allocation with other services to be provided through that station. We believe that enough of a question has been raised to warrant an issue as to the reasonableness of charges pursuant to sections 201(b) and 202(a) of the Communications Act. Also, since the customer and carriers have not been able to agree what charges are to be applicable to interim service, we will specify the amounts. Mountain's tariff for the service in question shall specify a total charge of $3,955 per month, as proposed. Of this amount, $1,500 shall be retained by Mountain, $1,520 shall be remitted to Minnesota for the interconnection, and $935 shall be paid to an escrow agent agreed upon by the parties. These amounts are intended only to approximate each applicant's "out of pocket" expenditures for constructing and operating the facilities.[6] It is not intended that they have any necessary relevance to what charges may be finally determined as fair and reasonable. The escrow fund will be divided in accordance with our final determination relative to charges. We will delegate authority to the hearing examiner to adjust the interim charges but only upon a showing that it creates a severe hardship on any party or in the event that additional facilities are needed to serve TV Signal.

11. We conclude that both Minnesota and Mountain are legally, technically, financially and otherwise qualified to construct and operate the proposed facilities and that authorization of such facilities would be in the public interest. Also, the proposed delivery of the signal of Station WTCN–TV is consistent with the interim procedures and the proposed rules in Docket No. 18397.

Total adjusted cost: $62,846 (adjusted by subtracting estimated engineering and legal fees, cost of purchased land, and contingencies).

Annual Expenses:	
Equipment installment payments	$6,749
Interest (@ 8½%) on remainder of investment ($35,852)	3,047
Lease of land	250
Maintenance and operation (less interest & depreciation)	8,220
Mountain's reimbursement:	
Total adjusted cost: (adjusted by subtracting ½ the estimated cost for the building, standby power, site development, tower and battery charger, which costs will be shared with other services to be rendered through the De Smet station.)	63,958
Annual expenses:	
Equipment installment payments	8,127
Interest (8½%) on remainder of investment ($31,450)	2,673
Maintenance and operation	7,221

12. *Accordingly, it is hereby ordered,* That Minnesota Microwave, Inc., is authorized to construct and operate on an interim basis facilities at Montevideo and Toronto as proposed in applications 3481/3482–C1–P–69, and Mountain Microwave Corp. is authorized to construct and operate on an interim basis facilities at De Smet and Redfield as proposed in applications 1635–C1–P–69 and 7705–C1–P–69, pursuant to § 21.27(g) of the Commission's rules, upon condition that said authorizations are subject to being withdrawn if, at a hearing, it is shown that the public interest will be better served by a grant of one of the other applications.

13. *It is further ordered,* That the Chief, Common Carrier Bureau is delegated authority to act on any request for

[4] TV Signal appears to be undecided as to how it intends to obtain the WTCN–TV signal. Originally it ordered service from Minnesota, but later it filed applications in the Community Antenna Relay Service.

[5] The difference between the two figures is explained primarily by divergent cost estimates. Minnesota estimates that the total cost for the Montevideo and Toronto facilities would be some $71,000 while the comparable Mountain estimate is about $54,000.

[6] Minnesota's reimbursement was calculated from the following figures as supplied by applicant.

authority to modify the technical proposal involved in the construction authorized above if such request is for the purpose of serving TV Signal in Aberdeen (or other subscriber) or is not opposed by the other applicant.

14. *It is further ordered*, That interim service be provided in accordance with the charges specified in paragraph 10 hereof, and that the published tariff therefor shall specify that the service and charges are subject to the Commission's final determination in this proceeding.

15. *It is further ordered*, That the hearing examiner is delegated authority to revoke either applicant's interim authorization and transfer said authorization to the other applicant upon a showing that the applicant has not undertaken construction of and has not completed the interim facilities within a reasonable time.

16. *It is further ordered*, That the hearing examiner is delegated authority to modify the specified interim charges and fees upon a change in service or subscribers served, or upon a showing that said charges impose a severe hardship on any party, in accordance with the standards set forth in paragraph 10 above.

17. *It is further ordered*, Pursuant to section 309(e) of the Communications Act of 1934, as amended, that the captioned applications are designated for hearing in a consolidated proceeding at the Commission's offices in Washington, D.C., before an examiner and on a date to the hereafter specified by separate order, upon the following issues:

(a) To determine, on a comparative basis, whether and to what extent, the proposals of Minnesota Microwave, Inc., or Mountain Microwave Corp. would better serve the public interest, convenience and necessity including the following:

(1) The rates, charges, practices, classifications, regulations, personnel and services;

(2) The proposed or required degree of operational reliability and whether such reliability is likely to be achieved;

(3) The cost of the proposed facilities including estimated maintenance and operating costs;

(4) The public policies and other considerations that may favor one carrier over another;

(b) To determine whether it is necessary and desirable to establish physical connections between facilities of the applicants within the meaning of section 201(a) of the Communications Act of 1934, as amended, and, if so, what connections, division of charges, facilities, and regulations should be established;

(c) To determine, if the proposed charges, classifications, regulations, or practices of the applicants are just and reasonable pursuant to sections 201(b) and 202(a) of the Communications Act, and to determine what adjustments should be made with respect to the interim charges;

(d) To determine, in light of the evidence adduced on the foregoing issues, whether and under what conditions the public interest, convenience and necessity will be served by grant of the captioned applications, and/or by the establishment of an interconnected system, and whether either applicant should be authorized to acquire and operate the facilities which were constructed on an interim basis by the other applicant, and if so, under what terms and conditions.

18. *It is further ordered*, That Minnesota Microwave, Inc., Mountain Microwave Corp., Midcontinent Broadcasting Co., and the Chief, Common Carrier Bureau, are made parties to the proceeding.

19. *It is further ordered*, That TV Signal Company of Aberdeen is hereby given leave to intervene and participate upon filing a written notice to do so within 20 days from the release date of this order.

20. *It is further ordered*, That the parties desiring to participate herein shall file their appearances in accordance with § 1.221 of the Commission's rules.

21. *It is further ordered*, That all petitions and requests, to the extent they are not granted herein, are otherwise denied.

Adopted: April 15, 1970.

Released: April 24, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-5212; Filed, Apr. 28, 1970; 8:48 a.m.]

FEDERAL RESERVE SYSTEM

BANCOHIO CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of BancOhio Corp., Columbus, Ohio, for approval of acquisition of up to 100 percent of the voting shares of The Community Bank, Napoleon, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)) an application by BancOhio Corp., Columbus, Ohio, a registered bank holding company, for the Board's prior approval of the acquisition of up to 100 percent of the voting shares of The Community Bank, Napoleon, Ohio.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks for the State of Ohio and requested his views and recommendation. The Superintendent recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on February 20, 1970 (35 F.R. 3265), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[2] April 21, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-5194; Filed, Apr. 28, 1970; 8:46 a.m.]

FIRST BANC GROUP OF OHIO, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by First Banc Group of Ohio, Inc., which is a bank holding company located in Columbus, Ohio, for prior approval by the Board of Governors of the acquisition by Applicant of 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The Peoples National Bank and Trust Co., Dover, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

[5] Commissioner Bartley concurring in part and dissenting in part; Commissioners Johnson and H. Rex Lee absent.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Cleveland.

[2] Voting for this action: Chairman Burns and Governors Robertson, Daane, Maisel, and Brimmer. Absent and not voting: Governors Mitchell and Sherrill.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the Office of the Board of Governors or the Federal Reserve Bank of Cleveland.

By order of the Board of Governors, April 17, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-5195; Filed, Apr. 28, 1970; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

CITY OF LONG BEACH AND KERR STEAMSHIP CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Leslie E. Still, Jr., Deputy City Attorney, City of Long Beach, Suite 600, City Hall, Long Beach, Calif. 90802

Agreement No. T-2400 is a nonexclusive preferential assignment agreement between the city of Long Beach (City) and Kerr Steamship Company (Kerr) for the use of the wharf and contiguous wharf premises, together with improvements, located at Berth 234, Pier J, city of Long Beach, Calif. Kerr is also granted an option for additional space on terms outlined in the agreement. Kerr will operate the premises as a marine terminal, including the furnishing of warehousing and rail and truck facilities for assembling, distributing, loading and unloading, etc., of cargo both in containers and not in containers. Kerr will either file a tariff of charges or, in lieu thereof, elect to use and be bound by the Port of Long Beach tariff. In the event Kerr publishes a tariff, all charges shall conform as nearly as possible with like charges enacted by City and no changes shall be made in its tariff without the prior written approval of City. As compensation Kerr may choose whether to pay on a straight compensation basis or on a minimum-maximum basis on terms outlined in the agreement. Kerr will pay City's applicable tariff charges for use of the premises, which will be credited toward the minimum-maximum compensation. In addition Kerr will be entitled to a credit for revenue received by the city from third persons using the premises. Kerr, at its sole cost and expense will furnish initially one wharf crane on rails to be installed by City and the crane will be the personal property of Kerr.

Dated: April 24, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5213; Filed, Apr. 28, 1970; 8:48 a.m.]

CITY OF LONG BEACH AND SEA-LAND SERVICE, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Leslie E. Still, Jr., Deputy City Attorney, City of Long Beach, Suite 600, City Hall, Long Beach, Calif. 90802

Agreements Nos. T-2401, T-2401-A, and T-2401-B, between the city of Long Beach (City) and Sea-Land Service, Inc. (Sea-Land) provide for the assignment and use of certain premises and gantry-type container cranes at the Port of Long Beach, Calif. Agreement No. T-2401 is a preferential assignment agreement covering the lease to Sea-Land of premises located at Berths 227 to 230 inclusive, Pier G, for use as a marine terminal. As compensation Sea-Land will pay a fixed monthly rental plus a percentage of total construction costs based on an estimated cost of $8 million. Sea-Land may establish a tariff of charges or elect to use and be bound by the Port of Long Beach tariff. Rates, charges, regulations and practices of Sea-Land, with respect to its terminal operation, will be subject to review and control by City. The agreement includes an understanding between the parties with respect to the assignment of a new terminal when additional land areas have been created.

Agreement No. T-2401-A covers the lease of land for use as a container freight station for the loading and unloading of containers and other related uses. As rental Sea-Land will pay a fixed monthly sum plus a percentage of actual construction costs.

Agreement No. T-2401-B provides for the nonexclusive, preferential assignment and use of two gantry-type container cranes to be situated at Berths 227-230, inclusive. Sea-Land's use of the cranes will be subject to the provisions of section 9 of Port of Long Beach tariff. In addition, Sea-Land will pay City a fixed annual sum for use of the cranes.

Dated: April 24, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5214; Filed, Apr. 28, 1970; 8:48 a.m.]

PACIFIC FAR EAST LINES AND UNITED STATES LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the

Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. H. P. Breed, Jr., Conference Affairs & Tariffs, United States Lines, Inc., 1 Broadway, New York, N.Y. 10004.

Agreement No. 9283–1 would modify the basic transshipment or through-billing arrangement between two captioned carriers, approved by the Commission on January 30, 1964, to provide the following:

(1) Include "government cargo" among that encompassed by the agreement;

(2) Include Viet-Nam, Cambodia, Thailand within the scope of the agreement;

(3) Adds Hong Kong as a transshipment point;

(4) Respecify the tariffs which pertain to the through movements, some of which are conference tariffs and some of which are individually published and filed with the Commission;

(5) Deletes an existing provision pertaining to accessorial and terminal charges; and

(6) Deletes a "variance clause" to the effect that neither party may enter into another arrangement with any third party at differing terms and conditions.

As originally approved, Agreement No. 9283 permitted the two lines to enter in a through-billing or transshipment arrangement with respect to commercial cargo, military household goods, personal effects and unaccompanied baggage between Hong Kong, Japan, Korea, Taiwan, and Okinawa and Atlantic Coast ports of the United States.

Dated: April 24, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5215; Filed, Apr. 28, 1970; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-3566, etc.]

CITIES SERVICE OIL CO. ET AL.

Findings and Order After Statutory Hearing

APRIL 17, 1970.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, canceling docket number, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, terminating proceeding, making successors co-respondents, redesignating proceedings, and accepting related rate schedules and supplements for filing.

Each of the applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, add to or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's Statement of General Policy No. 61–1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from areas for which area rates have been determined are authorized to be made at or below the applicable area base rates adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

Coastal States Gas Producing Co. (Operator) et al., applicant in Docket No. CI70–580, proposes to initiate a sale of natural gas heretofore authorized in Docket No. G–3711 to be made pursuant to Union Oil Company of California FPC Gas Rate Schedule No. 3. An instrument of ratification of said rate schedule will be accepted for filing as applicant's rate schedule. The presently effective rate under Union's rate schedule is in effect subject to refund in Docket No. RI63–159. Union filed a subsequent change in rate under its rate schedule, which change is suspended in Docket No. RI67–83. Applicant filed a motion to be made co-respondent in the proceeding pending in Docket No. RI63–159. Applicant will be made a co-respondent in the proceedings pending in both Dockets Nos. RI63–159 and RI67–83 and the proceedings will be redesignated accordingly. Applicant has heretofore filed a general undertaking to assure the refunds of any amounts collected by it in excess of amounts determined to be just and reasonable in proceedings under section 4 of the Natural Gas Act.

Burk Gas Corp., applicant in Docket No. CI70–630, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G–13278 to be made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 208. The instrument of ratification of the gas sales contract, which instrument is on file as Humble's rate schedule, will be accepted for filing as a rate schedule of applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI68–2. Therefore, applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, petitions to intervene and notices of intervention were filed in the following dockets:

Docket No.	*Interveners*
CI69–622	The Public Service Commission of the State of New York.
	The Brooklyn Union Gas Co.
	Consolidated Edison Co. of New York, Inc.
CI70–210	The Public Service Commission of the State of New York.
	The Brooklyn Union Gas Co.
CI70–550	Philadelphia Gas Works Division of UGI Corp.
CI70–708	The People of the State of California and the Public Utilities Commission of the State of California.

Said petitions and notices have either been withdrawn or are not in opposition to the granting of the applications and petitions to amend. No other petitions to intervene, notices of intervention, or protests to the granting of any of the applications have been filed.

At a hearing held on April 16, 1970, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record:

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will

be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Docket No. CI70–763 should be canceled and that the application filed therein should be treated as a petition to amend the order issuing a certificate in Docket No. CI70–396.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered and conditioned.

(7) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(8) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(10) The revenues received for sales at the increased rate under Union Oil Company of California FPC Gas Rate Schedule No. 79 which were collected subject to refund in Docket No. RI69–690 are de minimis; and, therefore, the proceeding pending in Docket No. RI69–690 should be terminated, and Union should be relieved from any refund obligation with respect to such sales.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Coastal States Gas Producing Co. (Operator) et al., should be made a correspondent in the proceedings pending in Dockets Nos. RI63–159 and RI67–83 and that said proceedings should be redesignated accordingly.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Burk Gas Corp. should be made a co-respondent in the proceeding pending in Docket No. RI68–2 and that said proceeding should be redesignated accordingly.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The certificates issued herein and the amended certificates are subject to the following conditions:

(a) The rates for sales authorized in Dockets Nos. G–3566, CI68–603, CI69–392, and CI70–556 shall be the applicable area base rates prescribed in Opinion No. 468, as modified by Opinion No. 468–A, as adjusted for quality of gas, or the contract rates, whichever are lower. Within 90 days from the date of initial delivery applicants shall file rate schedule quality statements in the form prescribed in Opinion No. 468–A.

(b) The initial rate for sales authorized in Docket No. CI70–298 shall be 18.5 cents per Mcf at 15.025 p.s.i.a. for gas well gas and casinghead gas, subject to B.t.u. adjustment upward from 1,050 B.t.u. per cubic foot or downward from 1,000 B.t.u. per cubic foot measured on a wet basis, but shall not exceed the rate provided in the related rate schedule. Within 90 days from the date of initial delivery applicant shall file a rate schedule quality statement in the form prescribed in Opinion No. 546.

(c) The initial rates for sales authorized in Docket No. CI70–550 shall be 20 cents per Mcf at 14.65 p.s.i.a. for gas well gas and 18.5 cents per Mcf at 14.65 p.s.i.a. for casinghead gas, the applicable area base rates prescribed in Opinion No. 546, as modified by Opinion No. 546–A, as adjusted for quality of gas, but shall not exceed the rates provided in the related rate schedule. The rates each include 1.5 cents per Mcf which will be collected subject to refund pending determination of the boundary between the Louisiana taxing jurisdiction and the Federal Domain and pending final order in the proceeding in Docket No. AR69–1, et al. The aforementioned rates shall remain in effect until changed by Commission order. Within 90 days from the date of initial delivery applicant shall file a rate schedule quality statement in the form prescribed in Opinion No. 546.

(d) If the quality of the gas delivered by Applicants in Dockets Nos. G–3566, CI68–603, CI69–392, CI70–550, and CI70–556 deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468–A, and Opinion No. 546, as modified by Opinion No. 546–A, whichever are applicable, so as to require a downward adjustment of the existing rates, notices of changes in rates shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rates.

(e) The rate for the sale authorized in Docket No. G–14962 shall be 12 cents per Mcf at 14.65 p.s.i.a.

(f) The initial rate for the sale authorized in Docket No. CI70–708 shall be 13 cents per Mcf at 14.65 p.s.i.a.

(g) The initial rate for the sale authorized in Docket No. CI69–1017 shall be 12.0495 cents per Mcf at 15.025 p.s.i.a.

(h) The rates for sales authorized in said dockets shall be: Docket No. CI61–1772, 15 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment; Docket No. CI69–982, 15 cents per Mcf at 14.65 p.s.i.a.; Docket No. CI70–646, 15 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment (newly dedicated acreage); and Docket No. CI70–717, 15 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment. Within 30 days from the date of this order applicant in Docket No. CI70–717 shall file three copies of a sample billing statement reflecting such rate as required by the regulations under the Natural Gas Act.

(i) The rate for sales authorized in Dockets Nos. CI67–350 (Oklahoma "Other" area only), CI69–1053, CI70–736, and CI70–740 shall be 15 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment. In the event that the Commission amends its statement of general policy No. 61–1, by adjusting the boundary between the Oklahoma Panhandle area and the Oklahoma "Other" area, so as to increase the initial wellhead price for new gas, applicants thereupon may substitute the new rates reflecting the amounts of such increases and thereafter collect the new rates prospectively in lieu of the initial rate herein authorized in said dockets. Within 30 days from the date of this order applicants in Dockets Nos. CI70–736 and CI70–740 shall file three copies of a revised billing statement reflecting such rate as required by the regulations under the Natural Gas Act.

(j) The initial rate for sales authorized in Dockets Nos. CI69–622 and CI70–210 shall be 16 cents per Mcf at 14.65 p.s.i.a. Within 30 days from the date of this order applicant in Docket No. CI70–210 shall file three copies of a revised billing statement reflecting such rate as required by the regulations under the Natural Gas Act.

(k) The rates for sales authorized in said dockets shall be: Docket No. CI67–350, 17 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment (Oklahoma Panhandle area only); Docket No. CI70–325, 17 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement; Docket No. CI70–726, 17 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment; and Docket No. CI70–737, 17 cents per Mcf at 14.65 p.s.i.a.

(l) Applicant in Docket No. CI70–550 shall not require buyer to take-or-pay for an annual quantity of gas well gas which is in excess of an average of 1 Mcf per day for each 7,300 Mcf of determined gas well gas reserves or the specified contract quantity, whichever is the lesser amount. This condition shall remain in effect pending further Commission order in the subject docket or in other matters relating to buyer's take-or-pay obligation under the subject contract.

(m) Applicant in Docket No. CI70–737 shall not require buyer to take-or-pay for an annual quantity of gas well gas during the first 2 contract years which is in excess of an average of 1 Mcf per day for each 3,650 Mcf of determined gas well gas reserves and 1 Mcf per day for each 7,300 Mcf of determined gas reserves thereafter or the specified contract quantity, whichever is the lesser amount. This condition shall remain in effect pending further Commission order in the subject docket or in other matters relating to buyer's take-or-pay obligation under the subject contract.

(n) The authorizations granted in Dockets Nos. CI67–350, CI70–550, CI70–717, CI70–736, and CI70–740 are conditioned upon any determination which may be made in the proceeding pending in Docket No. R–338 with respect to the transportation of liquefiable hydrocarbons.

(o) The authorizations granted in Dockets Nos. CI65–1017, CI65–1044, and CI70–580 shall be subject to Opinions Nos. 546 and 546–A and accompanying orders, specifically including those relating to rate reductions, refunds, and filings required by those orders.

(E) Applicant in Docket No. CI68–1356 shall file a billing statement for the first month's service as required by the regulations under the Natural Gas Act; and applicant in Docket No. CI70–720 shall file a billing statement reflecting the rate of 17 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to upward and downward B.t.u. adjustment as required by the regulations under the Natural Gas Act.

(F) The certificate issued in Docket No. CI70–717 involving the sale of gas by Anadarko Production Co. to its affiliate, Panhandle Eastern Pipe Line Co., determines the rate which legally may be paid by the buyer to the seller, but is without prejudice to any action which the Commission may take in any rate proceeding involving either company.

(G) Docket No. CI70–763 is canceled.

(H) The orders issuing certificates in Dockets Nos. G–3566, G–5716, CI60–659, CI61–1772, CI62–825, CI63–234, CI63–1532, CI67–350, CI68–1202,[1] CI68–1356, CI69–197, CI69–392, CI69–982, CI69–1053, CI69–1216, CI70–263, CI70–325, CI70–396, and CI70–636 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(I) The order issuing a certificate to Houston Natural Gas Production Co. (Operator) et al., in Docket No. G–19546 is amended to include the sales of natural gas heretofore authorized in Dockets Nos. G–4902 and G–5114 to be made pursuant to Pan American Petroleum Corp. FPC Gas Rate Schedule Nos. 82 and 85, respectively; and the certificates issued in Dockets Nos. G–4902 and G–5114 are terminated and the related rate schedules are canceled.

(J) The order issuing a certificate to MAPCO Production Co. in Docket No. CI68–603 is amended by adding thereto and deleting therefrom authorization to sell natural gas. Said order is further amended to include the sales of natural gas heretofore authorized in Docket No. CS66–121 to be made pursuant to Neleh Gas & Oil Corp. The certificate issued in Docket No. CS66–121 is terminated on the date of this order.

(K) The certificate and related rate schedule in Docket No. CI68–603 are redesignated from MAPCO Production Co. to MAPCO Production Co. (Operator) et al.

(L) The orders issuing certificates in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein or existing certificates are amended herein to authorize service from the subject acreage:

Amend to delete acreage	*New certificate and/or amendment to add acreage*
G–3111	CI70–298
G–3711	CI70–580
G–11229	CI68–1356
G–13278	CI70–630
G–14645	CI69–1017
G–14811	CI70–733
CI63–1435	CI70–730
CI64–670	CI70–757
CI64–1405	CI70–646
CI65–1319	CI70–720
CI68–156	CI70–751

(M) The orders issuing certificates in Dockets Nos. G–6668, G–14962, CI62–207, and CI67–202 are amended by substituting the successors in interest as certificate holders.

(N) The orders issuing certificates in Dockets Nos. CI65–1017, CI65–1044, and CI69–342 are amended to reflect the change in name as described in the tabulation herein.

(O) Permission for and approval of the abandonment of service by applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(P) Permission for and approval of the abandonments in Dockets Nos. CI70–184, CI70–685, and CI70–753 shall not be construed to relieve applicants of any refund obligations in the rate proceedings pending in Dockets Nos. RI63–386, RI69–137, and RI68–402, respectively.

(Q) The certificates heretofore issued in Dockets Nos. G–5128, G–6030, CI60–106, CI64–486, CI67–306, CI67–786, and CI67–1597 are terminated.

(R) The rate proceeding pending in Docket No. RI69–690 is terminated and Union Oil Co. of California is relieved from any refund obligations in said proceeding.

(S) Coastal States Gas Producing Co. (Operator) et al., is made a co-respondent in the proceedings pending in Dockets Nos. RI63–159 and RI67–83 and said proceedings are redesignated accordingly. Coastal States shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder.

(T) Burk Gas Corp. is made a co-respondent in the proceeding pending in Docket No. RI68–2 and said proceeding is redesignated accordingly. Burk Gas Corp. shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(U) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission.

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

[1] Temporary certificate.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G-3566 C 12-22-69	Cities Service Oil Co.[1]	El Paso Natural Gas Co., acreage in Lea County, N. Mex.	Supplemental agreement 12-8-69[2]	203	7
G-5716 D 2-13-70	Northern Natural Gas Producing Co. (Operator) et al.	Northern Natural Gas Co., Hugoton Field, Stevens County, Kans.	Notice of partial cancellation 2-11-70[3 4]	2	109
G-6668 E 11-6-69	Signal Oil and Gas Co., a division of The Signal Cos., Inc. (Operator) (successor to Service Gas Products Co. (Operator)).	Lone Star Gas Co., Doyle Plant, Stephens County, Okla.	Service Gas Products Co. (Operator), FPC GRS No. 1.	29	
			Supplement Nos. 1-6	29	1-6
			Notice of succession 11-3-69.		
			Assignment 10-31-69	29	7
			Effective date: 10-31-69		
G-6668 E 11-5-69	do	Lone Star Gas Co., Aylesworth Plant, Marshall County, Okla.	Service Gas Products Co. (Operator), FPC GRS No. 2.	32	
			Supplement Nos. 1-3	32	1-3
			Notice of succession 11-3-69.		
			Assignment 10-31-69	32	4
			Effective date: 10-31-69		
G-6668 E 11-5-69	do	Lone Star Gas Co., W. Hoover Plant, Garvin County, Okla.	Service Gas Products Co. (Operator), FPC GRS No. 3.	33	
			Supplement Nos. 1-6	33	1-6
			Notice of succession 11-3-69.		
			Assignment 10-31-69	33	7
			Effective date: 10-31-69		
G-14962 E 1-29-70[5]	Ben F. Brack (Operator) et al. (successor to Ben F. Brack Oil Co., Inc. (Operator) et al.).	Cities Service Gas Co., Aetna Mississippi Gas Pool, Barber County, Kans.	Ben F. Brack Oil Co., Inc. (Operator) et al., FPC GRS No. 1.	4	
			Supplement No. 1	4	1
			Notice of succession (undated).		
			Assignment 10-12-64[6]	4	2
			Assignment 10-12-64[6]	4	3
			Effective date: 10-13-64		
G-19546 (G-4902) E 2-16-70[7]	Houston Natural Gas Production Co. (Operator) et al.) (successor to Pan American Petroleum Corp.).	Transcontinental Gas Pipe Line Corp., South Mineral Field, Bee County, Tex.	Assignment 11-28-69[8]	7	14
			Effective date: 9-1-69		
G-19546 (G-5114) E 2-16-70[7]	do	do	Assignment 11-28-69[8]	9	14
			Effective date: 9-1-69		
C160-659 D 2-12-70	Trans Ocean Oil, Inc.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Block 68 Field, West Cameron Bay Area, Offshore Louisiana.	Notice of partial cancellation 2-26-70.[4 9]	10	6
C161-1772 C 2-24-70	Pan American Petroleum Corp.[10]	Lone Star Gas Company, Southeast Durant Field, Bryan County, Okla.	Amendment 12-4-69[2]	310	13
C162-207 E 2-13-70	Ray Resources Corp. (successor to Falling Rock Co. (Operator) et al.).	United Fuel Gas Co., Elk District, Kanawha County, W. Va.	Falling Rock Co. (Operator) et al., FPC GRS No. 1.	1	
			Supplement Nos. 1-6	1	1-6
			Notice of succession 2-11-70.		
			Assignment 12-1-69[8]	1	7
			Effective date: 12-1-69		

Filing Code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
C162-825 D 2-20-70	Mobil Oil Corp. (Operator) et al.	El Paso Natural Gas Co., Rojo Caballos Field, Pecos County, Tex.	Notice of cancellation 2-18-70.[3 4]	212	28
C163-234 D 2-13-70	do	Arkansas Louisiana Gas Co., Red Oak Area, Latimer and Le Flore Counties, Okla.	Notice of partial cancellation 2-11-70.[3 4]	333	33
C163-1532 D 2-18-70	Shell Oil Co	Panhandle Eastern Pipe Line Co., Iuka-Carmi Field, Pratt County, Kans.	Notice of partial cancellation 2-16-70.[4 11]	287	3
C165-1017 11-5-69[12]	Sklar & Phillips Oil Co. (formerly Sklar Producing Co., Inc.).	Bluebonnet Gas Corp., South Bayou Mallet Field, Acadia Parish, La.	Sklar Producing Co., Inc. FPC GRS No. 2.	2	
			Supplement Nos. 1-2.	2	1-2
			Notice of name change 11-3-69.[4 13]		
C165-1044 11-5-69[12]	Sklar & Phillips Oil Co. (Operator) et al. (formerly Sklar Producing Co., Inc. (Operator), agent for Albert Sklar et al.).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Bell City Field, Calcasieu Parish, La.	Sklar Producing Co., Inc. (Operator), agent for Albert Sklar et al., FPC GRS No. 1.	1	
			Notice of name change 11-3-69.[4 13]		
C167-302 E 2-9-70	Expando Production Co. (Operator) et al. (successor to Texas Pacific Oil Co., Inc.).	United Gas Pipe Line Co., Mission River and Refugio Heard Fields, Refugio County, Tex.	Texas Pacific Oil Co., Inc., FPC GRS No. 89.	7	
			Notice of succession 2-4-70		
			Assignment 5-22-69[14]	7	1
			Assignment 6-10-69[15]	7	2
			Assignment 9-17-69[16]	7	3
			Effective date: 8-1-69		
C167-350 C 9-1-67 C 9-3-68	Beard Oil Co.[17]	Panhandle Eastern Pipe Line Co., South Peek Field, Ellis and Roger Mills Counties, Okla.	Amendment 6-22-67[2]	5	1
			Agreement 6-18-68[2]	5	5
C168-603 (CS66-121) C 1-26-70[18] D 1-26-70[18]	MAPCO Production Co. (Operator) et al.[18a]	Northern Natural Gas Co., Various Fields, Pecos, Crane and Crockett Counties Tex.	Supplemental agreement 8-18-69.[2 18]	15	15
C168-1202[19] D 12-4-69 as amended 2-11-70	The Superior Oil Co.	Texas Gas Transmission Corp., North Maurice Field, Lafayette Parish, La.	Notice of cancellation 12-4-69.[4 13]	136	8
C168-1356 (G-11229) C 2-19-70	Marathon Oil Co (Operator), et al.	Southern Natural Gas Co., Logansport Houston Field, DeSoto Parish, La.	Agreement 4-30-69[20]	103	14
			Sublease 9-8-69[2 20]	103	15
C169-197 C 2-16-70	Ashland Oil & Refining Co.	United Fuel Gas Co., Poca District, Kanawha County, W. Va.	Supplemental agreement 1-23-70.[2]	193	8
C169-197 C 2-24-70	do	do	Supplemental agreement 1-22-70.[2]	193	7
C169-342 11-5-69[12]	Sklar & Phillips Oil Co. (formerly Sklar Producing Co., Inc.).	Arkansas Louisiana Gas Co., Colquitt Field, Claiborne Parish, La.	Sklar Producing Co., Inc., FPC GRS No. 4.	3	
			Supplement Nos. 1-2	3	1-2
			Notice of name change 11-3-69.[4 13]		
C169-394 C 12-24-69	Cities Service Oil Co.[21]	Transwestern Pipeline Co., Acreage in Eddy County, N. Mex.	Letter agreement 12-1-69[2]	304	2
C169-822 A 1-3-69	Atlantic Richfield Co.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Seven Sisters Deep Field, Duval County, Tex.	Contract 1-2-69	324	
			Letter 12-18-69[22]	324	2
C169-982 C 2-12-70	Jake L. Hamon[23]	Arkansas Louisiana Gas Co., Arkoma Area, LeFlore County, Okla.	Amendment 1-29-70[2]	55	2
C169-1017 (G-14645) F 4-23-69[24]	Larry Bedford (successor to El Paso Products Co.).	El Paso Natural Gas Co., Gallup Formation, San Juan Basin Area, San Juan County, N. Mex.	Contract 12-30-57[25]	1	
			Contract 5-2-58[25]	1	1
			Letter agreement 7-5-60	1	2
			Letter agreement 4-20-61	1	3
			Letter agreement 11-6-63	1	4
			Letter agreement 1-25-68	1	5
			Assignment 12-3-68[26]	1	6
			Assignment 12-19-68[26]	1	7
			Effective date: 1-1-69		

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
CI69-1063 ..... C 1-23-70	Champlin Petroleum Co.	Panhandle Eastern Pipe Line Co., State Line Field, Woods County, Okla.	Amendatory agreement 10-22-69.	104	2
			Compliance 2-27-70 [2] [33]	104	4
CI69-1216 ..... C 2-24-70	J. C. Baker & Son, Inc., et al.	Equitable Gas Co., Collins Settlement District, Lewis County, W. Va.	Letter agreement 2-18-70 [3]	7	3
CI70-184 ..... (CI60-106) B 8-25-69	Phillips Petroleum Co.	United Gas Pipe Line Co., North LaWard Field, Jackson County, Tex.	Notice of cancellation (undated) [4] [33]	360	3
CI70-210 ..... A 8-29-69	Neil E. Hanson et al.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Davis Area, Zapata County, Tex.	Contract 4-30-69	3	
			Compliance 1-15-70 [2] [34]	3	1
CI70-263 ..... C 1-14-70	Marathon Oil Co.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., East Rock Springs Area, Sweetwater County, Wyo.	Supplemental agreement 12-9-69.[2]	111	1
CI70-298 ..... (G-3111) F 9-22-69	Lyons Petroleum (successor to Humble Oil & Refining Co.).	United Gas Pipe Line Co., Bouma Field, Terrebonne Parish, La.	Contract 7-31-60 [35]	9	
			Letter agreement 4-5-61	9	1
			Letter agreement 6-8-67	9	2
			Letter agreement 5-31-68	9	3
			Assignment 6-1-69 [36]	9	4
			Letter agreement 6-19-69 [1] [37]	9	5
CI70-325 ..... C 12-12-69	Naheb Production Co.[38]	Transwestern Pipeline Co., S. E. Griggs Field, Cimarron County, Okla.	Letter agreement 11-26-69.[2]	10	7
CI70-396 ..... (CI70-760) C 2-25-70 [39]	R & S Gas & Oil, Inc.	United Fuel Gas Co., Ravenswood District, Jackson County, W. Va.	Supplemental agreement 2-6-70.	1	1
CI70-530 ..... A 12-15-69 as amended 2-31-69 and 2-2-70	Gulf Oil Corp.[40]	Tennessee Gas Pipeline Co., a division of Tenneco Inc., West Cameron Block 45 Field, Offshore Louisiana.	Contract 11-25-69	417	
CI70-556 ..... A 12-16-69	Southwestern Natural Gas, Inc.[41]	Natural Gas Pipeline Co. of America, Indian Basin Field, Eddy County, N. Mex.	Contract 10-1-69	6	
CI70-580 ..... (G-3711) F 12-24-69	Coastal States Gas Producing Co. (Operator) et al. (successor to Union Oil Co. of California).	Transcontinental Gas Pipe Line Corp., Tigre Lagoon Field, Vermilion and Iberia Parishes, La.	Ratified 9-11-69 [42]	80	
			Contract 11-17-53 [42]	80	1
			Letter agreement 7-9-58	80	2
			Amendment 2-3-60	80	3
			Amendment 12-29-60	80	4
			Amendment 7-14-61	80	5
			Amendment 12-27-66	80	6
			Letter agreement 2-13-69	80	7
			Assignment 2-24-69 [1] [43]	80	8
CI70-630 ..... (G-13278) F 11-17-69	Burk Gas Corp. (successor to Humble Oil & Refining Co.).	Northern Natural Gas Co., Kansas Hugoton Field, Finney County, Kans.	Ratification 8-16-57 [44]	14	
			Contract 2-9-56	14	1
			Amendatory agreement 1-29-57.	14	2
			Letter agreement 7-24-57	14	3
			Amendatory agreement 10-23-57.	14	4
			Amendatory agreement 10-12-60.	14	5
			Supplemental agreement 3-6-67.	14	6
			Assignment 10-27-69 [45]	14	7
			Assignment 10-30-69 [46]	14	8
			Effective date 11-1-69		
CI70-636 ..... C 1-27-70 as amended 2-20-70.	White Shield Oil and Gas Corp.	Equitable Gas Co., Troy District, Gilmer County, W. Va.	Letter agreement 1-27-70 [2]	6	1

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
A CI70-646 ..... (CI64-1436) F 1-13-70	Arthur J. Wessely (Operator) et al. (successor to Steve Gose (Operator) et al.)	Arkansas Louisiana Gas Co., South Quinton Field, Pittsburg County, Okla.	Agreement 12-1-69	6	
			Contract 3-30-64	6	1
			Assignment 7-9-69 [47]	6	2
			Compliance 3-6-70 [2] [33]	6	3
CI70-685 ..... (CI67-788) B 1-28-70	Atlantic Richfield Co.	Kansas-Nebraska Natural Gas Co., Inc., Castle Garden Field, Fremont County, Wyo.	Notice of cancellation 1-22-70.[4] [33]	587	2
CI70-708 ..... A 2-2-70 [48]	Dixie M. McLane Trust.	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	Contract 12-18-69	1	
			Supplemental agreement 12-18-69.[2]	1	1
CI70-716 ..... A 2-4-70	International Nuclear Corp.	Mountain Fuel Supply Co., Powder Wash Area, Sweetwater County, Wyoming and Moffat County, Colo.	Contract 1-22-70 [2]	4	
CI70-717 ..... A 2-5-70	Anadarko Production Co.[49]	Panhandle Eastern Pipe Line Co., North Avard Field, Woods County, Okla.	Contract 1-5-70 [2]	149	
CI70-720 ..... (CI65-1319) F 2-2-70	Arthur J. Wessely (Operator) et al. (successor to CRA, Inc.).	Panhandle Eastern Pipe Line Co., Mocane-Laverne Area, Beaver County, Okla.	Contract 5-19-65 [47]	7	
			Amendment 8-10-65	7	1
			Amendment 9-30-65	7	2
			Assignment 1-5-70 [50]	7	3
			Effective date: 1-5-70.		
CI70-721 ..... A 2-6-70	Tarpon Oil Co.	United Gas Pipe Line Co., Caspiana Field, Caddo and Red River Parishes, La.	Contract 1-9-70	2	
CI70-725 ..... A 2-2-70 [51]	Mobil Oil Corp. (Operator) et al.	Natural Gas Pipeline Co. of America, Putnam Oswega Unit, West Cran and Putnam Fields, Dewey and Custer Counties, Okla.	Amendatory agreement 5-1-69.[2] [33]	339	18
CI70-726 ..... A 2-9-70	Imperial American Management Co.[37]	Northern Natural Gas Co., Fort Supply Field, Ellis County, Okla.	Contract 9-4-69	8	
			Contract 8-8-66 [3]	8	1
CI70-730 ..... (CI63-1435) F 2-9-70	Occidental Petroleum Corp. (successor to Tenneco Oil Co.)	Arkansas Louisiana Gas Co., North Carter Field, Beckham County, Okla.	Contract 4-28-61 [52]	20	
			Agreement 4-3-62	20	1
			Assignment 11-10-69.[1] [53]	20	2
CI70-731 ..... (CI64-486) B 2-10-70	Union Oil Company of Calif.	Kansas-Nebraska Natural Gas Co., Inc., Camrick Field, Beaver County, Okla.	Notice of cancellation 2-6-70 [4] [33]	[54] 79	3
CI70-732 ..... A 2-11-70	Globe Natural Gas Co.	Equitable Gas Co., Otter District, Braxton County, W. Va.	Contract 1-22-70 [2]	2	
CI70-733 ..... (G-14811) F 2-11-70	Duer Wagner & Co. (Operator) et al. (successor to John B. Rich, Trustee, Agent for Trusts U/D Donaldson Brown (Operator) et al.).	Transcontinental Gas Pipe Line Corp. Oyeones Field, Duval County, Tex.	Contract 2-14-58 [55]	3	
			Agreement 8-26-63	3	1
			Agreement 9-1-69	3	2
			Assignment 1-26-70 [56]	3	3
			Effective date: 12-22-69.		
CI70-736 ..... A 2-16-70	Ashland Oil & Refining Co.[57]	Arkansas Louisiana Gas Co., Northeast Hillsdale Field, Garfield County, Okla.	Contract 1-6-70 [2]	197	
CI70-737 ..... A 2-16-70	First National Oil, Inc.[58]	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Mocane Field, Beaver County, Okla.	Contract 2-9-70	1	
CI70-740 ..... A 2-16-70	National Helium Corp.[59]	Panhandle Eastern Pipe Line Co., Northwest Avard Field, Woods County, Okla.	Contract 1-9-70 [2]	1	
CI70-742 ..... (G-8030) B 2-16-70	Mobil Oil Corp.	Montana-Dakota Utilities Co., Sand Creek Field, Washakie County, Wyo.	Notice of cancellation 2-12-70.[4] [33]	213	10

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
C170-751 (C168-156) F 2-16-70 [46]	King Resources Co., (successor to Mobil Oil Corp.).	Natural Gas Pipeline Co. of America, North Custer Field, Custer County, Okla.	Contract 5-15-67 [47] Assignment 7-11-69 [48]	31 31	 1
C170-753 (G-5128) B 2-19-70	Sun Oil Co	Texas Eastern Transmission Corp., Holzmark-Wilcox Field, Bee County, Tex.	Notice of cancellation 2-18-70 [49]	279	18
C170-757 (CI64-670) F 2-16-70 as amended 2-25-70	Leben Drilling, Inc. (Operator), et al. (successor to Marathon Oil Co.).	Arkansas Louisiana Gas Co., acreage in Pittsburg County, Okla.	Ratified 9-15-63 [50] Contract 4-25-62 [51] Amendment 3-8-63 Amendment 3-18-66 Assignment 1-14-70 [52]	6 6 6 6 6	 1 2 3 4
C170-759 (CI67-306) B 2-24-70	Behring's Production Co., Inc.	United Gas Pipe Line Co., Dehlco Field, Richland Parish, La.	Notice of cancellation 2-2-70 [53]	1	2
C170-761 A 2-16-70	Crown Petroleum, Inc.	Michigan Wisconsin Pipe Line Co., Moesne-Laverne Field, Beaver County, Okla.	Contract 10-27-69	5	
C170-762 A 2-25-70	Professional Oil Management, Inc.	Equitable Gas Co., Buckhannon and Meade Districts, Upshur County and Skin Creek District, Lewis County, W. Va.	Contract 5-13-69 Letter agreement 2-10-70 [54]	6 6	 1

[1] By letter filed Jan. 12, 1970, applicant agreed to accept permanent authorization conditioned as Opinion Nos. 468 and 468-A.

[2] Effective date: Date of initial delivery (applicant shall advise the Commission as to such date).

[3] Deletes acreage due to expiration or cancellation of nonproducing leases released from contract.

[4] Effective date: Date of this order.

[5] Although the predecessor's rate was 13 cents, effective subject to refund in Docket No. R162-198 by Commission order issued July 26, 1963, applicant proposes last clean rate of 12 cents.

[6] From Ben F. Brack Oil Company, Inc., to applicant.

[7] Application originally filed and noticed in Docket Nos. G-4902 and G-5114 has been reassigned Docket No. G-19546. The order issuing a certificate in Docket No. G-19546 will be amended to include the acreage formerly covered by the predecessor's certificate in Docket Nos. G-4902 and G-5114; the certificate in the latter dockets will be terminated and Pan American's FPC GRS Nos. 82 and 85 will be cancelled.

[8] Conveys all the acreage from Pan American Petroleum Corp. to Houston Natural formerly dedicated to contracts designated as Pan American's FPC GRS Nos. 82 and 85. Houston's FPC GRS Nos. 7 and 9 contain identical contracts.

[9] Deletes acreage released to landowner because acreage is no longer productive.

[10] Basic contract provides for rate of 10 cents per Mcf; however, applicant states willingness to accept permanent authorization at 15 cents per Mcf.

[11] From Falling Rock Co. to Bay Resources Corp.

[12] Delete acreage assigned to Austin Gas Purchasing, Inc.

[13] Amendment to the certificate to reflect change in corporate name.

[13a] Sklar Producing Co., Inc., changed its name by charter amendment to Sklar & Phillips Oil Co.

[14] Transfers acreage from Joseph E. Seagram & Sons, Inc., to H. F. Boester.

[15] Transfers acreage from H. F. Boester to Hal W. Yeager, Jr., doing business as Cactus Operating Co.

[16] Transfers acreage from Hal. W. Yeager, Jr., doing business as Cactus Operating Co. to Expando Production Co., and Donald A. Beadle.

[17] Applicant filed for rates of 15 cents per Mcf (Roger Mills County) and 17 cents per Mcf (Ellis County), both rates including tax reimbursement and subject to B.t.u. adjustment (Supplement No. 1). By letter filed Mar. 26, 1970, applicant advised willingness to accept permanent authorization (Ellis County) conditioned to 17 cents per Mcf including tax reimbursement and subject to B.t.u. adjustment, and subject to the ultimate disposition of the proceeding in Docket No. R-338 (Supplements Nos. 1 and 3).

[18] Adds acreage and deletes expired lease. In addition, amendment also adds interest of Neleh Gas & Oil Corp., a signatory party to the subject contract, who had been selling its gas under its small producer certificate in Docket No. CS66-121. Neleh has requested by motion filed Jan. 22, 1970, that its small producer certificate be terminated;

[18a] Applicant has expressed willingness to accept permanent authorization consistent with the provisions of Opinion Nos. 468 and 468-A.

[19] Amends May 6, 1968, agreement (Supp. No. 13) to delete an expired lease and to add acreage.

[20] No permanent certificate issued; only temporary authorization granted.

[21] Leases expired or were terminated by their own terms due to lack of production.

[22] Marathon releases its overriding royalty interests in a lease in sec. 12, T. 11 N., R. 16 W., De Soto Parish and Atlantic Richfield Co. (FPC GRS No. 380) assigns a ½ interest in the same lease and certain other leases in sec. 7, T. 11 N., R 15 W. and sec. 12, T. 11 N., R. 16 W., De Soto Parish, to Marathon Oil Co.

[23] Conveys ½ of Atlantic Richfield's leasehold rights and obligations in certain leases in secs. 11 and 12, T. 11 N., R. 12 W., De Soto Parish, to Marathon Oil Co.

[24] By letter filed Jan. 12, 1970, Applicant agreed to accept permanent authorization conditioned as Opinion Nos. 468 and 468-A.

[25] Contract provides for a rate of 17.24347 cents per Mcf; however, Applicant has agreed to accept a permanent certificate at a rate of 16 cents per Mcf.

[26] Contract provides for a rate of 16 cents per Mcf; however, Applicant states its willingness to accept permanent authorization at a rate of 15 cents per Mcf.

[27] By letter dated May 5, 1969, application was amended to provide for rate of 12.0485 cents in lieu of 13.0485 cents.

[28] On file as El Paso Products Co. FPC GRS No. 1 (Products is a wholly owned subsidiary of El Paso Natural Gas Co.).

[29] Casinghead contract on file as El Paso Products Co. FPC GRS No. 6.

[30] From El Paso Products Co. and John E. Sullivan to Larry Bedford.

[31] From El Paso Products Co. and Husky Oil Company of Delaware to Larry Bedford.

[32] Complies with temporary certificate issued Feb. 19, 1970. Applicant states willingness to accept a permanent certificate conditioned to an initial rate of 15 cents per Mcf subject to B.t.u. adjustment.

[33] Contains assignment dated Mar. 17, 1969, effective Mar. 18, 1969, whereby Phillips assigned the acreage to B. W. Whittington.

[34] Contract rate is 17.8 cents per Mcf; however, applicant has agreed to accept a permanent certificate at a rate of 16 cents per Mcf.

[35] Between United and Humble Oil & Refining Co.; also on file as Humble Oil & Refining Co. FPC GRS No. 343.

[36] Assigns acreage from Humble to Lyons Petroleum limited to the M-2 Sand encountered between depths of 11,158 feet and 11,284 feet in Lyons No. 1, South Coast Well.

[37] Establishes delivery point for Lyons' gas.

[38] Contractual base rate is 26 cents per Mcf; however, applicant proposes a rate of 17 cents per Mcf.

[39] Application erroneously assigned Docket No. CI70-763 is being construed as a petition to amend the order issuing a certificate in Docket No. CI70-396 and Docket No. CI70-763 will be canceled.

[40] Contract provides for rate of 22.25 cents per Mcf; however, applicant states willingness to accept a permanent certificate conditioned to the applicable area base rates prescribed in Opinion Nos. 546 and 546-A (20 cents for gas well gas and 18.5 cents for casinghead gas with 1.5 cents of each rate subject to refund).

[41] By letter filed Jan. 19, 1970, applicant agreed to accept a permanent certificate conditioned consistent with Opinion Nos. 468 and 468-A.

[42] Coastal's ratification of contract and amendments thereto between Union Oil Company of California and Transco dated Sept. 17, 1953.

[43] Contract between Union Oil Co. of California and Transco on file as Union Oil Co. of California FPC GRS No. 3.

[44] Assigns nonproductive acreage from Union to Coastal States Gas Producing Co., et al.

[45] Currently on file as Humble Oil & Refining Co. FPC GRS No. 208.

[46] Assignment from Humble Oil & Refining Co. to Burk Royalty Co.

[47] Assignment from Burk Royalty Co. to Burk Gas Corp.

[48] Assigns acreage from Steve Gose (Operator) et al., FPC GRS No. 1 to Arthur J. Wessely.

[49] Complies with temporary certificate issued 3-4-70. Applicant states willingness to accept a permanent certificate conditioned to 15 cents per Mcf subject to B.t.u. adjustment for the newly dedicated acreage.

[50] Source of gas depleted.

[51] By letter filed Feb. 17, 1970, the application was amended to show initial rate of 13 cents per Mcf in lieu of the contract rate of 14 cents per Mcf.

[52] Basic contract provides for a rate of 17 cents per Mcf; however, applicant states willingness to accept a permanent certificate at 15 cents per Mcf plus B.t.u. adjustment and subject to the ultimate disposition of the proceeding in Docket No. R-338.

[53] On file as CRA, Inc., FPC GRS No. 36.

[54] Conveys interest from CRA, Inc., to Arthur J. Wessely.

[55] Application for certificate to rent gas for pressure maintenance program.

[56] Provides for suspension of deliveries during pressure maintenance operation and for redelivery of gas to Natural as provided for in gas rental contract attached as an exhibit to the rate filing.

[56a] Effective Date: Date of initial delivery of rental gas.

[57] Contract rate is 18 cents per Mcf plus B.t.u. adjustment; however, applicant filed for a rate of 17 cents per Mcf plus B.t.u. adjustment.

[58] Currently on file as Tenneco Oil Co. FPC GRS No. 191.

[59] From Tenneco Oil Co. to applicant.

[60] Rate of 16 cents per Mcf effective subject to refund in Docket No. R169-690. Applicant has requested that the rate proceeding pending in Docket No. R169-690 be terminated since only $31 has been collected under said docket.

[61] Also on file as John B. Rich, Trustee, Agent for Trusts U/D Donaldson Brown(Operator)et al., FPC GRS NO. 1.

[62] Assigns acreage from Brown, et al., to Dorr Wagner & Co. (Operator) et al.

[63] Contract provides for rate of 17 cents per Mcf plus B.t.u. adjustment; however, applicant states its willingness to accept a permanent certificate at 15 cents per Mcf plus B.t.u. adjustment. By letter dated Mar. 5, 1970, applicant indicated willingness to accept authorization conditioned to the ultimate disposition of the proceeding in Docket No. R-338.

[64] By letter filed Mar. 3, 1970, applicant expressed willingness to accept a permanent certificate conditioned to limit buyer's take-or-pay obligation to a 1 to 3,650 ratio of takes to reserves during the first two contract years and a 1 to 7,300 ratio thereafter or the specified contract quantity, whichever is less.

[65] Contract provides for rate of 17 cents per Mcf; however, by letter dated Mar. 6, 1970, applicant advised willingness to accept a permanent certificate conditioned to the ceiling rate of 15 cents per Mcf. and by letter dated Mar. 12, 1970, advised willingness to accept authorization conditioned to the ultimate disposition of the proceeding in Docket No. R-338.

[66] Application noticed as an initial service; further review reveals that the application reflects partial succession.

[67] On file as Mobil Oil Corp. FPC GRS No. 404.

[68] Assigns acreage from Mobil Oil Corp. to King Resources Co.

[69] On file as Marathon Oil Co. FPC GRS No. 88, as supplemented.

[70] Conveys acreage from Marathon Oil Co. to Leben Drilling, Inc. (Operator) et al.

[71] Adds acreage.

[F.R. Doc. 70-5052; Filed, Apr. 28, 1970; 8:45 a.m.]

[Dockets Nos. RI70-1519, etc.]

SKELLY OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

APRIL 17, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before June 3, 1970.

By the Commission.

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

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in Dockets Nos.
RI70-1519..	Skelly Oil Co., Post Office Box 1650, Tulsa, Okla. 74102.	237	3	United Gas Pipe Line Co. (Mustang Island, Block 904, Offshore Nueces County, Tex.) (RR. District No. 4).	$3,664	3-23-70	[2] 4-23-70	9-23-70	16.06	[3] [4] 17.0638	RI70-735.
RI70-1520..	H. H. Howell (Operator), et al., 604 Milam Bldg., San Antonio, Tex. 78205.	4	5	United Gas Pipe Line Co. (Gabrysch Field, Jackson County, Tex.) (RR. District No. 2).	2,638	3-23-70	[2] 4-30-70	9-30-70	15.1920	[4] [5] 17.2601	RI70-740.
RI70-1521..	Cities Service Oil Co., Box 300, Tulsa, Okla. 74102.	308	3	United Gas Pipe Line Co. (Mustang Island Block 904, Nueces County, Tex.) (RR. District No. 4).	3,664	3-26-70	[2] 4-26-70	9-26-70	16.06	[3] [4] 17.0638	RI70-475.
RI70-1522..	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	50	4	Panhandle Eastern Pipe Line Co. (Glenwood Area, Beaver County, Okla.) (Panhandle Area).	1,642	3-23-70	[2] 5-1-70	10-1-70	[6] [7] 19.395	[4] [5] [6] [7] 20.235	RI68-500.
RI70-1523..	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	16	19	Natural Gas Pipeline Co. of America (Southeast Camrick Field, Beaver County, Okla.) (Panhandle Area).	80	3-23-70	[2] 5-10-70	10-10-70	[6] 18.6	[4] [6] 18.8	RI69-729.
	do	23	20	Natural Gas Pipeline Co. of America (Camrick (Boyd Area) Field, Beaver County, Okla.) (Panhandle Area).	300	3-20-70	[2] 5-8-70	10-8-70	[6] 18.2	[4] [6] 18.4	RI69-729.
RI70-1524..	Petro Dynamics, Inc. (Operator), et al., Post Office Box 10006, Amarillo, Tex. 79106.	2	[8] 14	Transwestern Pipeline Co. (Cree-Flowers Field, Roberts County, Tex.) (RR. District No. 10).	4,320	3-24-70	[2] 4-24-70	9-24-70	17.0	[9] [10] 19.0	
RI70-1525..	Robert C. Anderson (Operator), et al., 916 National Foundation Life Bldg., Oklahoma City, Okla. 73112.	1	4	Arkansas Louisiana Gas Co. (Northeast Hillsdale Field, Garfield and Grant Counties, Okla.) (Oklahoma "Other" Area).	18,250	3-23-70	[11] 4-23-70	9-23-70	[6] 15.0	[3] [4] [6] 17.0	
RI70-1526..	Harper Oil Co. (Operator), et al., 904 Hightower Bldg., Oklahoma City, Okla. 73102.	33	11	Michigan Wisconsin Pipe Line Co. (Laverne Field, Harper County, Okla.) (Panhandle Area).	24,224	3-23-70	[11] 4-23-70	9-23-70	[6] [12] 18.15	[4] [6] [12] 20.65	RI68-156.
RI70-1527..	J. I. Goins, et al., Post Office Box 1087, Ardmore, Okla. 73401.	1	5	Cimarron Transmission Co. (Hernstadt Unit, Southwest Enville Field, Love County, Okla.) (Oklahoma "Other" Area).	621	3-30-70	[2] 4-30-70	9-30-70	[6] [13] 15.975	[3] [6] [13] 18.6550	
RI70-1528..	Jack H. Smith, Post Office Box 1087, Ardmore, Okla.	1	3	Lone Star Gas Co. (Bryan County, Okla.) (Oklahoma "Other" Area).	201	3-25-70	[2] 4-25-70	8-25-70	15.0	[4] [14] 19.015	
RI70-1529..	Texaco Inc. (Operator), et al., Post Office Box 2420, Tulsa, Okla. 74102.	133	[8] 45	Natural Gas Pipeline Co. of America (Southeast Camrick Field, Texas County, Okla.) (Panhandle Area).	648	3-25-70	[2] 5-10-70	10-10-70	[6] 18.6	[4] [6] 18.8	RI69-678.
RI70-1530..	Pan American Petroleum Corp. (Operator), et al., Post Office Box 591, Tulsa, Okla. 74102.	350	4	Michigan Wisconsin Pipe Line Co. (Laverne Gas Area, Harper County, Okla.) (Panhandle Area).	349	3-23-70	[2] 4-23-70	9-23-70	[6] [15] 19.2	[4] [6] [15] [16] 20.71556	RI69-350.
	Pan American Petroleum Corp. (Operator), et al.	351	8	Michigan Wisconsin Pipe Line Co. (Laverne Gas Area, Harper County, Okla.) (Panhandle Area).	303	3-23-70	[2] 4-23-70	9-23-70	[6] [15] 19.1	[4] [6] [15] [16] 20.61556	RI69-350.

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mc: Rate in effect	Cents per Mc: Proposed increased rate	Rate in effect subject to refund in Dockets Nos.
RI70-1431..	Getty Oil Co., Post Office Box 1404, Houston, Tex. 77001.	179	1	Michigan Wisconsin Pipe Line Co. (Southwest Putnam Field, Dewey County, Okla.) (Oklahoma "Other" Area).	$5,580	3-20-70	[1] 4-29-70	9-29-70	[8] 15.0	[4] [9] 19.5	

[1] The stated effective date is the effective date requested by respondent.
[2] Increase from initial certificated rate to initial contract rate.
[3] Pressure base is 14.65 p.s.i.a.
[4] Periodic rate increase.
[5] Subject to upward and downward B.t.u. adjustment.
[6] Includes base rates of 17 cents before increase and 23 cents after increase plus upward B.t.u. adjustment plus tax reimbursement.
[7] Subject to a downward B.t.u. adjustment.
[8] Applicable only to the Mills Unit No. 1.
[9] "Fractured" rate increase.
[10] The stated effective date if the first day after expiration of the statutory notice period.
[11] Includes 1.135 cents upward B.t.u. adjustment and 0.015 cent tax reimbursement.
[12] Includes base rate of 15 cents plus upward B.t.u. adjustment before increase an 1 base rate of 17.5 cents plus upward B.t.u. adjustment plus tax reimbursement after increase.
[13] Filing from initial certificated rate to second periodic increase plus tax reimbursement.
[14] Applicable only to acreage added by Part IV of Supplement No. 3.
[15] Includes 1.2 cents upward B.t.u. adjustment (1,120 B.t.u. gas).
[16] Includes 0.01556 cent tax reimbursement.
[17] Subject to upward B.t.u. adjustment.
[18] Includes 1.1 cents upward B.t.u. adjustment (1,110 B.t.u. gas).
[19] Respondent filing from initial certificated rate to initial contract rate.

Robert C. Anderson (Operator) et al. (Anderson), requests that their proposed rate increase be permitted to become effective as of March 18, 1970. Harper Oil Co. (Operator) et al. (Harper), requests waiver of notice to permit an effective date of March 1, 1970, for their proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Anderson and Harper's rate filings and such requests are denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR, ch. I, Part 2, sec. 2.56).

[F.R. Doc. 70-5054; Filed, Apr. 28, 1970; 8:45 a.m.]

[Docket No. RP70-30]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Proposed Change in Rates and Other Tariff Changes

APRIL 22, 1970.

Notice is hereby given that Algonquin Gas Transmission Co. (Algonquin), on April 16, 1970, tendered for filing proposed changes in its FPC Gas Tariff to become effective June 1, 1970. The proposed rate changes would increase charges for jurisdictional service by $12.3 million annually based upon operations and sales for the year ended December 31, 1969, as adjusted. Algonquin states that the proposed increase is necessary to compensate it for the increases in its cost of purchased gas, the cost of capital and other cost increases. In addition to the proposed rate changes, Algonquin proposes changes in the unauthorized over-run provisions in Rate Schedules F-1, WS-1, and T-1; changes in the General Terms and Conditions of its Tariff related to the late payment of bills and disputed bills and lateral line policy.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 14, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5177; Filed, Apr. 28, 1970; 8:45 a.m.]

[Docket No. CP70-246]

INLAND GAS CO., INC., AND UNITED FUEL GAS CO.

Notice of Joint Application

APRIL 22, 1970.

Take notice that on April 14, 1970, the Inland Gas Co., Inc. (Inland), 340 17th Street, Ashland, Ky. 41101, and United Fuel Gas Co. (United), Post Office Box 1273, Charleston, W. Va. 25325, filed in Docket No. CP70-246 a joint application pursuant to subsections (b) and (c) of section 7 of the Natural Gas Act for an order of the Commission granting permission and approval to abandon certain natural gas facilities, and a certificate of public convenience and necessity authorizing the construction and operation of certain other natural gas facilities and the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have entered an agreement which will reduce their direct annual operating expenses whereby they will interconnect Inland's 10-inch and 12-inch pipelines with United's 12-inch pipeline approximately 4 miles west of United's Beaver Creek Compressor Station in Floyd County, Ky., at which point United will install measuring facilities and Inland will deliver volumes of gas through said facilities to United, which volumes United will transport for Inland. Said agreement further provides that United will utilize an existing emergency interconnection between its 12-inch line and Inland's 16-inch pipeline in Boyd County, Ky., together with existing measuring and regulating facilities, to redeliver volumes of gas to Inland. Applicants further state that said agreement will obviate the operation of certain of Inland's facilities, and thus, Inland seeks permission and approval to abandon its Hillsdale and Midas Compressor Stations in Floyd County.

The total estimated cost of the proposed construction is $20,800, which will be financed by funds generated from applicants' internal sources.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate or permission and approval for the proposed abandonment is

required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5178; Filed, Apr. 28, 1970; 8:45 a.m.]

[Docket No. CP70-97, Phase I]

MANUFACTURERS LIGHT AND HEAT CO. AND HOME GAS CO.

Findings and Order

APRIL 22, 1970.

Findings and order after statutory hearing issuing certificate of public convenience and necessity, permitting and approving abandonment, and severing a portion of application from formal proceeding.

Manufacturers Light and Heat Co. (Manufacturers), and Home Gas Co. (Home), filed on October 14, 1969, a joint application, pursuant to subsections (c) and (b) of section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural-gas facilities and permission and approval to abandon facilities. We issued an order on February 24, 1970, granting interventions, prescribing procedures, and fixing the date of a prehearing conference. Pursuant to that order, the prehearing conference has been held and, on April 6, 1970, the presiding examiner certified to the Commission that he has acted on two matters as directed in the order by:

(1) Granting applicants' motion to separate the proceeding into two phases, and

(2) Defining specific uncontested facilities and related service which may be made the subject of Commission action pursuant to the shortened hearing procedure prescribed by § 1.32(b) of the Commission's rules of practice and procedure.

The joint application requests Commission action on 20 different projects. Phase I relates to the 14 projects which do not pertain to the applicants' "coordinated operations" proposed in Docket No. CP68-364.[1] Phase II pertains to the remaining 6 projects which are said to have a bearing on the "coordinated operations" proceeding. There is no controversy with respect to 6 of the 14[2] specific Phase I projects proposed by the applicants, and the presiding examiner recommended that those 6 projects be authorized under the shortened procedure. They are described below:

Project No. 15—Manufacturers proposes to retire 1.2 miles of 10-inch Line No. 260 in Beaver County, Pa., and, in replacement thereof, construct and operate 1.2 miles of 16-inch pipeline in the same general location.

Project No. 16—Home proposes to retire 87 miles of multiple 6-inch and 0.5 mile of single 12-inch lines "A" in Steuben County, N.Y., and, in replacement thereof, to construct and operate 23.6 miles of single 12-inch pipeline in the same general location.

Project No. 17—Manufacturers proposes to abandon in place 0.6 mile of 16-inch Line No. 1 in Wetzel County, W. Va.

Project No. 18—Manufacturers proposes to abandon in place 5.6 miles of 12-inch Line No. 135 in Washington County, Pa.

Project No. 19—Manufacturers proposes to abandon by sale to Columbia Gas of Pennsylvania, Inc., 3.1 miles of 10-inch Line No. 88 and 0.3 mile of 8-inch Line No. 1868 in Beaver County, Pa.

Project No. 20—Home proposes to abandon in place 179.8 miles of multiple 6-inch and 3.3 miles of single 12-inch lines "A" in Steuben, Chemung, Tioga, and Broome Counties, N.Y.

The total cost of the replacements in Projects 15 and 16 is estimated by applicants to be $2,342,000.[3]

No discontinuation of service to any existing customers is involved in the proposed abandonments. All abandonments and replacements are occasioned by the obsolescence of existing facilities, except Project No. 19, which involves the sale by Manufacturers to Columbia Gas of Pennsylvania, Inc. (CGP), of pipelines which will be used by CGP to inject and deliver gas from its recently developed Blackhawk Storage Pool in Beaver County, Pa. The effect of the proposed sale in Project 19 is to move the delivery points from Manufacturers to CGP farther upstream on Manufacturers' transmission system.

Intervener Pennsylvania Gas and Water Co. (Penn Gas), has requested that the certificate to be issued for Project 19 be conditioned so that Penn Gas' position regarding the ownership of Blackhawk Storage Field will not be prejudiced should that issue arise in the pending Columbia Gas System realignment proceedings, or in any other future proceeding.

We are in agreement with the presiding examiner's recommendation that it is appropriate to take final action on the six projects described above. Our order herein will grant the requested authorizations subject to the condition sought by Penn Gas with respect to Project 19.

At a hearing held on April 16, 1970, the Commission, on its own motion received and made a part of the record in this proceeding all evidence, including the portion of the application and exhibits related to the six projects which are the subject of this order, submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) It is in the public interest to sever from the formal proceedings in Docket No. CP70-97 that portion of the application related to the six projects hereinbefore described for disposition under the shortened procedure prescribed by § 1.32(b) of the Commission's rules of practice and procedure.

(2) Applicant, Manufacturers Light and Heat Co., a corporation having its principal place of business in Pittsburgh, Pa., is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued December 29, 1944, in Docket No. G-593, et al. (4 FPC 821).

(3) Applicant, Home Gas Co., a corporation having its principal place of business in Pittsburgh, Pa., is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued January 5, 1943, in Docket No. G-345 (3 FPC 895).

(4) The proposed facilities hereinbefore described, as more fully described in the application in this proceeding, will be used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission and the construction and operation thereof are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(5) The facilities proposed to be abandoned, as hereinbefore described and as more fully described in the application in this proceeding, are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission and such abandonment is subject to the requirements of section 7(b) of the Natural Gas Act.

(6) Applicants are able and willing properly to do the acts, perform the service proposed, and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations thereunder.

(7) The construction and operation of the proposed facilities by applicants are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(8) The abandonment by applicants of the facilities hereinbefore described is permitted by the public convenience and necessity and an order permitting and approving same should be issued as hereinafter ordered.

(9) The public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon applicants' compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f), and (g) of § 157.20 of the regulations.

The Commission orders:

(A) The portion of the application related to the six projects hereinbefore described is severed from the formal hearing with respect to the contested issues involved in Phase I of the proceedings in Docket No. CP70-97.

[1] The presiding examiner's initial decision was issued Mar. 26, 1970, in Docket No. CP68-364.

[2] The other eight Phase I projects are scheduled for formal hearings commencing June 16, 1970.

[3] The estimated total cost of all facilities proposed by the application is $10,096,000.

(B) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Manufacturers and Home to construct and operate the natural-gas facilities involved in the six projects hereinbefore described and as more fully described in the application.

(C) Permission for and approval of the abandonment of the operation of the facilities involved in the six projects hereinbefore described, as more fully described in the application in this proceeding, is granted.

(D) The certificate issued in paragraph (B) above and the rights granted thereunder are conditioned upon applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f), and (g) of § 157.20 of the regulations.

(E) Construction of the facilities hereinbefore described shall be completed within 1 year from the date this order issues.

(F) Applicants shall advise the Commission of the dates of the abandonments authorized in paragraph (C) above within 10 days of the dates thereof.

(G) The certificate issued in paragraph (B) above with respect to Project 19 is without prejudice to Pennsylvania Gas and Water Co.'s position in any future proceeding in which the ownership of Blackhawk Storage Field is an issue.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5180; Filed, Apr. 28, 1970; 8:45 a.m.]

[Docket No. RP70-29]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Proposed Changes in Rates and Charges

APRIL 22, 1970.

Take notice that on April 16, 1970, Texas Eastern Transmission Corp. (Texas Eastern), tendered for filing proposed changes in its FPC Tariff, Second Revised Volume No. 1 and Original Volume No. 2, and in the Over-run provisions of the SGS Rate Schedules, to become effective on June 1, 1970. The proposed rate changes would increase charges for jurisdictional sales and services by about $60,150,000 based on sales, storage service and transportation service for the 12-month period ending December 31, 1969, as adjusted.

Texas Eastern states that the principal reasons for the proposed rate increases are: (1) Increased cost of labor, supplies, expenses, and construction; (2) increased cost of gas supplies; (3) the need for an increased rate of return of 8⅝ percent; (4) the discontinuance of flow-through of liberalized depreciation in favor of the use of normalization on future additions to plant or the reversion to straight line depreciation on such additions for tax purposes, and (5) increased taxes, including income taxes associated with the increased return.

Copies of the filing have been served on customers and interested State regulatory agencies.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5179; Filed, Apr. 28, 1970, 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2750]

SEILON, INC.

Notice of Filing of Application for Order of Temporary Exemption

APRIL 23, 1970.

Notice is hereby given that Seilon, Inc. ("applicant"), 406 Madison Avenue, Toledo, Ohio 43604, a Delaware corporation, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission granting a temporary exemption of applicant from section 7 of the Act, until such time as the Commission has resolved applicant's section 3(b)(2) application. Applicant in requesting such temporary exemption has agreed that applicant and other persons in their transactions and relations with it be subject to all provisions of the Act, and the respective rules and regulations promulgated under each of such provisions, as though applicant were a registered investment company, other than the following: section 8, section 13(a), subsections (f), (g), (h) and (i) of section 17, section 18 (except subsection (d) thereof), section 23, section 30 (except subsection (f) thereof), and section 31 of the Act, and the respective rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On February 20, 1970, applicant filed an application pursuant to section 3(b)(2) of the Act for an order of the Commission declaring it to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities, either directly or through a controlled company. Section 3(b)(2) provides that the filing of an application thereunder shall exempt an applicant for a period of 60 days from all provisions of the Act applicable to investment companies as such. The 60-day period of exemption provided in section 3(b)(2) of the Act expired in applicant's case, on April 21, 1970.

Section 6(c) provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(e) provides that, if, in connection with any order under section 6 exempting any investment company from section 7, the Commission deems it necessary or appropriate in the public interest or for the protection of investors that certain specified provisions of the Act pertaining to registered investment companies shall be applicable in respect of such company, the provisions so specified shall apply to such company, and to other persons in their transactions and relations with such company, as though such company were a registered investment company.

Notice is further given that any interested person may, not later than May 14, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70-5199; Filed, Apr. 28, 1970; 8:47 a.m.]

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

PUBLIC AFFAIRS ADVISER

Notice of Basic Compensation

Pursuant to the provisions of section 309 of Public Law 88-426, as modified by the Federal Employees Salary Act of 1970 (Public Law 91-231), and in conformance with Executive Order 11524 of April 17, 1970 issued by the President under section 2 of said Act, notice is hereby given that rate of basic compensation of the Public Affairs Adviser of the United States Arms Control and Disarmament Agency has been adjusted to $35,505 per annum. Pursuant to section 9(a) of the Act, the rate of basic compensation of $35,505 shall take effect as of December 28, 1969, the first day of the first pay period which began on or after December 27, 1969.

Dated: April 20, 1970.

PHILIP J. FARLEY, *Acting Director.*

[F.R. Doc. 70-5193; Filed, Apr. 28, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 24, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41943—Sand to West Henderson, Ky. Filed by Southwestern Freight Bureau, agent (No. B-157), for interested rail carriers. Rates on sand, in carloads, as described in the application, from Guion, Ark., Klondike, Ludwig, and Pacific, Mo., also Mill Creek and Roff, Okla., to West Henderson, Ky.

Grounds for relief—Market and carrier competition.

Tariff—Supplement 74 to Southwestern Freight Bureau, agent, tariff ICC 4797.

By the Commission.

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

[F.R. Doc. 70-5206; Filed, Apr. 28, 1970; 8:47 a.m.]

[Notice 14]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

APRIL 24, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 30204 (Deviation No. 23), HEMINGWAY TRANSPORT, INC., 438 Dartmouth Street, New Bedford, Mass. 02740, filed April 17, 1970. Carrier's representative: Carroll B. Jackson, 5600 Midlothian Turnpike, Richmond, Va. 23225. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Rocky Mount, N.C., over Interstate Highway 95 (also over U.S. Highway 301) to Richmond, Va., thence over Interstate Highway 64 (also over U.S. Highway 250) to Waynesboro, Va., and (2) from Waynesboro, Va., over Interstate Highway 64 (also over U.S. Highway 250) to Richmond, Va., thence over Interstate Highway 95 to Washington, D.C., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Rocky Mount, N.C., over North Carolina Highway 97 to junction U.S. Highway 64, thence over U.S. Highway 64 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction North Carolina Highway 87, thence over North Carolina Highway 87 to junction U.S. Highway 29, thence over U.S. Highway 29 to junction Virginia Highway 151, thence over Virginia Highway 151 to junction Virginia Highway 158, thence over Virginia Highway 158 to junction U.S. Highway 29, thence over U.S. Highway 29 to junction Virginia Highway 6, thence over Virginia Highway 6 to junction Virginia Highway 151, thence over Virginia Highway 151 to Afton, Va., thence over U.S. Highway 250 to Waynesboro, Va., and (2) from Waynesboro, Va., over U.S. Highway 250 to junction U.S. Highway 15, thence over U.S. Highway 15 to junction U.S. Highway 211, thence over U.S. Highway 211 to Washington, D.C., and return over the same routes.

No. MC 42487 (Deviation No. 83), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025, filed April 15, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Medford, Oreg., over Oregon Highway 62 to junction Oregon Highway 140, at or near Eagle Point, Oreg., thence over Oregon Highway 140 to Klamath Falls, Oreg., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Medford, Oreg., over U.S. Highway 99 to Ashland, Oreg., thence over U.S. Highway 66 to Klamath Falls, Oreg., and return over the same route.

No. MC 106195 (Sub-No. 2) (Deviation No. 3), CLARK BROS. TRANSFER, INC., 802 North First Street, Norfolk, Nebr. 68701, filed March 26, 1970, amended April 14, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Sioux City, Iowa, over Interstate Highway 29 to junction Interstate Highway 80, thence over Interstate Highway 80 to Lincoln, Nebr., for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: From Norfolk, Nebr., over Nebraska Highway 35 to junction Nebraska Highway 15, thence over Nebraska Highway 15 to junction U.S. Highway 20, thence over U.S. Highway 20 to South Sioux City, Iowa, (2) from Ainsworth, Nebr., over U.S. Highway 20 to junction U.S. Highway 275, thence over U.S. Highway 275 to junction U.S. Highway 6, thence over U.S. Highway 6 to Council Bluffs, Iowa, (3) from Fremont, Nebr., over U.S. Highway 30 to Columbus, Nebr., and (4) from Neligh, Nebr., over Nebraska Highway 14 to Albion, Nebr., thence over Nebraska Highway 22 to Columbus, Nebr., thence over U.S. Highway 81 to junction Alternate U.S. Highway 30, thence over Alternate U.S. Highway 30 to junction Nebraska Highway 15, thence over Nebraska Highway 15 to junction U.S. Highway 34, thence over U.S. Highway 34 to Lincoln, Nebr., and return over the same route.

By the Commission.

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

[F.R. Doc. 70-5203; Filed, Apr. 28, 1970; 8:47 a.m.]

[Notice 39]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 24, 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.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 76065 (Sub-No. 18) (Republication), filed September 18, 1969, and republished this issue. Applicant: EHRLICH-NEWMARK TRUCKING CO., INC., 248 West 35th Street, New York, N.Y. 10001. Applicant's representative: Norman Weiss, 2 West 45th Street, New York, N.Y. 10036. The modified procedure has been followed in this proceeding and order of the Commission, Operating Rights Board, dated March 31, 1970, and served April 15, 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, (1) of *wearing apparel*, and (2) of *wearing apparel accessories* when moving in the same vehicle with wearing apparel, from points in that portion of the New York, N.Y., commercial zone as defined in Commercial Zones and Terminal Areas, 53 M.C.C 451 within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), to facilities of Lane Bryant, Inc., in Washington, D.C., and (3) of returned shipments of the above-described commodities on return; 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 relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 113843 (Sub-No. 148) (Republication), filed March 27, 1969, published in the FEDERAL REGISTER issue of May 1, 1969, and republished this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02110. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, Ill. 60603. A decision and order of the Commission, Review Board Number 1, dated April 15, 1970, and served April 20, 1970, upon consideration of the application as amended, and the record in the above entitled proceeding, including the report and recommended order of the examiner, 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 *frozen animal food* (except commodities in bulk) (1) from points in Ohio to Allentown, Camp Hill, Philadelphia, and Dublin, Pa., New Bedford, Woburn, and Boston, Mass., and Princess Anne, Md., and (2) from points in Illinois, Indiana, Minnesota, and Wisconsin to Toledo, Marion, and Bowling Green, Ohio, Allentown, Camp Hill, Philadelphia, and Dublin, Pa., New Bedford, Woburn, and Boston, Mass., and Princess Anne, Md.; and that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

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-10053 (Amendments) (GEORGE W. BROWN, INC.—Purchase—K. M. TRANSPORTATION, INC. (LEONARD M. SALTER, Assignee)), published in the March 6, 1968, issue of the FEDERAL REGISTER, on page 4233. By two amendments filed April 22, 1970: (1) THE BANK OF NEW YORK, as Trustee, 48 Wall Street, New York, N.Y. 10015, joins in as party applicant in control of GEORGE W. BROWN, INC.; and (2) AMERICAN EXPORT INDUSTRIES, INC., JAKOB ISBRANDTSEN, both of 280 Park Avenue, New York, N.Y. 10017, ISBRANDTSEN COMPANY, INC., and ALBERT E. RISING, JR., both of 26 Broadway, New York, N.Y. 10004, as companies and persons affiliated with EASTERN EXPRESS, INC., joins in as party applicants seeking to control K. M. TRANSPORTATION, INC. (LEONARD M. SALTER, Assignee). NOTE: See also MC-F-10813 (EASTERN EXPRESS, INC.—Control—R. C. MOTOR LINES, INC.), filed concurrently, and published this same issue.

No. MC-F-10207 (Amendments) (R. C. MOTOR LINES, INC.—Control—GEORGE W. BROWN, INC.), published in the August 7, 1968, and correction in the September 25, 1968, issues of the FEDERAL REGISTER, on pages 11198 and 14430, respectively. By two amendments filed April 22, 1970: (1) THE BANK OF NEW YORK, as Trustee, 48 Wall Street, New York, N.Y. 10015, joins in as a party applicant in control of R. C. MOTOR LINES, INC.; and (2) AMERICAN EXPORT INDUSTRIES, INC., JAKOB ISBRANDTSEN, both of 280 Park Avenue, New York, N.Y. 10017, ISBRANDTSEN COMPANY, INC., and ALBERT E. RISING, JR., both of 26 Broadway, New York, N.Y. 10004, as companies and persons affiliated with EASTERN EXPRESS, INC., joins in as party applicants seeking to control GEORGE W. BROWN, INC. NOTE: See also MC-F-10813 (EASTERN EXPRESS, INC.—Control—R. C. MOTOR LINES, INC.), filed concurrently, and published this same issue.

No. MC-F-10209 (Amendments) (R. C. MOTOR LINES, INC.—Purchase (Portion)—ALABAMA HIGHWAY EXPRESS, INC.), published in the August 14, 1968, issue of the FEDERAL REGISTER, on page 11575. By two amendments filed April 22, 1970: (1) THE BANK OF NEW YORK, as Trustee, 48 Wall Street, New York, N.Y. 10015, joins in as party applicant in control of R. C. MOTOR LINES, INC.; and (2) AMERICAN EXPORT INDUSTRIES, INC., JAKOB ISBRANDTSEN, both of 280 Park Ave., New York, N.Y. 10017, ISBRANDTSEN COMPANY, INC., and ALBERT E. RISING, JR., both of 26 Broadway, New York, N.Y. 10004, as companies and persons affiliated with EASTERN EXPRESS, INC., joins in as party applicants seeking to control ALABAMA HIGHWAY EXPRESS, INC. NOTE: See also MC-F-10813 (EASTERN EXPRESS, INC.—Control—R. C. MOTOR LINES, INC.), filed concurrently, and published this same issue.

No. MC-F-10641 (Amendment) (R. C. MOTOR LINES, INC.—Purchase—GOLDMAN TRUCKING CO., INC.), published in the October 29, 1969, issue of the FEDERAL REGISTER, on page 17472. By two amendments filed April 22, 1970: (1) THE BANK OF NEW YORK, as Trustee, 48 Wall Street, New York, N.Y. 10015, joins in as a party applicant in control of R. C. MOTOR LINES, INC.; and (2) AMERICAN EXPORT INDUSTRIES, INC., JAKOB ISBRANDTSEN, both, of 280 Park Avenue, New York, N.Y. 10017, ISBRANDTSEN COMPANY, INC., and ALBERT E. RISING, JR., both of 26 Broadway, New York, N.Y. 10004, as companies and persons affiliated with EASTERN EXPRESS, INC., joins in as party applicants seeking to control GOLDMAN TRUCKING CO., INC. NOTE: See also MC-F-10813 (EASTERN EXPRESS, INC.—Control—R. C. MOTOR

LINES, INC.), filed concurrently, and published this same issue.

No. MC-F-10795 (Correction) (INTERNATIONAL UTILITIES OF THE U.S., INC.—Control—PACIFIC INTERMOUNTAIN EXPRESS CO.), published in April 8, 1970 issue of the FEDERAL REGISTER on page 5757. The prior notice reads: INTERNATIONAL UTILITIES OF THE U.S., INC., holds not authority from this Commission. However, its controlling stockholder controls RYDER TRUCK LINES, INC. and CHEMICAL LEAMAN TANK LINES, INC. This notice to show its controlling stockholder controls RYDER TRUCK LINES, INC. only and has a minority stock interest in CHEMICAL LEAMAN TANK LINES, INC.

No. MC-F-10807. Authority sought for purchase by SOONER CORPORATION, Post Office Box 40, Madill, Okla. 73446, of a portion of the operating rights of BILYEU REFRIGERATED TRANSPORT CORPORATION, Post Office Box 688, Marshall, Mo. 65803. Applicants' attorney: David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. Operating rights sought to be transferred: *Frozen prepared foods*, as a *common carrier*, over irregular routes, from Macon, Marshall, Moberly, Milan, and Carrollton, Mo., to points in Arkansas, Oklahoma, and Kansas. Restriction: The service authorized herein is subject to the following conditions: Said service is restricted against the transportation of bakery goods from the plantsite of Banner Biscuit Co., at Carrollton, Mo. Said service is restricted to the transportation of shipments originating at Macon, Marshall, Moberly, Milan, and Carrollton, Mo., and destined to points in Arkansas, Oklahoma, and Kansas. SOONER CORPORATION holds no authority from this Commission. However, it is affiliated with SOONER EXPRESS, INC., Post Office Box 275, Denison, Tex., which is authorized to operate as a *contract carrier* in Texas, Oklahoma, Arkansas, and Kansas. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10808. Authority sought for purchase by RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, Mo. 64142, of the operating rights of CENTRAL TRANSPORTATION CO., INC., Fullerton, Nebr., and for acquisition by REPUBLIC INDUSTRIES, INC., 903 Grand Avenue, Kansas City, Mo., and, in turn by ROBERT B. RISS, 1012 Baltimore Avenue, Kansas City, Mo., of control of such rights through the purchase. Applicants' attorneys: Earl H. Scudder, Jr., 605 South 14th Street, Box 2028, Lincoln, Nebr. 68501, and Ivan E. Moody, Post Office Box 2809, Kansas City, Mo. 64142. Operating rights sought to be transferred: *General commodities*, except those of unusual value, livestock, classes A and B explosives, commodities requiring special equipment, commodities in bulk, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes, between Fullerton, Nebr., and Council Bluffs, Iowa, serving the intermediate points of Monroe, Columbus, Fremont, Omaha, and Central City, Nebr., between Fullerton, Nebr., and Grand Island, Nebr., serving no intermediate points. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, Texas, Colorado, Iowa, Illinois, Nebraska, Oklahoma, Michigan, Iowa, West Virginia, Massachusetts, New Jersey, Connecticut, Pennsylvania, Maryland, Virginia, New York, Ohio, Indiana, Rhode Island, Delaware, Kentucky, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10809. Authority sought for purchase by TRANSPORT SERVICE, 6395 Southeast Alberta Street, Portland, Oreg. 97206, of a portion of the operating rights and certain property of BLUE LINE TRANSPORTATION CO., INC., Box 37, North Portland, Oreg. 97043, and for acquisition by BABLER BROTHERS, INC., 4617 Southeast Milwaukie Avenue, Portland, Oreg. 97202, and ROGERS CONSTRUCTION, INC., 11760 Northeast Glisan, Portland, Oreg. 97220, of control of such rights and property through the purchase. Applicants' attorney and representative: John G. McLaughlin, 726 Blue Cross Building, Portland, Oreg. 97201, and F. Brock Miller, 17th Floor, Standard Plaza, Portland, Oreg. 97204. Operating rights sought to be transferred: *Petroleum and petroleum products*, as a *common carrier*, over irregular routes, from Attalia and Pasco, Wash., to points in that part of Oregon and Washington, east of the summit of the Cascade Mountains; *liquid petroleum and petroleum products* in bulk, from The Dalles and Umatilla, Oreg., to points in Oregon and Washington east of the summit of the Cascade Mountains; *road oil and liquid asphalt*, in bulk, from Portland, The Dalles, and Umatilla, Oreg., to points in Washington; *petroleum and petroleum products*, in bulk, in tank trucks, from Pasco and Attalia, Wash., to points in Oregon, and those in Adams, Valley, Washington, Gem, Payette, Boise, Canyon, Ada, Elmore, Owyhee, Blaine, Camas, Gooding, Lincoln, Jerome, Twin Falls, Minidota, Cassia, Power, Bannock, and Oneida Counties, Idaho; *Petroleum products*, between Linnton, Portland, and Willbridge, Oreg., and Vancouver, Wash., on the one hand, and, on the other, points in Oregon and Washington, between The Dalles and Umatilla, Oreg., on the one hand, and, on the other, points in Oregon and those in Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding, Jerome, Owyhee, Twin Falls, Valley, Washington, and Payette Counties, Idaho; *petroleum*, between Linnton, Willbridge, Portland, The Dalles, and Umatilla, Oreg., on the one hand, and, on the other, points in Oregon, and those in Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding, Jerome, Owyhee, Twin Falls, Valley, Washington, and Payette Counties, Idaho; *petroleum and petroleum products*, in tank trucks, between Linnton, Willbridge, Portland, The Dalles, and Umatilla, Oreg., on the one hand, and, on the other, points in Camas, Blaine, Lincoln, Minidoka, Cassia, Power, Bannock, and Oneida Counties, Idaho; and *petroleum products*, in bulk, in tank vehicles, from Baker and Blakely, Oreg., and points within 10 miles of each, and points within 5 miles of Pasco, Wash., to points in Oregon in and east of Hood River, Wasco, Jefferson, Deschutes, and Klamath Counties, Oreg., and points in Washington in and east of Skamania, Yakima, Kittitas, Chelan, Klickitat, and Okanogan Counties, Wash., and points in Adams, Valley, Washington, Gem, Payette, Boise, Canyon, Ada, Elmore, Owyhee, Blaine, Camas, Cassia, Gooding, Lincoln, Jerome, Twin Falls, Minidoka, Power, Bannock, and Oneida Counties, Idaho. Vendee is authorized to operate as a *common carrier* in Oregon and California. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10810. Authority sought for purchase by NEW PENN MOTOR EXPRESS, INC., 18 Weidman Street, Lebanon, Pa., of the operating rights of THE SAVIN EXPRESS COMPANY, 24 Hamilton Street, New London, Conn., and for acquisition by HENRY R. ARNOLD, also of Lebanon, Pa., of control of such rights through the purchase. Applicants' attorney: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Operating rights sought to be transferred: *General commodities*, excepting, among others, dangerous explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between New London, Conn., and Boston, Mass., serving intermediate and off-route points within 15 miles of New London and those within 5 miles of Boston; between Fitchburg, Mass., and Lynn, Mass., serving the off-route point of Maynard, Mass., between Fitchburg, Mass., and Quincy, Mass., between Leominster, Mass., and Providence, R.I., between Fitchburg, Mass., and Worcester, Mass., between Fitchburg, Mass., and Greenfield, Mass., serving certain off-route points, between Fitchburg, Mass., and Townsend, Mass., serving the off-route point of Groton, Mass., between Lowell, Mass., and Haverhill, Mass., between Providence, R.I., and New Bedford, Mass., between Fitchburg, Mass., and Tyngsboro, Mass., between Fitchburg, Mass., and Boston, Mass., between Hartford, Conn., and Waterbury, Conn., serving certain off-route points, and all intermediate points on the above-specified routes; between Putnam, Conn., and Worcester, Mass., serving no intermediate points, between Westerly, R.I., and New London, Conn., between New London, Conn., and Hartford, Conn., between New Haven, Conn., and New York, N.Y., between New Haven, Conn., and Danielson, Conn., serving all intermediate points, and certain off-route points, between New London, Conn., and Boston, Mass., serving certain intermediate and off-route points; over two alternate routes for operating convenience only;

General commodities, excepting, among others, dangerous explosives, and household goods, but not excepting commodities in bulk, between New York, N.Y., and New London, Conn., serving certain intermediate and off-route

points; between New London, Conn., and Providence, R.I., serving certain off-route points, between New London, Conn., and Norwich, Conn., serving the off-route point of Montville, Conn., between Providence, R.I., and Woonsocket, R.I., between Groton, Conn., and Providence, R.I., between Norwich, Conn., and Woonsocket, R.I., between Westerly, R.I., and Providence, R.I., serving certain off-route points, and all intermediate points on the above-specified routes; *general commodities*, except those of unusual value, classes A and B explosives, livestock, automobiles, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Providence, R.I., and New London, Conn., serving all intermediate points, and certain off-route points; *general commodities*, excepting, among others, dangerous explosives, household goods, and commodities in bulk, over irregular routes, between points on the above route between Hartford, Conn., and Waterbury, Conn., other than Hartford, on the one hand, and, on the other, certain specified points in Connecticut, between New Haven, Conn., on the one hand, and, on the other, certain specified points in Connecticut, between points on the above routes between Westerly, R.I., and New London, Conn., between New London, Conn., and Hartford, Conn., between New Haven, Conn., and New York, N.Y., between New Haven, Conn., and Danielson, Conn., and between Providence, R.I., and New London, Conn., on the one hand, and, on the other, certain specified points in Connecticut;

Groceries, from Boston, Mass., to Westerly, R.I., *woolen cloth*, from Central Village, Conn., to Pittsfield, Mass.; *jams, jellies, preserves, and pie-fillings*, from Natick, Mass., to Westerly, R.I., and certain specified points in Connecticut; *wool*, from Providence, R.I., and Millbury, Mass., to Fitchville, Conn., from certain specified points in Massachusetts, to Central Village, Conn.; *shoddy*, from Pittsfield, Mass., to Central Village, Conn.; and *wool and rayon*, from Oxford, Mass., to Central Village, Conn. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New York, New Jersey, Maryland, Delaware, Ohio, Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10811. Authority sought for control by LLOYD A. JONES, Petersburg, Alaska, of ALASKA TRANSFER, INC., 330 West Ninth Street, Juneau, Alaska 99801. Applicants' attorney: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Operating rights sought to be controlled: *General commodities*, excepting, among others, Classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over irregular routes, between points in Alaska south and east of the United States-Canada boundary line north of Haines, Alaska, and an east-west extension thereof to the Gulf of Alaska, on the one hand, and, on the other, Anchorage and Fairbanks, Alaska, and all points on the segments of Alaska Highways 1 and 2 extending between Anchorage and Fairbanks and the United States-Yukon, Canada boundary line, and all points on Alaska Highway 4 between its junction with Alaska Highways 1 and 2, with restriction; *general commodities*, excepting, among others, Classes A and B explosives, and commodities in bulk, but not excepting household goods, between points within 25 miles of Juneau, Alaska, including Juneau, between points in Alaska south and east of the United States-Canada boundary line north of Haines, Alaska; and *household goods*, as defined by the Commission, between Juneau, Alaska, on the one hand, and, on the other, Anchorage and Fairbanks, Alaska; between those points in Alaska south and east of the United States-Canada boundary line located north of Haines, Alaska, on the one hand, and, on the other, Seattle, Wash., with restriction. LLOYD A. JONES, holds no authority from this Commission. However, he owns 30 percent of ORME TRANSFER, INC., Box 781, Juneau, Alaska 99801, which is authorized to operate as a *common carrier* in Alaska, and Washington. Application has not been filed for temporary authority under section 210a(b). NOTE: Applicant includes letter to be considered as Petition To Dismiss Application for Lack of Jurisdiction.

No. MC–F–10812. Authority sought for purchase by BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, Gadsden, Ala. 35903, of a portion of the operating rights of D. D. JONES TRANSFER AND WAREHOUSE COMPANY, INCORPORATED, 630 Poindexter Street, Chesapeake, Va. 23320, and for acquisition by RALPH M. BOWMAN, also of Gadsden, Ala., of control of such rights through the purchase. Applicants' attorneys: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203, and Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Operating rights sought to be transferred: *General commodities*, except those of unusual value, and except dangerous explosives, fertilizer, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes, between Norfolk, Va., on the one hand, and, on the other, certain specified points in North Carolina; *petroleum products in drums, and groceries*, from Norfolk, Va., to certain specified points in North Carolina; *sugar*, from Norfolk, Va., to Hamlet, N.C.; *groceries*, from Norfolk, Va., to Lumberton, N.C.; *soap, soap powders, and cooking greases*, from Norfolk, Va., to Mount Olive, N.C., *canned food products*, from Norfolk, Va., to Erwin, N.C.; *gypsum, gypsum products and asbestos board*, between Norfolk, Va., on the one hand, and, on the other, points in South Carolina, *gypsum, gypsum products, and building materials* (except liquid chemicals, in bulk, in tank vehicles) between the plantsite and warehouse of the United States Gypsum Co. at Norfolk, Va., on the one hand, and, on the other, points in North Carolina; *fertilizer and fertilizer materials* (except bulk), from Norfolk and Chesapeake, Va., to points in North Carolina; and *plywood, hardboard, molding*, and in connection therewith, *accessories* used in the installation thereof, from Norfolk and Chesapeake, Va., to points in Alabama, Delaware, Florida, Georgia, Kentucky, Mississippi, Pennsylvania, and South Carolina, with restriction. Vendee is authorized to operate as a *common carrier* in Alabama, Tennessee, South Carolina, Virginia, Maryland, Georgia, North Carolina, Florida, Kentucky, Mississippi, Louisiana, West Virginia, Delaware, New York, New Jersey, Connecticut, Indiana, Illinois, Ohio, Arkansas, Oklahoma, Michigan, Missouri, Texas, Pennsylvania, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10813. Authority sought for control by EASTERN EXPRESS, INC., 1450 Wabash Avenue, Terre Haute, Ind. 47808, of R. C. MOTOR LINES, INC., 2500 Laura Street, Jacksonville, Fla. 32203, and for acquisition by AMERICAN EXPORT INDUSTRIES, INC., Jakob Isbrandtsen both also of 280 Park Avenue, New York, N.Y. 10017, and in turn, by ISBRANDTSEN COMPANY, INC., 26 Broadway, New York, N.Y. 10004 and AMERICAN STERN TRAWLERS, INC., 26 Broadway, New York, N.Y. 10004, of control R. C. MOTOR LINES, INC., through the acquisition by EASTERN EXPRESS, INC. Applicants' attorney: William Q. Keenan, 233 Broadway, New York, N.Y. 10007. Operating rights sought to be controlled: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk as *common carrier* over regular routes, between Augusta, Ga., and Albany, Ga., between Augusta, Ga., and Columbus, Ga., between Augusta, Ga., and Atlanta, Ga., between Augusta, Ga., and Washington, Ga., between Savannah, Ga., and junction Georgia Highway 257 and U.S. Highway 280, between Savannah, Ga., and Albany, Ga., between Savannah, Ga., and Atlanta, Ga., serving all intermediate points, between Cordele, Ga., and Macon, Ga., between Albany, Ga., and Macon, Ga., between Albany, Ga., and Columbus, Ga., between Albany, Ga., and Atlanta, Ga., between Columbus, Ga., and Atlanta, Ga., serving all intermediate points for purposes of joinder only, between Augusta, Ga., and Greer, S.C., between Camden, S.C., and Bishopville, S.C., between Charleston, S.C., and Society Hill, S.C., between Charleston, S.C., and Wilmington, N.C., between Charlotte, N.C., and Athens, Ga., between Charlotte, N.C., and Greensboro, N.C., between Charlotte, N.C., and Raleigh, N.C., between Charlotte, N.C., and Society Hill, S.C., between Columbia, S.C., and Winston-Salem, N.C.;

Between Columbia, S.C., and Aberdeen, N.C., between Columbia, S.C., and Greer, S.C., between junction U.S. Highways 221 and 276 and Greenville, S.C., between Columbia, S.C., and Sumter, S.C., between Darlington, S.C., and Hartsville,

S.C., between Greer, S.C., and Asheville, N.C., between Raleigh, N.C., and Durham, N.C., between Raleigh, N.C., and junction U.S. Highways 301 and 158, between Raleigh, N.C., and Wilson, N.C., between Rocky Mount, N.C., and Zebulon, N.C., between Sumter, S.C., and Wilmington, N.C., between Wilmington, N.C., and Cherry Point, N.C., between Wilmington, N.C., and Wilson, N.C., between Wilson, N.C., and junction U.S. Highways 401 and 1, between Columbia, S.C., and Atlanta, Ga., serving all intermediate points, with restriction; service is authorized from Savannah and Brunswick, Ga., in northbound service, as intermediate points on carrier's routes authorized below between Jacksonville, Fla., and Baltimore, Md., restricted to traffic moving from Savannah and Brunswick to points north of Walterboro, S.C., other than Charlotte, N.C., and Columbia and Charleston, S.C., between Baltimore, Md., and Richmond, Va., between Jacksonville, Fla., and the Navy Air Base, located approximately 3 miles from Jacksonville, serving no intermediate points, between Charleston, S.C., and Savannah, Ga., between Walterboro, S.C., and Augusta, Ga., serving all intermediate points and certain off-route points, between Walterboro, S.C. and Blackville, S.C., serving all intermediate points, between Walterboro, S.C., and Blackville, S.C., serving certain intermediate and off-route points;

Between Savannah, Ga., and Augusta, Ga., serving all intermediate points, between Baltimore, Md., and Philadelphia, Pa., serving all intermediate points in Pennsylvania, and the off-route points of Norristown, Pa., and those within 5 miles of Baltimore; between Augusta, Ga., and Columbia, S.C., between Augusta, Ga., and Charleston, S.C., serving all intermediate points, and certain off-route points between Aiken, S.C., and Barnwell, S.C., serving all intermediate points, and serving the off-route point of Varnville, S.C., between Aiken, S.C., and Leesville, S.C., serving all intermediate points, and certain off-route points, between Aiken, S.C., and Wagener, S.C., serving all intermediate points; between New York, N.Y., and Philadelphia, Pa., between Jacksonville, Fla., and Ponte Vedra, Fla., serving all intermediate points, and the off-route points of Mayport, and Seminole Beach, Fla., from Jacksonville, Fla., to Jacksonville Beach, Fla., from Jacksonville, Fla., to Atlanta Beach, Fla., serving all intermediate points; between Jacksonville, Fla., and St. Marys, Ga., serving no intermediate points, and serving the off-route points of the Thiokol Chemical Corp. plant located approximately six miles east of Woodbine, Ga., and the Kings Bay Marine Terminal located approximately ten miles east of St. Marys, Ga.; between Jacksonville, Fla., and Miami, Fla., between Jacksonville, Fla., and Sarasota, Fla., between Jacksonville, Fla., and Tampa, Fla., serving all intermediate points and certain off-route points, over numerous alternate routes for operating convenience only;

General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment or refrigeration, and those injurious or contaminating to other lading, between Estill, S.C., and Savannah, Ga., serving all intermediate points, and certain off-route points; *general commodities*, except those of unusual value, classes A and B explosives, commodities requiring refrigeration, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, quarry products, artificial stone, quarry machinery, and machinery incidental to the manufacture, preparation for use, or erection of artificial or natural stone, between New York, N.Y., and Boston, Mass., between New Haven, Conn. and Boston, Mass., serving points within 25 miles of the State in Boston as intermediate and off-route points; and serving New Haven, Conn., for purposes of joinder only; *general commodities*, between Jacksonville, Fla., and Baltimore, Md., serving all intermediate points and the off-route points of Columbia, S.C. and Charlotte, N.C.; *general commodities*, excepting among classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Columbus, Ga., on the one hand, and, on the other, points in Russell County, Ala.; *the commodities* classified as class A, class B, or class C explosives in the Commission's rules and regulations governing the transportation of explosives and other dangerous articles;

Ammunition not included within the commodities classified by the Commission as class A, class B, or class C explosives, *component parts of ammunition, and empty containers* thereof, between St. Juliens Creek, Va., and points within 35 miles thereof, on the one hand, and, on the other, Jacksonville, Fla., and points within 35 miles of Jacksonville, traversing North Carolina, South Carolina, and Georgia for operating convenience only; *lard substitutes*, from Savannah, Ga., to points in North Carolina, and that part of South Carolina on and south of a line beginning at Charleston, S.C., and extending along U.S. Highway 78 to junction U.S. Highway 178, thence along U.S. Highway 178 to Anderson, thence along U.S. Highway 29 to the South Carolina-Georgia State line; *groceries*, from Norfolk, Va., to Charlotte, N.C., from Charlotte, N.C., to certain specified points in Virginia; *soap products and lard substitutes*, from Norfolk, Va., to points in North Carolina; *plows*, from Lynchburg, Va., to Monroe, N.C.; *step-ladders and wooden buckets*, from Richmond, Va., to Monroe, N.C.; *feed*, from Danville, Va., to certain specified points in North Carolina and South Carolina; *glass bottles and glass food containers*, from Laurens, S.C., to certain specified points in Alabama, Dover, and Wilmington, Del., certain specified points in Tennessee and points in Florida, Georgia, Maryland, Virginia, North Carolina, and the District of Columbia;

Canned foodstuffs, from points in Maryland and those in that part of Virginia east of the Chesapeake Bay, to Augusta, Ga., and points in South Carolina; *veneer*, from certain specified points in South Carolina to certain specified points in North Carolina; *paper and paperboard products*, from Yulee, Fla., to Augusta, Ga., and points in South Carolina (except Clover, S.C., and points within 35 miles thereof), with restriction; *frozen fruit*, from Lexington, N.C., to Jacksonville, Fla.; *tea*, from Savannah, Ga., to Philadelphia and King of Prussia, Pa., New York, N.Y., Richmond, Va., Baltimore, and Ellicott City, Md. and certain specified points in New Jersey, from Atlanta, Ga., to Columbia, S.C., from Baltimore, Md., and Hoboken, N.J., to Jacksonville, Fla.; and *nails*, from Wareham, Mass., to New York, N.Y.

EASTERN EXPRESS, INC., is authorized to operate as a *common carrier* in Pennsylvania, Missouri, New Jersey, Indiana, New York, Ohio, Illinois, West Virginia, Michigan, Kentucky, Massachusetts, Connecticut, Rhode Island, Iowa, Wisconsin, Kansas, Colorado, and Delaware. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 70-5204; Filed, Apr. 28, 1970; 8:47 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

APRIL 24, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act as amended October 15, 1962. These applications are governed by § 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. Amend 2709, filed March 20, 1970. Applicant: BLUEBONNET EXPRESS, INC., 5009 Rusk Avenue, Houston, Tex. 77023. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, between Bryan and Madisonville, Tex., over

State Highway 21, serving no intermediate points, as an alternate route only for the sole purpose of interchanging freight at Madisonville on traffic to and from points on applicant's presently certificated routes, such service to be coordinated with and constitute an extension of applicant's present service by interchange with other carriers between points presently served and all points in Texas. No service shall be rendered in the transportation of any package or article weighing more than 50 pounds. No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any 1 day. Both intrastate and interstate authority sought.

HEARING: Approximately 30 days after notice of publication in the FEDERAL REGISTER, at the Railroad Commission of Texas hearing rooms, Ernest O. Thompson State Office Building, Austin, Tex. Requests for procedural information, including the time for filing protests concerning this application should be addressed to the Railroad Commission of Texas, Ernest O. Thompson State Office Building, Austin, Tex., and should not be directed to the Interstate Commerce Commission.

State Docket No. Case MT-8838, filed March 20, 1970. Applicant: WALTER NERO, doing business as FLASH TRANSPORT SERVICE COMPANY, 202 Long Beach Road, Hempstead, Long Island, N.Y. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of General commodities, between all points in the territory comprised of the following counties: Nassau, Suffolk, Westchester, Queens, Kings, Richmond, New York, and Bronx, N.Y. Both intrastate and interstate authority sought.

HEARING: To be hereafter fixed. Requests for procedural information including the time for filing protests, concerning this application should be addressed to the New York Public Service Commission, 44 Holland Avenue, Albany, N.Y. 12208, and should not be directed to the Interstate Commerce Commission.

State Docket No. 13457-A, filed March 31, 1970. Applicant: EARNEST L. FRINK, Kadoka, S. Dak. 57543. Certificate of public convenience and necessity sought to operate a freight service as follows: *General commodities,* from Kadoka, S. Dak., to Long Valley, S. Dak., via South Dakota Highways 73 and 40, serving the off-route point of Wanblee, S. Dak., and return over the same route: and from Kadoka, S. Dak., to Interior, S. Dak., via U.S. Highways 16 (Interstate Highway 90) and 16-A, serving the off-route points of Cactus Flat and Cedar Pass, S. Dak. Applicant states that it will interchange shipments with Barber Transportation Co., Rapid City, S. Dak., at Kadoka, S. Dak. Both intrastate and interstate authority sought.

HEARING: Thursday, June 11, 1970 at 10:30 a.m. (c.d.t.) at Pierre, S. Dak. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the South Dakota Public Utilities Commission, Capitol Building, Pierre, S. Dak. 57501, and should not be directed to the Interstate Commerce Commission.

State Docket No. 24249-Extension, filed March 6, 1970. Applicant: RAYMOND A. GREEN, doing business as GREEN FURNITURE COMPANY, 546 Yampa Avenue, Craig, Colo. 81625. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colorado 80202. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *Used furniture and household goods, personal effects, and office and store furnishings and fixtures,* between points in the Counties of Moffat, Routt, and Rio Blanco, Colo., and between points in said counties, on the one hand, and, on the other, points in the State of Colorado. Both intrastate and interstate authority sought.

HEARING: Tuesday, June 30, 1970, at 9 a.m., in the auditorium of the District Court, Craig, Colo. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Colorado Public Utilities Commission, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[F.R. Doc. 70-5202; Filed, Apr. 28, 1970; 8:47 a.m.]

[Notice 527]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 24, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72091. By order of April 22, 1970, the Motor Carrier Board approved the transfer to Gerson Transportation, a corporation, Bridgeton, N.J., of Certificates Nos. MC 52616, No. MC 52616 (Sub-No. 3), and No. MC 52616 (Sub-No. 5) issued October 15, 1943, December 29, 1966, and November 14, 1967, respectively, to Samuel D. Perlow, doing business as Gerson Transportation, Bridgeton, N.J., authorizing the transportation of general commodities, with specified exceptions, between Philadelphia, Pa., on the one hand, and, on the other, Merchantville, Woodbury, Gloucester, Pitman, Glassboro, Vineland, Millville, Bridgeton, Salem, Carneys Point, Penns Grove, and Paulsboro, N.J.; glassware, from Millville, N.J., to Linfield, Pa., and return of damaged or rejected glassware; empty glass containers, from Bridgeton, N.J., to Linfield, Pa., and return of damaged or rejected empty glass containers; glass bottles, from Salem, N.J., to Linfield, Pa.; and from Gloucester, N.J., to Linfield, Pa. Charles Ephraim, 1411 K Street NW., Room 300, Washington, D.C. 20005, attorney for applicants.

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

[F.R. Doc. 70-5205; Filed, Apr. 28, 1970; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

ASSISTANT GENERAL MANAGER FOR MILITARY APPLICATION, ET AL.

Notice of Basic Compensation

Pursuant to the provisions of 5 U.S.C. 5364, the salaries of the following positions, established by the Atomic Energy Act of 1954, as amended, were adjusted from $33,495 to $35,505 per annum, effective December 28, 1969:

Title of Position:	*Authorizing section of Atomic Energy Act of 1954, as amended*
Assistant General Manager for Military Application, and Program Division Directors.	Section 25a.
Director, Division of Inspection.	Section 25c.
Executive Management Positions.	Section 25d.

Dated: April 22, 1970.

For the Atomic Energy Commission.

W. B. MCCOOL, *Secretary.*

[F.R. Doc. 70-5096; Filed, Apr. 28, 1970; 8:45 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—APRIL

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during April.

3 CFR

Page

PROCLAMATIONS:

3976 ... 5657
3977 ... 5989
3978 ... 5991
3979 ... 6309

EXECUTIVE ORDERS:

July 2, 1910 (revoked in part by PLO 4783) ... 5109
July 10, 1913 (revoked in part by PLO 4783) ... 5109
4962 (revoked by PLO 4803) ... 6588
5508 (revoked in part by PLO 4800) ... 6651
9085 (revoked in part by PLO 4786) ... 5811
10001 (amended by EO 11527) ... 6571
10202 (amended by EO 11527) ... 6571
10292 (amended by EO 11527) ... 6571
10302 (revoked by EO 11529) ... 6697
10659 (amended by EO 11527) ... 6571
10735 (amended by EO 11527) ... 6571
10940 (revoked by EO 11529) ... 6697
10984 (amended by EO 11527) ... 6571
10995 (see Reorganization Plan No. 1 of 1970) ... 6421
11007 (see EO 11523) ... 5993
11098 (amended by EO 11527) ... 6571
11119 (amended by EO 11527) ... 6571
11241 (amended by EO 11527) ... 6571
11360 (amended by EO 11527) ... 6571
11371 (amended by EO 11528) ... 6695
11490 (amended by EO 11522) ... 6559
11497 (amended by EO 11527) ... 6571
11522 ... 5659
11523 ... 5993
11524 ... 6247
11525 ... 6251
11526 ... 6569
11527 ... 6571
11528 ... 6695
11529 ... 6697

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Reorganization Plan No. 1 of 1970 ... 6421

5 CFR

213 ... 5529, 5581, 5607, 5995, 6045, 6107, 6255, 6369, 6423, 6573, 6699
307 ... 5661
315 ... 5661
531 ... 6311, 6474
550 ... 6311

PROPOSED RULES:

890 ... 6663

7 CFR

29 ... 6107
52 ... 5459, 5662
53 ... 6107
56 ... 5664
81 ... 6255
201 ... 6107
220 ... 6180
225 ... 6255
250 ... 5581, 5911, 6181
265 ... 5395
301 ... 6060, 6061, 6261, 6369, 6747
354 ... 6473
403 ... 6639
404 ... 6639
407 ... 6639
408 ... 6640
411 ... 6640
722 ... 5529, 6268
724 ... 6108
725 ... 6109
728 ... 6181
729 ... 5459
730 ... 5995
814 ... 6423
849 ... 5801
850 ... 5529, 6641
862 ... 6268
877 ... 6110
905 ... 5460, 5461, 6747
907 ... 5461, 5801, 5996, 6182, 6377, 6473, 6699
908 ... 5395, 5461, 5462, 5802, 6062, 6183, 6377, 6472, 6747
909 ... 6062
910 ... 5582, 5996, 6114, 6312, 6424, 6641, 6699
911 ... 6699
944 ... 5462, 6747
959 ... 5607, 6312, 6748
965 ... 5396
971 ... 6115
987 ... 5396, 6700
991 ... 6701
1094 ... 6642
1124 ... 6642
1133 ... 6312
1421 ... 6748
1430 ... 6063
1434 ... 6702
1468 ... 5996
1472 ... 5997
1474 ... 5397
1604 ... 6183

PROPOSED RULES:

51 ... 5552
52 ... 6507, 6592
814 ... 5434
907 ... 5587
908 ... 5587
910 ... 5588
914 ... 6132
917 ... 5815, 6186
947 ... 6653
991 ... 6009
1001 ... 5695
1003 ... 5627
1004 ... 5627
1005 ... 5764, 5961, 6762
1007 ... 5471
1015 ... 5695
1016 ... 5627
1032 ... 6712
1033 ... 5764, 5961, 6762
1034 ... 5764, 5961, 6762
1035 ... 5764, 5961, 6762
1041 ... 5764, 5961, 6762
1050 ... 6009, 6712
1094 ... 5555, 5816
1097 ... 5962
1098 ... 6434
1102 ... 5962
1103 ... 5471, 5555
1108 ... 5962
1124 ... 6076
1201 ... 5627

8 CFR

103 ... 5958
212 ... 5958
214 ... 5959
238 ... 6643
245 ... 5960
248 ... 6643
299 ... 5960

9 CFR

74 ... 6643
76 ... 5463, 5530, 5582, 5607, 5608, 5664, 5997, 6064, 6115, 6378, 6383, 6384, 6423, 6490, 6573, 6707, 6748
78 ... 6115
97 ... 6175, 6490

PROPOSED RULES:

318 ... 5627

10 CFR

2 ... 5463, 6644
20 ... 6425
30 ... 6427
31 ... 3428
32 ... 6428, 6703
35 ... 5802, 6429
40 ... 6313
50 ... 5463, 6175, 6644
71 ... 6271
73 ... 6313
170 ... 6644

PROPOSED RULES:

20 ... 5414
50 ... 5414

12 CFR

201 ... 6116
212 ... 6644
220 ... 6117
226 ... 5586
262 ... 6574
265 ... 5998
524 ... 6272
526 ... 5398

PROPOSED RULES:

204 ... 5416
226 ... 6328
561 ... 5709
563 ... 6080

14 CFR

1 ... 5665
13 ... 5464
23 ... 6385
25 ... 5665
39 ... 5465, 5680, 5912, 6046, 6047, 6117, 6176, 6491
61 ... 5608, 6176
65 ... 5531

14 CFR—Continued

16 CFR

17 CFR

18 CFR

19 CFR

20 CFR

21 CFR

22 CFR

23 CFR

24 CFR

25 CFR

26 CFR

29 CFR

30 CFR

31 CFR

32 CFR

32A CFR

33 CFR

36 CFR

37 CFR

Page

5 ... 6430
202 ... 5402

38 CFR

0 ... 6003
2 ... 5611
3 ... 6066
17 ... 5611, 6586

39 CFR

123 ... 6275
141 ... 5402
153 ... 6005
158 ... 6275
166 ... 5402
167 ... 5402
812 ... 5403

41 CFR

1–8 ... 6474
1–16 ... 6476
5A–16 ... 5682
9–1 ... 6483
9–2 ... 6483
9–4 ... 5611
9–7 ... 6483
9–8 ... 6483
9–14 ... 6483
9–16 ... 5611, 6483
9–51 ... 6483
9–55 ... 6483
14H–1 ... 5403
29–61 ... 6483
101–5 ... 6650
101–26 ... 6708
101–32 ... 5612

42 CFR

52 ... 5469
57 ... 6045
73 ... 6587
74 ... 6177
81 ... 5911, 6277, 6587, 6750

PROPOSED RULES:

73 ... 6186
81 ... 5705, 5816, 6398

43 CFR

PUBLIC LAND ORDERS:

511 (revoked in part by PLO 4796) ... 6393
848 (modified by PLO 4802) ... 6587
1545 (revoked in part by PLO 4797) ... 6393
2278 (modified by PLO 4788) ... 5812

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued

3206 (see PLO 4788) ... 5812
3611 (revoked in part by PLO 4809) ... 6589
3719 (revoked by PLO 4809) ... 6589
4582:
See PLO 4786 ... 5811
See PLO 4807 ... 6588
See PLO 4808 ... 6589
4588 (see PLO 4794) ... 5814
4754 (revoked in part by PLO 4797) ... 6393
4786 ... 5811
4787 ... 5812
4788 ... 5812
4789 ... 5812
4790 ... 5813
4791 ... 5813
4792 ... 5813
4793 ... 5813
4794 ... 5814
4795 ... 5814
4796 ... 6393
4797 ... 6393
4798 ... 6393
4799 ... 6394
1800 ... 6651
4801 ... 6587
4802 ... 6587
4803 ... 6588
4804 ... 6588
4805 ... 6588
4806 ... 6588
4807 ... 6588
4808 ... 6589
4809 ... 6589

45 CFR

170 ... 5613
177 ... 5404
249 ... 6792
250 ... 6322
1060 ... 5948

PROPOSED RULES:

222 ... 6628

46 CFR

98 ... 6431
151 ... 6431
309 ... 6316
310 ... 6004
502 ... 6751
531 ... 6751
536 ... 6394, 6751
541 ... 6276, 6589

PROPOSED RULES:

540 ... 6762

47 CFR

Page

0 ... 5689
1 ... 6431, 6751
2 ... 5615, 6752
5 ... 5618
15 ... 5618, 5948
18 ... 5620
63 ... 6753
64 ... 6753
73 ... 5690, 5948, 6484
74 ... 6752
81 ... 5622
83 ... 5622, 6757

PROPOSED RULES:

25 ... 5963
31 ... 5706
33 ... 5706
64 ... 5822
73 ... 5416, 5963, 6400, 6441, 6715
74 ... 5630, 6442

49 CFR

173 ... 5550, 6758
177 ... 6758
178 ... 5550
Ch. III ... 5958
391 ... 6458
392 ... 6458
571 ... 6589
1033 ... 5404, 5586, 5814
1048 ... 6004, 6651
1056 ... 5551

PROPOSED RULES:

71 ... 6280
172 ... 6439
173 ... 5821, 6439
174 ... 6151, 6439
177 ... 6439
178 ... 6439
192 ... 5482, 5713, 5724, 5822
195 ... 5724
571 ...
393 ... 6151
571 ... 5482, 6151, 6440, 6512

50 CFR

14 ... 5404
28 ... 5694
32 ... 6652
33 ... 5404, 5470, 5551, 5611, 5814, 6131, 6180, 6652, 6711

PROPOSED RULES:

17 ... 5961, 6069
80 ... 6712

FEDERAL REGISTER

VOLUME 35 • NUMBER 83

Wednesday, April 29, 1970 • Washington, D.C.

PART II

Department of Health, Education, and Welfare

Social and Rehabilitation Service

•

Services and Payment in Medical Assistance Programs

Standards for Payment for Skilled Nursing Home Care

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Amount, Duration, and Scope of Medical Assistance

Part 249 of Chapter II of Title 45 of the Code of Federal Regulations is amended as follows:

Section 249.10(b)(4)(i) providing a definition of skilled nursing home services is revised to add (*m*) which provides that facilities operated by governmental agencies meet the same requirements as proprietary or non-profit homes of the same type and to read as follows:

§ 249.10 Amount, duration, and scope of medical assistance.

* * * * *

(b) * * *

(4)(i) * * *

(*m*) The facility (including a facility operated by a governmental agency) meets all requirements which are applied for licensure or formal approval as a nursing home to the same type of facility in any other ownership category (i.e. governmental, non-profit or proprietary) within the State.

* * * * *

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date. This revision shall be effective on July 1, 1970.

Dated: January 28, 1970.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: April 22, 1970.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-5146; Filed, Apr. 28, 1970; 8:45 a.m.]

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Standards for Payment for Skilled Nursing Home Care

Interim policy which sets forth regulations to implement section 1902(a)(28) of the Social Security Act with respect to standards for payment for skilled nursing home care was published in the FEDERAL REGISTER of June 24, 1969 (34 F.R. 9788). After consideration of views presented by interested persons, the interim regulations are hereby adopted, subject to the following changes:

1. Section 249.33(a)(1) is amended to cross reference the definition of a skilled nursing home set forth under § 249.10(b)(4)(i) of Chapter II of Title 45 of the Code of Federal Regulations.

2. The provision concerning the Fire Safety Code of the National Fire Protection Association is amended to incorporate conditions under which the State agency may waive certain requirements (§ 249.33(a)(1)(vii)).

3. The review of personnel statements is amended to provide that such statements set forth (from payroll records) the average numbers and types of personnel during a week selected by the survey agency (§ 249.33(a)(2)(ii)(*b*)).

4. The requirement for one on-site inspection during the term of an agreement is amended to provide for more frequent inspections (§ 249.33(a)(2)(iii)).

5. The requirement prohibiting second 6-month agreements is amended to provide for two successive agreements on the basis of documented evidence that substantial effort and progress has been made in correcting prior existing deficiencies (§ 249.33(a)(2)(iv)(*a*)(3)).

6. The definition of organized nursing service under § 249.33(b)(1)(iii) (*a*) and (*b*) is revised under paragraph (b)(1)(ii)(*a*) of the final policy to provide that where a licensed practical nurse serving as a charge nurse is not a graduate of an approved State school of practical nursing, or its equivalent, such nurse may serve in this capacity until July 1, 1970, only if she was successfully discharging charge nurse responsibilities on July 1, 1967.

7. The requirement for a determination of equivalency by the appropriate State licensing authority is amended to provide that equivalency findings be made by the appropriate State licensing authority for nurses (§ 249.33(b)(1)(ii)(*a*)).

8. The definition of organized nursing service relative to the use of licensed practical (or vocational) nurses is amended to add (*b*) to provide for institutions for the mentally retarded which are certified as skilled nursing homes (§ 249.33(b)(1)(ii)(*b*)).

9. The requirement concerning the definition and assignment of duties under § 249.33(b)(1)(v) of the interim policy is redesignated and amended to clarify the criteria for assignment of staff (§ 249.33(b)(1)(iv)).

10. The requirement for written care policies is amended to add restorative services (§ 249.33(b)(1)(v)).

11. The definition of adequate nursing and auxiliary personnel is amended to clarify and define such personnel under separate subdivisions (§ 249.33(b)(2)(i) and (ii)).

12. The definition of adequate nursing service is amended to incorporate Social and Rehabilitation Service guidelines for adequate nursing services (§ 249.33(b)(3)(i)).

13. The requirement relative to written agreement provisions for other outpatient services is deleted and amended to provide written agreements for other medical services (§ 249.33(b)(8)(ii)).

14. The conditions under which single State agencies may waive environment and sanitation requirements is amended to provide for the conditions for waiver of the Fire Safety Code and to provide the waivers under this provision be made on the basis of documented evidence (§ 249.33(c)(2)).

§ 249.33 Standards for payment for skilled nursing home care.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Provide that any skilled nursing home (see § 249.10(b)(4)(i) of this part) receiving payments under the plan must:

(i) Supply to the licensing agency of the State full and complete information, and promptly report any changes which would affect the current accuracy of such information, as to the identity

(*a*) Of each person having (directly or indirectly) an ownership interest of 10 percentum or more in such skilled nursing home,

(*b*) In case a skilled nursing home is organized as a corporation, of each officer and director of the corporation, and

(*c*) In case a skilled nursing home is organized as a partnership, of each partner;

(ii) Have and maintain an organized nursing service, as defined in paragraph (b) of this section, for its patients which is under the direction of a professional registered nurse who is employed full-time by such skilled nursing home, and which is composed of sufficient nursing and auxiliary personnel to provide adequate and properly supervised nursing services for such patients during all hours of each day and all days of each week;

(iii) Make satisfactory arrangements, as defined in paragraph (b) of this section, for professional planning and supervision of menus and meal service for patients for whom special diets or dietary restrictions are medically prescribed;

(iv) Have satisfactory policies and procedures, as defined in paragraph (b) of this section;

(*a*) Relating to the maintenance of medical records on each patient of the skilled nursing home;

(*b*) Relating to dispensing and administering of drugs and biologicals;

(*c*) To assure that each patient is under the care of a physician;

(*d*) To assure that adequate provision is made for medical attention to any patient during emergencies;

(v) Have arrangements, as defined in paragraph (b) of this section, with one or more general hospitals under which such hospital or hospitals will provide needed diagnostic and other services to patients of such skilled nursing home, and under which such hospital or hospitals agree to timely acceptance, as patients thereof, of acutely ill patients of such skilled nursing home who are in need of hospital care. The single State agency, however, may waive this requirement wholly or in part with respect to any skilled nursing home which meets all other requirements and is unable to effect such an arrangement with a hospital, as provided in paragraph (c) of this section;

(vi) Meet conditions relating to environment and sanitation, as specified in paragraph (b)(9) of this section, applicable to extended care facilities under

title XVIII of the Social Security Act. The single State agency, however, may waive for such periods and under such conditions as the approved plan provides any requirement imposed by paragraph (b)(9) in accordance with the regulations set forth in paragraph (c) of this section;

(vii) Meet (after December 31, 1969) such provisions of the Life Safety Code of the National Fire Protection Association (21st Edition, 1967) as are applicable to nursing homes; except that the State agency may waive in accordance with regulations set forth in paragraph (c) of this section for such periods as it deems appropriate, specific provisions of such code, which if rigidly applied, would result in unreasonable hardship upon a nursing home, but only if such agency makes a determination (and keeps a written record setting forth the basis of such determination) that such waiver will not adversely affect the health and safety of the patients of such skilled nursing home; and except that the requirements of this subdivision need not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in nursing homes.

(2) Provide and specify the methods and procedures which assure that:

(i) The single State agency will, prior to execution of an agreement with any facility for provision of skilled nursing home care and making payments under the plan,

(*a*) Obtain sufficient evidence through survey arrangements with the State licensing authority or with the agency of the State designated pursuant to section 1864 of the Social Security Act, that the facility

(*1*) Meets the requirement of subparagraph (1) of this paragraph; or

(*2*) Is a participating provider of extended care under title XVIII of the Social Security Act, and in addition meets the requirements of subdivisions (i), (v) and (vii) of such subparagraph (1); or

(*b*) Otherwise obtain sufficient evidence that the facility meets the requirements of such subparagraph (1); *Provided, however,* That if the single State agency elects not to use the services of the State licensing authority or the agency of the State designated pursuant to section 1864 of the Social Security Act, a written justification is submitted to the Administrator, Social and Rehabilitation Service that such election is not inconsistent with efficiency and economy of administration.

(ii) The single State agency will:

(*a*) Review information contained in reports of medical review teams on inspections made pursuant to State plan provisions under section 1902(a)(26) of the Social Security Act;

(*b*) Review statements obtained by the appropriate State agency from each skilled nursing home, on forms provided by such agency, setting forth (from payroll records) the average numbers and types of personnel (in full-time equivalents) on each shift during at least 1 week of each quarter, such week to be selected by the survey agency and to occur irregularly in each quarter of the year;

(*c*) Evaluate such statements to determine that requirements relating to personnel were or were not met during any quarter in which payment is being requested;

(iii) Beginning January 1, 1970, on-site inspection by qualified personnel will be made at least once during the term of an agreement, or more frequently if there is a question of compliance, and the single State agency will review the information thus obtained, except that this requirement may be deemed to be met for skilled nursing homes also certified to participate as extended care facilities under title XVIII of the Social Security Act;

(iv) The single State agency agreement with a facility for payments under the plan may not exceed a period of 1 year. Execution of a new agreement shall be contingent upon a determination of compliance with the provisions of subparagraph (1) of this paragraph except that:

(*a*) In the case of any skilled nursing home determined or certified to be in substantial compliance (i.e., is in compliance except for deficiencies) with the requirements of such subparagraph (1), the single State agency may enter into an agreement with such skilled nursing home for the provision of services and making of payments under the plan for a period not to exceed 6 months provided that on the basis of documented evidence derived from a survey the single State agency finds that:

(*1*) There is a reasonable prospect that the deficiencies can be corrected within 6 months and the skilled nursing home provides in writing a plan acceptable to the single State agency for so doing;

(*2*) The deficiencies noted individually or in combination, do not jeopardize the health and safety of the patients and a written justification of such a finding is maintained on file by the appropriate State agency;

And provided further, That

(*3*) No more than two successive agreements for 6 months are executed with any skilled nursing home having deficiencies, and no second agreement is executed if any of the deficiencies existing are the same as those which occasioned the prior agreement unless the single State agency finds on the basis of documented evidence derived from a survey that the facility has made substantial effort and progress in correcting such deficiencies;

(*b*) Notwithstanding the foregoing provisions, in the case of skilled nursing homes certified with deficiencies as extended care facilities under the provisions of title XVIII of the Social Security Act, the term of agreements may extend until 90 days after the next inspection scheduled, as required, for extended care facility certification.

For the purposes of this subdivision (iv), waivers granted pursuant to paragraph (a)(1) (v)–(vii) and paragraph (c) of this section are not considered deficiencies.

(v) All information and reports used in determining whether a skilled nursing home meets the requirements set forth in subparagraph (1) of this paragraph are maintained on file for a period of at least 3 years by the appropriate State agency for ready access by the Department of Health, Education, and Welfare; and

(*a*) Copies of reports of inspection made on or after January 1, 1970, are completed by the inspector(s) surveying the premises with notations indicating whether each requirement for which inspection is made, is or is not satisfied, with documentation of deficiencies;

(*b*) Copies of official notices of waiver of any requirement imposed pursuant to subparagraph (1)(vii) of this paragraph and regulations pertaining thereto are on file;

(vi) Facilities which do not qualify under this section are not recognized as skilled nursing homes for purposes of payment under title XIX of the Act.

(b) *Definition of terms.* For purposes of paragraph (a)(1) of this section the following definitions apply:

(1) *Organized nursing service.* The term "organized nursing service" means that:

(i) Nursing services are under the direction of a director of nursing service who is a professional registered nurse and who:

(*a*) Is employed full-time in the facility, devotes her full-time to supervising the nursing service, and is on duty during the day shift;

(*b*) Is qualified by education, training or experience for supervisory duties;

(*c*) Is responsible to the administrator for the selection, assignment, and direction of the activities of nursing service personnel;

(*d*) Is responsible to the administrator for development of standards, policies, and procedures governing skilled nursing care and for assuring that such standards, policies and procedures are observed;

(ii) There is on duty at all times and in charge of nursing activities at least one professional registered nurse or licensed practical (or vocational) nurse who is a graduate of a State-approved school of practical nursing, or who is found by the appropriate State licensing authority for nurses on the basis of the individual's education and formal training to have background considered to be equivalent to graduation from a State's approved school of practical nursing except that:

(*a*) In those instances in which a licensed practical nurse serving as charge nurse is not a graduate of an approved school and does not possess background determined to be equivalent but was successfully discharging the responsibilities of a charge nurse on July 1, 1967, such nurse may continue to be employed in this capacity until July 1, 1970, but after that date only if she has been found by the appropriate State licensing authority to have completed training equivalent to graduation from

a State-approved school of practical nursing; and

(b) In the case of institutions for the mentally retarded or distinct parts of such institutions which are certified as skilled nursing homes, other categories of licensed personnel with special training in the care of such patients may serve as charge nurse: *Provided*, That such person is licensed by the State in such category following completion of a course of training which includes at least the number of classroom and practice hours in all of the nursing subjects included in the program of a State approved school of practical (or vocational) nursing as evidenced by a report to the single State agency by the agency or agencies of the State responsible for the licensure of such personnel comparing the courses in the respective curricula.

(iii) Lines of administrative and supervisory responsibility are clearly established in writing, and are known to all members of the nursing staff and to appropriate personnel in other units of the facility;

(iv) Duties are clearly defined and assigned to staff members consistent with the level of education, preparation, experience, and licensing of each.

(v) There are written patient-care policies and procedures governing skilled nursing care and related services, including restorative services, and staff members are familiar with them.

(2) *Nursing and auxiliary personnel.* (i) Nursing personnel means professional registered nurses and licensed practical (or vocational) nurses holding valid and current licenses as required by State law and performing duties directly related to providing nursing services to patients.

(ii) Auxiliary personnel includes nurses aides, orderlies, attendants, and ward clerks performing duties not constituting the practice of nursing as defined under State law.

(3) *Adequate * * * nursing services.* The phrase "adequate nursing services" means that:

(i) Numbers and categories of personnel are determined by the number of patients and their particular needs in accordance with accepted policies of effective nursing care and guidelines issued by the Social and Rehabilitation Service;

(ii) Nursing and auxiliary personnel are employed and assigned on the basis of their experience or qualifications to perform designated duties;

(iii) The amount of nursing time is sufficient to assure that each patient:

(a) Receives treatments, medications, and diet as prescribed;

(b) Receives proper care to prevent decubiti and is kept comfortable, clean, and well-groomed;

(c) Is protected from accident and injury by the adoption of appropriate safety measures;

(d) Is encouraged to perform out-of-bed activities as permitted;

(e) Receives assistance to maintain optimal physical and mental function.

(4) *Professional planning and supervision of menus and meal service.* The phrase "professional planning and supervision," when used in relation to menus and meal service for patients for whom special diets or dietary restrictions are medically prescribed means that:

(i) Menus are planned and supervised by professional personnel meeting the following qualifications:

(a) A dietitian who meets the American Dietetic Association's standards for qualification as a dietitian; or

(b) A graduate holding at least a bachelor's degree from a university program with major study in food and nutrition; or

(c) A trained food service supervisor, an associate degree dietary technician, or a professional registered nurse, with frequent and regularly scheduled consultation from a dietitian or nutritionist meeting the qualifications stated in subdivisions (a) and (b) of this subparagraph (4)(i);

(ii) Special and restricted diet menus are kept on file for at least 30 days, notations are made of any substitutions or variations in the meal actually served, and the patients to whom the diets were actually served are identified in the dietary records;

(iii) Procedures are established and regularly followed which assure that the serving of meals to patients for whom special or restricted diets have been medically prescribed is supervised and their acceptance by the patient is observed and recorded in the patient's medical record.

(5) *Satisfactory policies and procedures relating to maintenance of medical records.* Satisfactory policies and procedures relating to the maintenance of medical records means the standards set forth in 20 CFR 405.1132 pertaining to extended care facilities under title XVIII.

(6) *Satisfactory policies and procedures relating to dispensing and administering of drugs and biologicals.* Satisfactory policies and procedures relating to dispensing and administering of drugs and biologicals means the standards set forth in 20 CFR 405.1127 pertaining to extended care facilities under title XVIII.

(7) *Satisfactory policies and procedures relating to physician coverage.* Satisfactory policies and procedures relating to physician coverage and emergency medical attention means the standards set forth in 20 CFR 405.1123 pertaining to extended care facilities under title XVIII.

(8) *Arrangements with one or more general hospitals.* Arrangements with one or more general hospitals means:

(i) Written agreements providing a basis for effective working arrangements under which inpatient hospital care is available promptly to the skilled nursing home's patients when needed, which include as a minimum:

(a) Procedures for transfer of acutely ill patients to the hospital ensuring timely admission,

(b) Provisions for continuity in the care of the patient and for the transfer of pertinent medical and other information between the skilled nursing home and the hospital.

(ii) Written agreements containing provisions for the prompt availability of diagnostic and other medical services.

(9) *Conditions relating to environment and sanitation.* Conditions relating to environment and sanitation applicable to extended care facilities under title XVIII means standards set forth in 20 CFR 405.1125(i), and 405.1134, 405.1135, and 405.1136.

(c) *Conditions under which the single State agencies may waive certain requirements.* (1) The requirements for arrangements with one or more general hospitals may be waived wholly or in part if by reason of remote location or other good and sufficient reason a skilled nursing home is unable to effect such an arrangement with a hospital. However, this requirement may not be waived in whole if it can be satisfied in part. A finding of remote location or other good and sufficient reason may be made when the single State agency finds that:

(i) There is no general hospital serving the area in which the skilled nursing home is located; or

(ii) There are one or more general hospitals serving the area and the skilled nursing home has attempted in good faith and has exhausted all reasonable possibilities to enter into an agreement with such hospital or hospitals, and

(a) The nursing home has provided copies of letters, records of conferences, or other evidence to support its claim that it has attempted in good faith to enter into an agreement, and

(b) Hospitals in the area have, in fact, refused to enter into an agreement with the skilled nursing home in question.

(2) The single State agency may waive the application to a skilled nursing home of one or more specific provisions of 20 CFR 405.1125(i), 405.1134, 405.1135, or 405.1136 or one or more specific provisions of the fire and safety code applied pursuant to paragraph (a)(1)(vii) of this section if it finds on the basis of documented evidence derived from a survey that:

(i) Such provision(s), if rigidly applied, would result in unreasonable hardship upon the skilled nursing home;

(ii) The waiver of the specific provision(s) does not adversely affect the health and safety of the patients in the facility and a written justification of such determination is maintained on file;

(iii) Where structural changes in the facility are necessary to meet a provision, the change is of such magnitude as to be infeasible, or economically impracticable; delay in making such changes would not adversely affect the health and safety of patients; and an explanation of this finding is maintained on file;

and upon assurance that:

(iv) The conditions of waiver in subdivisions (i), (ii), and (iii) of this subparagraph are redetermined at the time of each survey and written evidence of such redetermination is maintained on file;

(v) The waiver of requirements is rescinded at any time any of the conditions of subdivisions (i), (ii), and (iii) of this subparagraph are found no longer to apply.

(d) *Federal financial participation.* (1) Federal financial participation is available at 75 percentum in expenditures of the single State agency for compensation (or training) of its skilled professional medical personnel and staff directly supporting such personnel, which are necessary to carry out these regulations.

(2) Federal financial participation at applicable rates also is available for the single State agency to enter into a written contract (under the supervision of the Medical Assistance Unit) with the State licensing authority, the agency of the State designated pursuant to section 1864 of the Social Security Act or other appropriate State agencies providing for at least:

(i) On-site surveys and resurveys of skilled nursing homes applying to participate or participating as providers of service under the medical assistance plan to be performed at appropriate intervals by properly qualified personnel,

(ii) Timely furnishing to the single State agency of all information and records herein required, and

(iii) Methods and procedures acceptable to the Secretary for determining an agency's expenditures in which Federal financial participation is available.

Such Federal financial participation is available only for those expenditures of the State licensing authority or other appropriate State agencies which are not attributable to the overall cost of meeting responsibilities under State law and regulations for establishing and maintaining standards but which are necessary and proper for carrying out these regulations.

(Secs. 1102 and 1902(a)(28), 49 Stat. 647 and 81 Stat. 906; 42 U.S.C. 1302 and 1396a(a)(28))

Effective date. The regulations in this section shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 28, 1970.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: April 22, 1970.

ROBERT H. FINCH,
Secretary.

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