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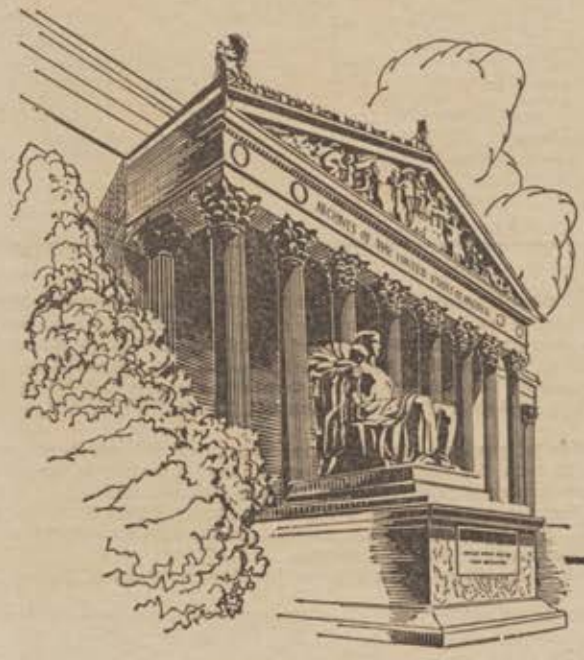

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Title 3—THE PRESIDENT

Proclamation 3984

MOTHER'S DAY, 1970

By the President of the United States of America

A Proclamation

In special recognition of the high esteem in which this nation holds mothers, we have customarily set aside a day to honor them.

The Congress by joint resolution approved May 8, 1914, declared that the second Sunday in May would be designated as Mother's Day, and requested the President to call for its observance.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby request that Sunday, May 10, 1970, be observed as Mother's Day. I direct government officials to display the flag of the United States on all government buildings, and I urge all citizens to display the flag at their homes and other suitable places on that day.

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

Richard Nixon

[F.R. Doc. 70-5671; Filed, May 5, 1970; 2:56 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that the Schedule C position of Assistant to the Secretary (States Relations and Emergency Prepardness) has been retitled Assistant to the Secretary for Intergovernmental Affairs; and that the Schedule C position of Private Secretary to the Assistant to the Secretary (States Relations and Emergency Preparedness) has been retitled Private Secretary to the Assistant to the Secretary for Intergovernmental Affairs. Effective on publication in the FEDERAL REGISTER, subparagraphs (2) and (24) of paragraph (a) of § 213.3313 are amended as set out below.

§ 213.3313 Department of Agriculture.

(a) Office of the Secretary. * * *

(2) Assistant to the Secretary for Intergovernment Affairs.

* * * * *

(24) One Private Secretary to the Assistant to the Secretary for Intergovernmental Affairs.

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

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

[F.R. Doc. 70-5615; Filed, May 6, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one additional position of Special Assistant to the Director of the Women's Bureau is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (2) of paragraph (f) of § 213.3315 is amended as set out below.

§ 213.3315 Department of Labor.

* * * * *

(f) *Women's Bureau.* * * *

(2) Three Special Assistants to the Director.

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

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

[F.R. Doc. 70-5618; Filed, May 6, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Federal Trade Commission

Section 213.3334 is amended to show that one position of Secretary to the Director of Information is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (c) is added to § 213.3334, as set out below.

§ 213.3334 Federal Trade Commission.

* * * * *

(c) One Secretary to the Director of Information.

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

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

[F.R. Doc. 70-5617; Filed, May 6, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that two positions of Confidential Assistant to the Assistant Director for Research, Plans, Programs, and Evaluation are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (16) is added to paragraph (a) of § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

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

(16) Two Confidential Assistants to the Assistant Director for Research, Plans, Programs, and Evaluation.

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

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

[F.R. Doc. 70-5619; Filed, May 6, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Equal Employment Opportunity Commission

Section 213.3377 is amended to show that a second position of Secretary to a Special Assistant to the Chairman is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (d) is added to § 213.3377 as set out below.

§ 213.3377 Equal Employment Opportunity Commission.

* * * * *

(d) One Secretary to each of two Special Assistants to the Chairman.

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

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

[F.R. Doc. 70-5616; Filed, May 6, 1970; 8:49 a.m.]

PART 550—PAY ADMINISTRATION (GENERAL)

Specific Exceptions

Section 550.505 is amended (1) by deleting the superfluous words "or person to whom he has delegated the authority," from the opening statement, and (2) adding a new paragraph (t) to provide a specific exception for the pay of certain teachers on Midway Island. Section 550.505 is amended as set out below.

§ 550.505 Specific exceptions.

When appropriate authority in the department or agency concerned, or in the government of the District of Columbia, determines that personal services otherwise cannot be readily obtained, section 5533(a) of title 5, United States Code, does not apply to:

* * * * *

(t) Pay for part-time or intermittent employment of teachers on the faculty of the dependents' school, U.S. Naval Station, Midway Island, as instructors in adult education courses at the Station.

(5 U.S.C. 5533)

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

[F.R. Doc. 70-5613; Filed, May 6, 1970; 8:49 a.m.]

PART 550—PAY ADMINISTRATION (GENERAL)

Hazardous Boarding or Leaving of Vessels

Appendix A to Subpart I of Part 550 is amended by adding a new item (6), "Hazardous Boarding or Leaving of Vessels", under the duty "Exposure to Hazardous Weather or Terrain". The amendment, which is effective on the date shown in the schedule reads as follows:

Appendix A

SCHEDULE OF PAY DIFFERENTIAL AUTHORIZED FOR IRREGULAR OR INTERMITTENT HAZARDOUS DUTY UNDER SUBPART I

HAZARD PAY DIFFERENTIAL, OF PART 550 PAY ADMINISTRATION (GENERAL)

Irregular or intermittent duty	Rate of hazard pay differential	Effective date
Exposure to Hazardous Weather or Terrain:		
• • •	• • •	• • •
(6) *Hazardous boarding or leaving of vessels.* When duties (a), (b), or (c) are performed under adverse conditions of foul weather, ice, or night and when the sea state is high (3 feet and above): (a) Boarding or leaving vessels at sea or standing offshore during lightering or personnel transfer operations. (b) Boarding, leaving, or transferring equipment between small boats or rafts and steep, rocky, or coral surrounded shorelines. (c) Transferring equipment between a small boat and rudimentary dock by improvised or temporary facility such as an unfastened plank leading from boat to dock.	25%	First pay period beginning after May 7, 1970.

(5 U.S.C. 5595, E.O. 11257; 3 CFR 1964–1965 Comp., p. 357)

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

[F.R. Doc. 70-5614; Filed, May 6, 1970; 8:49 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER E—PUBLIC RECORDS

[Amdt. 3]

PART 798—AVAILABILITY OF INFORMATION TO THE PUBLIC

Miscellaneous Amendments

The ASCS regulations, 7 CFR Part 798, relating to availability of information to the public, are amended to change the policy with respect to the availability of lists of names; provide that ASCS National Handbooks are indexed for inspection and copying, and delete references to other directives; to provide that decisions of the Board of Contract Appeals affecting ASCS or CCC are available along with those of the CCC Contract Disputes Board; and to provide that the same fees are charged for compiling requested records as are currently charged for searching records.

1. Section 798.2 is amended to read as follows:

§ 798.2 Index.

ASCS shall maintain for public inspection and copying an index of ASCS National Handbooks, CCC Board Dockets, CCC Contract Dispute Board decisions, decisions of the Board of Contract Appeals of the Department of Agriculture affecting ASCS or CCC, and Marketing Quota Review Committee determinations.

2. Section 798.3 is amended by adding the following new paragraph (q):

§ 798.3 Records not available to the public.

• • • • • •

(q) (1) Lists of names of businessmen, persons, organizations or firms to any person, firm, or association if such lists will be used for solicitation purposes, or such lists directly or indirectly provide information which customarily would not be released to the public by the person from whom it was obtained.

(2) Lists of farmers names identified by State and County, but not by post office addresses, are available: *Provided*, That lists of names and addresses of farmers who are program participants shall be made available by county committees to suppliers of materials or services used in carrying out the programs, provided that such suppliers sign a statement that the lists will not be made available to any other person: *Provided further*, That lists of names and addresses of farmers who are eligible to vote in ASC elections shall be made available by county committees to any eligible voter in the same county if the requester signs a statement that the lists will not be used for any purpose other than in connection with the ASC election.

3. Paragraphs (b) and (d)(1) of § 798.6 are amended to read as follows:

§ 798.6 Procedure for requesting records.

• • • • • •

(b) *How to request records.* Any person may request a record in writing or verbally: *Provided*, That requests for lists of farmers must be in writing. The request must identify the record sought in sufficient detail to enable identification and location of the record. Payment of appropriate fees shall accompany the request.

• • • • • •

(d) *Obtaining copies of requested records.* (1) If copies of directives (handbooks, notices, checklists, bin site directories and numbered Administrator's Memos), and final decisions and determinations are not available for purchase at the office to which the request is made, such office shall give the requester the name and address of the office holding the record. Copies of national directives shall be obtained from the appropriate Washington division. Copies of decisions of the CCC Contract Disputes Board and decisions of the Board of Contract Appeals of the Department of Agriculture affecting ASCS or CCC shall be obtained from the Executive Secretary of the Board of Contract Appeals. (The Board of Contract Appeals succeeded the CCC Contract Disputes Board on January 26, 1968.) Copies of field directives, supplements to national directives and determinations of Marketing Quota Review Committees shall be obtained from the appropriate field office.

4. Paragraphs (c) and (h)(2)(i) of § 798.7 are amended to read as follows:

§ 798.7 Fees.

• • • • • •

(c) Directives, indexes, CCC Board Dockets, decisions of the CCC Contract Disputes Board, decisions of the Board of Contract Appeals, and determinations of Marketing Quota Review Committees are available for inspection without cost.

• • • • • •

(h) • • •

(2) • • •

(i) Fees for compiling and searching for requested records, whether or not the record is found, shall be charged as follows:

(1) 30 minutes or less—None.

(2) 31 to 60 minutes—$4.

(3) More than 60 minutes—$1 for each 15 minutes or fraction thereof.

5. Paragraph (l) of § 798.7 is amended by changing the first sentence to read as follows:

§ 798.7 Fees.

• • • • • •

(l) The fees shown in the following table shall be charged for lists of names, when made available.

(5 U.S.C. 552, 559)

Effective date. Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 1, 1970.

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

[F.R. Doc. 70-5624; Filed, May 6, 1970; 8:50 a.m.]

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

[Navel Orange Reg. 208]

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

Limitation of Handling

§ 907.508 Navel Orange Regulation 208.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of navel oranges grown in Arizona

and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period May 8, 1970, through May 14, 1970, are hereby fixed as follows:

(i) District 1: 600,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement.

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

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

Dated: May 6, 1970.

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

[F.R. Doc. 70-5707; Filed, May 6, 1970; 11:34 a.m.]

[Valencia Orange Reg. 312]

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

Limitation of Handling

§ 908.612 Valencia Orange Regulation 312.

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

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

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 8, 1970, through May 14, 1970, are hereby fixed as follows:

(i) District 1: 234,000 cartons;

(ii) District 2: 273,000 cartons;

(iii) District 3: 143,000 cartons.

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

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

Dated: May 6, 1970.

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

[F.R. Doc. 70-5708; Filed, May 6, 1970; 11:34 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 41]

PART 1041—MILK IN THE NORTHWESTERN OHIO MARKETING AREA

Order Amending Order

Findings and determinations. This order amending the Northwestern Ohio order is based on the proceedings listed below on proposed amendments to the marketing agreements and the orders regulating the handling of milk in the listed marketing areas:

7 CFR part	Marketing area	Docket No.
1033	Greater Cincinnati	AO-166-A40. AO-166-A40-RO2. AO-166-A40-RO3.
1034	Miami Valley, Ohio	AO-175-A29. AO-175-A29-RO2. AO-175-A29-RO3.
1035	Columbus, Ohio	AO-176-A26. AO-176-A26-RO2. AO-176-A26-RO3.
1041	Northwestern Ohio	AO-72-A36. AO-72-A36-RO2. AO-72-A36-RO3.
1065	Tri-State	AO-177-A35. AO-177-A35-RO2. AO-177-A35-RO3.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing

Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Northwestern Ohio marketing area.

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

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective upon publication in the FEDERAL REGISTER. Any further delay would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are generally known to interested persons. The decision of the Assistant Secretary containing all amendment provisions of this order was issued April 28, 1970. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the FEDERAL REGISTER, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553 (d), Administrative Procedure Act, 5 U.S.C. 551–559.)

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

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

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

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Northwestern Ohio marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1041.62, paragraphs (a)(1)(i) and (b)(5) are revised to read as follows:

§ 1041.62 Obligations of a handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(1) (i) The obligation that would have been computed pursuant to § 1041.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1041.70(e) and a credit in the amount specified in § 1041.82(b)(2) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price), and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

2. Section 1041.71 is revised to read as follows:

§ 1041.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers at pool plants for which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1041.70 for all handlers who filed the reports prescribed for the month and who made the required payments pursuant to § 1041.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1041.73;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1041.72 and multiplying the result by the total hundredweight of such milk;

(d) Add one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which values are computed pursuant to § 1041.70(e);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producer;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by a rate that is equal to 6 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but that is not more than 25 cents;

(i) Add for each month of September through December one-fourth of the total amount subtracted pursuant to paragraph (h) of this section for the preceding months of April through July;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

3. In § 1041.73, paragraph (b) is revised to read as follows:

§ 1041.73 Location differentials to producers and on nonpool milk.

* * * * *

(b) For the purpose of computations pursuant to §§ 1041.82 and 1041.83, the weighted average price shall be adjusted on the basis of the applicable amount or rate pursuant to § 1041.53, applicable at

the location of the nonpool plant from which the milk was received.

4. Section 1041.81 is revised to read as follows:

§ 1041.81 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund", which shall function as follows:

(a) All payments made by handlers except those pursuant to §§ 1041.85 and 1041.86 shall be deposited in this fund, and all payments made pursuant to §§ 1041.83 and 1041.84 shall be made out of this fund: *Provided*, That the market administrator shall offset the payment due a handler against payments due from such handler; and

(b) All amounts subtracted pursuant to § 1041.71(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn for the purpose of effectuating § 1041.71(i).

5. In § 1041.82(b), subparagraph (2) is revised to read as follows:

§ 1041.82 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1041.70(e).

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

Effective date. Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 1, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70–5595; Filed, May 6, 1970; 8:47 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 paragraph (e)(24) relating to the State of Indiana, subdivision (iii) relating to Cass County is amended to read:

(e) * * *

(24) *Indiana.* * * *

(iii) That portion of Cass County comprised of Clinton, Deer Creek, and Jackson Townships, and the portion of Washington and Tippon Townships lying south of County Road 500–S.

* * * * *

2. In § 76.2, in paragraph (e)(20) relating to the State of Virginia, a new subdivision (xv) relating to Appomattox County is added to read:

(e) * * *

(20) *Virginia.* * * *

(xv) That portion of Appomattox County bounded by a line beginning at the junction of Primary Highway 24 and Secondary Highway 618; thence, following Secondary Highway 618 in a southeasterly direction to Secondary Highway 614; thence, following Secondary Highway 614 in a generally easterly direction to Secondary Highway 651; thence, following Secondary Highway 651 in a generally southeasterly direction to Secondary Highway 626; thence, following Secondary Highway 626 in a southeasterly direction to Secondary Highway 601; thence, following Secondary Highway 601 in a southwesterly direction to Secondary Highway 627; thence, following Secondary Highway 627 in a southeasterly direction to Secondary Highway 600; thence, following Secondary Highway 600 in a southwesterly direction to U.S. Highway 460; thence, following U.S. Highway 460 in a northwesterly direction to Secondary Highway 634; thence, following Secondary Highway 634 in a northwesterly direction to Secondary Highway 631; thence, following Secondary Highway 631 in a northeasterly direction to Secondary Highway 627; thence, following Secondary Highway 627 in a northwesterly direction to Primary Highway 24; thence, following Primary Highway 24 in a northeasterly direction to its junction with Secondary Highway 618.

(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 Cass County, Ind., and a portion of Appomattox County, Va., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas designated herein.

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

Done at Washington, D.C., this 1st day of May 1970.

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

[F.R. Doc. 70–5593; Filed, May 6, 1970; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70–SO–17]

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

Alteration of Control Zones and Transition Area and Revocation of Transition Area

Correction

In F.R. Doc. 70–4917 appearing on page 6492 in the issue for Thursday, April 23, 1970, in the first line of the second complete paragraph in column 2, the page number reference should read "35 F.R. 2054".

[Airspace Docket No. 70–CE–7]

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

Designation of Transition Area

On page 3236 of the FEDERAL REGISTER, dated February 20, 1970, the Federal Aviation Administration published a notice of Proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Fremont, Nebr.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change: The coordinates recited in the Fremont, Nebr., Municipal Airport transition area designation as "latitude 41°27'00" N., longitude 96°31'00" W." are changed to read "latitude 41°26'55" N., longitude 96°30'50" W."

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

(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 Kansas City, Mo., on April 22, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (35 F.R. 2134), the following transition area is added:

FREMONT, NEBR.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Fremont Municipal Airport (lat. 41°26'55" N., long. 96°30'50" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles northeast and 9½ miles southwest of the 334° bearing from Fremont Municipal Airport, extending from the airport to 18½ miles northwest of the airport.

[F.R. Doc. 70-5579; Filed, May 6, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-8]

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

Alteration of Transition Area and Control Zone

On pages 3236 and 3237 of the FEDERAL REGISTER dated February 20, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Aberdeen, S. Dak.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the amendments as so proposed are hereby adopted, subject to the following change: The coordinates recited in the Aberdeen, S. Dak., control zone and transition area alteration as "latitude 45°27'05" N., longitude 98°25'30" W." are changed to read "latitude 45°27'00" N., longitude 98°25'00" W.".

These amendments shall be effective 0901 G.m.t., June 25, 1970.

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

Issued in Kansas City, Mo., on April 22, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

ABERDEEN, S. DAK.

Within a 5-mile radius of Aberdeen Municipal Airport (lat. 45°27'00" N., long. 98°25'00" W.) and within 3 miles each side of the Aberdeen VORTAC 131° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC.

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

ABERDEEN, S. DAK.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Aberdeen Municipal Airport (lat. 45°27'00" N., long. 98°25'00" W.); within 3 miles each side of the Aberdeen VORTAC 312° radial, extending from the 10-mile radius area to 17½ miles northwest of the VORTAC, and within 4½ miles southwest and 9½ miles northeast of the Aberdeen VORTAC 131° radial, extending from the 10-mile radius area to 18½ miles southeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 21-mile radius of Aberdeen VORTAC; and within 4½ miles northeast and 9½ miles southwest of the Aberdeen VORTAC 312° radial, extending from the 21-mile radius area to 27 miles northwest of the VORTAC.

[F.R. Doc. 70-5580; Filed, May 6, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-11]

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

Designation of Transition Area

On page 3237 of the FEDERAL REGISTER dated February 20, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Grain Valley, Mo.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following changes:

1. The East Kansas City Airport coordinates recited in the Grain Valley, Mo., transition area designation as "latitude 39°01'00" N., longitude 94°-13'00" W.", are changed to read "latitude 39°00'55" N., longitude 94°12'45" W.".

2. In the second line of the description after the words "East Kansas City", add the word "Airport".

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

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

Issued in Kansas City, Mo., on April 22, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (35 F.R. 2134), the following transition area is added:

GRAIN VALLEY, MO.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the East Kansas City Airport (lat. 39°00'55" N., long. 94°12'45" W.); and within 5 miles each side of the 312° radial of the Blue Springs, Mo., VORTAC extending from the 6½-mile radius area to 8 miles northwest of the VORTAC, excluding the portion which overlies the Kansas City, Mo., 700-foot floor transition area.

[F.R. Doc. 70-5581; Filed, May 6, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-42]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Champaign, Ill., control zone.

The VOR/DME Runway 22 instrument approach procedure for the University of Illinois-Willard Airport has been altered with the result that the control zone extension provided for its protection is no longer required. Therefore, it is necessary to alter the Champaign, Ill., control zone to delete this control zone extension from the present control zone designation. Action is taken herein to effect this change.

Since this alteration will reduce the existing amount of designated airspace in the Champaign, Ill., terminal area, it will not impose an additional burden on any person. Consequently, notice and public procedure hereon are unnecessary.

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 § 71.171 (35 F.R. 2054), the following control zone is amended to read:

CHAMPAIGN, ILL.

Within a 5-mile radius of the University of Illinois-Willard Airport (latitude 40°02'-25" N., longitude 88°16'35" W.); within 2 miles each side of the Champaign VORTAC 123°, 237° and 328° radials, extending from the 5-mile radius zone to 12 miles southeast, southwest, and northwest of the VORTAC; and within 2 miles each side of the University of Illinois-Willard Airport ILS localizer southeast course, extending from the 5-mile radius zone to the OM.

(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 Kansas City, Mo., on April 22, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-5582; Filed, May 6, 1970; 8:46 a.m.]

[Airspace Docket No. 70-SW-11]

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 700-foot portion of the Wichita Falls, Tex., transition area.

On March 17, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 4638) stating the Federal Aviation Administration proposed to alter controlled airspace in the Wichita Falls, Tex., terminal 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., July 23, 1970, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the 700-foot portion of the Wichita Falls, Tex., transition area is amended to read as follows:

WICHITA FALLS, TEX.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of lat. 33°59'56" N., long. 98°30'25" W.

(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 27, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-5583; Filed, May 6, 1970; 8:46 a.m.]

[Airspace Docket No. 70-SW-6]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Hot Springs, Ark., control zone and transition area.

On March 18, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 4709) stating the Federal Aviation Administration proposed to alter controlled airspace in the Hot Springs, Ark., terminal 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., July 23, 1970, as hereinafter set forth.

(1) In § 71.171 (35 F.R. 2054), the Hot Springs, Ark., control zone is amended to read:

HOT SPRINGS, ARK.

Within a 9-mile radius of Memorial Field (lat. 34°28'40" N., long. 93°05'45" W.), and within 3 miles each side of the 248° bearing from the Hot Springs RBN extending from the 9-mile radius zone to 8.5 miles west of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (35 F.R. 2134), the Hot Springs, Ark., transition area is amended to read:

HOT SPRINGS, ARK.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of Memorial Field (lat. 34°28'40" N., long. 93°05'45" W.), and within 3.5 miles each side of the 248° bearing from the Hot Springs RBN extending from the 15-mile radius area to 11.5 miles west 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 27, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-5584; Filed, May 6, 1970; 8:46 a.m.]

[Airspace Docket No. 69-CE-122]

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

Designation of Transition Area

On page 1112 of the FEDERAL REGISTER dated January 28, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Point Lookout, Mo.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

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

(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 Kansas City, Mo., on April 15, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (35 F.R. 2134), the following transition area is added:

POINT LOOKOUT, MO.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of School of the Ozarks Airport (latitude 36°37'25" N., longitude 93°13'45" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 127° bearing from School of the Ozarks Airport, extending from the airport to 18½ miles southeast of the airport.

[F.R. Doc. 70-5585; Filed, May 6, 1970; 8:47 a.m.]

[Airspace Docket No. 69-CE-127]

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

Alteration of Control Zone and Transition Area

On page 2792 of the FEDERAL REGISTER dated February 10, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Cedar Rapids, Iowa.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., June 25, 1970.

(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 Kansas City, Mo., on April 15, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

CEDAR RAPIDS, IOWA

Within a 5-mile radius of Cedar Rapids Municipal Airport (latitude 41°53'05" N., longitude 91°42'35" W.); within 3 miles each side of the Cedar Rapids VORTAC 094° radial, extending from the 5-mile radius zone to 10 miles east of the VORTAC; and within 3 miles each side of the Cedar Rapids VORTAC 264° radial, extending from the 5-mile radius zone to 9 miles west of the VORTAC.

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

CEDAR RAPIDS, IOWA

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Cedar Rapids Municipal Airport (latitude 41°53'05" N., longitude 91°42'35" W.); within 4½ miles north and 9½ miles south of the Cedar Rapids ILS localizer west course, extending from the OM to 18½ miles west of the OM; and within 4½ miles north and 9½ miles south of the Cedar Rapids VORTAC 264° radial, extending from the VORTAC to 18½ miles west of the VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 42°05'00" N., longitude 91°00'00" W.; thence south along longitude 91°00'00" W.; to and west along the north edge of V-434; to and northwest along the northeast edge of V-52; to and north along longitude 92°53'00" W.; to and northeast along the southeast edge of V-161; to and east along the arc of a 29-mile radius circle centered on the Waterloo, Iowa, VOR TAC; to and southeast along the southwest edge of V-67; to and east along latitude 42°05'00" N.; to the point of beginning excluding the area which overlies the Ottumwa, Iowa, transition area.

[F.R. Doc. 70-5586; Filed, May 6, 1970; 8:47 a.m.]

[Airspace Docket No. 69-CE-129]

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

Designation of Transition Area

On pages 2792 and 2793 of the FEDERAL REGISTER dated February 10, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Harlan, Iowa.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

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

(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 Kansas City, Mo., on April 15, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (35 F.R. 2134), the following transition area is added:

HARLAN, IOWA

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Harlan Municipal Airport (latitude 41°-35'15" N., longitude 95°20'15" W.); and within 5 miles each side of the Neola, Iowa, VORTAC 064° radial, extending from the 7-mile radius area to 8 miles northeast of the VORTAC.

[F.R. Doc. 70-5587; Filed, May 6, 1970; 8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 53—TOMATO PRODUCTS

Canned Tomatoes, Identity Standard; Confirmation of Effective Date of Order Regard Optional Forms of Tomatoes and Increased Calcium Salts

In the matter of revising the standard of identity for canned tomatoes (§ 53.40) to provide for (1) optional cut forms of the tomato ingredient and label declaration therefor, (2) optional increased use of calcium salts when the tomato ingredient is in cut form, and (3) optional modification of the name of the food by the word "whole":

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of February 27, 1970 (35 F.R. 3804). Accordingly, the revision promulgated thereby became effective April 28, 1970.

Dated: April 29, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5563; Filed, May 6, 1970; 8:45 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Dimethyl Phosphate of α-Methylbenzyl 3-Hydroxy-*cis*-Crotonate

A petition (PP 9F0770) was filed with the Food and Drug Administration by Shell Chemical Co., Division of Shell Oil Co., Suite 1103, 1700 K Street NW., Washington, D.C. 20006, proposing establishment of tolerances for negligible residues of the insecticide dimethyl phosphate of α-methylbenzyl 3-hydroxy-*cis*-crotonate in meat, fat, and meat byproducts of cattle, goats, hogs, and sheep and in milk fat at 0.15 part per million. Subsequently, the petitioner amended the petition by proposing that tolerances be established for negligible residues of the subject insecticide in meat, fat and meat byproducts of cattle, goats, hogs, and sheep and in milk at 0.02 part per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 120 is amended as follows:

1. Section 120.3(e)(5) is amended by alphabetically inserting in the list of cholinesterase-inhibiting pesticides a new item as follows:

§ 120.3 **Tolerances for related pesticide chemicals.**

* * * * *

(e) * * *

(5) * * *

Dimethyl phosphate of α-methylbenzyl 3-hydroxy-*cis*-crotonate.

* * * * *

2. The following new section is added to Subpart C:

§ 120.280 **Dimethyl phosphate of α-methylbenzyl 3-hydroxy-*cis*-crotonate; tolerances for residues.**

Tolerances are established for negligible residues of the insecticide dimethyl phosphate of α-methylbenzyl 3-hydroxy-*cis*-crotonate in meat, fat, and meat byproducts of cattle, goats, hogs, and sheep and in milk at 0.02 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: April 30, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5566; Filed, May 6, 1970; 8:45 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Triphenyltin Hydroxide

A petition (PP 0F0900) was filed with the Food and Drug Administration by Thompson-Hayward Chemical Co., Post Office Box 2383, Kansas City, Kans. 66110, proposing establishment of a tolerance of 0.05 part per million for negligible residues of the fungicide triphenyltin hydroxide in or on the raw agricultural commodity pecans.

The Secretary of Agriculture has certified that the pesticide chemical is useful for the purpose for which the tolerance is being established.

Based on consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that:

1. The proposed usage is not reasonably expected to result in residues of the fungicide in meat, milk, poultry, and eggs. The use is in the category specified in § 120.6(a)(3).

2. The tolerance established by this order is safe and will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.236 is revised to read as follows to establish the tolerance regarding pecans.

§ 120.236 **Triphenyltin hydroxide; tolerances for residues.**

Tolerances are established for negligible residues of the fungicide triphenyltin hydroxide in or on the raw agricultural commodities pecans and potatoes at 0.05 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: April 30, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5568; Filed, May 6, 1970; 8:45 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Amiben

A petition (PP 0F0887) was filed with the Food and Drug Administration by Amchem Products, Inc., Brookside Avenue, Ambler, Pa. 19002, proposing establishment of a tolerance of 0.1 part per million for negligible residues of the herbicide amiben in or on the raw agricultural commodity sunflower seed.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purpose for which the tolerance is being proposed.

Based on consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that:

1. The proposed usage is not reasonably expected to result in residues of the herbicide in meat, milk, poultry, and eggs. The uses are in the category specified in § 120.6(a)(3).

2. The tolerance established by this order is safe and will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.266 is revised to read as follows to establish the tolerance regarding sunflower seed:

§ 120.266 Amiben; tolerances for residues.

Tolerances for negligible residues of the herbicide amiben (3-amino-2,5-dichlorobenzoic acid) are established in or on the raw agricultural commodities, beans (dried), bean vines, field corn (grain, fodder, and forage), lima beans, peanuts, peanut forage, peppers, pumpkins, soybeans, soybean forage, squash (summer and winter), sunflower seed, sweetpotatoes, and tomatoes at 0.1 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: April 29, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5564; Filed, May 6, 1970; 8:45 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

3-(4-Bromo-3-Chlorophenyl)-1-Methoxy-1-Methylurea

A petition (PP 9F0846) was filed with the Food and Drug Administration by the CIBA Agrochemical Co., Post Office Box 1105, Vero Beach, Fla. 32960, proposing establishment of tolerances for negligible residues of the herbicide 3-(4-bromo-3-chlorophenyl)-1-methoxy-1-methylurea in or on the raw agricultural commodities corn grain, fodder, and forage at 0.2 part per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that:

1. Tolerances are unnecessary regarding meat, milk, poultry, and eggs since the proposed usage is not reasonably expected to result in residues of the herbicide in these commodities from the feed uses of corn grain, forage, and fodder. This usage is in the category specified in § 120.6(a)(3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 120 is amended by adding to Subpart C the following new section:

§ 120.279 3-(4-Bromo-3-chlorophenyl)-1-methoxy-1-methylurea; tolerances for residues.

Tolerances are established for negligible residues of the herbicide 3-(4-bromo-3-chlorophenyl)-1-methoxy-1-methylurea in or on the raw agricultural commodities corn in grain or ear form (including field corn, sweet corn, and popcorn) and corn forage and fodder (including field corn, sweet corn, and popcorn) at 0.2 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: April 29, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5565; Filed, May 6, 1970; 8:45 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Sodium Monoalkyl and Dialkyl (C_8–C_{12}) Phenoxybenzenedisulfonate Mixtures

A petition (PP 0F0860) was filed with the Food and Drug Administration by Dow Chemical Co., 2020 Abbott Road Center, Midland, Mich. 48640, proposing an exemption from the requirement of a tolerance for residues of surfactants that are sodium monoalkyl and dialkyl (C_8–C_{12}) phenoxybenzenedisulfonate mixtures, containing not less than 70 percent of monoalkylated product, when used as an inert ingredient in pesticide formulations.

The Secretary of Agriculture has certified that these surfactant chemicals are useful in pesticide formulations.

Based on consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that the exemption established by this order is safe and will protect the public health. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512, 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.1001(c) is amended:

1. By deleting from the list of ingredients the item "Sodium dodecylphenoxybenzenedisulfonate" to eliminate duplication and overlapping with the item added below.

2. By alphabetically inserting in the list a new item, as follows:

§ 120.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Sodium monoalkyl and dialkyl (C_8-C_{10}) phenoxybenzenedisulfonate mixtures containing not less than 70% of monoalkylated product.	.....	Surfactants, related adjuvants of surfactants.
* * *	* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: April 30, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5567; Filed, May 6, 1970; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

HYDROXYPROPYL CELLULOSE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 9A2432) filed by Hercules Inc., Wilmington, Del. 19899, and other relevant material, concludes that the regulation providing for safe use of hydroxypropyl cellulose in food should be amended by lowering the minimum viscosity specification to that set forth below to permit certain improvements in the additive's technical effects. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.1160(a) is revised to read as follows:

§ 121.1160 Hydroxypropyl cellulose.

* * * * *

(a) The additive is a cellulose ether containing propylene glycol groups attached by an ether linkage and contains, on an anhydrous basis, not more than 4.6 hydroxypropyl groups per anhydroglucose unit. The additive has a minimum viscosity of 145 centipoises for 10 percent by weight aqueous solution at 25° C.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clark, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularly the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: April 29, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5570; Filed, May 6, 1970; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

VINYL CHLORIDE-PROPYLENE COPOLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP OB2481) filed by Air Reduction Co., Inc., 150 East 42d Street, New York, N.Y. 10017, and other relevant material, concludes that § 121.2521 should be amended as set forth below to provide for additional safe use of vinyl chloride-propylene copolymers in contact with food. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2521 is amended by revising the introduction to the section to read as follows:

§ 121.2521 Vinyl chloride-propylene copolymers.

The vinyl chloride-propylene copolymers identified in paragraph (a) of this section may be safely used as components of articles intended for contact with food, subject to the provisions of this section.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: April 30, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5571; Filed, May 6, 1970; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

POLY(2,6-DIMETHYL-1,4-PHENYLENE) OXIDE RESINS

On further consideration of the regulation providing for use of poly(2,6-dimethyl-1,4-phenylene) oxide resins in food-contact articles, the Commissioner of Food and Drugs concludes that it sould be amended as set forth below to correct the subject calculation. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs.

409, 701(a), 52 Stat. 1055, 72 Stat. 1785–88, as amended; 21 U.S.C. 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2603 (c)(1)(iv) is revised to read as follows:

§ 121.2603 Poly(2,6-dimethyl-1,4-phenylene)oxide resins.

* * * * *

(c) * * *

(1) * * *

(iv) Calculation: The calculation method used is that described in appendix A1.2.2 (ASTM Method D 1243–66) with the reduced viscosity determined for three concentration levels (0.4, 0.2, and 0.1 gram per deciliter) and extrapolated to zero concentration for intrinsic viscosity. The following formula is used for determining reduced viscosity:

$$\text{Reduced viscosity in terms of deciliters per gram} = \frac{t - t_s}{t_s \times c},$$

Where:

t = Solution efflux time.
t_s = Solvent efflux time.
c = Concentration of solution in terms of grams per deciliter.

* * * * *

Effective date. This order correcting an existing regulation is effective upon publication in the FEDERAL REGISTER.

(Secs. 409, 701(a), 52 Stat. 1055, 72 Stat. 1785–88, as amended; 21 U.S.C. 348, 371(a))

Dated: April 29, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–5569; Filed, May 6, 1970; 8:45 a.m.]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Haloxon

The Commissioner of Food and Drugs has evaluated the new animal drug applications (31–994V, 31–995V) filed by William Cooper & Nephews, Inc., 1909–25 Clifton Avenue, Chicago, Ill. 60614, providing for the use of haloxon in the control of certain gastrointestinal roundworms in cattle, sheep, and goats. The applications are approved.

The Commissioner also concludes that tolerances for residues of the drug in edible tissues of treated animals should be established.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), the following new sections are added to Parts 135c and 135g:

§ 135c.22 Haloxon.

(a) *Chemical name.* 3-Chloro-7-hydroxy-4-methylcoumarin bis (2-chloroethyl) phosphate.

(b) *Specifications.* Haloxon assay of not less than 96 percent by infrared spectrum at 8.62 microns.

(c) *Sponsor.* William Cooper & Nephews, Inc. 1909–25 Clifton Avenue, Chicago, Ill. 60614.

(d) *Special considerations.* Do not use any drug, insecticide, pesticide, or other chemical having cholinesterase-inhibiting activity either simultaneously or within a few days before or after treatment with haloxon.

(e) *Related tolerances.* Section 135g.69 of this chapter.

(f) *Conditions of use.*

	Amount	Limitations	Indications for use
1. Haloxon	141.5 grams per packet.	For cattle; dissolve each packet in 32 ounces of water and administer as a drench as follows: *Weight of animal (pounds)* — *Dose (fluid ounces)* Up to 200 — 1 200 to 300 — 1½ 300 to 450 — 2 450 to 700 — 3 700 to 1,000 — 4 1,000 to 1,200 — 5 Over 1,200 — 6 Do not treat within 1 week of slaughter; do not treat dairy animals of breeding age; heavily parisitized animals should be retreated in 3 weeks.	Control of gastrointestinal roundworms of the genera *Haemonchus, Ostertagia, Trichostrongylus,* and *Cooperia.*
2. Haloxin	44.9 grams per packet.	For sheep and goats; dissolve each packet in 32 ounces of water and administer as a drench as follows: *Weight of animal (pounds)* — *Dose (fluid ounces)* Up to 50 — ½ 50 to 90 — 1 90 to 150 — 1½ Over 150 — 2 Do not treat within 1 week of slaughter; do not treat dairy goats of breeding age; heavily parisitized animals should be retreated in 3 weeks.	Control of gastrointestinal roundworms of the genera *Haemonchus, Ostertagia,* and *Cooperia* in sheep and *Haemonchus* in goats.

§ 135g.69 Haloxon.

A tolerance of 0.1 part per million is established for negligible residues of haloxon (3-chloro-7-hydroxy-4-methylcoumarin bis(2-chloroethyl) phosphate) in the edible tissues of cattle, sheep, and goats.

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

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: April 27, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–5572; Filed, May 6, 1970; 8:45 a.m.]

Title 30—MINERAL RESOURCES

Chapter III—Board of Mine Operations Appeals, Department of the Interior

PART 301—PROCEDURES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Penalties; Schedule of Payments

On March 28, 1970, there was published in the FEDERAL REGISTER (35 F.R. 5255) the organization, function, and procedures of the Board of Mine Operations Appeals established to perform the review functions provided in the Federal Coal Mine Health and Safety Act of 1969. Part 301 of Title 30, Code of Federal Regulations, Subpart F—Assessment of Penalties, established procedures for assessment of penalties provided for under the Act. Section 301.50 of Subpart F provides for the initiation of proceedings for the assessment of penalties for the "first violation," "second violation," "third violation," and for "each additional violation" of mandatory standards prescribed in the Act. The purpose of this amendment is to clarify and define the terms "second violation," "third violation," and "each additional violation."

Since this amendment involves rules of agency organization, procedure, or practice the notice, hearing, and effective date provisions of section 553 of title 5 of the United States Code are not applicable.

1. Section 301.50, Subpart F of Part 301, Chapter III of Title 30, Code of Federal Regulations is amended by adding after the schedule of penalties contained in § 301.50 the following:

§ 301.50 How initiated; schedule of payments.

* * * * *

A "second violation" shall be the second time a violation of a particular standard is found on a reinspection or subsequent inspection within 12 months after the occurrence of the first violation of the same particular standard. A "third violation" and "each additional violation" shall be the third time and each additional time after the third violation, respectively, that a violation of a particular standard is found on a reinspection or subsequent inspection within 12 months after the occurrence of the first violation of the same particular standard.

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

FRED J. RUSSELL,
Under Secretary of the Interior.

MAY 4, 1970.

[F.R. Doc. 70–5608; Filed, May 6, 1970; 8:48 a.m.]

PART 301—PROCEDURES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Penalties; Schedule of Payments

The schedule of payments set forth in § 301.50 Subpart F (Assessment of Penalties), of Part 301, appearing in the issue of the FEDERAL REGISTER for Saturday, March 28, 1970 (F.R. Doc. 70-3789), at page 5257, is hereby amended to include Footnotes 1, 2, and 3, as follows:

Nature of violation	1st violation in the mine within preceding 12 months	2d violation in the mine within preceding 12 months	3d and each additional violation in the mine within preceding 12 months
Mine operators:			
Violation or violations resulting in imminent danger	[1] $500	$1,500	$3,000
Violation caused by unwarrantable failure	[2] 100	200	400
All other violations	[3] 25	50	100
Miners:			
Smoking or carrying of smoking materials, matches, or lighters	5	25	50

[1] Except that for the period Mar. 30, 1970 through Sept. 30, 1970, this payment shall be $30.
[2] Except that for the period Mar. 30, 1970 through Sept. 30, 1970, this payment shall be $4.
[3] Except that for the period Mar. 30, 1970 through Sept. 30, 1970, this payment shall be $1.

FRED J. RUSSELL,
Under Secretary of the Interior.

MAY 4, 1970.

[F.R. Doc. 70-5609; Filed, May 6, 1970; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 69-132a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Waterways in Ninth Coast Guard District

1. The Commander, Ninth Coast Guard District by letter dated October 29, 1969, requested the Commandant, U.S. Coast Guard to revise the seasonal operation regulations for the drawbridges in the Ninth Coast Guard District. A notice of proposed rule making setting forth this revision of the regulations governing these drawbridges was published in the FEDERAL REGISTER of March 12, 1970 (35 F.R. 4412), by the Commandant, U.S. Coast Guard, and was made available to all persons known to have an interest in this subject. No comments were submitted in response to this proposal and after consideration of all known facts the revision is accepted.

2. Accordingly, 33 CFR 117.641a is revised to read as follows:

§ 117.641a Waterways located in the Ninth Coast Guard District; seasonal operation of drawbridges.

(a) Drawtenders need not be in constant attendance at drawbridges across streams or waterways located within the boundaries of the Ninth Coast Guard District during the winter season when general navigation is curtailed.

(b) Any bridge where a drawtender is not in constant attendance for the reason stated in paragraph (a) of this section, shall be opened on 12 hours advance notice.

(c) The bridges affected and the periods of time when this section is to be in effect shall be determined by the Commander, Ninth Coast Guard District and shall be published in Notice to Mariners and other appropriate media.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

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

Dated: May 1, 1970.

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

[F.R. Doc. 70-5622; Filed, May 6, 1970; 8:50 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Cancellation of Out-of-Stock Items

A revised policy is provided concerning the cancellation of out-of-stock items normally available through GSA.

The table of contents for Part 101-26 is amended by deleting §§ 101-26.303-1 through 101-26.303-3.

Subpart 101-26.3—Procurement From GSA Supply Depots

Section 101-26.303 is revised as follows:

§ 101-26.303 Out-of-stock items.

Generally, it is more advantageous to agencies if GSA back orders out-of-stock items than it is to cancel the items, as an order priority is established which normally ensures shipment within 30 days. Unless otherwise notified by agencies not to back order items, through FEDSTRIP advice codes 2C or 2J, a back order will be established. The requisitioning agency will be notified of the approximate date that shipment will be made. Upon receipt of the status notice, the agency shall determine if the estimated shipping date will meet its needs and (a) accept the back order, (b) request a suitable substitute item, or (c) request cancellation. Upon receipt of the request, GSA will inform the agency that a cancellation action has been taken.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: May 1, 1970.

JOHN W. CHAPMAN, JR.,
Acting Administrator
of General Services.

[F.R. Doc. 70-5623; Filed, May 6, 1970; 8:50 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 914]

[Docket No. AO-369]

ORANGES GROWN IN INTERIOR DISTRICT IN FLORIDA

Notice of Extension of Time for Filing Written Exceptions to Recommended Decision on Proposed Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time fixed in the recommended decision dated April 9, 1970 (35 F.R. 6132), with respect to proposed marketing agreement and order regulating the handling of oranges grown in the Interior District in Florida, for filing written exceptions to such decision is hereby extended to and including June 5, 1970.

Request for an extension of time to the first day of July 1970 has been made. However, if a program is to be submitted to growers for approval and use beginning with the next marketing season, it is necessary that all exceptions to the recommended decision be filed not later than June 5, 1970. The time for filing exceptions is extended accordingly.

Dated: May 1, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-5594; Filed, May 6, 1970; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Office of Foreign Direct Investments

[15 CFR Part 1000]

FOREIGN DIRECT INVESTMENT REGULATIONS

Notice of Proposed Rule Making

EDITORIAL NOTE: The Foreign Direct Investment Regulations (the "regulations") appear in Title 15, Chapter X, Part 1000 of the Code of Federal Regulations ("CFR"). Thus, all sections of the regulations contained in CFR are preceded by the designation "1000" (e.g., § 1000.201). The "1000" prefix has, for convenience, been eliminated from the section references contained in this notice. The term "part" when used in the regulations means Part 1000 of CFR. References to sections of the 1969 General Bulletin published by the Office of Foreign Direct Investments (the "Office") correspond to section numbers of the regulations, but are preceded by the designation "B" (e.g., § B201), and major topical subdivisions are indicated by a numerical suffix (e.g., § B201–1). The abbreviations "DI" and "AFN" are used in this notice to refer to "direct investor" and "affiliated foreign national," respectively.

Notice is hereby given that the Office of Foreign Direct Investments (the "Office") proposes to make certain amendments to §§ 324 and 1002 of the Foreign Direct Investment Regulations (the "regulations"). The principal purpose of the proposed amendments is to give DIs greater flexibility in making borrowings that will qualify as long-term foreign borrowing for purposes of the regulations. The amendments will apply to borrowings made on and after May 1, 1970. Borrowings made prior to that date will be governed by the relevant provisions of the regulations as then in effect. Because the proposed amendments constitute primarily a liberalizing measure, the period for commenting thereon is limited to 15 days after publication of this notice in the FEDERAL REGISTER.

The definition of long-term foreign borrowing contained in § 324 will be amended to provide DIs with greater flexibility in making borrowings that will qualify as long-term foreign borrowing which may be offset against direct investment. The new definition of long-term foreign borrowing will apply to all borrowings made by a DI on or after May 1, 1970. The concept of 12-month original maturity has been discarded as the primary test of a long-term foreign borrowing. Long-term foreign borrowing will now mean any borrowing by a DI satisfying the conditions of new § 324 (a)(2) (former § 324(e)) if the borrowing, including refinancings thereof, is in fact outstanding at all times for not less than 12 consecutive months. Accordingly, DIs will be able to obtain long-term foreign borrowing for purposes of the regulations by means of short-term borrowings from different lenders, and short-term borrowings that are renewed or extended for a total period of at least 12 months will also qualify as long-term foreign borrowing despite the absence of express provisions for renewal or extension. On the other hand, a borrowing that is not in fact continuously outstanding for 12 months will not qualify as a long-term foreign borrowing, notwithstanding a stated maturity of 12 months or more or provisions for renewal or extension and the DI's expectation not to repay within 12 months.

As and additional liberalization, the 3-year original maturity requirement imposed by former § 324(e)(3) for borrowings that would be subject to the Interest Equalization Tax has been abolished. See new § 324(a)(2)(iii). For example, DIs that borrow long-term through issuance of debentures by a Delaware international finance subsidiary (see § 323) or an offshore finance subsidiary (see Subpart N) will be able to provide for sinking fund payments to redeem debentures within 3 years after the date of issuance. Sinking fund payments to redeem debentures within the first 12 months of the borrowing may also be made if refinanced in accordance with new § 324 (a)(1) and (b)(1).

The proposed amendments are described in greater detail as follows:

1. *Long-term foreign borrowing as defined in § 324(a) (1) and (2).* Amended § 324(a)(1) provides that a borrowing by a DI will qualify as a long-term foreign borrowing if the borrowing is a foreign borrowing (defined in § 324(a)(2)) and the borrowing (including refinancing thereof as described in § 324(b)(1)) is not repaid within 12 months after its original date. The definition of foreign borrowing contained in § 324(a)(2) incorporates the requirements formerly set forth in § 324(e), which is revoked. (As stated above, the 3-year original maturity requirement formerly contained in § 324(e)(3) has been eliminated.)

Commencing May 1, 1970, a DI may qualify a foreign borrowing (even if short-term) as a long-term foreign borrowing merely by making a new foreign borrowing simultaneously with (or prior to) repayment of the immediately preceding borrowing so long as the borrowing as refinanced remains outstanding continuously for at least 12 months. The individual foreign borrowings so made may differ as to lender, amount and maturity.

Example 1. On May 1, 1970, DI borrows $1 million from a foreign bank (X) on a 3-month note without any provision for renewal or extension. The borrowing is a foreign borrowing under § 324(a)(2)(i). On August 1, 1970, DI repays the note and borrows $1 million from another foreign bank (Y) on a 6-month note. On February 1, 1971, DI repays the loan from Y and borrows $1 million from foreign bank (Z), which DI repays on May 1, 1971. As of May 1, 1970, DI had available proceeds of long-term foreign borrowing of $1 million. Under amended § 324, the initial 3-month foreign borrowing qualifies as long-term foreign borrowing because such borrowing, as refinanced by successive foreign borrowings, was continuously outstanding for 12 months.

Example 2. On May 1, 1970, DI borrows $200,000 from a foreign bank (X) on a 6-month note. On November 1, 1970 DI repays X and purchases all of the stock of a French corporation from an unaffiliated foreign national (Y) for $300,000, consisting of $100,000 in cash at the closing and DI's 6-month promissory note for the balance as to which Y provides the agreement specified in § 324 (a)(2)(iv). On May 1, 1971, DI makes payment on its promissory note. Under § 324, DI made a long-term foreign borrowing on May 1, 1970 of $200,000. The initial borrowing from the bank was not deemed repaid within 12 months because such borrowing, refinanced by the borrowing from Y, was continuously outstanding for 12 months.

Example 3. On May 1, 1970, DI makes a public offering to foreign nationals through its international finance subsidiary of $10 million principal amount of debentures maturing in 1980. Acquisition of the debentures by U.S. residents or nationals will be subject to the Interest Equalization Tax. The financing documents provide for sinking fund payments of $1 million each on November 1, 1970, and November 1, 1971, to be used by a New York trustee to redeem an equivalent amount of the debentures. The borrowing constitutes a foreign borrowing under § 324(a)(2)(iii). To qualify the entire $10 million as long-term foreign borrowing under § 324(a)(1), DI must refinance the November 1, 1970, sinking fund payment for an additional 6 months in accordance with § 324(b)(1), as described in paragraph 2 below. If DI does not refinance, it will still have $9 million of available proceeds of long-term foreign borrowing. The remaining $1 million of proceeds is not available proceeds and, if held in the form of liquid foreign balances, is subject to § 203(c). The sinking fund payment on November 1, 1971, even if not refinanced, will not impair the qualification of the entire $10 million of the offering as long-term foreign borrowing.

2. *Refinancing under § 324(b)(1).* Under certain circumstances, satisfaction of a foreign borrowing will not be deemed to be a repayment if such borrowing is refinanced in the manner provided in § 324(b)(1). The refinancing borrowing must be made either prior to or simultaneously with the repayment of the initial borrowing. A borrowing drawn down by the close of business on any day shall be deemed made simultaneously with a repayment occurring on the same day. On the other hand, if DI repays a foreign borrowing on July 1, 1970, and makes a new foreign borrowing in the same amount from the same lender on July 2, 1970, the second borrowing will not constitute a refinancing of the first borrowing regardless of any underlying arrangement relating to the two borrowings.

DI is required to identify borrowings being refinanced and the corresponding refinancing borrowings on its books and records kept under § 203(b). If a DI repays more than one initial borrowing and makes more than one refinancing borrowing on the same day, DI may determine the extent to which each new borrowing refinances each of the initial borrowings: *Provided*, That DI so indicates on its books and records.

If a refinancing borrowing is for a lesser amount than the initial borrowing, the amount of proceeds of long-term foreign borrowing as of the date of the initial borrowing may not exceed the amount so refinanced. The amount of proceeds of an initial borrowing that do not qualify as proceeds of long-term foreign borrowing are not exempt from § 203(c), and any deductions taken for expenditure or allocation of such proceeds are disallowed. If the refinancing borrowing is in a greater amount, DI may treat the excess as an additional foreign borrowing which may qualify as a separate long-term foreign borrowing; however, if the excess does not qualify as separate long-term foreign borrowing, such proceeds may not be treated as available proceeds.

DI may refinance a foreign borrowing with another foreign borrowing made prior to repayment of the initial borrowing. The proceeds of the refinancing borrowing in such case may not be treated as available proceeds of long-term foreign borrowing until the refinancing occurs, but the proceeds of the refinancing borrowing are nevertheless, exempt from the liquid foreign balance restrictions of § 203(c).

Example 4. On May 1, 1970, DI borrows $2 million from a foreign bank for 6 months. On November 1, 1970, DI repays the borrowing in full and borrows a total of $1,500,000 from three other foreign banks for 6 months. Under § 324, DI has made long-term foreign borrowing in the amount of $1,500,000 as of May 1, 1970. If DI previously filed reports showing $2 million of available proceeds of long-term foreign borrowing attributable to the borrowing made on May 1, such reports must be amended to state that available proceeds were in the amount of $1,500,000. If the unrefinanced portion ($500,000) of the May 1 borrowing was held in the form of liquid foreign balances, DI will also be required to reflect this change in the amended reports.

If DI had borrowed $2,500,000 on November 1, 1970, for 6 months, DI would have made long-term foreign borrowing of $2 million as of May 1, 1970. The additional $500,000 constitutes a new foreign borrowing, which will qualify as long-term foreign borrowing if it is not repaid for 12 months, i.e., until November 1, 1971.

Example 5. On May 1, 1970, DI borrows $1 million from foreign bank (W) for 3 months and expends the proceeds in making transfers of capital to Schedule A, for which a deduction is taken under § 313(d)(1). On August 1, 1970, DI repays the borrowing from W and borrows $1 million from foreign bank (X) and $1 million from foreign bank (Y) for 9 months. DI records the borrowing from X as a refinancing of the borrowing from W and the borrowing from Y as a new borrowing the proceeds of which DI expends in Schedule C, for which a deduction is taken under § 313(d)(1). On May 1, 1971, DI repays the borrowings from X and Y and borrows $1 million from foreign bank (Z) for 3 months. DI records the borrowing from Z as a refinancing of the borrowing from Y, which is necessary to qualify the borrowing from Y under § 324(a)(1). DI also records a transfer of capital to Schedule A under § 312(a)(7) resulting from the repayment of the borrowing from X which was a refinancing of the borrowing from W. On August 1, 1971, DI repays the borrowing from Z and correctly records a transfer of capital to Schedule C under § 312(a)(7).

Example 6. On May 1, 1970, DI borrows $1 million from a foreign national (X), who provides the agreement specified in § 324(a)(2)(iv). DI expends the proceeds in Schedule B, for which a deduction is taken under § 313(d)(1). On August 1, 1970, DI repays the borrowing from X and borrows $2 million from foreign national (Y), who provides the agreement specified in § 324(a)(2)(iv). DI records $1 million of the borrowing from Y as a refinancing of the borrowing from X and $1 million as a new borrowing which DI expends in Schedule C. On August 1, 1971, DI repays $1 million of the borrowing from Y. In this case, DI may elect whether such repayment is attributable to the part of the Y borrowing used to refinance the X borrowing (chargeable to Schedule B) or to the part constituting new borrowing (chargeable to Schedule C).

Example 7. On May 1, 1970, DI borrows $1 million from foreign bank (X) on a 3-month note. On July 1, 1970 DI borrows $1 million from foreign bank (Y) for 10 months planning to use the proceeds to refinance the borrowing from X, which must be repaid on August 1, 1970. In this case, DI may not treat the proceeds of the borrowing from Y as available proceeds until used to repay the X borrowing; however, the proceeds of the borrowing from Y are not subject to the limitation of § 203(c). On August 1, 1970, DI repays the borrowing from X and indicates on its books and records that the borrowing from Y is to refinance the borrowing from X as of that date. On May 1, 1971, DI repays the borrowing from Y. Accordingly, the borrowing from X is qualified as a long-term foreign borrowing.

Example 8. On September 1, 1970, DI borrows $1 million on a 13-month note from a foreign bank and allocates the proceeds under § 306(e) to Schedule C positive direct investment for 1970 and so reports on its Form FDI-102F (Annual Report) for such year. DI repatriates the proceeds as of December 31, 1970 and thereafter holds them in accordance with § 306(e)(2). On August 1, 1971, DI repays the borrowing and does not refinance. Since the borrowing was not outstanding for 12 months, DI's deduction under § 306(e) for 1970 is disqualified, and DI must refile amended Forms FDI-102 and Form FDI-102F for 1970. If the amended reports for 1970 show positive direct investment or liquid foreign balances in excess of DI's 1970 allowables, DI will be in noncompliance for 1970.

3. *Related provisions.* Section 1002(e)(2) has been amended to conform to the change in § 324(b)(1). Refinancing as described in § 324(b)(1) is relevant both for determining whether a foreign borrowing qualifies under § 324(a)(1) and whether certification may be made under § 1002(b)(1). In Item 8.A of the standard certificate Form FDI-106 (stating that there will be refinancing of the borrowing for a period of 7 years after the date thereof) the term "refinancing" has the same meaning as provided in amended § 324(b)(1).

Example 9. On May 1, 1970, DI issues debentures through its international finance subsidiary in the principal amount of $10 million to foreign nationals, maturing on November 1, 1976. DI intends to refinance the borrowing on November 1, 1976 by making a 6-month borrowing from a foreign bank. DI may certify under § 1002(b)(1) by checking the box apposite Statement A of Item 8 on Form FDI-106 and the third reason therefore, because DI believes that the borrowing can be refinanced for a total period of 7 years.

Until the Office has issued a revised version of the standard certificate Form FDI-106, DIs filing such certificates should make the following changes: (i) In the first, second, and fourth categories of Item 6, substitute the phrase "that will not be repaid within 12 months after the original date thereof" for the phrase "with an original maturity of at least 12 months or with provision for renewal, extension or continuance for a total term of at least 12 months;" and (ii) in the third category of Item 6, substitute the phrase "that will not be repaid within 12 months after the original date thereof" for the phrase "with an original maturity of at least 3 years".

4. *Effect on long-term foreign borrowings made prior to May 1, 1970.* Refinancing, as defined in amended § 324(b)(1), of a long-term foreign borrowing made

prior to May 1, 1970 that satisfied the requirements of § 324 as then in effect shall not be a deemed repayment of such borrowing. See amended § 324(b)(1). Also, refinancing in accordance with amended § 324(b)(1) of a long-term foreign borrowing made prior to May 1, 1970, as to which category 2 or 3 of Item 8.A. was checked on Form FDI-106 filed with the Office, shall be a valid refinancing for purposes of such certification.

Example 10. On July 1, 1969, DI makes a $1 million borrowing for 2 years from foreign bank (X), which was qualified as long-term foreign borrowing under § 324 as then in effect. On July 1, 1970, DI prepays the borrowing in full and on the same day makes a $1 million borrowing for 3 months from foreign bank (Y), which constitutes a foreign borrowing under new § 324(a)(2). Under § 324(b)(1), the repayment of the long-term foreign borrowing from X is deemed not to be a repayment for purposes of the regulations because it was refinanced by a foreign borrowing.

5. *Effect on 1969 General Bulletin.* The 1969 General Bulletin published in the FEDERAL REGISTER on November 5, 1969 (34 F.R. No. 213) interprets the regulations as in effect for 1969, and will continue to do so for 1970 to the extent not affected by these amendments. Material in the Bulletin relating to long-term foreign borrowing should be used carefully in view of these proposed amendments.

Interested persons are invited to submit written comments, suggestions, or objections concerning the proposed amendments to the Chief Counsel, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230. Because the proposed amendments consist primarily of liberalizing measures designed to give additional flexibility to DIs, communications concerning the proposed amendments will be considered only if received within 15 days after publication of this notice in the FEDERAL REGISTER. Subsequent to such time, the amendments will be published in the FEDERAL REGISTER in final form as proposed or as changed in the light of comments received.

The text of the proposed amendments, effective with respect to transactions occurring on and after May 1, 1970, is as follows:

1. Paragraph (e) of § 1000.324 is revoked, and paragraphs (a) and (b)(1) of that section are revised, to read as follows:

§ 1000.324 Long-term foreign borrowing.

(a) (1) "Long-term foreign borrowing" means a foreign borrowing (as defined in subparagraph (2)) of this paragraph to the extent that such foreign borrowing is not repaid within 12 months after the original date of the borrowing (without regard to acceleration upon default or by reason of conversion of convertible debt instruments occurring within 12 months after the original date of the borrowing).

(2) "Foreign borrowing" means a borrowing made by a direct investor on or after May 1, 1970, from any foreign national (other than an affiliated foreign national and except as provided in § 1000.1106) including, but not by way of limitation, an extension of credit by any such foreign national to the direct investor in connection with the purchase of property (including securities) by the direct investor from such foreign national: *Provided*, That (i) the borrowing is from a foreign bank; or (ii) the borrowing is from or is guaranteed by a foreign country or any agency thereof; or (iii) at the time of the borrowing, the debt obligations resulting therefrom would, if purchased by nationals or residents of the United States, be subject to the Interest Equalization Tax (Internal Revenue Code, Chapter 41, sections 4911–4931); or (iv) the lender agrees in writing that, for a period of 3 years from the original date of the borrowing or until final maturity, whichever first occurs, it will not sell or otherwise transfer the debt obligation resulting from the borrowing to a resident or national of the United States (other than a foreign bank described in § 1000.317(b)(2)) or a Canadian person (as defined in § 1000.1101(d)) or to any person who the lender has reason to believe will sell or otherwise transfer the debt obligation to any such U.S. resident or national or Canadian person.

(b) (1) The refinancing in whole or in part of a foreign borrowing or a long-term foreign borrowing (by renewal, extension, or continuance of such borrowing or by the making of a foreign borrowing from the same or another lender) shall not, to that extent, be deemed a repayment of the borrowing or the making of a new borrowing.

* * * * *

(e) [Revoked]

2. Section 1000.1002(e)(2) is amended to read as follows:

§ 1000.1002 Transfers of capital in connection with repayment of borrowings.

* * * * *

(e) * * *

(2) The refinancing, as described in § 1000.324(b)(1), of a foreign borrowing or a long-term foreign borrowing by a direct investor, or the refinancing of a borrowing by an affiliated foreign national (by renewal, extension or continuance thereof or a subsequent borrowing from the same or another lender) shall not be deemed a repayment of the original borrowing or the making of a new borrowing.

* * * * *

3. The amendments hereby adopted shall be effective as of the date of publication in final form in the FEDERAL REGISTER and shall apply to all affected transactions occurring on and after May 1, 1970.

(Sec. 5, Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47)

RICHARD P. URFER,
Director, Office of Foreign Direct Investments.

MAY 1, 1970.

[F.R. Doc. 70-5546; Filed, May 6, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10294]

CERTAIN ROLLS ROYCE DART ENGINES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to Rolls Royce Dart engines having Dart Modification 827 or 1224 fuel washed burners (burner cans) installed. There have been reports of failures due to cracking, one of which resulted in an inflight fire. Since this condition is likely to exist or develop on other engines of the same type design, the proposed airworthiness directive would require replacement of the affected fuel burners with Dart Modification 1155, 1226, or 1536 fuel washed burners (burner cans).

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. 20590. All communications received on or before June 8, 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 by adding the following new airworthiness directive:

ROLLS ROYCE, LTD. Applies to all series Rolls-Royce Dart Models 506, 510, 511, 514, 525, 526, 528, 529, and 532 engines having Dart Modification 827 or 1224 fuel washed burners (burner cans) installed. These engines are installed on, but not necessarily limited to, the following type aircraft: Hawker Siddeley, Argosy AW.650; Fairchild Hiller F-27, F-27A, F-27B, F-27F, F-27G, F-27J, FH-227, FH-227B, FH-227C, FH-227E; Fokker F.27, all marks; British Aircraft Corp. Viscount 744, 745D, and 810; and Grumman G-159.

To prevent cracking of the fuel washed burners (burner cans), within the next 300 hours' time in service after the effective date of this AD, unless already accomplished, replace Dart Modification 827 and 1224 fuel washed burners (burner cans) with burners (burner cans) incorporating Rolls-Royce Dart Modification 1536, 1226, or 1155, in accordance with Rolls-Royce Dart Aero Engine Alert Service Bulletin No. Da 73-A.54, Revision 3, dated February 16, 1970, or later ARB-approved issue or an FAA-approved equivalent.

Issued in Washington, D.C., on April 30, 1970.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70-5588; Filed, May 6, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-21]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Mount Pleasant, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure has been developed for the Mount Pleasant, Iowa, Municipal Airport, utilizing a city-owned radio beacon located on the airport as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Mount Pleasant, Iowa. The new procedure will become effective concurrently with the designation of the transition area. IFR air traffic will be controlled by the Chicago Air Route Traffic Control Center through the Burlington Flight Service Station.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (35 F.R. 2134), the following transition area is added:

MOUNT PLEASANT, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mount Pleasant Municipal Airport (latitude 40°56'45" N., longitude 91°30'30" W.); and within 3 miles each side of the 140° bearing from Mount Pleasant Municipal Airport, extending from the 5-mile radius area to 8 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northeast and 9½ miles southwest of the 140° and 320° bearings from the Mount Pleasant Municipal Airport, extending from 6 miles northwest to 18½ miles southeast of the airport; excluding the portion which overlies the Burlington, Iowa, 1,200-foot floor transition area.

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

Issued in Kansas City, Mo., on April 15, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-5589; Filed, May 6, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-23]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Plymouth, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at the Plymouth, Ind., Municipal Airport, a new public use instrument approach procedure has been developed utilizing the Knox, Ind., VOR located 16 nautical miles west of the airport as a navigational aid. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Plymouth transition area to adequately protect aircraft executing the new approach procedure and to comply with the new transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

PLYMOUTH, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Plymouth Municipal Airport (latitude 41°22'00" N., longitude 86°18'10" W.); within 2½ miles each side of the Knox, Ind. VOR 080° radial, extending from the 5-mile radius area to 12 miles east of the VOR; and within 2½ miles each side of the Knox VOR 081° radial, extending from the 5-mile radius area to 25½ miles east of the VOR.

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

Issued in Kansas City, Mo., on April 15, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-5590; Filed, May 6, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-27]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Cloquet, Minn.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at Cloquet, Minn., the instrument approach procedure for Cloquet-Carlton County Airport has been altered. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Cloquet transition area to adequately protect aircraft executing the altered procedure and to comply with the new transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

CLOQUET, MINN.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Cloquet-Carlton County Airport (latitude 46°42'10" N., longitude 92°30'20" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles northwest and 9½ miles southeast of the Duluth, Minn., VORTAC 244° radial, extending from 18½ to 41 miles southwest of the VORTAC, excluding the portion which overlies the Duluth, Minn. 1,200-foot floor transition area.

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

Issued at Kansas City, Mo., on April 17, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-5591; Filed, May 6, 1970; 8:47 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 69-7; Notice 4]

OCCUPANT CRASH PROTECTION; PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS AND BUSES

Notice of Proposed Motor Vehicle Safety Standard

On July 2, 1969, an advance notice of proposed rule making was issued (34 F.R. 11148), requesting comments on systems, including inflatable restraint systems, for crash protection of vehicle occupants that require no voluntary action on their part. A public meeting on the subject was held on August 27 and 28, 1969 (34 F.R. 12107, 34 F.R. 13480). The purpose of this notice is to propose a motor vehicle safety standard for Occupant Crash Protection, which would specify performance requirements for protection of vehicle occupants in crashes both by systems that do and those that do not require voluntary action. The proposed standard would replace the existing Standard No. 208, Seat Belt Installations.

The most important goal of the vehicle safety program of the National Highway Safety Bureau is to transform the motor vehicle from a hostile environment, which causes injury and death in the event of a crash, to a protective environment, which guards against serious injury even when crashes occur. This goal in no way disparages the parallel goals of improving vehicle systems so as to increase the chances of avoiding crashes altogether, of improving driver performance and removing from the road incurably dangerous drivers, and of providing the safest possible public road system. It is clear that for the foreseeable future serious crashes will continue to occur, and that the most promising point of immediate attack on the rate of death and serious injury is the design of vehicles for crash survivability and injury reduction.

Experience since the issuance of the initial safety standards has shown that public resistance to the use of seat belts prevents them from achieving their potential for reducing the death and injury rate. One of the most important recent technological developments in the field of crash protection is the inflatable restraint, or air bag. This development has shown the practicability of systems, other than seat belts, that dramatically reduce occupant injury in crashes at highway speeds. Most important, these systems are "passive", in that they require no prior effort by vehicle occupants. Similar basic passive crash protection may now also be achieved by other means such as deployable nets, extensive use of modern energy-absorbing materials on interior contact surfaces, or combinations of these systems.

The current highway death rate of over 50,000 per year, and the much higher rate of disabling injuries, indicate that the development and introduction of improved passive crash protection must proceed with all possible speed. It is recognized that the effective dates proposed will make extensive demands on the resources of the automobile industry and its suppliers, and that to some extent they will require changes in the normal model-change and model-year schedules of the industry. The costs of accelerated introduction of passive crash protection systems will, however, be far outweighed by the savings in lives and injuries. Any delay beyond the earliest possible dates by which basic protection can practicably be provided would therefore be unconscionable.

The proposed standard establishes basic injury criteria with reference to an anthropometric dummy, expressed in terms of maximum forces and pressures on critical parts of the body. It would require passenger cars manufactured on or after January 1, 1972, to meet these criteria with dummies placed at each designated seating position, in a frontal fixed barrier crash at 30 miles per hour. Since it appears that some manufacturers will be unable to meet these requirements by that date with systems that are purely passive, because of inadequate supplies of such systems, passenger cars manufactured during calendar year 1972 would be permitted to meet the criteria with advanced systems, such as vehicle-sensitive 3-point belts, that do require action by the occupants. On or after January 1, 1973, passenger cars would be required to meet the frontal crash test, and in addition a lateral impact test and a rollover test, by means requiring no action by vehicle occupants.

The systems requiring occupant action that would be permitted in passenger cars manufactured during calendar 1972 would be self-adjusting, operable with one hand, and releasable with a pulling or lifting motion of less than 30 pounds. If the system consisted of a seatbelt assembly, it would have to be of the inertia-reel type, sensitive only to forces on the vehicle and not to movement of the belt itself, thus allowing complete freedom of action except in crash, panic-braking or rollover situations.

Development work to date on passive protection systems has been concentrated primarily on passenger cars, and it is recognized that other problems will be encountered in adaptation of advanced systems to multipurpose passenger vehicles, trucks and buses. Trucks of 10,000 pounds gross vehicle weight rating or less and multipurpose passenger vehicles would be required under this proposal to have passive protection systems for all seating positions by January 1, 1974. Those manufactured on or after January 1, 1972, without advanced protection systems would be required to have seat belt assemblies meeting the requirements

of Standard No. 209 at all seating positions, including upper torso restraints for all, including the center, front seating positions. Larger trucks would be required to have seat belt assemblies at each seating position, and buses would be required to have them at the driver's position, effective January 1, 1972.

Proper maintenance is critically important for systems that must deploy suddenly in a crash. The proposal would require that a label visible to the driver be permanently affixed to the vehicle, with instructions for necessary maintenance or replacement including specific dates by month and year. These labels, in addition to providing positive maintenance information to owners, could provide the basis for supplementary inspection and certification systems to ascertain positively that the manufacturer's recommendations are being followed on schedule.

The anthropometric dummy is an important part of the test requirements of the proposed standard. The specifications of SAE Recommended Practice J963, "Anthropometric Test Device for Dynamic Testing," are employed for the purposes of this proposal. It is recognized that these specifications, evidently the most complete set available at this time, may not provide totally reproducible results in testing vehicle performance. Further work on this subject is in progress, and comments are specifically requested on any changes that should be made.

The standard proposed is phrased in performance terms to allow the maximum degree of manufacturer initiative in developing crash protection systems. Although it would replace the current Standard No. 208, other standards relating to crash injury protection, such as those for interior padding (201) seat anchorages (207), steering system (203 and 204) head restraints (202), glazing (205 and 212), door components (206), and seat belt anchorages (210) would be retained for the near future. Further developments in crash-deployed systems that could provide, for example, protection against whiplash injuries in rear impacts, and protection at higher speeds and in multiple collisions, may make it feasible to specify all crash protection requirements in comprehensive performance terms, and revoke many of the above standards.

The performance requirements are stated primarily in terms of crash tests that are destructive. These requirements, as in all the standards, are simply methods of expressing necessary characteristics of each vehicle produced. Manufacturers must, of course, under the Vehicle Safety Act exercise due care to ensure that their vehicles will meet these tests, but may develop efficient, economical and reliable methods, other than performing the stated destructive tests, to do this.

The Bureau has instituted a policy of placing in the docket all technical material, not routinely available through other sources, supporting or otherwise relating to proposed safety standards. Interested parties are invited to examine this material during working hours in the Docket Section at the address below.

In order to discuss this proposal with interested parties, the Bureau will hold a public meeting, on June 24, 1970, at the Department of Commerce Auditorium, 14th and E Streets NW., Washington, D.C. from 9 a.m. to 5 p.m. The primary purpose of the meeting will be to provide a forum for informal discussion of the proposal. All parties should limit their discussion to this proposed standard and matters directly related to it, and are specifically requested to refrain from discussing particular designs or products except as they are directly pertinent to the proposal. Any person desiring to make a presentation, which should not exceed 20 minutes, should send an outline of his presentation to Mr. Clue Ferguson, National Highway Safety Bureau, Washington, D.C. 20591, no later than June 10, 1970. A transcript of the meeting will be placed in the docket.

In addition, interested parties are invited to submit written data, views, and arguments on the proposed motor vehicle safety standard set forth below. Comments should refer to the docket number (69–7) and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received by the close of business on August 3, 1970, will be considered. All comments will be available for examination at the above address both before and after the closing date.

Proposed effective date. January 1, 1972.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407) and the delegation of authority by the Secretary of Transportation to the Director of the National Highway Safety Bureau (section 1.51 of Title 49, Code of Federal Regulations).

Issued on May 5, 1970.

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

OCCUPANT CRASH PROTECTION—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLE, TRUCKS AND BUSES

S1. *Purpose and scope.* This standard specifies performance requirements for the protection of vehicle occupants in crashes by means that do and those that do not require occupant action.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks and buses.

S3. *General requirements.*

S3.1 *Passenger cars.*

S3.1.1 Each passenger car manufactured from January 1, 1972 to December 31, 1972, inclusive, shall meet the frontal crash protection requirements of S4.1, at each designated seating position, at the manufacturer's option—

(a) By means that require no action by vehicle occupants; or

(b) By a system that requires action by vehicle occupants and meets the requirements of S5.

S3.1.2 Each passenger car manufactured on or after January 1, 1973, shall meet all the occupant protection requirements of S4, at each designated seating position, by means that require no action by vehicle occupants.

S3.2 *Trucks with GVWR of 10,000 pounds or less and multipurpose passenger vehicles.*

S3.2.1 Each truck with gross vehicle weight rating of 10,000 pounds or less and each multipurpose passenger vehicle, manufactured from January 1, 1972, to December 31, 1973, inclusive, shall, at each designated seating position, at the manufacturer's option—

(a) Meet the frontal crash protection requirements of S4.1 by means that require no action by vehicle occupants, or by a system that requires action by vehicle occupants and meets the requirements of S5; or

(b) Have installed a Type 1 or Type 2 seat belt assembly that conforms to Federal Motor Vehicle Safety Standard No. 209. Under this option, except in open-body type vehicle and walk-in van-type trucks, a Type 2 assembly, or a combination of Type 2a and Type 1 assemblies, shall be installed for each designated seating position that includes the windshield header within the head impact area.

S3.2.2 Each truck with gross vehicle weight rating of 10,000 pounds or less and each multipurpose passenger vehicle, manufactured on or after January 1, 1974, shall meet all the occupant protection requirements of S4, at each designated seating position, by means that require no action by vehicle occupants. However, open-body type vehicles need not meet the rollover protection requirements of S4.3.

S3.3 *Trucks with GVWR of more than 10,000 pounds and buses.* Each truck with gross vehicle weight rating of more than 10,000 pounds manufactured on or after January 1, 1972, shall have installed for each designated seating position a Type 1 or Type 2 seat belt assembly that conforms to Federal Motor Vehicle Safety Standard No. 209. Each bus manufactured on or after January 1, 1972, shall have such an assembly installed for the driver's designated seating position.

S3.4 *Labeling.* Each vehicle shall have a label containing instructions, including dates by month and year, for maintenance and replacement necessary in order for the vehicle to retain the occupant protection performance required by this standard. The label shall be permanently affixed to the vehicle, clearly visible from the driver's designated seating position, and lettered in English in block capitals and numerals not less than $\frac{5}{32}$-inch high.

S3.5 *Low Speed Deployment.* An occupant protection system that deploys, in the event of a crash, in such a manner that it requires servicing or replacement to restore its precrash readiness shall not deploy when the vehicle impacts a fixed

collision barrier at any speed less than 10 miles per hour, at any angle.

S3.6 *Readiness Indicator.* An occupant protection system that is designed to deploy only in the event of a crash shall contain a means of determining whether it is ready to deploy, which is operable from the interior of the vehicle without disassembling any part of the vehicle.

S4. *Occupant protection requirements.*

S4.1 *Frontal barrier crash.* When the vehicle impacts a fixed collision barrier perpendicularly or at any angle up to 30° from the perpendicular in either direction, while moving longitudinally forward at any speed up to 30 miles per hour, it shall meet the injury criteria of S4.4, under the conditions of S6.

S4.2 *Lateral barrier crash.* When the vehicle impacts a fixed collision barrier perpendicularly, while moving laterally at 15 miles per hour, it shall meet the injury criteria of S4.4, under the conditions of S6 except that all adjustable vehicle windows are fully open.

S4.3 *Rollover.* When the vehicle is subjected to 2 complete rollovers on level ground from a forward speed between 30 and 60 miles per hour, under the conditions of S6 except that all adjustable vehicle windows are fully open, no anthropometric test device shall be ejected from the passenger compartment.

S4.4 *Injury criteria.* The following injury criteria apply to each anthropometric test device placed in a designated seating position of the vehicle, under the conditions of S6.

S.4.4.1 The device shall not be ejected from the vehicle passenger compartment.

S4.4.2. The resultant head acceleration shall not exceed 80g for any continuous period of more than 3 milliseconds.

S4.4.3 The resultant chest acceleration shall not exceed 40g.

S4.4.4 The resultant pelvic acceleration shall not exceed 40g.

S4.4.5 The force transmitted to the transmitted to the pelvis through the femur shall not exceed 1,200 pounds.

S4.4.6 The force on the chest shall not exceed 1,200 pounds, and the pressure on the chest shall not exceed 50 pounds per square inch.

S4.4.7 The force on the abdominal region shall not exceed 2,400 pounds, and the pressure on the abdominal region shall not exceed 30 pounds per square inch.

S4.4.8 The force on the pelvis shall not exceed 3,600 pounds, and the pressure on the pelvis shall not exceed 90 pounds per square inch.

S5. *Requirements for systems requiring occupant action.* Each occupant protection system that requires action by vehicle occupants shall meet the requirements of S5.1 through S5.3. A system that consists of a seat belt assembly shall also meet the requirements of S5.4 through S5.7.

S5.1 The system shall restrain both the pelvis and the upper torso, and shall be integrated so that the occupant cannot use only part of the system.

S5.2 The system shall adjust automatically to fit occupants with dimensions ranging from a 5th percentile adult female to a 95th percentile adult male, with the seat in any position and the seat back in any upright riding position.

S5.3 The system shall have a connection and release mechanism that—

(a) Is readily accessible to the occupant in both the stowed and operational positions;

(b) Allows the occupant to operate the system with one hand; and

(c) Can be released, when the belt has a tension of 200 pounds or less, with a force of less than 30 pounds, applied at a single point by a pulling or lifting motion.

S5.4 The upper torso portion of a seat belt assembly, when in operational position, shall lie between the neck-shoulder intersection and the shoulder joint of the occupant within the range of occupant sizes and seat positions specified in S5.2.

S5.5 The adjusting tension of the pelvic portion of a seat belt assembly shall be not less than 0.5 pound and not justing tension of the upper torso portion shall be not less than 0.5 pounds and not more than 1.5 pounds, and the resultant force necessary to put on the belt shall be not more than 5.0 pounds.

S5.6 A seat belt assembly shall not lock—

(a) When the vehicle accelerates or decelerates at 0.4g or less on a level surface;

(b) When the vehicle is tilted in any direction to an angle 23° or less from the horizontal; or

(c) Due to webbing movement relative to the vehicle.

S5.7 A seat belt assembly shall lock—

(a) When the vehicle is tilted in any direction to an angle of 30° or more from the horizontal; or

(b) Before the webbing extends 1 inch, when the vehicle accelerates or decelerates in any direction at 0.5g or more with an onset rate of not more than 2000g per second.

S6. *Conditions.*

S6.1 Anthropometric test devices conforming to the specifications of SAE Recommended Practice J963, June 1968, are located simultaneously in each designate seating position of the vehicle.

S6.2 Each device is clothed in formfitting cotton stretch garments with initial joint tensions set at 1g with reference to the torso.

S6.3 The hands of the device in the driver's designated seating position are on the steering wheel rim at the horizontal centerline, and the legs are in the normal driving position.

S6.4 The hands of every other device are overlapping on its lap, and the legs are outstretched in the normal sitting position. The left leg of the device in the center front designated seating position (if any) is on the vehicle centerline, and the right leg is in the right footwell. The left and right legs of the device in the center rear seating position (if any) are in the left and right footwells respectively.

S6.5 When testing a restraint system that is in continuous contact with the device, the device is jostled, after the system is put in place, to equalize the forces in the adjusting mechanism.

S6.6 Adjustable seats are in the forwardmost position, and if vertically adjustable in that position, are at the lowest setting.

S6.7 Adjustable seat backs are in the fully upright riding position.

S6.8 All adjustable vehicle windows and vents are in the fully closed position.

S6.9 Each of the properties quantitatively specified in S4.4 is continuously monitored by appropriate instrumentation throughout each test including any period of rebound of the devices.

[F.R. Doc. 70-5652; Filed, May 5, 1970; 11:32 a.m.]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

[33 CFR Part 401]

SEAWAY REGULATIONS AND RULES

Calling-in; Correction

In Federal Register Document 70-4880, published at pages 6513-6515 in the issue dated April 23, 1970, the reference to "Existing Lower Beauharnois Lock", appearing in the fifth line, column 3, page 6515 of § 401.103-4 (calling-in points and check points) is incorrect and is hereby corrected to read "Existing Lower Beauharnois Lock".

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION,
[SEAL] D. W. OBERLIN,
Administrator.

[F.R. Doc. 70-5606; Filed, May 6, 1970; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order No. 97 (Rev. 7)]

INTERNAL REVENUE TAX LIABILITY

Closing Agreements

Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7121-1(a); Treasury Department Order No. 150-32; dated November 18, 1953; and Treasury Department Order No. 150-36, dated August 17, 1954:

1. The Assistant Commissioner (Compliance) is hereby authorized to enter into and approve a written agreement with any person relating to the internal revenue tax liability for alcohol, tobacco and firearms taxes, other than the manufacturers excise tax on firearms arising from application of sections 4181 and 4182 of the Internal Revenue Code, of such person (or of the person or estate for whom he acts) in respect of any prospective transactions or completed transactions affecting returns to be filed.

2. The Assistant Commissioner (Technical) is hereby authorized to enter into and approve a written agreement with any person relating to the internal revenue tax liability, other than for those taxes covered by delegation to the Assistant Commissioner (Compliance) in paragraph 1, of such person (or of the person or estate for whom he acts) in respect of any prospective transactions or completed transactions affecting returns to be filed.

3. The Assistant Commissioner (Compliance) is hereby authorized to enter into and approve a written agreement with any person relating to the internal revenue tax liability of such person (or of the person or estate for whom he acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods.

4. Regional Commissioners, Assistant Regional Commissioners (Appellate), Chiefs, Associate Chiefs, and Assistant Chiefs, Appellate Branch Offices, are hereby authorized in cases under their jurisdiction and in cases in which a closing agreement has been recommended for approval by the office of a District Director (but excluding cases docketed before the U.S. Tax Court) to enter into and approve a written agreement with any person relating to the internal revenue tax liability of such person (or of the person or estate for whom he acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods.

5. Regional Commissioners, Assistant Regional Commissioners (Appellate), Chiefs, Associate Chiefs, and Assistant Chiefs, Appellate Branch Offices, are hereby authorized in cases under their jurisdiction docketed in the U.S. Tax Court to enter into and approve a written agreement with any person relating to the internal revenue tax liability of such person (or of the person or estate for whom he acts) but only in respect to related specific items affecting other taxable periods.

6. The Director of International Operations is hereby authorized to enter into and approve written agreements with any person relating to the internal revenue tax liability of such person (or of the person or estate for whom he acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods, as the competent authority in the administration of the operating provisions of the tax conventions of the United States. He is also authorized to enter into and approve a written agreement with any person relating to the internal revenue tax liability of such person (or of the person or estate for whom he acts) to provide for the mitigation of economic double taxation under section 3 of Revenue Procedure 64-54, C.B. 1964-2, 1008, and under Revenue Procedure 69-13, C.B. 1969-1, 402, and to enter into and approve a written agreement providing for such mitigation and relief under Revenue Procedure 65-17, C.B. 1965-1, 833.

7. District Directors of Internal Revenue are hereby authorized in cases under their jurisdiction to enter into and approve a written agreement with any person to provide that the internal revenue tax liability of such person (or of the person or estate for whom he acts) with respect to the taxability of earnings from a deposit or account of the type described in Revenue Procedure 64-24, C.B. 1964-1 (Part 1), 693, opened prior to November 15, 1962, will be determined on the basis that earnings on such deposits or accounts are not includible in gross income until maturity or termination, whichever occurs earlier, and that the full amount of earnings on the deposit or account will constitute gross income in the year the plan matures, is assigned, or is terminated, whichever occurs first.

8. The authority delegated herein does not include the authority to set aside any closing agreement.

9. Authority delegated in this order may not be redelegated, except that the Assistant Commissioner (Technical) may redelgate the authority contained in paragraph 2 to the Deputy Assistant Commissioner (Technical) and to the Technical Advisors on the Staff of the Assistant Commissioner (Technical) for cases that do not involve precedent issues.

10. Delegation Order No. 97 (Rev. 6), issued October 20, 1969, is hereby superseded.

Issued: May 1, 1970.

Effective: May 1, 1970.

WILLIAM H. SMITH,
Acting Commissioner.

[F.R. Doc. 70-5628; Filed, May 6, 1970; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. A 58]

ARIZONA

Notice of Partial Termination of Classification

APRIL 29, 1970.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), classification published December 24, 1966 (31 F.R. 16502) classifying public lands for disposal in satisfaction of valid scrip rights pursuant to section 3 of the Act of August 31, 1964 (78 Stat. 751) is terminated effective upon publication of this notice, as to the lands described below:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 16 S., R. 10 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and SW¼.

Containing 425.76 acres.

The lands have been reclassified as suitable for State selection.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 3022 Federal Building, Phoenix, Ariz. 85025.

RILEY E. FOREMAN,
Acting State Director.

[F.R. Doc. 70-5599; Filed, May 6, 1970; 8:48 a.m.]

[Colorado 0125993]

[Colorado 2693]

COLORADO

Order Opening Lands to Mineral Location, Entry, and Patenting

MAY 1, 1970.

1. In exchanges of land made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following described lands have been reconveyed to the United States.

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 49 N., R. 12 W.,
Sec. 13, S½SW¼;
Sec. 24, N½NW¼;
Sec. 25, N½.

T. 45 N., R. 8 E.,
Sec. 35, SW¼NE¼, W½SE¼, and SE¼SW¼.

The areas described aggregate 640 acres.

The tract in T. 49 N., R. 12 W., is approximately 13 miles southwest of Olathe, Colo. The tract in T. 45 N., R. 8 E. is about 4½ miles east of Saguache, Colo. Topography of both tracts is slightly to moderately rolling. Soils are sandy to shallow and rocky.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby opened to application, petition, location and selection including location under the U.S. mining laws. All valid applications received at or prior to 10 a.m. on June 8, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, 14023 Federal Building, Denver, Colo. 80202.

J. ELLIOTT HALL,
Acting State Director.

[F.R. Doc. 70-5600; Filed, May 6, 1970; 8:48 a.m.]

[Montana 12993]

MONTANA

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

APRIL 29, 1970.

In F.R. Doc. 70-4072 appearing on pages 5562 and 5563 of the issue for Friday, April 3, 1970, the following corrections should be made:

1. Under the heading (*A*) *Whitewater Planning Unit (0104)*, the second entry under T. 37 N., R. 24 E., which now reads sec. 22, E½; should read sec. 22, E½ and N½NW¼.

2. Under the heading (*A*) *Whitewater Planning Unit (0104)*, the acreage figure which now reads 205,582.1 acres should read 210,169 acres.

3. Under paragraph 2, the total acreage shown which now reads 703,315 acres should read 707,903 acres.

EDWIN ZAIDLICZ,
State Director.

[F.R. Doc. 70-5577; Filed, May 6, 1970; 8:46 a.m.]

[New Mexico 929]

NEW MEXICO

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

APRIL 28, 1970.

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

2. Publication of this notice has the effect of further segregating the lands described below from all forms of appropriation under the public land laws including the general mining and the mineral leasing laws subject to valid existing rights. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

3. The public lands described below are unique in that they are as nearly pristine in climax vegetative cover as any site in southeastern New Mexico. They are of extremely high value for ecological and physiological studies of the native vegetation. The land shall be designated as the Mathers Natural Area and will be utilized in native vegetation studies for management of range and wildlife forage. The lands are shown on maps on file and available for inspection in the Roswell District Office, Bureau of Land Management, 1902 South Main, Roswell, N. Mex., and in the New Mexico Land Office, Bureau of Land Management, U.S. Post Office and Federal Building, Santa Fe, N. Mex. 87501. The description of the lands are as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 10 S., R. 30 E.,
Sec. 1, lots 1, 2, S½NE¼ and N½SE¼.
T. 10 S., R. 31 E.,
Sec. 6, lots 4, 5, and 6.

The areas aggregate 362.34 acres in Chaves County.

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 amendment, may present their views in writing to the Roswell District Manager, Bureau of Land Management, Post Office Box 1397, Roswell, N. Mex. 88201.

W. J. ANDERSON,
State Director.

[F.R. Doc. 70-5578; Filed, May 6, 1970; 8:46 a.m.]

FISH AND WILDLIFE SERVICE

[Docket No. G-464]

JUAN G. ROCHA

Notice of Loan Application

APRIL 29, 1970.

Juan G. Rocha, Star Route, Box 5, Brownsville, Tex. 78520, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 62.2-foot registered length wood vessel to engage in the fishery for shrimp.

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. 70-5601; Filed, May 6, 1970; 8:48 a.m.]

[Docket No. C-318]

FRANK P. HILL

Notice of Loan Application

APRIL 29, 1970.

Frank P. Hill, 3433 Addison Street, San Diego, Calif. 92106, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new 57.5-foot length overall steel vessel to engage in the fishery for tuna, salmon, and halibut.

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.

JAMES F. MURDOCK,
Acting Chief,
Division of Financial Assistance.

[F.R. Doc. 70-5602; Filed, May 6, 1970; 8:48 a.m.]

[Docket No. C-317]

LARRY TYLER YETHS

Notice of Loan Application

APRIL 29, 1970.

Larry Tyler Yeths, Post Office Box 334, Bodega Bay, Calif. 94923, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new 60-foot length overall steel vessel to engage in the fishery for salmon, Dungeness crab, and albacore.

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. 70-5607; Filed, May 6, 1970; 8:48 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Deputy Administrator, Federal Extension Service to Associate Administrator, Extension Service.

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-5620; Filed, May 6, 1970; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

BOWLING GREEN STATE UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00402-33-46500. Applicant: Bowling Green State University, Department of Biology, Bowling Green, Ohio 43402. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for research concerning localization of enzymatic activity in pollen grains and sea urchin eggs. In the pollen grains, crystalline microbodies of demonstrable enzymatic activity have been demonstrated. The applicant will be attempting to localize specific enzymes in thin sections for electron microscopy as well as isolating the microbodies by ultracentrifugation and embedding the pellets. In both cases the use of water soluble methacrylates or water soluble vestopal will be required as embedding media. Application received by Commissioner of Customs: December 30, 1969.

Docket No. 70-00570-65-46070. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Scanning electron microscope, Model JSM-U3. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used to examine metals and ceramics while subjecting them to stress or temperature variations with a view to obtaining information on phase changes that occur in such systems. Rocks and minerals, including structural materials, such as concrete, are to be examined for morphological characteristics and chemical compositions of individual phases in such materials. Metals, ceramics, plastics, and biological tissues are to be studied in the pursuance of research into biological implants with a view to determining the nature of corrosion of implants and the corrosion products associated with them in the biological tissues. Application received by Commissioner of Customs: March 25, 1970.

Docket No. 70-00586-98-07000. Applicant: University of Miami, Post Office Box 8184, Coral Cables, Fla. 33124. Article: Low-inductance cable. Manufacturer: Sterling Cable Co., Ltd., United Kingdom. Intended use of article: The article will be used in studying the containment of thermalnuclear plasma. The experiments to be conducted involve the production of a very fast rising high-voltage pulse. Application received by Commissioner of Customs: April 2, 1970.

Docket No. 70-00587-33-46500. Applicant: The Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used by the Orthopedic Research Laboratory for investigations of bone tissue and calcified cartilage. Experiments will be conducted with a variety of bone tissues and cartilages from which thin sections of undecalcified material are needed. Application received by Commissioner of Customs: April 2, 1970.

Docket No. 70-00588-33-46500. Applicant: University of Rochester, School of Medicine and Dentistry, 260 Crittenden Boulevard, Rochester, N.Y. 14620. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in basic and clinical research projects concerning the ultrastructure of clinical renal biopsies, experimental hypokalemic nephropathy and smooth muscle ultrastructure. The use of serial sections of constant thickness is essential in these studies. Application received by Commissioner of Customs: April 3, 1970.

Docket No. 70-00589-33-46500. Applicant: Veterans Administration Hospital, Oteen, N.C. 28805. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to produce sections of human and animal tissue obtained from various organs for research concerning ultrastructural characteristics of human lung diseases and for experimental studies on the ultrastructure of lung tissue of laboratory animals for the purpose of elucidating the etiology and pathogenesis of human lung diseases. Application received by Commissioner of Customs: April 3, 1970.

Docket No. 70-00590-33-46040. Applicant: NYS Institute for Basic Research in Mental Retardation, 1050 Forest Hill Road, Staten Island, N.Y. 10314. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for research on the fine structure and molecular organization of the synapse and other brain regions in normal and abnormal states. Some experiments require brain tissue to be sectioned in slices. In others, brain tissue will be homogenized and subcellular fractions separated by density gradient centrifugation using either the swinging bucket or the zonal rotors in the ultracentrifuge. Gel filtration and the electrofocusing method may be used to purify certain fractions. Samples will be fixed and stained for electron microscope examination. Application received by Commissioner of Customs: April 3, 1970.

Docket No. 70-00591-33-46040. Applicant: University of South Alabama, Mobile, Ala. 36608. Article: Electron Microscope, Model EM 9S. Manufacturer: Carl

Zeiss, Inc., West Germany. Intended use of article: The article will serve primarily as an educational instrument in four courses, Biology 355, Laboratory Methods in Biology; Biology 121, General Biology; Biology 462, Histology; and Biology 429, Undergraduate Research. The electron microscope will also be used for a research project concerning a study of the holotrich ciliate *Dileptus cygnus*, investigating the trichocysts and trichites of the pharyngeal basket. Application received by Commissioner of Customs: April 3, 1970.

Docket No. 70-00592-01-77030. Applicant: North Texas State University, Denton, Tex. 76203. Article: NMR spectrometer, Model PS-100, and accessories. Manufacturer: Japan Electron Optics Laboratory, Co., Ltd., Japan. Intended use of article: The article will be used for studies of various chemical compounds especially organic and organometallic compounds containing hydrogen and carbon-13 atoms. The structures of and bonding within these compounds will be studied, particularly as they relate to the chemical reactivity of the compounds. For educational purposes, the article will be used in chemistry courses to train students in the most modern methods of chemistry and for their research. Application received by Commissioner of Customs: April 6, 1970.

Docket No. 70-00593-88-18300. Applicant: The Pennsylvania State University, Department of Geology and Geophysics, 202 Mineral Sciences Building, University Park, Pa. 16802. Article: Demagnetizer, Type NY-65, and accessories. Manufacturer: Geophysical Chemical Apparatus, Japan. Intended use of article: The article will be used for magnetic cleaning of small rock samples prior to conducting paleomagnetic studies. Soft components of magnetization must be removed before meaningful results can be obtained. Application received by commissioner of customs: April 6, 1970.

Docket No. 70-00595-33-77030. Applicant: University of Vermont, Given Medical Building, Burlington, Vt. 05401. Article: NMR spectrometer, Model R-12. Manufacturer: Perkin-Elmer, Ltd., United Kingdom. Intended use of article: The article will be used primarily for teaching and research in biomedical analysis, e.g., biochemistry and pharmacology. As it will be used by many different people, few of them skilled in such instrumentation, the NMR spectrometer must be simple and easy to set and operate without a lot of fine tuning by the operator. Application received by Commissioner of Customs: March 27, 1970.

Docket No. 70-00596-33-46500. Applicant: Texas A & M University, College of Veterinary Medicine, Department of Veterinary Pathology, College Station, Tex. 77843. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article will be used for serial sectioning tissue in uniform thickness for research concerning the developmental pathogenesis of cytoplasmic membranous inclusions in neurons from experimental and spontaneous cerebrospinal lipodystrophies. Application received by Commissioner of Customs: April 6, 1970.

Docket No. 70-00597-33-46040. Applicant: Mount Sinai Hospital, 11 East 100th Street, New York, N.Y. 10029. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: One of the major research aims for which the article will be used, will center around various mechanism of embryonic development of the eye with special emphasis being placed upon the lens-cornea relationship. The aim of this project is to try and develop antibody labels to developing lens proteins and then examine developing corneal tissue with the corresponding peroxidase labeled material in an effort to localize the site and nature of a possible lens humoral agent. Application received by Commissioner of Customs: April 7, 1970.

Docket No. 70-00598-90-46040. Applicant: Georgia Institute of Technology, 225 North Avenue NW., Atlanta, Ga. 30332. Article: Electron microscope, Model JEM-50. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used for educational purposes in graduate Chemistry courses and undergraduate courses in Special Problems Chemistry. The techniques of electron microscopy will be taught in order to permit students to prepare their own micrographs of solid state particles of substances such as carbon, Tic, MgO, NaCl, etc. These micrographs will permit particle size determination as well as analysis of particle morphology. Application received by Commissioner of Customs: April 7, 1970.

Docket No. 70-00599-33-21095. Applicant: University of California, San Francisco, Purchasing Department, 1438 South 10th Street, Richmond, Calif. 94804. Article: Dichrograph, Model CD 185, and low-temperature accessory. Manufacturer: Jouan, France. Intended use of article: The article will be used for determining the configuration of a wide range of biologically active substances, including synthetic drugs, steroids, amino acids, natural alkaloids, phospholipids peptides, and proteins over the wavelength range from 185 to 615 nm., and for carrying out conformational studies in solution on the above substances, by measuring their circular dichroism at temperatures between +40° and −185° C, in order to establish for biologically active compounds a correlation of their conformation and configuration with their biological activity. Application received by Commissioner of Customs: April 8, 1970.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-5561; Filed, May 6, 1970; 8:45 a.m.]

BATTELLE-NORTHWEST ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00607-65-46040. Applicant: Battelle-Northwest, Post Office Box 999, Richland, Wash. 99352. Article: Electron microscope, Model JEM-1000. Manufacturer: Japan Electron Optical Lab., Japan. Intended use of article: The article will be used for research concerning dislocations in metals; massive structures; examination of materials thinned only with difficulty; irradiation damage; and for examination of highly toxic materials. Among other studies planned are phase transformations; defects in crystalline polymers; nucleation and growth processes in alloy systems; gas solid reactions, coupled with in situ observations, such as oxidation reactions; solid-solid reactions, coupled with in situ observations, such as cross linking of polystyrene; and for biological studies, such as clotting factors in human blood. Application received by Commissioner of Customs: April 13, 1970.

Docket No. 70-00538-99-25100. Applicant: Adams State College, Alamosa, Colo. 81101. Article: ESR/12 E.S.R. Spectrometer 120 V. Manufacturer: Scientific and Cook Electronics Ltd., United Kingdom. Intended use of article: The article will be used for educational purposes in the Atomic Nuclear course, the standard introductory undergraduate junior level atomic and nuclear course in which students are assigned laboratory work although no formal lab is connected with this course. The purpose of the laboratory work is to acquaint the students with laboratory procedures and introduce them to these procedures so that they might have a better understanding of the theoretical material covered in the course proper. The article will also be used in the laboratory portion

of Cell Physiology to show the existence of free radical material in biological systems, although the precise experiments have not been worked out. Application received by Commissioner of Customs: March 12, 1970.

Docket No. 70-00568-65-77040. Applicant: Federal Bureau of Investigation, Ninth and Pennsylvania Avenue NW., Washington, D.C. 20535. Article: Mass spectrometer, Model MS 702. Manufacturer: Associated Electrical Industries Ltd., United Kingdom. Intended use of article: The article will be used in a continuing program to evaluate the most efficient application of scientific analyses and crime detection and in a continuing program for training law enforcement officers in the use of scientific methods in crime detection. Application received by Commissioner of Customs: March 24, 1970.

Docket No. 70-00600-96-46040. Applicant: Johns-Manville Fund, Inc., 22 East 40th Street, New York, N.Y. 10016. Article: Electron microscope, Model HU-11E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for a number of investigations in progress in the Environmental Sciences Laboratory. These projects include a determination of the level of fibrous particulate contamination in ambient air in and around places where asbestos insulation is being applied; and a study involving the effects that altered mineral microparticulates have on biological systems. These studies concern two distinctly different materials, the mineral inorganic phase and the biologically affected system. Application received by Commissioner of Customs: April 9, 1970.

Docket No. 70-00602-33-46070. Applicant: U.S. Department of Agriculture ADP, ARS, National Animal Disease Laboratory, Rural Route 2, Dayton Avenue, Ames, Iowa 50010. Article: Scanning electron microscope, Model Stereoscan. Manufacturer: Cambridge Scientific Instrument Ltd., United Kingdom. Intended use of article: The article will be used for characterizing surface details and for exposing and characterizing subsurface structures of a variety of biological materials. These materials will be of a variety of configurations and component parts including stalked to sessile fungal spores; tissue specimens, microorganisms and protozoa containing tubular structures, villae, and flagellae; microorganisms and tissue cells in thin films or in colonial arrangements and agglutinated aggregations. Application received by Commissioner of Customs: April 10, 1970.

Docket No. 70-00603-01-86300. Applicant: Princeton University, Purchasing Department, Post Office Box 33, Princeton, N.J. 08540. Article: Viscoelastometer, Model DDV 11. Manufacturer: Toyo Measuring Instruments Co., Ltd., Japan. Intended use of article: The article will be used to study the viscoelastic properties of various polymeric materials measured as a function of frequency of vibration and of temperature. The experiments to be conducted will initially include triblock copolymer films of styrene and butadiene. Another material to be studied is a polyurethane block copolymer. Application received by Commissioner of Customs: April 10, 1970.

Docket No. 70-00605-01-77030. Applicant: The Colorado College, Colorado Springs, Colo. 80903. Article: NMR spectrometer, Model R-12. Manufacturer: Perkin-Elmer Ltd., United Kingdom. Intended use of article: The article will be used as an analytical tool in faculty and faculty sponsored research in organic chemistry. In this context it will be used for structural determinations by analysis of proton chemical shifts and coupling constants. Educationally, the article will be used in five chemistry courses, which emphasize studies of energy considerations, structure, nomenclature, spectra and theory of selected compounds of carbon, and for advanced laboratory research projects. Application received by Commissioner of Customs: April 13, 1970.

Docket No. 70-00606-33-46040. Applicant: Yale University, Purchasing Department, 20 Ashmun Street, New Haven, Conn. 06520. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in the Department of Obstetrics and Gynecology for studies pertaining to reproductive biology, for investigations on fine structural analyses of the functional aspects of cellular organelles, and for medical and graduate students who have elected to do their thesis in reproductive biology. Research concerns alterations in pathological specimens such as endometrial carcinoma when exposed to therapeutic agents, hormones and drugs, both in patients and in organ culture to determine the effects of these agents on cytodifferentiation. Application received by Commissioner of Customs: April 13, 1970.

Docket No. 70-00608-33-46500. Applicant: Skidmore College, 31 Union Avenue, Saratoga Springs, N.Y. 12866. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article will be used for both research and educational purposes. The materials to be studied are biological specimens, primarily species of sulfur oxidizing bacteria (*Thiobacilli*) in order to establish the structure-function relationship. The courses in which the article will be used are Biology 371 and Biology 74 "Fine Structure Studies of Bacteria," and Biology 314 "Microbial Physiology." Application received by Commissioner of Customs: April 13, 1970.

Docket No. 70-00612-33-46500. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, Mass. 02138. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intedned use of article: The research projects for which the article will be used include the following:

(A) A study of the structure and function of normal and pathologic vascular endothelium with the use of electron microscopic tracers which would delineate the sites of vascular permeability.

(B) Studies on the localization of various enzymes in normal skeletal muscle macrophages, liver, Kupffer cells, and kidneys, again under normal and pathologic conditions.

(C) Studies on the ultrastructural basis for normal and increased glomerular permeability with the use of enzyme tracers.

Application received by Commissioner of Customs: April 15, 1970.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-5562; Filed, May 6, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

FLORIDA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Florida, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

FLORIDA

Charlotte.	Hendry.
Collier.	Lee.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after December 31, 1970, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 1st day of May 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-5596; Filed, May 6, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI No. 12348]

CARISOPRODOL IN COMBINATION WITH PREDNISOLONE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Somacort Tablets containing 350 mg. carisoprodol in combination with 2 mg.

prednisolone per tablet, marketed by Wallace Pharmaceuticals, Division of Carter-Wallace, Inc., Cranbury, N.J. 08512 (NDA 12-348).

The Food and Drug Administration has considered the Academy report as well as other available evidence and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the above listed new drug application.

Prior to initiating such action, however, the Commissioner invites the holder of the new-drug application for this drug and any interested person who might be adversely affected by its removal from the market, to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER. To be considered acceptable for review, the material must be well-organized and consist of adequate and well-controlled studies bearing on the efficacy of the product and must not have been previously submitted.

This announcement of the proposed action and implementation of the NAS-NRC report for this drug is made to give notice to persons who might be adversely affected by its withdrawal from the market. Promulgation of an order withdrawing approval of the new-drug application will cause any such drug on the market to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

The above named holder of the new-drug application for this drug has been mailed a copy of the NAS-NRC report. Any interested person may obtain a copy of the report by writing to the office named below.

Communciations forwarded in response to this announcement should be identified with the reference No. DESI 12348 and be directed to the attention of the following appropriate office and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Requests for NAS-NRC Reports: Press Relations Staff (CE-200).

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD-201), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: April 27, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5573; Filed, May 6, 1970; 8:46 a.m.]

MORTON INTERNATIONAL, INC.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP OR2512) has been filed by Morton International, Inc., 110 North Wacker Drive, Chicago, Ill. 60606, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of phthalocyanine blue (C.I. pigment blue 15, C.I. No. 74160), phthalocyanine green (C.I. pigment green 7, C.I. No. 74260), titanium dioxide-barium sulfate, and carbon black (channel process) as colorants in polyethylene containers for dry food.

Dated: April 29, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5574; Filed, May 6, 1970; 8:46 a.m.]

PILLSBURY CO.

Enriched Flour Deviating From Identity Standard; Extension of Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that the temporary permit held by The Pillsbury Co., 311 Second Street SE., Minneapolis, Minn. 55414, covering interstate marketing tests of an enriched flour deviating from the standard of identity for enriched flour (21 CFR 15.10) is extended to October 1, 1970. Notice of issuance of the permit was published in the FEDERAL REGISTER of September 10, 1969 (34 F.R. 14251).

The product contains L-lysine monohydrochloride in a quantity not less than 0.30 percent, an ingredient not presently provided for in the standards. Nutrients are added as specified in § 15.10(a) except that (1) the specified quantities of thiamine, riboflavin, niacin, and iron (Fe) are increased approximately two-fold and (2) the labels of the product declare by common name the ingredients used as well as the percentage of the minimum daily requirements for the vitamins and minerals present in the enriched flour.

Dated: April 29, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5575; Filed, May 6, 1970; 8:46 a.m.]

NEOMYCIN-KAOLIN WITH MINERALS

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Gland-O-Lac Scours Boluses; each bolus contains 125 milligrams of neomycin base (as sulfate), 3.75 grams of kaolin, 100 milligrams of potassium chloride, 680 milligrams of sodium chloride, 18 milligrams of magnesium carbonate, and 150 milligrams of calcium gluconate; by The Gland-O-Lac Co., Division of CIBA Pharmaceutical Co., 1818 Leavenworth, Omaha, Nebr. 08887.

The Academy concludes that: (1) This product is probably not effective for enteric infections for foals and calves; (2) each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease cannot be so qualified, the claim must be dropped; (3) the condition that each active ingredient in a preparation containing more than one drug must be effective or contribute to the effectiveness of the preparation to warrant acceptance as a therapeutic ingredient is not satisfied; and (4) the manufacturer of this bolus must provide evidence that it disintegrates in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

The Food and Drug Administration concurs with the above conclusions of the Academy.

This evaluation is concerned only with the drug's effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing in this announcement will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform manufacturers of the drug of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new-drug applications and comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Manufacturers of the drug are provided 6 months from the publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

The manufacturer of the subject drug has been mailed a copy of the NAS-NRC report. Any manufacturer, packer, or distributor of a drug of similar composition and labeling to it or any other interested person may also obtain a copy

by writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: April 27, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-5576; Filed, May 6, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 70-52]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

Correction

In F.R. Doc. 70-4525 appearing at page 6087 in the issue for Tuesday, April 14, 1970, make the following changes:

1. In the second line of "Approval No. 160.047/307/0", the reference to "CKM-1" should read "CKS-1".

2. In the second line of Approval No. 160.058/1/0", the reference to "EM-6318" should read "BM-6318".

[CGFR 70-52]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR, Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from February 25, 1970 to March 9, 1970 (List No. 6-70). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction and materials are set forth in 46 CFR, Parts 160 to 164.

3. Notwithstanding the termination of approvals listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

TELEPHONE SYSTEMS, SOUND-POWERED

The Hose-McCann Telephone Co., Inc., 25th Street and Third Avenue, Brooklyn 32, N.Y., no longer manufacturers certain sound-powered telephone station assemblies, therefore Approval Nos. 161.005/15/1, 161.005/16/1, 161.005/17/1, and 161.005/19/1 were terminated, effective February 25, 1970.

BOILERS, AUXILIARY, AUTOMATICALLY CONTROLLED, PACKAGED FOR MERCHANT VESSELS

The Clayton Manufacturing Co., Post Office 550, Elmonte, Calif., Approval No. 162.026/4/0 expired and was terminated, effective March 2, 1970.

EXTINGUISHERS, SEMIPORTABLE, DRY-CHEMICAL TYPE

The Ansul Chemical Co., Marinette, Wis., no longer manufactures certain dry chemical type semiportable fire extinguishers due to change in specifications, therefore Approval Nos. 162.032/1/0 and 162.032/2/0 were terminated, effective March 9, 1970.

The Fyr-Fyter Co., Post Office Box 2750, Newark, N.J. 07114, no longer manufactures certain dry chemical type semiportable fire extinguishers due to change in specifications, therefore Approval Nos. 162.032/3/0, 162.032/4/0, and 162.032/5/0 were terminated, effective March 9, 1970.

The Walter Kidde & Co., Inc., Belleville, N.J., no longer manufactures certain dry chemical type semiportable fire extinguishers due to change in specifications, therefore Approval Nos. 162.032/6/0 and 162.032/7/0 were terminated, effective March 9, 1970.

Dated: May 1, 1970.

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

[F.R. Doc. 70-5621; Filed, May 6, 1970; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-349]

GENERAL ELECTRIC TECHNICAL SERVICES CO., INC.

Notice of Issuance of Facility Export License

Please take notice that no request for a formal hearing having been filed following publication of notice of proposed action in the FEDERAL REGISTER on December 10, 1969 (34 F.R. 19521), the Atomic Energy Commission has issued License No. XR-72 to General Electric Technical Services Co., Inc., a wholly owned subsidiary of the General Electric Co., authorizing the export of a 759.9 megawatt electric nuclear power reactor to the Tokyo Electric Power Co., Inc., Tokyo, Japan. The export of the reactor to Japan is within the purview of the present Agreement for Cooperation Between the Governments of the United States and Japan.

Dated at Bethesda, Md., this 22d day of April 1970.

For the Atomic Energy Commission.

EBER R. PRICE,
Director, Division of State and Licensee Relations.

[F.R. Doc. 70-5597; Filed, May 6, 1970; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22148]

MIDWEST AIRWAYS, INC.

Establishment of Service Mail Rates

Issued under delegated authority May 1, 1970.

A final service mail rate established by Order 69-6-137, June 25, 1969, for the transportation of mail by aircraft is currently in effect for Midwest Airways, Inc., an air taxi operator under 14 CFR Part 298. This service mail rate resulted from notice of intent 69-13 filed by the Postmaster General on March 7, 1969. On April 28, 1970, the Postmaster General filed a petition stating that weekend trips on Mideast Airways' route between AMF Twin Cities, Minneapolis, Minn., La Crosse, Madison, and Milwaukee, Wis., were no longer needed and that he had been authorized by the carrier to petition for a new rate of 45.03 cents per mile on the basis of five round trips per week in each direction.

A cost form submitted by the carrier to the Post Office Department reflects a cost per mile of 59.95 cents. However, the carrier and the Post Office Department have agreed that a rate of 45.03 cents per mile is a fair and reasonable rate for the services described in notice of intent 69-13 as amended herein.

The Board finds it is in the public interest to determine, adjust and establish the fair and reasonable rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petitions and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

On and after April 28, 1970, the fair and reasonable final service mail rates per great circle aircraft mile to be paid

[1] This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR, Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

in their entirety by the Postmaster General to Midwest Airways, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between AMF Twin Cities, Minneapolis, Minn., La Crosse, Madison, and Milwaukee, Wis. shall be 45.03 cents per great circle aircraft mile on the basis of five flights per week in each direction.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's regulations 14 CFR Part 302, 14 CFR Part 298 and the authority duly delegated by the Board in its Organization 14 CFR 385.14(f),

It is ordered, That:

1. All interested persons and particularly Midwest Airways, Inc., and the Postmaster General are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rates of compensation to be paid to Midwest Airways, Inc.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified in the attached appendix; and

3. This order shall be served upon Midwest Airways, Inc., and the Postmaster General.

This order will be pubished in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 70-5625; Filed, May 6, 1970; 8:50 a.m.]

[Docket 20993]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Adopted Relating to Specific Commodity Rates

Issued under delegated authority May 1, 1970.

By Order 70-4-91, dated April 17, 1970, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 70-4-91 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21380, R-28, be and it hereby is, approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-5626; Filed, May 6, 1970; 8:50 a.m.]

[Docket 20291]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Adopted Relating to Fare Matters

Issued under delegated authority May 1, 1970.

By Order 70-4-90, dated April 17, 1970, action was deferred, with a view toward eventual approval, on certain resolutions incorporated in agreements adopted by Joint Conferences 1-2, 1-2-3, and 2-3 of the International Air Transport Association (IATA). The agreements propose to extend through March 31, 1971, for application across the South Atlantic and between Europe/Africa/Middle East and Asia/Australasia, the effectiveness of currently approved baggage resolutions which were scheduled to expire March 31, 1970.

In deferring action on the agreements, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 70-4-90 will herein be made final.

Accordingly, it is ordered, That:

Agreements CAB 21704 and 21705 be and hereby are approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-5627; Filed, May 6, 1970; 8:50 a.m.]

FEDERAL RESERVE SYSTEM

DACOTAH BANK HOLDING CO.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Dacotah Bank Holding Co., Aberdeen, S. Dak., for approval of acquisition of 63.36 percent or more of the voting shares of Bank of Lemmon, Lemmon, S. Dak.

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 Dacotah Bank Holding Co., Aberdeen, S. Dak. (Applicant), for the Board's prior approval of the acquisition of 63.36 percent or more of the voting shares of Bank of Lemmon, Lemmon, S. Dak. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks of the State of South Dakota, 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 October 16, 1969 (34 F.R. 16565), 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. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the third largest bank holding company and fourth largest banking organization in South Dakota, controls four banks with $32 million in deposits, representing 2.4 percent of State deposits. (Banking data are as of June 30, 1969, adjusted to reflect holding company formations and acquisitions approved by the Board to date.) Acquisition of Bank ($7 million deposits) would not significantly increase Applicant's control of State deposits, or change its ranking in relation to other banking organizations in South Dakota. Bank is the smaller of two banks in Lemmon (population 2,400), and the third largest of four banks located within a 30-mile radius thereof. The closest of Applicant's present subsidiaries is located about 100 miles from Lemmon. It does not appear that present competition would be eliminated, or significant potential competition foreclosed, as a result of the proposed acquisition, or that there would be undue adverse effects on any competing bank.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area. Prospects of Bank would be enhanced by the proposal, and the Lemmon community would benefit from expanded services which Applicant proposes to institute at Bank; both of these considerations weigh in favor of approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth above, 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 Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[1] April 29, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-5598; Filed, May 6, 1970; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 490]

COMMON CARRIER SERVICES INFORMATION [2]

Domestic Public Radio Services Applications Accepted for Filing [3]

MAY 4, 1970.

Pursuant to §§ 1.227(b)(3) and 21.26(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to Section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign and nature of application

6877-C2-P-70—RAM Broadcasting of Massachusetts, Inc. (New), C.P. for a new 1-way station to be located at the New England Baptist Hospital, 91 Parker Hill Avenue, Boston, Mass., to operate on frequency 43.22 MHz.

6878-C2-P-(3)70—Tel-Car, Inc. (KUA224), C.P. to add new base and repeater facilities on frequency 152.06 MHz base and 459.25 MHz repeater, to be located at a new site described as location No. 4: Table Roack, 1.25 miles east-southeast of Boise, Idaho, and add control facilities on frequency 454.25 MHz control at location No. 2: On Highway No. 30, 0.5 mile east of Meridian, Idaho.

6880-C2-P-70—North Central Telephone Cooperative, Inc. (KWA656), C.P. to change the base frequency from 152.81 to 152.75 MHz. Station location: 101 Bennett Street, Lafayette, Tenn.

6882-C2-P-70—Radio Dispatch Co. (KEC943), C.P. to replace the base transmitter operating on 152.06 MHz and relocate same to: Third Street, Lakewood, N.J.

6883-C2-P-70—Radio Dispatch Co. (New), C.P. for a new 1-way station to be located at Third Street, Lakewood, N.J., to operate on frequency 152.24 MHz.

6884-C2-P-(2)70—The Chesapeake & Potomac Telephone Co. of Virginia (KIB529), C.P. to add a fifth base station to be located at a new site described as location No. 3: 6917 Patterson Avenue, Richmond, Va., and add frequency 157.80 MHz auxiliary test at location No. 1: 703 East Grace Street, Richmond, Va.

6885-C2-P-(3)70—Billie White, doing business as Lafayette Radiofone (KKO352), C.P. to add three base channels on frequencies 454.325, 454.350, and 454.025 MHz and establish 10 dispatch stations pursuant to section 21.519(a) of the rules. Station location: 1 mile west of Lafayette, La.

6894-C2-P-70—Mobile Radio Communications, Inc. (New), C.P. for a new 1-way station to be located at 922 Linwood Street, Kansas City, Mo., to operate on frequency 43.58 MHz.

6932-C2-P-(2)70—South Central Bell Telephone Co. (KKI455), C.P. to replace the base transmitter operating on 152.57 MHz and to change the antenna system for same; also change the antenna system for 152.78 MHz. Station location: 3 miles south of Erath, La.

6933-C2-P-70—Mobilfone (KLB511), C.P. to relocate base facilities operating on frequency 152.21 MHz to a new site described as location No. 3: Highway No. 7, 4 miles east of Lawton, Okla.

6941-C2-P-(2)70—Mobilfone (New), C.P. for a new air-ground station to be located at 1020 Southeast 64th Street, Oklahoma City, Okla., to operate on frequencies 454.675 (signaling), 454.850 and 454.975 MHz base.

6942-C2-P-70—RAM Broadcasting of Nevada, Inc. (New), C.P. for a new air-ground station to be located at Slide Mountain, near Reno, Nev., to operate on frequencies 454.675 MHz (signaling) and 454.900 MHz base.

6943-C2-P-(2)70—RAM Broadcasting of Minnesota, Inc. (New), C.P. for a new air-ground station to be located at 332 Minnesota Street, St. Paul, Minn., to operate on frequencies 454.675 MHz (signaling), 454.850 and 454.925 MHz base.

6944-C2-P-(2)70—RAM Broadcasting of Texas, Inc. (New), C.P. for a new air-ground station to be located at 1010 Milam Street, Houston, Tex., to operate on frequencies 454.675 MHz (signaling), 454.950 and 454.825 MHz base.

6945-C2-P-70—Mobilfone Communications (New), C.P. for a new air-ground station to be located at 200 West Capitol Street, Little Rock, Ark., to operate on frequencies 454.675 MHz (signaling) and 454.700 MHz base.

6946-C2-P-(2)70—RAM Broadcasting of Arizona, Inc. (New), C.P. for a new air-ground station to be located at Shaw Butte, North Phoenix, Ariz., to operate on frequencies 454.675 MHz (signaling), 454.900 and 454.775 MHz.

6947-C2-P-70—RAM Broadcasting of Nebraska, Inc. (New), C.P. for a new air-ground station to be located at 1.5 miles south of Highway No. 77 and 2 miles west of County Road, Fremont, Nebr., to operate on frequencies 454.675 MHz (signaling) and 454.700 MHz base.

6948-C2-P-70—RAM Broadcasting of New Mexico, Inc. (New), C.P. for a new air-ground station to be located at 1.25 miles northeast of Intersection Nos. 83 and 285, Artesia, N. Mex., to operate on frequencies 454.675 MHz (signaling) and 454.950 MHz base.

6949-C2-P-(2)70—RAM Broadcasting of Missouri, Inc. (New), C.P. for a new air-ground station to be located at 3615 Olive Street, St. Louis, Mo., to operate on frequencies 454.675 MHz (signaling), 454.800 and 454.875 MHz base.

6950-C2-P-70—RAM Broadcasting of New Mexico, Inc. (New), C.P. for a new air-ground station to be located at 2500 Central Avenue SE., Albuquerque, N. Mex., to operate on frequencies 454.675 MHz (signaling) and 454.750 MHz base.

6951-C2-P-(4)70—RAM Broadcasting of Florida, Inc. (New), C.P. for a new air-ground station to be located at 1720 Harrison Street, Hollywood, Fla., to operate on frequencies 454.675 MHz (signaling), 454.900, 454.725, 454.775, and 454.825 MHz base.

6952-C2-P-70—RAM Broadcasting of New Mexico, Inc. (New), C.P. for a new air-ground station to be located at Boston Hill, Silver City, N. Mex., to operate on frequencies 454.675 MHz (signaling) and 454.850 MHz base.

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

[2] All application listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[3] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

6953–C2–P–(2)70—Contact of Texas (New), C.P. for a new air-ground station to be located at Commanche Peak, El Paso, Tex., to operate on frequencies 454.675 MHz (signaling), 454.825 and 454.925 MHz base.

6954–C2–P–70—The Pacific Telephone & Telegraph Co. (New), C.P. for a new air-ground station to be located at Bear Mountain, 1 mile northwest of Squaw Valley, Calif., to operate on frequencies 454.675 MHz (signaling) and 454.850 MHz base.

6955–C2–P–(2)70—Nebraska Mobile Telephone Co. (New), C.P. for a new air-ground station to be located at 211 West Third Street, Alliance, Nebr., to operate on frequencies 454.675 MHz (signaling), 454.750 and 454.975 MHz base.

6956–C2–P–70—Texas Mobile Telephone Co. (New), C.P. for a new air-ground station to be located at 1216 Van Buren, Harlingen, Tex., to operate on frequencies 454.675 MHz (signaling) and 454.850 base.

6957–C2–P–70—Texas Mobile Telephone Co. (New), C.P. for a new air-ground station to be located at Snake Butte, near Pierre, S. Dak., to operate on frequencies 454.675 MHz (signaling) and 454.875 MHz base.

6958–C2–P–70—Evergreen State Mobile Telephone Co. (New), C.P. for a new air-ground station to be located at 903 West Sharp Street, Spokane, Wash., to operate on frequencies 454.675 MHz (signaling) and 454.700 MHz base.

6959–C2–P–70—Caribe Mobile Telephone Co. (New), C.P. for a new air-ground station to be located at 1–56 State Wintberg Street, St. Thomas, V.I., to operate on frequencies 454.675 MHz (signaling) and 454.725 MHz base.

6960–C2–P–70—Caribe Mobile Telephone Co. (New), C.P. for a new air-ground station to be located at St. George Hill, St. Croix, V.I., to operate on frequencies 454.675 (signaling) and 454.700 MHz base.

6961–C2–P–(2)70—Boston Mobile Telephone Co. (New), C.P. for a new air-ground station to be located at 221 Parkway South, Brewer, Maine, to operate on frequencies 454.675 MHz (signaling), 454.725 and 454.950 MHz base.

6962–C2–P–(2)70—Answerphone, Inc. (New), C.P. for a new air-ground station to be located at the top of Mount Franklin, 0.5 mile north of El Paso, Tex., to operate on frequencies 454.675 MHz (signaling), 454.825 and 454.925 MHz base.

6963–C2–P–(4)70—Answerphone, Inc. (New), C.P. for a new air-ground station to be located at 0.125 mile south of the intersection of Water Works Road and the Pierce-King County Line, Wash., to operate on frequencies 454.675 MHz (signaling), 454.750, 454.825, 454.900, and 454.950 MHz base.

6964–C2–P–(2)70—National Communications System, Inc. (New), C.P. for a new air-ground station to be located at Sulphur Springs Mountain, 1.6 miles northeast of Vallejo, Calif., to operate on frequencies 454.675 MHz (signaling), 454.950 and 454.775 MHz base.

6965–C2–P–70—Answerphone, Inc. (New), C.P. for a new air-ground station to be located at Broadway and Cherry Streets, 2 miles north of Amarillo, Tex., to operate on frequencies 454.675 MHz (signaling) and 454.700 base.

6966–C2–P–(3)70—RAM Broadcasting of Texas, Inc. (New), C.P. for a new air-ground station to be located at Pacific and Ervay Streets, Dallas, Tex., to operate on frequencies 454.675 MHz (signaling), 454.800, 454.725, 454.875 MHz base.

6967–C2–P–70—Air Communications Co. (New), C.P. for a new air-ground station to be located at 0.2 mile north of U.S. No. 66 and 7.5 miles west of Albuquerque, N. Mex., to operate on frequencies 454.675 MHz (signaling) and 454.750 MHz base.

6968–C2–P–70—Western Mobilphone, Inc. (New), C.P. for a new air-ground station to be located at Sandia Peak, 8 miles north of Albuquerque, N. Mex., to operate on frequencies 454.675 MHz (signaling) and 454.750 MHz base.

6969–C2–P–(3)70—California Aircraft Telephone Co. (New), C.P. for a new air-ground station to be located at Oat Mountain, 4.9 miles north-northeast of Chatsworth, Calif., to operate on frequencies 454.675 MHz (signaling), 454.725, 454.800, and 454.875 MHz base.

6970–C2–P–(2)70—Houston Radiophone Service (New), C.P. for a new air-ground station to be located at 11918 Almeda Road, Houston, Tex., to operate on frequencies 454.675 MHz (signaling), 454.825 and 454.950 MHz base.

6971–C2–P–70—South Central Bell Telephone Co. (New), C.P. for a new air-ground station to be located at 6.4 miles north of Columbia, Tenn., to operate on frequencies 454.675 MHz (signaling) and 454.975 MHz base.

6972–C2–P–70—South Central Bell Telephone Co. (New), C.P. for a new air-ground station to be located at approximately 1 mile northeast of Troy, Ala., to operate on frequencies 454.675 MHz (signaling) and 454.875 MHz base.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

6973–C2–P–70—Gulf Mobilphone Alabama, Inc. (New), C.P. for a new 2-way station to be located at 1295 First National Bank Building, Mobile, Ala., to operate on base frequency 454.100 MHz and 10 dispatch stations pursuant to section 21.519(a) of the rules.

6974–C2–P–70—Mobilfone of Baton Rouge (New), C.P. for a new 1-way station to be located at 451 Florida Avenue, Baton Rouge, La., to operate on frequency 152.24 MHz.

6975–C2–P–70—Curtin Call Communications, Inc. (New), C.P. for a new 1-way station to be located at Mosinee Hill, 1 mile west of Rothschild, Wis., to operate on frequency 152.24 MHz.

6976–C2–P–70—St. John Cooperative Telephone & Telegraph Co. (New), C.P. for a new 2-way station to be located at 1.2 miles south-southwest of St. John, Wash., to operate on frequency 152.57 MHz.

6977–C2–P–70—United Telephone Co. of Kansas, Inc. (KAQ637), C.P. to replace the base transmitter operating on 152.78 MHz. Station location: Near junction of Highway No. 77 and Highway No. 40, 2.5 miles southwest of Junction City, Kans.

6982–C2–P–70—Delta Valley Radiotelephone Co., Inc. (New), C.P. for a new air-ground station to be located atop north peak of Mount Diablo, near Danville, Calif., to operate on frequencies 454.675 MHz (signaling), 454.775 and 454.950 MHz base.

7011–C2–P–70—Oden Communications Co. (New), C.P. for a new 2-way station to be located at 0.8 mile east-northeast of Route No. 24 and county line, approximately 3 miles east of Norfolk, Nebr., to operate on frequency 152.12 MHz.

7012–C2–P–70—Viroqua Telephone Co. (New), C.P. for a new 1-way station to be located at 114 East Court Street, Viroqua, Wis., to operate on frequency 158.10 MHz.

7017–C2–P–(2)70—Massachusetts-Connecticut Mobile Telephone Co. (New), C.P. for a new 1-way station to be located at location No. 1: WATR–FM Tower, Meriden Mountain, Conn., to operate on frequency 152.24 MHz base and location No. 2: 14 Haynes Street, Hartford, Conn., to operate on frequency 72.38 MHz control.

7018–C2–P–(2)–70—Massachusetts-Connecticut Mobile Telephone Co. (New), C.P. for a new 1-way station to be located at location No. 1: WWLP–TV Tower, Provin Mountain, Agawam, Mass., to operate on frequency 152.24 MHz base and at location No. 2: 14 Haynes Street, Hartford, Conn., to operate on frequency 72.68 MHz control.

7019–C2–P–(2)–70—South Central Bell Telephone Co. (KIC343), C.P. to add base frequencies 152.57 and 152.81 MHz. Station location: Approximately 7.5 miles south of Nashville, Tenn.

7020–C2–TC–70—Anserfone of St. Lucie County, Inc., Consent to transfer of control from Walter W. Sargent and Timothy W. Sargent, Transferor, to: Paul K. Higgs, Transferee. Station: KIG638.

Major Amendments

1796–C2–P–70—Pineland Telephone Coop., Inc. (KIN648), Amended to change frequency to: 152.60 MHz. All other particulars remain the same as reported on public notice dated Oct. 13, 1969, Report No. 461.

1918–C2–P–70—Pacific Telephone & Telegraph Co. (New), Amended to change frequency to: 454.825 MHz. All other particulars remain as reported on public notice dated Oct. 20, 1969.

4737–C2–P–(3)–70—Jack Loperena (New), Amended to change frequencies to: 454.850 and 454.925 MHz. All other particulars remain as reported on public notice dated Mar. 9, 1970.

Rural Radio Service

6886–C1–P/L–70—Mountain States Telephone & Telegraph Co. (WB076) C.P. and license for a new rural subscriber station to be located at 17.2 miles northwest of La Barge, Wyo., to operate on frequency 157.95 MHz communicating with station KOK341, Rock Springs, Wyo.

Major Amendment

3935–C1–P/L–70—North States Telephone Co., Inc. (New), Amended to change frequencies to: 157.80 and 157.83 MHz. All other particulars remain as reported in public notice dated Jan. 26, 1970.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

6874–C1–P–70—General Telephone Co. of Florida (KRT56), C.P. to change frequency 10,755 MHz to 6345.5 MHz toward east-southeast of Tampa, Fla. Station location: Sage Site Z–129, MacDill Air Force Base, Tampa, Fla.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

6875-C1-P-70—General Telephone Co. of Florida (KGP51), C.P. to change frequency 11,285 MHz to 6093.5 MHz toward MacDill AFB, Fla. Station location: 7845 22d Street Causeway, Tampa, Fla.

6876-C1-P-70—General Telephone Co. of Florida (KIB48), C.P. to change antenna system. Station location: 13.45 K feet bearing 5°36 south of west from Highland City, Fla.

86-C1-R-70—Hawaiian Telephone Co. (KUQ93), Renewal of license expiring May 23, 1970. Term: May 23, 1970, to May 23, 1971. In any temporary location within the territory of grantee (Developmental).

6887-C1-P-70—The Pacific Telephone & Telegraph Co. (KNL53), C.P. to change transmitter location to 555 Lakeport Boulevard, Lakeport, Calif. Frequencies: 10,715 and 10,955 MHz toward Purdys Gardens, Calif. via reflector.

6888-C1-P-70—The Pacific Telephone & Telegraph Co. (KNL52), C.P. Change in radio path particulars. Frequencies: 11,445 and 11,685 MHz toward Ukiah, Calif., and 11,405 and 11,645 MHz toward Lakeport, Calif., via reflector. Station location: Purdys Gardens, 7.3 miles east-southeast of Ukiah, Calif.

6889-C1-P-70—Illinois Bell Telephone Co. (KSO34), C.P. to add frequency 6226.9 MHz toward Berlin, Ill. Station: 620 South Fifth Street, Springfield, Ill.

6895-C1-P-70—Illinois Bell Telephone Co. (KZA71), C.P. to add frequency 6115.7 MHz toward Jacksonville, Ill. Station location: 4.5 miles northwest of Berlin, Ill.

6890-C1-P-70—Northwestern Bell Telephone Co. (KBI62), C.P. to add frequencies 6256.5 and 11,365 MHz toward Wood River, Nebr. Station location: 105 North Wheeler Street, Grand Island, Nebr.

6891-C1-P-70—Northwestern Bell Telephone Co. (KBI63), C.P. to add frequencies 6034.2 and 11,115 MHz toward Kearney, Nebr., 6093.5 and 10,915 MHz toward Grand Island, Nebr. Station location: Approximately 1.5 miles south, Wood River, Nebr.

6892-C1-P-70—Northwestern Bell Telephone Co. (New), C.P. for a new station to be located at 2.2 miles northwest of Kearney, Nebr. Frequencies: 6315.9 and 11,565 MHz toward Wood River, Nebr., and 6256.5 and 11,365 MHz toward Holdrege, Nebr.

6893-C1-P-70—Northwestern Bell Telephone Co. (KBI65), C.P. to add frequencies 6093.0 and 10,915 MHz toward Kearney, Nebr. Station location: 1.42 miles southwest of Holdrege, Nebr.

6934-C1-P-70—The Mountain States Telephone & Telegraph Co. (KCO74), C.P. to add frequencies 6049.0 and 10,975 MHz toward Greenhorn, Colo. Station location: 3 miles southeast of Pueblo, Colo.

6935-C1-P-70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 3.4 miles east of Greenhorn, Colo. Frequencies: 6360.3 and 11,625 MHz toward Pueblo Junction and 6301.0 and 11,685 MHz toward Ravenwood, Colo.

6936-C1-P-70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 4.8 miles east-southeast of Walsenburg, Colo. (Ravenwood). Frequencies: 6049.0 and 10,955 MHz toward Aguilar and 6078.6 and 10,975 MHz toward Walsenburg and 6108.3 and 10,755 MHz toward Greenhorn, Colo.

6937-C1-P-70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 135 East Fifth Street, Walsenburg, Colo. Frequencies: 6330.7 and 11,385 MHz toward Ravenwood, Colo.

6938-C1-P-70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 5 miles northeast of Aguilar, Colo. Frequencies: 6301.0 and 11,685 MHz toward Hoehne and 6360.3 and 11,405 MHz toward Ravenwood, Colo.

6939-C1-P-70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 3 miles north-northeast of Hoehne, Colo. Frequencies: 6078.6 and 10,955 MHz toward Trinidad and 6108.3 and 10,755 MHz toward Aguilar, Colo.

6940-C1-P-70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 120 South Animas, Trinidad, Colo. Frequencies: 6330.7 and 11,405 MHz toward Hoehne, Colo.

6978-C1-ML-70—General Telephone Co. of Florida (KIL88), Modification of license to change frequency 6123.7 MHz to 6123.1 MHz toward Plant City, Fla. Station location: Corner of Zack and Morgan Streets, Tampa, Fla.

6979-C1-MP-70—New York Telephone Co. (KEL60), Modification of C.P. to add 4150 MHz toward Halihan Hill, N.Y. Station location: 20 South Hamilton Street, Poughkeepsie, N.Y.

6980-C1-P-70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new station to be located at 8.2 miles south-southwest of San Jon, N. Mex. Frequency: 2162.4 MHz toward Tucumcari, N. Mex.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

6981-C1-P-70—The Mountain States Telephone & Telegraph Co. (KLU43), C.P. to add frequency 2112.4 MHz toward San Jon, N. Mex. Station location: 610 South First Street, Tucumcari, N. Mex.

American Telephone & Telegraph Co., Twenty-one applications to construct additional Type Td-2 radio relay channels in the Buckhorn Mountain-Prospect Valley, Colo., and the Salt Lake City Junction, Utah-Wolf Creek, Calif., sections of the Chicago-Oakland radio relay route.

7021-C1-P-70—American Telephone & Telegraph Co. (KAC61), Add frequency 4150 MHz toward Greeley, Colo. Location: Buckhorn Mountain, 8 miles west of Bellvue, Colo.

7022-C1-P-70—American Telephone & Telegraph Co. (KAM69), Add frequency 4110 MHz toward Buckhorn Mountain, Colo., and Prospect Valley, Colo. Station location: 9 miles southeast of Greeley, Colo.

7023-C1-P-70—American Telephone & Telegraph Co. (KAB26), Add frequency 4150 MHz toward Greeley, Colo. Station location: 6.5 miles east of Prospect Valley, Colo.

7024-C1-P-70—American Telephone & Telegraph Co. (KOB26), Add frequency 3950 MHz toward Stansbury Island, Utah. Station location: 1.5 miles east of Salt Lake City, Utah.

7025-C1-P-70—American Telephone & Telegraph Co. (KOB25), Add frequency 3990 MHz toward Salt Lake City Junction and Cedar Mountain, Utah. Station location: Stansbury Island, 7 miles east of Timple, Utah.

7026-C1-P-70—American Telephone & Telegraph Co. (KOB24), Add frequency 3950 MHz toward Stansbury Island and Barro, Utah. Station location: Cedar Mountain, 5 miles northeast of Low, Utah.

7027-C1-P-70—American Telephone & Telegraph Co. (KOB23), Add frequency 3990 MHz toward Cedar Mountain, Utah, and Wendover, Nev. Station location: 4.5 miles west of Barro, Utah.

7028-C1-P-70—American Telephone & Telegraph Co. (KOB91), Add frequency 3950 MHz toward Barro, Utah, and Rocky Point, Nev. Station location: 3 miles west-northwest of Wendover, Nev.

7029-C1-P-70—American Telephone & Telegraph Co. (KOB70), Add frequency 3990 MHz toward Wendover and Ruby, Nev. Station location: Rocky Point, near Wells, Nev.

7030-C1-P-70—American Telephone & Telegraph Co. (KOB81), Add frequency 3950 MHz toward Rocky Point and Adobe Hill, Nev. Station location: Ruby, near Wells, Nev.

7031-C1-P-70—American Telephone & Telegraph Co. (KOB82), Add frequency 3990 MHz toward Ruby and Tuscarora, Nev. Station location: Adobe Hill, near Elko, Nev.

7032-C1-P-70—American Telephone & Telegraph Co. (KOB83), Add frequency 3950 MHz toward Adobe Hill and Argenta, Nev. Station location: Tuscarora, near Carlin, Nev.

7033-C1-P-70—American Telephone & Telegraph Co. (KOB84), Add frequency 3990 MHz toward Tuscarora and Fish Creek, Nev. Station location: Argenta, near Battle Mountain, Nev.

7034-C1-P-70—American Telephone & Telegraph Co. (KOB85), Add frequency 3950 MHz toward Argenta and Stillwater Range, Nev. Station location: Fish Creek, near Battle Mountain, Nev.

7035-C1-P-70—American Telephone & Telegraph Co. (KOB86), Add frequency 3990 MHz toward Fish Creek and Wild Horse, Nev. Station location: Stillwater Range, near Lovelock, Nev.

7036-C1-P-70—American Telephone & Telegraph Co. (KOB87), Add frequency 3950 MHz toward Stillwater Range and Hot Springs, Nev. Station location: Wild Horse, near Lovelock, Nev.

7037-C1-P-70—American Telephone & Telegraph Co. (KOB88), Add frequency 3990 MHz toward Wild Horse and Churchill Butte, Nev. Station location: Hot Springs, near Carson Sink, Nev.

7038-C1-P-70—American Telephone & Telegraph Co. (KOB89), Add frequencies 3950 MHz toward Hot Springs and 4030 MHz toward Mount Rose, Nev. Location: Churchill Butte, 6.5 miles southwest of Silver Springs, Nev.

7039-C1-P-70—American Telephone & Telegraph Co. (KOB90), Add frequency 4070 MHz toward Churchill Butte, Nev., and Cisco Butte, Calif. Station location: Mount Rose, 6.3 miles southeast of Floriston, Calif. (Nevada).

7040-C1-P-70—American Telephone & Telegraph Co. (KMC63), Add frequency 4030 MHz toward Mount Rose, Nev., and Wolf Creek, Calif. Station location: Cisco Butte, 6 miles east-northeast of Emigrant Gap, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

7041-C1-P-70—American Telephone & Telegraph Co. (KMC34), Add frequency 4070 MHz toward Cisco Butte, Calif. Station location: Wolf Creek, 6 miles southwest of Grass Valley, Calif.

Major Amendment

4519-C1-P-70—Southern Pacific Communications Co. (New), Major Amendment: Change frequency from 6040.5 MHz to 6004.5 MHz on azimuth 54°44' at station located 14 miles southwest of Klamath Falls, Oreg.

4543-C1-P-70—Southern Pacific Communications Co. (New), Change frequency 6125.75 MHz to 6152.75 MHz on azimuth 315°26' at station located in Fresno, Calif.

4547-C1-P-70—Southern Pacific Communications Co. (New), Change frequency from 6065.8 MHz to 6063.8 MHz on azimuth 136°53' at station located at Pampa Peak, 3 miles north of Bena, Calif. All other particulars same as reported on public notice dated Feb. 16, 1970.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

6923-C1-ML-70—West Texas Microwave Co. (KLU86), Modification of license to add subcarrier channel for delivery throughout system.

6924-C1-ML-70—West Texas Microwave Co. (KLR75), Modification of license to permit delivery of additional audio subcarrier channel to Abilene and Sweetwater, Tex.

6925-C1-ML-70—West Texas Microwave Co. (KTQ80), Modification of license to permit delivery of additional audio subcarrier channel to Colorado City, Tex.

6926-C1-ML-70—West Texas Microwave Co. (KTQ81), Modification of license to permit delivery of additional audio subcarrier channel to Big Spring, Tex.

6927-C1-ML-70—West Texas Microwave Co. (KYS49), Modification of license to permit delivery of additional audio subcarrier channel to Midland, Tex.

6928-C1-ML-70—West Texas Microwave Co. (KKU85), Modification of license to permit delivery of additional audio subcarrier channel to Odessa, Tex.

6929-C1-ML-70—West Texas Microwave Co. (KTR35), Modification of license to permit delivery of additional audio subcarrier channel to Lubbock, Tex.

6930-C1-ML-70—West Texas Microwave Co. (KZI26), Modification of license to permit delivery of additional audio subcarrier channel to Plainview, Tex.

6931-C1-ML-70—West Texas Microwave Co. (WAY39), Modification of construction permit for delivery of additional audio subcarrier channel to Amarillo, Tex.

(Informative: Applicant requests that its licenses be conditioned to permit the carriage of audio programs of the Interstate Broadcasting Co. to customers at Abilene, Sweetwater, Colorado City, Big Spring, Midland, Odessa, Lubbock, Plainview, and Amarillo all in the State of Texas.)

7013-C1-P-70—United Video, Inc. (New), C.P. for a new station 1 mile north-northwest of Dexter, Mo., at latitude 36°48'43" N., longitude 89°57'52" W. Frequency: 10,775 MHz on azimuth 176°53'.

7014-C1-P-70—United Video, Inc. (New), C.P. for a new station in Peach Orchard, Mo., at latitude 36°21'55" N., longitude 89°56'04" W. Frequency: 11,385 MHz on azimuth 126°41'.

7015-C1-P-70—United Video, Inc. (New), C.P. for a new station 0.5 mile north of Caruthersville, Mo., at latitude 36°12'12" N., longitude 89°40'00" W. Frequency: 10,775 MHz on azimuth 120°35'.

(Informative: Applicant proposes to provide the television signal of Station KPLR-TV of St. Louis, Mo., to Cablecom General, Inc., in Dyersburg, Tenn.)

7016-C1-ML-70—West Texas Microwave Co. (KTQ81), Modification of license to permit carriage of FM Broadcast audio signals of stations KIXL(FM), WRR-FM, and KCWM(FM) of the Dallas-Fort Worth area to Big Spring, Tex., for delivery to Big Spring Cable T-V, Inc.

[F.R. Doc. 70-5610; Filed, May 6, 1970; 8:49 a.m.]

[Dockets Nos. 18768, 18769; FCC 70R-164]

MEDIA, INC., AND JUD, INC.

Memorandum Opinion and Order Enlarging Issues

In re applications of Media, Inc., Youngstown, Ohio, Docket No. 18768, File No. BP-17435; Jud, Inc., Ellwood City, Pa., Docket No. 18769, File No. BP-17749; for construction permits.

1. This proceeding involves mutually exclusive applications for a new standard broadcaest station at Youngstown, Ohio, and Ellwood City, Pa., by Media, Inc. (Media), and Jud, Inc. (Jud), respectively. The applications were designated for hearing under various issues by Order, FCC 69-1362, 20 FCC 2d 937, released December 17, 1969. Presently before the Review Board is a petition to enlarge issues, filed January 8, 1970, by Media, requesting the addition of issues against Jud relating to the following subjects: Rule 1.526(a)(1); Rule 1.65; concentration of control; assurance of construction; and four engineering issues.[1]

THE RULE 1.526(a)(1) ISSUE

2. As a basis for its request for the addition of a Rule 1.526(a)(1) issue,[2] Media claims that Jud has failed to include in its public file an amendment to its application, dated November 18, 1969; a Commission letter dated April 9, 1969; and its responsive amendment, dated April 24, 1969. Media's request is supported by the affidavit of Mrs. Dennis Gomez, who allegedly inspected the local file on January 6, 1970. Media contends, citing North American Broadcasting Co., 15 FCC 2d 984, 15 RR 2d 367 (1969), that Jud's "token compliance" with the Rule 1.526(a)(1) raises a question as to whether it would operate in accordance with the Commission's rules.[3] In response, Jud states that it was through inadvertence that the two amendments were not placed in its file and urges that the issue be denied because there is no showing of a pattern of failure to comply and because it has substantially complied with Rule 1.526(a)(1). In reply, Media insists that substantial compliance is not the correct criterion to be employed and that Commission policy is frustrated by Jud's failure to permit full public inspection of its application.

3. The request for the addition of a Rule 1.526(a)(1) issue will be denied. The Review Board is of the opinion that the failure of Jud to include the amendments and the letter in its local file does not raise a substantial question as to whether Jud will operate in accordance with the Commission's rules.[4] The correct criterion is not, as Jud suggests, "substantial compliance" with the rule—an applicant has either complied or not complied. However, although there was noncompliance here, it was not, in our view, of such magnitude as to require the addition of a disqualifying issue. The omissions were minor;[5] it has not been alleged that any prejudice to the parties or to the public has resulted; and Jud's claim of inadvertence is neither challenged nor unreasonable. We therefore can see no decisional significance in this isolated violation of the rule in terms of Jud's requisite qualifications, Harry D. Stephenson, 18 FCC 2d 337, 16 RR 2d 678 (1969); and thus conclude that the requested inquiry is not warranted.

THE RULE 1.65 ISSUE

4. Media next submits that Jud has failed to report major changes in the status of its application. As a basis of

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[1] Other related pleadings before the Board for consideration are: (a) Opposition, filed Feb. 5, 1970, by Jud; (b) comments, filed Feb. 19, 1970, by the Broadcast Bureau; and (c) reply, filed Mar. 6, 1970, by Media.

[2] Rule 1.526(a)(1) requires that each applicant maintain a local file which should contain:

(1) A copy of every application tendered for filing by the applicant for such station after May 13, 1965 * * *; and all exhibits, letters and other documents tendered for filing as part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the Commission and the applicant pertaining to the application after it has been tendered for filing, and copies of initial decisions and final decisions in hearing cases pertaining thereto * * *.

[3] The Broadcast Bureau notes, in its comments, that Mrs. Gomez's affidavit makes no mention of amendments alleged to be missing and, therefore, argues that the affidavit is insufficient under Commission Rule 1.229(c) to support the allegation regarding the missing amendment. However, the Bureau finds that all Commission correspondence is not on file, and that this would appear sufficient to warrant a limited issue against Jud to determine why the missing letter was not included.

[4] Since Jud has admitted its failure to include the amendments in its local file, we see no merit in the Broadcast Bureau's opposition based on Rule 1.229(c).

[5] North American Broadcasting Co., supra, affords no support for petitioner's request because there the entire file was unavailable to the public for a portion of the crucial period after the application had been accepted for filing.

this request, Media points out that Jud, in its initial application, discloses that its principals, Jud Sedwick, Ned R. Sedwick, and Ott L. Sedwick, also own Armstrong Utilities, Inc., which in turn owns and operates CATV systems in Butler, Pa., and Orrville, Ohio, and which was then in the process of constructing a CATV system in Ellwood City. The application further indicates, petitioner notes, that Jud has a 50-percent interest in National Cable Television Corp. of Connellsville, Pa. Although no other CATV interests have been revealed, Media alleges that, in addition to those CATV systems disclosed, the Sedwick's, in fact, have franchises in Ashland and Rittman, Ohio; Ellport, Evans City, Koppel, Wampum, Wayne Township, and Zelienople, Pa.; and Hamlin, W. Va.[6] Further, the petitioner charges that Jud has also failed to disclose that its construction permit for UHF television Station WJUD-TV, West Palm Beach, Fla., was dismissed for failure to construct. Media concludes that these repeated failures to disclose warrant the addition of a Rule 1.65 issue. The Broadcast Bureau supports the request for addition of this issue.

5. In opposition, Jud contends that there exists no basis for Media's request. Jud points out that within the proposed 0.5 mv/m contour it operates only one CATV system—in Ellwood City—and that the headend for this system also serves Wayne Township, Ellport, Perry Township, and in the future will serve Wampum and Koppel. In the supporting affidavit of Jay Sedwick, Secretary of Jud, it is stated that Jud did not think it was required by the Commission to disclose its system in each of these communities separately. Sedwick explains that CATV operators traditionally consider CATV systems from the point of view of the headend of the system;[7] and, reasons Jud, it was "entirely reasonable" for it to consider that its disclosure of the Ellwood City system obviated the necessity to report the systems served by the same headend. Jud emphasizes that its failure to report information concerning CATV interests within the proposed 0.5 mv/m contour was not done with a view to enhancing its prospects of meeting or anticipating any issues, especially because all the communities except Ellwood City have a potential of less than 1,000 subscribers. Further, although conceding the failure to amend its application to reflect the dismissal of WJUD's construction permit, Jud states that the omission was through inadvertence. Jud notes that it has voluntarily and in a timely manner amended its application to reflect that it had obtained the construction permit for West Palm Beach; and, therefore, it argues, there is no basis to conclude that Jud was trying to prevent disclosure of its proposed television interests there. Jud concludes that these "minor and petty matters" do not require the addition of a Rule 1.65 issue. In reply, Media reasserts its contentions that Jud's omissions could have an adverse affect on its application; that each separate community is a separate CATV system; and that the failure to disclose the loss of the WJUD permit and its other CATV franchises was to its benefit.

6. In our view, a substantial question has been raised as to Jud's compliance with Rule 1.65 because of its repeated failure to amend its application to disclose its ownership of various CATV franchises and the dismissal of its TV construction permit. Rule 1.65 requires disclosure when the information furnished in an application is no longer substantially accurate and complete in all significant respects or when changes which may be of decisional significance have occurred. Here, Jud has not made the requisite disclosures. The argument that disclosure of the Ellwood City headend sufficed to cover the other communities served thereby is unconvincing: Disclosure of each community served by a CATV system is essential if the Commission is to be placed in full possession of all of the facts which may bear on its determination of whether the public interest would be served by a grant of an application; the fact that these undisclosed communities here are small does not necessarily lessen their potential decisional significance. Thus, the ownership of CATV franchises within the proposed 0.5 mv/m contour, coupled with the acquisition of other franchises, the nondisclosure of which Jud does not attempt to justify, raises a question under the rule. Similarly, under the circumstances here, Jud's excuse of inadvertence in failing to amend its application to show dismissal of its TV construction permit is not persuasive, and also requires exploration at an evidentiary hearing.[8]

The Concentration of Control Issue

7. The petitioner next contends that, because a CATV franchise is analogous to a construction permit, and because, as shown, Jud is a substantial CATV operator,[9] there exists an important question as to the possibility of undue concentration of control. Although Media recognizes that the instant proceeding involves a 307(b) determination, rather than a comparative one, it argues that the question of diversification is nevertheless vital. Pointing to several decisions of the Commission allegedly indicating its increasing concern with concentration of control, Media charges that the seriousness of the concentration of control here is highlighted by the facts that the communities involved are small, the area is rural in nature, and the availability of other media is limited. Media then cites to what it alleges to be the proposed Commission policy that would prohibit cross-ownership of television broadcast stations and CATV systems within the station's Grade B contour.[10] The petitioner claims that the Commission's final action on the proposed rule making might render the granting of a construction permit to Jud a "futile act" because if this proposal of the Commission is adopted, Jud might very well be obligated to divest itself of such ownership.[11] Media thus concludes that these circumstances raise serious public interest questions which should be examined in hearing.

8. Jud agrees that ownership of CATV systems should be considered as part of the general question of diversification of control of the media of mass communications in proceedings where a comparative issue is specified in the designation order. However, no such issue is specified here and Jud insists that Media has not shown facts sufficient to justify a special concentration of control issue. The status of Jud's CATV systems and franchises is set forth by Jay Sedwick. In his affidavit, Sedwick insists that, contrary to Media's allegations, neither Jud nor Armstrong owns a franchise in Rittman, Ohio. Sedwick reasserts that Jud owns only one CATV system within its proposed 0.5 mv/m contour at Ellwood City and that the other communities named by Media, served by the Ellwood City headend, and within the proposed 0.5 mv/m contour each have a potential of less than 1,000 subscribers. Jud argues that the aggregation of media involved here should not be held sufficient to deprive the residents of Ellwood City of their only AM broadcast station, citing General Electric Cablevision Corp., 10 FCC 2d 198, 11 RR 2d 310 (1967). In addition, Jud emphasizes that it will accept a construction permit subject to any conditions regarding divestiture which may result from pending Commission inquires. Thus, Jud concludes that, in light of General Electric and the fact that the Commission has consistently conditioned grants where litigation and rule making proceedings are pending, no basis for the addition of an issue exists.

9. The Broadcast Bureau also opposes the request, urging that Jud's ownership of a CATV system in Ellwood City does not contravene existing Commission policy and that it would be speculative and premature to add the issue on the basis of uncertain future policies. The Bureau adds that no factual showing has

[6] Media bases this claim on information in 37 Television Factbook, 597–A (1969 ed.).

[7] Jud states that the Review Board may take judicial notice of this position.

[8] Based on the information before us, it appears that the systems involved here were all acquired after the filing of Jud's application; thus, there is no necessity for a nondisclosure issue, cf. Natick Broadcast Associates, Inc., FCC 70R–49, released Feb. 16, 1970.

[9] Here, Media further alleges that Jud's Ellwood City system has a potential of 3,000 subscribers, with 1,600 presently existing, and, that Koppel, Wampum, and Zelienople are within Jud's proposed 0.5 mv/m contour. Media also indicates that it is unable to locate some of the other communities in which, according to Television Factbook, Jud owns CATV systems.

[10] Notice of Proposed Rulemaking and Notice of Inquiry, Amendment of Part 74, Subpart K * * *, 15 FCC 2d 417, Vol. 3:RR 54:85 (1968).

[11] In its statement, the Commission stressed that no grandfathering is contemplated.

been made by Media to substantiate its allegation that the station carried by Jud's CATV systems would overlap the 0.5 mv/m contours of its proposed station. Thus, the Bureau concludes that the petitioner has failed to plead facts sufficient to support its allegations and that the issue is not warranted. In reply, Media again points out the rural nature of Jud's proposed service area and the lack of other origination sources to emphasize that the question of concentration of control is as critical here as in General Electric. Media further insists that a grant to Jud would be inconsistent with the proposed Commission policy regarding cross-ownership of broadcast and CATV facilities, and that this problem cannot be rectified by making a possible grant to Jud subject to an appropriate divestiture condition, citing Seaborn Rudolph Hubbard, 15 FCC 2d 690, 14 RR 2d 1039 (1968). Media thus concludes that the facts presented warrant the addition of a concentration of control issue and that the Commission should not grant a new application subject to divestiture conditions.[12]

10. The Board is of the opinion that Media has failed to allege facts sufficient to justify the addition of a concentration of control issue. Thus, the petitioner does not allege that the Grade B contour of the station or stations carried by Jud's CATV systems overlap the 0.5 mv/m contours of Jud's proposed facility; nor has it brought forth any specific information tending to show lack of other broadcast services or newspapers reaching Ellwood City. See Hale and Wharton v. FCC, —— F. 2d ——, 18 RR 2d 2014 (1970); and American Television Co., FCC 67-1210, 32 F.R. 15771, published on November 16, 1967. Media simply states that the availability of other media is limited, and this bare, generalized allegation does not adequately support its request for this issue; and, the mere circumstance that this is a rural area does not enhance Media's position. Finally, we agree with the Broadcast Bureau that specification of an issue on the basis of an as yet unannounced Commission policy which might prohibit cross-ownership of AM and CATV facilities would be premature. We are further of the view that a stay of this proceeding of the type ordered in Seaborn, supra, or imposition of a divestiture condition on the outcome of the CATV multiple ownership inquiry, is not warranted. Contrary to Media's assertion, Seaborn, supra, does not govern our determination in this proceeding. The result in that case, which involved the possible multiple ownership of AM and FM stations, was decided under a specific interim procedure.[13] Here we are confronted with the possible multiple ownership of CATV systems and an AM station, a situation not set forth by the Commission as one of its proposed multiple ownership rules in regard to CATV facilities,[14] and nowhere has the Commission set forth an interim policy of holding applications in abeyance or of imposing a divestiture condition[15] upon grant. Thus, in our view, further inquiry is not warranted.

THE ASSURANCE OF CONSTRUCTION ISSUE

11. Media requests an issue to determine whether Jud's failure to construct Station WJUD, a proposed independent UHF television station, raises a substantial question as to its basic qualifications. Media explains that, after receiving a construction permit for WJUD, Jud filed for additional time to construct, stating that it had believed it could affiliate with CBS, but that CBS had refused the request for affiliation and that it was thus seeking another site for its station. Media notes that Jud had not disclosed in its application for WJUD that it intended to secure a network affiliation or that this was a precondition to construction of that station. It further points out that 6 months after the requested extension, the Commission sent two letters to Jud requesting information on Jud's progress, the second letter stating that it appeared that Jud was not exercising due diligence and that its permit would be dismissed unless Jud requested reinstatement by letter. Jud did not respond. Media concludes that it is obvious that Jud sought and secured a construction permit for an independent station while its actual intent was to secure a CBS affiliation, and that failing to do so, it lost interest in the construction. This factual pattern, Media urges, raises a question as to whether Jud will construct its present AM proposal and, Media concludes, the requested issue is warranted.

12. Jud's opposition is again based upon the affidavit of Jay Sedwick. Sedwick contends that Jud had every intention of prosecuting the WJUD application and that its good faith is established by the fact that Jud expended in excess of $14,000 in connection with that proposal. Sedwick states that after the permit was granted, he personally traveled to West Palm Beach to lay the ground work for the construction and while there he learned that the prospects were poor for an independent UHF station. Because of the corporation's involvement in other operations, it was determined that Jud did not have the resources to build WJUD; it is stressed that this decision was not made before other avenues of operation were explored, e.g., to affiliate with CBS or to acquire a new site closer to Miami Beach. However, neither of these possible solutions was feasible. Sedwick maintains that it is "preposterous" to analogize constructing an AM station in Ellwood City and a television station in West Palm Beach. In the first place, the cost is much less—$100,000 to construct and operate the AM station for 1 year as compared with $800,000 to construct the television station; secondly, there will be "economies" in the operation of an AM station in Ellwood City since it is closer to Jud's area of activity. In conclusion, Sedwick assures the Commission that if Jud is awarded the construction permit it will move promptly to construct and operate the station, and therefore, it concludes, the issue is not warranted.

13. The Broadcast Bureau also opposes the request, stating that the facts as alleged by petitioner show the history of an unsuccessful attempt by a permittee to change its site rather than a loss of interest after an unsuccessful bid for an affiliation. The Bureau is not convinced that Jud sought the permit solely on the theory that it could obtain a CBS affiliation, and concludes that petitioner's attempt to hint at quasi-misrepresentation is unfounded. In reply, Media insists that in light of Jud's past history in regard to WJUD, and its assertion that it is willing to divest itself, presumably for profit, of its standard broadcast ownership in Ellwood City if later required, the Board should add this issue to determine whether or not Jud intends to construct its present proposal.

14. The Board can find no basis for the addition of the "assurance of construction" issue. Although it appears that Jud had not carefully inspected West Palm Beach as a potential UHF outlet, we agree with the Bureau that the facts show only an unsuccessful attempt to change sites, a conclusion supported, in our view, by Jud's $14,000 expenditure. We are therefore presented with no facts which would warrant calling into question the bona fides of Jud's representation that its AM proposal for Ellwood City, if granted, would be built.

THE ENGINEERING ISSUES

15. Media has requested four issues directed to the technical proposal of Jud.[16] Media first contends that, because Jud's specified MEOV's (maximum expected operating values) have not been computed, Jud's proposal does not comply with section 73.150(a)(6) of the Commission's rules, and because a change "as little as 2° in phase or 5 percent in field on just one tower of the three tower array would cause the pattern to exceed certain of the MEOV's specified," an issue is required to determine whether Jud's proposed directional antenna can be adjusted and maintained within the specified maximum expected operating values.

16. In opposition, Jud points out that Media is in error in that Jud's MEOV's

[12] In this regard, Media asserts that Jud is tacitly asking the Commission to allow it to sell its permit for profit.

[13] In Seaborn, the Commission modified the interim procedure set forth in its notice of proposed rule-making (33 F.R. 5315) and held that applicants in a comparative proceeding should complete the hearing and if a grant was to be made to the applicant who would violate the proposed one-to-a-market ownership rule, the applications were to be retained in hearing pending conclusion of the rule making proceeding.

[14] The Commission has proposed rules providing for multiple ownership of television broadcast stations and CATV systems and of CATV systems themselves, while it has only called for comments on the questions of multiple ownership of radio broadcast stations and CATV systems.

[15] If the Commission ultimately orders diverstiture in broadcast-CATV cross-ownership cases, the imposition of a condition here would be superfluous.

[16] All of Media's requests for the addition of these engineering issues are supported by the affidavit of its consulting engineer.

were based upon calculations, the calculations being made by adding −3° to the phase of the outer towers, and that § 73.150(a)(6) does not have any mandatory provisions, concerning the showing of the MEOV's or their derivation.[17] Further, Jud's consulting engineer, in rebuttal, states that the proposed pattern is a stable one in that the towers have positive operating resistances, the ratio of the RSS to the RMS of the pattern is close to unity, and the RMS decays slowly with assumed increasing loss resistance. He further states that based upon his experience, no more than ±1° and ±1 percent variations would be expected to occur in the proposed array. By calculations, he shows that the variations of such magnitude would not result in radiations exceeding the MEOV's. As to this matter, Media, in reply, declares that, with such variations, radiations over an angle of 40° would be less than the MEOV's by only 1 mv/m or less, and that, with such minimal tolerance, the critical nature of the array has been demonstrated.

17. In its comments on this question, the Bureau states that, based upon the showing made by Jud, there is no need for the issue requested. It points out that, according to the calculations of Media's engineer, a change in the center tower's field and relative phase of 2 percent and 2°, respectively, would involve excursions of radiation in excess of the MEOV along the bearing of 160°, 170°, and 180° of less than 1 mv/m, and that no showing has been made concerning the effect of parameter variations of this magnitude in two of the three towers that will constitute the proposed directional antenna system. In its reply, Media also contends that Jud has made no provisions for the cost of "a precision phase monitor capable of resolving to the high degree of accuracy proposed" for the antenna system by its engineer and that the factor of 2° used by Media represents the accuracy factor of a commonly used phase monitor, while § 73.52(b) of the rules provides for a 5 percent field variation.

18. The Board agrees with the Bureau that there is no need for the requested issue. First, although not specifically stated, Media's reply indicates that it is possible to maintain the operation of the proposed directional antenna within the accuracy proposed by Jud. See Cosmopolitan Enterprises, Inc., 15 FCC 2d 650 (1968); Virginia Broadcasters, 18 FCC 2d 92 (1969). More importantly, Media has not shown either that the array is an unusually critical one, or that the array cannot be maintained within the limits proposed by employing the usual methods of monitoring the array. The proposal is for only 250 watts with minimum radiations in the nulls of approximately 6 mv/m, slightly greater than 6 percent of the RMS of the pattern, which cannot be considered as high suppression. In addition, as shown by Jud, the array has good operating characteristics and is one which can be maintained within variations of ±1° and ±1 percent. Further, we must point out that conditional provisions are attached to all construction permits for standard broadcast stations involving directional antenna systems requiring the permittee to install a monitor sufficiently accurate to insure the maintenance of the radiated fields within the required tolerance; and the licenses are not issued until the permittees have shown that they have complied with all provisions of the construction permits. See, e.g., Cosmopolitan Enterprises, supra; WHOO Radio, Inc., 4 FCC 2d 437, 8 RR 2d 83 (1966). As to Media's contention that Jud did not make any provisions for the cost of a precision phase monitor, it is noted that the Commission has found Jud financially qualified to be a licensee, and the petitioner has not alleged that Jud is not so qualified. Thus, the requested issue is not warranted.

19. Media's next request would inquire into whether Jud's proposed transmitter site is suitable for the intended use. The petitioner points out that Jud's proposed site is in rough terrain and is not level; that the difference in elevations between the center tower and the south tower would be 40 feet; and contends that such disparities in elevation will result in problems of adjustment and maintenance of the array. In response, Jud states that the site will be leveled; that all three towers will be on level ground, as specified in its application; and that its engineering consultant has personally inspected the transmitter site and is of the view that the site can be leveled. However, Media, in its reply, argues that even with the site leveled, there will be abrupt discontinuities at the edge of the ground system to the south amounting to 60 feet, and varying amounts of uphill discontinuities on the east and northeast sides of the system; and that such discontinuities can make the adjustment of the array difficult. Media also contends, without alleging any substantiating facts, that a microwave tower located to the northeast of the site "raises a question" as to its possible reradiation which could further hamper or preclude the proper adjustment of the array. However, Jud shows in its opposition that the tower is located at a distance of 1.75 miles from the proposed array; that the incident field at the tower would be 17.1 mv/m; that the probable reradiation field would be only 0.5 mv/m at 1 mile; and that such field would be so low as to present no problem.

20. In the Board's view, because the site is to be leveled and because Media does not claim that the discontinuities adjacent to the proposed site will make adjustment of the array impossible (merely difficult) we find no reason to include an issue to explore this matter. As to the microwave tower, the Board is satisfied with Jud's showing that the effect of the tower can be ignored; indeed, Media has made no factual showing that the tower would present a problem. Moreover, in the event of a grant, Jud must conduct a complete field intensity survey to show that the station is capable of operating as proposed. Pinellas Radio Co., FCC 63R-125, 25 RR 100 (1963). In the last analysis, it appears that Media is delving into minutiae and is really questioning the degree of detail to be supplied by an applicant. We are of the opinion that the applicant has supplied sufficient information in support of its proposal.

21. Media's next requested issue involves a question of certain field intensity measurements submitted with Jud's proposal to show its compliance with section 73.37 of the rules (overlap of contours). Media contends that those measurements fail to comply with Rule 73.186 in that the name, address, and qualifications of the engineer making the measurements were not included; and that insufficient measurements were made to establish the inverse distance field intensity, and, thus, the effective soil conductivity cannot be satisfactorily determined. In response, Jud states that the measurements were "filler" measurements, made for the purpose of determining whether the measurements made by Media were correct and factual; that Media's measurements did coincide closely with Jud's as to analyses and results and that, therefore, there was no reason to question their validity. As to the engineer who made the measurements, Jud's consulting engineer declares that the measurements were made either by him or under his personal direction and supervision; and that his affidavit of May 8, 1967, attached to Jud's application, covered these measurements. The Bureau states that Media's engineer's assertion is totally lacking in specificity in that he fails to show where the deficiency is in the analysis of the measurement data and why the data cannot be relied upon to establish that the 0.5 mv/m contour of WMGM, Meadsville, Pa., falls about 8 miles short of overlapping Jud's proposed 0.5 mv/m contour.

22. In light of Jud's explanation, there is no reason to enlarge the issues in this respect. Moreover, although the Commission made no reference to those measurements in its designation order, it is clear that the Commission must have considered Jud's application in terms of section 73.37 of the rules, which section specifically provides that "no application will be accepted for a new station * * * if the proposed operation would involve overlap of signal strength contours with any other station as set forth below in this paragraph * * *." Media does not claim that there would be overlap of prohibited contours or that the Commission was in error in accepting Jud's application as being in compliance with § 73.37; thus, Media's contentions, unsubstantiated by any facts, are without merit.

23. Media, in its final request for technical issues, raises a question concerning protection of Station WTOP, Washington, D.C. Media argues that since

[17] The said subsection of the rules provides: In the event actual inverse distance field intensities expected to be determined in practice (that is, the values determined from actual measurements, particularly in sharp nulls) are different from the calculated values in subparagraphs (2) and (3) of this paragraph, the maximum expected operating values (MEOV) as well as the calculated values shall be shown on both the full patterns and the enlarged sections.

Jud did not specify any MEOV in the vertical radiation sector towards Station WTOP, and, since, as alleged by its consulting engineer, Jud's radiation pattern can depart radically from computed values in operation with minor changes in the parameters, a substantial question exists as to whether the Jud proposal would, in fact, provide the protection to which WTOP is entitled under the rules. Jud answers by pointing out that there will be a separation of 90 miles between Jud's 0.005 mv/m (MEOV) and WTOP's 0.1 mv/m contour; that the maximum permissible daytime skywave radiation toward WTOP is 98 mv/m; that the highest proposed radiation is 7.8 mv/m at ground level; and that there is no possibility of a violation of § 73.37 of the rules.

24. The allegation is utterly without merit. Examination of Jud's application would have disclosed that Jud's consulting engineer had stated therein that protection would be afforded to WTOP; that the lowest maximum permissible radiation towards WTOP at N. 130° E. is 98.4 mv/m, a value in excess of the proposed RMS field of the pattern; that the MEOV proposed at this bearing on the ground is 11.9 mv/m; and that the vertical radiation pattern along this bearing has no high angle radiation. None of these facts have been challenged by Media. Thus, it is incomprehensible how, without alleging substantiating facts worthy of consideration, petitioner could, in good faith, allege that there is a serious question raised concerning the protection of WTOP. As noted above, the proposal, operating nondirectionally with 250 watts, would not radiate along the ground a signal in excess of 98 mv/m toward WTOP, the maximum permissible radiation toward WTOP.

25. *Accordingly, it is ordered,* That the petition to enlarge issues, filed January 8, 1970, by Media, Inc., is granted to the extent indicated above, and is denied in all other respects;

26. *It is further ordered,* That the issues will be enlarged to include the following issue: To determine whether Jud, Inc., failed to amend its application as required by section 1.65 of the Commission's rules; and, if so, to determine the effect thereof upon the applicant's qualifications to be a Commission licensee; and

27. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issue added herein shall be upon Media, Inc., and the burden of proof thereunder shall be upon the applicant.

Adopted: May 1, 1970.

Released: May 5, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[18]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-5611; Filed, May 6, 1970; 8:49 a.m.]

[18] Board member Berkemeyer, not participating; Board member Kessler absent.

[Docket Nos. 18845-18849; FCC 70-462]

LAMAR LIFE BROADCASTING CO. ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Lamar Life Broadcasting Co., Jackson, Miss., Docket No. 18845, Files Nos. BPCT-4320, BRCT-326; Civic Communications Corp., Jackson, Miss., Docket No. 18846, File No. BPCT-4305; Dixie National Broadcasting Corp., Jackson, Miss., Docket No. 18847, File No. BPCT-4317; Jackson Television, Inc., Jackson, Miss., Docket No. 18848, File No. BPCT-4318; Channel 3, Inc., Jackson, Miss., Docket No. 18849, File No. BPCT-4319; for a construction permit.

1. Now under consideration are the captioned applications, each requesting a construction permit for a new commercial television broadcast station to operate on channel 3, Jackson, Miss.

2. Lamar Life Broadcasting Co. (Lamar) also has pending an application (BPCT-4321) for a construction permit for auxiliary antenna and transmitter. That application will be acted upon by the staff subsequent to our final disposition of the basic construction permit. To assure that Lamar competes "* * * on even terms as nearly may be, with any other applicant," United Church of Christ v. FCC, Case No. 19,409, order denying rehearing, p. 2, we wish to make clear that Lamar will be judged on its basic application (BPCT-4320). The grant or denial of the pending renewal application (BRCT-326) for station WLBT(TV) will rest on the determination made with respect to BPCT-4320. In accordance with the Court's above described direction, no preference will be based on the Lamar WLBT(TV) past record, since to do so would be preferential to Lamar, the only applicant which would have had the opportunity to obtain a preference in this respect. The past record of the Lamar WLBT(TV) operation can of course be examined for defects significant to the pubic interest judgment, with Lamar afforded the full opportunity to establish in rebuttal that its operation does not warrant any demerit. In all other respects (e.g., the operation of WJDX (AM and FM) to the extent appropriate)), the Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393 (1965), is applicable. As previously stated, the recent Policy Statement on Comparative Hearings Involving Regular Renewal Applicants, 35 F.R. 822 (1970), is inapplicable to this proceeding.

3. Lamar's parent corporation is the licensee of broadcast stations WJDX (AM) and WJDX-FM, Jackson, Miss. The parent has stated that in the event its subsidiary's applications are granted, it will divest itself of the two radio stations. Thus, we need not address ourselves to the question of whether the subsidiary, Lamar, is to be considered a new applicant for the purposes of the First Report and Order in Docket No. 18110, FCC 70-310, pertaining to cross ownership of broadcast stations in the same market. We will provide, however, that in the event of a grant of Lamar's application, the grant will be made subject to the condition that its parent file applications to divest its interests in stations WJDX(AM) and WJDX-FM as soon as possible after the grant becomes final, in no event later than 6 months after the grant becomes final.

4. Mr. Theodore M. Wrobel, executive vice president and 10 percent shareholder of Jackson Television, Inc., is assistant to the president of LIN Broadcasting Corp. LIN has interests in various CATV systems. Since the Commission is conducting inquiries pertaining to ownership of CATV systems and broadcast stations in Docket No. 17371, 7 FCC 2d 853 (1967), and in Docket No. 18397, 15 FCC 25 417 (1968), in the event of a grant of its application, the grant will be made without prejudice to whatever action the Commission may deem appropriate as a result of those pending proceedings.

5. The transmitters proposed by Jackson Television, Inc., and by Channel 3, Inc., have not been type accepted. Therefore, in the event either of these applications is granted, the grant will be made subject to the condition that acceptable data be submitted with the license application for type acceptance in accordance with § 73.640 of the rules.

6. The antenna structures proposed by Dixie National Broadcasting Corp., Jackson Television, Inc., and Channel 3, Inc., have not been approved by the Federal Aviation Administration. Therefore, an air menace issue has been specified with respect to their applications and the FAA will be made a party to the proceeding.

7. In our Notice of Inquiry in Docket No. 18774, 20 FCC 2d 880 (1969), we set forth tentative standards concerning the ascertainment of community problems by broadcast applicants. We find that all applicants have satisfactorily complied with those standards.

8. Mr. James R. Searer, executive vice-president, director and 10 percent shareholder of Channel 3, Inc., is also a principal of Channel 41, Inc., applicant (BPCT-4285) for a construction permit for a new commercial television broadcast station to operate on Channel 41, Battle Creek, Mich. Channel 41, Inc., has filed an opposition to an application of West Michigan Telecasters, Inc., for changes in the authorized facilities of television broadcast station WZZM-TV, Channel 13, Grand Rapids, Mich. That proceeding appears to be restricted within the meaning of section 1.1203(b)(1) of the rules. In a letter to the Executive Director dated March 3, 1970, counsel for West Michigan Telecasters, Inc., alleged that Channel 41, Inc., and Mr. Searer, have solicited ex parte presentations contrary to § 1.1225(a) of the Commission's rules.[1] This matter is in the early stages of inquiry, and Mr. Searer

[1] The letter and related materials are now associated with Channel 41, Inc.'s application (BPCT-4285).

and Channel 41, Inc., have not had the opportunity to respond to the allegations. It would be inappropriate, therefore, to take any action with respect to the matter at this time. Rather than delay the designation of the present applications until an inquiry can be completed, we note the possible problem at this point. The Broadcast Bureau or other party to the proceeding can raise the question in a petition to enlarge issues, if appropriate in view of the response to the allegations.

9. Mr. Aaron E. Henry, chairman of the board and 9.1 percent shareholder of Civic Communications Corp., has been involved in a criminal proceeding since 1962. The case has been to the Mississippi Supreme Court and the U.S. Supreme Court three times, and is now before the U.S. District Court for the Northern District of Mississippi in a habeas corpus proceeding. Therefore, in the event of a grant of the application of Civic Communications Corp., the grant will be subject to the condition that it is without prejudice to whatever action the Commission may deem appropriate as a result of the outcome of that proceeding.

10. Lamar states that it has based its projections of operating expenses and revenues on the Form 324's it submitted for 1967 and 1968, and upon unaudited figures for 1969. Pursuant to instruction E, FCC Form 301, Dixie National Broadcasting Corp. (Dixie) has requested that the 1967–9 Form 324's submitted by Lamar for Station WLBT be made available. Instruction E provides generally that where information already on file with the Commission is incorporated by reference, that information, confidential or otherwise, is considered part of the public file. We believe that Lamar's references to its Form 324's for 1967 and 1968 constitute incorporation by reference. Accordingly, we will order that these forms be made available for public inspection. However, on the facts presented, we do not construe incorporation by reference to include documents to be filed at some future date. To hold otherwise would be to extend for an indefinite period public disclosure of information normally considered confidential. Therefore, the request for Lamar's 1969 Form 324 will be denied. However, we note that Dixie has not indicated that the information contained in the 1969 Form 324 is essential to it. If Dixie believes that this information is required, it is free to submit an appropriate showing to the Hearing Examiner.

11. In an amendment submitted April 28, 1970, Civic Communications Corp. (Civic) has changed its financial proposal. Part of that amendment involves changed terms as to the credit supplied by the equipment supplier. While Civic has stated the terms of credit, it has failed to submit a copy of the agreement, as required by paragraph 4(h), FCC Form 301. If the terms are as Civic states them to be, it is financially qualified. Therefore, we find Civic financially qualified, subject to the requirement that it submit an appropriate letter of credit within fifteen (15) days of the release of this order.

12. Except as indicated by the issue set forth below, each of the applicants is legally, financially, technically, and otherwise qualified to construct, own and operate the proposed new television broadcast station. The applications are, however, mutually exclusive in that simultaneous operation by each of the applicants as proposed would result in mutually destructive interference. We are, therefore, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, an dnecessity, and conclude that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

13. *Accordingly, it is ordered*, That, pursuant to section 309(d) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine with respect to the applications of Dixie National Broadcasting Corp., Jackson Television, Inc., and Channel 3, Inc., whether there is a reasonable possibility that the respective tower heights and locations proposed would constitute a menace to air navigation.

(2) To determine which of the proposals would best serve the public interest.

(3) To determine, in light of the evidence adduced pursuant to the above issues, which of the applications should be granted.

14. *It is further ordered*, That in the event of a grant of the applications of Lamar Life Broadcasting Co., such grant will be made subject to the following condition: Lamar Life Insurance Co. shall file applications to divest itself of its interests in broadcast stations WJDX (AM) and WJDX–FM, Jackson, Miss., as soon as possible after a grant of the present applications becomes final, in no event later than 6 months after the grant becomes final.

15. *It is further ordered*, That in the event of a grant of the application of Jackson Television, Inc., such grant shall be made subject to the following condition: The grant of this application is without prejudice to whatever action the Commission may deem appropriate as a result of the pending proceedings in Dockets Nos. 17371 and 18397.

16. *It is further ordered*, That in the event of a grant of the application of either Jackson Television, Inc., or Channel 3, Inc., such grant shall be subject to the following condition: The transmitter specified herein has not been type accepted. Accordingly, acceptable data shall be submitted with the license application for type acceptance in accordance with the requirements of § 73.640 of the rules.

17. *It is further ordered*, That in the event of a grant of the application of Civic Communications Corp., the grant shall be subject to the following condition: The grant of this application is without prejudice to whatever action the Commission may deem appropriate as a result of the pending criminal proceeding involving Mr. Aaron E. Henry in the U.S. District Court for the Northern District of Mississippi.

18. *It is further ordered*, That the Federal Aviation Administration is made a party to this proceeding with respect to the applications of Dixie National Broadcasting Corp., Jackson Television, Inc., and Channel 3, Inc.

19. *It is further ordered*, That the 1967 and 1968 Form 324's filed by Lamar Life Broadcasting Co. for station WLBT are available for public inspection.

20. *It is further ordered*, That, to avail themselves of the opportunity to be heard, pursuant to § 1.221(c) of the Commission's rules the applicants, in person or by attorney, shall file with the Commission within twenty (20) days of the mailing of this order, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issues specified in this order.

21. *It is further ordered*, That, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in that rule, and shall advise the Commission of the publication of the notice as required by § 1.594(g) of the rules.

Adopted: April 29, 1970.

Released: May 4, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]

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

[F.R. Doc. 70-5612; Filed, May 6, 1970; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[811-203]

MASSACHUSETTS INVESTORS TRUST

Notice of Filing of Application for an Order Exempting a Sale by an Open-End Company of Its Securities at Other Than Public Offering Price

MAY 1, 1970.

Notice is hereby given that Massachusetts Investors Trust (applicant) 200 Berkeley Street, Boston, Mass. 02116, a common law trust registered under the Investment Company Act of 1940 ("Act") 15 U.S.C. Sec. 80a–1 et seq., as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all of the assets of C–R,

[2] Commissioner Bentley absent.

Inc. (C–R). All interested persons are referred to the application on file with the Commission for a statement of applicant's representations which are summarized below.

C–R, an Ohio corporation, is a personal holding company, all of whose outstanding stock is owned by not more than 15 stockholders, and is thus exempted from the definition of an investment company by reason of the provisions of section 3(c)(1) of the Act. Pursuant to an agreement between applicant and C–R, assets owned by C–R, with a value of approximately $1,254,950 as of February 4, 1970, will be transferred to applicant in exchange for shares of Applicant's stock.

The number of shares of applicant to be issued to C–R is to be determined by dividing the aggregate market value of the assets of C–R (subject to certain adjustments set forth in the application) to be transferred to Applicant by the net asset value per share of applicant (as defined in the agreement, both to be determined as of the valuation time.) If the valuation in the agreement had taken place on February 4, 1970, no adjustment would have been required.

When received by C–R, the shares of the applicant are to be distributed to the C–R shareholders upon the liquidation of C–R. Applicant has been advised by the management of C–R that the stockholders of C–R do not have any present intention of distributing the shares of applicant to be received on such liquidation following the sale of assets transactions or redeeming any substantial numbers thereof. Applicant does presently intend to sell a portion of the securities acquired from C–R subsequent to their acquisition as set out in the application.

Applicant represents that no affiliation exists between C–R, or any director or stockholder thereof, and applicant; and that the agreement was negotiated at arm's-length by the principals of both corporations.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act other than section 22(d) and submits that the granting of the application would be in accordance with established practice of the Commission, is necessary and appropriate in the public interest and consistent with the protectors of the investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 20, 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 fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon such 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. 70–5603; Filed, May 6, 1970; 8:48 a.m.]

[812–2685]

BROAD STREET INVESTING CORP.

Notice of Filing of Application for an Order Exempting Sale by Open-end Company of Its Shares at Other Than the Public Offering Price

MAY 1, 1970.

Notice is hereby given that Broad Street Investing Corp. (applicant), 65 Broadway, New York, N.Y. 10006, a Maryland corporation registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus, in exchange for the assets of Watson, Flagg Engineering Co. (Watson). All interested persons are referred to the application on file with the Commission for a statement of applicant's representations which are summarized below.

Watson, a New Jersey corporation, is a company all of the outstanding stock of which is owned beneficially by nine persons, and is primarily engaged in investing, reinvesting and trading in securities. Applicant asserts that Watson is excepted from the definition of an investment company by reason of the provisions of section 3(c)(1) of the Act. Prior to 1964 Watson was engaged as an electrical contracting firm and in that year sold or otherwise disposed of substantially all of its assets and business. Since that date it has been engaged primarily in the business of investing and reinvesting its funds. Pursuant to an agreement between applicant and Watson, substantially all of the cash and securities owned by Watson, with a value of approximately $2,300,000 as of October 31, 1969, will be transferred to applicant in exchange for shares of its capital stock. The number of shares of applicant to be issued is to be determined by dividing the aggregate market value (with certain adjustments as set forth in the application) of the assets of Watson to be transferred to applicant as of valuation time, as defined in the agreement.

Since the exchange is expected to be tax free for Watson and its stockholders, applicant's cost-basis for tax purposes for the assets acquired from Watson will be the same as Watson's cost-basis, rather than the price actually paid by applicant for the assets. If the valuation under the agreement had taken place on October 31, 1969, Watson would have received 152,670 shares of applicant's stock.

When received by Watson, the shares of applicant, which are registered under the Securities Act of 1933, are to be distributed to the Watson stockholders on the liquidation of Watson. Applicant has been advised by the management of Watson that the stockholders of Watson have no present intention of redeeming or otherwise transferring any of applicant's shares following the proposed transaction.

The applicant represents that no affiliation exists between Watson or its officers, directors or stockholders and applicant, its officers or directors, and the agreement was negotiated at arm's length by the two companies. Applicant's board of directors approved the agreement as being in the best interests of its shareholders, taking all relevant considerations into account, including, among other things, the fact that the securities will be obtained without the payment of brokerage commissions.

Section 22(d) of the Act provides that registered investment companies issuing redeemable securities may sell their shares only at the current public offering price as described in the prospectus. The exchange contemplated by the agreement would be prohibited by section 22(d) as being a sale of a redeemable security by a registered investment company at a price other than a current offering price described in the prospectus, unless exempted by an order under section 6(c) of the Act. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application would be in accordance with the established practice of the Commission, is necessary and appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 20, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon 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.*

[FR. Doc. 70-5604; Filed, May 6, 1970; 8:48 a.m.]

[70-4877]

COLUMBIA GAS SYSTEM, INC., ET AL.

Notice of Proposed Intrasystem Transfer of Utility Assets

MAY 1, 1970.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), 120 East 41st Street, New York, N.Y. 10017), a registered holding company, and two of its wholly owned gas utility subsidiary companies, Cumberland and Allegheny Gas Co. (C&A) and The Manufacturers Light and Heat Co. (Manufacturers), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, and 12 of the Act and Rules 42, 43, 44, and 45 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Manufacturers is engaged in the production, purchase, transmission, storage, and wholesale sales of natural gas in Pennsylvania, Ohio, and West Virginia and the retail sale of natural gas in nothern West Virginia. C&A is engaged in the production, purchase, and transmission of natural gas in West Virginia and Maryland, in the wholesale sale of natural gas in Maryland to its single wholesale customer, Columbia Gas of Maryland, Inc. ("Columbia of Maryland"), a wholly owned subsidiary company of Columbia, and the retail sale of natural gas in north-central West Virginia.

C&A, whose facilities consist of over 300 miles of pipeline, serving approximately 16,600 widely-scattered retail customers adjacent to its main transmission line, proposes to sell to Manufacturers the northern segment of its transmission facilities in West Virginia and its transmission and production facilities in Maryland. C&A will continue to serve its retail customers in West Virignia and will operate the southern portion of its production and transmission facilities in West Virginia. Manufacturers will operate the northern segment of the transmission facilities located in West Virginia and Maryland together with the production facilities in Maryland. Manufacturers will supply gas to C&A at wholesale to enable C&A to meet the market requirements of the northern West Virginia segment of C&A's retail market, and Manufacturers will assume C&A's wholesale delivery obligation to Columbia of Maryland.

The price of the C&A facilities will be the net original cost of the facilities on the closing date, which amount as of October 31, 1969, was $3,478,000. Manufacturers will assume C&A obligations which are attributable to the acquired C&A assets and will also assume outstanding C&A notes (other than 6% demand notes) in an aggregate principal amount (increased to the next higher $1,000) equal to the debt ratio of C&A at the closing date multiplied by the net of (i) the aggregate book value of the acquired assets less (ii) the aggregate amount of obligations assumed by Manufacturers exclusive of the notes to be assumed.

Manufacturers will issue to C&A shares of Manufacturers common stock having a net book value equal to the net amount of the C&A assets transferred less the aggregate amount of C&A obligations and notes assumed by Manufacturers. C&A will then transfer the Manufacturers common stock to Columbia in exchange for C&A common stock having an equal aggregate par value, which it will retire.

It is stated that the proposed transfer of assets (1) will provide Manufacturers' lower-priced gas to Columbia of Maryland in lieu of the higher-priced gas from C&A, (2) will obviate the necessity for C&A to construct or operate any additional facilities, and (3) will result in a favorable incremental rate of return for Manufacturers. It is further stated that absent approval of the proposed transaction, it will be necessary for C&A to replace 71 miles of the pipeline between Keyser, West Virginia and Lewis County, West Virginia at an estimated cost of $4,800,000. C&A will be able to abandon 33.5 miles of its transmission line with resultant savings in operation and maintenance expense, and, furthermore, the 37.5 miles of C&A's transmission line which will be sold to Manufacturers need not be replaced as Manufacturers will operate this portion of the line at substantially lower pressures.

The Federal Power Commission has authorized the proposed sale and acquisition of utility assets and related matters. It is represented that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment.

Notice is further given that any interested person may, not later than May 21, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70-5605; Filed, May 6, 1970; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 42]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

MAY 1, 1970.

The following applications are governed by Special Rule 247[1] of the Commission's General rules of practice (49 CFR 1100.247 as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonably compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 263 (Sub-No. 196), filed April 16, 1970. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, Idaho 83201. Applicant's representative: Wayne S. Green (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving the plantsite of J. R. Simplot Co. near Orchard, Idaho, as an off-route point in connection with applicant's authorized regular route operations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 19105 (Sub-No. 28), filed April 14, 1970. Applicant: FORBES TRANSFER COMPANY, INC., Post Office Box 3544, South Goldsboro Street Extension, Wilson, N.C. 27893. Applicant's representative: Morton E. Keil, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from points in the New York, N.Y., commercial zone, to points in North Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 25798 (Sub-No. 213), filed April 14, 1970. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Lafayette, Ind., to points in Arkansas, Florida, Louisiana, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 29613 (Sub-No. 6) (Amendment), filed December 8, 1969, published FEDERAL REGISTER issues of January 15, 1970, and March 12, 1970, amended April 14, 1970, and republished as amended this issue. Applicant: JAYNE'S MOTOR FREIGHT, INC., 860 North Avenue East, Elizabeth, N.J. 07201. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in the township of Southampton, N.J., on the one hand, and, on the other, points in New Jersey on and north of New Jersey Highway 70, including Camden, N.J., and (2) between points in the township of Southampton, N.J., on the one hand, and, on the other, points in New Jersey on and south of New Jersey Highway 70, including Camden, N.J. NOTE: Common control may be involved. Applicant states that it proposes to tack (1) and (2) above. The purpose of this republication is to add Camden, N.J., in (1) and (2) above. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 29990 (Sub-No. 8), filed April 6, 1970. Applicant: BADGER LINES, INC., 3109 West Lisbon Avenue, Milwaukee, Wis. 53208. Applicant's representative: Philip H. Porter, 121 South Pinckney Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Sheboygan and La Crosse, Wis., to points in Cook, Kane, Lake, McHenry, and Will Counties, Ill., with *empty containers* and *rejected shipments* on return; under contract with Blue Ribbon Products Co., Geneva Bottling Works, Inc., Kapella Distributing Co., Rezich & Rezich, and Chas. Herdrich & Son. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Madison, Wis., or Chicago, Ill.

No. MC 34689 (Sub-No. 13) (Amendment), filed December 8, 1969, published in the FEDERAL REGISTER issue of January 22, 1970, amended April 17, 1970, and republished as amended, this issue. Applicant: H. MAYNARD GOULD CO., a Massachusetts Trust, Union Street, East Walpole, Mass. 02032. Applicant's representative: Francis E. Barrett, Jr., Investors Building, 536 Granite Street, Braintree, Mass. 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products* from Mansfield, Mass., to Boston, Mass., and points in Connecticut, Rhode Island, Vermont, New Hampshire, New York (except New York, N.Y., and Nassau, and Suffolk Counties, N.Y.) and points in York, Cumberland, Oxford, Androscoggin, Sagadahoc, Franklin, Kennebec, Waldo, Lincoln, Knox, Penobscot, Hancock, and Somerset Counties, Maine, and (2) *paper products and waste paper*, from Waterville, Maine, to Mansfield, Mass. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract authority under MC

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

43251, therefore dual operations may be involved. The purpose of this republication is to substitute Mansfield, Mass., as an origin and destination point in lieu of Walpole, Mass. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 42487 (Sub-No. 741), filed April 1, 1970. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representatives: V. R. Oldenburg, Post Office Box 5138, Chicago, Ill. 60680 and E. T. Liipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, green hides, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Erie County, Pa., as intermediate or off-route points in connection with carriers presently held regular route operations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Erie, Pa., or Buffalo, N.Y.

No. MC 58902 (Sub-No. 15), filed February 6, 1970. Applicant: MANLEY TRANSFER COMPANY, INC., 312 North Santa Fe, Chanute, Kans. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (a) Between Chanute, Kans., and junction U.S. Highways 169 and 160; from Chanute, Kans., over U.S. Highway 39 to junction U.S. Highway 75, thence over U.S. Highway 75 to Independence, Kans., thence over U.S. Highway 160 to junction U.S. Highway 169, and return over the same route, serving all intermediate points and junction U.S. Highway 160 and U.S. Highway 169 as a point of joinder with applicant's and otherwise-authorized service routes; (b) between Chanute, Kans., and junction of U.S. Highways 160 and 169, from Chanute, Kans., over Kansas Highway 39 to junction U.S. Highway 59, thence over U.S. Highway 59 to Parsons, Kans., thence over U.S. Highway 160 to junction U.S. Highway 69 and return over the same route, serving all intermediate points and junction U.S. Highway 160 and U.S. Highway 69 as a point of joinder with carrier's otherwise-authorized service routes; (c) between Parsons and Crestline, Kans.: From Parsons, Kans., over U.S. Highway 59 to Oswego, Kans., thence over U.S. Highway 96 to Crestline, Kans., and return over the same route, serving all intermediate points; (d) between Oswego and Chetopa, Kans.: From Oswego, over U.S. Highway 69 to Chetopa, Kans., and return over the same route; and (e) between Neodesha and Parsons, Kans.: From Neodesha, over U.S. Highway 75 to junction Kansas Highway 37, thence over Kansas Highway 37 to junction U.S. Highway 160, thence over U.S. Highway 160 to Parsons, Kans., and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 61592 (Sub-No. 173), filed April 7, 1970. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52822. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesive cement and materials, ingredients, and accessories* used in the installation thereof from points in Wayne County, Mich., to points in Minnesota, Wisconsin, Illinois, Iowa, Nebraska, North Dakota, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 67818 (Sub-No. 83), filed April 14, 1970. Applicant: MICHIGAN EXPRESS, INC., 1122 Freeman Avenue, SW., Grand Rapids, Mich. 49502. Applicant's representative: J. M. Neath, Jr., 900 One Vanderberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value), *classes A and B explosives*, household goods as defined by the Commission, *commodities* in bulk, and those requiring special equipment, serving Whitehall and Montague, Mich., as off-route points in connection with carrier's regular authorized service at Muskegon, Mich. NOTE: Applicant states that authority can be tacked at Muskegon, Mich., to various authorized points of carrier. If a hearing is deemed necessary, applicant requests it be held at Lansing, or Detroit, Mich.

No. MC 73165 (Sub-No. 282), filed April 13, 1970. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 1348, Birmingham, Ala. 35201. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between points in Belmont County, Ohio, points in Hancock, Brooke, Ohio, Marshall, Cabell, Wayne Counties, W. Va., Greenville, Miss., and Baton Rouge, La. NOTE: Applicant states that the authority can be tacked with existing authority in MC 73165 and subs at points in West Virginia, Mississippi, and Louisiana. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 78687 (Sub-No. 27), filed April 14, 1970. Applicant: LOTT MOTOR LINES, INC., Routes 6 and 92, Rural Delivery 4, Tunkhannock, Pa. 18657. Applicant's representative: E. Stephen Heisley, 705 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Silver Springs, N.Y., to points in New Jersey and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant has contract carrier authority in MC 2505, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 82063 (Sub-No. 28), filed April 24, 1970. Applicant: KLIPSCH HAULING CO., a corporation, 119 East Loughborough, St. Louis, Mo. 63111. Applicant's representative: Ernest A. Brooks, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from the terminal and storage facilities of Williams Brothers Pipeline Terminal located at Kansas City, Kans., to points in Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 83539 (Sub-No. 273) (amendment), filed February 16, 1970, published FEDERAL REGISTER, issue of March 12, 1970, and republished as amended this issue. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Post Office Box 5976, Dallas, Tex. 75222. Applicant's representatives: Kenneth Weeks (same address as applicant) and Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, because of their size or weight, requires the use of special equipment, and *related machinery parts and related contractor's materials* and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported on trailers), between points in California and Utah, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that it can and does presently serve the entire eastern area herein

involved (except Maine, New Hampshire, and Vermont), through its wholly owned affiliate C & H Freightways, by traversing Arizona. The purpose of this application is to eliminate circuitous operations or effect a more economical operation by being permitted to operate over a more direct and short line route. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Washington, D.C.

No. MC 94265 (Sub-No. 235), filed April 10, 1970. Applicant: BONNEY MOTOR EXPRESS, INC., 512 South Military Highway, Norfolk, Va. 23502. Applicant's representative: Harry C. Ames, Jr., 666 11th Street NW., Suite 706, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C, appendix 1, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the plantsite and/or cold storage facilities of Wilson Sinclair Co., located at or near Logansport, Ind., to points in Delaware, New Jersey, New York, Pennsylvania, and Connecticut; restricted to traffic originating at the above-specified plant or cold storage sites and destined to the above destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 105671 (Sub-No. 5), filed April 14, 1970. Applicant: THE McFARLAND & STAMPLE TRUCKING COMPANY, a corporation, 1008 Dixwell Avenue, Hamden, Conn. 06514. Applicant's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, Conn. 06117. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newark, N.J., to Bristol, Conn., under a continuing contract or contracts with W. H. Cawley Co. and P. Ballantine & Sons. NOTE: Applicant holds common carrier authority under Docket No. MC 10951, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn. or Newark, N.J.

No. MC 105765 (Sub-No. 3), filed February 19, 1970. Applicant: THE AHNAPEE AND WESTERN RAILWAY COMPANY, a corporation, 2148 Shawano Avenue, Post Office Box 3630, Green Bay, Wis. 54303. Applicant's representative: C. H. Johns, 2000 Massachusetts Avenue, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (1) Between Green Bay and Sturgeon Bay, Wis., over Wisconsin Highway 57; (2) between junction Wisconsin Highways 57 and 42 and Algoma, Wis., over Wisconsin Highway 42; (3) between Casco, Wis., and junction Kewaunee Trunk Highway A and Kewaunee Trunk Highway C, over Kewaunee Trunk Highway C; and (4) between Luxemburg, Wis., and junction Kewaunee Trunk Highway C and Kewaunee Trunk Highway A, over Kewaunee Trunk Highway A, serving all intermediate points on the above-specified routes. NOTE: If a hearing is deemed necessary, applicant requests it be held at Green Bay or Milwaukee, Wis., or Chicago, Ill.

No. MC 107227 (Sub-No. 115), filed April 14, 1970. Applicant: INSURED TRANSPORTERS, INC., 1944 Williams Street, San Leandro, Calif. 94577. Applicant's representative: John G. Lyons, 1418 Mills Tower, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks and chassis*, in initial movements, in driveaway and truckaway service, and *bodies, cabs and accessories* for such vehicles when moving in connection therewith, from Dallas, Tex., to points in the United States including Alaska, but excluding Hawaii. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 107295 (Sub-No. 366), filed April 10, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building component parts, sheet metal work, ventilators and ventilator systems, fans, louvers, blowers, plastic articles and accessories* when shipped therewith, from Kokomo, Ind., to points in Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, Illinois, Wisconsin, Michigan, Indiana, Ohio, Alabama, Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia, District of Columbia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, Vermont, New Hampshire, and Maine. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 107295 (Sub-No. 367), filed April 16, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products*, from Grand Rapids, Mich., to points in Ohio, Indiana, Kentucky, Illinois, Iowa, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111375 (Sub-No. 35), filed April 7, 1970. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., 3567 East Bernard Avenue, Cudahy, Wis. 53110. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned, preserved, and prepared foods* (except commodities in bulk) in mechanically refrigerated vehicles, from Archbold, Ohio, to points in Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113267 (Sub-No. 234), filed April 7, 1970. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, Ill. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, in tanks vehicles), from the plantsite of Oscar Mayer & Co. at Davenport, Iowa, to points in Louisiana and Mississippi, and to Memphis, Tenn., restricted to traffic originating at the above-described plantsite and warehouse facilities and destined to points in the above named destination States. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 113651 (Sub-No. 134), filed April 14, 1970. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. 47303. Applicant's representative: Henry A. Dillon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicle), from (a) the plantsite and cold storage facilities utilized by Oscar Mayer & Co. at Davenport, Iowa, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and District of Columbia; (b) from cold storage facilities utilized by Oscar Mayer & Co. at Des Moines, Iowa, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia, and District of Columbia; (c) from the plantsite of Oscar Mayer & Co. at Perry, Iowa, to points in Connecticut, Delaware, Rhode Island, and District of Columbia; the following restriction applies to all the above applications. Restriction: Restricted to traffic originating at the above-named plantsites and storage facilities utilized by Oscar Mayer & Co. and destined to the above-specified points. NOTE: Applicant states that the requested authority cannot be

tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 113828 (Sub-No. 174), filed April 13, 1970. Applicant: O'BOYLE TANK LINES, INCORPORATED, 4848 Cordell Avenue, Washington, D.C. 20014. Applicant's representatives: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006 and John F. Grimm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Barberton, Ohio, to West Norfolk, Va. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113855 (Sub-No. 220), filed April 15, 1970. Applicant: INTERNATIONAL TRANSPORT, INC., South Highway 52, Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation systems and parts* for irrigation systems, from points in Holt County, Nebr., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Colorado, New Mexico, North Dakota, South Dakota, Kansas, Iowa, Oklahoma, Texas, Minnesota, Missouri, Arkansas, Wisconsin, Illinois, Tennessee, Mississippi, Louisiana, Alabama, Georgia, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 116077 (Sub-No. 293), filed April 2, 1970. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Pat H. Robertson, Suite 401, First National Life Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from De Ridder, La., to points in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority in MC 116077, however applicant states, it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at New Orleans or Lafayette, La.

No. MC 116402 (Sub-No. 2), filed April 10, 1970. Applicant: R. C. MEYERS, doing business as MEYERS TRANSFER & STORAGE COMPANY, 321 Taylor Street, Magnolia, Ark. 71753. Applicant's representative: Robert J. Gallagher, The Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Columbia, Union, Lafayette, Quachita, Calhoun, Bradley, Cleveland, Lincoln, Drew, Ashley, Desha, and Chicot Counties, Ark. Restriction: The service authorized herein is restricted to the transportation of traffic having a prior or subsequent movement, in containers beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 117765 (Sub-No. 100), filed April 14, 1970. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest 5th, Post Office Box 75267, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in bulk, from Hutchinson and Lyons, Kans., to St. Louis, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Kansas City, Mo.

No. MC 117940 (Sub-No. 19), filed April 13, 1970. NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, Minn. 55359. Applicant's representative: M. James Levitus (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foodstuffs*, from St. James and Madelia, Minn., to points in Connecticut, Delaware, Maryland, New York, Ohio, and Pennsylvania. NOTE: Applicant presently holds contract carrier authority under its permit No. MC 114789 and subs, therefore dual operations may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 118142 (Sub-No. 34), filed April 2, 1970. Applicant: M. BRUENGER & CO., INC., 6330 North Broadway, Wichita, Kans. 67219. Applicant's representative: James Miller, 6415 Willow Lane, Kansas City, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Wichita, Kans., to Salt Lake City, Utah; Portland, Eugene, and Salem, Oreg.; and Spokane, Seattle, Richland, and Tacoma, Wash. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans.

No. MC 118561 (Sub-No. 15), filed April 16, 1970. Applicant: HERBERT B. FULLER, doing business as FULLER TRANSFER COMPANY, 212 East Street, Maryville, Tenn. 37801. Applicant's representative: Harold Seligman, 1704 Parkway Towers, Nashville, Tenn. 37801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plantsite of Oscar Mayer & Co. at or near Goodlettsville, Tenn., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Virginia, West Virginia, and Arkansas. NOTE: Applicant states it proposes to operate the authority sought in conjunction with its existing authority where such operations might be feasible. If a hearing is deemed necessary, applicant requests it be held at Nashville, or Knoxville, Tenn.

No. MC 119777 (Sub-No. 176), filed April 9, 1970. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated or untreated post, poles, piling, timbers, cross arms, ties, and lumber*, from Jackson, Tenn., to points in Delaware, Iowa, Kansas, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 126970 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 119777 (Sub-No. 177), filed April 7, 1970. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, 213 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Plastic and plastic foam insulation and liquids, asbestos products, asbestos wallboard insulations, asbestos insulations felted and fabricated asbestos packings and gasketing, and stainless steel sinks*, from Bloomington, Ill., to points in the United States, including Alaska and Hawaii. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under its permit MC 126970 Sub 1 and other subs, therefore dual operation may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Frankfort, Ky., or Indianapolis, Ind.

No. MC 119908 (Sub-No. 8), filed March 19, 1970. Applicant: WESTERN LINES, INC., 3523 North McCarty, Post Office Box 1145, Houston, Tex. 77001. Applicant's representative: William P. Sullivan, Federal Bar Building, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry manufactured fertilizer*, in bulk and in bags, from Luling, La., and points within 5 miles thereof, to points in Kansas, Oklahoma, Texas, New Mexico, Missouri (except St. Louis), and Arkansas (except points on U.S. Highway 61); (2) *Dry fertilizer*, in bags and in bulk, from Houston, Tex., to points in Louisiana (except Shreveport, La.); (3) *dry manufactured fertilizer*, from St. Francis, Tex., to points in Iowa, Kansas, Missouri, Nebraska, and Oklahoma; and (4) *petroleum products*, in containers, from Kansas City, Kans., to points in Texas on and west of U.S. Highway 281; and *damaged and defective shipments of petroleum products, and empty containers*, on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states the purpose of the instant application is to convert its presently authorized contract carrier permit MC 110814 and subs thereunder to common carrier authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or New Orleans, La.

No. MC 121318 (Sub-No. 9) (Amendment), filed March 16, 1970, published in FEDERAL REGISTER issue of April 9, 1970, amended April 10, 1970, and republished, as amended, this issue. Applicant YOURGA TRUCKING, INC., 104 Church Street, Wheatland, Pa. 16161. Applicant's representative: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles and commodities* used in the production, assembly, and distribution of iron and steel articles, between Sharon and Wheatland, Pa., on the one hand, and, on the other, points in New York and New Jersey. NOTE: Applicant states that it would tack the authority sought with its present authority in MC 121318 Sub 4. The purpose of this republication is to state the tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at Sharon or Pittsburgh, Pa.

No. MC 121495 (Sub-No. 4), filed April 13, 1970. Applicant: ENGLEWOOD TRANSIT COMPANY, a corporation, 1125 West 46th Street, Denver, Colo. Applicant's representative: Charles J. Kimball, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Adams, Arapahoe, Denver, and Jefferson Counties, Colo., on the one hand, and, on the other, points in Colorado. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 123778 (Sub-No. 16), filed April 3, 1970. Applicant: JOSEPH BAIO, doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Lane, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines, and magazine racks, and advertising matter* shipped with magazines, from Albany, N.Y., to points in Connecticut, New Jersey, that part of Pennsylvania on and east of U.S. Highway 15, and that part of New York on, east, and south of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 26 to junction New York Highway 17, near Vestal, N.Y., thence along New York Highway 17 to Binghamton, N.Y., thence along New York Highway 7 to Oneonta, N.Y., thence along New York Highway 28 to Kingston, N.Y., thence along the eastern bank of the Hudson River to the Dutchess-Columbia County line, thence along the Dutchess-Columbia County line to the New York-Connecticut State line, Wilmington, Del., Baltimore, Md., and Washington, D.C., under contract with Independent News Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124078 (Sub-No. 429), filed April 6, 1970. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt cake* (crude sulphate of Soda) in bulk, from Utica N.Y., to Paterson, N.J. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte or Raleigh, N.C.

No. MC 125433 (Sub-No. 15), filed March 27, 1970. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1891 West 2100 South, Salt Lake City, Utah 84119. Applicant's representatives: Martin J. Rosen, 140 Montgomery Street, San Francisco, Calif. 94104 and David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel articles*, consisting of namely, angles, bars, billets, blooms, blanks, stampings, or unfinished shapes, boiler parts, bolts, channels, forms or molds, plates and sheets, rivets, reinforcement, rods, roof bolt mats and support lagging, screws, skelp, slabs, strip steel, tanks, tank towers, forms or molds, ingots, ladder assemblies, nuts, beams, bases, bracing, braces, brackets or forms, caps, clevises, columns, frames, furring, girders, gratings, guides, hangers, joists, lathing, lintels, piling, pins, plates, posts, pulleys, railings, rails, retaining wall spacers, stringers, or stringer stiffeners, shoes, struts, studding, tees, trusses, tubing, turnbuckles, weights, zees, buckles, clamps, wire cloth, fasteners, fence materials, wire fencing, fence post drivers, gates, guards, hoops, lifters, nails, wire netting, spikes, staples, stretchers, ties, twisters, welding rods or wire, wire, wire strand, boiler flues and tubes, pipe or tubing, tin plate, tin mill black plate, terne plate, tin mill plate (chrome coated), from the plantsites and adjacent storage and/or processing facilities at Kaiser, Calif. (San Bernardino County), shipped by or on account of Kaiser Steel Corp., to points in Oregon and Washington, with stop in transit privileges at Boise, Idaho. NOTE: Applicant has a pending contract authority under MC 132128 Sub 2. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Portland, Oreg.

No. MC 125616 (Sub-No. 4), filed April 10, 1970. Applicant: W. PAUL HENRY, 300 Robinwood Drive, Hagerstown, Md. 21740. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Friendship International Airport located in Anne Arundel County, Md., Dulles International Airport located in Loudon County, Va., and Washington National Airport located at Gravelly Point, Va., on the one hand, and, on the other, points in Frederick, Washington, and Allegany Counties, Md., restricted to shipments having a prior or subsequent movement by air. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 127638 (Sub-No. 5) (Amendment), filed January 18, 1970, published FEDERAL REGISTER issue of March 12, 1970, amended April 13, 1970, and republished as amended this issue. Applicant: RALPH BEYER, doing business as RALPH BEYER TRUCKING CO., 3800

Carman Road, Schenectady, N.Y. 12303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Moulding sand*, in bulk, in dump vehicles, from points in Albany and Saratoga Counties, N.Y., to points in Delaware, Maine, Maryland, New Hampshire, New Jersey, Ohio, Pennsylvania, and Rhode Island and (2) *dairy products*, from Prattsburg, N.Y., and Madison County, N.Y., to points in Connecticut, Massachusetts, New Jersey, New York, and Pennsylvania, and the return of *returned, refused, and rejected commodities* from the above destination points to the origin points. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to add the State of Pennsylvania as a destination point in (2) above. If a hearing is deemed necessary, applicant requests it be held at Albany or New York, N.Y.

No. MC 127761 (Sub-No. 3), filed January 19, 1970. Applicant: MONK'S EXPRESS, INC., 7561 Wooster Pike, Cincinnati, Ohio 45227. Applicant's representative: Theodore K. High, 2215 Central Trust Tower, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel wire*, from Johnstown, Pa.; Sparrow's Point, Md.; Detroit, Mich.; and Chicago, Waukegan, Joliet, and Alton, Ill., to Fairfax, Hamilton County, Ohio, under contract with Senco Products, Inc. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio.

No. MC 128375 (Sub-No. 39), filed April 7, 1970. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Earl H. Scudder, Jr., Post Office Box 2028, 605 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as desrcibed in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in Arkansas, Kansas, New Mexico, Oklahoma, and Texas, on the one hand, and, on the other, points in Massachusetts, New Jersey, New York, and Pennsylvania, under contract with F & W Wholesale Meats. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., Washington, D.C., Dallas, Tex., or Chicago, Ill.

No. MC 128648 (Sub-No. 5), filed March 17, 1970. Applicant: TRANS UNITED, INC., Post Office Box 215, South Gate, Calif. 90280. Applicant's representative: William J. Lippman, Suite 820, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Conveyors, forklift trucks, loaders, machinery, road building and construction equipment, tractors and parts* of the above-named commodities and *equipment, materials, and supplies* used in the manufacture of the above-named commodities, (1) between the plantsite of Pettibone Corp., located at Hicks Field (near Saginaw, Tex.), and Chicago, Ill., and the storage and distribution facilities of the Pettibone Corp. at East Rutherford, N.J., and (2) between the points described in (1) above, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract with Pettibone Corp. NOTE: Applicant states that the purpose of this application is to add the additional points of Saginaw, Tex., and Chicago, Ill., to its existing permit in MC 128648 (Sub-No. 1) since the Pettibone Corp. has established new facilities at the points named in the application. Applicant has common carrier authority in MC 133244 Sub-No. 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Fort Worth, Tex.

No. MC 129307 (Sub-No. 38), filed April 15, 1970. Applicant: McKEE LINES, INC., 664 54th Avenue, Mattawan, Mich. 49071. Applicant's representative: Gene R. Prokuski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food stuffs*, from Hartford, Bailey, and Grawn, Mich., to points in Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant has contract authority under permit MC 119394, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129806 (Sub-No. 3), filed April 15, 1970. Applicant: J. MITCHKO TRUCKING, INC., Rural Delivery 1, Limecrest Road, Lafayette, N.J. 07848. Applicant's representative: Morton E. Kiel and Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Carteret, N.J., to points in New York, New Jersey, Pennsylvania, Maryland, Delaware, Connecticut, Massachusetts, and Rhode Island. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also states that no duplicating authority is sought. If a hearing is deemed necessary applicant requests it be held at New York, N.Y.

No. MC 133655 (Sub-No. 22) (Correction), filed March 20, 1970, published in the FEDERAL REGISTER issue of April 16, 1970, and republished as corrected this issue. Applicant: TRANS-NATIONAL TRUCK, INC., Post Office Box 4168, Amarillo, Tex. 79105. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as defined by the Commission, from points in Gray County, Tex., to points in the United States, including Alaska, but excluding Hawaii. NOTE: The purpose of this republication is to show that applicant seeks authority to all points in the United States, except Hawaii. Previous publication listed the States, but inadvertently omitted the State of South Dakota. If a hearing is deemed necessary, applicant requests it be held at Amarillo or Dallas, Tex., or Washington, D.C.

No. MC 133761 (Sub-No. 5), filed April 10, 1970. Applicant: GEORGE A. LA BAGH, 713 North Street, Middletown, N.Y. 10940. Applicant's representative: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, other than those designed to be drawn by passenger automobiles, *containers, truck chassis, trailer chassis, and trailer parts*, (1) between Middletown, N.Y., and Susquehanna, Pa., and (2) from Susquehanna, Pa., to points in the New York, N.Y., commercial zone as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, under a continuing contract with Strick Corporation of Fairless Hills, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 133957 (Sub-No. 2), filed March 27, 1970. Applicant: HANOVER LINES, INC., Rural Delivery No. 4, Allentown, Pa. 18102. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals* in dump vehicles, from Allentown, Pa., to Newark, N.J. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 134137 (Sub-No. 1), filed April 6, 1970. Applicant: PARAMOUNT EQUIPMENT RENTAL & SALES, INC., 2501 West Rosecrans, Compton, Calif. 90224. Applicant's representative: Floyd C. Ellis, 727 West Seventh Street, Suite 757, Roosevelt Building, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toys, toy parts, machinery parts, equipment, supplies, and paperboard packaging materials*, between plantsites, warehouses and other facilities of Mattel, Inc., located at City of Industry, Hawthorne, and Compton, Calif., on the one hand, and, on the other, the port of entry at the international boundary between the United States and Mexico, at Calexico, Calif.; under contract with Mattel, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134327 (Sub-No. 1), filed March 30, 1970. Applicant: PAUL PALMER AND GENE C. WHITE, a partnership, doing business as WINNERS CIRCLE TRUCKING CO., 921 First Federal Building, Atlanta, Ga. 30303. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast reinforced building sections*, knocked down, including wall or roof sections, panels, or pillars, veneered with marble or stone, or not veneered, and *materials and supplies* used in the installation thereof in straight or mixed truckloads, between the plantsite of Southeast Schokbeton, Division of Rockwin Corp., located near Lavonia, Ga., and points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia; and (2) *materials and supplies* including wooden or steel patterns and *molds* used in the production or erection of the above-described concrete products (except commodities in bulk and except cement), between the plantsites of Southeast Schokbeton, Division of Rockwin Corp., located near Lavonia, Ga., and the plantsites of that company located at Bound Brook, N.J., and Matairie, La., under contract with Southeast Schokbeton, Division of Rockwin Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 134435, filed March 16, 1970. Applicant: SNOBALL EXPRESS, INC., 200 North Cushman Street, Fairbanks, Alaska 99701. Applicant's representative: D. M. Snedden (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), moving in express service, between points within 125 miles of Fairbanks, Alaska, subject to the restriction that no service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignee at one location to one consignee at one location on any one day. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fairbanks or Delta Junction, Alaska.

No. MC 134512, filed April 7, 1970. Applicant: ALLEN A. JOHNSON, doing business as JOHNSON'S TOWING, 1118 Iowa Street, Bellingham, Wash. 98225. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled cars, trucks, and buses*, between points in Whatcom, Skagit, and Island Counties, Wash., and ports of entry on the international boundary line between the United States and Canada located in Washington. NOTE: Applicant states that it does not intend to tack. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 134514, filed April 9, 1970. Applicant: HILLCREST SUPPLY, INC., doing business as KNEPP TRUCKING, Rural Route No. 1, Montgomery, Ind. 47558. Applicant's representative: James L. Beattey, 130 East Washington Street, No. 1021, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer products*, (1) between Louisville, Ky., and points in Indiana in and south of Sullivan, Greene, Monroe, Brown, Bartholomew, Decatur, and Franklin Counties, Ind.; and (2) between Louisville, Ky., and Vincennes, Ind., on the one hand, and, on the other, points in Illinois in and east of Pope, Saline, Hamilton, Wayne, Clay, Effingham, Shelby, Macon, De Witt, McLean, Livingston, and Kankakee Counties, Ill. NOTE: Applicant does not intend to tack. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 134515, filed April 6, 1970. Applicant: LINDERHOLM TRANSFER, INC., 3679 Halifax Avenue North, Robbinsdale, Minn. 55422. Applicant's representative: Peter J. Ruffenach, 3770 West Broadway, Robbinsdale, Minn. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Knocked-down walk-in coolers, dissassembled silage wagons, and custom store fixtures* such as counters, cabinets, and paneling for new or remodeled stores, from Hopkins and St. Louis Park, Minn., to points in Wisconsin, mostly north of Milwaukee, under contract with Minnesota Store Equipment, Inc., and Multi Color Specialists. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

MOTOR CARRIERS OF PASSENGERS

No. MC 133886 (Sub-No. 1), filed March 4, 1970. Applicant: ADALID P. VELARDE, doing business as NORTE Y CENTRO DEL PACIFICO, 307 Roanoke Street, San Francisco, Calif. 94131. Applicant's representative: E. H. Griffiths, 433 Turk Street, San Francisco, Calif. 94102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in foreign commerce, between ports of entry on the international boundary line between United States and Mexico in California and San Francisco, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

APPLICATION OF FREIGHT FORWARDER

No. MC FF-211 (Sub-No. 3), (SHULMAN, INC., Extension—All States), filed April 20, 1970. Applicant: SHULMAN, INC., 20 Olney Avenue, Cherry Hill, N.J. Applicant's representative: Herbert Burstein, 30 Church Street, New York, N.Y. 10007. Applicant seeks authority under section 410 of the Interstate Commerce Act, for a permit to extend operation as a freight forwarder in interstate or foreign commerce subject to part IV of the act, in the transportation of *General commodities*, between all points in the United States (excluding Alaska and Hawaii), restricted to shipments having a subsequent movement by aircraft, or in substituted motor for air service, pursuant to the rules and regulations of the Interstate Commerce Commission.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 52579 (Sub-No. 122), filed April 14, 1970. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: W. Abel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, from Painesville, Ohio, to Cleveland, Ohio. NOTE: Applicant states it intends to tack at Cleveland, Ohio, with presently authorized authority in No. MC 52579 and subs thereto.

No. MC 113805 (Sub-No. 1), filed April 14, 1970. Applicant: ALVIN W. MUMM, doing business as AL ARNOLD TRUCKING COMPANY, 2108 Ridge Row, Burlington, Iowa 52601. Applicant's representative: John A. Daily, Fourth Floor, First National Bank Building, Jefferson Street, Burlington, Iowa 52601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, limestone, and asphaltic concrete*, in bulk, in dump trucks, between points in Muscatine, Louisa, Des Moines and Lee Counties, Iowa; Henderson, Warren, Hancock, McDonough, Carroll, Cass, Fulton, Mason, Knox, Bureau, Marshall, Adams, Pike, Morgan, Lee, Whiteside, Mercer, Putnam, Rock Island, and Henry Counties, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 114107 (Sub-No. 8), filed April 13, 1970. Applicant: CEMENT TRANSPORT, INC., Kosmosdale, Ky., Mailing address: Post Office Box 176, Valley Station, Ky. 40272. Applicant's representative: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, Ky. 40402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, and in bags, from Kosmosdale, Ky., to points in Tennessee, under contract with Kosmos Portland Cement Co. NOTE: Common control and dual operations may be involved.

No. MC 114290 (Sub-No. 42), filed March 30, 1970. Applicant: EXLEY EXPRESS, INC., 2610 Southeast Eighth Street, Portland, Oreg. 97202. Applicant's representative: James T. Johnson, 1610 IBM Building, 1200 Fifth Avenue, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* when moving in the same vehicle with frozen foods from Gresham, Portland, Salem, Stayton, Silverton, Springbrook, and Weston, Oreg., to points in Arizona. NOTE: Applicant

states that the requested authority cannot be tacked with its existing authority.

By the Commission.

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

[F.R. Doc. 70-5516; Filed, May 6, 1970; 8:45 a.m.]

[Notice 70]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 1, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

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

MOTOR CARRIERS OF PROPERTY

No. MC 93734 (Sub-No. 8 TA) (Correction), filed April 6, 1970, published in the FEDERAL REGISTER issue of April 18, 1970, and republished in part, as corrected, this issue. Applicant: DEWITT TRANSFER AND STORAGE COMPANY, 6060 North Figueroa Street, Los Angeles, Calif. 90042. Applicant's representative: Russell and Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. NOTE: The purpose of this partial republication is to reflect a correction in the authority sought, as follows: *Household goods*, as defined by the Commission, between points in Hawaii, restricted to the handling of traffic originating at or destined to points beyond the State of Hawaii * * * The rest of the application remains as previously published.

No. MC 106760 (Sub-No. 128 TA), filed April 22, 1970. Applicant: WHITEHOUSE TRUCKING, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ventilators, ventilator parts, ventilator equipment, ventilator systems*, and *accessories used in the installation thereof*, from the plantsite and warehouse facilities of the Penn Ventilator Co., Inc., Tabor City, N.C., to points in Arkansas, Arizona, California, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, Montana, Nebraska, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Tennessee, Texas, Utah, North Dakota, South Dakota, Washington, West Virginia, Wisconsin, and Wyoming; and Philadelphia, Pa., for 180 days. Supporting shipper: Penn Ventilator Co., Inc. (Michael S. Bohrer), 11th Street and Allegheny Avenue, Philadelphia, Pa. 19140. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 110144 (Sub-No. 10 TA), filed April 21, 1970. Applicant: JACK C. ROBINSON, doing business as ROBINSON FREIGHT LINES, 3600 Papermill Road, Knoxville, Tenn. 37921. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chattanooga, Tenn., and points within a 10-mile radius of Chattanooga, and junction U.S. Highway 411 and Tennessee Temporary Highway 95 near Jena and Greenback, Tenn., serving all intermediate points on U.S. Highway 411 between the Tennessee-Georgia State line and said junction of U.S. Highway 411 and Tennessee Temporary Highway 95, including Jena and Greenback; from Chattanooga over Interstate Highway 75 and/or U.S. Highway 11 to Cleveland, Tenn., thence over U.S. Highway 64 to junction U.S. Highway 411, thence over U.S. Highway 411 to the Tennessee-Georgia State line at Tennga, Tenn., thence from Tennga over U.S. Highway 411 to junction Tennessee Temporary Highway 95, and return over the same route, for 150 days. Supporting shippers: There are approximately 23 statements of shippers in support of the application, which statements may be examined here at the Offices of the Commission in Washington, D.C., or at the Field Office indicated below. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803—1808 West End Building, Nashville, Tenn. 37202.

No. MC 118959 (Sub-No. 87 TA) (Correction) filed April 6, 1970, published in the FEDERAL REGISTER issue of April 18, 1970, and republished as in part, as corrected, this issue. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63701. Applicant's representative: Frank D. Hall, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Note: The purpose of this partial republication is solely to reflect that Terminal Paper Bag Co., Inc., of Yulee, Fla., is an additional supporting shipper, which was inadvertently omitted in the previous publication. The rest of the application remains the same as previously published.

No. MC 119567 (Sub-No. 8 TA) (Correction), filed April 6, 1970, published in the FEDERAL REGISTER issue of April 18, 1970, and republished in part, as corrected, this issue. Applicant: F. H. McCLURE AND R. V. ESTELL, a partnership, doing business as EMPIRE TRANSPORT, 2007 Overland Road, Boise, Idaho 83705. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pozzolan*, from Lime, Oreg., to (a) points in Nevada on and north of U.S. Highway 40 (except points in Washoe County) and (b) points in that part of Idaho south of Idaho County, (2) *cement*, from Lime, Oreg., to points in Bannock and Bonneville Counties, Idaho, and (3) *cement*, from Inkom to Lime, Oreg., for 180 days * * *. NOTE: The purpose of this partial republication is to reflect certain corrections in applicant's name and the commodity and territorial descriptions. The rest of the application remains as previously published.

By the Commission.

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

[F.R. Doc. 70-5523; Filed, May 5, 1970; 8:48 a.m.]

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PART II

DEPARTMENT OF COMMERCE

Office of Foreign Direct Investments

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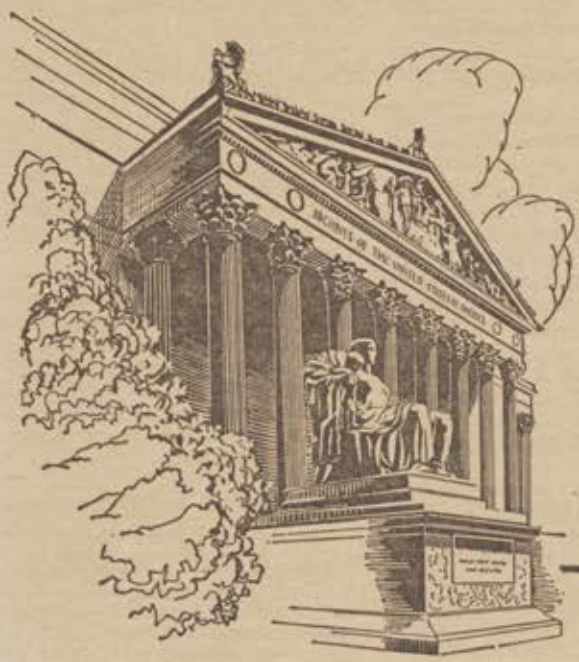
FOREIGN DIRECT INVESTMENT REGULATIONS



Title 15—COMMERCE AND FOREIGN TRADE

Chapter X—Office of Foreign Direct Investments, Department of Commerce

PART 1000—FOREIGN DIRECT INVESTMENT REGULATIONS

Miscellaneous Amendments

EDITORIAL NOTE: The Foreign Direct Investment Regulations (the "regulations") appear in Title 15, Chapter X, Part 1000 of the Code of Federal Regulations ("CFR"). Thus, all sections of the regulations contained in CFR are preceded by the designation "1000" (e.g., § 1000.201). The "1000" prefix has, for convenience, been eliminated from the section references contained in this notice. The term "part" when used in the regulations means Part 1000 of CFR. References to sections of the 1969 General Bulletin published by the Office of Foreign Direct Investments (the "Office") correspond to section numbers of the regulations, but are preceded by the designation "B" (e.g., § B201), and major topical subdivisions are indicated by a numerical suffix (e.g., § B201–1). The abbreviations "DI" and "AFN" are used in this notice to refer to "direct investor" and "affiliated foreign national," respectively.

Notice is hereby given that the Office of Foreign Direct Investments (the "Office") has promulgated amendments to the Foreign Direct Investment Regulations (the "regulations"). Except for the following additions and modifications, these amendments are the same as those contained in the notice of proposed rule making published in the FEDERAL REGISTER on March 11, 1970 (35 F.R. 4368): A substantial simplification has been made in the provisions of § 503 and proposed § 507, by elimination of the rules contained in § 503(b) and proposed § 507 (c), (d), and (e), requiring aggregate annual losses to be disregarded in computing direct investment. In addition, § 319(b) has been amended to reclassify Spain from Schedule C to Schedule B. Because these new amendments constitute a relaxation and simplification of the regulations, they are being published in final form without prior publication in proposed form. Other changes of a technical or clarifying nature have also been made.

Briefly, and in numerical order, the amendments are as follows:

(a) Section 203 (c) and (d)(1) are amended to incorporate the exemptions contained in § 203(e), which is revoked. Section 203(d)(1) is also amended to exempt DIs electing new § 507 from the prohibitions of that subparagraph.

(b) Sections 301 and 302 are amended to eliminate obsolete material.

(c) New § 306(e)(3) is added to provide that a § 306(e)(1) deduction from positive direct investment calculated worldwide under § 503, and a § 306(e)(1) or a § 203(d) (2) or (3) deduction from positive direct investment in combined Schedules B and C under § 507, shall be apportioned to each scheduled area on the basis of the proportionate amount of positive direct investment made in each area. This rule is intended only to provide schedular attribution of deductions of proceeds of long-term foreign borrowing, made on an aggregate basis, upon subsequent repayment or reallocation in a year during which the DI elects an allowable requiring schedular computation of direct investment.

(d) Section 312(c)(1) is amended by renumbering the provisions of subparagraph (1) as § 312(c)(1)(i) and by adding new § 312(c)(1)(ii). New subdivision (ii) provides that any transfer of an AFN between DIs as a result of merger, consolidation or other reorganization of such DIs shall be treated in the same manner as acquisitions described in § 312(c)(1)(i); i.e., there are no transfers of capital, but revised reports must be filed.

(e) Section 319(b) is amended to include Spain as a Schedule B country for 1970 and succeeding years.

(f) Section 502 is amended to provide for election of the new alternative minimum and $4 million Schedule A supplemental allowable contained in § 507.

(g) Section 503(b) is revoked, and a technical amendment has been made in § 503(c) to add reference to §1302 and paragraph (e) of § 504.

(h) Section 504(a)(3) is amended to eliminate the "reinvestment ratio" alternative method of computing the historical allowable in Schedule C. For 1970 and succeeding years a DI's historical allowable in Schedule C will be computed solely on the basis of 35 percent of average annual direct investment during the base period years 1965–66.

(i) Section 506 is amended to clarify the computation and application of the incremental earnings allowable and to conform to changes made in the regulations since the section was originally promulgated.

(j) Section 507 is added to provide a new allowable that may be elected starting in 1970. The § 507 allowable consists of a $1 million modified worldwide allowable (alternative minimum allowable) and a supplemental allowable of $4 million for use in Schedule A.

(k) Section 601 is amended to increase to 3 years the required retention period for records relating to transactions of a DI that are subject to the regulations or otherwise involve any of its AFNs.

(l) Sections 905 and 906 are amended to provide limitations on the use of the new § 507 allowable by members of an associated group and consenting owners of a principal DI.

(m) Section 1003 (c) and (d) are amended to clarify the order of reduction of allowables and to provide rules for the reduction of the $4 million Schedule A supplemental allowable contained in § 507.

(n) Section 1303(a) is amended to conform to the amendment revoking § 503(b).

The amendments are described in greater detail as follows:

1. *Section 502 election of allowables for 1970.* Amended § 502 provides that beginning in 1970 a DI may elect the new § 507 allowable as an alternative to § 503 or § 504. See § 502(a)(4). However, as provided by § 502 (c) and (d), a DI may not elect § 503 in 1 year, starting in 1970, and § 507 in the next year, or vice versa, without obtaining prior written permission from the Office.

As with the § 503 allowable, if two DIs combine, by merger or otherwise, during the year, the surviving DI is entitled to only one § 507 allowable for such year.

DIs that elect § 507 may also use the § 506 incremental earnings allowable, but not the foreign air transport earnings allowable of § 1302. See 1969 General Bulletin § B502.

2. *Section 507 alternative minimum and Schedule A supplemental allowable.* New § 507 provides, in effect, that a DI may make positive direct investment during 1970 of $1 million on a modified worldwide basis and an additional $4 million in Schedule A. The § 507 allowable comprises a $4 million allowable for Schedule A and a $1 million allowable for Schedules B and C combined (hereinafter sometimes referred to as "Schedules B/C"). See § 507(a) (1) and (2). To the extent not used in Schedules B/C, the $1 million allowable under § 507(a)(1) may be used in Schedule A in addition to the $4 million authorized exclusively for Schedule A under § 507(a)(2). See § 507(b) and Examples 2, 3, and 4 below. Direct investment in Schedules B and C is to be computed in the same manner as worldwide direct investment under § 503. See Example 1 below. Thus, § 507 is basically a schedular allowable similar to § 504 but consists of two scheduled areas rather than three. It should be noted that while § 505 interschedular transfers from Schedule B to Schedule C will net out under § 507, transfers from Schedule A to Schedule B or C will not net out, and the resulting positive direct investment in Schedules B/C must be authorized by the $1 million allowable under § 507(a)(1). See Examples 5 and 6 below.

On the other hand, new § 507 is similar to § 503 in the following respects:

(i) Unused allowables under § 507 may not be carried forward to succeeding years, and carryforwards from prior years under §§ 504 and 1302 are lost when § 507 is elected (see § 507(c));

(ii) A DI that elects to be governed by § 507 is not subject to the prohibitions of § 203(d)(1); and

(iii) The use of § 507 by members of an associated group and consenting owners of a principal DI is governed by the limitations of amended §§ 905 and 906.

(a) *Basic application of the § 507 allowable: § 507 (a) and (b).* Under § 507, direct investment in Schedule A is calculated separately from direct investment in Schedules B and C. For purposes of § 507(a)(1), direct investment in Schedules B and C is aggregated.

Example 1. DI has a wholly owned subsidiary (C) in Schedule C, which has a wholly owned subsidiary (A) in Schedule A, and DI has a wholly owned subsidiary (B) in Schedule B. During 1970 the following occurs: DI makes a transfer of capital of $4 million to A. A earns $200,000 and pays dividends of $200,000 to C. B makes a transfer of capital

of $500,000 to DI. DI makes a transfer of capital of $1,300,000 to C. DI correctly reports positive direct investment in Schedule A of $4 million and in Schedules B and C of $1 million, all of which is authorized by § 507, computed as follows ($000 omitted):

	Scheduled area			
	A	B	C	B/C aggregate
Net transfer of capital	4,000	(500)	1,300	800
Reinvested earnings	0	0	200	200
Positive direct investment	4,000	(500)	1,500	1,000

Example 2. During 1970 DI acquires an AFN in Schedule A from an unaffiliated foreign national for $5 million and makes no direct investment in Schedule B or C. The $5 million positive direct investment is authorized by § 507 (a) (2) and (b).

Example 3. During 1970 DI's AFN (C) in Schedule C makes a transfer of capital of $500,000 to DI, and DI's Schedule B AFN (B) makes a transfer of capital of $1,500,000 to DI. DI has negative direct investment in Schedules B/C of $2 million. Therefore, under § 507 (a) (2) and (b), DI may make $7 million of positive direct investment in Schedule A during 1970.

Example 4. The following table illustrates the "downstream" use of the basic $1 million allowable pursuant to § 507(b) ($000 omitted):

If direct investment made in Schedules B/C is:	Then direct investment authorized by § 507 (a) (2) and (b) in Schedule A will be:
500	4,500
0	5,000
(2000)	7,000

Example 5. During 1970 DI makes a transfer of capital of $5 million to its Schedule A incorporated AFN (A). A, in turn, lends $5 million to DI's Schedule C incorporated AFN (C). By operation of § 505(a)(3), DI has made positive direct investment in Schedule A of zero and in Schedule C of $5 million. Only $1 million of the Schedule C investment is authorized by § 507, and DI is out of compliance to the extent of $4 million in Schedule C.

Example 6. DI has a 60%-owned subsidiary (C) in Schedule C. C has a branch (A) in Schedule A. DI transfers $4 million to A. A has no earnings, and its net assets increase by $4 million. Assuming no other transactions, DI has made positive direct investment of $2.4 million in Schedule A and $1.6 million in Schedule C, computed as follows ($000 omitted):

	Scheduled area	
	A	C
Transfers of capital:		
§ 505(a) (1) and (2)		4,000
§ 505(a) (6)		(2,400)
Net transfers of capital:		
§ 313(b)	2,400	
§ 313(a)		1,600
Positive direct investment	2,400	1,600

DI is out of compliance under § 507 to the extent of $600,000 in Schedule C.

(b) *Related provisions.* DI's electing § 507 in 1970 should see new § 306(e)(3), discussed in section 9 of this notice, if they contemplate repayment or reallocation of borrowings deducted from § 503 worldwide positive direct investment under § 306(e) in 1969.

The use of § 507 by members of an associated group and consenting owners of a principal DI is limited. See new §§ 905(b)(2)(ii) and (iii) and 906(b)(3)(iii) and (iv), discussed in section 3 of this notice.

Reduction under § 1003 of the $4 million Schedule A supplemental allowable provided for in § 507(a)(2) is governed by new § 1003 (c)(5) and (d). See discussion and examples in section 8(b) of this notice.

3. *Conforming amendments in connection with § 507.* Certain technical amendments and conforming amendments have been made in §§ 203(d)(1), 905, 906, and 1003.

(a) *Exemption from § 203(d)(1).* The exemption for DIs electing § 503 from the prohibitions of § 23(d)(1) has been extended to cover DIs electing § 507.

(b) *Reductions of § 507 allowables under § 1003.* Reduction of the new § 507 allowables by operation of § 1003 is discussed in section 8(b) of this notice.

(c) *Amendments to §§ 905 and 906.* Sections 905 and 906 have been amended to clarify the rule limiting the use of § 503 by members of an associated group and consenting owners of a principal DI (see §§ 905(b)(2)(i) and 906(b)(3)(ii)), and also to add analogous rules limiting the use of § 507 (see §§ 905(b)(2)(ii) and (iii) and 906(b)(3)(iii) and (iv)).

The elimination contained in §§ 905(b)(2)(i) and 906(b)(3)(ii) on positive direct investment made pursuant to § 503 is amended to make clear that the $1 million aggregate limit applies only to direct investment made by members of the group or consenting owners who elect § 503, and to make the $1 million limit applicable to the aggregate of direct investment rather than to the sum of positive direct investments made by such members or consenting owners.

Example 7. X, Y, and Z are members of an associated group having one group AFN. X, Y, and Z have no other AFNs. All elect § 503 for 1970 and report as follows ($000 omitted):

	Direct investment in the group AFN
X	(200)
Y	500
Z	700
Aggregate	1,000

X, Y, and Z are in compliance for 1970 under §§ 503 and 905(b)(2)(i).

Similarly, all members of an associated group that elect § 507 are treated as a single DI with respect to direct investment made by such members in group AFNs. See new § 905(b)(2)(ii). An analogous rule is provided by new § 906(b)(3)(iii) for consenting owners of a principal DI.

Example 8. W, X, Y, and Z are members of an associated group. They all elect § 507 for 1970 and report the following direct investment in their group AFNs ($000 omitted):

	Scheduled area	
	A	B/C
W	2,000	0
X	(1,000)	250
Y	2,000	250
Z	1,250	250
Aggregate	4,250	750

The foregoing positive direct investment is authorized by § 507, as limited by § 905(b)(2)(ii).

If § 503 is elected by some members of an associated group and § 507 is elected by others, direct investment by such members will be limited by § 905(b)(2)(iii) in addition to § 905(b)(2)(i), which applies to those electing § 503, and § 905(b)(2)(ii), which applies to those electing § 507. Section 905(b)(2)(iii) limits direct investment by the members electing § 503 and § 507 to $1 million to the extent made under either § 503 or the $1 million allowable of § 507 (a)(1) and (b). An analogous provision applies to consenting owners of a principal DI. See § 906(b)(3)(iv).

Example 13. W, X, Y, and Z are members of an associated group. W and X elect § 503 for 1970 and report the following direct investment in group AFNs ($000 omitted):

	Worldwide direct investment	
W	300	
X	400	
Aggregate	700	[§ 503]

Y and Z elect § 507 and report the following direct investment in group AFNs ($000 omitted):

	Scheduled area	
	A	B/C
Y	2,000	200
Z	2,000	200
Aggregate	[1] 4,000	[2] 400

[1] Section 507(a)(2).
[2] Section 507(a)(1).

Although W and X are in compliance under § 905(b)(2)(i) and Y and Z are in compliance under § 905(b)(2)(ii), W, X, Y, and Z are out of compliance under § 905(b)(2)(iii) to the extent of $100,000, because the aggregate direct investment made under § 503 and § 507(a)(1) [$700,000+$400,000] exceeds $1 million.

Assume that Y and Z had reported as follows ($000 omitted):

	Scheduled area	
	A	B/C
Y	2,100	50
Z	2,000	150
Aggregate	[1] 4,100	[2] 200

[1] Consisting of 4,000 [§ 507(a)(2)] and 100 [§ 507(b)].
[2] Section 507(a)(1).

W, X, Y, and Z would have been in compliance in this case under § 905(b)(2)(iii) because the aggregate of direct investment made under § 503 [$700,000], under § 507 (a)(1) [$200,000] and under § 507(b) [$100,000] does not exceed $1,000,000.

Note that W, X, Y, and Z in this example, and in Example 8 above, must also measure compliance individually with respect to direct investment made in all of their AFNs, both group and those separately held.

4. *Elimination of § 503(b) aggregate annual loss rule.* The rule requiring that DIs disregard aggregate annual losses in calculating direct investment for purposes of the § 503 minimum allowable has been revoked for 1970 and succeeding years. Consequently, worldwide direct investment made by DIs electing § 503 for 1970 should be calculated for all scheduled areas in accordance with the provisions of § 306(a). However, the revocation of § 503(b) will not affect direct investment calculated for purposes of § 503 for 1969, and DIs should not refile Forms FDI–102 and FDI–102F for such year.

Section 1303(a) has been amended to delete reference to aggregate annual losses under § 503(b).

5. *Schedule C historical allowable.* Section 504(a)(3) has been amended to eliminate the "reinvestment ratio" alternative method of computing the historical allowable for Schedule C. For purposes of making positive direct investment in Schedule C during 1970 and succeeding years, a DI's historical allowable will be 35 percent of average annual direct investment during 1965–66 in Schedule C. Many DIs presently having no historical allowable in Schedule C, because of the limitation imposed by the reinvestment ratio, will acquire an historical allowable for direct investment in that scheduled area by virtue of this amendment.

Since § 504(a)(3) presently in effect requires use of the lesser of the reinvestment ratio or the base-period direct investment experience in calculating the Schedule C historical allowable, no DI will have its historical allowable in Schedule C reduced because of this amendment. Moreover, it will not be necessary for DIs to file revised base period reports to reflect this change, which is applicable only to compliance years commencing with 1970.

6. *Reclassification of Spain from Schedule C to Schedule B.* Section 319(b) has been amended to include Spain as a Schedule B country as of January 1, 1970. Consequently, for 1970 and succeeding years DIs should include all direct investment in Spanish AFNs in calculating direct investment in Schedule B and should exclude such direct investment from the Schedule C computation. No change will be made in the base period figures used to calculate § 504(a) historical allowables or in any direct investment reported for 1968 and 1969. Furthermore, a DI's 1970 § 504(b) earnings allowable in Schedules B and C (based on 1969 earnings reported on the 1969 Annual Report Form FDI–102F) will not be changed. It is not necessary or permitted for any DI to amend or refile its Form FDI–101 or Forms FDI–102 and FDI–102F for 1968 or 1969 as a result of the reclassification of Spain. However, 1970 earnings of Spanish AFNs will be included with other Schedule B earnings for purposes of determining a DI's 1971 § 504(b) earnings allowable and 1971 § 504(c)(3) upstream adjustment for Schedule B. The computation of the § 506 incremental earnings allowable, being based on aggregate worldwide figures, will not be affected as a result of this change. Although the Schedule B historical and earnings allowables in effect for 1970 will not be increased as a result of this change in the scheduled area to which Spain is assigned, DIs may downstream unused Schedule C allowables to Schedule B to cover any increased investment in Schedule B in 1970 and succeeding years.

Example 10. DI has one AFN, which is located in Spain, and § 504(a) allowables of $1,200,000 in Schedule C and zero in Schedules B and A. In 1970 DI elects § 504(a) and makes positive direct investment of $1 million in its Spanish AFN. DI should report positive direct investment in 1970 of $1 million in Schedule B and zero in Schedule C. The Schedule B investment is authorized by DI's Schedule C allowable, under the carrydown provisions of § 504(d)(3). DI will have $200,000 of carryforward under § 504(d)(3) which will authorize additional positive direct investment in Schedules C, B, or A in 1971 and succeeding years.

Example 11. DI has one AFN, which is located in Spain. The AFN's 1969 earnings are $4 million. DI's § 504(a) historical allowables are $800,000 in Schedule C and zero in Schedules B and A. In 1970, DI elects the § 504(b) earnings allowable and makes positive direct investment of $1,200,000 in its Spanish AFN, which is correctly reported in Schedule B. This positive direct investment is authorized by DI's Schedule C earnings allowable of $1,200,000 which is available in Schedule B under § 504(d)(3).

Example 12. DI has one AFN which is located in Spain. At the end of 1969, the AFN owed DI $1 million on open account. In March 1970, the AFN pays DI $1 million in satisfaction of the open account balance. In October 1970 AFN is billed $1,500,000 for a shipment of goods, so that the open account balance at the end of 1970 is $1,500,000. In 1970, DI has made a net transfer of capital to Schedule B of $500,000.

7. *Section 506 incremental earnings allowable.* Section 506 has been amended to clarify the computation and use of the incremental earnings allowable.

Section 506(a)(4) has been amended to make clear that the §§ 503 and 504 allowables referred to therein are before any reduction of such allowables pursuant to specific authorization conditions, compliance action or application of § 1003. The new § 507 allowable is not included with the §§ 503 and 504 allowables (as a deduction from 40 percent of incremental earnings) in calculating the incremental earnings allowable.

Section 506 (b), (c), and (d) have been amended to clarify ambiguities arising from changes in the regulations (for example, election of allowables under § 502) since § 506 was originally promulgated.

Section 506(b) applies to DIs that elect § 503. Positive direct investment is authorized in excess of $1 million to the extent of the incremental earnings allowable. Since § 506 may be used on a worldwide basis, DIs that elect § 503 may treat the incremental earnings allowable as an addition to the $1 million minimum allowable.

Section 506(c) applies to DIs electing the schedular allowables of §§ 504 and 507. In such cases, the incremental earnings allowable may be used to authorize additional positive direct investment in a given scheduled area or distributed among two or all of the scheduled areas. In calculating positive direct investment made under § 506 in Schedule C, a DI electing § 504 must disregard total losses of all incorporated Schedule C AFNs in accordance with § 504(e). See 1969 General Bulletin § B504–6.

Example 13. During 1970 DI elects § 504 with an allowable in Schedule C of zero. DI also has a § 506 incremental earnings allowable of $200,000. During 1970 DI's Schedule C AFNs have total losses of $100,000. If DI desires to use the incremental earnings allowable in Schedule C, DI may make a positive net transfer of capital not in excess of $200,000; i.e., the losses will not be an offset for purposes of computing positive direct investment made in Schedule C under § 506. See § 506(c).

8. *Reduction of allowables under § 1003.* Section 1003 has been amended to clarify the order of reduction of allowables when several allowables may be available and to provide rules for reduction of the $4 million supplemental Schedule A allowable provided in new § 507(a)(2).

(a) *Order of reduction.* Amended § 1003 provides the following clarifications in the order of reduction of allowables:

(i) Unless the repayment is of a foreign air transport borrowing, Subpart M allowables are reduced after all possible reductions have been made to Subpart E allowables for the year. See § 1003(c)(1) and (4) and Example 14 below.

(ii) The § 506 incremental earnings allowable is the last of the Subpart E allowables to be reduced. See § 1003(c)(2) and Example 19 below.

(iii) The reduction order is specified for all allowables available in Schedule C. The positive direct investment allowables in Schedule C (§ 504 (a) and (c) or (b), (d)(3) and (f)(3)(i)) are reduced before the reinvested earnings allowables (§ 504 (e) and (f)(3)(ii)). See § 1003(c)(3) and Example 15 below.

Example 14. In 1970 DI's § 504(b) earnings allowable is $600,000 in Schedule C, $1 million in Schedule B and zero in Schedule A. DI's § 1302 (Subpart M) foreign air transport allowable is $700,000. DI also has a $200,000 § 506 incremental earnings allowable. During 1970 DI repays a long-term foreign borrowing, the proceeds of which had been expended in making a transfer of capital in the amount of $2,100,000 to construct a resort hotel in Schedule B. Assuming the repayment is authorized by § 1002, DI has incurred a repayment charge of $2,100,000 under § 1003, which first reduces DI's § 504 (b) allowable in Schedules B and C to zero. DI's § 506 allowable is then reduced to zero, and the Subpart M allowable is reduced to $400,000. See § 1003(c) (1) and (2).

Example 15. In 1970 DI elects § 504(b) with an allowable in Schedule C of $2 million. DI also has a carryforward from 1969 in Schedule C under § 504(d)(3) of $300,000 and a reinvested earnings allowable of $200,000 under § 504(f)(3)(ii) as a result of losses in Schedule C during 1968. During 1970 DI incurs a repayment charge of $2,400,000 in

Schedule C. After making reductions as provided by § 1003(c)(3), DI will have left only $100,000 of the reinvested earnings allowable under § 504(f)(3)(ii).

(b) *Schedule A supplemental allowable.* The new § 507(a)(2) $4 million supplemental allowable in Schedule A will be reduced under § 1003 only to the extent that the DI has repaid a long-term foreign borrowing, the proceeds of which were expended in Schedule A or were allocated to positive direct investment in Schedule A, or to the extent that the DI has made payments on a guarantee of a Schedule A AFN borrowing or to enable such AFN to repay its borrowing. See § 1003(c)(5) and Examples 16–20 below. A DI may, however, elect not to have its § 507(a)(2) Schedule A supplemental allowable reduced in any year by a carryforward from a prior year of its repayment charge under § 1003(d) with respect to Schedule A. The DI should indicate such election on Form FDI–102F filed for the year in question. See § 1003(d). However, a DI may not make such election with respect to a repayment charge carried forward from 1968.

A repayment charge attributable to Schedule A will reduce the $4 million Schedule A supplemental allowable of § 507(a)(2) before reducing the basic $1 million allowable of § 507(a)(1). If DI makes the election under § 1003(d), the repayment charge will reduce only the $1 million allowable of § 507(a)(1).

Since the § 507(a)(2) supplemental allowable may not in fact be reduced in all cases by a repayment charge, § 1003(d) has been amended to provide that the amount of the reductions in allowables in each year (rather than the aggregate amount of allowables) shall determine the extent to which the repayment charge will be carried over to succeeding years.

Example 16. DI elects § 507 for 1970 and transfers $10 million to its Schedule A AFN to enable it to repay a borrowing, as authorized by § 1002(a). The repayment charge of $10 million will reduce DI's allowable in Schedule A under § 507(a)(2) to zero. See § 1003(c)(5)(i). The remaining $6 million of the repayment charge will then reduce the § 507(a)(1) allowable in Schedules B/C to zero, and there will be a carryforward charge of $5 million to 1971. In 1971 DI may elect under § 1003(d) not to have its § 507(a)(2) allowable reduced. DI's § 507(a)(1) allowable will be reduced to zero, and DI will also have a $4 million carryforward of the repayment charge to 1972, at which time DI may again elect under § 1003(d) not to have its Schedule A supplemental allowable reduced. The § 1003(d) election is not available in the year the repayment charge is first incurred.

Example 17. DI elects § 507 for 1970 and transfers $5 million to its Schedule C AFN to enable it to repay a borrowing. The repayment charge will reduce DI's $1 million allowable under § 507(a)(1) to zero in 1970 and in each of the 4 succeeding years. The § 507(a)(2) Schedule A supplemental allowable will not be reduced in this case.

Example 18. DI elected § 504(a) during 1969 with allowables of $1 million in Schedule A and $1 million in Schedule B. In 1969 DI made $7 million of positive direct investment in Schedule A and $5 million in Schedule B, calculated as provided by § 306(a). To comply with the regulations, DI made a long-term foreign borrowing of $10 million and allocated $6 million of proceeds to Schedule A and the remaining $4 million to Schedule B under § 306(e). In 1970 DI elects § 507 and repays $5 million of the borrowing. DI thus incurs a repayment charge of $3 million in Schedule A and $2 million in Schedule B, apportioned as provided by § 312(a)(7). Under § 1003, DI's allowable under § 507(a)(2) in Schedule A is reduced to $1 million by the $3 million attributable to Schedule A. The $2 million attributable to Schedule B reduces the § 507(a)(1) allowable to zero in 1970 and again in 1971.

Example 19. For 1970 DI elects § 507 and also has an incremental earnings allowable of $200,000 under § 506. DI has a repayment charge of $5,100,000 in Schedule A. Under § 1003, the $4 million allowable in Schedule A is reduced to zero; then the $1 million allowable in Schedules B and C is reduced to zero. The § 506 allowable is then reduced to $100,000.

Example 20. DI elected § 503 for 1969 and reported on Form FDI–102/102F for the year as follows ($000 omitted):

Line 11 (Reinvested earnings)	2,000
Line 12 (Transfers of capital)	3,000
Line 13 (Use of proceeds)	4,000
Line 15 (Program direct investment)	1,000

In section VIII (Use of proceeds) of Form FDI–102/102F, DI reported as follows:

Line 40 (Expenditure of proceeds)	1,000
Line 41 (Allocation of proceeds under § 306(e))	3,000

The proceeds expended as reported on Line 40 were from the same borrowing as that allocated under § 306(e). The expenditures were: Schedule A—$850,000, and Schedule C—$150,000.

In 1970 DI elects § 507 and repays $2 million of the borrowing. DI must first apportion the 1969 § 306(e) deduction (Line 41) to each scheduled area, in accordance with new § 306(e)(3). See discussion and examples in section 9 of this notice. Assume that DI recalculates positive direct investment under § 306(a) (which must include the effect of deductions under § 313(d)(1) for expended proceeds) and apportions the § 306(e) deduction as follows ($000 omitted):

	Scheduled area		
	A	B	C
(a) Direct investment under § 306(a)	1,000	2,000	1,000
(b) Proportionate share	25%	50%	25%
(c) Share of § 306(e) deduction	750	1,500	750

Therefore, DI's total deductions under §§ 306(e) and 313(d)(1) in 1969 for purposes of § 312(a)(7) are: Schedule A—$1,600,000; Schedule B—$1,500,000; and Schedule C—$900,000.

Consequently, DI's repayment of $2 million in 1970 will be charged as follows: Schedule A (40%)—$800,000; Schedules B and C (60%)—$1,200,000. Under § 1003, DI's § 507(a)(2) Schedule A allowable will be reduced by $800,000, and the § 507(a)(1) allowable will be reduced to zero with a carryforward to 1971 of a $200,000 charge against the § 507(a)(1) allowable.

9. *Section 306(e)(3) schedular apportionment of deductions.* New § 306(e)(3) has been added to provide for the schedular apportionment of deductions for allocations of borrowings to positive direct investment calculated on a worldwide basis under § 503 or calculated on a combined schedular basis under § 507 as to Schedules B and C. Section 306(e)(3) will be applicable only if the DI elects a schedular allowable and in the same year incurs a repayment charge or makes a reallocation with respect to a borrowing previously allocated to worldwide or combined schedular investment. For example, if the DI takes a § 306(e) deduction from worldwide positive direct investment under § 503 and then repays the borrowing in a year in which § 504 or § 507 is elected, the repayment charge to each scheduled area for purposes of § 312(a)(7) is established by § 306(e)(3); and similarly for borrowings allocated to combined Schedules B/C under § 507 that are subsequently repaid in a year of electing § 504. Schedular apportionment of an aggregate deduction must also be made under § 306(e)(3) if the DI intends subsequently to reallocate between scheduled areas.

The rule of § 306(e)(3) does not apply to a deduction under § 313(d)(1), which is recognized in the scheduled area where the transfer of capital was made with available proceeds.

(a) *Recalculation of worldwide positive direct investment under § 503 and combined Schedules B/C positive direct investment under § 507.* Section 306(e)(3) deems a § 306(e) deduction to have been made in proportion to the amount of positive direct investment in each scheduled area (negative direct investment being treated as zero for this purpose). DI should, therefore, recalculate direct investment for each schedule, taking into account all interschedular transfers (§ 505), dividends and profit remittances. Treatment of aggregate annual losses (former § 503(b)) in recalculating 1969 direct investment by scheduled area is discussed in paragraph (c) below.

Example 21. DI elected § 503 for 1969 and made positive direct investment worldwide of $2 million. To comply with the regulations, DI made a long-term foreign borrowing of $1 million and allocated the proceeds to positive direct investment, under § 306(e)(1).

Assume that DI recalculates 1969 direct investment by scheduled area as follows ($000 omitted):

	Scheduled area		
	A	B	C
Direct investment	1,000	(500)	1,500
Proportionate amount	40%	0%	60%

DI's deduction under § 306(e)(1) is deemed by § 306(e)(3) to have been made as follows: Schedule A—$400,000 ($1,000,000×40%); Schedule B—0; and Schedule C—$600,000 ($1,000,000×60%).

Complete or partial repayment of the borrowing will be charged under § 312(a)(7) to each scheduled area in the same proportions (Schedule A—40%; Schedule B—0%; and Schedule C—60%). The DI may also reallocate to other scheduled areas on the basis of the amounts apportioned to each area under § 306(e)(3).

Example 22. Same facts as in Example 21. For 1970 DI elects § 507 and makes positive direct investment of $1,200,000 in Schedules B/C, consisting of $480,000 (40%) in Schedule B and $720,000 (60%) in Schedule C. DI reallocates under § 203(d)(3) to Schedules B/C $200,000 of the $400,000 deemed allocated to Schedule A in 1969. The reallocation to

combined positive direct investment in Schedules B/C under § 203(d)(3) is deemed by § 306(e)(3) to have been made as follows: Schedule B (40%)—$80,000; and Schedule C (60%)—$120,000.

In 1971 DI elects § 504 and repays the borrowing in full. For purposes of § 312(a)(7), deductions in each area are as follows: Schedule A—$200,000 ($400,000 deemed allocated in 1969 less $200,000 reallocated in 1970); Schedule B—$80,000 ($80,000 deemed allocated in 1970); and Schedule C—$720,000 ($600,000 deemed allocated in 1969 plus $120,000 deemed allocated in 1970). Transfers of capital under § 312(a)(7) on account of the repayment will be charged to each area in the same amounts.

(b) *Relation to § 313(d)(1) deductions.* If the DI also expended proceeds of the borrowing in making a transfer of capital, the § 313(d)(1) deduction will be recognized in the scheduled area where the transfer of capital was made, in addition to deductions deemed made in such area by § 306(e)(3), as illustrated by the following example:

Example 23. DI elected § 503 in 1969. During 1969 DI borrowed $1,500,000 and expended $500,000 in making transfers of capital to Schedule A, taking a deduction therefor under § 313(d)(1). DI also transferred $500,000 each to Schedules A and B and $1 million to Schedule C. To comply with the regulations, DI allocated the $1 million of remaining available proceeds to worldwide positive direct investment, taking a deduction under § 306(e)(1). DI's total deductions for purposes of § 312(a)(7) are: Schedule A—$750,000; Schedule B—$250,000; and Schedule C—$500,000, computed as follows ($000 omitted):

	Scheduled area		
	A	B	C
(a) Net transfer of capital	1,000	500	1,000
(b) Less § 313(d)(1) deduction	500	0	0
(c) Positive direct investment under § 306(a)	500	500	1,000
(d) § 306(e)(1) deduction		(1)	
(e) § 306(e)(1) deduction apportioned under § 306(e)(3) on basis of line (c)	250	250	500
(f) Total deductions (Lines (b) and (e))	750	250	500

[1] 1,000 worldwide.

Complete or partial repayment of the borrowing in a subsequent year will be charged as follows if § 504 is elected: Schedule A—50%; Schedule B—16⅔%; and Schedule C—33⅓%. If § 507 is elected, the apportionment of the transfer of capital would be: Schedule A—50%; Schedules B and C—50%.

Note, however, that if the $500,000 deduction taken under § 313(d)(1) had been on account of a separate borrowing, repayments of that borrowing would be charged in full to Schedule A; and repayments of the borrowing allocated under § 306(e) would be charged only on the basis of the § 306(e) deductions as shown on line (e) of the above table (i.e., Schedule A—25%; Schedule B—25%; and Schedule C—50%). An allocation under § 203(d)(2) would be made on the basis of the amount shown on line (b) of the table and reallocations under § 203(d)(2) or (3) on the basis of line (e).

(c) ***Treatment of aggregate annual losses in recalculating 1969 direct investment under § 503 by scheduled area.*** Section 503(b) in effect for 1969 required DIs to disregard aggregate annual losses in calculating worldwide direct investment under the $1 million minimum allowable; i.e., the amount of such losses was to be added back to aggregate direct investment for all scheduled areas calculated in accordance with § 306. See 1969 General Bulletin § B503-3(ii). In recalculating 1969 positive direct investment for purposes of § 306(e)(3) the effect of the § 503(b) adjustment must be apportioned for each scheduled area. If a DI had aggregate annual losses for purposes of § 503(b) in 1969, direct investment should first be calculated for each scheduled area pursuant to § 306(a), taking all losses into account. Then the DI should add to direct investment in each scheduled area in which annual earnings (§ 504(b)(4)) were negative such scheduled area's share of aggregate annual losses, to be determined by multiplying aggregate annual losses by a fraction, the numerator of which is such area's negative annual earnings under § 504(b)(4) and the denominator of which is the sum of negative annual earnings for all areas where annual earnings were negative. See line (d) of the table in Example 25 below.

Example 24. DI elected § 503 for 1969. DI had only incorporated AFNs in Schedules A and B. DI transferred $500,000 to Schedule A, where its AFNs earned $500,000; and DI transferred $1 million to Schedule B, where its AFNs had losses of $1 million. No dividends were paid. DI had aggregate annual losses of $500,000 and positive direct investment worldwide under § 503 of $1,500,000, calculated as follows ($000 omitted):

	Scheduled area		
	A	B	Worldwide
Reinvested earnings	500	(1,000)	(500)
Net transfer of capital	500	1,000	1,500
Positive direct investment under § 306	1,000	0	1,000
Add back aggregate annual losses			500
Positive direct investment under § 503			1,500

For purposes of the schedular recomputation, aggregate annual losses are added to direct investment in the area where annual earnings were negative (Schedule B) in proportion to such area's share of all negative annual earnings (Schedule B—100%). Therefore, DI's § 306(e)(1) deduction will be apportioned on the basis of $1 million positive direct investment in Schedule A and $500,000 positive direct investment in Schedule B.

Example 25. DI elected § 503 in 1969. DI had only incorporated AFNs in Schedules A and B and unincorporated AFNs in Schedule C. DI made transfers of capital of $1 million to its AFNs in Schedule A and $3 million to its AFNs in Schedule B. DI's AFNs in Schedule A earned $500,000; the Schedule B AFNs lost $600,000, and the Schedule C AFNs lost $400,000 but had an increase in net assets of $100,000. DI's aggregate annual losses under § 503(b), therefore, were $500,000. There were no dividends or profit remittances. DI's worldwide positive direct investment was $4,500,000.

The following table illustrates the recalculation by scheduled area of 1969 direct investment ($000 omitted):

	Scheduled area		
	A	B	C
(a) Reinvested earnings	500	(600)	
(b) Net transfer of capital	1,000	3,000	100
(c) Direct investment under § 306(a)	1,500	2,400	100
(d) Adjustment for aggregate annual losses for purposes of § 306(e)(3)	0	[1] 300	[2] 200
(e) Direct investment for purposes of § 306(e)(3)	1,500	2,700	300

[1] 500×600÷1,000=300.
[2] 500×400÷1,000=200.

A deduction made under § 306(e), then, is deemed apportioned to the scheduled areas as follows: ⅓ to Schedule A; ⅔ to Schedule B; and 1/15 to Schedule C.

(d) *Apportionment by other methods.* If a DI is unable to recompute direct investment by scheduled area, the Office may, upon application, permit deductions to be apportioned on some other reasonable basis.

10. *Miscellaneous amendments.* A number of miscellaneous technical amendments that are not discussed elsewhere in this notice have been made in the following sections: §§ 203, 301, 302, 312, 503, and 601. These amendments are as follows:

Section 203 (c) and (d)(1) have been amended to incorporate the $25,000 de minimis exemptions to those provisions contained in § 203(e), which has been revoked. Paragraph (c) of § 301 has been revoked, being obsolete, and § 302(a) has been amended to conform to the change in § 301.

Section 312(c)(1) has been amended by adding a provision (new subdivision (ii)) relating to merger, consolidation or other reorganization among DIs. New § 312(c)(1)(ii) provides, in effect, that if two or more DIs merge or otherwise reorganize, any transfer among them of interests in AFNs will be treated in the same manner as acquisitions described in § 312(c)(1)(i) (former § 312(c)(1)). In other words, no transfers of capital will occur, but there will be an allocation of direct investment items, and revised reports will be required.

In addition, the provisions of former § 312(c)(1), now contained in § 312(c)(1)(i), have been amended to provide that the attribution of §§ 313(d)(1), 306(e), and 203(d)(2) and (3) deductions will depend upon whether or not the acquiring DI assumes the obligation to repay the underlying borrowing for which the deductions were made.

Section 503(c) has been amended to include reference to § 504(e) and § 1302.

Section 601 has been amended to increase the required retention period for certain records of transactions between a DI and its AFNs. Records as to transactions concerning which information is required in any report that must be submitted to the Office must now be retained for at least 3 years after the date of the report relating to or containing information concerning the transaction. It is also provided that records of DI-AFN

transactions that are not reportable must be retained for at least 3 years after the date of filing the annual report for the year in which such transaction occurred.

11. *Effect on 1969 General Bulletin.* The 1969 General Bulletin published in the FEDERAL REGISTER on November 5, 1969 (34 F.R. No. 213) interprets the regulations as in effect for 1969, and will continue to do so for 1970 to the extent not affected by these amendments. Therefore, the 1969 General Bulletin must be used with care in 1970.

The text of the amendments is as follows:

1. Paragraph (e) of § 1000.203 is revoked, and § 1000.203 (c) and (d) (1) are revised to read as follows:

§ 1000.203 Liquid foreign balances.

* * * * *

(c) Each direct investor is hereby required to limit the amount of liquid foreign balances held at the end of any month (other than those that are Canadian foreign balances, as defined in § 1000.1105(a), or are available proceeds, as defined in § 1000.324(d)) to the greater of (1) the average end-of-month amounts of such balances held by such direct investor during 1965 and 1966 (whether or not a direct investor at that time) or (2) $25,000.

(d) (1) A direct investor which holds available proceeds, as defined in § 1000.324(d), in excess of $25,000 in the form of foreign balances or in the form of securities (including debt obligations, equity interests and any other type of investment contract) of foreign nationals or in the form of any other foreign property as of the end of any year commencing with the year 1969 shall be prohibited from making a positive net transfer of capital to any scheduled area for such year, but only to the extent such positive net transfer of capital results in positive direct investment in such scheduled area for such year that is not authorized by § 1000.1002: *Provided*, That this subparagraph shall not apply to a direct investor which elects to be governed for such year by § 1000.503 or § 1000.507: *And provided further*, That for purposes of this subparagraph, allocations to positive direct investment under § 1000.306(e) or subparagraph (2) of this paragraph and reallocations under subparagraph (3) of this paragraph shall be deemed to reduce any positive net transfer of capital to a scheduled area and thereafter to reduce any reinvested earnings in such scheduled area.

* * * * *

(e) [Revoked]

2. Section 1000.301 is amended to revoke paragraph (c) of that section.

§ 1000.301 Foreign country.

* * * * *

(c) [Revoked]

3. Section 1000.302(a) is revised to read as follows:

§ 1000.302 Foreign national.

(a) The term "foreign national" means a foreign country (as defined in § 1000.301) and any person which is not a person within the United States (as defined in § 1000.322), including a corporation or partnership organized under the laws of a foreign country (as defined in § 1000.304(a)(1)(i)), a business venture conducted within a foreign country (as defined in § 1000.304(a)(1)(ii) and (iii)), and a foreign bank (as defined in § 1000.317(b)).

* * * * *

4. A new subparagraph (3) is added to § 1000.306(e) to read as follows:

§ 1000.306 Positive and negative direct investment.

* * * * *

(e) * * *

(3) A deduction made pursuant to subparagraph (1) of this paragraph from positive direct investment in all scheduled areas by a direct investor electing to be governed by § 1000.503 for any year, commencing with the year 1969, shall be deemed to have been made in each scheduled area in the same proportions as the amount of positive direct investment (calculated as provided in paragraph (a) of this section and, in the case of positive direct investment in the year 1969, disregarding each scheduled area's proportionate share of aggregate annual losses, as defined in § 1000.503(b) in effect for the year 1969) in such scheduled area during such year. A deduction made pursuant to subparagraph (1) of this paragraph or § 1000.203(d) (2) or (3) from positive direct investment in Schedules B and C by a direct investor electing to be governed by § 1000.507 for any year, commencing with the year 1970, shall be deemed to have been made in each such scheduled area in the same proportions as the amount of positive direct investment (calculated as provided in paragraph (a) of this section) made by the direct investor in such scheduled area during such year. The Secretary may, upon application pursuant to § 1000.801, permit a direct investor to apportion such deductions in some other manner reasonably reflecting the direct investor's interests in each scheduled area during such year.

5. Section 1000.312(c)(1) is revised to read as follows:

§ 1000.312 Transfers of capital.

* * * * *

(c) * * *

(1) (i) An acquisition by a direct investor described in paragraph (a)(1) of this section if the acquisition is from a person within the United States acting for its own account and such person is, immediately prior to the time of acquisition, a direct investor in the affiliated foreign national. On and after June 10, 1969, if the acquisition is of an equity interest, the direct investment made by the divesting direct investor in the affiliated foreign national in the year of the acquisition and during the years 1965 and 1966 shall be deemed to have been made by the acquiring direct investor (except that the provisions of § 1000.203 (d) (2) and (3), § 1000.306(e) and § 1000.313(d)(1) shall be disregarded in calculating such direct investment, unless the acquiring direct investor shall have assumed the obligation to repay the long-term foreign borrowing in connection with which the deductions under such sections were made), and the divesting direct investor's share in earnings or losses in the affiliated foreign national prior to the acquisition for purposes of determining annual earnings, total earnings, and reinvested earnings under § 1000.504 (a) (3) (ii) and (b) (4) shall be deemed attributable to the acquiring direct investor: *Provided*, That only that portion of such direct investment and share in earnings or losses reasonably allocable to the interest acquired shall be deemed to have been made by or attributed to the acquiring direct investor: *And provided further*, That revised Forms FDI–101, and revised Forms FDI–102F for the year preceding the year in which the acquisition occurs, are filed by the acquiring and divesting direct investors on or before the end of the month following the close of the calendar quarter during which the acquisition occurs. Any direct investment, or share in earnings or losses, deemed made by or attributed to an acquiring direct investor under this subparagraph shall be excluded in the computation of direct investment or earnings or losses of the divesting direct investor.

(ii) The provisions of subdivision (i) of this subparagraph shall apply to an acquisition as described in such subdivision which occurs in connection with or as a result of any combination (by merger, consolidation, reorganization, or otherwise) of two or more direct investors, in which case the surviving direct investor shall be deemed an acquiring direct investor and any other direct investor involved in the combination shall be deemed a divesting direct investor.

* * * * *

6. Section 1000.319(b) is amended to read as follows:

§ 1000.319 Schedule A, B, and C countries.

* * * * *

(b) Schedule B countries are such other foreign countries as the Secretary may determine to be developed countries in which a high level of capital inflow is essential for the maintenance of economic growth and financial stability, and where those requirements cannot be adequately met from non-U.S. sources. The following countries are hereby determined to fall in this category: Abu Dhabi, Australia, The Bahamas, Bahrain, Bermuda, Canada, Hong Kong, Iran, Iraq, Ireland, Japan, Kuwait, Kuwait-Saudi Arabia Neutral Zone, Libya, New Zealand, Qatar, Saudi Arabia, the United Kingdom, and, commencing with the year 1970, Spain.

* * * * *

7. Paragraph (a) and subparagraphs (3) and (4) of paragraph (a) of § 1000.502 are revised, and new paragraphs (c) and (d) are added to that section, to read as follows:

§ 1000.502 Elections with respect to §§ 1000.503, 1000.504 and 1000.507.

(a) A direct investor shall elect for each year, commencing with the year 1970, to be governed by the provisions of

* * * * *

(3) Section 1000.504(b), or
(4) Section 1000.507.

* * * * *

(c) A direct investor that elects to be governed by the provisions of § 1000.507 for any year may not in the immediately following year elect to be governed by the provisions of section 1000.503 without obtaining prior permission of the Secretary.

(d) A direct investor that elects to be governed by the provisions of § 1000.503 for any year, commencing with the year 1970, may not in the immediately following year elect to be governed by the provisions of section 1000.507 without obtaining prior permission of the Secretary.

8. Paragraph (b) of § 1000.503 is revoked, and paragraph (c) of that section is revised, to read as follows:

§ 1000.503 Positive direct investment not exceeding $1,000,000; minimum allowable.

* * * * *

(b) [Revoked]

(c) If a direct investor elects to make positive direct investment during any year commencing with the year 1969 as authorized under this section, no positive direct investment shall be authorized in such year under § 1000.504 and any positive direct investment which would otherwise have been authorized in such year under § 1000.504 (d), (e), or (f) or § 1000.1302 shall, notwithstanding those provisions, not be authorized in such year or succeeding years.

* * * * *

9. Section 1000.504(a)(3) is amended to read as follows:

§ 1000.504 Authorized positive direct investment in scheduled areas; scheduled allowables.

(a) * * *

(3) In Schedule C, in an amount not exceeding 35 percent of the average of direct investment by the direct investor in Schedule C during the years 1965 and 1966.

* * * * *

10. Section 1000.506 (a)(4), (b), (c), and (d) are revised to read as follows:

§ 1000.506 Additional authorized positive direct investment in any one or more scheduled areas; incremental earnings allowable.

(a) * * *

(4) The term "incremental earnings allowable" means, with respect to each year beginning with the year 1970 in which there are incremental earnings, the amount by which 40 percent of the incremental earnings for such year exceeds the greatest of the following (computed without regard to the reduction provisions of § 1000.1003 or any authorization, exemption, ruling, compliance settlement or order, and without regard to any election made under § 1000.502(a)): (i) The amount of positive direct investment authorized to be made by the direct investor during such year in all scheduled areas under § 1000.503, or (ii) the amount of positive direct investment, if any, authorized to be made by the direct investor during such year in all scheduled areas under § 1000.504(a) (1), (2), and (3), or (iii) the amount of positive direct investment, if any, authorized to be made by the direct investor during such year in all scheduled areas under § 1000.504 (b) (1), (2), and (3).

(b) For any year, commencing with the year 1970, a direct investor that elects under § 1000.502(a)(1) may make additional positive direct investment in excess of that authorized by § 1000.503 in all scheduled areas in an aggregate amount not exceeding the direct investor's incremental earnings allowable for such year.

(c) For any year, commencing with the year 1970, a direct investor that elects under § 1000.502(a) (2) or (3) or (4) may make additional positive direct investment in excess of that authorized by § 1000.504 or § 1000.507 in any scheduled area in an amount not exceeding the direct investor's incremental earnings allowable for such year: *Provided*, That the aggregate of positive direct investment made pursuant to this paragraph in all scheduled areas shall not exceed the incremental earnings allowable. A direct investor that elects § 1000.504 shall compute additional positive direct investment made in Schedule C for such year pursuant to this section in accordance with § 1000.504(e).

(d) If, during any year commencing with the year 1970, the incremental earnings allowable authorized to a direct investor exceeds the aggregate of additional positive direct investment made in all scheduled areas pursuant to paragraph (b) or (c) of this section, the direct investor is authorized to make additional positive direct investment, during succeeding years, in the same manner as provided in paragraphs (b) and (c) of this section, in an aggregate amount not exceeding such excess.

11. A new § 1000.507 is added to read as follows:

§ 1000.507 Alternative minimum and Schedule A supplemental allowable.

(a) If for any year commencing with the year 1970 a direct investor elects under § 1000.502(a)(4), positive direct investment for such year is authorized as follows:

(1) In Schedules B and C in an aggregate amount not exceeding $1 million; and

(2) In Schedule A in an amount not exceeding $4 million.

(b) If during any year commencing with the year 1970 the aggregate amount of positive direct investment authorized to a direct investor in Schedules B and C under paragraph (a)(1) of this section exceeds the aggregate amount of direct investment (whether positive or negative) made by the direct investor during such year in Schedules B and C, the direct investor is authorized to make additional positive direct investment in Schedule A during the same year in an aggregate amount of not more than the amount of such excess.

(c) If a direct investor elects to make positive direct investment during any year commencing with the year 1970 as authorized under this section, no positive direct investment shall be authorized in such year under § 1000.504 and any positive direct investment which would otherwise have been authorized in such year under § 1000.504 (d), (e), or (f) or § 1000.1302 shall, notwithstanding those provisions, not be authorized in such year or succeeding years.

12. Section 1000.601 is revised to read as follows:

§ 1000.601 Records.

Every person subject to the provisions of this part shall keep in the United States a full and accurate record of each transaction engaged in by it which is subject to the provisions of this part, regardless of whether such transaction is effected pursuant to authorization or otherwise, and of every other transaction between such person and an affiliated foreign national. Such records (including, but not limited to, source materials, journals or other books of original entry, ledgers, financial statements, work papers, regardless of by whom prepared, and minute books) shall be retained for at least 3 years after the date of the filing of any report relating to or containing information concerning such transaction, whether or not the transaction is individually identified. Records relating to transactions with respect to which there is no reporting requirement shall be retained for at least 3 years after the filing of the annual report relating to the year in which such transactions occurred.

13. Section 1000.905(b)(2) is revised to read as follows:

§ 1000.905 Associated groups.

* * * * *

(b) * * *

(2) (i) Notwithstanding the provisions of § 1000.503, positive direct investment made during any year, commencing with the year 1970, by members of an associated group that elect § 1000.503 in group affiliated foreign nationals of the associated group shall not be authorized by § 1000.503, unless the aggregate of direct investment made during the year by all such members (being considered for purposes of this subdivision as a single direct investor) in all group affiliated foreign nationals would have been authorized by § 1000.503.

(ii) Notwithstanding the provisions of § 1000.507, positive direct investment made during any year, commencing with the year 1970, by members of an associated group that elect § 1000.507 in group affiliated foreign nationals of the associated group shall not be authorized by § 1000.507, unless the aggregate of direct investment made during the year by all such members (being considered for purposes of this subdivision as a single direct investor) in all group affiliated foreign

nationals would have been authorized by § 1000.507.

(iii) If one or more members of an associated group elect § 1000.503 and one or more other members of the group elect § 1000.507, for any year commencing with the year 1970, positive direct investment by such members in group affiliated foreign nationals shall not be authorized by § 1000.503 or § 1000.507, unless the algebraic sum of the following is not in excess of $1 million: Aggregate direct investment made during the year pursuant to § 1000.503 in all group affiliated foreign nationals by the members electing § 1000.503 plus aggregate direct investment made during the year pursuant to § 1000.507 (a)(1) and (b) in all group affiliated foreign nationals by the members electing § 1000.507.

* * * * *

14. Section 1000.906(b)(3)(ii) is revised, and new subdivisions (iii) and (iv) are added to subparagraph (3) of § 1000.906(b), to read as follows:

§ 1000.906 Ownership of direct investors.

* * * * *

(b) * * *

(3) * * *

(ii) Notwithstanding the provisions of § 1000.503, positive direct investment made (or deemed to have been made under subdivision (i) of this subparagraph) during any year, commencing with the year 1970, by consenting owners that elect § 1000.503 in an affiliated foreign national of the principal direct investor shall not be authorized by § 1000.503, unless the aggregate of direct investment made or deemed to have been made during the year by all consenting and nonconsenting owners electing § 1000.503 (such owners being considered for purposes of this subdivision as a single direct investor) in all affiliated foreign nationals of the principal direct investor would have been authorized by § 1000.503.

(iii) Notwithstanding the provisions of § 1000.507, positive direct investment made (or deemed to have been made under subdivision (i) of this subparagraph) during any year, commencing with the year 1970, by consenting owners that elect § 1000.507 in an affiliated foreign national of the principal direct investor shall not be authorized by § 1000.507, unless the aggregate of direct investment made or deemed to have been made during the year by all consenting and nonconsenting owners electing § 1000.507 (such owners being considered for purposes of this subdivision as a single direct investor) in all affiliated foreign nationals of the principal direct investor would have been authorized by § 1000.507.

(iv) If one or more consenting owners elect § 1000.503 and one or more other consenting owners elect § 1000.507, for any year commencing with the year 1970, positive direct investment made (or deemed to have been made under subdivision (i) of this subparagraph) by such consenting owners in affiliated foreign nationals of the principal direct investor shall not be authorized by § 1000.503 or § 1000.507, unless the algebraic sum of the following is not in excess of $1 million: Aggregate direct investment made or deemed to have been made during the year pursuant to § 1000.503 in all affiliated foreign nationals of the principal direct investor by all consenting and nonconsenting owners that elect § 1000.503 plus aggregate direct investment made or deemed to have been made during the year pursuant to § 1000.507 (a)(1) and (b) in all affiliated foreign nationals of the principal direct investor by all consenting and nonconsenting owners that elect § 1000.507.

* * * * *

15. Section 1000.1003 (c) and (d) are revised to read as follows:

§ 1000.1003 Effect of transfers of capital in repayment of borrowings.

* * * * *

(c) (1) In any year, commencing with the year 1970, in which a repayment charge is incurred, the amount of positive direct investment authorized to be made by the direct investor shall be reduced as follows: Except as hereinafter provided, reduction shall be made first in the amount of positive direct investment authorized under Subpart E of this part in the scheduled area in which the positive direct investment under § 1000.1002 was made, and, to the extent that the repayment charge exceeds the amount of positive direct investment so authorized in such scheduled area, further reduction shall be made in the amount of positive direct investment authorized under Subpart E of this part in Schedules C, B, and A, in that order, and then in the amount of positive direct investment authorized under Subpart M of this part: *Provided*, That the amount of the reduction shall not exceed the repayment charge and that such reduction shall not reduce authorized positive direct investment under said subparts in any year to an amount less than zero.

(2) Reductions under subparagraph (1) of this paragraph in the amount of positive direct investment authorized under Subpart E of this part shall be made first in the aggregate amount of positive direct investment authorized under § 1000.503, § 1000.504, or § 1000.507 (except as provided in paragraph (d) of this section), whichever is elected by the direct investor for the year, and then in the amount of positive direct investment authorized under § 1000.506.

(3) Reductions under subparagraph (1) of this paragraph in the amount of positive direct investment authorized in Schedule C pursuant to § 1000.504 shall be made first in the amount of authorized positive direct investment under § 1000.504 (a) and (c) or (b), (d)(3), and (f)(3)(i), and then in the amount of authorized reinvested earnings under § 1000.504 (e) and (f)(3)(ii).

(4) Reductions in the amount of authorized positive direct investment under subparagraph (1) of this paragraph for a repayment charge attributable to transfers of capital primarily related to operations in foreign air transportation by direct investors described in § 1000.1302(a) shall be made first in the amount of authorized positive direct investment under Subpart M of this part.

(5) Reductions under subparagraph (1) of this paragraph in the amount of positive direct investment authorized under § 1000.507(a)(2) shall be made only to the extent that the repayment charge is the result of:

(i) Transfers of capital described in § 1000.1002(a) (1), (2), (3), or (5): *Provided*, That the borrowings referred to in § 1000.1002(a) (1), (2), (3), and (5), are borrowings of affiliated foreign nationals located in Schedule A; or

(ii) Transfers of capital described in § 1000.1002(a) (3), (4), or (6), to the extent that the proceeds of the borrowings referred to in § 1000.1002(a) (3), (4), and (6) were expanded in or allocated to Schedule A, at the time of repayment, and for which a deduction was made under § 1000.203(d)(2), § 1000.203(d)(3), § 1000.306(e), or § 1000.313(d)(1).

(d) If the repayment charge incurred in any year exceeds the amount of authorized positive direct investment reduced under this section, reductions shall be made in each succeeding year in the same manner and order as set forth in paragraph (c) of this section. A direct investor electing for any year to be governed by § 1000.507 may elect, by so indicating on its Annual Report Form FDI–102F for such year, that the amount of positive direct investment that it is authorized to make in Schedule A under § 1000.507(a)(2) shall not be reduced pursuant to this paragraph (d): *Provided*, That a direct investor may not so elect with respect to a repayment charge incurred during the year 1968 under § 1000.1003 as in effect for 1968.

16. Section 1000.1303(a) is revised to read as follows:

§ 1000.1303 Adjustment to incremental earnings allowable.

(a) For direct investors governed by § 1000.1302, "aggregate annual earnings" under § 1000.506(a)(1) shall mean the sum of "aggregate annual foreign air transport earnings" as defined in § 1000.1302(b) plus the algebraic sum of such direct investor's annual earnings (as calculated under §§ 1000.504(b)(4) and 1000.1302(d)) during a year in all scheduled areas.

* * * * *

17. The amendments hereby adopted shall be effective as of the date of publication in the FEDERAL REGISTER and shall apply to all direct investment and affected transactions occurring during the year 1970 and succeeding years.

(Sec. 5, Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47)

RICHARD P. URFER,
Director, Office of Foreign Direct Investments.

MAY 1, 1970.

[F.R. Doc. 70-5545; Filed, May 6, 1970; 8:45 a.m.]

PART 1000—FOREIGN DIRECT INVESTMENT REGULATIONS

Subpart N—Overseas Finance Subsidiaries

EDITORIAL NOTE: The Foreign Direct Investment Regulations (the "regulations") appear in Title 15, Chapter X, Part 1000 of the Code of Federal Regulations ("CFR"). Thus, all sections of the regulations contained in CFR are preceded by the designation "1000" (e.g., § 1000.201). The "1000" prefix has, for convenience, been eliminated from the section references contained in this notice. The term "part" when used in the regulations means Part 1000 of CFR. References to sections of the 1969 General Bulletin published by the Office of Foreign Direct Investments (the "Office") correspond to section numbers of the regulations, but are preceded by the designation "B" (e.g., § B201), and major topical subdivisions are indicated by a numerical suffix (e.g., § B201–1). The abbreviations "DI" and "AFN" are used in this notice to refer to "direct investor" and "affiliated foreign national", respectively.

Notice is hereby given that the Office of Foreign Direct Investments (the "Office") has added Subpart N (Overseas Finance Subsidiaries) to the Foreign Direct Investment Regulations (the "regulations"). With the exception of the following modifications, this subpart is the same as that contained in the notice of proposed rule making published in the FEDERAL REGISTER on March 11, 1970 (35 F.R. 4377): The term "intercompany borrowing", as originally defined in § 1401(e), has been changed to "proceeds borrowing". The requirement that the debt instrument evidencing proceeds borrowing have an original maturity of at least 12 months has been liberalized by replacing it with a requirement that proceeds borrowing be continuously outstanding for at least 12 months. The sequence of charges upon repayment of the borrowings described in Subpart N has been reordered. Subpart N shall be effective as of January 1, 1970 and not as of the date of final publication of Subpart N in the FEDERAL REGISTER.

In general, Subpart N accords special status to funds acquired in certain borrowings from sources outside the United States and Canada by an AFN which has been qualified as an "overseas finance subsidiary" ("OFS"). When such funds are lent by the OFS to the DI, they become available proceeds of long-term foreign borrowing and may offset positive direct investment. Such funds may also be transferred between the OFS and other AFN's of the DI without involving a net transfer of capital. Repayment by the DI or the OFS of an OFS's qualified foreign borrowing has much the same effect as repayment of long-term foreign borrowing by a DI. All other subparts of the regulations apply to all OFS transactions except to the extent specifically modified by Subpart N.

The Office has previously issued specific authorizations, under § 801 of the regulations, which, in effect, treat certain borrowing made through an OFS as if the borrowing were a long-term foreign borrowing by the DI. Adoption of Subpart N will make it unnecessary for a DI to obtain such a specific authorization. Any such specific authorizations issued in 1968, 1969, or 1970 are superseded by Subpart N beginning January 1, 1970, and, consequently, transactions involving OFS's occurring during 1970 and thereafter shall be governed by Subpart N. Direct investors who have been issued such specific authorizations may, upon application under § 801, be specifically authorized to be governed by provisions of their previous specific authorization, rather than provisions of Subpart N, with respect to transactions involving OFS's occurring between January 1, 1970, and the date of publication of Subpart N in the FEDERAL REGISTER in final form.

A section-by-section analysis of Subpart N follows:

1. *Section 1401.* The definition of an OFS is contained in § 1401(a). Section 1401(a) (1) and (2) require that an OFS be a wholly owned, non-Canadian AFN of the DI.

Section 1401(a)(3) provides that an AFN may qualify as an OFS only if the AFN's principal business is to borrow funds from foreign nationals, other than AFNs or Canadian persons, on terms which would qualify such borrowing as long-term foreign borrowing if made by a DI (see § 1401(b)) and to lend such borrowed funds to the DI or to use such funds in loans to or acquisition of equity interests in other AFNs. The principal business requirement is satisfied if the OFS is at all times a financing company (i.e., does not engage in manufacturing, sale of goods or services, or other similar operations); does not deal or trade in securities; and substantially all of its borrowed funds are held, at all times, in the form of debt obligations of the DI, debt obligations of AFNs or equity interests in AFNs. However, pending commitment of borrowed funds, or in the interval between changes in the commitment of such funds, an OFS may temporarily hold such funds in the form of government securities; or in the form of debt obligations (including, without limitation, negotiable and nonnegotiable instruments, commercial paper, demand and time deposits and certificates of deposit) having a maturity of less than 12 months.

Section 1401(a)(4) provides that a DI may claim the benefits of the special rules contained in Subpart N only if its OFS is formally qualified in accordance with the procedures set forth in § 1402.

Note that contributions of funds or other property by the DI or AFNs to the equity capital of the OFS constitute transfers of capital to the OFS, and such transfers are not affected by Subpart N.

Section 1401(b) defines "overseas borrowing" as borrowing by an OFS which would be long-term foreign borrowing, under § 324, if made by a DI.

Section 1401(c) defines "overseas proceeds" as the funds or other property received by the OFS in overseas borrowing. Overseas proceeds invested by the OFS or the DI in debt obligations of or equity interests in other AFNs of the DI remain overseas proceeds until repayment of the overseas borrowing or proceeds borrowing. See § 1404.

Section 1401(d) defines "available overseas proceeds" as overseas proceeds held by the OFS. Notwithstanding § 505, overseas proceeds may be transferred by the OFS to AFNs of the DI without being included in the computation of net transfer of capital under § 313. See § 1403(a)(2).

In addition, overseas proceeds transferred to the DI in proceeds borrowing, as defined in § 1401(e), are thereafter treated as available proceeds of long-term foreign borrowing. See § 1403(a)(1). The proceeds borrowing must be continuously outstanding for at least 12 months after the original date of the loan, and any debt instrument evidencing such loan may not be sold or otherwise transferred by the OFS prior to repayment or cancellation. If the OFS ceases to hold any such debt instrument, the loan of overseas proceeds to the DI will fail to qualify as proceeds borrowing, and the Office may revoke the OFS's qualification, as provided in § 1402(c).

2. *Section 1402.* As provided in § 1402(a), OFS qualification is conditioned upon the filing of a certificate in letter form, addressed to the Director, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230, identifying the AFN to be qualified as an OFS, setting forth sufficient information to demonstrate that the AFN has been organized, is owned and is operating, and that the DI intends that the AFN will continue to operate, in accordance with provisions of § 1401(a)(1), (2), and (3). If the person signing the certificate is not an officer of the DI, evidence of authority to file such certificate must be attached.

Any certificate filed with the Office shall be effective for the compliance year in which it is filed and thereafter, unless withdrawn by the DI with the permission of the Office or revoked by the Office, as provided in § 1402(c). The Office will not revoke any certificate unless it determines that the AFN was not organized, is not owned, or is not operating in accordance with the provisions of § 1401(a) (1), (2), and (3), or that the DI failed to comply with the record-keeping requirements of § 1402(b).

As provided in § 1402(d), all specific authorizations previously issued by the Office deeming certain financing AFNs to be persons within the United States or unaffiliated foreign lenders shall be of no further effect beginning January 1, 1970. Each such AFN shall be deemed to have qualified as an OFS under § 1402(a), and transactions involving such OFS shall be governed by Subpart N during 1970 and thereafter and not by the terms of such specific authorization. The Office will issue a written communication to each DI, which has received such a specific authorization, stating the manner in which transactions involving the OFS occurring prior to publication of Subpart N in final form in the FEDERAL REGISTER should be treated. Although a DI holding such a specific

authorization will normally not be permitted to be governed by its specific authorization in lieu of Subpart N, it is recognized that the retroactive application of Subpart N to January 1, 1970, may affect transactions entered into during 1970. Such DI may apply for specific authorization to have any such transactions treated under its prior specific authorization.

3. *Section 1403.* Pursuant to § 1403(a)(1), the loan of overseas proceeds to the DI in proceeds borrowing is not a transfer of capital under § 312(b), but does result in such overseas proceeds being treated as available proceeds of long-term foreign borrowing, as defined in § 324(d).

Pursuant to § 1403(a)(2), transfers of overseas proceeds by the OFS to AFNs of the DI in exchange for debt obligations of or equity interests in such AFNs do not involve net transfer of capital, notwithstanding §§ 505 and 313. Pursuant to § 1403(a)(3), overseas proceeds can also be returned by AFNs to the OFS without involving net transfer of capital, notwithstanding §§ 505 and 313, and such overseas proceeds in the hands of the OFS again become available overseas proceeds. The exemption from §§ 505 and 313 provided for in § 1403(a)(3) may not apply to the return of invested overseas proceeds by an AFN to the OFS if, in the interim, there has occurred a repayment of the overseas borrowing or the proceeds borrowing (see § 1404(a)). Note that overseas proceeds transferred by an OFS to an AFN in exchange for equity interests in such AFN are not affected by changes in the value of the securities.

Example 1. DI desires to make a transfer of capital to Schedule C in 1970 in the amount of $10 million. DI causes a wholly owned incorporated Schedule C AFN to organize a Schedule A OFS in the Netherlands Antilles (for which a certificate under § 1402(a) is properly filed in due course) and to contribute $2 million to such OFS as original equity capital. OFS receives $10 million from an overseas borrowing which has been fully guaranteed by the DI as to repayment of principal and payment of interest. OFS lends $10 million to DI in return for a promissory note continuously outstanding for at least 12 months, which is held by the OFS. DI expends $10 million in a transfer of capital to an AFN in Schedule C. The capitalization of the OFS results in a § 312(b) transfer of capital of $2 million from Schedule C and a § 312(a) transfer of capital of $2 million to Schedule A, pursuant to § 505. The loan of $10 million by the OFS to its DI is a proceeds borrowing and does not constitute a § 312(b) transfer of capital. However, the $10 million of overseas proceeds in the hands of the DI are treated as available proceeds of long-term foreign borrowing. The transfer of the $10 million to an AFN in Schedule C is a § 312(a) transfer of capital offset by expenditure of available proceeds under § 313(d)(1).

Example 2. In 1970 an OFS in Schedule C receives $10 million of overseas proceeds and invests $9 million thereof in debt obligations of an AFN in Schedule B. In 1971 the DI directly repays $3 million of overseas borrowing, resulting in a transfer of capital to Schedule B of $3 million, under § 1404(a)(3). Later in the same year, the AFN repays to the OFS $3 million of the $9 million borrowed. Under § 1403(a)(3), the DI may treat the repayment by the AFN to the OFS either as being a return of $3 million of overseas proceeds (and hence not subject to §§ 505 and 313) or as a return of funds which have lost their status as overseas proceeds by virtue of the $3 million repayment of overseas borrowing (and hence subject to §§ 505 and 313).

Example 3. Schedule A OFS invests $6 million of overseas proceeds in equity securities in a Schedule B AFN. Prior to repayment of the overseas borrowing, the equity interest is sold by the OFS to an unaffiliated foreign national for $7 million. Only $6 million are overseas proceeds, and the additional $1 million are not covered by the provision of § 1403(a)(3) exempting a transfer of overseas proceeds from §§ 505 and 313.

Pursuant to § 1403(b)(1), foreign balances of an OFS (other than available overseas proceeds and funds contributed as equity capital) held in liquid form are deemed to be liquid foreign balances of the DI and are subject to limitation under § 203(c).

Example 4. DI borrows $5 million in long-term foreign borrowing under § 324. The $5 million are contributed by DI to an AFN as original equity capital. The AFN places such funds in a demand deposit account in a foreign bank. The AFN is thereafter qualified as an OFS. The $5 million are not considered liquid foreign balances of the DI under § 203(c). See § 1403(b).

Pursuant to § 1403(b)(2), a DI who elects § 504 and whose OFS holds available overseas proceeds at the end of any year is subject to the prohibitions of § 203(d)(1).

Example 5. A DI electing § 504 organizes an AFN in the Netherlands Antilles and in the same year qualifies it as an OFS. During 1970, the OFS transfers $1 million of overseas proceeds to the DI in proceeds borrowing and retains available overseas proceeds of $3 million. If the OFS holds the $3 million of available overseas proceeds in foreign property on December 31, 1970, the DI would be prohibited from making positive net transfers of capital which result in positive direct investment during 1970.

4. *Section 1404.* Repayment by the DI or the OFS of overseas borrowing and repayment by the DI of proceeds borrowing result in transfers of capital (and corresponding reduction of overseas proceeds) and/or reduction of available proceeds of long-term foreign borrowing (and corresponding reduction of overseas proceeds). Repayment by the DI of overseas borrowing means both direct repayment by the DI or indirect repayment by the DI whereby the DI provides funds to the OFS to enable it to repay. When the DI repays proceeds borrowing for the purpose of enabling the OFS to repay the overseas borrowing, the repayment by the DI is deemed for purposes of § 1404(a) to be of overseas borrowing *and not of proceeds borrowing*. In other words, for purposes of § 1404(a), repayment of proceeds borrowing occurs only when the OFS does not use the funds or other property repaid to it by the DI to repay overseas borrowing.

Repayment by the DI of overseas borrowing or proceeds borrowing results in the following charges:

(1) Pursuant to § 1404(a)(1), there is a reduction of available proceeds of long-term foreign borrowing resulting from proceeds borrowing. There is also an equal reduction in the amount of overseas proceeds.

(2) Pursuant to § 1404(a)(2), if the amount of repayment exceeds the reduction of available proceeds under § 1404(a)(1), transfers of capital are charged proportionately to the scheduled areas where the DI has expended or allocated available proceeds of long-term foreign borrowing resulting from proceeds borrowing. There is also an equal reduction in the amount of overseas proceeds.

(3) Pursuant to § 1404(a)(3), if the amount of repayment exceeds the aggregate reductions of available proceeds and transfers of capital to AFNs under § 1404(a)(1) and (2), transfers of capital will be charged proportionately to the scheduled areas where the OFS has transferred overseas proceeds pursuant to § 1403(a)(2). There is also an equal reduction in the amount of overseas proceeds held by such AFNs.

(4) Pursuant to § 1404(a)(4), any repayment in excess of reductions of available proceeds and transfers of capital pursuant to § 1404(a)(1), (2), and (3) is a transfer of capital to the scheduled area in which the OFS is incorporated. There is also an equal reduction in the amount of overseas proceeds held by the OFS.

In the event of repayment of overseas borrowing by reason of debt holders' exercise of conversion or similar rights, transfers of capital, but not reduction of available proceeds, are deferred until the year following such conversion. See § 1404(a)(5).

The total amount of overseas proceeds received by an OFS may, due to discounts, commissions or fees, be less than the amount of the OFS's indebtedness to its lenders. Under these circumstances, the aggregate amount of transfers of capital and reductions of proceeds pursuant to § 1404 cannot exceed the amount of overseas proceeds. See § 1404(a)(6). The amount repaid attributable to discounts, commissions or fees is deemed to be the last amount repaid. Note that repayment of proceeds borrowing after repayment of the underlying overseas borrowing is a transfer of capital to the scheduled area in which the OFS is incorporated. However, repayment by the OFS of overseas borrowing after repayment of proceeds borrowing does not result in a transfer of capital.

Example 6. In 1970, a Schedule A OFS issues $10 million of debentures which are sold at a discount, and the OFS receives $9,500,000 as available overseas proceeds. The OFS transfers $1 million to Schedule C AFNs and $2 million to Schedule B AFNs. Then $6 million is transferred in proceeds borrowing to the DI, which expends $4 million in a transfer of capital to Schedule C and allocates $1,500,000 to positive direct investment in Schedule A. In 1972, $7 million of the debentures are redeemed and, in 1973, $3 million of the debentures are redeemed. In 1972 the transfers of capital and reductions would be: Under § 1404(a)(1), a $500,000 reduction in available proceeds; under § 1404(a)(2), transfers of capital of $4 million to Schedule C and $1,500,000 to Schedule A; and under § 1404(a)(3), transfers of capital of $333,000

to Schedule C and $667,000 to Schedule B. In 1973, the transfers of capital would be: Under § 1404(a)(3), transfers of capital of $667,000 to Schedule C and $1,333,000 to Schedule B; and then, under § 1404(a)(4), a transfer of capital of $500,000 to Schedule A. Although repayment of overseas borrowing equalled $10 million, the aggregate transfers of capital and reduction under § 1404(a)(6) equal only $9,500,000, the original amount of overseas proceeds before any repayments.

Example 7. Schedule A OFS receives $9,500,000 from the issue of $10 million of debentures. The OFS keeps $500,000 as available overseas proceeds and $9 million are loaned to the DI in proceeds borrowing. DI does not expend or allocate the resulting available proceeds. DI repays the $10 million overseas borrowing. There is a reduction in available proceeds of $9 million, under § 1000.1404(a)(1), and a transfer of capital to Schedule A of $500,000, under § 1000.1404(a)(4).

Example 8. Schedule A OFS receives $10 million of overseas proceeds and transfers $6 million of overseas proceeds to an AFN in Schedule C and $4 million to an AFN in Schedule B. In 1971, the DI repays $1 million of overseas borrowing. Under § 1404(a)(2), there are transfers of capital to Schedule C of $600,000 and to Schedule B of $400,000. In 1972, the OFS disposes of its interest in the Schedule B AFN and receives $5 million in cash. Only $3,600,000 of such funds constitute overseas proceeds. The OFS lends $3,600,000 to the DI in proceeds borrowing and the DI allocates the resulting available proceeds to positive direct investment in Schedule C. In 1973, the DI repays the balance of the overseas borrowing. There is a transfer of capital to Schedule C of $3,600,000, under § 1401(a)(2), and a transfer of capital to Schedule C of $5,400,000, under § 1404(a)(3).

Pursuant to § 1404(b), repayment by the OFS of overseas borrowing first reduces available overseas proceeds. If the amount of repayment exceeds such reduction, the excess is treated as repayment by the DI of overseas borrowing under § 1404(a).

Example 9. In 1970, OFS receives $10 million of available overseas proceeds from an overseas borrowing, and lends $9 million to the DI in proceeds borrowing. The OFS invests $500,000 in debt obligations of AFNs. The DI expends $8 million of the resultant available proceeds in a transfer of capital to Schedule C. In 1971, the OFS repays $2 million. Available overseas proceeds are reduced from $500,000 to zero, under § 1404(b)(1). Available proceeds are reduced from $1 million to zero, under §§ 1404(b)(2) and 1404(a)(1). There is a transfer of capital, under § 1404(a)(2), to Schedule C in the amount of $500,000.

Example 10. In 1970, an OFS receives $10 million in overseas borrowing and lends the $10 million to the DI in proceeds borrowing, and the resulting available proceeds are allocated to positive direct investment in Schedule C. DI repays proceeds borrowing, in 1971, in the amount of $10 million. Under § 1404(a)(2), there is a transfer of capital to Schedule C of $10 million, and overseas proceeds are extinguished. In 1973, the OFS repays the overseas borrowing. Since there are no remaining overseas proceeds, no transfer of capital or further reduction results. See § 1404(a)(6).

5. *Section 1405.* Under § 1405, transfers of capital resulting in positive direct investment, which arise from repayment by a DI of an overseas borrowing or a proceeds borrowing to enable the OFS to repay its overseas borrowing, will be generally authorized under Subpart J in a manner similar to repayment by a DI of other AFN borrowing. As in the case of DI guarantees of AFN borrowing, the general authorization of § 1002 is conditional upon the filing by the DI of a certificate pursuant to § 1002(b). Note that, by virtue of § 1405(a), DI's guarantee of an OFS borrowing that does not qualify as an overseas borrowing is not covered either by § 1405(b) or § 1002(a).

1. A new Subpart N is added to read as follows:

Subpart N—Overseas Finance Subsidiaries

Sec.
1000.1401 Definitions.
1000.1402 Qualification.
1000.1403 Transfers of overseas proceeds; foreign balances.
1000.1404 Repayment of overseas borrowing and proceeds borrowing.
1000.1405 Authorized repayments.

AUTHORITY: The provisions of this Subpart N issued under sec. 5, act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47.

Subpart N—Overseas Finance Subsidiaries

§ 1000.1401 Definitions.

(a) "Overseas finance subsidiary" of a direct investor means an affiliated foreign national which:

(1) Is incorporated under the laws of a foreign country other than Canada;

(2) Is directly or indirectly wholly owned (disregarding directors' qualifying shares) by the direct investor;

(3) Has as its principal business making overseas borrowing (as defined in paragraph (b) of this section) and investing overseas proceeds (as defined in paragraph (c) of this section) in (i) debt obligations of the direct investor and (ii) debt obligations of or equity securities in affiliated foreign nationals of the direct investor; and

(4) Has been qualified as an overseas finance subsidiary pursuant to § 1000.1402(a).

(b) "Overseas borrowing" means borrowing by an overseas finance subsidiary which, if made by a direct investor, would qualify as long term foreign borrowing under § 1000.324.

(c) "Overseas proceeds" means the funds or other property received by an overseas finance subsidiary from the first purchaser or holder in exchange for the debt obligation issued or created in connection with an overseas borrowing, less reductions provided for in § 1000.1404.

(d) "Available overseas proceeds" means overseas proceeds held by the overseas finance subsidiary.

(e) "Proceeds borrowing" means a borrowing by a direct investor from its overseas finance subsidiary of overseas proceeds, (1) which borrowing is continuously outstanding for at least 12 months after the date of the borrowing and (2) in exchange for which borrowing the overseas finance subsidiary receives and thereafter holds a debt obligation of the direct investor until such borrowing is repaid or until such debt obligation is canceled.

§ 1000.1402 Qualification.

(a) *Certificate.* An affiliated foreign national may be qualified as an overseas finance subsidiary for any year, commencing with the year 1970, if its direct investor shall have delivered to the Secretary in such year or in any prior year a certificate executed by the direct investor, or its duly authorized representative, which certificate states that:

(1) The affiliated foreign national has been organized as provided in § 1000.1401(a)(1), is owned as provided in paragraph (a)(2) of that section and is operating so that its principal business is as provided in paragraph (a)(3) of that section; and

(2) The direct investor will take all action necessary to cause such affiliated foreign national at all times to operate in the manner provided in § 1000.1401(a)(3).

(b) *Records.* A direct investor shall maintain books and records that identify separately each overseas borrowing and proceeds borrowing, the uses to which all overseas proceeds have been put, and all repayments of proceeds borrowing and overseas borrowing.

(c) *Revocation.* Qualification as an overseas finance subsidiary may not thereafter be withdrawn or canceled by the direct investor except as permitted by the Secretary by authorization, exemption or otherwise. The Secretary may revoke the qualification of an affiliated foreign national as an overseas finance subsidiary if he determines, in his discretion, that such affiliated foreign national was not organized as provided in § 1000.1401(a)(1), is not owned as provided in paragraph (a)(2) of that section, is not operating so that its principal business is as provided in paragraph (a)(3) of that section, or has not complied with paragraph (b) of this section.

(d) *Effect on certain specific authorizations.* Any foreign-incorporated finance subsidiary of a direct investor which, pursuant to specific authorization issued under § 1000.801, has been deemed to be a person within the United States or an unaffiliated foreign lender, shall, beginning January 1, 1970, be governed in all respects by the provisions of this subpart in lieu of the provisions and conditions of such specific authorization, except that no certificate need be filed pursuant to paragraph (a) of this section.

§ 1000.1403 Transfers of overseas proceeds; foreign balances.

(a) *Transfers of overseas proceeds.* (1) The transfer of funds or other property in proceeds borrowing shall not be a transfer of capital under § 1000.312(b). For all purposes of this part, the funds or other property received by the direct investor in exchange for the debt obligation issued or created in connection with a proceeds borrowing shall be treated as available proceeds of long-term foreign borrowing (as defined in § 1000.324(d)).

(2) Notwithstanding the provisions of § 1000.505, the transfer of overseas proceeds by an overseas finance subsidiary in the acquisition of an equity interest in

or a debt obligation of another affiliated foreign national of the direct investor shall not be included by the direct investor in the calculation of net transfer of capital under § 1000.313.

(3) Notwithstanding the provisions of § 1000.505, the return of overseas proceeds to an overseas finance subsidiary upon the satisfaction, liquidation, sale or other disposition of an equity interest or debt obligation acquired pursuant to subparagraph (2) of this paragraph shall not be included by the direct investor in the calculation of net transfer of capital under § 1000.313.

(b) *Foreign balances; prohibited positive net transfer of capital.* (1) Foreign balances, as defined in § 1000.203(a)(1), held in liquid form by an overseas finance subsidiary, other than (i) available overseas proceeds and (ii) funds contributed to an overseas finance subsidiary as original or additional equity capital, shall be included in the computation of liquid foreign balances held by the direct investor for purposes of § 1000.203(c).

(2) For purposes of § 1000.203(d)(1), available overseas proceeds shall be deemed to be available proceeds of long-term foreign borrowing held by the direct investor.

§ 1000.1404 Repayment of overseas borrowing and proceeds borrowing.

(a) For the purposes of this subpart, repayment by a direct investor of overseas borrowing shall mean (i) the complete or partial repayment by the direct investor directly of overseas borrowing and (ii) complete or partial repayment by the direct investor of proceeds borrowing to enable the overseas finance subsidiary to repay overseas borrowing. Notwithstanding the provisions of § 1000.312(a) (6) and (7), a repayment by the direct investor of overseas borrowing or a repayment by the direct investor of proceeds borrowing shall have the effect prescribed by subparagraphs (1) through (6) of this paragraph:

(1) Any repayment by the direct investor of overseas borrowing or proceeds borrowing shall constitute a reduction of available proceeds of long-term foreign borrowing held by the direct investor pursuant to § 1000.1403(a)(1). Overseas proceeds which became available proceeds of long-term foreign borrowing pursuant to such section shall be reduced in the same amount.

(2) The amount of any repayment by the direct investor of overseas borrowing or proceeds borrowing that exceeds the aggregate amount of reduction of available proceeds pursuant to subparagraph (1) of this paragraph shall constitute a transfer of capital to each scheduled area in proportion to and to the extent that the direct investor has expended or allocated to each such scheduled area available proceeds of long-term foreign borrowing. Overseas proceeds so expended or allocated shall be reduced in the amount of transfers of capital to scheduled areas prescribed by this subparagraph.

(3) The amount of any repayment by the direct investor of overseas borrowing or proceeds borrowing that exceeds the aggregate amount of reduction of available proceeds pursuant to subparagraph (1) of this paragraph and the aggregate amount of transfers of capital pursuant to subparagraph (2) of this paragraph shall constitute a transfer of capital under § 1000.312(a) to each scheduled area in proportion to and to the extent that the overseas finance subsidiary has, as of the time of repayment, transferred overseas proceeds to other affiliated foreign nationals of the direct investor pursuant to § 1000.1403(a)(2). Overseas proceeds held by such affiliated foreign nationals shall be reduced by an amount equal to the transfers of capital prescribed by this subparagraph.

(4) The amount of any repayment by the direct investor of overseas borrowing or proceeds borrowing that exceeds the aggregate amount of (i) the reduction of available proceeds pursuant to subparagraph (1) of this paragraph and (ii) transfers of capital pursuant to subparagraphs (2) and (3) of this paragraph, shall constitute a transfer of capital under § 1000.312(a) to the scheduled area in which the overseas finance subsidiary is incorporated. Overseas proceeds held by the overseas finance subsidiary at the time of the repayment shall be reduced by an amount equal to the transfer of capital prescribed by this subparagraph.

(5) For purposes of subparagraphs (2), (3), and (4) of this paragraph, transfers of capital resulting from the delivery of equity securities of a direct investor to holders of debt instruments issued by the overseas finance subsidiary in connection with an overseas borrowing, pursuant to the exercise of conversion or similar rights, shall be deemed to have been made in the year immediately following the year in which the conversion or similar rights are exercised.

(6) The aggregate amount of transfers of capital and reduction of available proceeds of long term foreign borrowing pursuant to subparagraphs (1) through (4) of this paragraph and paragraph (b) of this section shall not exceed the amount of overseas proceeds (calculated without regard to the provisions of subparagraphs (1) through (4) of this paragraph): *Provided*, That any transfer of funds or other property, in partial or complete repayment by the direct investor of proceeds borrowing, which repayment is made after complete repayment of the overseas borrowing, shall be a transfer of capital to the scheduled area in which such overseas finance subsidiary is incorporated.

(b) For purposes of this subpart, repayment by the overseas finance subsidiary of overseas borrowing shall mean the complete or partial repayment of overseas borrowing other than with funds or other property supplied to the overseas finance subsidiary by the direct investor to enable the overseas finance subsidiary to repay overseas borrowing. A repayment by the overseas finance subsidiary of overseas borrowing shall have the effect prescribed by subparagraphs (1) and (2) of this paragraph:

(1) The complete or partial repayment by an overseas finance subsidiary of overseas borrowing shall reduce available overseas proceeds, but not to an amount less than zero. Overseas proceeds held by the overseas finance subsidiary shall be reduced by an amount equal to the reduction of available overseas proceeds prescribed by this subparagraph.

(2) The amount of any repayment by an overseas finance subsidiary of overseas borrowing that exceeds the reduction of available overseas proceeds pursuant to subparagraph (1) of this paragraph shall be treated as a repayment by the direct investor of overseas borrowing with the effects prescribed by paragraph (a) of this section.

(c) Notwithstanding the provisions of § 1000.505, the complete or partial repayment by an affiliated foreign national (other than an overseas finance subsidiary) of overseas borrowing shall be treated as a repayment by the direct investor of overseas borrowing, with the effects prescribed by paragraph (a) of this section: *Provided*, That such repayment shall also be treated as a transfer from such affiliated foreign national to the direct investor in the amout of such repayment.

§ 1000.1405 Authorized repayments.

(a) Overseas borrowing shall be deemed to be a borrowing by an affiliated foreign national within the meaning of § 1000.1001(a). A borrowing by an overseas finance subsidiary other than an overseas borrowing shall not be deemed to be a borrowing by an affiliated foreign national for any purposes of this part.

(b) Subject to the provisions of § 1000.1003, positive direct investment during any year in affiliated foreign nationals in any scheduled area is authorized, notwithstanding the provisions of § 1000.201, to the extent such positive direct investment is attributable to a transfer of capital in repayment of overseas borrowing pursuant to a guarantee: *Provided*, That the direct investor shall have complied with the certification requirements set forth in § 1000.1002(b).

(c) For purposes of § 1000.1002 (b) and (c), the term "transfer of capital" shall mean a transfer of capital attributable to a repayment of overseas borrowing pursuant to § 1000.1404(a).

(d) All reference to Subpart J in § 1000.1002(d) and all reference to § 1000.1002 in § 1000.1003 shall be deemed to include reference to paragraph (b) of this section.

2. The subpart hereby adopted shall be effective as of January 1, 1970, and shall apply to all direct investment and affected transactions occurring on or after such date.

RICHARD P. URFER,
Director, Office of Foreign Direct Investments.

MAY 1, 1970.

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