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List of CFR Parts Affected

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

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

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER K—FEDERAL SEED ACT

PART 201—FEDERAL SEED ACT REGULATIONS

Miscellaneous

On November 19, 1969, there was published in the FEDERAL REGISTER (34 F.R. 18422) a notice of rule making and hearing with respect to proposed amendments to the rules and regulations (7 CFR Part 201, as amended) under the Federal Seed Act, as amended (7 U.S.C. 1551 et seq.). On January 7, 1970, there was published in the FEDERAL REGISTER (35 F.R. 231) a notice of extension of time for written comments to January 23, 1970. After consideration of all relevant matters, including those presented at the hearing and in writing pursuant to said notices, and under authority of section 402 of the Federal Seed Act (7 U.S.C. 1592) the proposed amendments are adopted as set forth below.

1. Section 201.208 is amended by adding to the list of kinds of seeds in paragraph (a) in proper alphabetical order the following:

Crambe. Triticale.

2. Section 201.221a, Table 5, is amended to:

a. Insert in the list of Vegetable Seeds in proper alphabetical order the following:

Cress, upland	5	10

b. Change the name "Bermudagrass, Common" to "Bermudagrass" in the list of agricultural seeds.

c. Add in proper alphabetical order in the list of "Agricultural Seeds" in the respective columns the following:

Crambe	25	100
Triticale	100	500

3. Section 201.222 is amended by adding to the list of kinds of seed in paragraph (a) in the proper alphabetical order the following:

Crambe. Triticale.

Effective date. The amendments of the regulations hereby adopted shall become effective 30 days after publication in the FEDERAL REGISTER.

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

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

RICHARD LYNG,
Assistant Secretary of Agriculture.

[F.R. Doc. 70-5884; Filed, May 12, 1970; 8:51 a.m.]

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

[Orange Reg. 65, Amdt. 3]

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

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

Order. In § 905.521 (Orange Regulation 65; 35 F.R. 72; 35 F.R. 1043, 5461), the provisions of paragraph (a)(2)(vii) are amended to read as follows:

§ 905.521 Orange Regulation 65.

(a) * * *

(2) * * *

(vii) Any Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2; or

* * * * * *

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

Dated May 8, 1970, to become effective May 11, 1970.

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

[F.R. Doc. 70-5836; Filed, May 12, 1970; 8:47 a.m.]

[Grapefruit Reg. 68, Amdt. 5]

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

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(a) *Order.* In § 905.514 (Grapefruit Regulation 68, 34 F.R. 14380, 18449, 19809; 35 F.R. 5460, 6747), the provisions of (a)(1)(iii) and (a)(1)(iv) are amended to read as follows:

§ 905.514 Grapefruit Regulation 68.

(a) * * *

(1) * * *

(iii) Any seedless grapefruit, grown in Regulation Area I, which do not grade at least U.S. No. 2 Russet;

(iv) Any seedless grapefruit, grown in Regulation Area II, which do not grade at least U.S. No. 2 Russet; or

* * * * * *

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

Dated May 8, 1970, to become effective May 11, 1970.

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

[F.R. Doc. 70-5885; Filed, May 12, 1970; 8:51 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2, the introductory portion of paragraph (e) is amended by adding the name of the State of Alabama thereto and a new paragraph (e)(2) relating to the State of Alabama is added to read:

(e) * * *

(2) *Alabama.* That portion of Morgan County bounded by a line beginning at the junction of State Highway 24 and County Road 41; thence, following State Highway 24 in a southwesterly direction to the Morgan-Lawrence County line; thence, following the Morgan-Lawrence County line in a southerly direction to the southern boundary of sec. 18, of T. 6 S., R. 5 W.; thence, following the southern boundaries of secs. 18, 17, 16, 15, 14, and 13, of T. 6 S., R. 5 W. in an easterly direction to County Road 41; thence, following County Road 41 in a generally northerly direction to its junction with State Highway 24.

2. In § 76.2, in paragraph (e)(16) relating to the State of Virginia, a new subdivision (xv) relating to Richmond County and a new subdivision (xvi) relating to Goochland and Powhatan Counties are added to read:

(e) * * *

(16) *Virginia.* * * *

(xv) That portion of Richmond County bounded by a line beginning at the junction of Secondary Roads 624 and 638 near Newland Community; thence, following Secondary Road 638 in a southwesterly direction to the public landing on the eastern bank of the Rappahannock River; thence, following the eastern bank of the Rappahannock River in a southeasterly direction to Secondary Road 634; thence, following Secondary Road 634 in a generally southeasterly direction to Secondary Road 624; thence, following Secondary Road 624 in a northerly direction to Secondary Road 621; thence, following Secondary Road 621 in a northeasterly direction to Secondary Road 690; thence, following Secondary Road 690 in a generally northerly direction to Secondary Road 637; thence, following Secondary Road 637 in a westerly direction to Secondary Road 624; thence, following Secondary Road 624 in a northwesterly direction to its junction with Secondary Road 638 near Newland Community.

(xvi) The adjacent portions of Goochland and Powhatan Counties bounded by a line beginning at the juncton of U.S. Highway 522 and Secondary Highway 634; thence, following Secondary Highway 634 in a northeasterly direction to Secondary Highway 639; thence, following Secondary Highway 639 in a generally southeasterly direction to Secondary Highway 670; thence, following Secondary Highway 670 in a southerly direction to Primary Highway 6; thence, following Primary Highway 6 in a westerly direction to Secondary Highway 628; thence, following Secondary Highway 628 in a southwesterly direction to Secondary Highway 711; thence, following Secondary Highway 711 in a northwesterly direction to Secondary Highway 617; thence, following Secondary Highway 617 in a generally northwesterly direction to U.S. Highway 522; thence, following U.S. Highway 522 in a northeasterly direction to its junction with Secondary Highway 634.

(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 Morgan County, Ala., and portions of Richmond, Goochland, and Powhatan Counties in Virginia because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined 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 8th day of May 1970.

F. R. MANGHAM,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-5886; Filed, May 12, 1970; 8:51 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 Zone and Transition Area and Revocation of Transition Area

On April 23, 1970, Federal Register Document No. 70-4917 was published in the FEDERAL REGISTER (35 F.R. 6492), amending Part 71 of the Federal Aviation Regulations by altering airspace in the Atlanta, Ga., terminal area.

In the amendment, the "southeast" direction, as applied to the transition area extension predicated on the Atlanta ILS Runway 33 localizer southeast course, was in error and should be corrected to "northeast." It is necessary to amend the Federal Register Document to reflect this change. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Federal Register Document No. 70-4917 is amended effective immediately, as follows:

In line eight of the Atlanta, Ga., transition area description ". . . southeast . . ." is deleted and ". . . northeast . . ." is substituted therefor.

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

Issued in East Point, Ga., on May 1, 1970.

GORDON A. WILLIAM, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-5849; Filed, May 12, 1970; 8:48 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-378; Order 401]

SUBCHAPTER G—APPROVED FORMS, NATURAL GAS ACT

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Report by Natural Gas Pipeline Companies on Service Interruptions Occurring on the Pipeline System

MAY 6, 1970.

On January 16, 1970, the Commission issued a notice of proposed rulemaking, which was published in the FEDERAL REGISTER on January 22, 1970 (35 F.R. 903),

stating that the Federal Power Commission proposed to amend its regulations under the Natural Gas Act to provide for notification by natural gas pipeline companies to the Commission in the event of serious interruptions to natural gas service caused by system failure on any part of the pipeline system or other causes. Interested persons were afforded an opportunity to submit comments to the Commission concerning the proposed revised report forms and regulations. Comments were received from the Natural Gas Pipeline Co. of America, Algonquin Gas Transmission Co., and Cities Service Gas Co. Natural Gas Pipeline generally supported the proposed rule. Algonquin suggested that paragraph (a) be clarified to exempt from reporting requirements any interruptions of service occasioned by planned shutdowns for routine maintenance or construction tie-ins. Cities Service suggested modifications to require telegraphic reports only on those occasions when more than a prescribed minimum number of firm resale customers were interrupted or where the interrupted firm resale service is downstream of a city gate meter or where the interruption of firm resale service exceeds 24 hours duration.

The reporting and the compilation of such reports as required by this rulemaking will assist the Commission and the natural gas industry in fulfilling their obligation to the public to provide better service through increased efficiency and reliability. Specifically, the purpose of the proposed modification of the Commission's regulations is primarily to provide the Commission with timely information concerning interruptions to wholesale service. Such interruption could result from a variety of causes, including mechanical failures, abnormal demands on the system, accidents, hurricanes, floods and other natural disasters. In light of these purposes, we do not believe that the number of customers affected should be the criterion for requiring telegraphic notification. For example, a number of communities could be served through one meter station.

However, we are amending the proposed rule to state that interruptions of service resulting from planned maintenance or construction and interruptions of service of less than 3 hours duration need not be reported. The revision would also require reporting of interruptions of firm service to communities, major government installations and large industrial plants outside of communities that are serviced by wholesale customers, or other interruptions considered significant in the judgment of the pipeline company.

In addition, the wording "any service" in section 260.9(a) should be changed to "interruptible service" to make sure that the sentence is not interpreted to include firm service that may be interrupted under "force majeure" provisions of the tariff.

Accordingly, § 260.9 of the Commission's regulations under the Natural Gas Act is amended, effective with the issuance of this order, as hereinafter set forth.

The Commission finds:

(1) The notice and opportunity to participate in this proceeding through the submission in writing of data, views, comments and suggestions in the manner described above, are consistent and in accordance with the procedural requirements prescribed in 5 U.S.C. 553.

(2) The amendments hereinafter set forth are necessary and appropriate for carrying out the provisions of the Natural Gas Act.

(3) In view of the foregoing and upon consideration of all relevant matters presented, good cause exists for making these amendments effective upon issuance of this order.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 7, 10, 13, 14 and 16 thereof (52 Stat. 824, 825, 826, 827, 828, 830; 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717f, 717i, 717l, 717m and 717o) orders:

(A) Section 260.9 of the FPC's regulations under the Natural Gas Act, Part 260, Subchapter G, Chapter I, Title 18, of the Code of Federal Regulations (18 CFR 260.9) is amended by deleting the entire text of section 260.9 and substituting a new section 260.9 reading as follows:

§ 260.9 Report by natural gas pipeline companies on service interruptions occurring on the pipeline system.

(a) Every natural gas pipeline company shall report to the Federal Power Commission serious interruptions of service to any wholesale customer involving facilities operated under certificate authorization from the Commission. Such serious interruptions of service shall include interruptions of service to communities, major Government installations and large industrial plants outside of communities or any other interruptions which are significant in the judgment of the pipeline company. Interruptable service interrupted in accordance with the provisions of filed tariffs, interruptions of service resulting from planned maintenance or construction and interruptions of service of less than 3-hours duration need not be reported.

(b) Natural gas pipeline companies shall report such interruptions to service by telegram to the Chief, Bureau of Natural Gas, Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, at the earliest feasible time following such interruption to service and shall state briefly the (1) location and (2) time thereof, (3) customers affected, and (4) emergency actions taken to maintain service.

(c) If so directed by the Commission or the Chief, Bureau of Natural Gas, the company shall provide such supplemental information so as to provide a full report of the circumstances surrounding the occurrence.

(d) Natural gas pipeline companies shall furnish to the Commission within 20 days of each interruption to service involving failure of facilities on any part of the pipeline system operated under certificate authorization from the Commission a copy of such failure reports as required by the Department of Transportation reporting requirement under the Natural Gas Pipeline Safety Act of 1968.

(e) Copies of the telegraphic report on interruption of service shall be sent to the State commission in those States where service has been or might be affected.

(Secs. 7, 10, 13, 14, 16; 52 Stat. 824, 825, 826, 827, 828, 830; 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717f, 717i, 717l, 717m, 717o)

(B) The schedule, "Pipeline System Accidents and Failures," on page 570 of FPC Form No. 2, prescribed by § 260.1(c) (18 CFR 260.1(c)) is deleted and a new schedule, set forth in Attachment A[1] and entitled "Service Interruptions Occurring on the Pipeline System," is substituted.

(C) The schedule, "Pipeline System Accidents and Failures" on page 14 of FPC Form 2–A prescribed by § 260.2(c) (18 CFR 260.2(c)) is deleted and a new schedule set forth in Attachment A and entitled "Service Interruptions Occurring on the Pipeline System," is substituted.

(D) In order to list correctly the new schedules, paragraph (c) of § 260.1 and paragraph (c) of § 260.2 of the Commission's Regulations under the Natural Gas Act, Part 260, Subchapter G, Chapter I, Title 18 of the Code of Federal Regulations, are amended by deleting the schedule title "Pipeline System Accidents and Failures" and substituting therefore the new schedule title "Service Interruptions Occurring on the Pipeline System." As revised, these schedule titles will read:

§ 260.1 Form No. 2; Annual report for natural gas companies (Class A and Class B).

* * * * * * *

(c) * * *

Service Interruptions Occurring on the Pipeline System

* * * * *

§ 260.2 Form No. 2–A; Annual report for natural gas companies (Class C and Class D).

* * * * * * *

(c) * * *

Service Interruptions Occurring on the Pipeline System

* * * * *

(E) These amendments shall become effective upon issuance of this order.

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

By the Commission.

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

[F.R. Doc. 70-5863; Filed, May 12, 1970; 8:49 a.m.]

[1] Filed as part of the original document.

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

GLYCINE IN FOOD FOR HUMAN CONSUMPTION

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–88, as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the following new statement of policy is added to Part 121, Subpart A:

§ 121.12 Glycine in food for human consumption; statement of policy.

(a) Heretofore, the Food and Drug Administration has expressed the opinion in trade correspondence that glycine is generally recognized as safe for certain technical effects in human food when used in accordance with good manufacturing practice; however:

(1) Reports in scientific literature indicate that adverse effects were found in cases where high levels of glycine were administered in diets of experimental animals.

(2) Current usage information indicates that the daily dietary intake of glycine by humans may be substantially increasing due to changing use patterns in food technology.

Therefore, the Food and Drug Administration no longer regards glycine and its salts as generally recognized as safe for use in human food and all outstanding letters expressing sanction for such use are rescinded.

(b) The Commissioner of Food and Drugs concludes that in the public interest and within 180 days after publication of this section in the FEDERAL REGISTER, manufacturers:

(1) Shall reformulate food products for human use to eliminate added glycine and its salts; or

(2) Shall bring such products into compliance with an authorizing food additive regulation. A food additive petition supported by toxicity data is required to show that any proposed level of glycine or its salts added to food for human consumption will be safe.

(c) The status of glycine as generally recognized as safe for use in animal feed, as prescribed in § 121.101(d)(5), remains unchanged because the additive is considered an essential nutrient in certain animal feeds and is safe for such use under conditions of good feeding practice.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–88, as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: May 1, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-5823; Filed, May 12, 1970; 8:46 a.m.]

PART 121—FOOD ADDITIVES

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

POLYCARBONATE RESINS

The Commissioner of Food and Drugs, having evaluated the data in a petition (9B2430) filed by Mobay Chemical Co., Penn Lincoln Parkway West, Pittsburgh, Pa. 15205, on behalf of Farbenfabriken Bayer A.G., Leverkusen, Federal Republic of Germany, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of α2,α6-bis(6-hydroxy-*m*-tolyl) mesitol in the production of branched polycarbonate resins intended for food-contact use. 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), § 121.2574 is amended by adding a new subparagraph to paragraph (a) and by revising the introductory text of paragraph (b), as follows:

§ 121.2574 Polycarbonate resins.

* * * * *

(a) * * *

(3) The condensation of 4,4′-isopropylidenediphenol, carbonyl chloride, and 0.5 percent weight maximum of α2,α6-bis(6-hydroxy-*m*-tolyl) mesitol to which may have been added certain optional adjuvant substances required in the production of branched polycarbonate resins.

(b) The optional adjuvant substances required in the production of resins produced by the methods described in paragraph (a) (1) and (3) of this section may include substances generally recognized as safe in food, substances used in accordance with a prior sanction or approval, and the following:

* * * * *

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 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. 70-5825; Filed, May 12, 1970; 8:46 a.m.]

PART 121—FOOD ADDITIVES

Subpart G—Radiation and Radiation Sources Intended for Use in the Production, Processing, and Handling of Food

AMERICIUM 241

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP OM2440) filed by Industrial Dynamics Company, Ltd., Torrance, Calif. 90503, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of americium 241 as a gamma radiation source for inspecting packaged food products. 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), § 121.3001 (a)(2) is revised to read as follows:

§ 121.3001 Sources of radiation used for inspection of food, for inspection of packaged food, and for controlling food processing.

* * * * *

(a) * * *

(2) Sealed units producing radiations at energy levels of not more than 2.2 million electron volts from one of the following isotopes: Americium 241, cesium 137, cobalt 60, krypton 85, radium 226, and strontium 90.

* * * * *

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 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 29, 1970.

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

[F.R. Doc. 70-5824; Filed, May 12, 1970; 8:46 a.m.]

SUBCHAPTER C—DRUGS

PART 148k—NYSTATIN

Nystatin Tablets

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 148k.7(a)(1) is revised to read as follows to change the disintegration specification for film-coated nystatin tablets from 15 to 30 minutes:

§ 148k.7 Nystatin tablets.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Nystatin tablets are tablets composed of nystatin and suitable and harmless buffer substances, diluents, binders, lubricants, colorings, and flavorings. Each tablet contains 500,000 units of nystatin. If they are plain coated, the moisture content is not more than 5 percent and they shall disintegrate within 2 hours. If they are film coated and contain a starch filler, the moisture content is not more than 8 percent and they shall disintegrate within 30 minutes. The nystatin used conforms to the standards prescribed by § 148k.1(a)(1). Each other ingredient used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

This order merely makes a technical adjustment in the regulation for the subject drug that has no effect on the safety or efficacy of the article. The amendment is noncontroversial and nonrestrictive in nature; therefore, notice and public procedure, and delayed effective date are not prerequisites to this promulgation.

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

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: May 5, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5826; Filed, May 12, 1970; 8:46 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Fireworks Devices; Classification as Banned Hazardous Substances and Revocation of Exemption

In the matter of classifying certain fireworks devices as "banned hazardous substances" within the meaning of section 2(q)(1)(B) of the Federal Hazardous Substances Act:

Certain fireworks devices intended for use by children and producing audible effects caused by a charge of more than 2 grains of pyrotechnic composition are banned hazardous substances under section 2(q)(1)(A) of the act. Such fireworks, however, intended and actually used in bona fide crop protection purposes are not banned.

Products ostensibly intended for agricultural use have been diverted and sold to the general public (including children) and have caused eight fatalities (six were teenage or younger) and a large number of serious injuries ranging from puncture wounds to broken bones and shattered hands. The Commissioner of Food and Drugs concludes that changes in the regulations are necessary to strengthen the ban against the availability of such items to the general public.

A proposal to classify all such articles (including those intended for crop protection) as banned hazardous substances was published in the FEDERAL REGISTER of January 8, 1969 (34 F.R. 260). In response, approximately 175 comments were received.

Many of the comments expressed concern that the order would ban other crop protection devices such as carbide or propane exploding devices and exploding shotgun shells (cracker shells). The Commissioner recognizes the need for such crop protection devices and does not intend to ban them. Three comments were received urging the banning of all fireworks other than paper caps; however, the statute requires that common fireworks be exempted from the ban to the extent that the Secretary determines such articles can be adequately labeled to protect purchasers and users. Other comments favored the banning of large explosive fireworks from household channels, but expressed a desire to maintain intact the legal flow of common fireworks.

The intention is not to ban so-called "Class C" common fireworks, but only those designed to produce audible effects caused by a charge of more than 2 grains of pyrotechnic composition. (Propelling and expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as designed to produce audible effects.) The Commissioner's primary concern in this matter is to close the loophole through which dangerously explosive fireworks, such as cherry bombs, M-80 salutes, and similar items, reach the general public.

Having considered the comments and other relevant material, the Commissioner concludes that an order should be promulgated as follows which will ban certain types of fireworks except under certain conditions for bona fide crop protection purposes (but not for general fireworks use).

Therefore, pursuant to provisions of said act (sec. 2(q)(1)(B), (2), 74 Stat. 372, 80 Stat. 1304-5; 15 U.S.C. 1261) and of the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e)), and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,* That Part 191 be amended:

1. By adding to § 191.9(a) a new subparagraph as follows:

§ 191.9 Banned hazardous substances.

(a) * * *

(3) Fireworks devices intended to produce audible effects (including but not limited to cherry bombs, M-80 salutes, silver salutes, and other large firecrackers, aerial bombs, and other fireworks designed to produce audible effects, and including kits and components intended to produce such fireworks) if the audible effect is produced by a charge of more than 2 grains of pyrotechnic composition; except that this order shall not apply to such fireworks meeting all of the following conditions:

(i) Such fireworks are intended for use solely for bona fide crop protection purposes, such as protection of crops from depredation by birds and animals, and are conspicuously so labeled, and are not diverted or distributed for any other use; and

(ii) Each manufacturer or importer of such agricultural fireworks shall:

(*a*) Submit a sample of each type of such agricultural fireworks to the Division of Hazardous Substances, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20201; and

(*b*) Maintain complete records of production and distribution of such fireworks; and

(iii) Each wholesaler, importer, and retailer of such fireworks shall maintain complete records of receipt and distribution of such fireworks; and

(iv) Any records required to be maintained under subdivision (ii) or (iii) of this subparagraph shall:

(*a*) Be kept for at least 3 years after distribution of the articles has been completed; and

(*b*) Include the proper and complete name and address of the consignee, and the date, quantity, and type of fireworks shipped; and

(c) Be made available for inspection on request of any authorized agent of the Food and Drug Administration; and

(v) Each immediate container for such fireworks is fully labeled in accordance with the requirements of the Federal Hazardous Substances Act; and

(vi) Such fireworks are not distributed in any State which does not specifically provide for the use of such fireworks for crop protection purposes.

§ 191.65 [Amended]

2. In § 191.65 *Exemptions from classification as banned hazardous substances*, by revoking paragraph (a)(3).

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. 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 and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

Effective date. This order shall become effective 45 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Sec. 2(q)(1)(B), (2), 74 Stat. 372, 80 Stat. 1304-5; 15 U.S.C. 1261; sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e))

Dated: May 8, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-5865; Filed, May 12, 1970; 8:49 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

SUBCHAPTER C—INTERNATIONAL MAIL

APPENDIX—DIRECTORY OF INTERNATIONAL MAIL

In the appendix to Subchapter C the following changes are made:

1. In the country item *Ghana* under Postal Union Mail and Parcel Post, amend the paragraphs *Prohibitions* to read as follows, respectively:

POSTAL UNION MAIL

Prohibitions. Paper money, except when mailed under registration from a bank to another. Also see § 221.3 of this chapter.

PARCEL POST

Prohibitions. Paper money. Also see § 231.2 of this chapter.

2. In the country item *Great Britain and Northern Ireland* under Parcel Post, insert the following paragraph as the seventh paragraph under *Prohibitions:*

Any liquids in aerosol containers.

3. In the country item *Netherlands* under Parcel Post amend the table of fees and limits of indemnity appearing under *Insurance* to read as follows:

Limits of Indemnity	*Fee*
Not over $15	$0.35
$15.01 to $50	.45
$50.01 to $100	.55
$100.01 to $150	.65
$150.01 to $200	.75
$200.01 to $300	.95
$300.01 to $330	1.15

4. In the country item *Nigeria* under Postal Union Mail, in paragraph *Observations* delete the following named post offices from the list of suspended offices since services to them have been restored.

Enugu. Nwaniba.
Etinan. Obubra.
Itu.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 70-5844; Filed, May 12, 1970; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PROCUREMENT INFORMATION

Parts 5A-2 and 5A-3 of Title 41 are amended as follows:

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5A-2.4—Opening of Bids and Award of Contracts

1. Section 5A-2.407-1(c) is added as follows:

§ 5A-2.407-1 General.

* * * * *

(c) Preaward inquiries from bidders normally shall be directed to the Business Service Center in accordance with § 5-2.408(c). If the inquiry is about the status of an award and notice of award has not been issued, the Business Service Center personnel or the contracting personnel, as appropriate, shall limit their response to a statement that final award determination has not been made. Any action or discussion which may create false impressions in the eyes of prospective contractors about any forthcoming award must be avoided. Bidders must clearly understand that until a formal notice of award is issued that no communication by the Government, whether written or oral, shall be interpreted as a promise that an award will be made. This includes, but is not limited to, requests for clarification of an offer, requests to extend the offer acceptance time, or requests for information for the purpose of verifying an offeror's ability to perform any resultant contract. In conformance with the foregoing, the following provision shall be included in all solicitations for offers:

AWARD

Until a formal notice of award is issued, no communication by the Government, whether written or oral, shall be interpreted as a promise that an award will be made.

PART 5A-3—PROCUREMENT BY NEGOTIATION

Subpart 5A-3.1—Use of Negotiation

2. Section 5A-3.103(f) is added as follows:

§ 5A-3.103 Dissemination of procurement information.

* * * * *

(f) The provisions of § 5A-2.407-1(c) regarding the avoidance of creating false impressions in the eyes of prospective contractors about forthcoming awards also apply to negotiated procurements.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. These regulations are effective 60 days from the date shown immediately below.

Dated: April 23, 1970.

H. A. ABERSFELLER,
Commissioner, Federal Supply Service.

[F.R. Doc. 70-5842; Filed, May 12, 1970; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular 2271]

PART 3130—COAL LEASES, PERMITS AND LICENSES

Coal Application Requirements

On page 3815 of the FEDERAL REGISTER of February 27, 1970, there was published a notice of proposed rule making amending Part 3130 of Title 43, Code of Federal Regulations.

The purpose of the amendment is to relieve applicants for coal leases and permits of requirements to supply certain types of information that is, in part, already available to the Department.

Interested persons were given 30 days within which to submit comments, suggestions or objections with respect to the proposed amendment. One comment was received. The comment supported the amendment but suggested deleting the requirement for a statement of estimated reserves of coal where the applicant is seeking acreage in addition to the 46,080 acres which may ordinarily be held.

This requirement is consistent with the provision of the Mineral Leasing Act

that the Secretary of the Interior find that additional acreage is "in the public interest and necessary to enable the applicant to carry on business economically" before he leases acreage in excess of 46,080 acres.

(30 U.S.C. sec. 184(a)(2))

The proposed regulations are hereby adopted without change and are set forth below. These regulations shall be effective upon publication in the FEDERAL REGISTER.

WALTER J. HICKEL,
Secretary of the Interior.

MAY 7, 1970.

1. Paragraph (d) of § 3131.1 is hereby amended to read as follows:

§ 3131.1 Acreage limitations.

* * * * *

(d) A person, association, or corporation may file with the appropriate land office an application or applications for coal leases or permits for acreage in addition to the 46,080 acres which application or applications shall be in multiples of 40 acres, not exceeding a total of 5,120 additional acres in any one State, and shall contain: (1) A statement showing that the granting of a lease or permit for such additional lands is necessary to carry on business economically and is in the public interest, and (2) a statement of direct or indirect interests in other Federal and non-Federal coal leases and permits in the State, identifying the Federal leases by serial numbers, and (3) a statement of estimated reserve of coal that applicant has from any other source within the State.

§ 3131.2 [Amended]

2. Paragraph (d) of § 3131.2 is deleted and paragraph (e) of that section is redesignated as paragraph (d).

3. Paragraph (a)(3) of § 3132.2 is hereby amended, to read as follows:

§ 3132.2 Application for lease.

(a) * * *

(3) A statement of interests, direct or indirect, in other identified Federal coal leases, permits or applications therefor in the same State. Such total interests may not exceed 46,080 acres, except that if applicant is a railroad or corporation operating a common carrier such total interests may not exceed 10,240 acres.

* * * * *

[F.R. Doc. 70-5829; Filed, May 12, 1970; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12782; FCC 70-466]

PART 73—RADIO BROADCAST SERVICES

Competition and Responsibility in Network Television Broadcasting

Report and Order. 1. On March 22, 1965, the Commission issued a notice of proposed rule making,[1] flowing largely from an earlier program inquiry,[2] in which we proposed rules intended to multiply competitive sources of television programing by (1) eliminating networks from domestic syndication and from the foreign syndication of independently (nonnetwork) produced programs; (2) prohibiting networks from acquiring additional rights in programs independently produced and licensed for network showing; and (3) limiting to approximately 50 percent (with certain programs exempted) the amount of network prime time programing in which networks could have interests beyond the right to network exhibitions. The notice of rule making sets forth in detail the conditions of increasing network control of programs and subsidiary rights in programs which led to its adoption.

2. Comments were received from many parties.[3] As part of their submissions, the networks submitted a report prepared by Arthur D. Little, Inc. (ADL Report) containing detailed data on network and industry program practices. On September 20, 1968, oral argument was set for December 16, 1968.[4] Comment was specifically requested on a proposal put forth by Westinghouse in its comments which would prohibit a television station in any of the top 50 markets in which there are at least three commercial stations from carrying more than 3 hours of regularly scheduled network entertainment programing between 7 and 11 p.m. All interested parties were afforded the opportunity to present more current data. The Commission had no indication that the overall situation had materially altered since the filing of the original ADL report and the 1966 comments, but it asked to be advised of significant changes if any had taken place. The order stated that, unless additional infomation and data were presented to show the contrary, the Commission would assume "that the situation is not materially altered in syndication and foreign program markets from what the record disclosed it to have been at or prior to 1964." Oral argument was postponed first to May 12, 1969 and then to July 21, 1969, to permit the preparation and submission of a supplemental report by Arthur D. Little, Inc., procured by CBS and NBC, to bring the statistical record to date and provide additional data to evaluate the Westinghouse proposal. On or about April 21, 1969 the supplemental Little Report was submitted for the record. Subsequently, additional comments were filed by the networks and their affiliates in further opposition to the proposed rule, and the Westinghouse proposal. In the interim, the Writers Guilds East and West filed in support of the rule. Also, Richard W. McLaren, Assistant Attorney General, Antitrust Division, by letter, endorsed the Westinghouse proposal and the elimination of networks from syndication—both rights and distribution. Comments in support of the Westinghouse proposal and the elimination of networks from domestic syndication and foreign distribution were received from the National Citizens Committee for Broadcasting. Westinghouse did not file additional comments. On July 22, and 23, 1969, oral argument was had. The parties were given until September 15, 1969, to file additional comments.

3. At the oral argument counsel for Westinghouse questioned the accuracy of certain data included in the 1969 Supplemental Little Report, particularly with regard to affiliate clearance of network programs. On September 15, 1969, counsel for CBS and NBC advised that some data contained in the 1969 ADL report was inaccurate. On January 2, 1970, revised data were submitted and provided to all parties.[5] On January 13, 1970, counsel for Westinghouse submitted a letter of comment on the effect of the new data. On February 13, 1970, counsel for CBS submitted a letter of comment on the revised Little data.

4. For the reasons set forth below we have decided to adopt our proposed rules with respect to syndication and subsidiary rights in independently produced network programs, and what is essentially the Westinghouse proposal. Both our original proposal limiting network produced programs to 50 percent of the evening network schedule and the Westinghouse proposal were designed to

[1] FCC 65-227, 30 F.R. 4065.

[2] See Order for Investigatory Proceeding, Docket No. 12782, FCC 59-166, Feb. 26, 1959, 24 F.R. 1605; and Supplementary Order for Investigatory Proceeding, Nov. 9, 1959, FCC 59-1136, 24 F.R. 9275, included as exhibits 1 and 3 respectively to part I, Second Interim Report, Office of Network Study. See Television Network Program Procurement (printed together with Interim Report of Office of Network Study, Responsibility for Broadcast Matter (1960)), H. Rept. No. 281, 88th Cong., 1st Session, May 8, 1963. Also see Part II, Second Interim Report, etc. FCC Wash. (1965).

[3] Comments were received from the three television networks (ABC, CBS, and NBC) and their affiliate associations, industry and public groups as well as individuals. Included were: Hon. Emanuel Celler, Chairman of Committee of Judiciary of House of Representatives (Oct. 25, 1965); National Capital Humanist Association (Jan. 30, 1966); Screen Actors Guild (Mar. 4, 1966); Broadcasting and Film Commission of National Council of Churches of Christ in the U.S.A. (Mar. 31, 1966); National Football League (Apr. 14, 1966); Association of National Advertisers (Apr. 15, 1966); American Association of Advertising Agencies (Apr. 14, 1966); Westinghouse Broadcasting Co. (Apr. 15, 1966); Springfield Television (Apr. 15, 1966); NABET (Apr. 15, 1966); Meredith Broadcasting Co. (Apr. 15, 1966); ABC TV Affiliates Association (Apr. 28, 1966); CBS TV Affiliates Association (Apr. 28, 1966); Storer Broadcasting Co. (Apr. 28, 1966); NAB (Apr. 29, 1966); WBEN-TV (Apr. 29, 1966); Queen for A Day, Inc. (May 2, 1966); KOOL Radio/Television (May 2, 1966); CBS, Inc. (May 2, 1966); NBC Television Affiliates (May 2, 1966); reply comments filed by NBC Affiliates, ABC, Inc., NBC, and CBS. Late filing accepted from American Civil Liberties Union, July 21, 1966.

[4] FCC 68-959, 33 F.R. 14470.

[5] Revised tables 36, 37, 74, 75, and 77-98, together with additional page for appendix F.

restrain network domination of nighttime television and to open access to the valuable nighttime hours to independent producers. Much of the comments and data of course pertained to the so-called 50-50 proposed rule. We are not persuaded that this proposal would be unworkable or that it would have the adverse consequences which its opponents have predicted. On the contrary, our study of the entire record indicates that it would achieve its intended purpose without undesirable side effects. However, there is an expressed fear that it might affect the relative competitive positions of the three networks.[6] The Westinghouse approach is also somewhat more direct in opening up time for programs and sponsors outside the network funnel. We have therefore decided to hold the 50-50 proposal in abeyance for the time being, without closing the docket, to give us time to determine whether the Westinghouse approach will achieve its intended purpose. We believe it useful, however, to set forth the relevant data, pertinent to the 50-50 rule, the primary comments on it and our tentative conclusions with respect to them, for the benefit of all interested parties and as a basis for further comments in the event that reactivation of this proposal becomes desirable in the future. This is done in appendix II hereto.[6a]

5. The Westinghouse-type rule[7] we are adopting—the "Prime Time Access Rule"—provides that after September 1, 1971:

> * * *, no television station, assigned to any of the top 50 markets in which there are three or more operating commercial television stations, shall broadcast network programs offered by any television network or networks for a total of more than 3 hours per day between the hours of 7 p.m. and 11 p.m. local time, except that in the central time zone the relevant period shall be between the hours of 6 p.m. and 10 p.m.

The rule does not apply to noncommercial, educational stations using materials supplied by a noncommercial network, and it exempts from "network programs" special news programs dealing with fast-breaking news events, on-the-spot coverage of news events, and political broadcasts by legally qualified candidates for public office.

6. The facts which propel us to action are relatively simple and, we believe, quite compelling. There are only three national television networks.[8] Our records indicate that as of December 31, 1969, the top 50 markets (ranked by prime time average 1/4 hour households, February/March 1969) had 224 operating television stations (including XETV, Tijuana, Mexico), of which 153 were network affiliates, and that the United States as a whole had 621 stations, of which 499 were network affiliates. Of the top 50 markets only 14 had at least one independent VHF television station. In the prime evening hours, the time period with which we are here concerned, control over programing, and over access to the licensed television stations, is heavily concentrated in only three hands. Thus, network affiliates in 1968 carried an average of between 3.3 and 4.7 (depending upon size of market) hours a week of nonnetwork programing between the hours of 7–11 p.m. out of the total of 28 hours. Between the hours of 7:30–10:30 p.m. the figure is from 1.2 to 1.6 hours. And, as we shall show, nonnetwork programing is increasingly composed of off-network programs. A concomitant to this control of access has been the virtual disappearance of high cost, prime time, syndicated programing, the type of programing (other than feature motion pictures) which must be most relied upon as competition for network-supplied entertainment programs. The Supplemental ADL Report (as corrected)[9] reveals the following, using sample weeks:

(a) Between 7 and 11 p.m. during sample weeks in 1958 and 1968 all television stations in the top 50 markets, despite the increase in the number of stations, decreased first-run syndicated entertainment series from 1,065 half-hours to 833 half-hours, and from 154 titles to 103 titles. In contrast, off-network entertainment series increased from 136 to 916 half-hours, and from 26 to 90 titles. (Table 36.)

(b) The picture is the same if only independent stations, which should be the backbone of the syndication market, are examined. In the 6–11 p.m. period between 1958 and 1968 the average weekly station hours of first-run syndicated programs on independent stations in the top 50 markets decreased from 10.95 to 8.54, while off-network programs increased from 0.87 to 11.02. The percentage of total nonnetwork time devoted to first-run syndicated programs decreased from 35.5 percent to 25.4 percent, while the corresponding figure for off-network programs increased from 2.8 percent to 32.8 percent.[10] Similar shifts in programs are present for the 7–11 p.m. time period, and the 7:30–10:30 p.m. period, although the decrease in syndicated programs is less pronounced. (Tables 90, 91, 92.)

(c) The statistics for affiliated stations show the same decrease in the use of first-run syndicated programs in the evening hours. Thus, between 6 and 11 p.m. average weekly station hours for stations in the top 50 markets dropped from 4.15 in 1958 to 1.55 in 1968, while off-network programs increased from 0.52 to 1.79. In percentages of total nonnetwork time, first-run syndicated programs dropped from 38 percent to 17 percent, while off-network programs increased from 4.8 percent to 19.6 percent. All affiliates carried an average 1.48 hours of syndicated programs a week in this time period. In the 7–11 p.m. and 7:30–10:30 p.m. time periods, first-run syndicated programs were carried by affiliates in the top 50 markets in 1968 an average of less than 1 hour per week. Indeed, the figure is 0.15 in the top 50 markets 7:30–10:30 p.m. The data for markets below the top 50 is essentially the same.[11] (Tables 86–88.)

(d) On an overall basis, it is also clear that of all nonnetwork programs on affiliates in the 7–11 p.m. time period the

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[5] ABC says that were it to be precluded from filling out its schedule with programs procured directly from producers it would be damaged competitively vis-a-vis the other networks because it is the weakest of the three networks (due to "holes" in its coverage because of lack of comparable facilities). ABC asserts that in the past it has not been originally chosen for the exhibition of independent programing when other network time was available and that successful independent programs have been moved from ABC to other networks when the opportunity afforded itself.

[6a] Appendix II filed as part of the original document.

[7] A similar proposal was rejected by us when we eliminated option time in 1963. (In the matter of amendment of § 3.658 (d) and (e) of the rules, 34 FCC 1103, 1131). We wished to see whether elimination of option time would correct the competitive imbalance between networks and their affiliates and increase diversity of program source. We said:

"Before considering further measures of a restraining nature, we believe it appropriate to await development with the industry operating without option time or similar arrangements. We do not say that the public interest would never be served by [such action] * * * if it so appears of course such action will be considered. But * * * it would be premature to consider further measures until we have the benefit of observation of future development."

[8] Each national television network is composed of five television stations licensed to the network corporation and a large number of independent television stations which serve virtually every community across the country. Each national television network is structured to provide national advertisers with unduplicated coverage of the national television viewing public. It produces or procures programs, arranges for sponsorship and offers a continuous, coordinated program schedule to its affiliated stations. It acts as sales agent for its affiliates and compensates them for carrying programs at a percentage—often 30%—of the station's card rate. Networks may not under our rules require a station to carry any program, but an affiliate gets first refusal in his market of programs offered by his network. Affiliation contracts are governed by the Commission's Chain Broadcasting Regulations (§73.658 (a) through (i) of the rules) which were designed in large part to protect station autonomy and responsibility for broadcast material. The network is interconnected by facilities predominantly owned and operated by the A.T. & T. and paid for—in most cases by the network—on the basis of tariffs filed with the Commission.

[9] We must also note that the original Supplemental ADL Report, upon which two networks heavily relied and upon which the Commission necessarily placed heavy reliance in view of our own lack of resources to obtain and check substantial amounts of relevant data, had numerous errors, later corrected.

[10] Both feature films and local programs, the other two categories given, decreased.

[11] Comparisons of these categories of programs as between 1958 and 1968 for the markets below the top 50 were not furnished in any of the tables.

average weekly station hours in the top 50 markets[12] declined from 6.3 in 1958 to 4.8 in 1968. There were also decreases, although of lesser degree in the 6–11 p.m. and 7:30–10:30 p.m. periods. In the latter period there was an average of only 1.6 hours a week of all nonnetwork programing. (Table 80.) While the networks claimed, on the basis of the original Supplemental ADL Report, that the amount of nonnetwork programing on affiliates had increased from 1958–1968, the corrected Report showed that the reverse was the case.[13]

7. A healthy syndication industry composed of independent producers capable of producing prime time quality programs must have an adequate base of television stations to use its product. Since the stations in the top 50 markets reach over 75 percent of the available audience, access to these markets is essential to form such a base. The independent stations are not adequate by themselves, in light of the fact that only 14 of these markets have one or more independent VHF stations. The networks obviously have a tremendous and, we believe, insurmountable advantage in providing programs for their affiliates. Not only is there the natural tendency of an affiliate to do more business with its dominant supplier, but the program distribution process is much simpler via a network. There is a semipermanent affiliation agreement covering almost all programs. The syndicator is forced to make a new contract with each station for each program. Similarly, it is much simpler for an advertiser to make one arrangement for an entire network than to buy station by station. In short, there is no permanent unified distribution machinery. These disadvantages are inherent in the distribution process and not in the product. They must be recognized as realities in the face of the contention that independent program producers can now compete upon an equal basis. The loss of their syndication foothold over the years by the independent producers is difficult to explain on any other basis when we take into consideration the fact that most network programs are actually produced largely by outside producers. We find it difficult to believe that so much of the skill could be concentrated in the three networks.

8. Other factors, already alluded to at length in the notice of proposed rule making, reinforce our view that the market is seriously unbalanced to the disadvantage of independent producers and a freer, more diversified television production and distribution process. Formerly, when many program producers dealt directly with sponsors, their market for network television programing was composed of 50–100 potential buyers. Now, that market has dwindled for all practical purposes to three. Whatever their number, independent producers are seriously disadvantaged by the market structure. This is borne out by the customary terms on which they deal with the networks. The ADL report lists 15 packagers as participating in all seasons, 1957–64, by supplying at least one regularly scheduled network series for nighttime television.[14] While in the normal course of competitive business, these producers might be expected to acquire a favorable or preferred bargaining position because of their economic and creative contributions and their desirability as sources of network programs, such was not the case. They fared little, if any, better than one-season produces. These 15 producers provided a total of 299 programs between 1957 and 1964. Of these, 214 (71.6 percent) were licensed directly to networks which provided developmental financing in only 64 cases (30.0 percent). However, networks obtained rights to participate in the profit from the first network run in 207 of this 214 (96.7 percent) of the series so licensed. In 40, or 18.7 percent, of the series networks obtained the right to distribute, and in 140, or 65.4 percent, of the cases networks shared in the profits from domestic syndication. The figures for foreign distribution were 43 series (20.1 percent) in which networks acquired distribution, and 136 series (63.5 percent) in which they acquired profit shares. The percentage of all prime time regularly scheduled packager-licensed programs in which networks got a syndication interest of one kind or another ranged from a low of 43.1 percent in 1957 to a high of 78.9 percent in 1960 and declined slightly to 75.7 percent in 1964. Similar figures for film programs were: 59.4 percent in 1957; 87.9 percent in 1960 and 78.3 percent in 1964.

9. The first ADL report describes the "giant" motion picture companies as being in a position of market power and occupying "strong bargaining positions" vis-a-vis both advertisers and networks.[15] Analysis of the data indicates, however, that the terms of market entry for the major motion picture corporations were on the whole less favorable than for the generality of packagers. The companies involved were (1) Metro-Goldwyn Mayer; (2) Paramount (includes Plautus from 1963); (3) Screen Gems (subsidiary of Columbia Pictures); (4) Twentieth Century Fox; (5) United Artists; (6) Universal Pictures (Univ. TV, Revue, MCA); (7) Walt Disney; and (8) Warner Bros. In 1964 these eight companies sold 27 series to the networks which provided some developmental financing for 17 such series (63 percent). The networks acquired shares in the producers' profit derived from the first network run in all 27 such series (100 percent); networks obtained domestic syndication distribution rights in four series (14.8 percent), and shares in profits from domestic syndication in 23 series (85.2 percent). Perhaps more significant are the figures which show that for the six seasons (1959–64) these majors sold 152 series to networks which provided some developmental financing in 70 (46.1 percent) of the cases, but obtained first run profit shares in 146 (96.1 percent) of these series, domestic distribution in 13 (8.5 percent), domestic profit shares in 118 (77.6 percent), foreign distribution in 19 or 12.5 percent and foreign profit shares in 111 (73.0 percent) series. Thus, there was no necessary relation between networks providing developmental financing and their acquisition of syndication and foreign sales distribution and/or profit sharing rights. The admitted great bargaining potential of major motion picture companies was inadequate to extract terms of entry to the network television market more favorable than those obtained by other producers.

10. Furthermore, although in many cases packagers do not recover production costs from the network run of a program series, but must look to profits from domestic syndication, foreign sales and other subsidiary uses of the series to recover their costs and make a profit, they almost uniformly "bargain" away substantial portions of domestic and foreign

[12] Again comparative 1958–1968 data for below the top 50 markets was not available.

[13] These tables before correction showed an increase in nonnetwork programing from 1958 to 1968 of from 6.3 to 7 hours (Table 80), and other seriously incorrect data. Thus, table 84 originally showed the number of affiliates carrying more than 8 hours of nonnetwork programing a week as increasing from 33 to 69, while the corrected table showed only 4 stations in that category in 1968. What the CBS comments described as a 100% increase was in fact a tremendous decrease. And total affiliate weekly station hours did not increase from 844 to 1,021, as originally claimed, but decreased to 701. (Table 89.) These are significant statistics as the network parties claimed. Similar corrections showed that in the 6–11 p.m. time period, nonnetwork programs decreased from 10.9 to 9.1 hours (rather than increasing to 11.4) (Table 80), that from 7:30–10:30 p.m. nonnetwork programing decreased from 2.1 to 1.6 hours (rather than increasing to 3.3 hours). Other significant data was incorrect, for example, the number of affiliates taking more than 12 hours per week of nonnetwork programing did not "dramatically" increase, as CBS originally believed, from 36 to 61, but fell dramatically to 16 in 1968. The corrections themselves are perhaps not important; what is important is that the new corrected data show increased network control.

[14] These producers were: (1) David Susskind (Talent Associates), (2) Desilu Productions, (3) Four Star Television, (4) Goodson Todman, (5) Jack Wrather Productions, (6) J & M Productions, (7) Oswald and Harriet Nelson, (8) Revue Studios (Universal), (9) Roncom Productions, (10) Screen Gems, (11) Shamley Productions, (12) Sullivan Productions (Ed Sullivan), (13) Teleklew Productions, Inc., (14) Warner Bros. Pictures, Inc., (15) Walt Disney Productions.

[15] The report states (vol. I, p. 36):

"* * * In terms of market power it is evident that these major studios occupy strong bargaining positions vis-a-vis both advertisers and networks and have significant market shares as well."

syndication rights.[16] Thus, the data submitted by the networks and by A. D. Little confirm that no matter how producers are categorized in terms of bargaining power, their entry to the prime time network television market is accompanied by the transfer of a substantial part of the potential profitability of their products to the purchasers—the networks. The fact that over the years the producers have perforce adjusted their methods of doing business and have learned to live with this situation in no way changes the essentially oligopolistic nature of the situation.

11. In addition, the three national television networks for all practical purposes control the entire network television program production process from idea through exhibition. Because "off network" programs constitute a principal staple of the nonnetwork program market, networks also control the production and hence, the form and content, of a large share of the syndicated programs exhibited by television stations. The networks have gradually—since about 1957—increased their economic and creative control of the entire television program process. Between 1957 and 1968 the share of all network evening program hours (entertainment and other) either produced or directly controlled by networks rose from 67.2 percent to 96.7 percent. If entertainment programs alone are considered, network produced or controlled evening hours rose from 64.4 percent in 1957 to 96.2 percent in 1968.

12. Data supplied by the networks[17] show a big increase in network-controlled "independently" produced programs—the so-called joint-venture programs with respect to which networks almost invariably acquire the first-run right in addition to some rights to share in the profits from the network run and the right to distribute and/or share in the profits from domestic syndication and overseas sales and other valuable subsidiary rights. This type of arrangement facilitates network control of the form, content, and creative aspects of the show even though actual filming is done by a nominally independent producer. During the same period there has been a sharp decline (from roughly one-third to less than 4 percent) on all three networks in the number of programs independently produced and licensed to advertisers. The following table summarizes the sources of all evening (6–11 p.m.) programs carried on each of the three networks during representative weeks in 1957 and 1968. The figures are shown as percentages of total network evening program hours.

	Three networks combined		ABC		CBS		NBC	
	1957	1968	1957	1968	1957	1968	1957	1968
	Percent							
(1) Network produced	28.7	16.3	19.7	11.1	43.9	17.8	21.4	19.6
(2) Network participation (produced by others and licensed to network corporations)	38.5	80.4	51.7	87.0	24.3	79.5	40.8	75.0
(1) and (2) combined	67.2	96.7	71.4	98.1	68.2	97.3	62.2	94.6
(3) Independently provided	32.8	3.3	28.6	1.9	31.8	2.7	37.8	5.4

Similar data are shown below for entertainment programs only:

	Three networks combined		ABC		CBS		NBC	
	1957	1968	1957	1968	1957	1968	1957	1968
	Percent							
(1) Network produced	21.2	4.1	5.4	0.0	38.8	4.2	15.2	8.2
(2) Network participation (produced by others and licensed to network corporations)	43.2	92.1	62.2	97.9	26.5	92.7	45.6	85.7
(1) and (2) combined	64.4	96.2	67.6	97.9	65.3	96.9	60.8	93.9
(3) Independently provided	35.6	3.8	32.4	2.1	34.7	3.1	39.2	6.1

13. The above data demonstrate that whereas in 1957 independents provided approximately one-third of the evening network schedules, their share in 1968 had declined to below 4 percent. Conversely, programs produced by or in conjunction with networks now occupy about 96 percent of the weekly evening hours on the three networks combined. The ratios of network-controlled program fare as among the individual networks range from about 95 percent on NBC to just 98 percent on ABC for entertainment and other programing, and 93.9 percent on NBC to 98 percent on ABC for entertainment programing. The figures show a steady increase in such control of evening programing since 1957. Indeed, there has been a substantial increase in such control during the pendency of this proceeding—in hours of overall programs from 93.1 percent in 1964 to 96.7 percent in 1968; in entertainment programs from 92.0 percent to 96.2 percent.

14. Coincident with the increase of network control of the program process, there has been a progressive change both in the techniques of television advertising and length and format of television programs. Presently 90 percent or more of network evening advertising is sold in the form of "spots" (formerly largely minutes but more recently consisting of increased numbers of 30-second spots).[18] There has been a coincident decrease in individual and dual sponsorship and a large increase in multiple or minute sponsorship.[19] Formerly, most programing was individually or dually sponsored. Individual and dual (or alternate) sponsors frequently procured their own programs and placed them in time arranged for on the network through their advertising agencies. Occasionally an advertiser would indicate his wish to acquire an individual half hour program and suggest to the network that it buy the program and obtain an alternate sponsor. Typical situations involved programs put on by sellers of multiple brands such as Proctor & Gamble, General Foods, and Lever Brothers. In such cases, the sponsor procured the program directly from an independent producer and used it to advertise his various products.[20] Ultimately, this kind of sponsorship was supplemented by minute participations in network-controlled shows, and more recently by 30-second participations.

[16] On Jan. 11, 1966, Taft B. Schreiber, chief executive of Revue, confirmed the fact which had been brought out in earlier testimony that producers for the most part did not make themselves whole through revenues from the network run of a filmed series. Schreiber testified (Tr. 9756):

"Q. There is testimony by others in this record that frequently or occasionally a producer does not get back from a network run of a series his full cost, and that he must look to syndication, foreign sales, and other subsequent uses to piece out his costs and make a profit. This has been testified to here by some producers.

"Has that been your experience? Is this the case?

A. That is the case."

Also, Variety, March 22, 1967, p. 57, reported that 20th Century Fox recoups only 80 percent of its television film cost from network first run fees. See Letter of Bing Crosby Productions, Oct. 18, 1965. Also, part II, Second Interim Report, page 740, et seq. See also Evelyn Burkey testimony on behalf of Writers Guild of America, East. (Tr. 9883)

[17] The data contained in the ADL reports regarding network control of their evening schedule does not differ substantially from that reported directly to us by the networks, which is utilized in this part of the Report. See 1966 ADL Reports, ADL Report, April 1969, table 1, p. 1. FCC table 2–A.

[18] The total number of different network commercials in 1964 was 1,990. In 1968 it had increased to 3,022. (The New York Times, Jan. 4, 1970.)

[19] Program segments of 1 hour or more in duration have increased from 30.1 percent of evening program hours in 1957 to 76.7 percent in 1968. Half hour programs have decreased from 66.7 percent in 1957 to 23.3 percent in 1968. Table 4, page 10, 1969 ADL Report.

[20] In such cases, the sponsors' various products or brands were usually represented by different advertising agencies. One agency—the so-called agency of record for the sponsor—assumed responsibility for the program and made arrangements with agencies representing the sponsors' other products.

Under this method of selling advertising, the network procures a filmed program, often of an hour or 90 minutes in length, slots it into its evening schedule and then sells advertising spots to a variety of sponsors.[21] At present about 90 percent of evening network time is sold in this fashion.

15. Indeed, counsel for CBS conceded in his argument before us that networks by and large control the creative process in order to attract large circulation of advertisers. The objective is to deliver homes to advertisers at a cost of "something like one cent per home."[22] He said:

I readily concede that creativity does not flow as freely and openly as it does in the theater, in books or in motion pictures, each of which can support itself economically on a much smaller audience.

16. Such control stems from the necessities of commercial advertising. A half-hour prime time costs the advertiser approximately $40,000 per commercial minute and he will pay about $3.50 per thousand homes, which at $40,000 per minute would require an audience of 11 million homes or, even at the low estimate of two people per home, something in the neighborhood of 22 million people. Counsel agree that there are advertisers who say they are willing to pay a much higher cost per thousand to reach an audience with something that matters to them or to reach a particular segment of the audience. The basic question in his view was: "How do you program in a system supported by advertisers, financed by advertisers, at a cost of 1 to 2 cents per home?"[23] CBS says it attempts to find creative writers and producers who can produce programs of quality and at the same time attract a maximum audience. CBS could not be expected to be doing anything else than looking for the very best programs (it) can find in terms of the audience they can deliver and the cost of producing them, on the average. We can't run a business in which on the average the audience which we have and which we can sell brings in less than the cost of producing it.[24] There was also extensive testimony in the Commission's program inquiry that there is network control of the creative process in television entertainment programing in the interest of advertising circulation.[25] Also the statement before the Commission in July 1969 by Richard M. Powell, speaking for the Writers Guild of America, indicates that such is still the case.[26] He said:

* * * the power to determine form and content rests only in the three networks and is exercised extensively and exclusively by them, hourly and daily. They read and pass on premises for stories; they read and pass on finished scripts and they sit in judgment on completed telefilm.[27]

17. We also note that networks have increasingly engaged in the subsequent syndication of packager-licensed network programs. Hours of packager-licensed entertainment programs in network schedules more than doubled between 1957 and 1967 (28¼ hours to 63½ hours). The percentage of such hours in which networks acquired domestic distribution rights increased from 15.9 percent to 23.8 percent, and foreign distribution increased from 23 percent to 24.4 percent. Total hours of packager-licensed programs in which networks obtained domestic syndication distribution rights more than trebled (from 4½ hours in 1957 to 15 hours in 1967), and foreign distribution more than doubled (from 6½ hours in 1957 to 15½ hours in 1967). (Supplemental ADL Report, p. 52.) When profit shares are considered the results are even more indicative of the networks' acquisition of an increasingly strong position in syndication. Here again, we find substantial increases in the total hours of packager-licensed programs, accompanied by substantial increases in the percentage of such programs in which networks obtained both domestic and foreign profit shares. Domestic profit shares increased from 31.9 percent in 1957 to 65.4 percent in 1967 (from 9 hours in 1957 to 41½ hours in 1967); foreign from 33.6 percent in 1957 to 66.9 percent in 1967 (from 9 hours in 1957 to 42½ hours in 1967). (Supplemental ADL Report, p. 54.)

18. While they do not constitute a principal part of overall revenues,[28] revenues accruing to networks from syndication activities are substantial and are increasing. Net gain from syndication distribution fees and profit shares from regularly scheduled nighttime entertainment series licensed by packagers to networks was about seven times as great in 1967 as in 1960 ($6,266,000 in 1967 from $894,000 in 1960). The larger part of that increase was accounted for by profit share gain, which was nearly 6½ times as great in 1967 as in 1960 ($3,639,000 in 1967 from $566,000 in 1960), while gain from distribution was eight times as great in 1967 as in 1960 ($2,627,000 in 1967 from $328,000 in 1960). (See Supplemental ADL Report, table 32, pp. 68–69.)

19. A direct relationship appears to exist between new programs chosen for network schedules and network acquisition of subsidiary rights and interests.[29] As these and other data referred to earlier indicate, very few programs are produced for network exhibition where the network does not get some share in their subsequent earning power through syn-

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[21] There are usually 6 minutes of commercial network spots per hour in addition to local spots at station breaks. Spot purchasers may, and frequently do, differ from week to week in the same series. A majority of spots now are 30-second spots, so that where an hour formerly may have included six network advertising spots now it may include as many as 12 networks spots.

[22] Tr. 9923–26. He continued:

The reason why you have programing in the theater, in the opera, in books, in the movies, which has a much greater diversity is that those programs can live on a much smaller audience economically. They don't deliver themselves to their audience for 1 cent per home. It is 50 cents or $1 or $5 or $10 per home for which they are delivering themselves * * * we are operating in a system which is producing entertainment and information and delivering an audience at a cost to the person who is paying for it at 1 cent per home.

Counsel said that television is free to the public in the sense "that revenues derived by networks and stations are from advertisers." It should not be forgotten, however, that the public has a large investment in television. Since the start of television, the public has invested $38.9 billion in television sets, as against $256 million by the networks and their fifteen owned stations and $693 million by all other stations for physical facilities—about 1 percent for networks and 3 percent for stations of the public's investment. Also, the public's daily cost to run its sets is 25 cents per TV home. The total daily cost to advertisers is 16 cents per TV home. In addition, of course, the public pays both the broadcasters' and advertisers' share through the purchase of advertised products. (TV Basics No. 12—The Television Bureau of Advertising.)

[23] Tr. 9927.

[24] Tr. 9931.

[25] See chapter XI, pages 534–664, part II, Second Interim Report, Office of Network Study (Doc. 12782) FCC, Washington, D.C. 1965.

[26] Tr. 9776. He added that "The consolidation of the network monopoly in programing has been accompanied by a complete and rapid elimination of all ideas. A state of profitable mindlessness has set in." "The early promise of television has been aborted * * * writers and directors have gone elsewhere" (Tr. 9878) "* * * because their creative capacities are not being used by television, they are being perverted by television." (Tr. 9883.)

[27] By and large episodes of television series are produced on the basis of "formulas" approved in advance by the network corporation and often its mass advertisers—which set the characters, freeze theme and action and limit subject matter to tested commercial patterns. See testimony, among others, of writers Erik Barnouw (Tr. 5532 and 5357) and David Davidson (Tr. 5388 and 5392–5393), producer Herbert Brodkin (Tr. 6488), Ernest Kinoy, President, Writers Guild of America, East Inc. (Tr. 5434–5445) and William T. Orr, vice president of Warner Brothers Pictures, Inc., and executive producer, television division (Tr. 3934–3939).

[28] Network revenues from syndication and foreign sales are small compared with their revenues from sales of advertising time. For instance, in 1967, network revenues from domestic and foreign sales of television series were $29.3 million while total time sales by networks amounted to $363.7 million.

[29] From 1960 to 1964, inclusive, 114¼ hours of new packager-licensed series were scheduled by networks. In 43 such hours (37.6 percent) networks acquired domestic and/or foreign syndication distribution rights, and in 93 such hours (81.4 percent) networks acquired domestic and/or foreign syndication profit shares. In the supplemental ADL report similar figures are not given. It may reasonably be inferred that the same conditions continue since up to date data has been given where helpful to the networks.

dication and other rights.[20] The overall result is that, save for about 6 or 7 percent of their schedules which were the result of direct dealing between independent producers and sponsors, networks accepted virtually no entertainment program for network exhibition in a 5-year period in which they did not have financial interests in syndication and other subsequent use; in addition, they had similar interests in a large part of the surplus product available.[21]

20. The networks between 1957 and 1967 have expanded their activities and interests in the sale of television programs in domestic syndication and foreign markets. Network commercial interests in domestic distribution and foreign sale took two forms: (1) Actual distribution of programs through their syndicated program divisions, and (2) profit sharing rights in domestic and foreign distribution carried on by others. Between 1957 and 1967 network sales of off network television series in domestic and foreign syndication steadily increased from $5.4 million to $26.1 million—at the same time industry sales of off network series increased from $13 million to $100 million. The three networks, with 23.6 percent of overall series sales ($124 million in 1967), were among the leaders in sales in the industry. Profit sharing accounted for a much larger return to networks than did fees from domestic syndication distribution. The figures, as provided us by the networks through Arthur D. Little, Inc., are as follows:

Taken from 1969 ADL Report, Table 38, pp. 64–69

	Overall		
	Distribution	Profit share	Total
1960	$893,000	$1,054,000	$1,947,000
1964	2,319,000	5,419,000	7,738,000
1967	3,509,000	4,282,000	7,791,000
	Packager-Licensed		
1960	$328,000	$566,000	$894,000
1964	894,000	4,189,000	5,083,000
1967	2,627,000	3,639,000	6,266,000

[20] Taft Schreiber, of MCA, one of the largest television producers, testified that as of January 1966, it was "usually" necessary to cede the subsidiary rights to networks in order to procure the acceptance of a "new, untried" program series in prime time. Tr. 9762: "* * * if you are talking solely about brand new, untried programs, it would seem to me, yes, that the potential of its finding a prime time spot would depend upon network participation." He added that there were "exceptions to this generalization."

Between 1960 and 1964 in addition to the 114¼ hours of packager-licensed entertainment series which were accepted by networks and included in their schedules, there were available to them 37 potential series (unutilized pilots) in which networks had acquired domestic and/or foreign syndication distribution rights and 75 potential series in which they had acquired domestic and/or foreign syndication profit shares.

[21] The ADL Report, 1966, Vol. 1, p. 53. The data in the 1969 ADL report as compared with that in the 1966 report show a fairly substantial decrease in network acquisition of syndication distribution rights and after a substantial increase between 1964–67 a slight decrease in profit shares. But the practice continues.

21. The data before us indicate an unhealthy situation in several respects. Only three organizations control access to the crucial prime time evening television schedule. In the top 50 markets, which are the essential base for independent producers to market programs outside the network process,[22] they are at such a serious disadvantage that prime time first run syndicated programing has virtually disappeared. Such programing is the key to a healthy syndication industry because it is designed for the time of day when the available audience is by far the greatest. The success of syndicated programs in "fringe" time periods is not substantially relevant. The lack of available prime time on network affiliates adversely affects the capacity of this alternate program source to supply programing for the independent stations, and particularly the still-struggling UHF independents upon which Congress and the Commission have relied for a fully competitive nationwide television broadcast service. Furthermore, to the extent that close network supervision of so much of the Nation's programing centralizes creative control, it tends to work against the diversity of approach which would result from a more independent position of producers developing programs in both network and syndication markets. It appears to be, based on the testimony and especially the statistical evidence, that network judgment in choosing new programs is substantially influenced by their acquisition of subsidiary interests in the programs chosen.[23] But in any event, even were we not to reach that conclusion, it is clear that the existence of subsidiary interests does pose a significant conflict of interest in the selection of programing by the networks, and that as a prophylactic measure, the public interest would be served by the elimination of this conflict. Certainly there is a close correlation between programs taken and subsidiary rights held. We see no necessity to preserve such a conflict of interest situation. Finally, the presence of the networks as domestic syndicators is inherently undesirable. They are in the position of selling programs to independent stations in competition with their own network programs on affiliated stations, and they compete against independent syndicators in the affiliated-station market where they have an advantage due to their permanent relationship with the stations.

22. The public interest requires limitation on network control and an increase in the opportunity for development of truly independent sources of prime time programing. Existing practices and structure combined have centralized control and virtually eliminated needed sources of mass appeal programs competitive with network offerings in prime time. To remedy these problems, we have decided first to open access directly to the top 50 markets for independent programing by prohibiting network affiliates in these markets where there are at least three commercial television stations from taking more than 3 hours of network programs between 7 p.m. and 11 p.m.,[24] with certain exceptions for programs whose duration is not under network control (certain live sports events),[25] those in the news area as to which the network cannot plan in advance (e.g., on-the-spot-coverage of bona fide news events; a special news program on a fast-breaking news event such as the recent Apollo mission) and political broadcasts by legally qualified candidates for public office.[26] In view of the common practice of the networks of offering only 3½ hours of network programs between 7 p.m.–11 p.m., the rule we are adopting will open up ½ hour of additional time per evening for non network programs on affiliated stations. Off-network programs may not be inserted in place of the excluded network programing; to permit this would destroy the essential purpose of the rule to open the market to first run syndicated programs. We have also dealt with feature film in this respect, because if the network affiliates were to adopt the general practice of substituting feature film for network fare as a means of meeting the requirements of our rules, it would frustrate the purposes of the rule. We have therefore also proscribed the use of feature film which has been previously broadcast in the market as a

[22] While a program need not be shown in all 50 markets to be financially successful, it must be shown in a substantial portion of these markets.

[23] Once a program is on the schedule, its success or failure will, of course, determine its retention; but, as pointed out above, success of new programs is difficult to predict.

[24] We have employed the 6–10 p.m. period for the central time zone. There is no problem as to the Pacific time zone. As to the mountain time zone, only one market (i.e., Denver) comes within the rule; if the time period specified (7–11 p.m.) calls for adjustment in this one market, this can be effected upon an appropriate request directed to this area.

[25] We have not exempted live sports. However, we will consider waivers for occasional instances where a live sports event of indefinite duration not subject to network control is scheduled so that it would normally conclude before 7 p.m. (6 p.m. central time) but continues beyond that hour or such a live sports event beginning within the 7–11 p.m. (6–10 p.m. central time) period continues beyond the 3-hour limitation. An appropriate request for a waiver should be made by the network prior to the seasonal commencement of such a series of sports events or the scheduling of such a single sports event.

[26] We also note the appropriateness of waiver in one other situation involving news programing—namely, where the network affiliate presents a 1-hour local news show from 6–7 p.m. and therefore presents the network news at 7 p.m. To avoid any impact from our rule, such an affiliate could reschedule this 6–7:30 time period of news by presenting a half-hour local news at 6 p.m., the network news at 6:30, and then return to the local news at 7 p.m. (an order of presentation followed by some affiliates). However, no public interest would be served by such rescheduling. In the above described situation, it should be a matter for the affiliate's judgment whether to present a continuous 1-hour local news program from 6 to 7 or to bracket the network news with local news shows. Accordingly, we would grant a waiver upon an appropriate request.

means of meeting the requirements of the rule. While our rule will limit the hours of network programs an affiliate in the top 50 markets may broadcast in prime time, it purposefully does not limit the length of the schedule which the network may offer. Indeed, as commercial UHF stations are rapidly becoming available in the top 50 markets the networks should consider the feasibility of continuing to offer the longer schedule. Not only the public interest in the fostering of UHF would benefit, but affiliates in markets below the top 50 could continue to broadcast the longer network schedule.

23. We believe this modest action will provide a healthy impetus to the development of independent program sources, with concomitant benefits in an increased supply of programs for independent (and, indeed, affiliated) stations. The entire development of UHF should be benefited.[27] It may also be hoped that diversity of program ideas may be encouraged by removing the three-network funnel for this half hour of programing. In light of the unequal competitive situation now obtaining, we do not believe this action can fairly be considered anticompetitive where the market is being opened through a limitation upon supply by three dominant companies. As stated, while the Commission previously rejected the Westinghouse proposal as anticompetitive, we said that "freedom of choice (of) the licensee should be preserved against derogation by artificial restraint as long as no public interest benefit flows therefrom." In then rejecting the proposals similar to the one we now adopt we said we would "await developments with the industry simply operating without option time or similar arrangements." We added, however, that "* * * if it appears that the public interest would be served by action along some of these lines, of course such action will be considered." The record herein demonstrates that our elimination of option time has not operated to make more time available to nonnetwork programs and to multiply competitive program sources. We therefore take the present action, in line with the above-described continuing program.[28]

24. It is urged upon us that the absence of prime time syndicated programing is a function of the economics of television program production. It is argued at length, and much data is submitted in support of the contention—particularly by CBS and NBC—that production costs and financial risk involved in production of quality prime time programs are so great that no producer can afford to engage in their production for syndication. There is sharp disagreement in the record before us on this score. Westinghouse and others[29] say that, given reasonable access to top rated evening time in the top 50 markets, program producers—both present and potential—can and will supply programs for the syndication market reasonably competitive with network prime time offerings. There appears to be no compelling reason to conclude that they could not and would not do so. There is no doubt that network television program costs have increased in the past 10 years. But we do not think that such increased costs are necessarily a bar to successful production for television syndication. It is familiar doctrine that dollar costs in television are not as crucial to economic success as are the costs an advertiser must incur to place his message before his prospective customers. A higher dollar cost to reach a larger audience is acceptable to most advertisers. He gages his cost efficiency on the cost of reaching a thousand homes with his commercial message. The result is that the program cost which would be prohibitive in low-rated time will be quite acceptable in high-rated time with its larger audience. This is the rationale of the Westinghouse proposal. The matter cannot be determined with absolute certainty short of some operational experience under competitive conditions. The likelihood that independent production will succeed is sufficiently great, in our judgment, that it should be given an opportunity. The rule can readily be changed or rescinded if it fails to achieve its purpose.

25. However, it is not of course our intention as suggested in the network comments to carve out a competition free haven for syndicators or to give them option time in reverse. Equally the public interest in fostering the feasible maximum of diverse program sources does not permit us to preserve the noncompetitive enclave now occupied in prime time by the television networks. Our objective is to provide opportunity—now lacking in television—for the competitive development of alternate sources of television programs so that television licensees can exercise something more than a nominal choice in selecting the programs which they present to the television audiences in their communities. Under the rules we are adopting no television licensee can be required to carry a syndicated program if he chooses not to do so. He may rely on his own program ingenuity or use locally originated programs to fill out his schedule.

26. We believe that substantial benefit to the public interest in television broadcast service will flow from opening up evening time so that producers may have the opportunity to develop their full economic and creative potential under better competitive conditions than are now available to them. We emphasize again that it is not our objective or intention to smooth the path for existing syndicators or promote the production of any particular type of program—whether or not it be included within the present category of quality high cost programs. The types and cost levels of programs which will develop from opening up evening time must be the result of the competition which will develop among present and potential producers seeking to sell programs to television broadcasters and advertisers. As his responsibility requires, the licensee will decide which among available sources of programs he will patronize. A principal purpose of our prime time access rule is to make available an hour of top-rated evening time for competition among present and potential nonnetwork program sources seeking the custom and favor of broadcasters and advertisers so that the public interest in diverse broadcast service may be served.

27. We have also decided to adopt that part of our original proposal designed to eliminate the networks from distribution and profit sharing in domestic syndication and to restrict their activities in foreign markets to distribution of programs of which they are the sole producers.

28. Under present conditions independent producers who desire to exhibit their product first on a network and then offer it in domestic syndication and foreign markets must first bargain with the networks who are their principal competitors in syndication and foreign sales for the network exposure necessary to establish the subsequently value of their programs as valuable commercial assets in domestic syndication and foreign sales, and are usually required to grant to the networks either the distribution rights or large shares in the profits

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[27] If this half hour is used for local programing instead of syndicated entertainment, this would also serve the public interest.

[28] We also have no convincing showing before us that network affiliates in markets below the top 50 will be substantially affected in their ability to serve the public should the networks reduce their nighttime schedules by a half hour rather than seek time on independent stations for the half hour of programing which network affiliates in the top 50 markets can no longer take. In some markets, there will be no problem at all, since one network may have no affiliate there. In other markets, it presents no problem so far as obtaining programing is concerned, since the station will have available the choice of local programing, off-network, syndicated programing, feature films, first run syndicated programs, etc. The problem, it is alleged, comes in reduced advertising support for whatever programing is selected. However, there is a clear benefit to be served by the rule which has not been offset by a showing or reasonable indication of detriments to the stations in the smaller markets. Nor can we find, based on our experience and evaluation of the present market situation, that the possible necessity for some stations in some markets to find advertiser support for an additional one-half hour of programing per night will have detriments to the public outweighing the benefits delineated in this report.

[29] Several other commenters say that freed of the need to give away to networks the major share of their profits, independent producers would jump at the chance to compete in the market. Richard Powell of the Writers Guild says that there is no lack of venture capital ready to finance independent production once the network monopoly is dissolved. Robert Montgomery, an independent producer of long experience in television, terms as "hogwash" the network contention that they alone can afford the business risks required in the production of high cost quality television programs. It seems quite probable that, as Montgomery suggests, present network production practice is wasteful and the discipline of competition would tend to reduce production costs.

from domestic syndication and foreign distribution, or both, for the program. Similarly, a producer who seeks to distribute his programs in foreign countries must compete with networks who through the bargaining with the same and other independent producers control the source of supply of the programs which constitute the staples of this market and/or they share in the profits from such distribution by others. The record has convinced us that networks have a clear conflict of interest in choosing programs for their schedules. Indeed, as stated, we believe on the basis of the record before us that networks do not normally accept new, untried packager licensed programs for network exhibition unless the producer/packager is willing to cede a large part of the valuable rights and interest in subsidiary rights to the program to the network.

29. If networks are prevented from operating as syndicators or from sharing in the profits from distribution by others in the domestic syndication market, there will no longer be any inducement to choose for network exhibition only those packager-licensed programs in which they have acquired other rights. Furthermore, producers and packagers will be enabled to fully benefit from their own initiative and presumably become more competitive and independent sources of programing since in many instances a packager cannot recoup his outlay from the first network run of a series or program and must look to the commercial uses of the program subsequent to the network run for commercial success. Relieved of the need to grant a network a large portion of his potential profit the producer's ability profitably to operate in network television will be greatly enhanced. With the expanded syndication market as a feasible alternate to network exhibition his bargaining position will be improved and he can be expected to develop into a stable and continuing alternate source of programs and ultimately to compete for network time.

30. We prohibit networks from acquiring subsidiary program rights and profit shares, as little would be accomplished in expanding competitive opportunity in television program production if we were to exclude networks from active participation in the syndication market and then permit them to act as brokers in acquiring syndication rights and interests and reselling them to those actively engaged in syndication. We also believe that the prohibition of network domestic syndication of their own programs will serve a salutary purpose in making for fairer competition. As pointed out above, the network has an advantage as a competitor in the syndication market because of its existing relations with affiliates. In addition, the prohibition will permit the networks to lend all their efforts to the sale of network programs. We find that the rule will eliminate a potential for competitive restraint in these respects. Cf. Metropolitan Television Co. v. Federal Communications Commission, 110 U.S. App. D.C. 133, 289 F. 2d 874 (1961).

31. Foreign distribution rights are an important part of the valuable assets which currently are on the bargaining table when the choice of a packager-licensed program or series is being determined. Networks engaged in foreign distribution of television programs in the same way they do in domestic syndication—the principal difference being that unlike domestic syndication where network series are not available until some time after the completion of their network run, network offerings are concurrently exhibited in foreign countries. Were we to permit networks to continue to bargain for foreign distribution rights and profit shares, such rights would continue to be important elements in the decisional process. Their concession to networks might well be a factor in program acceptance. Also an important source of revenue to enable independent programs to develop would be diminished. On the other hand we see no reason to exclude networks from entering into arrangements with broadcasters in foreign countries for the sale or exchange of programs wholly produced by the networks. The situation here differs from that in domestic distribution.

32. Finally, we do not believe that a network which has acquired the first run network exhibition right or license to a program or series of which it is not the sole producer should be permitted to hold such right indefinitely against the wish of the producer. Thus, we have provided that if the network does not make timely use of the program the producer or other person from whom the right or license was acquired may reacquire it on his timely offer reasonably to compensate the network. In this way networks cannot keep a program in reserve for an unreasonably long time when, perhaps, such program or series might have a ready market as a nonnetwork offering or an offering to another network.

33. In view of the detailed memorandum we have previously issued on our legal authority to adopt the rules, little need be added. We have examined the arguments urging an absence of authority, but are not persuaded. We think that in addition to the reasons set forth in our memorandum, the decision in United States v. Southwestern Cable Co., 392 U.S. 157, should be particularly noted. Networks and their affiliates are engaged in interstate radio communication over which we have regulatory authority for the purpose of bringing to the viewing public the best practicable service unfettered by unnecessary competitive restraints. National Broadcasting Co. v. United States, 319 U.S. 190; Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470.

34. The dates when the several parts of the rules become effective are staggered. This is because of differing impacts of our various actions on methods of doing business in the television program markets. For instance we think that networks should have at least a year to allow for orderly phase out of their domestic syndication and foreign distribution activities. We have made that part of the rule effective as of September 1, 1971. On the other hand, networks may without substantial injury to their operations terminate acquisition of domestic and foreign subsidiary rights and interests in television programs this year. Indeed that action will facilitate operation of the balance of the new rules. The prime time access rule is made effective on September 1, 1971. This should provide sufficient lead time to permit networks, program producers, and stations to make the necessary arrangements and alterations in their operations.

35. We have not adopted that part of the proposed rule requiring networks to divest themselves of rights and interest in programs which they presently hold. However, in our continuing surveillance of the operation of our rule we will seek to keep informed of the state of such network rights and interests and their effect, if any, on the free play of bargaining in the industry. Should we find that the public interest is adversely affected we shall, of course, take prompt remedial action.

36. While we have not moved to limit network economic and creative control of the programs in their schedules, we are convinced that American commerce and industry will support greater diversity of programs and program sources than presently are represented in network schedules. Our reasons for so concluding and some suggestions from the record of the program inquiry and elsewhere as to how this can be achieved within the present structure and commercial patterns of television network broadcasting are included in appendix II.

37. Diversity of programs and development of diverse and antagonistic sources of program service are essential to the broadcast licensee's discharge of his duty as "trustee" for the public in the operation of his channel. We note that the degree of network control of their evening schedules has been steadily increasing; indeed there has been a substantial increase since we issued our notice in 1965. This tendency should be reversed and the networks should take the lead in encouraging the inclusion of the feasible maximum of independently controlled and independently provided programs in their schedules. In this way we may more nearly achieve the goal described by Judge Learned Hand in 1942,[40]

[40] NBC v. U.S. 47 F. Supp. 940, 945, 946. (S.D.N.Y. 1942).

and echoed by Justice White [41] in 1969, of a television broadcast structure which is served by the widest practicable variety of choice of programs available for broadcasting; that system which will most stimulate and liberate those who create and produce television programs and those who purvey them to the public.

38. By letter dated April 10, 1970, NBC requested that the Commission hold administrative conferences with those directly concerned with the operation of the rule (e.g. networks, network affiliates, film producers, advertisers). Since all interested persons, including those representing public organizations, should clearly be allowed to participate in such conferences, NBC is, in effect, urging another round of oral presentations, this time of a more informal nature. Additionally, the Commission has received expressions of concern from licensees of affiliated stations in smaller markets about the special impact of a rule upon their operations, as well as representations that the economics of film production have changed so drastically that the ability of independent producers to generate programing to fill the time periods no longer to be programed by the networks is subject to question. We are desirous of acting with the fullest possible information, but must point out that this proceeding is over 5 years old, that we gave notice of, and requested comments on, the Westinghouse proposal on September 28, 1968, that all parties were afforded an opportunity to update their data, and that oral argument was held on July 21–22, 1969. All parties, including those now urging further proceedings, have either presented their positions at length or have had ample opportunity to do so. Upon the basis of all the material we have received, we believe that the rule adopted herein serves the public interest. If we are mistaken in any respect, we have stated our intention to follow developments and take any remedial action that may be necessary. Initially, of course, we will do so in disposing of any petitions for reconsideration which may make a case for possible revision of the rule. In that connection, we will give serious consideration, depending on the showing made, to the desirability of further oral presentations by all interested parties, both of a formal and informal nature. In such petitions for reconsideration—and in any oral proceedings which may be held—we must stress the necessity that all parties supply us with facts and figures with respect to their present operations and with the most careful analyses of the impact of the rule thereon. As stated, we believe that our present action is called for and is taken after full proceedings. We expect it to serve the public interest and will be persuaded to the contrary only if the belated showings now urged upon us are factually compelling. We thus stress that such a detailed showing and analysis, promptly supplied, is the sine qua non for any Commission action sought in this area.

39. For the reasons stated herein: *It is ordered*, That § 73.658 of our rules be amended by adding paragraphs (j) and (k) as set forth in appendix I hereto. Authority for the adoption of the rules as set forth in appendix I hereto is contained in sections 1, 2, 4(i); 301; 303 (b), (f), (g), (i), and (j); 307(d), 308(b), 309(a), 310, 312, 313, and 314 of the Communications Act of 1934, as amended.

40. *It is further ordered*, That the proceeding is not terminated. We will continue to study the effect of our new rule in practical operation. While we do not now anticipate the need to do so, we wish to be in a position readily to make such adjustments in our rules as experience may indicate are in the public interest. Each year we have requested and the networks have furnished us with detailed information regarding their arrangements with packagers and others who provide them with programs. This informal method has been reasonably satisfactory on an interim basis. However, as we stated in our notice (par. 38) by subsequent orders we shall require licensees and networks regularly to file appropriate information in aid of the administration of the new rules.

(Secs. 1, 2, 4, 301, 303, 307, 308, 310, 312, 313, 314, 48 Stat., as amended, 1064, 1066, 1081, 1082, 1083, 1084, 1086, 1087; 47 U.S.C. 151, 152, 154, 301, 303, 307, 308, 310, 312, 313, 314)

Adopted: May 4, 1970.

Released: May 7, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[42]

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

In § 73.658 the headnote to that section is amended and paragraphs (j) and (k) are added to read as follows:

§ 73.658 Affiliation agreements and network program practices.

* * * * *

(j) *Network syndication and program practices.* (1) Except as provided in subparagraph (3) of this paragraph, no television network shall:

(i) After September 1, 1971, sell, license, or distribute television programs to television station licensees within the United States for nonnetwork television exhibition or otherwise engage in the business commonly known as "syndication" within the United States; or sell, license, or distribute television programs of which it is not the sole producer for exhibition outside the United States; or reserve any option or right to share in revenues or profits in connection with such domestic and/or foreign sale, license, or distribution; or

(ii) After September 1, 1970, acquire any financial or proprietary right or interest in the exhibition, distribution, or other commercial use of any television program produced wholly or in part by a person other than such television network, except the license or other exclusive right to network exhibition within the United States and on foreign stations regularly included within such television network; provided that if such network does not timely avail itself of such license or other exclusive right to network exhibition within the United States, the grantor of such license or right to network exhibition may, upon making a timely offer reasonably to compensate the network, reacquire such license or other exclusive right to exhibition of the program.

(2) Nothing contained in subparagraphs (1) and (2) of this paragraph shall prevent any television network from selling or distributing programs of which it is the sole producer for television exhibition outside the United States, or from selling or otherwise disposing of any program rights not acquired from another person, including the right to distribute programs for nonnetwork exhibition (as in syndication) within the United States as long as it does not itself engage in such distribution within the United States or retain the right to share the revenues or profits therefrom.

(3) Nothing contained in this paragraph shall be construed to include any television network formed for the purpose of producing, distributing, or syndicating program materials for educational, noncommercial, or public broadcasting exhibition or uses.

(k) *Prime time access rule.* (1) After September 1, 1971, no television stations, assigned to any of the top 50 markets in which there are three or more operating commercial television stations, shall broadcast network programs offered by any television network or networks for a total of more than 3 hours per day between the hours of 7 p.m. and 11 p.m. local time, except that in the central time zone the relevant period shall be between the hours of 6 p.m. and 10 p.m.

(2) For the purpose of subparagraph (1) of this paragraph, network programs shall be defined to exclude special news programs dealing with fast-breaking news events, on-the-spot coverage of news events, and political broadcasts by legally qualified candidates for public office.

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[41] Red Lion v. FCC, (June 1969) 395 U.S. 367.

Justice White said:

"It is the right of the viewers and listeners, not the right of broadcasters which is paramount * * * the right of the public to receive suitable access to social, political esthetic, moral and other ideas and experiences * * * which is crucial here. That right may not be constitutionally abridged either by Congress or by the FCC."

This is not a new idea. In 1924 Herbert Hoover said that great technological advances in radio were useful only if broadcasters honor their obligation to see to it that broadcasting ". . . is devoted to real service and to develop the material that is transmitted into that which is really worthwhile. . . . It is not the ability to transmit but the character of what is transmitted that really counts." (Recommendations for regulation of Radio, Third National Radio Conference, Oct. 6, 1924, p. 3–4, part II, Second Interim Report, p. 115.)

[42] Chairman Burch dissenting and issuing a statement in which Commissioner Wells joins; Commissioners Cox and H. Rex Lee concurring. Statements of Chairman Burch and Commissioner Lee are filed as part of the original document. Statement of Commissioner Cox to be released at a later date.

NOTE: See also footnote 35, Report and Order, 35 F.R. 7422, for application of this paragraph to certain sports events.

(3) The portion of time from which network programing is excluded by subparagraph (1) of this paragraph may not be filled with off-network syndicated series programs, or feature films previously broadcast in the market.

(4) The top 50 markets shall be determined on an annual basis as of September 1 according to the most recent American Research Bureau prime time market rankings (all home stations combined) throughout the United States.

(5) Nothing in this paragraph shall be construed to apply to educational, noncommercial, or public broadcasting station licensees in their use and exhibition of program materials supplied through one or more noncommercial, educational, or public broadcasting television network systems.

[F.R. Doc. 70-5873; Filed, May 12, 1970; 8:50 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Office of Emergency Preparedness

Section 213.3326 is amended to show that the position of Director, Emergency Operations Office, is no longer excepted under Schedule C and that the new position of Special Assistant to the Director, Office of the Director, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, § 213.3326 is amended by revoking paragraph (j), and amending subparagraph (3) of paragraph (a) as set out below.

§ 213.3326 Office of Emergency Preparedness.

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

(3) Five Special Assistants to the Director.

* * * * * * *

(j) [Revoked]

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(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. 70-5930; Filed, May 12, 1970; 8:51 a.m.]

Proposed Rule Making

POST OFFICE DEPARTMENT

[39 CFR Part 138]

MAILABLE FREE ITEMS FOR THE BLIND

Notice of Proposed Rule Making

Notice is hereby given of proposed rule making consisting of an amendment to regulations codified in 39 CFR 138.2(a). It is proposed to specify the minimum size requirement for sightsaving type in unsealed letters which may be mailed free by a blind person or one having a physical impairment.

Interested persons who desire to do so may submit written data, views, and arguments concerning the proposed regulations to the Director, Office of Mail Classification, Bureau of Finance and Administration, Post Office Department, Washington, D.C. 20260, at any time prior to the 30th day following the date of publication of this notice in the FEDERAL REGISTER.

In § 138.2 *Items mailable free*, make the following change:

Amend paragraph (a) to read as follows:

§ 138.2 **Items mailable free.**

(a) Unsealed letters in raised characters in 14 point or larger sightsaving-size type, or in the form of sound recordings, sent by a blind person or a person having a physical impairment as described in § 138.1(a);

* * * * *

NOTE: The corresponding Postal Manual section is 138.2a.

(5 U.S.C. 301, 39 U.S.C. 501, 4654)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 70-5843; Filed, May 12, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 29]

TOBACCO INSPECTION

Proposed Amendment to Burley Standard Grades

Notice is hereby given that the U.S. Department of Agriculture has under consideration a proposed amendment to the Official Standard Grades for Burley, U.S. Type 31, pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.).

Statement of consideration leading to the proposed amendment. Grade standards for tobacco are issued under the authority of The Tobacco Inspection Act of 1935 which provides for the issuance of official U.S. grades to designate different levels of quality for the use of producers and buyers. Official grading service is also provided under the Act on both a mandatory and a permissive basis.

During the past few years the shortage of labor has caused an increased number of Burley farmers to market tobacco that is commonly called "mixed stripped." Tobacco of this category consists of leaves stripped from the entire stalk with only the trashy bottom leaves and heavy tip leaves removed. Much of this tobacco is of better quality than the present M3 grade, the highest existing quality of the Mixed Group.

Since better quality mixed stripped tobacco has been appearing at the market place in significantly increased volume, a need has arisen for standard grades which would more accurately classify choice quality and fine quality leaf tobacco. This proposal would establish grades M1F and M2F to properly categorize these best two qualities of Mixed Group tobacco.

This proposal would also delete the words "or better" from specifications for existing M grades since the higher quality mixed tobacco would be placed in the new M1F and M2F classifications. Deletion of these words would stabilize the range of the third, fourth, and fifth qualities of Mixed Group tobacco.

In addition, grades M3R, M4R, and M5R would become M3FR, M4FR, and M5FR which would more clearly describe the color of recent mixed offerings. The percentage of "green" tobacco permitted in these three grades would be changed to "greenish" tobacco. This change also symbolizes the better tobacco that is now placed in the Mixed Group.

Grades X3R, X4R, X5R, C3R, C4R, and C5R would be deleted. In recent years tobacco characteristics of these grades has appeared in insufficient volume to justify retention of these grades.

The definition of oil would be deleted as this constituent is no longer considered significant in determining the quality of Burley tobacco.

All persons who desire to submit written data, views, or arguments in connection with the proposed amendment should file the same, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 30th day after the publication of this notice in the FEDERAL REGISTER. All written submissions pursuant to the notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposed amendment is as follows:

1. In § 29.3011 the second sentence and the parenthetical reference following it would be deleted.

2. Section 29.3042 is revoked.

3. Section 29.3151 is amended by deleting grades X3R, X4R, and X5R and their specifications.

4. Section 29.3152 is amended by deleting grades C3R, C4R, and C5R and their specifications.

5. Section 29.3155 is revised to read as follows:

§ 29.3155 **Mixed (M Group).**

This group consists of tobacco of distinctly different groups which are mixed together in various combinations.

U.S. Grades	*Grade Names and Specifications*
M1F	Choice Light Mixed. General quality of X1, C1, and B1, medium to tissuey body, light general color, and 5 percent injury tolerance.
M2F	Fine Light Mixed. General quality of X2, C2, and B2, medium to tissuey body, light general color, and 10 percent injury tolerance.
M3F	Good Light Mixed. General quality of X3, C3, B3, T3, medium to tissuey body, light general color, under 20 percent greenish, and 15 percent injury tolerance.
M4F	Fair Light Mixed. General quality of X4, C4, B4, T4, medium to tissuey body, light general color, under 20 percent greenish, and 20 percent injury tolerance.
M5F	Low Light Mixed. General quality of X5, C5, B5, T5, medium to tissuey body, light general color, under 20 percent greenish, and 30 percent injury tolerance.
M3FR	Good Dark Mixed. General quality of X3, C3, B3, T3, heavy to medium body, dark general color, under 20 percent greenish, and 16 percent injury tolerance.
M4FR	Fair Dark Mixed. General quality of X4, C4, B4, T4, heavy to medium body, dark general color, under 20 percent greenish, and 20 percent injury tolerance.
M5FR	Low Dark Mixed. General quality of X5, C5, B5, T5, heavy to medium body, dark general color, under 20 percent greenish, and 30 percent injury tolerance.

6. In § 29.3181 the subheading "17 Grades of Flyings" is amended to read "14 Grades of Flyings", and grade symbols "X3R", "X4R", and "X5R" under this subheading are deleted.

7. In § 29.3181 the subheading "24 Grades of Lugs or Cutters" is amended to read "21 Grades of Lugs or Cutters", and grade symbols "C3R", "C4R", and "C5R" under this subheading are deleted.

8. In § 29.3181 the subheading "6 Grades of Mixed Group" is amended to read "8 Grades of Mixed Group", and grade symbols under this subheading are amended by adding "M1F" and "M2F"

between the subheading and grade symbol "M3F" and by changing grade symbols "M3R", "M4R", and "M5R" to read "M3FR", "M4FR", and "M5FR", respectively.

(49 Stat. 734; 7 U.S.C. 511m)

Done at Washington, D.C., this 7th day of May 1970.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 70-5887; Filed, May 12, 1970; 8:51 a.m.]

[7 CFR Part 981]

[Docket No. AO-214-A3]

ALMONDS GROWN IN CALIFORNIA

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

Pursuant to the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, U.S. Department of Agriculture, of this recommended decision with respect to the proposed amendment of the marketing agreement, as amended and this part, Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California (hereinafter collectively referred to as the "order"). The order is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), hereinafter referred to as the "act" and any amendment which may result from this proceeding also will be effective pursuant to the act.

Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the close of business on the 12th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing on the record of which the proposed amendment is formulated was held in Sacramento, Calif., on December 15-16, 1969. Notice of the hearing was published in the FEDERAL REGISTER on November 19, 1969 (34 F.R. 18423). The proposals in the notice of hearing were submitted by the California Almond Growers Exchange, a cooperative marketing association, and by the Almond Growers Council, a grower organization.

Material issues. The material issues presented on the record of the hearing involve amendatory actions relating to:

(1) Changing the concept of volume regulation from that of surplus to reserve and changing the word "surplus" to "reserve" throughout the order;

(2) Modifying the definition of "to handle" to clarify that producers using almonds of their own production are handlers;

(3) Defining the terms "Salable almonds" and "Reserve almonds";

(4) Requiring the Control Board to consider handler carryover and reserve almond inventory when volume regulation is considered and to recommend a percentage of reserve almonds that should be released for export;

(5) Replacing set-aside requirements for surplus almonds with simpler requirements for reserve almonds, delimiting a handler's reserve obligation, specifying holding and delivery requirements for reserve almonds, and deleting provisions on pledging almonds for security;

(6) Deleting provisions pertaining to exchange of surplus almonds;

(7) Eliminating the distinction between certified and uncertified almonds in redetermining the kernel weight of almonds;

(8) Providing a method for controlling the timing and volume of reserve almonds exported, and adding authorized outlets for reserve almonds;

(9) Modifying inspection and certification requirements, and clarifying language applicable to withholding reserve almonds;

(10) Removing provisions for three surplus pools, and providing for distribution of net proceeds from reserve almonds disposed of by the Control Board;

(11) Adding new provisions for research and development;

(12) Prescribing the rights and obligations of a grower-handler;

(13) Revising Board voting requirements on recommendations for volume control percentages and for the percentage of reserve almonds recommended for export;

(14) Eliminating the possibility of double withholding and assessment obligations on the same almonds;

(15) Deleting some minor varieties with their shelling ratios for unshelled almonds as listed in the order and adding others to the list;

(16) Establishing an operating monetary reserve;

(17) Making such changes in the order as are necessary to bring the entire order, as proposed to be amended, into conformity with the amendatory action resulting from the hearing; and

(18) Continuing the order, with or without further amendment.

Findings and conclusions. The findings and conclusions on the aforementioned material issues (1) to (18), inclusive, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) The present order became effective in 1950. It provides a method for limiting the total quantity of almonds that can be marketed within the United States in normal trade channels pursuant to § 608c(6)(A) of the act. It also designates the excess as surplus and provides for its disposition pursuant to § 608c(6)(D) of the act. When the order was promulgated, its provisions conformed with the conditions then relating to almond production and foreign trade demand.

In the early years of the order, foreign trade in almonds in relation to the United States was almost entirely a movement of imports into this country. Domestic production, even without imports, was exceeding domestic demand by a substantial amount. The excess of the domestic production over domestic demand was considered surplus. The export outlet for U.S. almonds was virtually nonexistent but appeared to be the most remunerative surplus outlet if it could be developed. Considerable efforts were made to develop outlets for surplus almonds and substantial success was achieved. A large volume of domestically produced almonds is now being exported regularly to foreign countries. There appears to be a reasonable prospect that these existing export outlets, plus newly developing outlets, will continue to take an increasing amount of the U.S. almond production. In the past 10 years, exports have been as low as 8.1 million pounds, kernel weight, in 1962-63 and as high as 26.2 million pounds, kernel weight, in 1967-68. It is estimated that exports of almonds for the current season, 1969-70, will exceed 60 million pounds, kernel weight. This substantial increase for 1969-70 is due in part to reduced foreign crops and a record California crop. While the level of exports for the current season should not be considered representative for the future, it indicates the continued growth of exports.

Accordingly, the export outlet should no longer be considered a surplus outlet. It should now be considered a normal outlet for which a portion of the domestic production should be allocated. Hence, the exportation of almonds should not be treated as it has been, namely, a disposition of surplus almonds. Rather, that portion of the production excluded from normal channels of the domestic market and earmarked for export or noncompetitive outlets, should be designated reserve and control of its disposition should be provided for pursuant to § 608c(6)(E) of the act. The method of control and disposition of the reserve is discussed in detail in material issue (8).

Since the order should be updated to recognize the different export situation by changing from a surplus concept to a reserve concept, the entire order should reflect such change by substituting the word "reserve" for "surplus" wherever it occurs in the order. Also, the heading immediately preceding § 981.45 should be changed from "Surplus Control" to "Volume Regulation" to further reflect such change.

(2) Section 981.16 "To handle" should be clarified by inserting after "means" the words "to use almonds commercially of own production or". This insertion will make it clearly understood that almonds

which a person produces and uses commercially, such as in the manufacture of a product, are subject to regulation under the order. This clarification does not change the coverage of the order of either almonds or of handling functions because current § 981.10 already considers almonds received for a handler's own account as "including all almonds of his own production". Moreover, as testified at the amendment hearing, the original intent shown in the record of the promulgation hearing was that the definition of "to handle" should cover such almonds so used.

The acts of selling, consigning, transporting and shipping are the usual methods by which almonds are put into the channels of trade within the State of California or from such area to points outside thereof. To assure any other means of handling are included, § 981.16 also contains the phrase "or in any other way to put into channels of trade". One of these other ways in which almonds might be put into the channels of trade could be by a grower who would use almonds of his own production in the manufacture of a product within the State of California. There might not be any sale, consignment, transportation or shipment preliminary to the beginning of such manufacturing process. The act of using almonds of one's own production in a manufacturing process should be considered as putting almonds into the channels of commerce, and as such, should be construed as handling. Thus, it will be understood that the almonds are not to escape regulations and the handler is to meet his obligations under the program on such almonds.

(3) Two new sections, § 981.21a "Salable almonds" and § 981.21b "Reserve almonds" should be added to the order in view of the change from surplus to reserve operation discussed in material issue (1). The two terms should be defined for use in the proposed volume provisions and the regulations which would cause almonds to fall into one or the other of the two categories on the basis of the salable and reserve percentages.

"Salable almonds" should be defined to mean those almonds which are free to be handled pursuant to any salable percentage established by the Secretary pursuant to § 981.47 or § 981.48. In the absence of a reserve percentage being established for a crop year, the definition of salable almonds, to avoid uncertainty of coverage, should include all almonds received by handlers for their own accounts during that crop year. "Salable almonds" would be free to be handled in any outlet, just as under the current order where the term has been used but not defined.

"Reserve almonds" should be defined to mean those almonds which must be withheld from handling to satisfy a reserve obligation which arises from the application of a reserve percentage established by the Secretary pursuant to § 981.47 or § 981.48. This inclusion is required by the recommended change from a surplus to a reserve concept and replaces what the current order includes as "surplus" or "surplus obligation".

The new definitions would not change the manner in which the salable quantity or handlers' withholding obligations are computed. These would be determined by applying the salable and reserve percentages to almonds received by a handler for his own account as specified in revised § 981.50. Such receipts exclude almonds other than reserve almonds disposed of in such outlets as animal feed or crushing into oil. These receipts also exclude the sales at roadsides stands as specified in § 981.13.

(4) "Board estimates and recommendations," § 981.49, should be revised to add thereto the reserve inventory as of July 1, the probable reserve inventory at the end of the crop year, and the recommended percentage of reserve almonds that may be exported pursuant to § 981.66. As discussed in material issue (8), the quantity of reserve almonds for export would be subject to percentage limitation. Hence, the Board should be required to submit its recommendation in this regard to the Secretary to aid him in determining what percentage of reserve almonds should be released for export and establishing such a percentage if the situation requires such action. The Board should be required to consider and adopt the reserve inventory estimates because they would influence the percentage of reserve almonds which should be released for export.

(5) Current § 981.50 prescribes requirements for withholding surplus almonds. This requires withholding of the surplus at the time the obligation is incurred, that is, at the time of handling any lot of salable almonds. The obligation is to hold such almonds for the account of the Control Board or to deliver such surplus to the Control Board upon its demand. Almonds so withheld have to be set aside, inspected, certified and identified. These requirements, however, may be deferred to a date not later than May 15 of the crop year pursuant to § 981.53.

This section should be revised to effect a financial saving to handlers and bring its provisions into conformity with current industry practices. The revision should eliminate the requirements for separate physical set-aside, identification, and inspection and certification as to meeting minimum quality. Different provisions for inspection and certification should be included in §§ 981.52 and 981.67 as discussed in this material issue (5) and in material issue (9).

To delimit the reserve obligation of each handler, the revision should simply require that whenever salable and reserve percentages are in effect each handler shall withhold from handling a quantity of almonds equal to the reserve percentage of the kernel weight of all almonds such handler receives for his own account.

However, as provided similarly in present § 981.50, any quantity of almonds disposed of in such outlets as feed or crushing into oil, and which are not reserve almonds, should not be included in such receipts. The present heading of § 981.50 should be deleted and replaced by "Reserve obligation" to reflect these changes. As revised, these provisions will simplify the requirements for handlers to withhold and account for reserve almonds to the Control Board.

The word "certified" should be deleted wherever it appears in this section as no inspection and certification of reserve almonds would occur when they are being withheld for the account of the Control Board until just before delivery to the Board or disposition.

Present § 981.50 provides that if handlers dispose of almonds in certain noncompetitive outlets, the quantity so disposed of shall not be included as almond receipts. These outlets are animal feed or crushing into oil, or other outlets approved by the Control Board. Section 981.66 includes these outlets, among others, and also includes poultry feed. Poultry feed should be added in § 981.50 as one of the noncompetitive outlets for clarification and to conform this section more closely with § 981.66.

The provisions in present § 981.50 requiring handlers to store setaside almonds in a specified manner and to deliver them upon demand of the Control Board should be deleted because similar provisions would be placed in revised § 981.52 to improve order organization.

Present § 981.52, "Inspection and certification of surplus," should be retitled "Holding requirement and delivery", and all of its present provisions should be deleted and replaced by provisions dealing with requirements pertaining to handlers holding and delivering reserve almonds. The present provisions of § 981.52 deal with inspection and certification of surplus and should be deleted as they should be replaced with other provisions on inspection and certification as discussed in this material issue (5) and in material issue (9).

The new provisions of § 981.52 should specify that each handler shall, at all times, hold in his possession or under his control, in proper storage for the account of the Board, the quantity of almonds necessary to meet his reserve obligation, less certain permissible reductions, as discussed hereinafter. A handler's reserve obligation, as previously discussed, is described in revised § 981.50. The holding requirement is necessary in view of the deletion of similar requirements from § 981.50, to require handlers to withhold reserve almonds for authorized disposition or for delivery to the Board, and to effectuate salable, reserve and export allocations. Since storage requirements are deleted from revised § 981.50 and proper storage is essential to maintaining the condition of almonds, handlers should be required to maintain almonds in such storage to avoid deterioration of almonds.

As the marketing season progresses, the quantity of reserve almonds required to be held by a handler would not equal his reserve obligation due to authorized disposal and other reasons. For the purposes of reserve management and handler compliance, revised § 981.52 should set forth the permissible reductions in the quantity of reserve almonds a handler is required to hold. It is self-evident that the handler's holding requirement

should be reduced temporarily by the quantity of almonds for which he has a deferment of time for withholding almonds pursuant to § 981.53. The handler's holding requirement obviously should also be reduced by any quantity disposed of by him pursuant to § 981.67 in eligible reserve outlets; and by any quantity for which he is otherwise relieved by the Board of responsibility to so hold almonds such as when a handler acquires credits for reserve disposition from another handler or when the Board requires the handler to deliver reserve almonds to it.

As previously discussed, the provisions in § 981.50 requiring handlers to deliver withheld almonds to the Board upon its demand should be moved to § 981.52. An addition should be made to these provisions, consistent with the provisions of § 981.67, to make it clear that the Board cannot demand delivery of reserve almonds for which the handler has agreed to undertake disposition pursuant to § 981.67.

These revisions of § 981.52, with those of § 981.50, conform with the amendatory objective of deferring the time of inspection and identification of setaside almonds to reduce inspection and other handler costs. Under the present order setaside almonds must be identified at all times unless the obligation has been deferred. Identification and certification would be required just before disposition or delivery to the Board.

In view of the recommended revisions of §§ 981.50 and 981.52, and other sections, different handler reporting requirements would be needed so that handlers can properly account to the Board for reserve almonds. These can be imposed by the Board as authorized by § 981.74.

The Control Board should be able to compute a handlers' reserve obligation as it would have a record of each handler's receipts. This and the carryin data known by the Board should indicate the total availability of almonds. Any shipments, be they salable or reserve, should be known by the Control Board. The remaining supply of almonds would indicate the handler's inventory position and reflect whether adequate almonds were being held by him to meet his holding requirement.

As discussed in material issue (9), handlers acting as agents of the Board in disposition of reserve almonds should be required to comply with such inspection and certification requirements as the Board may specify. It should be made clear that any handler not acting as an agent of the Board also should be required to comply with these requirements due to the need of the Board to determine the creditable weight of all reserve almonds. Since § 981.52 deals with delivery to the Board, at which time these requirements may be imposed as well as just prior to disposition, this section should specify that any handler who does not act as agent for the Control Board in the disposition of reserve almonds shall be subject to the applicable inspection and certification requirements prescribed by the Board pursuant to § 981.67.

Paragraph (b) of § 981.53 should be deleted. Paragraph (b) provides for a handler who requests deferment of time for withholding setaside to pledge almonds as security. Under the recommended revisions of §§ 981.50 and 981.52, a handler would meet his holding requirement merely by having a sufficient quantity of almonds on hand. Therefore, there is no need to put up almonds as surety. However, other provisions of § 981.53 dealing with procedure when a bond is offered as security should be retained as any handler not acting as agent of the Board in disposition of the reserve may find it desirable or necessary to arrange for such deferment. As a conforming change, the reference, in the last sentence of paragraph (a) of § 981.53 to pledging almonds as security should be deleted.

(6) Present § 981.58, "Exchange of surplus almonds," should be deleted. This section was needed to implement the present requirements of physical setaside and identification applicable to withheld almonds. Under the amended order, however, there should be no occasion for the exchange of one lot of almonds for another lot of almonds designated as reserve in the hands of a handler. Until reserve almonds are to be disposed of or required to be delivered to the Control Board, there would be no need for segregation or identification of reserve almonds. Hence, until such time, the handler would be free to draw from his total supply of almonds. Once the almonds are delivered to the Control Board, any exchange, if needed, would be under the control of the Board.

(7) The last sentence of present § 981.61, "Redetermination of kernel weight.", prescribes the weights that shall be used for five specified classifications of almonds in computing the redetermined kernel weight for each handler through specified dates of the crop year. The redetermined weights are used as a basis for computing each handler's surplus (to become "reserve" under the amendment of the order) obligation for the crop year through such dates. For the purpose of the weight determinations, unshelled almonds and shelled almonds are each divided into two classifications, "certified as surplus" and "other than certified surplus". Under the anticipated amendment of the order, the time of inspection and certification of reserve would be deferred to just before disposition or delivery to the Board. Inspection and certification of salable almonds is not and would not be required. There would be few if any reserve almonds inspected at the time of the early dates for redetermination, other than reserve almonds which had already moved into export. The weights of reserve almonds which have been disposed of by handlers or delivered by handlers to the Board will be on record in the Board's accounts with handlers. Hence, in making such weight determinations, there would be no need for distinguishing between certified or uncertified almonds, whether unshelled or shelled. Therefore, the first four classifications in the last sentence of § 981.61 should be reduced to two and provide that the weights used shall be: (a) For unshelled almonds, the kernel weight computed by the application of shelling ratios authorized pursuant to § 981.62; and (b) for shelled almonds, the net weight. The fifth classification now described in paragraph (e) of § 981.61 should be retained and redesignated as paragraph (c). Also, the word "certified" should be deleted wherever it appears in § 981.61, consistent with the foregoing changes.

(8) Current § 981.66(d) provides that the Control Board shall not dispose of, or authorize disposition of, more than 50 percent of the surplus almonds prior to May 15 of any crop year unless disposition in excess of 50 percent is made in export. When this provision was included in the order, the export market was virtually nonexistent and the order was designed to encourage and develop this outlet. The export market has developed to such a point that it should be considered a normal market for almonds. A method should now be adopted to provide adequate supplies of reserve almonds for this outlet while protecting it against excessive supplies similar to the method for allocating the supply of salable almonds for domestic markets.

Delaying the disposition of a portion of the reserve almonds would provide almonds which could be later released to supply the export market if unanticipated demand arose during the crop year or prospective supply conditions the following spring indicated addtional almonds would be needed to supply export requirements during a part of the following crop year. At the same time excessive supplies could be kept from the export market to permit orderly marketing of adequate supplies at stable prices. The heavy plantings of almonds in recent years may result in surpluses which should be disposed of in outlets noncompetitive with normal markets for salable and reserve almonds to protect grower returns. By thus fitting the supply of reserve almonds to export demand and disposing of the excess in noncompetitive outlets, the price-depressing effects of such excess on the volume of almonds made available for normal domestic and export markets would be avoided. Moreover, maintaining adequate supplies and stable prices of almonds is the same marketing policy the industry has so successfully employed in expanding markets for almonds.

Accordingly, revised paragraph (d) of § 981.66 should provide that the Control Board shall not dispose of in export, or authorize the disposition in export, of more than 80 percent or such other percentage as the Secretary, upon recommendation of the Board or other information, may establish, of the reserve almonds of the applicable crop year. The percentage of 80 percent may or may not be the appropriate initial export percentage of the reserve almonds of a given crop year. However, it should be specified in such paragraph to give the Board, at time of its marketing policy meeting prior to August 1, a reference point from which to begin making its estimates of the factors in § 981.49 basic to its development of an appropriate export percentage which could be 80 percent, or a

higher or a lower percentage. If the Board should conclude that the export percentage should be 80 percent, or if it does not recommend an export percentage to the Secretary, the 80 percent would automatically become effective unless the Secretary, on basis of information available to him, established a different export percentage. In a particular year it could be obvious from marketing policy estimates that a larger or smaller initial percentage would be appropriate. Hence, the establishment of a percentage different than the 80 percent should be permitted.

The notice of hearing provided that the percentage restricting the time of disposition of reserve almonds should restrict the total quantity of such almonds which could be disposed of in noncompetitive domestic outlets and in export outlets. There is a basis for estimating the quantity which can be exported but little basis for predicting noncompetitive disposition. Moreover, the Board should have authority to dispose of or authorize disposition of reserve almonds in noncompetitive outlets as needed to remove almonds in excess of the requirements for normal domestic and export markets. Therefore, the percentage should restrict exports only. Of course, the percentage would withhold the balance of the reserve almonds from export markets unless and until it is increased to 100 percent.

Provision should be made for increasing the export percentage to release additional reserve almonds to meet export demand. Therefore, revised paragraph (d) should specify that, at any time prior to May 15 (except that such date may be extended by the Secretary to a date not later than June 30 upon recommendation of the Board or other information), the Control Board shall meet and review the disposition of reserve almonds. The paragraph should further provide if the Board finds that the volume of reserve almonds released to export has been sold, or committed for sale, to such an extent that additional almonds could be disposed of in export, without materially affecting adversely the deposition of the oncoming crop, it may recommend an increase in the percentage to be released in export. Upon the basis of the Board's finding and recommendation, or other information, the Secretary may increase the percentage. Only the Secretary has the authority to increase the percentage.

Between the effective time of the initial reserve and export percentages and May 15, information would become available to permit improved estimates of supplies and the export requirements for reserve almonds prior to availability of new crop, and additional almonds could be released if needed. By May 15, the bloom period for almonds has passed and some information about the set of foreign and domestic almonds is available. Nevertheless, in a particular year, crop or market conditions in mid-May could be so uncertain as to make it advisable for the Board's review and recommendation on whether to increase the export percentage to be deferred to a date not later than June 30 so that it can base its determinations on later, more reliable information. It should be mandatory that the Board meet and consider whether to increase the export percentage by the deadline date so that every effort will be made to provide export markets with adequate supplies at reasonable prices and to prevent reserve almonds from being unnecessarily diverted to low order outlets at much lower prices. Action of the Board in making such recommendation should not be delayed beyond the time when more reliable estimates are available, and in no event beyond June 30, since it is necessary to satisfy the export demand while it exists.

The notice of hearing provided, in part, that all of the reserve almonds initially released must be committed before an additional release could be made. This proposed requirement should be made less restrictive. Otherwise, a few uncommitted pounds of almonds could thwart the objective of keeping export markets adequately supplied. The prerequisite finding for an increase in the export percentage and additional release should allow the Board and the Secretary some latitude in this regard. This should be accomplished in revised paragraph (d) by specifying the required finding to be that the volume of reserve almonds released to export has been sold, or committed for sale, to such an extent that additional almonds could be disposed of in export, without materially affecting adversely the disposition of the oncoming crop. Such a finding would conform with the desirable objective of keeping the export markets adquately supplied but not oversupplied.

Once the initial export percentage of reserve almonds of a crop year is effective, it should not be decreased because a handler may have already committed all of his reserve almonds previously authorized for export or more such almonds than provided by the reduced percentage. A handler could be in a similar situation if the reserve percentage, and hence his reserve obligation, were decreased because of an increase in the salable percentage pursuant to § 981.48. The export percentage would then apply to a lesser quantity of reserve almonds and would result in a smaller quantity than had been earlier released for export, unless the export percentage were increased to make up the difference. This smaller quantity could be less than the quantity already disposed of by the handler in export or less than the quantity of reserve almonds provided for export by the percentage allocations in effect before the change in the salable and reserve percentages. Hence, revised paragraph (d) of § 981.66 should provide that if pursuant to § 981.48, the reserve percentage is reduced during any crop year, each handler may dispose of the quantity released into export by the reserve and export percentages in effect prior to such reduction in the reserve percentage but his credit for reserve disposition shall not exceed his new reserve obligation.

Under § 981.67 a handler's authorization as agent of the Board to dispose of reserve almonds would not expire until September 1 of the next crop year. This date could be extended. The Board's obligation to dispose of the reserve almonds extends beyond the expiration of the agency arrangement. Since the purpose of the export percentage is to control the availability of almonds in export, revised paragraph (d) of § 981.66 should provide that the percentage should continue in effect until increased or until disposition of all of the reserve almonds to which it applies has been completed. In this way, provision is made for some export percentage to always be in effect until the reserve almonds to which it applies are disposed of.

The notice of hearing included a proposal that paragraph (c) of § 981.66 be changed to permit reserve almonds whether such be unshelled, shelled or almond products, prepacked by handlers in sealed containers of not more than 16 ounces net weight, to be disposed of in any outlet but only upon execution of an agreement to prevent sales which attempt to circumvent said paragraph (c). This proposal is not included in revised paragraph (c) under which reserve almonds could be disposed of in export subject to the export percentage and in outlets noncompetitive with normal domestic and export markets. A considerable volume of almonds and almond products in sealed containers of not more than 16 ounces net weight is now marketed in normal domestic and export trade channels. To permit the marketing of this considerable volume as reserve almonds in such normal channels would compete with salable and export sales of almonds and their products in the small containers. Such interference would decrease demand for salable almonds and for reserve almonds for export. In the future the industry may desire to develop a new market or a market for a new product (whether or not in small containers) which can be found to be noncompetitive with normal markets or outlets. If such a new product or potential market is found, such could be exploited under revised paragraph (c) as it would permit reserve almonds to be disposed of in channels which the Board finds are noncompetitive with existing normal markets for almonds. Hence, the small container proposal is not recommended for adoption.

The notice of hearing contained a proposal to add almond paste as an eligible outlet for reserve almonds. This proposal is not recommended for adoption because it was withdrawn at the hearing and no testimony was offered to support it.

(9) As previously discussed, the inspection and certification requirements should be eliminated from current § 981.52 and authority for prescribing similar requirements should be included by revising the first sentence of § 981.67. Accordingly, inspection and certification requirements should be included among the terms and conditions that the Board may specify pursuant to § 981.67 when it authorizes a handler to act as its agent in disposing of reserve almonds. This

change would be in line with simplifying withholding requirements as discussed in material issue (5). Under the new withholding requirements inspection and certification would not be needed at the time of withholding reserve almonds but could be deferred until such almonds are to be disposed of by the handler or delivered by him to the Board. By eliminating the need for inspection and certification upon withholding or soon thereafter, some double inspections would be avoided thus reducing costs. It was testified at the hearing that the Control Board would develop definitive inspection and certification requirements to implement, and conform with, the revised provisions of the order, when they become known. Hence, the requirements need only be authorized, as aforesaid.

To more clearly reflect the purpose of § 981.67, the word "contributed" in the first sentence and the sentence preceding the final sentence should be deleted and the words "withheld from handling" should be subtituted in lieu thereof. This change is merely a change of terminology and should be made to conform with the reserve concept whereby handlers withhold from handling rather than contribute almonds.

(10) Current § 981.68 provides for three pools covering different periods of time for surplus almonds not disposed of by handlers as agents of the Board, for charging direct pooling expenses, and distribution of the Board's net sale proceeds to handlers. Under order operations to date, practically all surplus almonds have been disposed of by handlers as agents of the Board and no almonds have been pooled by the Board. History indicates that handlers will continue to act as agents of the Board in disposing of the setaside and hence, the two early pools may not have enough volume for economic disposition. Therefore, paragraph (a) of § 981.68 should be deleted to eliminate the multiple pools.

With larger crops of almonds expected, it is probable, however, there will be in some years excess reserve almonds of a crop year for delivery by handlers to the Board, particularly on or after September 1 of the next crop year, for disposition by the Board as provided in revised §§ 981.66(e) and 981.67. Hence, provision must be made for pooling the reserve almonds delivered to the Board, charging the expenses incurred by the Board in the maintenance and disposition of the almonds, and distributing the net sales proceeds to handlers. This should be done by deleting the section heading "§ 981.68 Disposition by the Board.", redesignating paragraph (b) and (c) of § 981.68 as (f) and (g), respectively, of § 981.66 for a more appropriate location in the order, and revising such paragraphs.

In accordance with usual pool accounting practices, revised paragraph (f) should provide that direct expenses incurred by the Board in the maintenance and disposition of reserve almonds shall be charged against the proceeds of sales of such almonds. This is similar to present paragraph (b) of § 981.68 except that "surplus" would be changed to "reserve" and reference to separate pools deleted to conform with the deletion of paragraph (a) of § 981.68. This deletion, however, should not be construed as precluding the possibility of separate pools pursuant to revised paragraph (g) of § 981.66 if circumstances dictate such.

Revised paragraph (g) of § 981.66 should provide that the net proceeds from the disposition of reserve almonds by the Board shall be distributed to each handler in proportion to his relative share of such disposition in terms of the creditable kernel weight pursuant to § 981.51. This method could be equitable if the Board disposes of all of the reserve almonds in one outlet where the quality of almonds makes little difference in the sales price.

However, some other basis for distributing the net proceeds might be required to achieve equity such as in the situation where the Board would sell reserve almonds in more than one outlet. For example, one outlet might require almonds of a better quality and pay a higher price than another. In this case, it may be desirable to consider each category a separate pool, charge to each pool its attributable expenses, and distribute the net proceeds to the respective handlers whose almonds were sold from each pool. Other circumstances may arise which would require different methods of distributing net proceeds to attain equity. Therefore, paragraph (g) should be further revised to permit the Board to distribute net proceeds on such other basis as the Board may adopt with the approval of the Secretary.

(11) A new section, "§ 981.41 Research and development.", should be added to the order to permit the Board to establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of almonds. The evidence of record shows that the proposed authorization is needed to permit the industry through the Board additional opportunity to stimulate the demand for almonds in view of prospective productions. Such projects should be financed through regular assessment funds. While the hearing record shows a strong interest in paid advertising, such activity is not now permissible for almonds. No commitments or expenditures for any appropriate project should be made until the project is approved by the Secretary. This safeguard is important to ensure that projects will be within the scope of the authorized area of activity and will not duplicate other projects being undertaken by members of the industry or other agencies.

(12) The hearing notice contained a proposal to add to the order a new section which would specify that a grower-handler shall have all of the rights of a grower and in addition all of the rights and obligations of a handler. The order recognizes that the same person may act in his capacity as a grower separately from his capacity as a handler. The provisions of the order and the amendment recommended herein are amply clear in distinguishing between the two capacities. It is also clear that a person acting in his capacity as a grower has all of the rights of a grower under the program, and that the same person acting in his capacity as a handler has all of the rights and obligations of a handler under the program. Therefore, the intent of the proposal is granted, consistent with the discussion in this material issue (12) and the order as recommended herein for amendment. Since the subject matter is already clear, the proposed new section is not needed.

(13) Present § 981.49 and the recommended revision of this section specify that the Board shall adopt, by the affirmative vote of at least six members (the Board has a total of 10 members), and furnish to the Secretary not later than August 1 of each crop year, its marketing policy estimates and recommended volume percentages. The notice of hearing contained a proposal to require that the six affirmative votes include the affirmative vote of handler members who processed together not less than 80 percent of the preceding year's total crop. At the hearing it was proposed that the word "handled" be substituted for the word "processed". Later, during the hearing, the entire proposal was withdrawn and not supported by its proponent. Hence, the proposal is not recommended for adoption.

The notice of hearing also contained a proposal to apply the same voting requirement to Board recommendations pertaining to disposition of almonds pursuant to § 981.66(d). During the hearing the proponent of the proposal modified it. The modified proposal provides that decisions pursuant to § 981.66(d) be based on a simple majority of the Control Board, but such majority must include the affirmative vote of one independent handler and one cooperative handler.

Board decisions relating to revised § 981.66(d) would include its recommendations to the Secretary as to the percentage of reserve almonds which should be released for export, and also the proportion of reserve almonds, if any, that should be withheld from export for later release into export or diversion to noncompetitive outlets, as the situation may warrant.

The proponent of the modified voting proposal contended that if the order is to be amended to clothe the Control Board with the authority to control almonds in export, the decisions of the Board on this control affecting the entire industry should not be made without the concurring vote of at least one handler member of the Board who is chosen by the independent segment of the industry. Cooperative handlers and their growers are represented by three handler members and three grower members on the Board (60 percent of the total membership). Other than cooperative handlers and their growers (independents) are represented by two handler members and two grower members on the Board (40 percent of the total membership). Under the present order and under the recommended amendment of the order, marketing policy decisions of the

Board and its recommendations of volume percentages require the affirmative vote of at least six members of the Board, or only 60 percent of its membership. However, it was testified at the hearing that one cooperative handler (a cooperative marketing association of growers) handles about 70 percent of the total almonds handled, or about 10 percent more than the representation of the cooperative element on the Board. Under the modified proposal to require the affirmative vote of six members of the Board including the affirmative vote of one independent handler and one cooperative handler, the two independent handlers could block Board recommendations on export releases or withholding from export of reserve almonds by their two negative votes, by one negative vote and one abstention, or by two abstentions, even though all other eight votes were cast in the affirmative.

The requirement in present § 981.49 that the Board shall adopt its marketing policy estimates and recommendations by the affirmative vote of at least six members, without any requirement as to the composition of the vote, has been in effect since the inception of the order in 1950. With this six-vote majority requirement, the record shows the Board has adopted successful marketing policies which have led to a great expansion of the demand for almonds in domestic and export markets. It is practically certain that future productions of almonds will require further expansion of export outlets and the development of noncompetitive outlets.

In view of the future need for such success and the representation of the cooperative and independent elements on the Board in relation to their relative positions in the industry, it is only reasonable to extend the affirmative six-vote majority requirement, without modification, to Board decisions basic to the control and disposition of reserve almonds under revised § 981.66(d). Hence, the modified proposal to require the affirmative vote of six members of the Board including the affirmative vote of one independent handler and one cooperative handler is not recommended for adoption.

The phrase ", or any later revision thereof," should be inserted in the first sentence of § 981.49 after the words "each of which". This change would make it clear that the requirements that the early-season Board marketing policy estimates and recommendations of salable, reserve and export percentages, be adopted by the affirmative vote of at least six members of the Board, would also apply to any Board revisions of such estimates or later recommendations. The later actions of the Board could be just as important as the early ones in providing a basis for adjusting the supply of almonds to market needs.

(14) It was proposed that specific language should be added to the order to make it clear that the same lot of almonds would be subjected to only one assessment obligation and only one withholding obligation.

The present order and the recommended amendment of the order are adequately clear that there shall be only one assessment and one withholding obligation on the same almonds and there shall not be a duplication. Specific provisions are included in §§ 981.55, 981.61, and 981.81 to avoid any double obligation on the same almonds. There was concern expressed at the hearing that a grower-handler would be subjected to a double assessment of his crop. However, this concern is needless as the act provides for levying assessments on handlers only. A grower acting in his capacity as a grower could not be required to pay assessments. If he qualifies as a handler, however, the requirement can be imposed on him in his capacity as a handler. In view of the foregoing, the proposal is not recommended for adoption.

(15) At the hearing, it was proposed, in view of the recommended changes concerning redetermination of kernel weight of almonds as discussed in material issue (7), that the list of almond varieties with their shelling ratios, as listed in § 981.62, should be updated. This list sets forth the shelling ratios by major and minor varieties, and has not been changed since the inception of the order in 1950. Many of the minor varieties are no longer being grown or are now producing insignificant tonnage. Accordingly, these varieties and their shelling ratios should be eliminated from the list. Also, since 1950, new varieties, with appreciable tonnage, have come into bearing and should be included under the minor varieties along with their appropriate shelling ratios. These changes, hereinafter set forth under the recommended amendment of the order, should be made to update the order and to provide a sound basis for determination of kernel weights.

(16) The notice of hearing included a proposal to establish and maintain an operating monetary reserve. However, no testimony was offered at the hearing in support of the proposal. Therefore, it is not recommended for adoption.

(17) Paragraph (b) of § 981.51 should be conformed with § 981.451 of the administrative rules and regulations by substituting in such paragraph "20 percent" in lieu of the first "10 percent" and by substituting "10 percent" in lieu of "5 percent". It is important that the order itself, as recommended for amendment, be clear as to the minimum quality of almonds eligible for use in satisfying the reserve obligation of a handler.

(18) It was testified at the hearing, and the other evidence of record shows, that continuation of the present order, without further amendment, would tend to effectuate the declared policy of the act. The evidence also shows that the order as herein recommended for amendment would tend to better effectuate such policy. Hence, it is concluded that continuation of the order, with or without further amendment, will tend to effectuate such policy.

Rulings on proposed findings and conclusions. The Presiding Officer announced at the hearing that interested persons would be allowed to and including February 2, 1970, to file with the Hearing Clerk proposed findings and conclusions, and written arguments or briefs, based upon evidence received at the hearing. Two briefs were filed, one on behalf of the California Almond Growers Exchange, and the other on behalf of the Almond Growers Council. Every point covered in these briefs has been considered carefully, in light of the scope of the notice and the evidence of record, in making the findings and reaching the conclusions herein set forth. To the extent that any suggested findings and conclusions contained in those briefs are inconsistent with the findings and conclusions set forth herein, they are denied on the basis of the facts found and stated in connection with this recommended decision.

General findings. (1) The findings hereinafter set forth are supplementary, and in addition to the previous findings and determinations which have been made in connection with the issuance of the marketing agreement and order, and the subsequent amendment thereof, and all of the said previous findings and determinations are hereby ratified and affirmed (for prior findings and determinations see 15 F.R. 4993; 22 F.R. 3781; 22 F.R. 8485; 23 F.R. 903);

(2) The marketing agreement and order, as amended and hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended and hereby proposed to be further amended, regulate the handling of almonds grown in California in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) There are no differences in the production and marketing of almonds in the production area covered by the marketing agreement and order, as amended and hereby proposed to be further amended, which require different terms applicable to different parts of such area;

(5) The marketing agreement and order, as amended and hereby proposed to be further amended, are limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act; and

(6) All handling of almonds grown in California is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Recommended amendment of the order. The following further amendment of the almond order is recommended as the detailed and appropriate means by which

the foregoing conclusions may be carried out:

§ 981.45 [Amended]

1. The word "reserve" is substituted for "surplus" wherever it occurs in the order and the heading immediately preceding § 981.45 is changed from "Surplus Control" to "Volume Regulation".

§ 981.16 [Amended]

2. Section 981.16 is revised by inserting after "means" the words "to use almonds commercially of own production or".

3. New sections 981.21a and 981.21b, reading as follows, are added immediately after § 981.21:

§ 981.21a Salable almonds.

"Salable almonds" means those almonds which are free to be handled pursuant to any salable percentage established by the Secretary pursuant to § 981.47 or § 981.48 and, in the absence of a reserve percentage being established for a crop year, all almonds received by handlers for their own accounts during that crop year.

§ 981.21b Reserve almonds.

"Reserve almonds" means those almonds which must be withheld from handling in satisfaction of a reserve obligation arising from application of a reserve percentage established by the Secretary pursuant to § 981.47 or § 981.48.

4. A new section is added to read:

§ 981.41 Research and development.

The Control Board, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of almonds. The expense of such projects shall be paid from funds collected pursuant to § 981.81.

5. The first sentence of § 981.49 is revised by inserting after "each of which" the phrase ", or any later revisions thereof," and paragraphs (b) and (c) of § 981.49 are revised, and a new paragraph (f) is added to such section to read:

§ 981.49 Board estimates and recommendations.

* * * * *

(b) The handler carryover and the reserve inventory as of July 1;

(c) The desirable handler carryover and the probable reserve inventory at the end of the crop year;

* * * * *

(f) The recommended percentage of reserve almonds that may be exported pursuant to § 981.66.

6. Section 981.50 is revised to read:

§ 981.50 Reserve obligation.

Whenever salable and reserve percentages are in effect for a crop year, each handler shall withhold from handling a quantity of almonds having a kernel weight equal to the reserve percentage of the kernel weight of all almonds such handler receives for his own account during the crop year: *Provided*, That any quantity of almonds disposed of in outlets such as poultry or animal feed or crushing into oil, in a manner permitting accountability to the Board, and which are not reserve almonds, shall not be included in such receipts. The quantity of almonds hereby required to be withheld from handling shall constitute, and may be referred to as the "reserve" or "reserve obligation" of a handler. The almonds handled as salable almonds by any handler, in accordance with the provisions of this part, shall be deemed to be that handler's quota fixed by the Secretary within the meaning of section 8a(5) of the act.

7. Paragraph (b) of § 981.51 is revised to read:

§ 981.51 Requirements for reserve.

* * * * *

(b) Lots of unshelled almonds shall not have more than 20 percent of the almonds by count affected by adhering hulls (where more than 10 percent of the surface is affected), shall not contain more than 10 percent by weight of loose shells, hulls and other foreign material and shall not contain inedible kernels in excess of 40 percent of the kernel weight; and

* * * * *

8. Section 981.52 is revised to read:

§ 981.52 Holding requirement and delivery.

Each handler shall, at all times, hold in his possession or under his control, in proper storage for the account of the Board, the quantity of almonds necessary to meet his reserve obligation less: (a) Any quantity for which he has a temporary deferment pursuant to § 981.53; (b) any quantity which was disposed of by him pursuant to § 981.67; and (c) any quantity for which he is otherwise relieved by the Board of responsibility to so hold almonds. Upon demand of the Control Board reserve almonds shall be delivered to the Board f.o.b. handler's warehouse or point of storage, except that the Control Board shall not make such demand upon a handler with respect to reserve almonds for which the time for withholding has been deferred pursuant to § 981.53 or he has agreed to undertake disposition pursuant to § 981.67. Any handler who does not act as agent for the Control Board in the disposition of reserve almonds shall be subject to the applicable inspection and certification requirements prescribed by the Control Board pursuant to § 981.67.

§ 981.53 [Amended]

9. The words "either by almonds owned by the applying handler and pledged to the Control Board or" are deleted from the last sentence of paragraph (a) of § 981.53 and paragraph (b) of that section is deleted.

§ 981.58 [Deleted]

10. Section 981.58 is deleted.

§ 981.61 [Amended]

11. In § 981.61 the word "certified" is deleted wherever it appears and the final sentence of that section is revised to read: Weights used in such computations for various classifications of almonds shall be: (a) For unshelled almonds, the kernel weight computed by application of shelling ratios authorized pursuant to § 981.62; (b) for shelled almonds, the net weight; and (c) for shelled almonds used in production of almond products, the weight of such almonds.

12. Paragraph (a) of § 981.62 is revised to read:

§ 981.62 Varietal shelling ratios for unshelled almonds.

(a) The varietal shelling ratios applicable to unshelled almonds for determination of kernel weight are as follows:

Major varieties:	*Percent*
Nonpareil	60
Jordanolo	60
Ne Plus Ultra	50
IXL	50
Mission	40
Drake	40
Peerless	35
Minor varieties:	
Kaperial	60
Merced	60
Thompson	60
Bigelow	55
Harpareil	55
Eureka	54
Baker	53
Trembath	53
Long IXL	50
Ballico	50
Davey	50
Ruby	50
Smith (Smith's XL)	48
Lewelling (Lewelling's Prolific)	47
Walton	41
Emerald	40
Ripon	40
Standard	38
Sultana	36
Tarragona	33
Hardshell	30
Bidwell	30

13. Paragraph (d) of § 981.66 is revised to read:

§ 981.66 Conditions governing disposition of reserve.

* * * * *

(d) *Time restriction on disposition.* The Control Board shall not dispose of in export, or authorize the disposition in export, of more than 80 percent or such other percentage as the Secretary, upon recommendation of the Control Board or other information, may establish, of the reserve almonds of the applicable crop year. However, at any time prior to May 15 (except that such date may be extended by the Secretary to a date not later than June 30 upon recommendation of the Board or other information), the Control Board shall meet and review the disposition of reserve almonds. If the Board finds that the volume of reserve almonds released to export has been sold, or committed for sale, to such an extent that additional almonds could be disposed of in export, without materially affecting adversely the disposition of the oncoming crop, it may recommend an increase in the percentage to be released in export. Upon basis of the Board's finding

and recommendation, or other information, the Secretary may increase the percentage. Any export percentage in effect pursuant to the foregoing shall continue to apply to the reserve almonds of the applicable crop year unless and until such percentage is increased or until all of the reserve almonds to which it applies have been disposed of. If pursuant to § 981.48, the reserve percentage is reduced during any crop year, each handler may dispose of the quantity released into export by the reserve and export percentages in effect prior to such reduction in the reserve percentage but his credit for any authorized reserve disposition shall not exceed his new reserve obligation. The Control Board may dispose of, or authorize the disposition of, reserve almonds in excess of those needed for export, in noncompetitive outlets.

§ 981.67 [Amended]

14. The first sentence of § 981.67 is revised by inserting after the words "such reasonable terms and conditions" the words "including inspection and certification requirements" and in the first sentence and the sentence preceding the final sentence the word "contributed" is deleted and the words "withheld from handling" are substituted therefor.

§ 981.68 [Amended]

15. The section heading "§ 981.68 Disposition by the Board." is deleted, paragraph (a) of § 981.68 is deleted, and paragraphs (b) and (c) of § 981.68 are redesignated as (f) and (g), respectively, of § 981.66 and are revised to read:

* * * * *

(f) *Expenses.* Direct expenses incurred by the Board in the maintenance and disposition of reserve almonds shall be charged against the proceeds of sales of such almonds.

(g) *Distribution of proceeds.* Net proceeds from the disposition of reserve almonds by the Board shall be distributed to each handler in proportion to his relative share of such disposition in terms of creditable reserve kernel weight pursuant to § 981.51 or such other basis as the Control Board may adopt with the approval of the Secretary.

Dated: May 8, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-5988; Filed, May 12, 1970; 8:51 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10299]

HAWKER SIDDELEY MODEL DH-104 "DOVE" AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to Hawker Siddeley Model DH-104 "Dove" airplanes. There have been reports of cracks in the compressed air bottle used in the emergency landing gear extension system on these airplanes where the affected air bottles were manufactured before January 1, 1959. This condition could result in failure of the compressed air bottle. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of air bottle assemblies manufactured before January 1, 1959, with serviceable air bottle assemblies of the same part number manufactured on or after that date on Hawker Siddeley Model DH-104 "Dove" airplanes.

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 12, 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:

HAWKER SIDDELEY AVIATION. Applies to Model DH-104 "Dove" airplanes.

To prevent possible failure of the Dunlop compressed air bottles used in the emergency landing gear extension systems, on or before December 31, 1970, inspect the compressed air bottle (P/N AH.7360) installed in the air bottle assembly (P/N AH.8512) located under the pilot's seat. If the air bottle was manufactured before January 1, 1959, on or before December 31, 1970, replace the air bottle assembly with a serviceable assembly of the same part number which incorporates an air bottle (P/N AH.7360) manufactured on or after January 1, 1959. The date of manufacture is etched on the collar of the air bottle.

(Hawker Siddeley Technical News Sheet, Series CT(104), No. 214, covers this subject)

Issued in Washington, D.C., on May 6, 1970.

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

[F.R. Doc. 70-5833; Filed, May 12, 1970; 8:47 a.m.]

[14 CFR Part 39]

[Docket No. 10300]

HAWKER SIDDELEY MODEL DH-114 "HERON" AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to Hawker Siddeley Model DH-114 "Heron" airplanes. There have been reports of cracks in the compressed air bottles used in the emergency landing gear extension system and emergency braking system on these airplanes where the affected bottles were manufactured before January 1, 1959. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of air bottle assemblies in the emergency landing gear extension system and emergency braking system which were manufactured before January 1, 1959, with serviceable air bottle assemblies of the same part number manufactured on or after that date on Hawker Siddeley Model DH-114 "Heron" airplanes.

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 12, 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:

HAWKER SIDDELEY AVIATION. Applies to Model DH-114 "Heron" airplanes.

To prevent possible failure of Dunlop compressed air bottles used in the emergency landing gear extension system and emergency braking system, accomplish the following on or before December 31, 1970.

(a) For all airplanes, inspect the air bottle (P/N AH.7360) used in either of the emergency landing gear extension system air bottle assembly (P/N ACM 16784) located der the pilot's seat. If the air bottle was manufactured before January 1, 1959, replace the air bottle assembly with a serviceable assembly of the same part number which incorporates an air bottle (P/N AH.7360) manufactured on or after January 1, 1959. The date of manufacture is etched on the collar of the air bottle.

(b) For airplanes which have incorporated Modification 281 (Emergency Braking System), inspect the air bottle (P/N AC.10685) used in the emergency braking system air bottle assemblies (P/N AC.11768) located unon the left forward face of the crew cabin sloping bulkhead. If the air bottle was manufactured before January 1, 1959, replace the air bottle assembly with a serviceable assembly of the same part number which incorporates an air bottle (P/N AC.10685) manufactured on or after January 1, 1959. The date of manufacture is etched on the collar of the bottle.

(Hawker Siddeley Technical News Sheet, Series: Heron (114), No. S.6 covers this subject)

Issued in Washington, D.C., on May 6, 1970.

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

[F.R. Doc. 70-5834; Filed, May 12, 1970; 8:47 a.m.]

[14 CFR Part 39]

[Docket No. 10298]

DOWTY ROTOL PROPELLERS

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to certain types of Dowty Rotol Propellers. There have been reports of propeller operating pin fatigue cracks on these propellers. The failure of one or more operating pins could result in serious vibration or loss of propeller control. Since this condition is likely to exist or develop on other propellers of the same type, the proposed airworthiness directive would require periodic inspections of the propeller operating pins for cracks and replacement of pins found to be cracked pending final replacement of all operating pins with pins of an improved design.

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 12, 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:

DOWTY ROTOL, LTD. Applies to propeller types (c) R.175/4-30-4/13E, incorporating operating pins with part numbers RA.44996, RA.44996/1, or RA.44996/2, installed in but not necessarily limited to Fairchild Hiller F-27 and F-27B airplanes; (c) R.193/4-30-4/50, incorporating operating pins with part No. RA.57505, installed in but not necessarily limited to Fokker F.27 Mark 400 and 600, and Fairchild Hiller F-27A, F-27F, F-27G, F-27J, and FH-227 airplanes; and (c) R.209/4-40-4.5/2, incorporating operating pins with part numbers RA.66033 or 601023087 installed on Nihon YS.11 and YS.11A airplanes.

Compliance is required as indicated.

To determine if cracks exist in the fillet radius of the propeller operating pins at the junction between the pin diameter and flange, accomplish the following:

(a) For propeller types (c) R.175/4-30-4/13E and (c) R.193/4-30-4/50, at the next propeller overhaul or upon the accumulation of a total time in service of 5,000 hours since new or last overhaul, whichever occurs first, inspect the propeller operating pins for cracks in accordance with paragraph (c). If no cracks are found, this inspection must be repeated at each propeller overhaul or at intervals not to exceed 5,000 hours time in service since the last inspection, whichever is more frequent.

(b) For propeller type (c) R.209/4-40-4.5/2, at the next propeller overhaul or upon the accumulation of a total time in service of 4,000 hours since new or last overhaul, whichever occurs first, inspect the propeller operating pins for cracks in accordance with paragraph (c). If no cracks are found, this inspection must be repeated at each propeller overhaul or at intervals not to exceed 4,000 hours' time in service since the last inspection, whichever is more frequent.

(c) Inspect the propeller operating pins for cracks in accordance with Dowty Rotol, Ltd., Service Bulletin No. 61-711, Revision 2, dated February 11, 1970, or later ARB-approved issue or an FAA-approved equivalent.

(d) If a crack is found in any operating pin during the inspections required by paragraph (a) or (b), the following must be accomplished:

(1) Remove all four operating pins and replace each of them with new serviceable operating pins, or with serviceable operating pins which have been inspected in accordance with paragraph (c) and which have not previously formed part of a set containing a cracked operating pin, prior to returning the propeller to service. In either case, the replacement pins must be pins that are approved for the particular type propeller.

(2) Reinspect all other propellers of the same type in the operator's fleet in accordance with paragraph (c) as follows:

(i) For propeller types (c) R.175/4-30-4/13E and (c) R.193/4-30-4/50, within the next 600 hours' time in service from the date of the inspection during which the cracks were found (for propellers with 1,400 or more hours' time in service since the last overhaul), or within 2,000 hours' time in service from the date of the inspection during which the cracks were found (for propellers with less than 1,400 hours' time in service since the last overhaul), and thereafter at intervals not to exceed 2,000 hours' time in service since the last inspection.

(ii) For propeller type (c) R.209/4-40-4.5/2, within the next 400 hours' time in service from the date of the inspection during which the cracks were found (for propellers with 600 or more hours' time in service since the last overhaul), or within 1,000 hours' time in service from the date of the inspection during which the cracks were found (for propellers with less than 600 hours' time in service since the last overhaul), and thereafter at intervals not to exceed 1,000 hours' time in service since the last inspection.

Issued in Washington, D.C., on May 6, 1970.

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

[F.R. Doc. 70-5845; Filed, May 12, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-36]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Minot, N. Dak.

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 amendments. 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 proposals 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 Minot, N. Dak., the instrument approach procedures for Minot Air Force Base and Minot International Airport have been changed. Accordingly, it is necessary to alter the control zone and transition area at Minot, N. Dak., to adequately protect aircraft executing the changed approach procedures.

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

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

a. Minot, N. Dak. (International Airport): Within a 5-mile radius of Minot International Airport (latitude 48°15'40" N., longitude 101°16'45" W.); within 4 miles each side of the Minot VORTAC 129° radial, extending from the 5-mile radius zone to 9 miles southeast of the VORTAC; within 4 miles each side of the Minot VORTAC 260° radial, extending from the 5-mile radius zone to 9½ miles west of the VORTAC; within 4 miles each side of the Minot VORTAC 327° radial, extending from the 5-mile radius zone to 9½ miles northwest of the VORTAC; and within 4 miles each side of the Minot VORTAC 097° radial, extending from the 5-mile radius zone to 8½ miles east of the VORTAC, excluding the portion which overlies the Minot AFB control zone.

b. Minot, N. Dak. (Air Force Base): Within a 5-mile radius of Minot AFB (latitude 48°24'55" N., longitude 101°21'25" W.); within 2½ miles each side of the Deering TACAN 113° radial, extending from the 5-mile radius zone to 7 miles southeast of the TACAN; and within 2½ miles each side of the Deering TACAN 303° radial, extending from the 5-mile radius zone to 7 miles northwest of the TACAN.

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

MINOT, N. DAK.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Minot AFB (latitude 48°24'55" N., longitude 101°21'25" W.); within a 10-mile radius of Minot International Airport (latitude 48°15'40" N., longitude 101°16'45" W.); within 5 miles each side of the Minot VOR TAC 260° radial, extending from the 10-mile radii areas to 12 miles west of the VORTAC; within 5 miles each side of the Minot VORTAC 129° radial extending from the 10-mile radius area to 12 miles southeast of the VORTAC; and within 5 miles each side of the Minot VORTAC 097° radial, extending from the 10-mile radius area to 12 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Deering TACAN; and that airspace extending upward from 5,700 feet MSL within a 50-mile radius of Deering TACAN, excluding the area north of latitude 49°00'00" N., and the area which overlies V-430 and V-15.

These amendments are 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 22, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-5848; Filed, May 12, 1970; 8:48 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 425]

USE OF NEGATIVE OPTION PLANS BY SELLERS IN COMMERCE

Notice of Proposed Trade Regulation

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq., has initiated a proceeding for the promulgation of a Trade Regulation Rule relating to the use of negative option plans by sellers in commerce, as "commerce" is defined in the Federal Trade Commission Act.

The Commission has initiated this proceeding having reason to believe that sellers who use negative option plans have:

(1) Failed to disclose clearly and conspicuously in all advertising and sales promotional material directed to prospective subscribers complete details as to the operation of any negative option plan used, which constitutes a failure to disclose material facts to prospective subscribers;

(2) Denied subscribers sufficient time in which to respond to the negative option cards sent in accordance with the operation of negative option plans thereby depriving subscribers of the opportunity to make an informed decision;

(3) Failed to deliver or have delayed the delivery of merchandise due subscribers as part of introductory offers or as bonus merchandise;

(4) Delivered unordered merchandise in the place of merchandise specifically ordered by subscribers without the prior consent of subscribers;

(5) Failed to terminate membership in such plans immediately after receipt of proper cancellation notices from subscribers and have continued to send merchandise to such subscribers for several months thereafter;

(6) Engaged in the aforementioned acts or practices and as a result, caused subscribers to be billed and dunned for merchandise which has not been ordered, for merchandise which has never been received, for merchandise which has already been paid for in full, and for merchandise which has been returned pursuant to the terms of the membership agreement;

(7) Failed to provide any meaningful service or response to subscribers who have expressed legitimate complaints and have often answered such complaints with a dun letter;

(8) Administered and operated such plans so that the acts and practices described above commonly occur and so that the burden and expense of correcting the "errors" caused by such acts and practices is always unjustly placed on the subscriber;

(9) Constructed and operated a merchandising technique which is inherently unfair in that it relies, in substantial part, on exploitation of subscribers' natural preoccupations with or diversions to more important or pressing personal affairs, and on traits of human character such as procrastination or forgetfulness in order to impose liability upon subscribers for merchandise which subscribers may not want and have taken no affirmative steps to obtain;

(10) Constructed and operated a merchandising technique which is inherently unfair in that it permits sellers to take advantage of the factors described in paragraph (9) above, the uncertainties of postal service, computer "errors" of the seller's own doing, and centralized methods of credit administration and debt collection (including recourse to the various deceptive and harassing tactics set out in paragraph 6 above) to extract payments from subscribers on whom financial liability has been unfairly imposed;

(11) Diverted to themselves business which might, and probably would, otherwise go to competitors who do not use such plans, thereby causing injury to competition. These acts and practices constitute an unfair method of competition in commerce and unfair and deceptive acts or practices in commerce, in violation of section 5 of the Federal Trade Commission Act.

Accordingly, the Commission therefore proposes the following Trade Regulation Rule:

§ 425.1 The Rule.

(a) In connection with the sale or distribution of goods and merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, it constitutes an unfair method of competition and an unfair and deceptive act or practice to make use of any negative option plan or of any other plan, scheme, or device which is within the definition of negative option plan set out below:

The phrase "negative option plan" refers to any sales scheme or contractual arrangement whereby a subscriber to the plan receives and is billed for merchandise offered by a seller, which the subscriber has not previously requested in writing, if the subscriber fails to indicate to the seller within a specified period of time after receipt of an announcement or statement offering the merchandise (or after receipt of the merchandise itself) that he specifically rejects the merchandise offered.

(b) For the purpose of carrying out the provisions of the statutes administered by it, the Commission is empowered to promulgate rules and regulations applicable to unlawful trade practices. Trade Regulation Rules express the experience and judgment derived from studies, reports, investigations, hearings, and other proceedings, or within official notice concerning the substantive requirements of the statutes which it administers.

(c) Where a Trade Regulation Rule is relevant to any issue involved in an adjudicative proceeding thereafter instituted, the Commission may rely upon the rule to resolve the issue, provided that the respondent shall have been given a fair hearing on the applicability of the rule to the particular case.

All interested persons, including the consuming public, are hereby notified that they may file written data, views, or arguments concerning the proposed Rules with the Chief, Division of Trade Regulation Rules, Bureau of Industry Guidance, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. 20580, not later than August 11, 1970. To the extent practicable, persons wishing to file written presentations in excess of two pages should submit 20 copies.

All interested parties are given notice of opportunity to orally present data, views, or arguments with respect to the proposed rule at a public hearing to be held at 10 a.m., e.d.t., August 18, 19, 1970, in Room 532 of the Federal Trade Commission Building, Washington, D.C.

Any persons desiring to orally present his views at the hearing should so inform the Chief, Division of Trade Regulation Rules, not later than August 11, 1970, and state the estimated time required for his oral presentation. Reasonable limitations upon the length of time allotted to any person may be imposed. In addition, all parties desiring to deliver a prepared statement at the hearing should file such statement with the Chief, Division of Trade Regulation Rules, on or before August 11, 1970.

The data, views, or arguments presented with respect to the practices in question will be available for examination by interested parties at the office of the Assistant Secretary for Legal and Public Records, Federal Trade Commission, Washington, D.C., and will be considered by the Commission.

All persons, firms, corporations, or others engaged in negative option merchandising in commerce, as "commerce" is defined in the Federal Trade Commission Act, would be subject to the requirements of any Trade Regulation Rule promulgated in the course of this proceeding. This proceeding, therefore, is designed to inform all industry members of their obligations under the law and to assure equitable treatment in complying therewith.

All interested persons, including the consuming public, are urged to express their approval or disapproval of the proposed rule, or to recommend revisions thereof, and to give a full statement of their views in connection therewith.

Issued: May 13, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70-5809; Filed, May 12, 1970; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 280]

EASTERN PACIFIC TUNA FISHERIES

Yellowfin Tuna

Amendments to the regulations prescribing the restrictions on the taking of yellowfin tuna from a defined area of the eastern Pacific Ocean are needed to carry into effect changes in the existing regulatory system as recommended by the Inter-American Tropical Tuna Commission in a resolution adopted at its annual meeting April 22-24, 1970, in Ottawa, Canada. The resolution recommends that in addition to the 4,000 short tons of yellowfin tuna allowed vessels of 300 short tons carrying capacity after the closure there will be an additional allowance of 2,000 short tons to be distributed by each government among its vessels of 400 short tons carrying capacity and less. The 4,000 and 2,000 short ton allowance is for 1970 only. It is proposed that the 2,000 short tons be allotted as follows: (1) Bait boats—500 tons, (2) Class I–IV seiners—500 tons, (3) Class V seiners—1,000 tons.

The resolution also recommended that after the closure of the yellowfin tuna fishing, the governments of the contracting parties and cooperating countries may permit their flag vessels to land yellowfin withou restriction in a country which accepts the Commission's recommendations until such time as the total amount of yellowfin landed in such country during the current year reaches 1,000 short tons. Section 280.6(c)(6) reflects this proposed change.

In addition a minor change in the description of wetfish boats is proposed so that a vessel with refrigeration may qualify as a local wetfish boat—this is reflected in the proposed elimination of that requirement under § 280.6(c)(2)(i).

Before final adoption of amendments consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Regional Director, Pacific Southwest Region, Bureau of Commercial Fisheries, 300 Ferry Street, Terminal Island, Calif. 90731, within the period of 10 days from the date of publication of this notice in the FEDERAL REGISTER. Interested persons will also be afforded an opportunity to comment orally on the proposed amendment at a public hearing to be held in the United Portuguese Club, 2818 Addison Street, San Diego, Calif., beginning at 9:30 a.m., May 20, 1970. Any person who intends to present views orally at this hearing is requested to furnish in writing his name and the name of the organization he represents, if any, to the said Regional Director.

The proposed amendments are to be issued under the authority contained in subsection (c) of section b of the Tuna Conventions Act of 1950 as amended (16 U.S.C. 955(e)).

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of the Interior on August 26, 1966 (31 F.R. 11685), and dated May 11, 1970.

PHILIP M. ROEDEL,
Director,
Bureau of Commercial Fisheries.

The proposed amendments are described below:

Revise paragraph (c) of § 280.6 to read as follows:

§ 280.6 Restrictions applicable to fishing vessels.

* * * * *

(c) Any master or other person in charge of a fishing vessel which has departed port after the date of the closure of the yellowfin season may land in any port or place yellowfin tuna as provided for in subparagraphs (1), (2), (3), and (4) of this paragraph: *Provided*, That the Director by appropriate notice in the FEDERAL REGISTER may adjust the incidental catch rates provided for in subparagraphs (1), (2), (3), and (4) of this paragraph to assure that the various allotments designated for certain vessels are not underutilized and the 15 percent overall incidental catch is not exceeded. Any quantity of yellowfin tuna landed in excess of the limitations provided for in subparagraphs (1), (2), (3), and (4) of this paragraph shall be subject to seizure pursuant to section 10(c) of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 959(c)).

(1) Purse seiners of over 400 short tons capacity may land in any port or place yellowfin tuna taken as an incident to fishing for those species listed in § 280.2(b)(3), but in no event shall the yellowfin tuna be permitted to be landed by such vessels exceed 15 percent (15%) by round weight when included with those species listed in § 280.2(b)(3).

(2) Purse seiners of 301 to 400 short tons carrying capacity, inclusive, may land in any port or place yellowfin tuna taken as an incident to fishing for those species listed in § 280.2(b)(3), but in no event shall the yellowfin tuna so permitted to be landed by such vessel exceed 30 percent (30%) by round weight when included with those species listed in § 280.2(b)(3): *Provided*, That when the catch of yellowfin tuna by purse seiners of 301 to 400 short tons capacity, inclusive, reaches 1,000 tons the incidental rate for those vessels will revert to 15 percent (15%). A notice of reversion which will apply to purse seiners of 301 to 400 short tons, inclusive, leaving port after a selected date will be published in the FEDERAL REGISTER.

(3) Purse seiners of 300 short tons carrying capacity or less may land in any port or place yellowfin tuna taken as an incident to fishing for those species listed in § 280.2(b)(3), but in no event shall the yellowfin tuna so permitted to be landed by such vessel exceed 40 percent (40%) by round weight when included with those species listed in § 280.2(b)(3); except that those purse seiners of 300 short tons capacity or less known as local wetfish boats that meet the following criteria:

(i) Do not deliver any yellowfin tuna during the open yellowfin tuna fishing season and,

(ii) Make deliveries on a daily basis, may accumulate the 40 percent (40%) allowance by weight for incidental catches of yellowfin tuna for the separate period from the closure date until the end of that month, and for each separate period consisting of one calendar month thereafter: *Provided*, That when the catch of yellowfin tuna by purse seiners of 300 short tons of carrying capacity or less reaches 4,500 tons the incidental rate for those vessels will revert to 15 percent (15%). A notice of reversion which will apply to purse seiners of 300 short tons of capacity or less leaving port after a selected date will be published in the FEDERAL REGISTER.

(4) Bait boats may land in any port or place yellowfin tuna not to exceed 50 percent (50%) by round weight of the vessel's carrying capacity in short tons or 130 short tons, whichever is the lesser amount: *Provided*, That when the catch

of yellowfin tuna by bait boats reaches 2,000 short tons, the incidental catch rate for those vessels of yellowfin tuna will revert to 15 percent (15%) of yellowfin taken as an incident to fishing for those species listed in § 280.2(b)(3). A notice of reversion which will apply to bait boats leaving port after a selected date will be published in the FEDERAL REGISTER.

(5) The short ton capacity of vessels shall be determined from tables prepared by the Commission which relate carrying capacity to gross and/or net tonnage and from official unloading records available to the Bureau of Commercial Fisheries. Managing owners of purse seine vessels between 301 and 400 short tons carrying capacity, inclusive, will be notified by registered mail that their vessel is in that category and is therefore subject to the provisions of subparagraph (2) of this paragraph. Managing owners of vessels of 300 short tons or less carrying capacity will be notified by registered mail that their vessel is in this category and is therefore subject to the provisions of subparagraph (3) of this paragraph. Managing owners not receiving such notification by registered mail can assume that their vessel is in the category of over 400 short tons carrying capacity and is therefore subject to the provisions of subparagraph (1) of this paragraph. Except that to qualify for the bait boat yellowfin allocation described in subparagraph (4) of this paragraph, managing owners of bait boats will supply the Regional Director documentation concerning the gross and net tonnage of their vessels together with records of prior unloadings. This information, together with tables supplied by the Commission which relate to gross and/or net tonnage and from official records available to the Bureau of Commercial Fisheries will be used by the Regional Director to establish the carrying capacity of each vessel. Failure to comply will result in such vessels being limited to a 15 percent (15%) incidental catch of yellowfin tuna taken as an incident to fishing for those species listed in § 280.2(b)(3). This incidental rate will remain in effect for such vessels until the above documentation is supplied and the vessel's capacity determined.

(6) Any vessel may catch yellowfin tuna without restriction during the closed season provided such tuna is landed in a country which accepts the Commission's recommendations and provided further that prior to departing on the voyage on which such yellowfin tuna is caught that the managing owner of the vessel making such voyage receives from the Regional Director a letter granting permission for his vessel to land such yellowfin tuna in such country. Those seeking permission for their vessel to land such yellowfin tuna in such country shall forward to the Regional Director a letter from the Minister of Fisheries or the Minister of Agriculture of the country in which such yellowfin tuna will be landed certifying that such country has agreed to purchase such yellowfin tuna and that the maximum amount of yellowfin tuna that could be landed by such vessel, assuming that the vessel's entire capacity is filled with yellowfin tuna, would not cause the total amount of yellowfin tuna landed in such country to exceed 1,000 short tons.

[F.R. Doc. 70-5916; Filed, May 12, 1970; 8:51 a.m.]

National Park Service

[36 CFR Part 50]

COMMERCIAL VEHICLES, COMMON CARRIERS; SCHOOL BUSES, RECREATIONAL VEHICLES

Notice of Proposed Rule Making

Notice is hereby given that, pursuant to the authority vested in the Secretary of the Interior by section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), it is proposed to revise § 50.36 of Part 50 of Title 36, Code of Federal Regulations as set forth below.

The purpose of the revision is to remove permit requirements for operation of commercial vehicles and common carriers, to regulate the use of park roads by school buses and certain recreational vehicles, to remove the requirement of payment of fees for the use of the George Washington Memorial Parkway by sightseeing buses, and to authorize certain additional uses of the George Washington Memorial Parkway by passenger-carrying vehicles for hire or compensation on the Maryland portion, and on the Virginia portion of the parkway between the Theodore Roosevelt Bridge and the Circumferential Highway (I-495).

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Office of National Capital Parks, National Park Service, 1100 Ohio Drive SW., Washington, D.C. 20242, within 30 days of the publication of this notice in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535, 16 U.S.C. 3)

Section 50.36 is revised to read as follows:

§ 50.36 Commercial vehicles, common carriers; school buses, recreational vehicles.

(a) Operation of commercial vehicles and common carriers in park areas prohibited; exceptions: Commercial vehicles and common carriers, loaded or unloaded, are prohibited on park roads and bridges, except:

(1) On the section of Constitution Avenue east of 19th Street NW.;

(2) On roads designated by order of the General Superintendent;

(3) When crossing park roads at vehicular intersections;

(4) When access to a destination point is otherwise impossible, as determined by the Office of National Capital Parks;

(5) National Park Service authorized concessioner motor vehicle operations; and

(6) When operated in compliance with the following paragraphs of this section.

(b) Taxicabs: (1) *Operations around memorials.* Parking, except in officially designated taxicab stands, or cruising on the access roads to the Washington Monument, the Lincoln Memorial, the Jefferson Memorial, and the circular roads around the same, of any taxicab or hack without passengers is prohibited. However, this section shall not be construed to prohibit the operation of empty cabs which are proceeding directly to designated taxicab stands at the aforesaid monument and memorials or responding to definite calls for hack service by passengers waiting at such monument or memorials, or of empty cabs which have just discharged passengers at the entrances of the monument or memorials, when such operation is incidental to the empty cabs arriving in or leaving the area by the shortest route.

(2) *Stands.* Taxicab stands to serve the public convenience may be established by order of the Superintendent in suitable and convenient places.

(c) School buses: (1) Use of park roads by school buses when transporting children to or from school is prohibited, except upon registration with the Office of National Capital Parks, National Park Service, and a showing that:

(i) Access to a reasonable point for the loading and unloading of school children is otherwise impossible, or inability to use park roads would unreasonably extend the time necessary for the bus-trip for school children, and

(ii) No scheduled stops will be made on park roads, and

(iii) Use of park roads by such school buses will be limited to the hours of 7:45-9:15 a.m. and 1:30-4 p.m.

(2) School buses may use park roads without charge or registration for sightseeing or other recreational purposes for school children.

(d) Recreational vehicles: Vehicles designed or adapted for noncommercial recreational use, including camper units on trucks having a capacity of three-fourths ton or under, are allowed on park roads without registration or payment of fees.

(e) The provisions of this section prohibiting commercial vehicles, common carriers and school buses shall not apply within "other Federal reservations" in the environs of the District of Columbia, as defined in § 50.4(b), and shall not apply on that portion of Suitland Parkway between the intersection with Maryland Route 337 and the end of the parkway at Maryland Route 4, a length of 0.6 mile.

(f) George Washington Memorial Parkway; passenger-carrying vehicles for hire or compensation; registration; fees: (1) Taxicabs and other sightseeing passenger-carrying vehicles for hire or compensation shall be allowed on any portion of the George Washington Memorial Parkway without registration or payment of fees.

(2) Passenger-carrying vehicles for hire or compensation, other than taxicabs, having a seating capacity of not

more than fourteen (14) passengers, excluding the driver, when engaged in services authorized by concession agreement to be operated to or from the Washington National Airport and/or Dulles International Airport, shall be allowed on any portion of the George Washington Memorial Parkway without registration or payment of fees.

(3) Passenger-carrying vehicles for hire or compensation, other than those to which subparagraphs (1) and (2) of this paragraph apply, may operate on the George Washington Memorial Parkway upon registration with the Office of National Capital Parks, National Park Service, under the following conditions:

(i) When operating on a regular schedule (*a*) to provide passenger service on any portion between Mount Vernon and the Arlington Memorial Bridge, (*b*) to provide direct nonstop passenger service from Roosevelt Bridge to Virginia State Route 123 to serve the Central Intelligence Agency Building at Langley, Va., (c) to provide nonstop passenger service on any portion in Maryland, or on any portion in Virginia north of Roosevelt Bridge between the bridge and the Circumferential Highway (I–495) between 6:30 a.m. and 9:30 a.m. and between 3:30 p.m. and 7 p.m. A registrant shall file a schedule of operation and all schedule changes with the Office of National Capital Parks, showing the number of such vehicles and total miles to be operated on the parkway.

(ii) When operating irregular route, nonstop service primarily for the accommodation of air travelers arriving at or leaving from Dulles International Airport or Washington National Airport (*a*) between Washington National Airport and a terminal in Washington, D.C., over the George Washington Memorial Parkway between Washington National Airport and the 14th Street Bridge, (*b*) between Dulles International Airport and Washington National Airport over the George Washington Memorial Parkway between the Circumferential Highway (I–495), and Washington National Airport, and (c) between Dulles International Airport and a terminal in Washington, D.C., over any portion of the George Washington Memorial Parkway in Virginia north of Roosevelt Bridge between the bridge and the Circumferential Highway (I–495), and Chain Bridge. A registrant shall file a report of all operations and total miles operated on the George Washington Memorial Parkway.

(iii) Registration normally covers a period of 1 year, effective from July 1 until the following June 30. A fee payment is required at the rate of one cent (1¢) per mile for each mile each such vehicle operates upon the parkway. Payment shall be made quarterly within twenty (20) days after the end of the quarter, based upon a certification by the operator of the total mileage operated upon the parkway.

HARTHON L. BILL,
Acting Director,
National Park Service.

[F.R. Doc. 70-5830; Filed, May 12, 1970; 8:46 a.m.]

Notices

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

FACILITIES AND EQUIPMENT FOR METAL SCRAP BALING OR SHEARING, OR FOR MELTING OR SWEATING ALUMINUM SCRAP (ASD(I&L))

Delegation of Authority

Refs:

(a) Section 612, Department of Defense Appropriation Act, 1970 (83 Stat. 481-482).

(b) DOD Directive 7040.2, "Program for Improvement in Financial Management in the Area of Appropriations for Acquisition and Construction of Military Real Property," January 18, 1961.

(c) DOD Instruction 7040.4, "Military Construction Authorization and Appropriations," October 25, 1962.

(d) DOD Directive 4100.15, "Commercial or Industrial Activities," April 17, 1969.

(e) DOD Instruction 4100.33, "Commercial or Industrial Activities—Operation of," July 22, 1966.

(f) DOD Directive 5126.15, Subject as above, January 6, 1956 (hereby canceled).

The Deputy Secretary of Defense approved the following delegation of authority March 13, 1970:

By virtue of the authority vested in the Secretary of Defense by section 133(d) of title 10 United States Code, there is hereby delegated to the Assistant Secretary of Defense (Installations and Logistics) the authority to make determinations that the operation, acquisition, or construction of new facilities or equipment for new facilities in the continental limits of the United States for metal scrap baling or shearing, or for melting or sweating aluminum scrap is in the national interest. This authority may not be redelegated.

The purpose of such determinations is to meet the restrictions upon the use of appropriated funds which are imposed by reference (a), similar provisions in previous Acts, or which may be similarly imposed by future statutes. In addition to obtaining the above determination, authorizations to acquire or construct such new real property facilities will continue to be submitted in accordance with references (b), (c), (d), and (e).

Reference (f) is hereby canceled and superseded.

Delegation of authority published at 21 F.R. 273, January 13, 1956, is hereby superseded and canceled.

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

[F.R. Doc. 70-5838; Filed, May 12, 1970; 8:47 a.m.]

CERTIFICATION OF CONSTRUCTION, REPLACEMENT, OR REACTIVATION OF BAKERY, LAUNDRY, OR DRY CLEANING FACILITIES (ASD(I&L))

Delegation of Authority

Refs.:

(a) Section 625, Department of Defense Appropriation Act, 1970 (83 Stat. 484).

(b) Section 104, Department of Defense Military Construction Appropriation Act, 1970 (83 Stat. 468).

(c) DOD Directive 7040.2, "Program for Improvement in Financial Management in the Area of Appropriations for Acquisition and Construction of Military Real Property," January 18, 1961.

(d) DOD Instruction 7040.4, "Military Construction Authorization and Appropriations," October 25, 1962.

(e) DOD Directive 4100.15, "Commercial or Industrial Activities," April 17, 1969.

(f) DOD Instruction 4100.33, "Commercial or Industrial Activities—Operation of," July 22, 1966.

(g) DOD Directive 4270.24, "Operations and Maintenance Facilities Program—Minor Construction Program—Programing, Review, and Reporting Procedures," June 30, 1961.

(h) DOD Directive 5126.8, subject as above, November 14, 1955 (hereby canceled).

The Deputy Secretary of Defense approved the following delegation of authority March 13, 1970:

By virtue of the authority vested in the Secretary of Defense by section 133(d) of title 10, United States Code, there is hereby delegated to the Assistant Secretary of Defense (Installations and Logistics) the authority to determine and certify in writing, with reasons therefor, that service furnished by bakery, laundry or dry cleaning facilities are not obtainable from commercial sources at reasonable rates. This authority may not be redelegated. The Assistant Secretary of Defense (Installations and Logistics) is also authorized to issue related implementing instructions.

The purpose of such certification is to meet the restrictions upon the use of appropriated funds for the construction, replacement, or reactivation of any bakery, laundry, or dry cleaning facility which are imposed by references (a) and (b), similar provisions in previous Acts, or which may be similarly imposed by future statutes. Request for such authorizations as may be required for the construction or replacement of such facilities, or for the apportionment of funds therefor or for the reactivation of such facilities, will continue to be submitted in accordance with references (c), (d), (e), (f), and (g).

Reference (h) is hereby canceled and superseded.

Delegation of authority published at 20 F.R. 8551, November 18, 1955, is hereby superseded and canceled.

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

[F.R. Doc. 70-5839; Filed, May 12, 1970; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-2730 etc.]

HILDA B. WEINERT ET AL.

Finding and Order

MAY 4, 1970.

Hilda B. Weinert and Jane W. Blumberg, et al. (successor to H. H. Weinert Estate et al.) and other Applicants listed herein, Docket No. G-2730 etc.

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

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

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

Ladd Petroleum Corp., as applicant in Docket No. CI61–1653, and Ladd Petroleum Corp. (Operator) et al., as applicant in Dockets Nos. G–18119, G–19220, CI61–299, CI61–564, CI61–1184, CI62–197, CI62–579, CI62–598, CI64–270, and CI64–271, proposes to continue the sales of natural gas heretofore authorized in said dockets to be made pursuant to McCulloch Oil Corp. FPC Gas Rate Schedule No. 14 and McCulloch Oil Corp. (Operator) et al., FPC Gas Rate Schedules Nos. 4, 5, 6, 7, 8, 9, 10, 11, 13, and 12, respectively. Said rate schedules will be redesignated as those of applicant. The presently effective rates under McCulloch's FPC Gas Rate Schedules Nos. 4, 5, 6, 8, 9, 10, 11, 12, and 13 are in effect subject to refund in Docket No. RI69–672, except with respect to sales made from the acreage added by Supplement No. 5 to McCulloch's FPC Gas Rate Schedule No. 4. The presently effective rates under McCulloch's FPC Gas Rate Schedules Nos. 7 and 14 are in effect subject to refund in Dockets Nos. RI69–652 and RI69–671, respectively. Prior increased rates were collected under McCulloch's FPC Gas Rate Schedules Nos. 4 through 13 for locked-in periods subject to refund in Docket No. RI64–475, except with respect to sales from acreage added by Supplements Nos. 6 and 7 to McCulloch's FPC Gas Rate Schedule No. 4 and Supplement No. 5 to McCulloch's FPC Gas Rate Schedule No. 12. Applicant indicates in its certificate applications that it intends to be responsible for the total refund from the time that the increased rates were made effective subject to refund and has filed in Docket No. RI64–475 an agreement and undertaking to assure the refund of all amounts collected in excess of the amount determined to be just and reasonable in said proceeding. Therefore, applicant will be made a co-respondent in the proceeding pending in Docket No. RI69–671[1] and will be substituted in lieu of McCulloch as respondent in the proceedings pending in Dockets Nos. RI64–475, RI69–652, and RI69–672; said proceedings will be redesignated accordingly; the agreement and undertaking filed in Docket No. RI64–475 will be accepted for filing; and applicant will be required to file agreements and undertakings in Dockets Nos. RI69–652, RI69–671, and RI69–672.

J. M. Huber Corp., applicant in Docket No. CI70–668, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI69–75 to be made pursuant to Amarillo Natural Gas Co. FPC Gas Rate Schedule No. 6. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under Amarillo's rate schedule is in effect subject to refund in Docket No. RI64–310. Therefore, Applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly. Applicant has heretofore filed a general undertaking to assure the refund of amounts determined to be just and reasonable in proceedings under section 4(e) of the Natural Gas Act.

Wood, McShane & Thams—Colorado, applicant in Docket No. CI70–704, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G–3113 to be made pursuant to Humble Oil & Refining Co. (Operator) et al., FPC Gas Rate Schedule No. 31. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under Humble's rate schedule is in effect subject to refund in Docket No. RI69–51. On November 24, 1969, Humble filed with the Commission a notice of change in rate under its FPC Gas Rate Schedule No. 31. By order issued December 24, 1969, in Docket No. RI70–865 et al., the Commission suspended the proposed change in Docket No. RI70–869 until May 25, 1970, and thereafter until made effective. The notice of change was designated as Supplement No. 22 to Humble's rate schedule. In its certificate application applicant requests that the change in rate be made effective. Applicant indicates in its certificate application that it intends to be responsible for the total refund from the time that Humble's rate was made effective subject to refund. Therefore, applicant will be made co-respondent in the proceedings pending in Dockets Nos. RI69–51 and RI70–869; said proceedings will be redesignated accordingly; and the change in rate suspended in Docket No. RI70–869 will be made effective subject to refund. Applicant has filed an agreement and undertaking in Docket No. RI69–51 to assure the refund of all amounts collected by Humble and itself in excess of the amount determined to be just and reasonable in said proceeding with respect to sales from the acreage assigned by Humble to applicant, and applicant will be required to file an agreement and undertaking in Docket No. RI70–869 to assure the refund of any amounts collected by itself in excess of the amount determined to be just and reasonable in said proceeding with respect to sales from the acreage assigned by Humble to applicant.

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

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on April 29, 1970, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds:

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

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

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

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

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Docket No. CI70–819 should be canceled and that the application filed therein should be treated as a petition to amend the order issuing a certificate in Docket No. CI70–533.

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

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

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

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

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate proceeding

[1] There is a rate schedule involved in Docket No. RI69–671 pursuant to which applicant will not continue sales in lieu of McCulloch.

pending in Docket No. RI70–288 should be terminated only with respect to sales made pursuant to Skelly Oil Co. FPC Gas Rate Schedule No. 142.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Ladd Petroleum Corp. should be made a co-respondent in the proceeding pending in Docket No. RI69–671 and substituted in lieu of McCulloch Oil Corp. as respondent in the proceedings pending in Dockets Nos. RI64–475, RI69–652, and RI69–672; that said proceedings should be redesignated accordingly; that the agreement and undertaking submitted by Ladd in Docket No. RI64–475 should be accepted for filing; and that Ladd should be required to file agreements and undertakings in Dockets Nos. RI69–652, RI69–671, and RI69–672.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that J. M. Huber Corp. should be made a co-respondent in the proceeding pending in Docket No. RI64–310 and that said proceeding should be redesignated accordingly.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Wood, McShane & Thams—Colorado should be made a co-respondent in the proceedings pending in Dockets Nos. RI69–51 and RI70–869, that said proceedings should be redesignated accordingly, that the agreement and undertaking submitted in Docket No. RI69–51 should be accepted for filing, and that Wood, McShane & Thams—Colorado should be required to file an agreement and undertaking in Docket No. RI70–869.

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

The Commission orders:

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

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

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

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

(a) The rate for sales authorized in Dockets Nos. CI63–996, CI67–820, CI70–542, CI70–766, and CI70–812 shall be 15 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment. In the event that the Commission amends its statement of general policy No. 61–1, by adjusting the boundary between the Oklahoma Panhandle area and the Oklahoma "Other" area, so as to increase the initial wellhead price for new gas, applicants thereupon may substitute the new rates reflecting the amounts of such increases and thereafter collect the new rates prospectively in lieu of the initial rate herein authorized in said dockets.

(b) The rate for the sale authorized in Docket No. CI67–1632 shall be 15 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement.

(c) The rate for the sale authorized in Docket No. CI69–551 shall be 17 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment.

(d) The initial rate for the sale authorized in Docket No. CI70–664 shall be 18.75 cents per Mcf at 15.025 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment.

(e) The initial rates for the sale authorized in Docket No. CI70–754 shall be 27.1038 cents per Mcf at 60° F. for gas from formations down to and including the Benson Sand and 28 cents per Mcf at 60° F. for gas from below the Benson Sand (equivalent to rates of 27 cents and 27.8927 cents per Mcf, respectively), at the contract measurements basis of 62° F. Applicant may file a notice of change in rate pursuant to § 154.94 of the Commission's regulations if it desires to collect the contract rate of 28.108 cents per Mcf at 60° F. (equivalent to 28 cents per Mcf at the contract measurement basis of 62° F.).

(f) Applicant in Docket No. CI70–542 shall not require buyer to take-or-pay for an annual quantity of gas well gas during the first 2 contract years which is in excess of an average of 1 Mcf per day for each 3,650 Mcf of determined gas well gas reserves and a 1 Mcf per day for each 7,300 Mcf of determined gas reserves thereafter or the specified contract quantity.

(g) Applicant in Docket No. CI70–542 shall advise the Commission of the amount of advance payments made under the contract and the collection of such advance payments are subject to future orders of the Commission concerning the propriety of advance payments.

(h) The authorizations granted in Dockets Nos. CI63–996, CI70–542, and CI70–812 are conditioned upon any determination which may be made in the proceeding pending in Docket No. R–338 with respect to the transportation of liquefiable hydrocarbons.

(E) Within 45 days from the date of this order applicant in Docket No. CI70–704 shall file a rate schedule quality statement in the form prescribed in Opinion No. 546–A.

(F) Docket No. CI70–819 is canceled.

(G) The orders issuing certificates in Dockets Nos. G–3573, CI60–681, CI61–1024, CI63–996, CI67–878, CI69–551, CI69–783, CI69–974, CI69–1014, CI70–205, CI70–236, and CI70–533 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(H) The authorization granted in paragraph (G) above in Docket No. CI61–1024 shall not be construed to relieve applicant of any refund obligation in the rate proceeding pending in Docket No. RI67–270.

(I) The order issuing a certificate in Docket No. CI68–90 is amended to include the interest of the co-owner and the certificate and related rate schedule are redesignated from Monsanto Co. to Monsanto Co. (Operator) et al., as described in the tabulation herein.

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

Amend to delete acreage	*New certificate and/or amendment to add acreage*
G–3113	CI70–704
CI61–896	CI70–805
CI63–20	CI70–764
CI66–653	CI70–236
CI66–1093	CI69–783
CI69–71	CI70–774
CI69–75	CI70–668

(K) The orders issuing certificates in Dockets Nos. G–2730, G–4526, G–18119, G–19220, CI61–299, CI61–564, CI61–1184, CI61–1523, CI62–197, CI62–579, CI62–598, CI63–658, CI64–270, CI64–271, CI67–1632, CI68–985, CI68–1367, CI69–168, CI69–230, CI69–404, and CI70–383 are amended to reflect the successors in interest as certificate holders.

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

(M) Permission for and approval of the abandonment in Docket No. CI70–821 shall not be construed to relieve applicant of any refund obligations in the rate proceedings pending in Dockets Nos. G–16602 and RI63–117.

(N) The certificate heretofore issued in Docket No. G–3711 is terminated only with respect to sales made pursuant to Union Oil Company of California FPC Gas Rate Schedule No. 7.

(O) The certificates heretofore issued in Dockets Nos. G–6403, G–17855, G–17908, CI68–178, and CI68–624 are terminated.

(P) The rate proceeding pending in Docket No. RI70–288 is terminated only with respect to sales made pursuant to Skelly Oil Co. FPC Gas Rate Schedule No. 142.

(Q) Ladd Petroleum Corp. is made a co-respondent in the proceeding pending in Docket No. RI69–671; Ladd Petroleum Corp (Operator) et al., is substituted in lieu of McCulloch Oil Corp. (Operator) et al., as respondent in the proceedings pending in Dockets Nos. RI64–475, RI69–652, and RI69–672; said proceedings are redesignated accordingly; and the agreement and undertaking submitted by Ladd in Docket No. RI64–475 is accepted for filing. Ladd shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder. The agreement and undertaking shall remain in full force and effect until discharged by the Commission.

(R) Within 30 days from the issuance of this order, Ladd Petroleum Corp. (Operator) et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission acceptable agreements and undertakings in Dockets Nos. RI69–652, RI69–671, and RI69–672 to assure the refunds of all amounts collected, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in Dockets Nos. RI69–652 and RI69–672 and to assure the refund of all amounts collected under McCulloch Oil Corp. FPC Gas Rate Schedule No. 14 and Ladd Petroleum Corp. FPC Gas Rate Schedule No. 23, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in Docket No. RI69–671. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing. The agreements and undertakings shall remain in full force and effect until discharged by the Commission.

(S) J. M. Huber Corp. is made a co-respondent in the proceeding pending in Docket No. RI64–310 and said proceeding is redesignated accordingly. J. M. Huber Corp. shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(T) Wood, McShane & Thams—Colorado is made a co-respondent in the proceedings pending in Dockets Nos. RI69–51 and RI70–869, said proceedings are redesignated accordingly, and the agreement and undertaking submitted in Docket No. RI69–51 is accepted for filing. The rates, charges, and classifications set forth in Supplement No. 22 to Humble Oil & Refining Co. (Operator) et al., FPC Gas Rate Schedule No. 31 shall be effective subject to refund in Docket No. RI70–869 on May 25, 1970, with respect to sales made by Wood, McShane & Thams—Colorado pursuant to its FPC Gas Rate Schedule No. 1 from acreage acquired from Humble. Wood, McShane & Thams—Colorado shall charge and collect the rate of 16.8882 cents per Mcf at 14.65 p.s.i.a. subject to refund in Docket No. RI69–51 from November 24, 1969, through May 24, 1970, and the rate of 17.9117 cents per Mcf at 14.65 p.s.i.a. subject to refund in Docket No. RI70–869 from May 25, 1970. Wood, McShane & Thams—Colorado shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder. The agreement and undertaking filed in Docket No. RI69–51 shall remain in full force and effect until discharged by the Commission.

(U) Within 30 days from the date of this order, Wood, McShane & Thams—Colorado shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI70–869 to assure the refund of any amounts collected by itself, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding with respect to sales made from the acreage assigned by Humble Oil & Refining Co. (Operator) et al., to Wood, McShane & Thams—Colorado. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing. The agreement and undertaking shall remain in full force and effect until discharged by the Commission.

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

By the Commission.

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

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted		
			Description and date document	No.	Supp.
G–2730 E 4–1–69	Hilda B. Weinert and Jane W. Blumberg et al. (successor to H. H. Weinert Estate et al.).	Natural Gas Pipeline Co. of America, La Gloria Field, Jim Wells and Brooks Counties, Tex.	H. H. Weinert Estate et al., FPC GRS No. 1.	1	
			Supplemental Nos. 1–10.	1	1–10
			Notice of succession 4–19–69.		
			Effective date: 1–1–68.		
G–2730 E 4–1–69	do	Transcontinental Gas Pipe Line Corp., La Gloria and Brooks Counties, Tex.	H. H. Weinert Estate et al., FPC GRS No. 2.	2	
			Supplemental Nos. 1–20.	2	1–20
			Notice of succession 4–19–69.		
			Effective date: 1–1–68.		
G–3573 C 2–6–70	Southern Petroleum Exploration, Inc.	El Paso Natural Gas Co., Chacra Formation, Rio Arriba County, N. Mex.	Supplemental agreement 1–27–70.[1]	13	15
G–4526 E 2–27–70	Car-Tex Producing Co. (successor to V. R. Huffines et al.).	United Gas Pipe Line Co., Carthage Field, Panola County, Tex.	V. R. Huffines et al., FPC GRS No. 1.	5	
			Supplemental Nos. 1–10.	5	1–10
			Notice of succession 2–25–70.		
			Conveyance 2–3–70 [2]	5	11
			Effective date: 2–3–70.		
G–18119 E 1–13–70	Ladd Petroleum Corp. (Operator) et al. successor to McCulloch Oil Corp. (Operator) et al.	El Paso Natural Gas Co., Ignacio-Blanco Field, La Plata County, Colo.	McCulloch Oil Corp. (Operator) et al., FPC GRS No. 4.	13	
			Supplemental Nos. 1–10.	13	1–10
			Notice of succession 1–9–70.		
			Assignment 12–19–69 [3]	13	11
			Effective date: 7–1–69.		
G–19220 E 1–16–70	do	Southern Union Gathering Co., Ignacio Blanco-Mesa Verde Field, La Plata County, Colo.	McCulloch Oil Corp. (Operator) et al., FPC GRS No. 5.	14	
			Supplemental Nos. 1–2.	14	1–2
			Notice of succession 1–15–70.		
			Assignment 12–19–69 [3]	14	3
			Effective date: 7–1–69.		
CI60–681 D 2–27–70	The Superior Oil Co.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., N½ of Block 68 Field, West Cameron Area, La.	Notice of partial cancellation 2–27–70.[4 5]	104	8
CI61–299 E 1–19–70	Ladd Petroleum Corp. (Operator) et al. (successor to McCulloch Oil Corp. (Operator) et al.)	El Paso Natural Gas Co., Basin-Dakota Field, San Juan County, N. Mex.	McCulloch Oil Corp. (Operator) et al., FPC GRS No. 6.	15	
			Supplemental Nos. 1–11.	15	1–11
			Notice of succession 1–15–70. [6]		
			Assignment 12–19–69 [3]	15	12
			Effective date: 7–1–69.		

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

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted: Description and date document	No.	Supp.
CI61-956 E 1-19-70	do	El Paso Natural Gas Co., Ignacio Blanco Field, La Plata County, Colo.	McCulloch Oil Corp. (Operator) et al., FPC GRS No. 7.	16	
			Supplemental Nos. 1-11	16	1-11
			Notice of succession 1-16-70.		
			Assignment 12-19-69 [3]	16	12
			Effective date: 7-1-69.		
CI61-1024 D 3-4-70	Mobil Oil Corp. (Operator) et al.	Natural Gas Pipeline Co. of America, North Custer City Field, Custer County, Okla.	Notice of cancellation 3-2-70 [3] [5]	266	29
CI61-1184 E 1-19-70	Ladd Petroleum Corp. (Operator) et al. (successor to McCulloch Oil Corp. (Operator) et al.).	El Paso Natural Gas Co., Ignacio Blanco Field, La Plata County, Colo.	McCulloch Oil Corp. (Operator) et al., FPC GRS No. 8.	17	
			Supplemental Nos. 1-9	17	1-9
			Notice of succession 1-16-70.		
			Assignment 12-19-69 [3]	17	10
			Effective date: 7-1-69.		
CI61-1523 E 1-23-70	Ladd Petroleum Corp. (successor to McCulloch Oil Corp.).	El Paso Natural Gas Co., Basin-Dakota Field, San Juan County, N. Mex.	McCulloch Oil Corp., FPC GRS No. 14.	23	
			Supplemental Nos. 1-5	23	1-5
			Notice of succession 1-21-70.		
			Assignment 12-19-69 [3]	23	6
			Effective date: 7-1-69.		
CI62-197 E 1-22-70	Ladd Petroleum Corp. (Operator) et al. (successor to McCulloch Oil Corp. (Operator) et al.).	El Paso Natural Gas Co., Ignacio Blanco Field, La Plata County, Colo.	McCulloch Oil Corp. (Operator) et al., FPC GRS No. 9.	18	
			Supplemental Nos. 1-3	18	1-3
			Notice of succession 1-19-70.		
			Assignment 12-19-69 [3]	18	4
			Effective date: 7-1-69.		
CI62-579 E 1-23-70	do	El Paso Natural Gas Co., Basin-Dakota and Largo-Gallup Fields, Rio Arriba County, N. Mex.	McCulloch Oil Corp. (Operator) et al., FPC GRS No. 10.	19	
			Supplemental Nos. 1-9	19	1-9
			Notice of succession 1-19-70.		
			Assignment 12-19-69 [3]	19	10
			Effective date: 7-1-69.		
CI62-598 E 1-22-70	do	El Paso Natural Gas Co., Basin-Dakota Field, San Juan County, N. Mex.	McCulloch Oil Corp. (Operator) et al., FPC GRS No. 11.	20	
			Supplemental Nos. 1-8	20	1-8
			Notice of succession 1-19-70.		
			Assignment 12-19-69 [3]	20	9
			Effective date: 7-1-69.		
CI63-658 E 2-12-70	Southwest Gas Producing Co., Inc. (successor to Crescent Drilling Co., Inc.).	Arkansas Louisiana Gas Co., Chenlere Brake Field, Ouachita Parish, La.	Crescent Drilling Co., Inc., FPC GRS No. 4.	25	
			Supplemental No. 1	25	1
			Notice of succession 2-6-70.		
			Assignment 3-9-67 [7]	25	2
			Effective date: 11-1-66.		
CI63-996 C 1-23-70	Humble Oil & Refining Co. (Operator) et al.	Arkansas Louisiana Gas Co., North Cooper Field, Blaine County, Okla.	Amendatory agreement 12-17-69.	331	18
			Compliance 3-6-70 [1] [5]	331	19

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted: Description and date document	No.	Supp.
CI64-270 E 1-23-70	Ladd Petroleum Corp. (Operator) et al. (successor to McCulloch Oil Corp. (Operator) et al.).	Southern Union Gathering Co., Basin-Dakota Field, San Juan County, N. Mex.	McCulloch Oil Corp. (Operator) et al., FPC GRS No. 12.	22	
			Supplemental Nos. 1-3	22	1-3
			Notice of succession 1-20-70.		
			Assignment 12-19-69 [3]	22	4
			Effective date: 7-1-69.		
CI64-271 E 1-23-70	do	do	McCulloch Oil Corp. (Operator) et al. FPC GRS No. 12.	21	
			Supplemental Nos. 1-5	21	1-5
			Notice of succession 1-20-70.		
			Assignment 12-19-69 [3]	21	6
			Effective date: 7-1-69.		
CI67-829 A 12-29-66 E 11-5-69	Signal Oil & Gas [2] Co., a division of The Signal Cos., Inc. (Operator) (successor to Service Gas Products Co. (Operator).	Michigan Wisconsin Pipe Line Co., Northwest Lovedale Plant, Woods County, Okla.	Service Gas Products Co. (Operator) FPC GRS No. 8.	28	
			Supplemental No. 1	28	1
			Notice of succession 11-3-69.		
			Assignment 10-31-69 [3] [4]	28	2
CI67-878 D 2-13-70	Mobil Oil Corp. (Operator) et al.	Panhandle Eastern Pipe Line Co., acreage in Ellis County, Okla.	Notice of partial cancellation 2-11-70 [3] [10]	392	8
CI67-1632 E 1-29-70 [11]	Afton Thrash (Operator) et al. (successor to Roosth & Genecov Production Co. (Operator) et al.).	Lone Star Gas Co., North Henderson Field, Rusk County, Tex.	Roosth & Genecov Production Co. (Operator) et al., FPC GRS No. 3.	1	
			Supplemental Nos. 1-3	1	1-3
			Notice of succession 11-6-69.		
			Assignment 10-13-69 (11a)	1 90	4
CI68-90 3-2-70 [11]	Monsanto Co. (Operator), et al.	Panhandle Eastern Pipe Line Co., Northeast Waynoka Field, Woods County, Okla.			
CI68-985 E 3-3-70	Westhoma Oil Co. (Operator), et al. (successor to Arapahoe Production Co. (Operator), et al.)	Northern Natural Gas Co., Mocane Laverne Field, Beaver County, Okla.	Arapahoe Production Co. (Operator) et al., FPC GRS No. 1.	7	
			Notice of succession 2-25-70.		
			Agreement 5-1-69 [12]	7	1
			Effective date: 5-1-69.		
CI68-1367 E 3-3-70	do	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper and Beaver Counties, Okla.	Arapahoe Production Co. (Operator) et al., FPC GRS No. 2.	8	
			Notice of succession 2-25-70.		
			Agreement 5-1-69 [12]	8	1
			Effective date: 5-1-69.		
CI69-108 E 2-26-70	Cities Service Oil Co. (successor to Woods Petroleum Corp.).	Montana-Dakota Utilities Co., Residue Gas Products Plant, Campbell County, Wyo.	Woods Petroleum Corp., FPC GRS No. 20.	324	
			Notice of succession 2-20-70.		
			Assignment 1-28-70 [13]	324	1
			Effective date: 1-1-70.		
CI69-230 E 3-3-70	Westhoma Oil Co. (Operator) et al. (successor to Arapahoe Production Co. (Operator) et al.).	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper and Beaver Counties, Okla.	Arapahoe Production Co. (Operator) et al., FPC GRS No. 3.	9	
			Notice of succession 2-25-70.		
			Agreement 5-1-69 [12]	9	1
			Effective date: 5-1-69.		

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted: Description and date document	No.	Supp.
CI69-404 E 3-5-70	McCulloch Oil Corp. (successor to Omega Gas Co.).	Montana-Dakota Utilities Co., Richland Plant, Bronson Field, Richland County, Mont.	Omega Gas Co., FPC GRS No. 1.	16	
			Notice of succession 3-3-70.		
			Assignment 2-25-70 [2]	16	1
			Effective date: 3-3-70.		
CI69-551 C 2-25-70	Jones & Pellow Oil Co.[3]	Michigan Wisconsin Pipe Line Co., acreage in Woodward Area, Woodward County, Okla.	Amendment 1-27-70	8	4
CI69-783 (CI66-1093) C 3-9-70	Hassie Hunt Trust	Texas Gas Transmission Corp., Northeast Lisbon Field, Claiborne Parish, La.	Assignment 12-31-69 [2]	28	3
			Effective date: 12-31-69.		
CI69-974 C 2-24-70	Roy Proffitt (Operator) et al.	The Ohio Fuel Gas Co., Lebanon Township, Meigs County, Ohio.	Contract 1-5-70	1	1
CI69-1014 C 3-9-70	Robert C. Armstrong	Northern Natural Gas Co., Belpre Kinderhook Field, Edwards County, Kans.	Amendatory agreement 2-5-70.[1]	1	1
CI70-205 C 2-25-70	Jones & Pellow Oil Co.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	Amendatory agreement 1-27-70.	11	1
CI70-226 (CI66-653) C 2-18-70	Leben Drilling, Inc. (Operator) et al.	Arkansas Louisiana Gas Co., Arkoma Area, Latimer and Pittsburg Counties, Okla.	Assignment 5-1-69 [3]	3	9
CI70-383 E 3-5-70	McCulloch Oil Corp. (successor to Omega Gas Co.).	Montana-Dakota Utilities Co., Ute Field, Campbell County, Wyo.	Omega Gas Co., FPC GRS No. 2.	17	
			Notice of succession 3-3-70.		
			Assignment 2-25-70 [2]	17	1
			Effective date: 3-3-70.		
CI70-533 (CI70-819) C 3-9-70 [3]	A. C. Radford et al.	United Fuel Gas Co., Poca District, Kanawha County, W. Va.	Supplemental agreement 2-19-70.[1]	11	1
CI70-542 A 12-11-69	Occidental Petroleum Corp.[3]	Panhandle Eastern Pipe Line Co., North Carter Field, Beckham County, Okla.	Contract 11-12-69 [1]	19	
CI70-664 A 1-23-70	Marshall Exploration, Inc.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Belle Bower Field, De Soto Parish, La.	Contract 12-3-69	5	
			Letter 12-3-69	5	1
			Compliance 3-10-70 [11]	5	2
CI70-668 (CI69-75) F 1-20-70	J. M. Huber Corp. (successor to Amarillo Natural Gas Co.).	Cities Service Gas Co., Hugoton Field, Texas County, Okla.	Contract 8-28-45 [2]	86	
			Letter agreement 9-10-58.	86	1
			Letter agreement 9-17-63.	86	2
			Assignment 1-5-68 [2]	86	3
			Assignment 8-25-69 [2]	86	4
			Effective date: 8-1-69.		
CI70-704 (G-3113) F 1-29-70	Wood, McShane & Thams—Colorado (successor to Humble Oil & Refining Co.).	El Paso Natural Gas Co., Langlie Mattix Field, Lea County, N. Mex.	Contract 11-3-52 [2]	1	
			Letter agreement 8-2-54.	1	1
			Amendatory agreement 1-1-61.	1	2
			Amendatory agreement 6-26-63.	1	3
			Amendatory agreement 1-25-68.	1	4
			Letter agreement 4-1-69.	1	5
			Assignment 11-24-69 [2]	1	6
			Effective date: 11-24-69.		
CI70-754 A 2-20-70 as amended 3-9-70	Pacific States Gas & Oil, Inc.[3]	Equitable Gas Co., Glenville District, Gilmer County, W. Va.	Contract 12-1-69	4	
			Letter agreement 2-27-70.[1]	4	1

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted: Description and date document	No.	Supp.
CI70-784 (CI63-30) F 2-18-70	Leben Drilling, Inc. (successor to Humble Oil & Refining Co.).	Arkansas Louisiana Gas Co., acreage in Le Flore County, Okla.	Contract 5-24-62 [2]	7	
			Amendment 3-22-63	7	1
			Assignment 8-22-69 [2]	7	2
CI70-785 A 2-25-70	K. S. Oil Co., et al.	Northern Natural Gas Co., acreage in Beaver County, Okla.	Contract 9-22-69	1	
CI70-786 A 2-25-70	Millard Corp [3]	Panhandle Eastern Pipe Line Co., acreage in Woods County, Okla.	Contract 1-3-70	1	
CI70-771 A 2-24-70	Roy Proffitt	The Ohio Fuel Gas Co., Lebanon Township, Meigs County, Ohio.	Contract 1-5-70	3	
CI70-774 (CI69-71) F 2-24-70	Harold J. Reedy (successor to H. H. Champlin et al.).	Panhandle Eastern Pipe Line Co., North Hopeton Field, Woods County, Okla.	Contract 6-10-68 [2]	2	
			Assignment 10-9-69 [2]	2	1
			Effective date: 10-1-69.		
CI70-779 (G-6893) B 2-27-70	The Whitfrede Co.	Pennzoil United, Inc., Elk District, Kanawha County, W. Va.	Notice of Cancellation 2-23-70. [2] [3]	2	1
CI70-781 A 3-2-70	Tenneco Oil Co.	El Paso Natural Gas Co., Dakota Formation, San Juan Basin, San Juan County, N. Mex.	Contract 2-19-70 [1]	260	
CI70-790 A 3-5-70	Union Drilling, Inc.	Cumberland & Allegheny Gas Co., Meade District, Upshur County, W. Va.	Contract 1-13-69 [1] [3]	44	
CI70-794 A 3-4-70	do	Cumberland & Allegheny Gas Co., Washington District, Upshur County, W. Va.	Contract 8-29-69 [1] [3]	45	
CI70-795 A 3-5-70	do	do	Contract 10-22-69 [1] [3]	46	
CI70-796 A 3-5-70	do	do	Contract 8-26-69 [1] [3]	47	
CI70-797 A 3-5-70	do	Cumberland & Allegheny Gas Co., Buckhannon District, Upshur County, W. Va.	Contract 6-4-69 [1] [3]	48	
CI70-798 A 3-5-70	do	Cumberland & Allegheny Gas Co., Washington District, Upshur County, W. Va.	Contract 5-23-69 [1] [3]	49	
CI70-799 A 3-5-70	do	Cumberland & Allegheny Gas Co., Skin Creek District, Lewis County, W. Va.	Contract 9-10-68 [1] [3]	50	
CI70-800 A 3-5-70	do	Cumberland & Allegheny Gas Co., Washington District, Upshur County, W. Va.	Contract 12-19-69 [1] [3]	51	
CI70-801 A 3-5-70	do	do	Contract 1-7-70 [1] [3]	52	
CI70-802 A 3-6-70	Barnett Oil Co. et al.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., acreage in Moore and Potter Counties, Tex.	Contract 1-12-70	2	
CI70-805 (CI61-896) F 3-5-70	White Shield Oil & Gas Corp. (successor to Cricket Oil Co. (Operator) et al.).	Northern Natural Gas Co., Hansford Field, Hansford County, Tex.	Contract 10-1-60 [2]	7	
			Assignment 4-15-69 [2]	7	1
			Effective date: 1-1-69.		
CI70-809 A 3-6-70	Union Drilling, Inc.	Cumberland & Allegheny Gas Co., Buckhannon District, Upshur County, W. Va.	Contract 11-27-68 [1] [3]	53	
CI70-810 A 3-6-70	do	do	Contract 11-21-68 [1] [3]	54	
CI70-811 A 3-6-70	do	Cumberland & Allegheny Gas Co., Washington District, Upshur County, W. Va.	Contract 11-5-68 [1] [3]	55	

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted: Description and date document	No.	Supp.
CI70-812 A 3-6-70	G. M. Close et al.[27]	Panhandle Eastern Pipe Line Co., acreage in Woods County, Okla.	Contract 2-18-70[1]	5	
CI70-815 (G-17908) B 3-6-70	Skelly Oil Co. (Operator) et al.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Randon Field, Fort Bend County, Tex.	Notice of cancellation (Undated),[3 16]	145	5
CI70-816 (G-17855) B 3-6-70	Skelly Oil Co.	Cities Service Gas Co., Eureka Field, Grant County, Okla.	Notice of cancellation (Undated).[3 16]	[16] 142	2
CI70-817 A 3-9-70	Hays and Co., agent for Ferrell L. Prior et al.	Consolidated Gas Supply Corp., Troy District, Gilmer County, W. Va.	Contract 1-2-70[1]	335	
CI70-821 (G-3711)[28] B 3-9-70	Union Oil Co. of California.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Tigre Lagoon Field, Iberia Parish, La.	Notice of cancellation 3-6-70.[4 16]	7	11
CI70-823 (CI68-178) B 3-9-70	Howard C. Adkins et al., d.b.a. Wittenberg Gas Well No. 1.	Consolidated Gas Supply Corp., Clear Fork District, Wyoming County, W. Va.	Notice of cancellation 3-5-70.[3 16]	1	1
CI70-824 (CI68-624) B 3-9-70	Edison J. Parsons et al.	Consolidated Gas Supply Corp., Ripley and Union Districts, Jackson and Mason Counties, W. Va.	Notice of cancellation 3-5-70.[3 16]	2	1
CI70-828 A 3-9-70	John W. James et al.	Kentucky-West Virginia Gas Co., Johns Creek Field, Floyd County, Ky.	Contract 3-2-70	1	

[1] Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).
[2] Transfers property from V. R. Huffines et al. to applicant as result of public action by Acie Henigan, Sheriff of Panola County, under authority of the 123d Judicial District Court of Panola County.
[3] From McCulloch Oil Corp. to Ladd Petroleum Corp.
[4] Deletes acreage released to landowner because acreage is no longer productive.
[5] Effective date: Date of this order.
[6] Well plugged and abandoned on Dec. 28, 1969, and acreage assigned to R. H. Siegfried, Inc., on Jan. 1, 1970.
[7] Conveys acreage from Crescent Drilling Co., Inc., to applicant.
[8] Accepts conditioned temporary certificate issued Mar. 4, 1970. Applicant states willingness to accept permanent authorization conditioned to 15 cents per Mcf and subject to the ultimate disposition of the proceeding in Docket No. R-338.
[9] By letter filed Mar. 16, 1970, Applicant advised willingness to accept a permanent certificate conditioned to 15 cents per Mcf at 14.65 p.s.i.a. plus upward or downward B.t.u. adjustment.
[10] Rate schedule redesignated and accepted by order issued Mar. 5, 1970, in Docket Nos. G-11647 et al.
[11] Source of gas depleted.
[12] Certificate being issued at rate of 15 cents per Mcf including tax reimbursement. Applicant had proposed a rate of 15 cents per Mcf plus 0.0562-cent tax reimbursement. Applicant was originally one of the et al. parties under the predecessor's filing.
[13] Amendment to the certificate filed to include interest of co-owner, Texaco, Inc.
[14] Monsanto's filing consists of an Interest Statement to their rate schedule.
[15] Transfers operations from Arapahoe Production Co. to Westhoma Oil Co.
[16] Transfers acreage from Woods Petroleum Corp. to Cities Service Oil Co.
[17] From Omega Gas Co. to McCulloch Oil Corp.
[18] Contract provides for rate of 19.5 cents per Mcf; however, applicant states willingness to accept permanent authorization at 17 cents per Mcf plus B.t.u. adjustment.
[19] From Vaughn Petroleum, Inc. et al. to applicant; acreage previously covered by G. H. Vaughn, Jr. and Jack C. Vaughn (Operators) et al., FPC GRS No. 10.
[20] Conveys acreage from Austral Arkoma Co. to Leben, subject to a contract on file as Austral Oil Co., Inc., FPC GRS No. 27; Leben previously ratified and amended such contract to include any acreage which it may acquire, within 5 years from the date of ratification, in the Arkoma Area.
[21] Application erroneously assigned Docket No. CI70-819 will be treated as a petition to amend the order issuing a certificate in Docket No. CI70-533 and Docket No. CI70-819 will be canceled.
[22] Contract provides for rate of 20 cents per Mcf plus B.t.u. adjustment; however, applicant states its willingness to accept a permanent certificate at 15 cents per Mcf plus B.t.u. adjustment and subject to the ultimate disposition of the proceedings in Docket No. R-338.
[23] Accepts conditioned temporary certificate issued Mar. 4, 1970. Applicant states willingness to accept a permanent certificate conditioned to 18.75 cents per Mcf plus B.t.u. adjustment.
[24] On file as Amarillo Natural Gas Co., FPC GRS No. 6.
[25] Conveys interest from Skelly Oil Co. to Amarillo Natural Gas Co.
[26] Conveys interest from Amarillo Natural Gas Co. to J. M. Huber Corp.
[27] On file as Humble Oil & Refining Co. (Operator) et al., FPC GRS No. 31.
[28] Conveys interest from Humble Oil & Refining Co. to Wood, McShane and Thams—Colorado.
[29] Contract provides for rates, at 62° F., of 27 cents per Mcf for gas produced from formations down to and including the Benson and 28 cents per Mcf for gas produced from formations below the Benson; however, applicant has agreed to accept a permanent certificate at the rate of 28 cents per Mcf at 60° F. for the deeper formations.
[30] On file as Humble Oil & Refining Co. (Operator) et al., FPC GRS No. 337.
[31] Conveys acreage from Humble Oil & Refining Co. to Leben Drilling, Inc.
[32] Contract provides for an initial rate of 17 cents per Mcf plus B.t.u. adjustment; however, applicant is filing for an initial rate of 15 cents per Mcf plus B.t.u. adjustment.
[33] On file as H. H. Champlin et al., FPC GRS No. 1.
[34] From H. H. Champlin, et al., to Harold J. Reedy.
[35] Production of gas no longer economically feasible.
[36] Sale being rendered without prior Commission authorization.
[37] Currently on file as Cricket Oil Co. (Operator) et al., FPC GRS No. 2.
[38] From Transwestern Production Co. (successor to Cricket Oil Co.) to applicant.
[39] Contract provides for rate of 18 cents per Mcf; however, applicants agree to accept a permanent certificate conditioned to 15 cents per Mcf plus B.t.u. adjustment. By letter dated Mar. 20, 1970, applicants advised willingness to accept a permanent certificate conditioned to the ultimate disposition of the proceeding in Docket No. R-338.
[40] Rate of 14 cents per Mcf is effective subject to refund in Docket No. RI70-288, no revenues were collected subject to refund; therefore, the rate proceeding pending in said docket will be terminated only with respect to applicant's FPC GRS No. 142.
[41] Other sales covered under the certificate in Docket No. G-3711; therefore, the certificate in said docket will be terminated only with respect to applicant's FPC GRS No. 7.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent: _____)

Docket No. _____

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. _____, and has caused this agreement and undertaking to be executed and sealed in its name by a duly authorized officer this _____ day of _____, 19__.

(Name of Respondent)

By _____

Attest:

_____

[F.R. Doc. 70-5761; Filed, May 12, 1970; 8:45 a.m.]

[Docket Nos. CS70-38, etc.]

BARNETT SERIO EXPLORATION CO. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

MAY 5, 1970.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from areas for which just and reasonable rates have been established, all as more fully set forth is the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 20, 1970, file with the Federal Power Commission, Washington, D.C. 20426 petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

Docket No.	Date filed	Name of applicant
CS70-38	4-14-70	Barnett Serio Exploration Co., 331 Market St., Post Office Box B, Natchez, Miss. 39120.
CS70-39	4- 6-70	Rutter and Co., Ltd., c/o A. W. Rutter, Jr., General Partner, 500 North Big Spring St., Midland, Tex. 79701.
CS70-40	4- 6-70	A. W. Rutter, Jr. et al., 500 North Big Spring St., Midland, Tex. 79701.

[F.R. Doc. 70-5855; Filed, May 12, 1970; 8:48 a.m.]

[Docket No. CP70-258]

CITIES SERVICE GAS CO.

Notice of Application

MAY 6, 1970.

Take notice that on April 27, 1970, Cities Service Gas Co. (applicant), Post Office Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP70-258 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the exchange of volumes of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to exchange up to 50,000 Mcf of natural gas per day with Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska) under an agreement where applicant will deliver gas to Kansas-Nebraska at the Hugoton Compressor Station in Grant County, Kans., and Kansas-Nebraska will redeliver gas to applicant at a point on applicant's 26-inch mainline near Haven, in Reno County, Kans. Applicant proposes to construct measuring, regulating, and appurtenant facilities near the Hugoton Station, and a tap connection and appurtenant minor facilities near the Haven exchange point.

The total estimated cost of the proposed facilities is $170,000, which will be financed by treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 25, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5854; Filed, May 12, 1970; 8:48 a.m.]

[Project No. 1971]

IDAHO POWER CO.

Notice of Application for Approval of Exhibit R (Recreational Use Plan) for Constructed Project

MAY 5, 1970.

Public notice is hereby given that application for approval of Exhibit R has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a-825r) by Idaho Power Co. (correspondence to: James E. Bruce, Vice President, Idaho Power Co., Post Office Box 770, Boise, Idaho 83701) as part of the license for constructed Project No. 1971, known as the Hells Canyon Project, located on the Snake River in Washington and Adams Counties, Idaho, in the vicinity of Weiser and Payette, and in Malheur, Baker, and Wallowa Counties, Oreg., in the vicinity of Baker, Ontario, Huntington, and Richland.

According to the Exhibit R, the following recreational facilities are associated with the project: Brownlee Reservoir: (1) Hewitt Park, on the Powder River arm of the reservoir, administered by Baker County, Oreg., with facilities for boat launching and docking, camping, swimming, picnicking, and trailer parking; four sites administered by Idaho Power Co.; (2) a boat launching site at the mouth of Burnt River; (3) a boat launching site on the old Richland-Halfway highway where it intersects the Powder River arm of the reservoir; (4) a fishing dock 1½ miles above the dam on the Idaho shore; and (5) 68-acre Woodhead Park, 2 miles above the dam on the Idaho shore with facilities for trailer parking, overnight camping, picnicking, boat launching and docking; two sites operated by the State of Oregon; (6) a highway rest area on alternate Oregon Highway 30 about 10 miles south of Huntington with picnicking and boat launching facilities; and (7) Farewell Bend State Park located 3 miles south of Huntington with facilities for tenting, picnicking, boat launching, and swimming; three sites administered by the Bureau of Land Management; (8) Steck Park, located opposite the mouth of Burnt River, with facilities for trailer parking, camping, picnicking, and boat launching; (9) Beggs Park, located on Brownlee Creek 2 miles east of the reservoir with facilities for camping, trailer parking, and picnicking; and (10) a boat launching (and future park) site in Oregon 1 mile below the mouth of Burnt River. Oxbow Reservoir: (1) McCormick Park, located in Idaho 1 mile downstream of Brownlee Dam with facilities for trailer and other camping, picnicking and boat launching; (2) Carters Landing, located in Oregon 4 miles downstream of Brownlee Dam with facilities for camping, boat launching and docking; (3) an area in Oregon 5 miles downstream of Brownlee Dam with facilities for camping, picnicking, and boat launching; (4) a boat launching area in Oregon 9 miles downstream of Brownlee Dam; and (5) a bank fishing area in Oregon between Oxbow Dam and powerhouse—all provided by the company. Hells Canyon Reservoir: (1) Idaho Power Co. Park, a 10-acre site located on the Idaho shore about 7 miles downstream of Oxbow Dam with facilities for trailer and other camping, picnicking and boat launching; (2) a site on the Oregon shore one-half mile downstream of Oxbow powerhouse with facilities for trailer and other camping, picnicking, and boat launching—both sites developed and maintained by the company; (3) a trail rebuilt by the company along the Oregon shore of the reservoir with five picnic sites—now maintained by the Forest Service; and (4) a boat launching area immediately below Hells Canyon Dam maintained by the Forest Service.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 1, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to

the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5856; Filed, May 12, 1970; 8:48 a.m.]

[Project No. 2207]

MOSINEE PAPER MILLS CO.

Notice of Application for Amendment of Plans for Constructed Project

MAY 6, 1970.

Public notice is hereby given that application for amendment of plans has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a–825r) by Mosinee Paper Mills Co., Mosinee, Wis. 54455, as part of the license for constructed project No. 2207, known as the Mosinee project, located on the Wisconsin River in Marathon County, Wis., in the town of Mosinee and near the city of Wausau.

The Mosinee project spans three channels of the Wisconsin River, known as the left, center and right channels. The Commission license for the project describes the project works in the center channel as consisting of a timber dam consisting of a wood planked face, approximately 97 feet long, supported by angled pole braces and abutted on each end by rock filled timber cribs—the total structure length being approximately 148 feet with a height of 25 feet (crest elevation 1145.3 U.S.G.S. datum). According to the application, the structure just described was destroyed and was replaced (completion in 1969) by a concrete covered rock filled crib dam approximately 201 feet long and 12 feet high, containing a spillway section 110 feet long (crest elevation 1139.0 U.S.G.S. datum) and two abutment sections.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5857; Filed, May 12, 1970; 8:48 a.m.]

[Project No. 2570]

OHIO POWER CO.

Notice of Application for License

MAY 5, 1970.

Public notice is hereby given that on July 31, 1969, Ohio Power Company (correspondence to Mr. H. B. Cohn, vice president, Post Office Box 18, Bowling Green Station, New York, N.Y. 10004), filed an application for license for unconstructed project No. 2570, known as the Racine project to be located on the Ohio River at the Federal Racine Dam in the County of Meigs, Ohio, near Racine and Pomeroy; also near Ravenswood, Jackson County, W. Va. A preliminary permit was issued to applicant on December 27, 1966.

The Racine project would utilize a Government dam and would consist of (1) an intake canal about 350 feet long and 110 feet wide; (2) a concrete powerhouse section about 200 feet long and 110 feet wide consisting of two parallel horizontal water passages enclosing two horizontal axis bulb-type Kaplan turbines each rated at 27,400 horsepower at a net head of 19.5 feet connected with two direct coupled generators each rated at 22,200 kv.-a.; (3) a tailrace which will return the discharge to the river 450 feet downstream of the dam; (4) an outdoor-type substation on the embankment near the power station to step up generator voltage to 69 kv.; (5) a 3.5 mile double circuit 69-kv. transmission line; (6) recreational facilities proposed consist of an overlook area with parking facilities immediately upstream from the power plant, comfort stations, picnic area, and a fishing pier to be located downstream from the dam; and (7) appurtenant facilities.

The power will be used to meet the increased needs of the market already being served by the applicant.

The estimated cost of project No. 2570 according to the applicant will be $10,875,000. Construction is estimated to require 24 months from the date of its commencement.

Any person desiring to be heard or to make any protest with reference to said application, should on or before June 22, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5858; Filed, May 12, 1970; 8:48 a.m.]

[Docket No. G-3573 etc.]

SOUTHERN PETROLEUM EXPLORATION, INC., ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

MAY 4, 1970.

Southern Petroleum Exploration, Inc., and other applicants listed herein, Docket No. G-3573 *et al.*; Reading and Bates, Inc., Dockets Nos. CI70-785, CI70-786, CI70-787, and CI70-788.

In the notice of applications for certificate, abandonment of service and petitions to amend certificates, issued March 23, 1970, and published in the FEDERAL REGISTER April 1, 1970, 35 F.R. 5418, column 1, Docket No. CI70-785 and column 1, Dockets Nos. CI70-786, CI70-787, and CI70-788: Change Filing Code from "E" to "F".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5852; Filed, May 12, 1970; 8:48 a.m.]

[Docket No. G-2978 etc.]

SUN OIL CO., ET AL.

Findings and Order After Statutory Hearing; Correction

APRIL 23, 1970.

Sun Oil Co. (DX Division) and other applicants listed herein, Docket No. G-2978 et al.; River Corp. (formerly Natural Gas and Oil Corp.), Docket No. CI66-1065.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, canceling docket number, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, substituting respondent, making successors co-respondents, redesignating proceedings, making rate change effective, discharging surety bond, accepting agreements and undertakings for filing, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing, issued September 17, 1969, and published in the FEDERAL REGISTER September 30, 1969, 34 F.R. 15269, third column: Change purchaser and location to read "United Gas Pipe Line Co." and "Elysian Field, Harrison County, Tex." in lieu of "Tennessee Gas Pipeline Co., a Division of Tenneco Inc." and "Placedo Field, Victoria County, Tex." in Docket No. CI66-1065.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5853; Filed, May 12, 1970; 8:48 a.m.]

[Docket No. RP70-33]

TEXAS GAS TRANSMISSION CORP.

Notice of Proposed Changes in Rates and Charges

MAY 6, 1970.

Take notice that Texas Gas Transmission Corp. (Texas Gas), on May 4, 1970, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, to become effective on June 1, 1970. The proposed rate changes would increase charges for jurisdictional sales by $3,100,776 annually, based on volumes for the 12-month period ended March 31, 1969, as adjusted. The proposed increases would be applicable to all of Texas Gas' sales rate schedules.

Texas Gas states that the reason for the proposed rate increase is occasioned solely by, and will compensate Texas Gas only for an increase in its cost of purchased gas, resulting from the filing of proposed increased rates by its supplier, Texas Eastern Transmission Corp. on April 16, 1970, in Docket No. RP70-29. If Texas Eastern's proposed increased rates are suspended Texas Gas proposes that its rate changes become effective on the same day as Texas Eastern's, in lieu of June 1, 1970.

Copies of the filing were served on Texas Gas' customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 26, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5859; Filed, May 12, 1970; 8:48 a.m.]

[Project No. 486]

UTAH POWER & LIGHT CO.

Notice of Application for Withdrawal of Application for Renewal of License and for Surrender of License for Constructed Project

MAY 5, 1970.

Public notice is hereby given that application for withdrawal of application for renewal of license and for surrender of license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) and the Commission's regulations thereunder by Utah Power & Light Co. (correspondence to: Mr. Lee S. Sherline, 1701 K Street NW., Washington, D.C. 20006) for constructed Project No. 486, known as the Logan Plant, located on Logan River in the vicinity of Logan, in Cache County, Utah, and affecting lands of the United States within the Cache National Forest.

According to the application, the continued operation of the project (which consists principally of a 12-foot high dam, a wooden flume, steel penstocks, and a powerhouse containing two generating units rated at 1,000 kw. each) is not economically justified, and its dismantlement was planned to begin in the spring of 1970 with completion by the end of the year, and all project structures and equipment located on National Forest lands would be removed in accordance with instructions of the U.S. Forest Service. The project energy is used for public utility purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5860; Filed, May 12, 1970; 8:48 a.m.]

[Docket No. G-6887 etc.]

WILLIAM G. WEBB ET AL.

Order Granting Motion for Severance

MAY 6, 1970.

Presiding Examiner Arthur H. Fribourg on April 17, 1970, transmitted to the Commission the motion of Pan American Petroleum Corp. (Pan American) for severance of its Docket No. G-12483 from the matters consolidated for hearing and decision in William G. Webb, et al., Docket No. G-6887 et al.

By order issued February 2, 1970, the Commission had consolidated Pan American's Docket No. G-12483 with 24 other pending producer applications for hearing and decision in the Webb proceeding because Pan American's transfer of properties to El Paso Natural Gas Co. seemed to raise in Pan American's docket questions of law and fact which were common to the issues theretofore consolidated for decision in the Webb proceeding (§ 1.20(b) of the Commission's rules of practice and procedure).

However, the motion for severance filed by Pan American, together with the materials transmitted with the motion by the Presiding Examiner, show that Pan American's Docket No. G-12483 does not, as previously assumed, involve a common question of law or fact with the other consolidated dockets in the Webb proceeding.

The Commission finds: Pan American's motion for severance should be granted since Docket No. G-12483 does not involve questions requiring consideration in the consolidated proceeding in Docket No. G-6887 et al.

The Commisison orders: Pan American's motion for severance filed March 25, 1970, is granted and its Docket No. G-12483 is severed from the consolidated proceeding in William G. Webb et al., Docket No. G-6887 et al.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5861; Filed, May 12, 1970; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

MAY 6, 1970.

The Department of the Air Force has filed an application, serial No. F-12616, for withdrawal of the lands described herein from all forms of appropriation under the public land laws, including the mining laws, mineral leasing laws, grazing laws, and disposal of materials under the act of July 1, 1947, as amended. The Air Force desires the land for use as a protective watershed area in support of the Kotzebue Air Force Station. A new high-quality water supply has been located on this land and there is a need to protect the area from pollution.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulation, 43 CFR 2311.1-3(c), provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

KOTZEBUE, ALASKA

Beginning at corner No. 6 of U.S. Survey No. 2082, the Friends Mission Reserve; thence S. 10°30' W., a distance of 16,800 feet to the northwest corner of Tract No. 1 of Public Land Order No. 883 as corrected by Public Land Order No. 2107; thence on the boundary line of said Public Land Order N. 53°30' E., 3,800 feet to the northeast corner thereof; thence S. 36°30' E., 2,680 feet to the true point of beginning of this tract; thence leaving said boundary line N. 53°30' E., 1,320 feet; thence S. 36°30' E., 2,640 feet; thence S. 53°30' W., 1,320 feet to a point on the boundary line of said public land order, said point being the northeast corner of Public Land Order No. 2619; thence on said boundary line, N. 36°30' W., 2,640 feet to the point of beginning.

Containing approximately 80 acres, located about 3 miles south of Kotzebue.

BURTON W. SILCOCK,
State Director.

[F.R. Doc. 70-5867; Filed, May 12, 1970; 8:49 a.m.]

[C-9504]

COLORADO

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

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple use management the public lands described below. Publication of this notice has the effect of segregating all the described public lands from appropriation under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C. sec. 334), the Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682 (a) and (b)); from sale under the Public Land Sale Act of Sept. 19, 1964 (43 U.S.C. 1421-27); townsites under Revised Statutes 2478, 2380-2389, as amended, 2391-2394, secs. 1, 3, 4, 19 Stat. 392 as amended, sec. 16, 26 Stat. 1101, 26 Stat. 502, 32 Stat. 820; 43 U.S.C. 1201, 711-731; and State indemnity selections under sections 2275 and 2276 of the Revised Statutes, as amended Aug. 27, 1958 and Sept. 14, 1960 (43 U.S.C. 851, 852). Except as provided in paragraph 3, these lands are also segregated from sale under sec. 2455 of the Revised Statutes (43 U.S.C. 1171) and the Act of Sept. 26, 1968 (43 U.S.C. 1431-1435 (Supp. IV, 1968)). Except as provided in paragraphs 1, 2, 3, and 4, the lands described shall remain open to all other forms of appropriation including the mining and mineral leasing laws; and exchanges under section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g). As used herein "public lands" means any lands withdrawn or reserved under 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.

The public lands proposed for classification are shown on maps on file in the Grand Junction District Office, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo., and the Colorado Land Office, Bureau of Land Management, Federal Building, 19th and Stout Streets, Denver, Colo. 80202.

SIXTH PRINCIPAL MERIDIAN, COLO.

T. 9 S., R. 94 W.,
Sec. 2, W½SW¼;
Sec. 3, SE¼SE¼;
Sec. 4, lots 1, 2, 3, and 4, S½N½, NE¼SW¼, S½SW¼, and SE¼;
Sec. 5, lots 1, 2, 3, and 4, S½N½, SW¼, and SE¼SE¼;
Sec. 6, lots 1, 2, 4, 5, and 6, S½NE¼, and SE¼;
Sec. 7, E½;
Sec. 8, N½, E½SW¼, and SE¼;
Sec. 9;
Sec. 10, E½NE¼, SW¼NE¼, S½NW¼, and SW¼;
Sec. 11, W½NW¼;
Sec. 15, NW¼;
Sec. 16, E½NE¼ and N½NW¼;
Sec. 17, NE¼ and N½SE¼;
Sec. 18, NE¼NE¼ and W½NE¼;
Sec. 21, SW¼SW¼;
Sec. 22, E½SE¼;
Sec. 23, S½S½;
Sec. 24, S½SE¼;
Sec. 25, N½NE¼;
Sec. 26, W½W½;
Sec. 27, E½E½, SW¼NE¼, W½W½, and SE¼SW¼;
Sec. 28, NW¼NW¼, S½N½, and S½;
Sec. 29, NE¼, N½SE¼, and SE¼SE¼;
Sec. 30, lot 4, SE¼SW¼, and SW¼SE¼;
Sec. 31, lots 1, 3, and 4, E½, and E½W½;
Sec. 32, W½W½;
Sec. 33, N½N½, S½NE¼, and E½SE¼;
Sec. 34, N½, N½S½, SW¼SW¼, and SE¼SE¼;
Sec. 35, SW¼NE¼, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, and NW¼SE¼;
Sec. 36, E½SW¼.

T. 10 S., R. 94 W.,
Sec. 2, SW¼NE¼;
Sec. 5, lots 1, 2, 3, and 4, S½N½, N½S½, S½SW¼, and SW¼SE¼;
Sec. 6, lots 1, 2, 3, and 6, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 8, W½NE¼ and NE¼NW¼;
Sec. 9, W½SW¼;
Sec. 15, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 16, NW¼NW¼;
Sec. 17, NE¼NE¼;
Sec. 19, lots 3 and 4;
Sec. 20, N½SW¼ and SW¼SW¼.

T. 8 S., R. 95 W.,
Sec. 36, SW¼ (Tract 49).

T. 9 S., R. 95 W.,
Sec. 1, lots 1 and 2, S½NE¼, E½SW¼, and SE¼;
Sec. 11, NW¼NW¼, S½NW¼, and SW¼;
Sec. 12, NE¼, E½W½, SW¼NW¼, W½SW¼, and NE¼SE¼;
Sec. 13, SE¼NE¼NE¼, W½, and W½SE¼;
Sec. 14, SW¼NE¼, NW¼, N½SW¼, and SW¼SW¼;
Secs. 15 and 16;
Sec. 19, lots 5, 6, 7, 8, and 9, tract 40, and N½N½, S½NW¼, and NW¼SW¼;
Sec. 20, lots 1, 2, 3, 4, and 5, N½N½, and SW¼NE¼;
Sec. 21, lots 1, 2, 3, and 4, N½N½;
Sec. 22, lots 1, 2, 3, 4, and 5, W½NE¼, and NW¼;
Sec. 23, NE¼NE¼;
Sec. 24, N½NW¼.

T. 10 S., R. 95 W.,
Sec. 16, SW¼SE¼;
Sec. 26, E½SW¼;
Sec. 31, SE¼SE¼;
Sec. 33, SE¼NE¼ and NE¼SE¼;
Sec. 34, S½N½ and S½;
Sec. 35, W½.

T. 8 S., R. 96 W.,
Sec. 7, lot 7;
Sec. 8, SW¼NE¼, SW¼NW¼, NW¼SE¼, and E½SE¼;
Sec. 17, NW¼, NW¼SW¼, and S½SW¼;
Sec. 18, lots 3 and 4, SE¼NE¼, SE¼NW¼, E½SW¼, SW¼SE¼, and E½SE¼;
Secs. 19 and 20;
Sec. 28;
Sec. 29, W½NE¼ and W½;
Secs. 30 and 31;
Sec. 32, S½SW¼ and SE¼;
Sec. 33.

T. 9 S., R. 96 W.,
Sec. 19, lot 9;
Sec. 27, N½N½, SW¼, and NW¼SE¼;
Sec. 28;
Sec. 29, N½NW¼, S½SW¼, and SE¼;
Sec. 30, lots 3, 4, 9, 10, and 12, and E½;
Sec. 31, lots 3, 4, 7, and 8, NE¼, and N½SE¼;
Sec. 32;
Sec. 33, lots 1 and 2, NW¼, and N½SW¼;
Sec. 34, lots 2 and 3, NE¼SW¼, and NW¼SE¼.

T. 10 S., R. 96 W.,
Sec. 3, lots 2 and 3, S½NW¼, SW¼, and S½SE¼;
Sec. 4, lots 3 and 4, and SW¼NW¼;
Sec. 5, lots 1, 2, 3, and 4, S½N½, N½S½, S½SW¼, and SW¼SE¼;
Sec. 6, lots 1 and 2, S½NE¼, SE¼NW¼, NE¼SE¼;
Sec. 8, SE¼NE¼, and SE¼;
Sec. 9, NE¼, S½NW¼, SW¼, and N½SE¼;
Sec. 10, E½, E½W½, W½NW¼, and NW¼SW¼;
Sec. 11, NW¼SW¼, and S½S½;
Sec. 12, NE¼NE¼, SW¼NE¼, SW¼SW¼, and NW¼SE¼;
Sec. 14, NW¼NE¼, and N½NW¼;
Sec. 15, N½NE¼;
Sec. 16, NW¼NW¼;
Sec. 18, lot 1, NW¼NE¼, and NE¼NW¼;
Sec. 21, S½SE¼;
Sec. 22, SW¼SW¼;
Sec. 23, NE¼SE¼;
Sec. 24, W½SW¼;
Sec. 25, NW¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 27, SW¼NE¼, W½W½, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 28, NE¼ and E½SE¼;
Sec. 29, SE¼SE¼;
Sec. 32, NE¼NE¼, and N½SE¼;
Sec. 33, N½NE¼, SE¼NE¼, W½W½, and NE¼SW¼;
Sec. 34, SE¼NE¼, W½NE¼, and NW¼;
Sec. 35, NW¼.

T. 11 S., R. 96 W.,
Sec. 2, lots 17, 18, 19, 20, 21, and 23 to 36, inclusive;
Sec. 3, lots 17 and 19 to 36, inclusive;
Sec. 4, lots 26, 29, and 30;
Sec. 6, lots 19, 20, and 21;
Sec. 9, W½SW¼, and SE¼SW¼.

T. 7 S., R. 97 W.,
Sec. 17, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, west 33.21 chains of tract 111, east 3.70 chains of tract 103, and S½SE¼;
Sec. 19, lots 5 to 14, inclusive, W½NE¼, and E½NW¼;
Sec. 20, lots 1, 2, and 3, E½, E½W½, and SW¼SW¼;
Sec. 29;
Sec. 30, lots 5, 6, 7, 8, 9, and 10, and E½SE¼;
Sec. 31, lots 5, 6, 7, 8, 9, and 10, NE¼, and N½SE¼;
Sec. 32, lots 1, 2, and 3, tract 58, and NW¼SW¼;
Sec. 33, lots 1, 2, 4, 5, and 6, NE¼, SE¼NW¼, and N½SE¼.

T. 8 S., R. 97 W.,
Sec. 3, lots 1, 2, 3, and 4, S½N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 4, lots 1, 2, and 3, S½NE¼, SE¼NW¼, N½SE¼, and SW¼SW¼;
Sec. 5, lots 2, 3, and 4, SW¼NE¼, S½NW¼, and S½;
Sec. 6, lots 1, 2, and 7, S½NE¼, N½SE¼, and SE¼SE¼;
Sec. 7, lots 1 and 2, and SE¼NW¼;
Sec. 8;
Sec. 9, W½NW¼ and S½;
Sec. 10, E½, E½W½, and W½SW¼;
Sec. 13, SW¼SE¼;
Secs. 15 and 16;
Sec. 17, N½NW¼, SE¼NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 18, lots 1, 2, 3, and 4, E½W½, and SW¼SE¼;
Sec. 19, lots 1, 2, 3, and 4, SE¼NE¼, W½E½, E½W½, and E½SE¼;
Sec. 20, NE¼NW¼, S½NW¼, and SW¼;
Sec. 21, NE¼ and E½NW¼;
Sec. 22, N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 23, W½W½;
Sec. 24, E½NW¼, NE¼SW¼, and SE¼;
Sec. 25, N½NE¼;
Sec. 26, E½E½ and SW¼SE¼;
Sec. 27, NW¼NE¼ and NE¼NW¼;
Sec. 29, NW¼;
Sec. 30, lots 1, 2, 3, and 4, NE¼, and E½W½;
Sec. 31;
Sec. 32, N½NW¼ and SW¼SW¼;
Sec. 35, E½, SE¼NW¼, and SW¼;
Sec. 36, NW¼NW¼, S½N½, and S½.

T. 9 S., R. 97 W.,
Secs. 1 and 2;
Sec. 3, lot 1 and SE¼NE¼;
Sec. 5, SW¼SW¼;
Sec. 6;
Sec. 7, lots 1, 2, and 3, N½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼, NW¼SE¼, and SE¼SE¼;
Sec. 8, NW¼NW¼;
Secs. 11 and 12;
Sec. 13, N½, N½SW¼, SE¼SW¼, and SE¼ except patent 573701;
Sec. 14, N½, N½S½, S½SW¼, and SW¼SE¼;
Sec. 15, S½NE¼, NW¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 16, S½NW¼ and SW¼;
Sec. 17, S½NE¼, E½SW¼, and SE¼;
Sec. 18, lots 2, 3, and 4, SE¼NW¼, and E½SW¼;
Sec. 19, lots 1, 2, and 3;
Sec. 20, E½NE¼, NW¼NE¼, W½, and SW¼SE¼;
Sec. 21, E½NE¼ and NW¼;
Sec. 22, W½ and SW¼SE¼;
Sec. 23, NW¼NE¼, S½NE¼, NW¼, N½S½, SE¼SW¼, and S½SE¼;
Sec. 24, NW¼NE¼ except patent 573701, E½NW¼, SW¼NW¼, N½SW¼, and SW¼SW¼;
Sec. 25, NW¼NW¼, S½NW¼, and S½;
Sec. 26, E½E½, S½NW¼, SW¼, and W½SE¼;
Sec. 27, NW¼NE¼, S½NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, and SE¼;
Sec. 28, S½NE¼, NW¼, and S½;
Sec. 29;
Sec. 30, lot 2;
Sec. 31, SE¼NE¼;
Sec. 32, NE¼, N½NW¼, SW¼SW¼, and NE¼SE¼;
Sec. 33, NW¼NE¼, NE¼NW¼, and W½W½;
Sec. 34, N½NE¼;
Sec. 35, NW¼NE¼, NW¼, and SE¼SE¼;
Sec. 36, N½NW¼, SE¼NW¼, SW¼SW¼, and E½SE¼.

T. 10 S., R. 97 W.,
Sec. 1, lots 1, 2, 3, and 4, S½NW¼, and S½;
Sec. 2, lots 1 and 2, S½N½, and S½;
Sec. 4, lots 3 and 4;
Sec. 5, lots 3 and 4, and S½;
Sec. 6, lots 3, 4, 5, and 6, SE¼NW¼, and NE¼SW¼;
Sec. 7, S½NE¼ and SE¼;
Sec. 8, N½ and SW¼;
Sec. 9, N½NE¼, SW¼NE¼, and SE¼NW¼;
Sec. 10, NE¼, E½NW¼, and NW¼NW¼;
Sec. 11, N½, SW¼SW¼, and N½SE¼;
Sec. 12, W½NE¼, SE¼NE¼, NW¼, NE¼SW¼, and N½SE¼;
Sec. 13, N½NE¼, NE¼NW¼, SE¼SW¼, and S½SE¼;
Sec. 14, NE¼NW¼;
Sec. 15, SE¼NE¼, NW¼, and NW¼SW¼;
Sec. 16, E½, E½W½, SW¼NW¼, and W½SW¼;
Sec. 17, NW¼NE¼, N½NW¼, and SW¼NW¼;
Sec. 18, NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼ except patent 1137986;
Sec. 19, lots 1, 2, 3, and 4, W½NE¼, SE¼NE¼, E½W½, and SE¼;
Sec. 20, E½, E½W½, SW¼NW¼, and W½SW¼;
Sec. 21;
Sec. 22, NW¼NW¼, S½NW¼, and SW¼;
Sec. 23, SE¼NE¼, SE¼NW¼, E½SW¼, and E½SE¼;
Sec. 24, W½NE¼, E½NW¼, SW¼NW¼, and NW¼SW¼;
Sec. 26, N½NW¼, SW¼NW¼, S½SW¼, and SE¼;
Sec. 27, E½ and S½SW¼;
Sec. 28, W½NW¼ and NW¼SW¼;
Secs. 29, 30, 31, and 32;
Sec. 33, S½S½;
Secs. 34 and 35;
Sec. 36, W½W½ and E½SW¼.

T. 11 S., R. 97 W.,
Sec. 1, lots 17 to 25, inclusive, 28, 29, and 32;
Sec. 2, lots 17 to 32, inclusive;
Sec. 3, lots 1 to 16, inclusive, 19 and 20;
Sec. 4, lots 1 to 13, inclusive;
Sec. 5, lots 1 to 16, inclusive;
Sec. 6;
Sec. 7, lots 1, 2, 3, and 4, NE¼, E½W½, N½SE¼, and SW¼SE¼;
Sec. 9, SW¼NW¼ and NW¼SW¼;
Sec. 18, lots 1, 2, 3, and 4, W½E½, E½W½, and SE¼SE¼;
Sec. 19, lots 1 and 2, N½NE¼, and E½NW¼.

T. 7 S., R. 98 W.,
Sec. 4, lot 4, S½NW¼, N½SW¼, and SW¼SW¼;
Sec. 9, NE¼, W½NW¼, SE¼NW¼, W½SW¼, NE¼SW¼, and NW¼SE¼;
Sec. 10, E½NE¼;
Sec. 11, NE¼NE¼, W½E½, E½W½, W½NW¼, NW¼SW¼, and SE¼SE¼;
Sec. 14, E½NE¼ and NE¼SE¼;
Sec. 15, SW¼NE¼, NW¼NW¼, S½NW¼, SW¼, and W½SE¼;
Sec. 16, E½NE¼, SW¼NE¼, SE¼NW¼, and S½;
Sec. 17, NW¼NW¼, S½SW¼, and SE¼;
Sec. 18, lots 1 and 2, NE¼, and E½NW¼;
Sec. 23, W½NW¼, SE¼NW¼, and S½;
Sec. 24, N½NE¼ and SE¼NE¼;
Sec. 25, W½SW¼;
Sec. 26;
Sec. 36, W½W½, SE¼NW¼, E½SW¼, and SW¼SE¼.

T. 8 S., R. 98 W.,
Secs. 1, 2, 3, 4, and 5;
Sec. 6, lots 1, 2, 3, 5, 6, and 7, SE¼NE¼, SE¼SW¼, and NE¼SE¼;
Sec. 7, lots 1, 2, 3, and 4, E½W½, S½NE¼, and SE¼;
Sec. 8, E½NE¼, SW¼NE¼, SE¼NW¼, and S½;
Sec. 9, NE¼NE¼, W½, and SE¼;
Sec. 10, N½N½, SE¼NE¼, NW¼SW¼, and S½S½;
Sec. 11, N½ and S½S½;
Sec. 12, N½, NW¼SW¼, and S½SW¼;
Secs. 13 to 17, inclusive;
Sec. 18, lot 4, E½, and E½W½;
Secs. 19 to 36, inclusive.

T. 9 S., R. 98 W.,
Secs. 1 to 18, inclusive;
Sec. 19, lots 1 and 2, E½, and E½NW¼;
Secs. 20 to 24, inclusive;
Sec. 25, N½, SW¼, and NW¼SE¼;
Secs. 26, 27, and 28;
Sec. 29, N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 30, lots 2, 3, and 4, S½NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 31;
Sec. 32, N½NE¼, SW¼NW¼, and S½;
Secs. 33, 34, and 35;
Sec. 36, W½, W½E½, SE¼NE¼, and E½SE¼.

T. 10 S., R. 98 W.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, N½S½, and SE¼SE¼;
Sec. 2, lots 1, 2, 3, and 4, S½N½, N½S½, and SW¼SE¼;
Sec. 3, lots 1, 2, 3, and 4, S½N½, N½S½, and S½SW¼;
Secs. 4 to 9, inclusive;
Sec. 10, W½ and S½SE¼;
Sec. 11, E½ and S½SW¼;
Sec. 12, N½N½, SW¼NE¼, S½NW¼, N½S½, SW¼SW¼, and S½SE¼;
Sec. 13, NE¼ and N½SE¼;
Secs. 14 to 21, inclusive;
Sec. 22, W½NE¼, W½, and SW¼SE¼;
Sec. 23, NE¼NW¼, E½SE¼, and SW¼SE¼;
Sec. 24, S½N½ and S½;
Sec. 25;
Sec. 26, E½;
Sec. 27, E½NW¼;
Sec. 28, W½NW¼;
Secs. 29, 30, 31, and 32;
Sec. 33, NW¼ and N½SW¼;
Sec. 35, lots 1, 2, 3, and 4, NE¼, S½NW¼, and E½SW¼;
Sec. 36.

T. 11 S., R. 98 W.,
Sec. 1, lots 4 through 20, inclusive, and SW¼;
Sec. 2, lot 10, SE¼SW¼, NW¼SE¼, and S½SE¼;
Sec. 4, lots 1 through 6, inclusive, and 9 through 12, inclusive;
Sec. 5, lots 1 through 11, inclusive, 13, 14, 15, and 16;
Sec. 6, lots 1 through 8, inclusive, 10, 11, 12, 14, 15, and 16, NE¼SW¼, and NW¼SE¼;
Sec. 11, lots 4, 5, 6, 7, 8, and 9, NE¼NW¼, E½NE¼, NE¼SE¼;
Sec. 12;
Sec. 13, all lying north of Rapid Creek Divide;
Sec. 14, all lying north of Rapid Creek Divide;
Sec. 24, those portions lying north of Rapid Creek Divide.

T. 7 S., R. 99 W.,
Sec. 13, lots 1 and 2, W½NE¼, E½NW¼, NW¼NW¼, and S½SW¼;
Sec. 14, SW¼NE¼, W½, and SE¼;
Secs. 15, 22, 23, and 24;
Sec. 25, lot 1, N½, N½S½, SE¼SW¼, and S½SE¼;

Sec. 26, lots 1, 2, 3, 4, 5, 6, and 7, E½NE¼, NW¼NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 27, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and SE¼SW¼;
Sec. 28, lots 4, 5, and 6, S½SW¼, SW¼SE¼, and NE¼SE¼;
Sec. 29, lot 1, N½N½, and S½SE¼;
Sec. 30, lots 5, 6, 7, 8, 9, and 12, and N½NE¼;
Sec. 31, lots 5, 6, 7, 8, 9, 10, 11, 12, and 13, E½NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 32, lots 1, 2, 3, and 4, NE¼, SE¼NW¼, W½NW¼, and N½S½;
Sec. 33, lots 1, 2, and 3, W½NE¼, NW¼, N½SW¼, and NW¼SE¼;
Sec. 34, lots 1, 2, 3, and 6, and E½NW¼;
Sec. 35, lots 1, 3, and 4;
Sec. 36, lots 1, 2, 3, 4, 5, and 6, and N½NE¼.

T. 8 S., R. 99 W.,
Sec. 1, lots 5, 6, 7, 8, 9, and 10, SW¼NW¼, and SW¼;
Sec. 2, lots 5 through 12, inclusive, S½NE¼, S½SW¼, and SE¼;
Secs. 7 and 8;
Sec. 9, lots 1 and 2, N½, N½S½, SW¼SW¼, and SE¼SE¼;
Secs. 10, 11, and 12;
Sec. 13, lots 1, 2, 3, 4, 5, 6, and 7, and S½SW¼;
Sec. 14, lots 1, 2, 3, 4, 5, 6, 7, and 8, N½NW¼;
Sec. 15, lots 1, 2, 3, 4, 5, and 6, N½NE¼, SW¼NE¼, NW¼, N½SW¼, and NW¼SE¼;
Sec. 16, lots 1 through 10, inclusive, E½NE¼, W½NW¼, and NW¼SW¼;
Sec. 17, lots 1 through 8, inclusive, NE¼, N½NW¼, and NE¼SE¼;
Sec. 18, lots 5 through 18, inclusive, 20 through 24, E½SW¼, and S½SE¼;
Sec. 19;
Sec. 20, lots 1, 2, 3, 4, 5, and 6, W½W½, E½SW¼, W½SE¼;
Sec. 21, lots 1 through 7, inclusive, and NE¼SE¼;
Sec. 22, lots 1 through 8, inclusive, N½S½;
Sec. 23, lots 1 through 5, inclusive, NE¼, S½NW¼, N½S½, and SE¼SE¼;
Secs. 24 and 25;
Sec. 26, lots 1 through 6, inclusive, NE¼NE¼, S½NE¼, S½SW¼, and SE¼;
Sec. 27, lots 1, 2, 3, and 4, and S½;
Sec. 28, lots 1 through 5, inclusive, SE¼NW¼, and S½;
Sec. 29, lots 1 and 2, W½, W½E½, and E½SE¼;
Secs. 30, 31, 32, 33, 34, 35, and 36.

T. 9 S., R. 99 W.,
Secs. 1 to 23, inclusive;
Sec. 24, N½NE¼, SW¼NE¼, W½, and NW¼SE¼;
Sec. 25, W½, and SE¼;
Secs. 26, 27, 28, 29, and 30;
Sec. 31, lot 4, E½, and SE¼NW¼;
Secs. 32, 33, 34, 35, and 36.

T. 10 S., R. 99 W.,
Secs. 1 to 5, inclusive;
Sec. 6, lots 1 to 5, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, N½NE¼ and SE¼NE¼;
Sec. 8, N½ and E½SE¼;
Secs. 9 through 14;
Sec. 15, lots 1 through 6, inclusive;
Sec. 16, lots 1 and 2;
Sec. 17, lot 1;
Sec. 22, lots 1 through 4, inclusive;
Secs. 23, 24, 25, and 26;
Sec. 27, lots 1 through 4, inclusive;
Sec. 34, lots 1 through 4, inclusive;
Secs. 35 and 36.

T. 11 S., R. 99 W.,
Sec. 1, lots 6 to 11, inclusive, and unsurveyed portion of fractional Sec. 1, and Sec. 2, unsurveyed fractional portion.

T. 7 S., R. 100 W.,
Sec. 7, lots 5, 6, 7, and 8;
Sec. 8, lots 1 through 6, E½NE¼ and NE¼SW¼;
Sec. 17, NE¼NE¼, NW¼NW¼, S½N½, and S½;
Sec. 18, lots 5, 6, 7, and 8, NE¼NE¼, W½E½, E½W½, and E½SE¼;
Sec. 19;
Sec. 22, lots 1, 2, 3, 4, 6, lots A, D, and east 13 chains of lot C of tract 37, W½ of lot C, lots D, E, F, and E½ of lot J, lots K, L, M, and W½ of lot N of tract 48, and SE¼SE¼;
Sec. 25, lots 1 through 8, S½SW¼;
Sec. 26, lots 1 through 5, NW¼NE¼, NW¼, N½SW¼, and SE¼SE¼;
Sec. 27;
Sec. 28, lots 1, 2, 3, S½NW¼ and S½;
Sec. 29, lots 1 through 5, N½NW¼, SE¼SW¼, and SE¼;
Sec. 30, lots 5 through 10, NE¼, E½W½, and SW¼SE¼;
Sec. 35, lots 1 through 4, NE¼, SE¼NW¼, and N½S½;
Sec. 36.

T. 8 S., R. 100 W.,
Sec. 4, lots 1 through 4, S½NE¼, SE¼NW¼, NE¼SW¼, S½S½, and N½SE¼;
Sec. 7, lot 1, E½NE¼, NW¼NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 8;
Sec. 9, N½N½ and S½S½;
Sec. 10, NE¼, N½NW¼, S½SW¼, and SW¼SE¼;
Sec. 11, N½, SE¼SW¼, and S½SE¼;
Sec. 12, lots 1, 2, 3, NW¼ and N½SW¼;
Sec. 14, SE¼NE¼, W½E½, W½, and NE¼SE¼;
Sec. 15, E½, N¼, N½SW¼, and SE¼SW¼;
Sec. 16, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 22, N½NE¼ and SE¼NE¼;
Sec. 23, S½N½ and S½;
Sec. 24, lots 2, 3, 4, and W½;
Secs. 25 and 26;
Sec. 27, E½NE¼ and SE¼;
Sec. 32, lot 4;
Sec. 33, lots 1, 2, 3, and 4;
Sec. 34, lots 1, 2, 3, and 4, NE¼, NE¼SW¼, and N½SE¼;
Secs. 35 and 36.

T. 9 S., R. 100 W.,
Sec. 1;
Sec. 2, lots 1 through 4, S½N½, N½S½, and S½SE¼;
Sec. 3, lots 3, 4, S½N½, NW¼SW¼, and NE¼SE¼;
Sec. 4, lots 1, 2, 3, 4, S½N½, E½SW¼, and SE¼;
Sec. 9, E½, E½W½;
Sec. 10, S½NE¼, SW¼NW¼, NW¼SW¼, and SE¼;
Secs. 11, 12, and 13;
Sec. 14, N½, SW¼, and SW¼SE¼;
Sec. 15;
Sec. 16, NE¼, E½NW¼, and E½SE¼;
Sec. 21, NE¼NE¼;
Sec. 22, N½N½;
Sec. 23, SE¼NE¼, W½E½, NW¼, E½SW¼, and E½SE¼;
Secs. 24 and 25;
Sec. 26, N½NE¼, SE¼NE¼, and SE¼SE¼;
Sec. 35, E½NE¼;
Sec. 36, W½NE¼, NW¼, and E½SE¼.

T. 10 S., R. 100 W.,
Sec. 1, NE¼NE¼.

T. 7 S., R. 101 W.,
Sec. 25;
Sec. 26, E½E½;
Sec. 36, lots 2, 3, 4, N½, NE¼SW¼, and N½SE¼.

T. 8 S., R. 101 W.,
Sec. 1, lot 1.

UTE PRINCIPAL MERIDIAN, COLO.

T. 1 N., R. 1 E.,
Secs. 1 and 2;
Sec. 3, lot 1, S½NE¼, and SE¼;
Sec. 10, N½NE¼, SE¼NE¼, and NE¼SE¼;
Sec. 11, 12, and 13;
Sec. 14, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 24, NE¼ and NE¼NW¼.

The public lands described above aggregate approximately 236,724 acres.

2. As provided in paragraph 1, all public lands within the following townships are further segregated from disposal under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869; 869–1 to 869–4).

SIXTH PRINCIPAL MERIDIAN, COLO.

T. 7 S., R's. 97 W. thru 101 W.
T. 8 S., R. 97 W.,
Secs. 3 thru 10.
T. 8 S., R. 98 W.,
Secs. 1 thru 12.

The public lands described aggregate approximately 33,193 acres.

3. As provided in paragraph 1, the public lands in the following townships shall remain open to disposition under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the Act of September 26, 1968 (43 U.S.C. 1431–1435 (Supp. IV, 1968)).

SIXTH PRINCIPAL MERIDIAN, COLO.

T. 7 S., R's. 97 thru 101 W.
T. 8 S., R. 97 W.,
Secs. 3 thru 10.
T. 8 S., R. 98 W.,
Secs. 1 thru 12.

The public lands described aggregate approximately 33,193 acres.

4. As provided in paragraph 1, the following public lands are further segregated from location and entry under the general mining laws (30 U.S.C. ch. 2) and the Materials Act of July 31, 1947, as amended.

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 8 S., R. 96 W.,
Sec. 7, lots 1 and 7;
Sec. 8, SW¼NW¼;
Sec. 18, lot 3, SE¼NW¼ and NE¼SW¼.
T. 8 S., R. 97 W.,
Sec. 13, SW¼SE¼;
Sec. 23, SW¼SW¼;
Sec. 24, E½NW¼ and NE¼SE¼.
T. 8 S., R. 100 W.,
Sec. 34, lot 4 and NE¼SE¼.
T. 9 S., R. 100 W.,
Sec. 3, lots 1 and 2.

The public lands described above aggregate approximately 531 acres.

For a period of sixty (60) days from the day of publication in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Grand Junction District Manager, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo. 81501.

A public hearing on this proposed classification will be held at 7:30 p.m. on June 4, 1970, in Room 206A, Courthouse Annex, Grand Junction, Colo.

J. ELLIOTT HALL,
Acting State Director.

MAY 7, 1970.

[F.R. Doc. 70-5827; Filed, May 12, 1970; 8:46 a.m.]

[C-9504]

COLORADO

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

1. Pursuant to the Act of September 19, 1964 (43 (U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands described below. Publication of this notice has the effect of segregating all the described public lands from appropriation under the agricultural land laws (43 U.S.C., Parts 7 and 9, 25 U.S.C. sec. 334), the Small Tract Act of June 1, 1938 as amended (43 U.S.C. 682 (a) and (b); from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171); townsites under Revised Statutes 2478, 2380–2389, as amended, 2391–2394, sections 1, 3, 4, 19 Stat. 392 as amended, section 16, 26 Stat. 1101, 26 Stat. 502, 32 Stat. 820; 43 U.S.C. 1201, 711–731; and state indemnity selections under sections 2275 and 2276 of the Revised Statutes, as amended August 27, 1958, and September 14, 1960 (43 U.S.C. 851, 852). Except as provided in paragraph 2, the lands area also segregated from sale under the Public Land Sale Act of September 19, 1964 (43 U.S.C. 1421–27). In addition, they are segregated from disposal under the Recreation and Public Purposes Act of June 14, 1926 as amended (43 U.S.C. 869; 869–1 to 869.4 except as described in paragraph 3. Except as provided in paragraphs 1, 2, 3, and 4, the lands described shall remain open to all other forms of appropriation including the mining and mineral leasing laws; and exchanges under section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g). As used herein "public lands" means any lands withdrawn or reserved under 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.

The public lands proposed for classification are shown on maps on file in the Grand Junction District Office, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo., the Craig District, White River Resource Area Headquarters, Meeker, Colo., and the Colorado Land Office, Bureau of Land Management, Federal Building, Nineteenth and Stouts Streets, Denver, Colo. 80202.

T. 11 S., R. 98 W.,
Sec. 6, lots 13, 17, and 18.

T. 10 S., R. 99 W.,
Sec. 6, lots 6 and 7;
Sec. 7, lots 1, 2, 3, and 4, SW¼NE¼, NE¼NW¼, E½SW¼, and N½SE¼;
Sec. 18, lot 2.
T. 11 S., R. 99 W.,
Sec. 1, lots 5, 12 through 16, and S½;
Sec. 2, lots 2 through 7 and NE¼SE¼.
T. 8 S., R. 100 W.,
Sec. 7, lots 2, 3, and 4, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼, and SE¼SE¼;
Sec. 15, SW¼SW¼;
Sec. 16, W½NW¼, SE¼NW¼, SW¼, W½SE¼, SE¼SE¼;
Secs. 17 through 21;
Sec. 22, SW¼NE¼, W½, and SE¼;
Sec. 27, W½NE¼ and W½;
Secs. 28 through 31;
Sec. 32, lots 1, 2, and 3, N½, and N½S½;
Sec. 33, N½ and N½S½;
Sec. 34, NW¼, NW¼SW¼.
T. 9 S., R. 100 W.,
Sec. 4, W½SW¼;
Sec. 5, lots 1 through 4, S½N½, NW¼SW¼, and S½S½;
Sec. 6;
Sec. 7, lots 1, 3 through 10, NE¼SW¼, and SE¼SE¼;
Sec. 8;
Sec. 9, W½W½;
Sec. 16, W½NW¼, SW¼, and W½SE¼;
Sec. 17;
Sec. 18, lots 2, 3, and 4, E½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 19;
Sec. 20, W½NE¼, W½, and NW¼SE¼;
Sec. 21, SE¼NE¼, W½NE¼, NW¼, E½SW¼, SW¼SW¼, and SE¼;
Sec. 22, S½N½ and S½;
Sec. 23, W½SW¼;
Sec. 26, SW¼NE¼, E½W½, W½NW¼, SW¼SW¼, N½SE¼, and SW¼SE¼;
Secs. 27 and 28;
Sec. 29, W½NW¼ and SW¼;
Secs. 30 through 34;
Sec. 35, NW¼NE¼, W½, S½SE¼, and NE¼SE¼;
Sec. 36, W½SW¼ and W½SE¼.
T. 10 S., R. 100 W.,
Sec. 1, NW¼NE¼, W½, S½SE¼, and NW¼SE¼;
Secs. 2 through 18.
T. 5 S., R. 101 W.,
Sec. 3, lots 5 and 6;
Sec. 5, lots 6 and 7;
Sec. 7, lots 7, 8, and 9, S½NE¼, SE¼NW¼, NE¼SW¼, and SE¼;
Sec. 8;
Sec. 9, W½NE¼ and W½;
Sec. 10, NE¼, E½NW¼, SW¼, and N½SE¼;
Sec. 15, SE¼NE¼, NE¼NW¼, W½W½, SE¼SW¼, and SE¼;
Secs. 16 and 17;
Sec. 18, lots 5, 8, 9, and 12, E½, SE¼NW¼, and E½SW¼;
Sec. 19, E½ and E½W½;
Secs. 20, 21, 22, 27, 28, and 29;
Sec. 30, lots 5 through 15, NE¼, and NE¼NW¼;
Sec. 31, lots 5 through 14;
Secs. 32, 33, and 34.
T. 6 S., R. 101 W.,
Secs. 17 through 21, 28 through 35.
T. 7 S., R. 101 W.,
Sec. 2, lots 5, 6, 7, and 8, SE¼NE¼, SW¼NW¼, NW¼SW¼, S½S½, and NE¼SE¼;
Sec. 3;
Sec. 4, lots 5 and 6, S½NE¼, and SE¼;
Sec. 5, lots 7 and 8, S½NW¼, and SW¼;
Secs. 6, 7, 8, and 9;
Sec. 10, lots 1 through 7, N½N½, SW¼NW¼, and W½SW¼;
Sec. 11;
Sec. 14, lots 1 through 5, E½, N½NW¼, and SE¼SW¼;
Sec. 15, lots 1 through 11, and NW¼NW¼, and SW¼SE¼;
Sec. 16, lots 1 through 9, N½N½, SW¼NE¼, and S½NW¼;
Secs. 17, 18, 19, and 20;
Sec. 21, lots 1 and 2, E½, S½NW¼, and SW¼;
Sec. 22, lot 1, NW¼NE¼, S½NE¼, NW¼, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 23, lot 1, NE¼, E½NW¼, SW¼NW¼, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 26, W½E½, E½W½, W½NW¼, and NW¼SW¼;
Sec. 27, NW¼NE¼ and W½;
Secs. 28 and 29;
Sec. 30, lots 5 through 10, and E½NE¼;
Secs. 31 through 35;
Sec. 36, lot 1 and NW¼SW¼.
T. 8 S., R. 101 W.,
Sec. 1, lots 2, 3, and 4, S½N½, and S½;
Secs. 2 through 26;
Sec. 27, E½, E½W½, and W½NW¼;
Sec. 28, N½, N½S½, and S½SW¼;
Sec. 29, E½E½, NW¼NE¼, NE¼NW¼, SW¼NW¼, SW¼, and SW¼SE¼;
Sec. 30, lots 1, 2, 3, and 4, SW¼NE¼, E½W½, and SE¼;
Secs. 31 through 36.
T. 9 S., R. 101 W.,
Secs. 1 through 11;
Sec. 12, N½ and N½S½;
Sec. 13, S½N½ and S½;
Secs. 14 through 18;
Secs. 22 through 27;
Secs. 34 through 36.
T. 10 S., R. 101 W.,
Secs. 1, 2, and 3;
Sec. 10, lots 1 and 2;
Sec. 11, E½, E½W½, and W½NW¼;
Secs. 12 and 13;
Sec. 14, lots 1, 2, and 3.
T. 5 S., R. 102 W.,
Sec. 1, lots 5, 6, and 7;
Sec. 2, lots 5, 6, 7, and 8;
Sec. 3, lot 5;
Sec. 4, lots 5, 6, 7, and 8;
Sec. 5, lots 5, 6, 7, and 8;
Sec. 6, lots 8 through 11;
Sec. 7, lots 5, 6, and 7, NW¼NE¼, and NE¼NW¼;
Sec. 8, lot 1 and S½SE¼;
Sec. 9, SW¼SW¼;
Sec. 10, W½NW¼, NW¼SW¼, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 11, E½, NE¼SW¼, and S½SW¼;
Sec. 12, NW¼NE¼ and W½;
Sec. 13, NE¼NE¼ and NW¼;
Sec. 14, NW¼NE¼, E½NW¼, SE¼SW¼, and W½SE¼;
Sec. 15, W½;
Sec. 16, N½NE¼ and SE¼;
Sec. 17, NW¼NW¼, SE¼SW¼, and S½SE¼;
Sec. 18, lots 9, 10, 11, 12, E½NE¼, E½SW¼, and SE¼;
Secs. 19 and 20;
Sec. 21, lots 1, 2, W½, and N½SE¼;
Sec. 22, NW¼SW¼ and S½S½;
Sec. 23, SE¼NW¼;
Sec. 25, SW¼NW¼, NW¼SW¼, E½SW¼, and E½SE¼;
Sec. 26, NW¼NW¼, S½NW¼, N½SE¼, and SW¼SE¼;
Sec. 27, lots 1 through 8, N½N½, SE¼NE¼, S½SE¼, and NE¼SE¼;
Sec. 28, lots 1 through 11, NW¼, and NW¼SW¼;
Sec. 29, lots 1 through 8, N½N½, SE¼NE¼, SW¼NW¼, and NE¼SE¼;
Sec. 30, lots 5 through 12, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 31, lots 5 through 19, and SE¼NW¼;
Sec. 32, lots 1 through 10, S½NE¼, NE¼SW¼, and N½SE¼;
Sec. 33, lots 1 through 6, NE¼NE¼, S½N½, and N½S½;
Sec. 34, lots 1 and 2, N½, NW¼SW¼, and N½SE¼;

Sec. 35, lots 1, 2, and 3, W½NW¼, and NW¼SW¼;
Sec. 36, lots 1, 2, 4, E½NE¼, NW¼, N½SW¼, and NE¼SE¼.
T. 6 S., R. 102 W.,
Secs. 1 and 2;
Sec. 3, lots 5 through 16;
Sec. 4, lots 5 through 13;
Sec. 5, lots 5 through 16;
Secs. 6, 7, and 8;
Sec. 9, SE¼NE¼, W½NE¼, W½, and SE¼;
Sec. 10, E½, E½NW¼, and SW¼SW¼;
Secs. 11, 12, and 13;
Sec. 14, E½, E½W½, and NW¼NW¼;
Sec. 15, NE¼NE¼, W½E½, W½, and SE¼SE¼;
Secs. 16 through 22;
Sec. 23, E½, E½W½, SW¼SW¼;
Secs. 24 through 27;
Sec. 28, E½, N½NW¼, and S½SW¼;
Sec. 29, SW¼NE¼, SE¼NW¼, W½NW¼, and S½;
Secs. 30 through 33;
Sec. 34, N½, SW¼, and W½SE¼;
Sec. 35, N½N½, SW¼NW¼, S½SW¼, and SE¼;
Sec. 36, E½, E½W½, NW¼NW¼, and W½SW¼.
T. 7 S., R. 102 W.,
Secs. 1, 2, 3, 4, and 5;
Sec. 6, lots 8 through 14, SE¼NE¼, SE¼SW¼, SW¼SE¼, and E½SE¼;
Secs. 7 and 8;
Sec. 9, lots 1 through 14, 16 through 19, 21 and 22, N½NW¼, SW¼NW¼, NW¼SW¼, and E½SE¼;
Secs. 10 through 15;
Sec. 16, lots 1, 2, 5, 6, 8 through 15, 17, 18, 19, 21, 22, and 23, E½NE¼, SW¼SE¼, and NE¼SE¼;
Secs. 17, 18, 19, 20, and 21;
Sec. 22, lots 1 through 11, 13, 15, 17, 19, 22, 24, and 26, E½NE¼ and SW¼NE¼;
Sec. 23 lots 1, 4, E½, E½W½, and W½NW¼;
Secs. 24 through 28;
Sec. 29, lots 11 through 16, 21, 23, 25, 28, and 30, N½NW¼, SW¼NW¼, and SE¼SE¼;
Sec. 30;
Sec. 31, lots 5 through 9, 11, 13 through 18, 21, 25, 28, and 31, NE¼NW¼, SE¼SE¼;
Sec. 32, lots 1, 4, and 6, E½, SE¼NW¼, and SW¼;
Secs. 33, 34, and 35;
Sec. 36, lot 1, W½E½ and W½.
T. 8 S., R. 102 W.,
Secs. 1 through 5;
Sec. 6, lots 8, 10 through 18, 22 through 26, 28, 31, 32, 34 through 51;
Secs. 7 through 11;
Sec. 12, N½, SE¼SW¼, S½SE¼, and NE¼SE¼;
Sec. 13, lots 1 and 2, E½, E½NW¼, SW¼NW¼, N½SW¼, and SE¼SW¼;
Sec. 14, lots 1 through 4, SE¼NE¼, W½, and NE¼SE¼;
Secs. 15 through 20;
Sec. 21, lots 1, 2, 3, 5, 7, 9, 10, 14, 15, 16, 17, 18, 22, 23, 24, 27, 28, 30, and E½SE¼.
Sec. 22, lots 1, 3, 5, 8, 9, 11, 13, 22, N½N½, and S½NW¼;
Sec. 23, lots 3, 4, 6, 14, 15, 17, NE¼NW¼, W½NW¼, and NW¼SW¼;
Secs. 24 and 25;
Sec. 26, lots 1, 15, 16, 17, 19, 29, and NW¼SW¼;
Sec. 27, lot 5;
Sec. 28, lots 1 through 4, 6 through 9, 12, 13, 16, 17, NE¼NE¼, W½E½, and E½SW¼;
Sec. 29, lots 1 through 14, 17 through 25, 27, 29, and 30;
Sec. 30;
Sec. 31, lots 5 through 35;
Sec. 32, lots 1 through 4, 7 through 17, 20, 21, 24, 25, 27, 28, 29, and 31;
Sec. 33, lots 1 through 4, 6, 7, 9, 13, W½NE¼, E½NW¼, SW¼NW¼, N½SW¼, and NW¼SE¼;
Sec. 34, lots 1, 2, 3, 4, 5, 13, 14, 16, 19, and 21 and NE¼NE¼;
Sec. 35, lots 1, 4, 12, 13, 15, and NE¼SE¼;
Sec. 36.
T. 9 S., R. 102 W.,
Sec. 1, lots 1 through 4, S½NE¼, SE¼NW¼, and S½;
Sec. 2, lot 4, SW¼NW¼, N½SW¼, SW¼SW¼, and E½SE¼;
Sec. 3, lot 1, SE¼NE¼, E½SE¼, and SW¼SE¼;
Sec. 4, lots 1 through 4, S½N½, and SW¼;
Sec. 5, lots 1, 2, S½NE¼, and S½;
Sec. 6, lots 2 through 7, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Secs. 7 and 8;
Sec. 9, W½W½, SE¼SW¼, and S½SE¼;
Sec. 10, N½NE¼, SE¼NW¼, and S½;
Sec. 11, E½NE¼, and SW¼SW¼;
Sec. 12, E½, E½W½, and W½NW¼;
Sec. 13;
Sec. 14, lot 1;
Sec. 15, lot 2;
Secs. 16, 17, and 18.
T. 5 S., R. 103 W.,
Sec. 1;
Sec. 2, lots 1 through 4, S½N½, N½S½, and SW¼SW¼;
Secs. 3 and 4;
Sec. 5, lots 1, 2, 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 6, lots 2 through 7, S½NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 7, lots 1 through 4, W½E½, and E½W½;
Sec. 8, NE¼, SW¼NW¼, W½SW¼, SE¼SW¼, and E½SE¼;
Sec. 9, W½NE¼, W½ and SE¼;
Sec. 10, N½N½, S½SW¼, and E½SE¼;
Sec. 11, SE¼NW¼ and SW¼;
Sec. 12, lots 1 through 6;
Sec. 13, E½SW¼ and SE¼;
Sec. 14, W½ and SE¼;
Sec. 15, SW¼NE¼, W½, and SE¼;
Sec. 16;
Sec. 17, NE¼NE¼, W½W½, SE¼SW¼, and SW¼SE¼;
Sec. 18, lots 1, 2, and 3, NE¼, E½W½, W½SE¼, NE¼SE¼;
Sec. 19, lot 4, W½NE¼, E½W½, and S½SE¼;
Sec. 20, SE¼NE¼, W½NE¼, W½SW¼, SE¼SW¼, and E½SE¼;
Sec. 21, NE¼, E½NW¼, SE¼SW¼, and NE¼SE¼;
Sec. 22, N½, E½SW¼, and SE¼;
Sec. 23, N½, N½S½, and SE¼SE¼;
Sec. 24, E½, E½W½, SW¼NW¼, and W½SW¼;
Sec. 25, W½, W½SE¼, and SE¼SE¼;
Sec. 26, E½NE¼, SW¼NE¼, N½S½, SE¼SW¼, and S½SE¼;
Sec. 27, E½, E½NW¼, and SE¼SW¼;
Sec. 28, W½NE¼, W½SW¼, SE¼SW¼, and SE¼;
Sec. 29, SW¼NE¼, W½, and SE¼;
Sec. 30, lots 1, 2, and 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 31, S½SE¼;
Sec. 32, N½NE¼, SE¼NE¼, and S½S½;
Sec. 33;
Sec. 34, NE¼NE¼, W½E½, W½, and E½SE¼;
Sec. 35, NE¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 36, W½E½ and W½.
T. 6 S., R. 103 W.,
Sec. 1, lots 1, 2, and 3, S½NE¼, SE¼NW¼, and S½;
Sec. 2, lot 4, SW¼NE¼, S½NW¼, and SW¼;
Secs. 3 and 4;
Sec. 5, lots 1, 2, 3, and 4, S½NE¼, SE¼NW¼, and S½;
Sec. 6, lots 1, 2, 6, and 7, SW¼NE¼, and SE¼SW¼;
Sec. 7, lots 1 and 4, E½, and E½W½;
Secs. 8 and 9;
Sec. 10, N½N½, SW¼NE¼, S½NW¼, W½SW¼, and SE¼SE¼;
Sec. 11, NE¼NE¼, S½NE¼, W½NW¼, and S½;
Secs. 12, 13, and 14;
Sec. 15, NE¼ and N½SE¼;
Secs. 16, 17, and 18;
Sec. 19, lots 1, 3, and 4, E½, and E½W½;
Secs. 20 through 36.
T. 7 S., R. 103 W.,
Secs. 1 and 2;
Sec. 3, lots 1, 2, 3, and 4, S½NE¼, SE¼SW¼, and SE¼;
Sec. 4, lots 1, 2, 3, and 4, S½N½, W½SW¼, NE¼SW¼, and NW¼SE¼;
Secs. 5, 6, 7, and 8;
Sec. 9, W½NW¼ and S½;
Sec. 10, E½, E½W½, SW¼NW¼, and W½SW¼;
Secs. 11 through 36.
T. 8 S., R. 103 W.,
Secs. 1 through 12;
Sec. 13, lots 1, 3, 4, 5 through 17, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 35;
Secs. 14 through 18;
Sec. 19, lots 5, 9, 10, 11, 13, and 14;
Secs. 20 through 23;
Sec. 24, lots 1, 2, 3, 4, 5, 6, 7, 8, 10, 12, 14, 16, 17, 18, 19, 20, 23, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, and 38;
Secs. 25 through 29;
Sec. 30, lots 8, 9, 12, 13, 14, and 15;
Sec. 31, lots 9 and 16;
Secs. 32 through 36.
T. 9 S., R. 103 W.,
Sec. 1;
Sec. 2, lots 1, 4, 5, and 9, SE¼NE¼, E½SE¼, and E½SW¼SE¼;
Sec. 3, lots 1, 2, 3, and 4, SE¼NE¼, N½SW¼NE¼, N½SE¼NE¼, SW¼NW¼, and NW¼SW¼;
Sec. 4, lots 1, 2, 3, and 4, S½N½, N½S½, S½SW¼, SW¼SE¼, and W½SE¼SE¼;
Sec. 5;
Sec. 6, lots 1, 2, 5, 6, and 7, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, E½NE¼, NW¼NE¼, and N½NE¼NW¼;
Sec. 8, N½N½, SW¼NE¼, S½NW¼, NE¼NW¼SW¼, and NW¼NE¼SW¼;
Sec. 9, N½NW¼;
Sec. 11, E½NE¼ and NW¼NE¼;
Sec. 12, N½;
Sec. 19, lots 4 and 6, SE¼SW¼, and SW¼SE¼;
Sec. 29, SW¼NW¼, SW¼, SW¼SE¼, SW¼SE¼SE¼;
Secs. 30 and 31;
Sec. 32, NW¼NE¼NE¼, S½NE¼NE¼, SE¼NE¼, W½E½W½, and E½SE¼;
Sec. 33, W½SW¼NW¼, W½SW¼, and W½SE¼SW¼.
T. 10 S., R. 103 W.,
Sec. 3, lots 3, 5, and 6, SW¼NW¼, and SW¼;
Sec. 4.
T. 5 S., R. 104 W.,
Sec. 1, lots 1, 2, 3, and 4, S½NE¼, N½SE¼, S½S½;
Sec. 2, 3, 10, and 11;
Sec. 12, E½E½, NW¼NE¼, NE¼NW¼, W½W½;
Sec. 13, W½;
Secs. 14, 15, 22, and 23;
Sec. 24, N½NW¼, S½N½, and S½;
Sec. 25, N½, N½S½, and S½SW¼;
Sec. 26, E½E½, NW¼NE¼, SW¼NW¼, SE¼SW¼, and W½SE¼;
Sec. 27, lot 2;
Secs. 34 and 35;
Sec. 36, N½NW¼, SW¼NW¼, and NW¼SW¼.

T. 6 S., R. 104 W.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 2, S½S½;
Sec. 3, lots 3 and 4, S½NW¼, SW¼;
Sec. 4, lots 1, 2, 3, and 4, S½N½, N½S½, and S½SW¼;
Sec. 5, lots 1, 2, 3, and 4, S½N½, N½S½, and S½SE¼;
Sec. 6, lots 7 through 11, and 13 through 20;
Sec. 7, lots 1, 2, 3, and 4, NE¼, E½W½, and NW¼SE¼;
Sec. 8, NE¼NE¼, NW¼NW¼, S½N½, and S½;
Sec. 9, S½NE¼, W½, and N½SE¼;
Sec. 10, E½, and E½W½;
Sec. 11;
Sec. 12, SW¼NE¼, and S½NW¼, and S½;
Secs. 13, 14, and 15;
Sec. 16, E½E½, NW¼, N½SW¼, and W½SE¼;
Sec. 17;
Sec. 18, lots 1, 2, and 3, E½NE¼, NE¼NW¼;
Sec. 19, lots 2, 3, and 4, E½, and E½W½;
Sec. 20, N½N½, SW¼NW¼, and S½;
Sec. 21, N½NE¼, SE¼NE¼, and S½;
Sec. 22;
Sec. 23, SW¼NE¼, W½, W½SE¼, and SE¼SE¼;
Sec. 24, W½NE¼, NW¼, E½SW¼, and SE¼SE¼;
Sec. 25, E½E½, SW¼NE¼, SE¼SW¼, and W½SE¼;
Secs. 26 through 34;
Sec. 35, E½E½, and W½NW¼;
Sec. 36.

T. 7 S., R. 104 W.,
Sec. 1;
Sec. 2, lots 1, 2, and 3, S½NE¼, SE¼NW¼, E½SW¼, SW¼SW¼, and SE¼;
Sec. 3, lots 1, 2, 3, and 4, S½N½, N½S½, S½SW¼, and SW¼SE¼;
Secs. 4, 5, 6, 7, 8, and 9;
Sec. 10, NW¼NE¼, S½NE¼, W½, and N½SE¼;
Sec. 11, NE¼, E½NW¼, and E½SE¼;
Sec. 12;
Sec. 13, N½ and NW¼SW¼;
Sec. 14, E½NE¼, W½SW¼, SE¼SW¼, and NE¼SE¼;
Sec. 15, SW¼NE¼, W½, and SE¼;
Secs. 16 through 22;
Sec. 23, W½ and S½SE¼;
Sec. 24, E½, E½W½, SW¼NW¼, and W½SW¼;
Secs. 25 through 30;
Sec. 31, NE¼NE¼;
Sec. 32;
Sec. 33, N½;
Secs. 34, 35, and 36.

T. 8 S., R. 104 W.,
Secs. 1, 2, and 3;
Sec. 5, lots 1, 2, 3, 4, S½N½, SW¼, and NW¼SE¼;
Sec. 6, lots 1 through 7, S½NE¼, SE¼NW¼, E½SW¼, NW¼SE¼, and E½SE¼;
Sec. 7, lots 1, 2, 3, and 4, E½NE¼, E½W½, and SE¼;
Sec. 8, NW¼NE¼, S½NE¼, W½, and SE¼;
Sec. 9, S½N½, S½;
Secs. 10 through 18;
Sec. 19, lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Secs. 20, 21, 22, and 23;
Sec. 24, N½NW¼ and SW¼SW¼;
Sec. 26, N½NE¼, SW¼NE¼, and W½;
Secs. 27, 28, and 29;
Sec. 30, lots 3, 4, SE¼SW¼, and S½SE¼;
Secs. 31, 32, 33, and 34;
Sec. 35, NW¼ and W½SW¼.

T. 9 S., R. 104 W.,
Secs. 1 through 11;
Sec. 13, W½SW¼NW¼ and NE¼SW¼;
Sec. 14, N½, SW¼, NW¼SE¼ and S½SE¼;
Secs. 15 through 20;
Sec. 21, N½, NW¼SW¼, SW¼SE¼, and E½SE¼;
Secs. 22, 23, 24, 25, 26 and 27;
Sec. 28, E½E½, SW¼NE¼, SW¼SW¼, NW¼SE¼;
Sec. 29, and 30;
Sec. 31, lots 5, 7, 10, 11, 13, 14, 15, 16, 17 and 18, NE¼ and E½NW¼;
Sec. 32;
Sec. 33, lots 1, 2, 3, 4, SW¼NE¼, and N½S½;
Sec. 34, lots 1, 3, 4, NW¼SW¼, and N½;
Secs. 35 and 36.

T. 10 S., R. 104 W.,
Secs. 2 and 3;
Sec. 4, lots 5, 6, 7, and 8, S½N½, NE¼SW¼, S½SW¼, and SE¼;
Sec. 5;
Sec. 6, lots 8, 9, 10, 11, 12, and 13, S½NE¼, SE¼NW¼, E½NE¼SW¼, E½W½NE¼SW¼, SE¼SW¼, and SE¼;
Secs. 7 through 11;
Secs. 15 through 19;
Sec. 20, W½E½ and W½;
Sec. 31, lot 8.

T. 6 S., R. 105 W.,
Secs. 1, 12, and 13;
Sec. 24, lots 1 through 7, 9, and 10;
Sec. 25, lots 1 and 3 through 12;
Sec. 36.

T. 7 S., R. 105 W.,
Secs. 1, 12, 13, 24, 25, and 36.

T. 8 S., R. 105 W.,
Secs. 1, 12, 13, 24, 25, and 36.

UTE PRINCIPAL MERIDIAN, COLO.

T. 1 N., R. 1 E.,
Sec. 3, lot 4, S½NW¼ and SW¼;
Secs. 4 through 9;
Sec. 10, SW¼NE¼, W½, NW¼SE¼, and S½SE¼;
Sec. 14, SW¼NW¼, NW¼SW¼, and S½S½;
Secs. 15 through 23;
Sec. 24, NW¼NW¼, S½NW¼, and S½;
Sec. 25, N½NE¼, SE¼NE¼, SW¼NW¼, and NW¼SW¼;
Sec. 26, N½;
Sec. 27, N½, N½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 28, N½, N½S½, S½SW¼, and SW¼SE¼;
Sec. 29, N½, N½SE¼, and SE¼SE¼;
Sec. 30, lot 1, NE¼ and NE¼NW¼;
Sec. 32, E½NE¼ and NE¼SE¼;
Sec. 33, W½NE¼, N½NW¼, and SE¼;
Sec. 34, N½NE¼, and NE¼NW¼.

T. 1 N., R. 1 W.,
Secs. 1, 2, 3, and 4;
Sec. 5, lots 1, 2, 3, and 4, SE¼NE¼, and E½SE¼;
Sec. 6, lot 1;
Sec. 9, E½E½, NW¼NE¼, N½SW¼NE¼, and N½NW¼;
Secs. 10, 11, and 12;
Sec. 13, E½, NW¼, N½SW¼, and SW¼SW¼;
Sec. 14, E½, NW¼, and N½SW¼;
Sec. 15, E½ and N½NW¼;
Sec. 23, NE¼ and N½NW¼;
Sec. 24, NE¼, N½SE¼, and SE¼SE¼.

T. 1 N., R. 3 W.,
Sec. 4, W½SW¼;
Sec. 5, lots 2, 3, and 4, SW¼NE¼, S½NW¼, and S½;
Sec. 6;
Sec. 9, N½NW¼;
Sec. 10, lot 4.

T. 2 N., R. 2 W.,
Secs. 1, 2, 3, 4, and 5;
Sec. 6, lots 1, 6, and 7, SE¼NE¼, E½SW¼, and SE¼;
Sec. 7, lots 1 and 2, NE¼, E½NW¼, NE¼SW¼, N½SE¼, N½S½SE¼;
Sec. 8, N½, N½S½, and N½S½SW¼;
Secs. 9, 10, 11, 12, 13, and 14;
Sec. 15, N½, N½S½, E½SW¼SE¼, and SE¼SE¼;
Sec. 16, NE¼, E½NE¼NW¼, SE¼NW¼, and NE¼SE¼;
Sec. 22, E½E½, E½W½NE¼, E½NW¼SE¼, and NE¼SW¼SE¼;
Secs. 23 and 24;
Sec. 25, N½, N½S½, and S½SE¼;
Sec. 26, NE¼, E½NW¼, and NW¼NW¼;
Sec. 36, NE¼ and E½NW¼.

T. 2 N., R. 3 W.,
Secs. 1, 2, and 3;
Sec. 4, NE¼NE¼ 40.97 acres, NW¼NE¼ 41.11 acres, NE¼NW¼ 41.25 acres, E½NW¼NW¼ 20.69 acres, S½NE¼, E½SW¼NW¼, SE¼NW¼, NE¼NW¼SW¼, NE¼SW¼, N½SE¼, and N½SE¼SE¼;
Sec. 29, NE¼SE¼NE¼;
Sec. 30, NW¼SW¼ 39.42 acres, SW¼SW¼ 39.44 acres, E½SW¼, and S½SE¼;
Sec. 31;
Sec. 32, W½.

The public lands described above aggregate approximately 407,052 acres.

2. As provided in paragraph 1, the following lands shall remain open to disposition under the Public Land Sale Act of September 19, 1964 (43 U.S.C. 1421–27).

6TH PRINCIPAL MERIDIAN, COLO.

T. 9 S., R. 104 W.,
Sec. 24, NE¼NE¼.

The public lands described above aggregate 40 acres.

3. As provided in paragraph 1, the following lands shall remain open to disposition under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869; 869–1 to 869–4).

SIXTH PRINCIPAL MERIDIAN, COLO.

T. 10 S., R. 100 W.,
Secs. 2, 3, 10, 11, and 12;
Sec. 13, lots 1 to 4, inclusive;
Sec. 14, lots 1 to 4, inclusive;
Sec. 15, lots 1 to 4, inclusive.

T. 10 S., R. 104 W.,
Sec. 18, lot 5.

UTE PRINCIPAL MERIDIAN, COLO.

T. 1 N., R. 1 E.
Sec. 4, lots 1 to 4, inclusive, S½N½, S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1 to 4, inclusive, E½ and E½W½;
Secs. 8 and 9;
Sec. 15, NW¼ and S½;
Secs. 16 and 17;
Sec. 18, lots 1 to 4, inclusive, E½ and E½W½;
Sec. 19, lots 1 to 4, inclusive, E½ and E½W½;
Secs. 20, 21 and 22;
Sec. 23, S½;
Sec. 25, E½NE¼, NW¼NE¼, SW¼NW¼, and NW¼SW¼;
Sec. 26, N½;
Sec. 27, N½, N½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 28, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 29, N½, N½SE¼, and SE¼SE¼;
Sec. 30, lot 1, NE¼ and NE¼NW¼;
Sec. 32, E½NE¼ and NE¼SE¼;
Sec. 33, W½NE¼, N½NW¼, and SE¼;
Sec. 34, N½NE¼ and NE¼NW¼.

T. 1 N., R. 1 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½ and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½ and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½ and S½;
Secs. 10, 11, and 12;

Sec. 13, N½, N½SW¼, SW¼SW¼, and SE¼;
Sec. 14, N½, N½SW¼, and SE¼;
Sec. 15, NE¼, N½NW¼, and SE¼;
Sec. 23, NE¼ and N½NW¼;
Sec. 24, NE¼, N½SE¼, and SE¼SW¼.

The public lands described above aggregate approximately 21,377.33 acres.

4. As provided in paragraph 1, the following lands are further segregated from location and entry under the general mining laws (30 U.S.C., Ch. 2), and the Materials Act of July 31, 1947, as amended.

6TH PRINCIPAL MERIDIAN, COLO.

T. 5 S., R. 102 W.,
Sec. 34, NE¼NE¼.
T. 10 S., R. 104 W.,
Sec. 18, lot 5.

The public lands described above aggregate approximately 84 acres.

For a period of sixty (60) days from the day of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Grand Junction District Manager, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo. 81501.

A public hearing on this proposed classification will be held at 7:30 p.m. on June 4, 1970, in Room 206A, Courthouse Annex, Grand Junction, Colo.

J. ELLIOTT HALL,
Acting State Director.

MAY 7, 1970.

[F.R. Doc. 70-5828; Filed, May 12, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (35 F.R. 2895, 4976, and 5594) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as follows:

The reference to Triolo Brothers, Establishment 706, and the reference to swine with respect to such establishment are deleted.

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
P & H Packing Co., Inc.	2211A		(*)					
Link Packing Co.	2472	(*)				(*)		
Hewlett Wholesale Meat	5524	(*)						
Bergman Meat Packing Co., Inc.	6788	(*)	(*)		(*)	(*)		
Cesmun Abattoir	7062	(*)		(*)	(*)	(*)		
Heard's Sausage Co.	7088					(*)		
Diamond Meat Co., Inc.	4765					(*)		
New establishments reported: 7								
Estes Packing Co.	319		(*)					
Rudnick Packing Co., Inc.	325		(*)					
Callaway Packing Co., Inc.	688				(*)			
Alice Packing Co.	921		(*)					
Associated Meat Packers, Inc.	1472		(*)					
Diris Packing Co.	2271		(*)					
Lamesa Meat Co.	2272				(*)			
Joe's Packing Co.	7022				(*)		(*)	
H. A. S. Sweetmeat, Inc.	7025		(*)					
Species added: 10								

Done at Washington, D.C., on May 7, 1970.

G. H. WISE,
Deputy Administrator, Consumer Protection.

[F.R. Doc. 70-5837; Filed, May 12, 1970; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

JOHNS HOPKINS UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00297-33-46040. Applicant: Johns Hopkins University, School of Medicine, 725 North Wolfe Street, Baltimore, Md. 21205. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan.

Intended use of article: The article will be used for biological and medical applications. Projects under study include synapse mapping in nervous tissue, corneal and retinal pathology, corneal stromal, and collagen subunit structure, synaptic vesicle, and synaptic membrane fine structure and Golgi (silver) impregnated cell structure.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a guaranteed resolving power of 3 angstroms. The most closely comparable domestic instrument available at the time the application was received was the Model EMU-4B electron microscope which was formerly being manufactured by the Radio Corp. of America (RCA), and which is currently being produced by Forgflo Corp. (Forgflo). The Model EMU-4B electron microscope has a guaranteed resolving power of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving power.) We are advised by the Department of Health, Education, and Welfare (HEW), in its memorandum dated April 2, 1970, that the better resolving power of the foreign article is pertinent to the applicant's research studies on the Golgi complex and the collagen sub-unit structure of the cornea. We, therefore, find that the Model EMU-4B electron microscope is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

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

[F.R. Doc. 70-5810; Filed, May 12, 1970; 8:45 a.m.]

NATIONAL INSTITUTES OF HEALTH 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. 70-00626-33-11000. Applicant: National Institutes of Health, National Institute of Mental Health, Building 10, Room 2D-46, 9000 Rockville Pike, Bethesda, Md. 20014. Article: Gas chromatograph-mass spectrometer, Model IKB 9000. Manufacturer: IKB Produkter AB, Sweden. Intended use of article: The article will be used for studies of the identification and quantitative analysis of minute quantities of very wide range of metabolites, to examine their subtle differences and thus further the understanding of the biochemical factors involved in mental illness. Research concerns inborn errors of metabolism, such as phenylketonuria; cerebrospinal fluid; and how drugs differ in efficiency in different patients because they may be distributed or metabolized differently or affect metabolic systems to different extends. Application received by Commissioner of Customs: April 20, 1970.

Docket No. 70-00628-33-46500. Applicant: Kuakini Hospital, 347 North Kuakini Street, Honolulu, Hawaii 96817. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article will be used for a study of the Hawaiian feral mongoose stomach. An electron microscopic study of topographical relationship of mast cells, fibroblasts, and collagen fibers of different consistency and composition and cellular interaction between the fibroblasts and mucosal mast cells require ultrathin sections of various thickness. Application received by Commissioner of Customs: April 20, 1970.

Docket No. 70-00629-33-46040. Applicant: Baptist Memorial Hospital, 899 Madison Avenue, Memphis, Tenn. 38103. Article: Electron microscope, Model EM 9A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for studies of animal tissues as they are altered by various forms of experimental hypertension. In particular, blood vessels will be studied in several locations and renal changes studied under a variety of conditions. Another project concerns the effects of hypertension on the medullary interstitial cells of the kidney. The Pathology Department of the hospital will use the article for the training of the staff, physicians in residency and ancillary personnel in the principles of electron microscopy. Application received by Commissioner of Customs: April 21, 1970.

Docket No. 70-00630-01-77030. Applicant: Lehigh University, Bethlehem, Pa. 18015. Article: MMR spectrometer, Model R-20A. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in the training of students and for graduate and faculty research. The experiments involve extremes in temperature such as the determination of the ^1H nmr spectra of a number of polyvinyl chloride polymers prepared by a graduate student studying the effect of new synthetic procedures on the tacticity of the polymers. Another series of experiments concern studies on the fluxional behavior of organometallic cyclopentadienes. Application received by Commissioner of Customs: April 21, 1970.

Docket No. 70-00631-33-46070. Applicant: University of California, Santa Barbara, Santa Barbara, California 93106. Article: Scanning electron microscope, Model JSM-2, and accessories. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used for instruction and thesis research for students and as a research instrument for geology faculty. The areas of studies include the ultrastructure of pre-Paleozoic nannofossils to attempt to differentiate them morphologically from similar living and more recent fossil microbiota; morphological relationships of these fossil organisms with presently living genera and families; a search for fossil remains of still smaller unknown life forms (viruses, rikettsias) that may have inhabited the primitive earth; study of lunar and Martian rock and debris samples as they become available; and for special applications in mineralogical, microbiological, and microstructure studies. Application received by Commissioner of Customs: April 21, 1970.

Docket No. 70-00632-00-20900. Applicant: Universities Research Association, Inc., National Acceleratory Laboratory, 2100 Pennsylvania Avenue NW., Washington, D.C. 20037. Article: Deuterium thyratrons. Manufacturer: English Electric Ltd., U.K. Intended use of article: The article is to be used with the 8 GeV extraction which requires a 100 gauss pulsed magnet with 20 nanoseconds rise and fall times. Application received by Commissioner of Customs: April 21, 1970.

Docket No. 70-00633-75-77040. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439. Article: Mass spectrometer, Model CH 7. Manufacturer: Varian MAT, West Germany. Intended use of article: The primary application of the article is for identification of failed nuclear reactor fuel assemblies. This is accomplished by tagging each fuel assembly with xenon gas comprised of a mixture of stable xenon isotopes in a unique combination whose isotopic ratios are accurately known at the time of fuel fabrication. Other studies include determination of trace amounts of oxygen in sodium and analysis of gas samples. Application received by Commissioner of Customs: April 21, 1970.

Docket No. 70-00634-33-43400. Applicant: University of Hawaii, Dept. of Physiology, 2538 The Mall, Snyder Hall 407, Honolulu, Hawaii 96822. Article: Micromanipulators (6), Model MM-3, and stands. Manufacturer: Narishige Scientific Instrument Lab., Japan. Intended use of article: The articles will be used in original scientific research on specific problems in the area of neural integration in crustacea. The experiments involve recording sensory input to the nervous system, activity in "command interneurons", and motor output. Application received by Commissioner of Customs: April 22, 1970.

Docket No. 70-00635-01-77040. Applicant: The University of Michigan, School of Public Health, 109 Observatory Street, Ann Arbor, Mich. 48104. Article: Mass spectrometer, Model MS 30. Manufacturer: Associated Electrical Industries, Ltd., U.K. Intended use of article: The article will be used for both teaching and research. Teaching involves two courses, Fundamentals of Instrumental Methods of Chemical Analysis, and Instrumental Methods of Chemical Analysis. Research projects concern establishing the identity and the toxicity of the combustion products of plastics and the analysis of the exhaled breath of industrial workers for toxic gases. Application received by Commissioner of Customs: April 22, 1970.

Docket No. 70-00636-33-46040. Applicant: University Hospital, 750 Harrison Avenue, Boston, Mass. 02118. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for research studies of human and animal tissues. In the human liver studies emphasis will be placed in the membranes with hepatic cells at varying intervals after the known time of the initial onset of shock. Another project concerns the ultrastructure of human coronary artery, cerebral artery, and aorta for comparison with naturally occurring and experimentally-induced lesions in the New World monkey. Application received by Commissioner of Customs: April 22, 1970.

Docket No. 70-00637-33-46040. Applicant: Mercy Hospital, Cancer Research Laboratory, 1400 Locust Street, Pittsburgh, Pa. 15219. Article: Electron microscope, Model JEM 100-B. Manufacturer: Japan Electron Optics Lab., Co., Ltd., Japan. Intended use of article: The article will be used for research projects concerning chick lens differentiation, human leukemic cell culture supernatants, and for human tumor biopsy specimens. Members of the Radiotherapy department and Pathology department will be trained in the use of the electron

microscope and in the methodology of ultrastructural research. Application received by Commissioner of Customs: April 23, 1970.

Docket No. 70-00638-33-46040. Applicant: The Presbyterian Hospital at Columbia-Presbyterian Medical Center, 622 West 168th Street, New York, N.Y. 10032. Article: Electron microscope, Model EM 9S. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in the teaching program and for research in the structure, function, and diseases of the eye. Present projects concern the pathology of human opaque corneas; the structure of ocular tumors; the anatomy of the aqueous humor outflow pathways; the nerve connections in the retina-basic neurology of visual processes; and the changes induced by laser treatment of retinal detachment and effect on retinal vascular diseases. Application received by Commissioner of Customs: April 23, 1970.

Docket No. 70-00639-33-46500. Applicant: University of California, San Diego, Post Office Box 199, La Jolla, Calif. 92037. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for research concerning the elucidation of mechanism of demyelination and remyelination in human and experimental disease. Biopsy specimens from brains of patients with various demyelinating disorders are sent to the applicant from many medical centers in the United States. The tissue taken from these patients is of irreplaceable research and diagnostic value. The outcome of the studies will determine the treatment of these patients. Application received by Commissioner of Customs: April 24, 1970.

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

[F.R. Doc. 70-5811; Filed, May 12, 1970; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00322-98-71200. Applicant: University of California, Santa Barbara, Santa Barbara, Calif. 93106. Article: Helium dilution refrigerator, Model Mark III "Harwell". Manufacturer: Oxford Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will be used for graduate instruction and thesis research involving the properties of matter at extremely low temperatures. Current projects include nuclear magnetic resonance and Mossbauer spectroscopy studies in fine particles and magnetic materials.

Comments: No comments have been received with respect to this application.

Decision: Application approved.

No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for maintaining temperatures of 0.030° to 0.050° Kelvin, in the presence of a thermal input.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 3, 1970, that this characteristic is pertinent to the purposes for which the foreign article is intended to be used. NBS further advises that it knows of no comparable apparatus being manufactured in the United States, which provides this pertinent characteristic.

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

[F.R. Doc. 70-5812; Filed, May 12, 1970; 8:45 a.m.]

UNIVERSITY OF KANSAS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00394-01-77040. Applicant: The University of Kansas, Department of Medicinal Chemistry, Lawrence, Kans. 66044. Article: Mass spectrometer, Model CH-5. Manufacturer: Varian/MAT G.m.b.H., West Germany.

Intended use of article: The article will be used as a teaching and research instrument in graduate programs involving problems in organic medicinal, physical, inorganic chemistry, and biochemistry. Intended applications include structure studies of complex organic natural products including peptides, alkaloids, terpenoids, and antibiotics; as well as the identification of components of complex natural mixtures of plant sterols, essential oils, and complex mixtures.

Comments: Comments in regard to this application were received from CEC/Analytical Division of Bell and Howell (CEC) which alleges inter alia that "The applicant, The University of Kansas, has failed to establish a valid foundation for its belief that no instrument or apparatus of equivalent scientific value to the instrument or apparatus sought to be imported free of duty is being manufactured in the United States." (CEC comments dated Feb. 20, 1970.)

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a direct vaporization or oven inlet probe which has a temperature range of minus (−) 140° C. to plus (+) 500° C. with the capability of heating a sample from room temperature to +300° C. in 3 seconds. The CEC Model 21-110C mass spectrometer provides a direct vaporization or oven inlet probe which has a temperature range of −140° C. to +350° C. with the capability of heating a sample from room temperature to 80° C. in 60 seconds. We are advised by the National Bureau of Standards in a memorandum dated March 31, 1970, that for the purposes for which the foreign article is intended to be used, the greater rate of temperature rise provided by the inlet of the foreign article is pertinent to the purposes for which the article is intended to be used. NBS further advises that it knows of no domestic instrument or apparatus than can be used for all of the applicant's intended purposes.

For this reason we find that the CEC Model 21-110C mass spectrometer is not of equivalent scientific value to the foreign article for the purposes for which the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

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

[F.R. Doc. 70-5813; Filed, May 12, 1970; 8:45 a.m.]

UNIVERSITY OF ILLINOIS 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. 70-00640-33-46500. Applicant: University of Illinois at Chicago Circle, Purchasing Division—Business Office, Post Office Box 4348, Chicago, Ill. 60680. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for research on the ultrastructure of the secretory cycle in cells from insect glands and on the ultrastructure of induced cell change due to virus infection. Graduate students will be trained to use the article for their own research studies and to work on aspects of the research listed above. Application received by Commissioner of Customs: April 24, 1970.

Docket No. 70-00641-33-46500. Applicant: University of Puerto Rico, Biology Department, Rio Piedras, Puerto Rico 00931. Article: Ultramicrotome, Model LKB 4800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for studies concerning the fine structure of cilia and flagella from protozoa and various marine invertebrates, and to establish a correlation between fine structure and movement. The material will also be studied in the electron microscope to correlate the physiology of the isolated cilia with the molecular pictures obtained through high resolution micrographs. Application received by Commissioner of Customs: April 24, 1970.

Docket No. 70-00642-33-46040. Applicant: The Connecticut Agricultural Experiment Station, 123 Huntington Street, New Haven, Conn. 06511. Article: Electron microscope, Model EM 9S. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for studies of plant and insect organ, and pathogens; morphogenesis of plants and insects and their microbial pathogens; to learn how plants and insects grow; to develop effective and safe methods of controlling noxious insects and plant pathogens; and for examination of plant and animal tissues prepared for conventional microscopy techniques. Application received by Commissioner of Customs: April 24, 1970.

Docket No. 70-00643-33-46500. Applicant: Vanderbilt University, 21st Avenue South and Garland Avenue, Nashville, Tenn. 37203. Article: Ultramicrotome, Model LKB 8800A, and accessories. Manufacturer: LKB Produckter AB, Sweden. Intended use of article: The article will be used for studies on cell differentiation following estrogen stimulation of the chick oviduct; ultrastructural changes accomanying trophic hormone stimulation of ovary, as correlated with steroid production; and ultrastructural study of mechanisms of leukocyte invasion of in vitro fertilized rabbit ova. Students of various backgrounds will be taught specimen preparation for electron microscopy and interpretation of electron micrographs related to specific applications in research on reproductive physiology. Application received by Commissioner of Customs: April 24, 1970.

Docket No. 70-00644-33-46500. Applicant: Roger Williams General Hospital, 825 Chalkstone Avenue, Providence, R.I. 02908. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for electron microscopic investigation of several different tissues. Research concerns the ultrastructure of hyperplastic rat esophageal epithelium in zinc deficiency, of inflammatory cells using the tissue window technique of spindle cell sarcomas, and of kidney and liver needle biopsies. The density and ease of sectioning vary considerably in these tissues. Application received by Commissioner of Customs: April 24, 1970.

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

[F.R. Doc. 70-5814; Filed, May 12, 1970; 8:45 a.m.]

UNIVERSITY OF TEXAS MEDICAL SCHOOL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00332-79-60095. Applicant: The University of Texas Medical School at San Antonio, 7703 Floyd Curl Drive, San Antonio, Tex. 78229. Article: Sensing units for measurement of germicidal ultraviolet light. Manufacturer: Laboratoire Pasteur de l'Institut du Radium, France.

Intended use of article: The article will be used for experiments in the effect of ultraviolet light (2,537 A) on various micro-organisms to be conducted concurrently in six multidiscipline laboratories occupied by a total of 104 medical students.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a light transducer capable of measuring light intensity at 2,537 angstroms without interference from ordinary room illumination. The article will maintain its calibration with an uncertainty of less than plus or minus 5 percent after 1 year of storage under ordinary laboratory conditions. In addition, the modular nature of the article permits easy attachment to a variety of amplifiers, meters, and combinations of electronic devices.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated March 31, 1970, that the accuracy, stability and interchangeability of the foreign article are pertinent to the purposes for which the foreign article is intended to be used.

NBS further advises that it knows of no instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

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

[F.R. Doc. 70-5815; Filed, May 12, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 11683]

ANTINEOPLASTIC AGENTS—CYCLOPHOSPHAMIDE AND THIOTEPA

Drugs for Human Use; Drug Efficacy Study Implementation

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

1. Cytoxan for Injection; 100 milligrams, 200 milligrams, or 500 milligrams cyclophosphamide per vial; marketed by Mead Johnson Laboratories, Division of Mead Johnson & Co., 2404 Pennsylvania Street, Evansville, Ind. 47721 (NDA 12-142).

2. Cytoxan Tablets containing 50 milligrams cyclophosphamide per tablet; marketed by Mead Johnson Laboratories, Division of Mead Johnson & Co. (NDA 12-141).

3. Thio-Tepa Parenteral (dry powder) containing 15 milligrams thiotepa per vial; marketed by Lederle Laboratories Division, American Cyanamid Co., Post Office Box 500, Pearl River, N.Y. 10965 (NDA 11-683).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new-drug applications and supplements to previously approved new-drug applications under conditions described in this announcement.

I. *Cyclophosphamide*—A. *Effectiveness classification.* The Food and Drug Administration has considered the reports of the Academy, as well as other available evidence, and concludes that cyclophosphamide is:

1. Effective for the indications described in the labeling conditions which follow.

2. Possibly effective for miscellaneous undifferentiated metastatic neoplasms; malignancies arising from the gastrointestinal tract; malignant melanomas; sarcoma; neoplasms of cervix and uterus; neoplasms arising from the kidney, ureter, bladder, prostate and testis; and psoriasis.

B. *Form of drug.* Cyclophosphamide preparations are in tablet form suitable for oral administration or in the dry form as the crystalline hydrate suitable for reconstitution for intravenous, intramuscular, intraperitoneal and intrapleural administration.

C. *Labeling conditions.* 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling is as follows:

INDICATIONS

A. Frequently responsive myeloproliferative and lymphoproliferative disorders:
1. Malignant lymphomas (Stages III and IV, Peter's Staging System).
a. Hodgkin's disease.
b. Follicular lymphoma.
c. Lymphocytic lymphosarcoma.
d. Reticulum cell sarcoma.
e. Lymphoblastic lymphosarcoma.
2. Multiple myeloma.
3. Leukemias:
a. Chronic lymphocytic leukemia.
b. Chronic granulocytic leukemia (it is ineffective in acute blastic crises).
c. Acute myelogenous and monocytic leukemia.
d. Acute lymphoblastic (stem-cell) leukemia in children (cyclophosphamide given during remission is effective in prolonging its duration).
4. Mycosis fungoides (advanced disease).

B. Frequently responsive solid malignancies:
1. Neuroblastoma (in patients with disseminated disease).
2. Adenocarcinoma of the ovary.

C. Infrequently responsive malignancies:
1. Carcinoma of the breast.
2. Malignant neoplasms of the lung.

D. *Marketing status.* Marketing of the drug may continue under the conditions described in items IV and V of this announcement except those claims referenced in item III below may continue to be included in the labeling for the periods stated.

II. *Thiotepa*—A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that thiotepa is:

1. Effective for the indications described in the labeling conditions which follow.

2. Possibly effective against neoplastic diseases of the genitourinary, gastrointestinal, and central nervous systems; and for its recommended use in the palliation of such local symptoms related to the neoplasm as local edema due to enlarged neck nodes, dyspnea and cough due to the pressure of effusions, neurological signs due to space-occupying lesions of the central nervous system; urinary frequency due to intra and/or extra-cystic lesions, pressure due to intra-abdominal lesions, unsightly or uncomfortable skin nodules, muscle spasm or bone pain due to metastases.

3. Lacking substantial evidence of effectiveness for the indication "administration of thiotepa immediately prior to and at the time of surgery and during the post-operative period has been recommended to support surgical palliation through diminution of seeding and hematogenous dissemination due to surgery."

B. *Form of drug.* Thiotepa is in powder form suitable for preparation of an aqueous solution for parenteral administration.

C. *Labeling conditions.* 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling is as follows:

INDICATIONS

Thiotepa has been tried with varying results in the palliation of a wide variety of neoplastic diseases. Palliation has occurred at some time in many types of cancer. However, the most consistent results have been seen in the following tumors:
1. Adenocarcinoma of the breast.
2. Adenocarcinoma of the ovary.
3. Malignant lymphomas (stages III and IV, Peters staging system).
a. Giant follicular lymphoma.
b. Lymphosarcoma.
c. Reticulum cell sarcoma.
d. Hodgkin's disease.
4. Bronchogenic carcinoma.
5. For controlling intracavitary effusions secondary to diffuse or localized neoplastic disease of various serosal cavities.

D. *Marketing status.* Marketing of the drug may continue under the conditions described in items IV and V of this announcement except those claims referenced in item III below may continue to be included in the labeling for the periods stated.

III. *Indications permitted during extended period for obtaining substantial evidence.* Those indications for which the drugs are described in paragraphs I A or II A above as possibly effective (not included in the labeling conditions in I C and II C) may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drugs without approval may obtain and submit to the Food and Drug Administration, data to provide substantial evidence of effectiveness.

IV. *Previously approved application.* A. Each holder of a "deemed approved" new drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

1. Revised labeling as needed to conform with the labeling conditions described herein for the drug, and complete current container labeling unless recently submitted. (Labeling guidelines for a package insert are available from the Administration on request.)

2. Updating information as needed to make the application current.

B. Such supplements should be submitted within the following time periods after the date of publication of this announcement in the FEDERAL REGISTER:

1. Sixty days for revised labeling—the supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

2. Sixty days for updating information.

C. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs A and B are acted upon, provided that within 60 days after the date of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in paragraph III for the periods stated).

V. *New applications.* A. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under paragraphs I A or II A above, should submit a new drug application containing full information required by

the new drug application form FD-356H (21 CFR 130.4(c)). (Labeling guidelines for a package insert are available from the Administration on request.)

B. Distribution of any such preparation currently on the market without an approved new drug application may be continued provided that:

1. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in paragraph III for the periods stated.)

2. The manufacturer, packer, or distributor of such drug submits, within 60 days from the date of this publication, a new drug application to the Food and Drug Administration.

3. The applicant submits additional information that may be required for the approval of the application within a reasonable time as specified in a written communication from the Food and Drug Administration.

4. The application has not been ruled incomplete or unapprovable.

VI. *Opportunity for a hearing.* A. Any person who would be adversely affected by an order requiring deletion of the claims for which the drug lacks substantial evidence of effectiveness, as described in paragraph II A, may request a hearing within 30 days following the publication date of this announcement.

B. If no request for a hearing is received, the approval of all previously approved applications providing for such claims will be regarded as withdrawn and the applications will be approvable as supplemented in accord with this announcement. If such request is filed, an announcement will be published in the FEDERAL REGISTER setting forth the provisions of section 505(e) of the Act on the basis of which the Commissioner proposes to withdraw approval of such new drug applications and all amendments and supplements thereto.

VII. *Unapproved use or form of drug.* A. If the article is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such recommended use is approved in a new drug application, or is otherwise in accord with this announcement.

B. If the article is proposed for marketing in another form or for a use other than the use provided for in this announcement, appropriate additional information as described in § 130.4 or § 130.9 of the regulations (21 CFR 130.4, 130.9) may be required, including results of animal and clinical tests intended to show whether the drug is safe and effective.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11683 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 report: Press Relations Office (CE-200).
Supplements (identify with NDA number): Office of Marketed Drugs (BD-200), Bureau of Drugs.
Original new drug applications: Office of New Drugs (BD-100), Bureau of Drugs.
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. 70-5821; Filed, May 12, 1970; 8:46 a.m.]

[DESI 5731]

BENACTYZINE HYDROCHLORIDE WITH MEPROBAMATE AND CERTAIN OTHER DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

A. Preparation containing benactyzine hydrochloride and meprobamate: Deprol Tablets; meprobamate 400 milligrams with benactyzine hydrochloride 1.0 milligram, per tablet; Wallace Pharmaceuticals, Division of Carter-Wallace, Inc., Half Acre Road, Cranbury, N.J. 08512 (NDA 11-226).

B. Preparation containing chlorpromazine hydrochloride and dextroamphetamine sulfate: Thora-Dex Tablets; chlorpromazine hydrochloride 10 and 25 milligrams with detroamphetamine sulfate 2 and 5 milligrams per tablet, respectively; Smith, Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101 (NDA 10-354).

C. Preparations containing phenaglycodol:

1. Ultran; phenaglycodol 300 milligram capsules, and 200 milligram tablets (NDA's 10-750 and 11-439); and

2. Darvo-Tran Pulvules; propoxyphene hydrochloride 32 milligrams, aspirin 325 milligrams, and phenaglycodol 150 milligrams, per capsule (NDA 12-032); all three preparations marketed by Eli Lilly and Company, Box 618, Indianapolis, Ind. 46206.

D. Preparation containing pyridoxine hydrochloride: Gravidox Parenteral Solution; pyridoxine hydrochloride 50 milligrams with thiamine hydrochloride 50 milligrams, per cubic centimeter; Lederle Laboratories, Division American Cyanamid Co., Pearl River, N.Y. 10965 (NDA 5-731).

The drugs described above are regarded as new drugs. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The drugs listed in this announcement are regarded by the Food and Drug Administration as possibly effective for their labeled indications.

B. *Marketing status.* 1. Holders of previously approved new-drug applications and any person marketing any such drugs without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and to submit in a supplemental or original new-drug application, data to provide substantial evidence of effectiveness for the labeled claims. The only material which will be considered acceptable for review must be well-organized and consist of adequate and well-controlled studies bearing on the effectiveness of the drug, and not previously submitted.

2. At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for the recommended uses. After such evaluation, the conclusions concerning the drugs will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug applications for these drugs, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drugs on the market to be new drugs for which an approval is not in effect.

Each of the above-named holders of the new-drug applications for these drugs has been mailed a copy of the NAS-NRC report. Any interested person may obtain a copy of any NAS-NRC report for the subject drugs by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 5731 and should 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 report: Press Relations Office (CE-200).
Supplements (identify with appropriate NDA number): Office of Marketed Drugs (BD-200), Bureau of Drugs.
Original New-Drug Applications: Office of New Drugs (BD-100), Bureau of Drugs.
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. 70-5817; Filed, May 12, 1970; 8:45 a.m.]

[DESI 8548]

CERTAIN MYDRIATIC-CYCLOPLEGIC DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following mydriatic-cycloplegic drugs:

1. Cyclopentolate hydrochloride, marketed as Cyclogyl 2 percent with PVP, 1 percent, and 0.5 percent, by Schieffelin and Co., Schieffelin Road, Apex, N.C. 27502 (NDA 8-548).

2. Tropicamide, marketed as Mydriacyl 0.5 percent and 1 percent, by Alcon Laboratories, Inc., 6201 South Freeway, Fort Worth, Tex. 76101 (NDA 12-111).

These drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. The drugs are effective for mydriasis and cycloplegia for diagnostic purposes.

2. The drugs are possibly effective for use in iritis, iridocyclitis and keratitis (to inhibit inflammatory spasm), choroiditis, and lenticular adhesions (to prevent formation or remove synechiae).

B. *Form of drug.* These mydriatic-cycloplegic preparations are sterile solutions suitable for ophthalmic administration.

C. *Labeling conditions.* 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription" and a statement that the product is sterile.

2. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of such drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling is as follows:

INDICATIONS

For mydriasis and cycloplegia for diagnostic purposes.

D. *Indications permitted during extended period for obtaining substantial evidence.* Those indications for the drugs which are described in paragraph A above as possibly effective (not included in the labeling conditions in paragraph C) may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

E. *Marketing status.* Marketing of the drugs may continue under the conditions described in F and G of this announcement except that those indications referenced in paragraph D may continue to be used as described therein.

F. *Previously approved applications.* 1. Each holder of a "deemed approved" new drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform to the labeling conditions described herein for the drug, and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current in regard to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new drug application form FD-356H to the extent described for abbreviated new drug applications, § 130.4(f), published in the FEDERAL REGISTER April 24, 1970 (35 F.R. 6574). (One supplement may contain all the information described in this paragraph.)

2. Such supplements should be submitted within the following time periods after the date of publication of this notice in the FEDERAL REGISTER:

a. 60 days for revised labeling—the supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the indications referenced in paragraph D for the period stated.)

G. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under A above, should submit an abbreviated new drug application meeting the conditions specified in the regulation, § 130.4 (f) (1) and (2), published in the FEDERAL REGISTER April 24, 1970 (35 F.R. 6574). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

2. Distribution of any such preparation currently on the market without an approved new drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in paragraph D for the period stated.)

b. The manufacturer, packer, or distributor of such drug submits, within 60 days from the date of this publication, a new drug application to the Food and Drug Administration.

c. The applicant submits within a reasonable time, additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

H. *Unapproved use or form of drug.* 1. If the article is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such recommended use is approved in a new drug application, or is otherwise in accord with this announcement.

2. If the article is proposed for marketing in another form or for a use other than the use provided for in this announcement, appropriate additional information as described in section 130.4 or 130.9 of the regulations (21 CFR 130.4, 130.9) may be required, including results of animal and clinical tests intended to show whether the drug is safe and effective.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8548 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 report: Press Relations Office (CE-200).

Supplements (identify with NDA number): Office of Marketed Drugs (BD-200), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Office of Marketed Drugs (BD-200), Bureau of Drugs.

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: May 5, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5819; Filed, May 12, 1970; 8:45 a.m.]

[DESI 11267]

FLUOXYMESTERONE WITH ETHINYL ESTRADIOL

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:

Fluoxymesterone 1.0 milligram with ethinyl estradiol 0.02 milligram, marketed as Halodrin Tablets, by The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49001 (NDA 11-267).

The drug is regarded as a new drug. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* 1. The Food and Drug Administration has considered the Academy report and concludes that fluoxymesterone with ethinyl estradiol is probably effective for use in the treatment of senile and post-menopausal osteoporosis.

2. This drug is possibly effective for the treatment of the menopausal syndrome; male climacterium; and osteoporosis in certain patients following long-term adrenocorticoid therapy.

B. *Marketing status.* 1. Those indications for which the drug is described in paragraph A above as probably effective may continue to be used for 12 months, and the indications described as possibly effective may continue to be used for 6 months, following the date of this publication, to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

2. At the end of the 6-month and 12-month periods, any such data will be evaluated to determine whether there is substantial evidence of effectiveness of the drug for such uses. The conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug application for the drug, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the application will cause any such drugs on the market to be new drugs for which an approval is not in effect.

3. Within 60 days from publication hereof in the FEDERAL REGISTER the holder of any approved new-drug application for such drug is requested to submit a supplement to his application to provide for revised labeling, as needed, which, taking into account the comments of the Academy, furnishes adequate information for safe and effective use of the drug, is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74), and recommends use of the drug as follows: (The possibly effective indications may also be included for 6 months).

INDICATIONS

Osteoporosis—senile and post menopausal.

The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9 (d) and (e)), which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period.

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 this report by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11267 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 report: Press Relations Office (CE-200).
Supplements (identify with NDA number): Office of Marketed Drugs (BD-200), Bureau of Drugs.
Original new-drug application: Office of New Drugs (BD-100), Bureau of Drugs.
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. 70-5820; Filed, May 12, 1970; 8:46 a.m.]

[DESI 7837]

NEOMYCIN SULFATE STERILE POWDER

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations of neomycin sulfate sterile powder:

1. Mycifradin Sulfate; neomycin sulfate sterile powder 0.5, 5.0, or 10 grams per vial; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49001 (NDA 7-837).

2. Neomycin sulfate sterile powder, 0.5 or 5.0 grams per vial; Philadelphia Laboratories, Inc., 9815 Roosevelt Boulevard, Philadelphia, Pa. 19114 (NDA 11-596).

3. Neomycin sulfate sterile powder, 0.5 gram per vial; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 60-366).

4. Neomycin sulfate sterile powder, 0.5 or 5.0 grams per vial; Pure Laboratories, Inc., 50 Intervale Road, Parsippany, N.J. 07054.

The Food and Drug Administration concludes that when administered intramuscularly neomycin sulfate powder is probably effective for the indications described in the labeling guidelines in this announcement.

Preparations containing neomycin sulfate sterile powder are subject to the antibiotic certification procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act. Batches of the drug for which certification is requested should provide for labeling information in accord with labeling guidelines developed on the basis of this reevaluation of the drug and published in this announcement.

The above named firms and any other holders of applications approved for a drug of the kind described above are requested to submit, within 60 days following publication of this announcement in the FEDERAL REGISTER, amendments to their antibiotic applications to provide for revised labeling. Those parts of the labeling indicated below should be substantially as follows (optional additional information applicable to the drug may be proposed under other appropriate paragraph headings and should follow the information given below):

WARNING

In Patients With Impaired Kidney Function or With Prerenal Azotemia, Systemic Use of Neomycin Sulfate May Result in Irreversible Deafness and/or Renal Damage, Even With Conventional Doses. Use Only With Extreme Caution in the Presence of Impaired Renal Function.

Parenteral neomycin sulfate should not be given concurrently or in series with other ototoxic and/or neurotoxic drugs such as streptomycin, kanamycin, polymyxin B, colistin and viomycin, because the toxicity may be additive.

The neurotoxicity of neomycin can result in respiratory paralysis from neuromuscular blockade, especially when the drug is given to patients simultaneously receiving anesthetics or muscle relaxants.

DESCRIPTION

Neomycin sulfate is an aminoglycoside antibiotic produced from *Streptomyces fradiae* with broad spectrum antibacterial properties but high toxicity to the eighth nerve and the kidneys. (Additional descriptive information to be included by the manufacturer or distributor should be confined to an appropriate description of the physical and chemical properties of the drug and the formulation.)

ACTIONS

Neomycin is effective in vitro against gram-positive and gram-negative organisms, in concentrations of 5 to 10 mcg./ml. or less. The drug is well absorbed after intramuscular injection and widely distributed in body fluids and tissues. Injection of 300 mg. every 6 hours for four doses, followed by the same quantity every 12 hours, yields blood concentrations of 12–30 mcg./ml. in 48–72 hours. If the Kirby-Bauer method of disc sensitivity is used, a 30 mcg. disc should give a zone of 16 mm. or more when the organism is sensitive to neomycin.

From 30 to 50 percent of a parenteral dose is excreted in the urine.

INDICATIONS

Intramuscular use of neomycin sulfate should be restricted to hospitalized patients with severe systemic infections, due to the following organisms, when these are resistant to other less toxic antimicrobials but susceptible to neomycin: *Pseudomonas aeruginosa, H. influenzae, Klebsiella pneumoniae, P. vulgaris, E. coli, A. aerogenes.*

Neomycin sulfate has been successfully used in urinary tract infections due to susceptible pathogens, but should be reserved for cases in which no other antimicrobial agent is effective.

CONTRAINDICATIONS

Neomycin sulfate is contraindicated in patients known to be sensitive to it.

PRECAUTIONS

Neomycin sulfate is potentially nephrotoxic. Urinary examinations for albumin, casts and cells should be made before starting therapy and daily; BUN and audiometric determinations should also precede therapy and be repeated during neomycin sulfate administration. Inadequate renal function interferes with neomycin excretion, producing high blood levels which increase the risk of both ototoxicity and nephrotoxicity (see Warning above).

The possibility of acute toxicity increases in premature infants and neonates.

Avoid concurrent use of curariform muscle relaxant drugs and drugs which potentiate neuromuscular blocking effects (ether, tubocurarine, succinylcholine, gallamine, decamethonium and sodium citrate). If signs of respiratory paralysis appear, respiration should be assisted as required, and the drug discontinued.

As with other antibiotics, use of this drug may result in overgrowth of nonsusceptible organisms, including fungi. If superinfection occurs, appropriate therapy should be instituted.

USAGE IN PREGNANCY

The safety of this drug in human pregnancy has not been established.

ADVERSE REACTIONS

Hypersensitivity reactions, primarily skin rashes, may occur with the use of neomycin sulfate.

DOSAGE AND ADMINISTRATION

Adults: 15 mg./kg./day in four equally spaced, divided doses. The total daily dose should not exceed one gram.

Premature and full-term newborn infants: 4 mg./kg./day, divided in four doses.

Older infants and children: 7.5–15 mg./kg./day, divided in four doses. Therapy should not be continued beyond ten days.

Preparation of solutions: Add sufficient sterile normal saline to the vial to prepare a concentration of 250 mg./ml. (E.g.: Add 2 cc. Sodium Chloride Injection U.S.P. to a 0.5 Gm. vial of dry powder.)

The Food and Drug Administration concludes that for the following labeled claims neomycin sulfate powder is possibly effective: active against many gram-negative and gram-positive bacteria; treatment (intraperitoneal instillation) of peritonitis and prevention of peritonitis following peritoneal contamination during surgery; for control of secondary infections of mycotic lesions due to neomycin-sensitive bacteria; for use as wet dressings, packs, or irrigations in secondarily infected wounds and ulcers, varicose ulcers, and affections of the eye such as conjunctivitis, blepharitis, and sty; adjuvant therapy for impetigo and other pyogenic or secondarily infected dermatoses; for suppression of bacterial growth in the bowel; for treatment of trophic ulcers and secondarily infected burn areas; and for intestinal instillation in emergency abdominal surgery.

Batches of the drug which bear labeling with indications regarded as probably or possibly effective and otherwise in accord with the labeling conditions herein will be accepted for release or certification by the Food and Drug Administration for a period of 12 months for probably effective claims and 6 months for possibly effective claims, from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drug for use in such conditions.

The Food and Drug Administration regards neomycin sulfate powder as lacking substantial evidence of effectiveness for the following claims: relatively nonirritating and low index of sensitivity; micro-organisms do not readily develop resistance to neomycin; prophylaxis against infection incident to cystoscopy and retrograde pyelography; prevention of postcatheterization sepsis or a postinstrumental reaction; for the treatment of nonspecific urethritis; and for use following transurethral resection. Preparations containing the drug with labeling bearing these claims will no longer be acceptable for certification or release after the publication date of this announcement.

Any person who would be adversely affected by deletion of the claims for which the drug lacks substantial evidence of effectiveness, as described in this announcement, may, within 30 days following the publication date hereof, submit comments or pertinent data bearing on the effectiveness of the drug for such use. To be considered acceptable for review, the data must be well-organized and consist of adequate and well-controlled studies not previously submitted.

Representatives of the Administration are willing to meet with any interested person who desires to have a conference concerning proposed changes in the labeling set forth in this announcement. Requests for such meetings should be made to the Division of Anti-Infective Drugs (BD–140), at the address given below, within 30 days after the publication of this notice in the FEDERAL REGISTER.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 7837 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 Report: Press Relations Office (CE–200).

Amendments (Identify with NDA number): Division of Anti-Infective Drugs (BD–140), Office of New Drugs, Bureau of Drugs.

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, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 4, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–5818; Filed, May 12, 1970; 8:45 a.m.]

[DESI 12019]

PAROMOMYCIN SULFATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following antibiotic drugs for oral use:

1. Paromomycin sulfate, marketed as Humatin Kapseals containing the equivalent of 250 mg. paromomycin base per capsule (NDA 12–019); and

2. Paromomycin sulfate, marketed as Humatin Syrup Pediatric, containing the equivalent of 125 mg. paromomycin base per 5 ml. (NDA 12–790); both marketed by Parke, Davis and Co., Joseph Campau at the River, Detroit, Mich. 48232.

The Food and Drug Administration concludes that paromomycin sulfate is effective for acute and chronic intestinal amebiasis, and as adjunctive therapy in the management of hepatic coma.

Preparations containing paromomycin sulfate are subject to the antibiotic certification procedures pursuant to section

507 of the Federal Food, Drug, and Cosmetic Act. Requests for certification of the drugs in the dosage forms described above should provide for labeling information in accord with labeling guidelines developed on the basis of this reevaluation of the drug and published in this announcement.

The above-named firm and any other holders of applications approved for a drug of the kind described above are requested to submit, within 60 days following publication of this announcement in the FEDERAL REGISTER, amendments to their antibiotic applications to provide for revised labeling. Those parts of the labeling indicated below should be substantially as follows (optional additional information applicable to the drug may be proposed under other appropriate paragraph headings and should follow the information given below):

DESCRIPTION

Paromomycin sulfate is a broad spectrum antibiotic produced by a strain of *Streptomyces rimosus*. It is a white, amorphous, stable, water soluble product. (Other descriptive information to be included by the manufacturer or distributor should be confined to an appropriate description of the physical and chemical properties of the drug and the formulation.)

ACTIONS

The *in vitro* and *in vivo* antibacterial action of paromomycin closely parallels that of neomycin. It is poorly absorbed after oral administration, with almost 100 percent of the drug recoverable in the stool.

INDICATIONS

Paromomycin is indicated in the following:

1. Intestinal amebiasis—acute and chronic.

NOTE: It is not effective in extra-intestinal amebiasis.

2. Management of hepatic coma-as adjunctive therapy.

CONTRAINDICATIONS

Paromomycin is contraindicated in individuals with a history of previous hypersensitivity reactions to it. It is also contraindicated in intestinal obstruction.

PRECAUTIONS

The use of this antibiotic, as with other antibiotics, may result in an overgrowth of nonsusceptible organisms, including fungi. Constant observation of the patient is essential. If new infections caused by nonsusceptible organisms appear during therapy, appropriate measures should be taken.

The drug should be used with caution in individuals with ulcerative lesions of the bowel to avoid renal toxicity through inadvertent absorption.

ADVERSE REACTIONS

Nausea, abdominal cramps and diarrhea have been reported in patients on doses over 3 Gm. daily.

DOSAGE AND ADMINISTRATION

Intestinal amebiasis.

Adults and Children: Usual dose—25–35 mg/Kg. body wt. in divided doses three times daily with meals for 5–10 days.

Management of hepatic coma.

Adults: Usual dose—4 Gm. daily in divided doses for 5–6 days.

The Food and Drug Administration concludes that for the following indications paromomycin sulfate is possibly effective: diarrhea due to mixed infection; *Shigella*, paratyphoid and other *Salmonella* carriers; and suppression of microflora of the bowel before surgery. Batches of the drug which bear labeling with these claims and are otherwise in accord with the labeling conditions herein will be accepted for release or certification by the Food and Drug Administration for a period of 6 months from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drug for use in these conditions for which it has been evaluated as possibly effective.

The Food and Drug Administration regards paromomycin sulfate as lacking substantial evidence of effectiveness for its claimed indications: acute dysentery caused by *Salmonella*, *Shigella*, and pathogenic *Escherichia coli;* and diarrhea due to undiagnosed nonspecific infections. Preparations containing the drug with labeling bearing these claims will no longer be acceptable for certification or release after the publication date of this announcement.

Any person who would be adversely affected by deletion of the claims for which the drug lacks substantial evidence of effectiveness, as described in this announcement, may, within 30 days following the publication date of this announcement, submit comments or pertinent data bearing on the effectiveness of the drug for such use. To be considered acceptable for review, the material must be well-organized and consist of adequate and well-controlled studies not previously submitted.

Representatives of the Administration are willing to meet with any interested person who desires to have a conference concerning proposed changes in the labeling set forth in this announcement. Requests for such meetings should be made to the Division of Anti-Infective Drugs (BD–140), at the address given below, within 30 days after the publication of this notice in the FEDERAL REGISTER.

A copy of the NAS-NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 12019 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 report: Press Relations Office (CE–200).
Amendments (identify with NDA number): Division of Anti-Infective Drugs (BD–140), Office of New Drugs, Bureau of Drugs.
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, 507, 52 Stat. 1050–51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) 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. 70–5822; Filed, May 12, 1970; 8:46 a.m.]

[DESI 50127]

PHTHALYLSULFATHIAZOLE AND NEOMYCIN SULFATE

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 Neothalidine Granules (for oral suspension); 1.5 grams phthalylsulfathiazole and 1.0 gram neomycin sulfate, per 15 milliliters when reconstituted; marketed by Merck and Co., Inc., Rahway, N.J. 07065 (NDA 50–127).

The Food and Drug Administration concludes that phthalylsulfathiazole with neomycin sulfate is possibly effective for its labeled recommendations for use in preparation of patients for surgery of the intestinal tract; maintenance of low intestinal bacteria count postoperatively; and prevention of development of neomycin-resistant strains of *Aerobacter aerogenes*.

Preparations containing phthalylsulfathiazole and neomycin sulfate are subject to the antibiotic procedures under section 507 of the Federal Food, Drug, and Cosmetic Act. To allow applicants to obtain and submit data to provide substantial evidence of effectiveness of the drug in those conditions for which it has been evaluated as possibly effective, batches of preparations containing phthalylsulfathiazole and neomycin sulfate which bear labeling with these indications will continue to be accepted for release under the provisions of section 507(a) by the Food and Drug Administration for a period of 6 months after publication of this announcement in the FEDERAL REGISTER.

At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken, or if the studies do not provide substantial evidence of effectiveness, such drug will not be eligible for release or certification.

A copy of the NAS-NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 50127 and be directed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Requests for NAS-NRC Report: Press Relations Office (CE-200).
Amendments (Identify with NDA number): Division of Anti-Infective Drugs (BD-140), Office of New Drugs, Bureau of Drugs.
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, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 4, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-5816; Filed, May 12, 1970; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 21305, 21121; Order 70-5-35]

AIR TRAFFIC CONFERENCE OF AMERICA AND DINERS/FUGAZY TRAVEL SERVICE, INC.

Order Stating Tentative Findings and Setting Matter for Oral Argument

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of May 1970.

By Order 69-8-75 (August 13, 1969), the Board temporarily approved those provisions of a resolution of the air carrier members of the Air Traffic Conference of America (ATC) establishing a higher level of commissions for travel agents for the sale of domestic air transportation. In addition, the Board deferred action on several companion provisions dealing with the ATC process for the selection and retention of travel agents and related matters, and invited public comments on the entire resolution.[1]

Comments in response to Order 69-8-75 were received from the Department of Justice, the members of ATC, the Association of Retail Travel Agents (ARTA),[2] the American Society of Travel Agents (ASTA), the Association of Bank Travel Bureaus, the American Express Company, the American Automobile Association (AAA), the Greater Independent Association of National Travel Service, Inc. (GIANTS), Diners/Fugazy,[3] and over 50 individual travel agents.

Upon consideration of the material available at this time, we have decided to hear oral argument on the matter. Although the current record provides a basis for our tentative views expressed herein, we believe the public interest requires that the parties to this proceeding be given an opportunity to present argument to the Board on whether such views should be made final and, if not, on the course of action the Board should follow in deciding the matter.

Commission provisions. The carriers state that the commission adjustments do not simply involve an across-the-board increase in the rates paid for the sale of all product lines. Rather, the adjustments emphasize the promotion of new discretionary travel, sales for which the airlines can properly feel justified in paying premium commissions because of the greater value from travel agents' sales efforts. Thus, certain commission rates have not been changed at all, while others have been increased.[4] In view of the magnitude of these commission level increases over those previously in effect for so many years (a net increase in excess of 23 percent), the carriers believe the new rates must be deemed prima facie as compensatory for all product lines. Those who would argue otherwise have a substantial burden of proof to overcome, according to the ATC members.

The value to the carriers of travel agents' sales efforts with respect to a given product line has been noted as an important consideration in determining the appropriate commission to be paid for the sale of that type of air travel. Furthermore, the carriers state that an analysis by the airlines' special financial committee which reviewed the joint airline-agent cost study[5] shows that nothing in the cost study can be deemed to justify a conclusion that these substantially higher new commission levels are not reasonably compensatory—either on an overall basis or with respect to any product line.

Various aspects of the new commission structure are reviewed below.

Air tours. The instant resolution increased from 10 percent to 11 percent the commissions payable on advertised air tours and independent air tours. The airlines retained the 10 percent level for convention tours and incentive tours. We note that a convention tour is defined as one involving travel to a trade fair, show, exhibition or convention, and that an incentive tour is one offered, for example, as a prize.

In the Board's earlier order, the carriers were asked to respond to the following question: "Is there justification for retaining the 10 percent commission level on convention and incentive air tours, while the rate applicable to independent and advertised air tours has been increased to 11 percent?"

The carriers' answer was that independent and advertised air tours are tools for developing discretionary travel which justify a premium incentive. Although some creative selling is involved in convention and incentive tours, there is a distinction; i.e., neither is intended for sale to the public. While promotion of a convention tour might increase attendance at a convention, the carriers feel that most of the conventioners would go regardless of any such promotion. In short, incentive and convention tours do not have the same creative impact on air travel as the other two types. The carriers also believe the rate is compensatory because these tours normally involve large group sales.

The agents contend, however, that there is no justification for this differentiation in commission levels. They argue that it is merely another effort by the carriers to discourage travel agents from servicing members of the traveling public making journeys for business purposes. They point out that the effort being made by airlines, the hotel industry and others to encourage persons making business trips to expand them into personal and pleasure trips more than justifies the payment of the increment on a tour sold in conjunction with the convention in the same manner as the carriers propose to pay the increment for advertised and independent air tours.

Upon consideration of this issue, we have tentatively decided to approve the carriers' tour commission proposals as presented. The carriers' rationale does not seem unreasonable. The joint airline-agent cost study demonstrated that travel agents' average costs, expressed as a percent of sales, were 8.74 percent for the sale of air tours, and that agents were able to achieve reasonable profits from the sale of all types of air tours. Thus, the carriers' decision to increase the commission rate on advertised and independent tours to 11 percent should increase agents' profits from the sale of these product lines, as well as provide

[1] Order 69-8-75 contains as an appendix the full text of the resolution.

[2] Joining in ARTA's comments are Peter Grimes International, Inc., and Ober Steamship and Tourist Agency, Inc.

[3] By motion filed Sept. 15, 1969, Diners/Fugazy requested that an earlier petition it filed in Docket 21121 be consolidated herein, and that it be made a party to the instant proceeding. We have decided to grant the motion.

[4] The present commission structure adopted by the members of ATC and temporarily approved by Order 69-8-75 is shown below, together with the commission rates previously in effect:

Domestic product line	Previous rate	Present rate
1. Point-to-point:		
(a) $0.00 to $70.00	5%	5%—$1 minimum.
(b) $70.01 to $140.00		6%.
(c) $140.01+		7%.
(d) Inplant Offices	3%	3%.
2. Family travel:		
(a) Family plan	7%	8%—$1 minimum.
(b) Other (includes travel by families during family plan tariff "blackout" periods).		8%—$1 minimum.
3. Discover America	7%	8%—$1 minimum.
4. Tours:		
(a) Advertised	10%	11%.
(b) Independent	10%	11%.
(c) Convention	10%	10%.
(d) Incentive	10%	10%.
5. UATP:		
(a) Point-to-point	0	0.
(b) Discover America.	0	8%—$1 minimum.
(c) Family plan	0	8%—$1 minimum.
(d) Tours	(Same as tours above).	(Same as tours above).

[5] Airline and Travel Agent Domestic Air Travel Marketing Cost Study (Touche, Ross, Bailey and Smart, December 1968).

added incentives to undertake even greater promotional efforts.

The 1 percent distinction in commission rates seems reasonable, particularly as the agents are not required to construct or locate the basic market involved in selling convention and incentive air tours. Thus, the new commission structure, while providing the average agent with significant profits on all tour sales, should reward those agents who actively seek to tap new tour markets not now served.

Family plan and discover America sales. Under the terms of the resolution, the commission rate for the sale of "Discover America" and "Family Plan" travel has been increased from 7 percent to 8 percent. The carriers have also decided to pay commissions on such sales made under the "Universal Air Travel Plan" and, in addition, have agreed to pay an 8 percent commission on sales involving family travel during "Family Plan 'blackout' " periods. We note that the carriers' position is that such increases reflect the value to them of agent activities in these discretionary air travel markets.

The travel agents generally seem to support these proposals.

As in the case of air tour sales, the cost study found that the average travel agent was able to realize significant percentage profits from the sale of "Discover America" and "Family Plan" tickets. These profits should be enhanced by the alterations in the commission structure mentioned above. Accordingly, it appears to the Board that approval of these proposals would be warranted.

Point-to-point sales. The carriers believe, as mentioned above, that the value to them of the agents' effort in selling a particular product line is a significant factor in determining the proper commission. Since they consider the promotion of discretionary pleasure travel of particular value, the carriers feel justified in paying a premium for services in this area. Thus, they are convinced that the sliding scale is a better formula than a single rate because "it offers the travel agent incentive to concentrate his efforts on the development of discretionary travel, which consists in large part of the longer stage lengths." [6]

All of the travel agents filing comments argue in favor of increased commissions on point-to-point sales. Among other things, the agents note that the sliding scale (1) is inadequate because it does not cover costs, (2) is in inverse relationship to variations in the costs of handling tickets of different values,[7] (3) imposes a severe administrative burden on agents, and (4) has varying economic impact depending on a geographical location. Furthermore, the agents argue that the carriers have never attempted to justify the commission levels by submitting supporting economic data.[8] ASTA, ARTA, and others suggest that unless the Board is prepared to base its findings on the cost study, an evidentiary hearing on the matter should be instituted.

In the Board's view, the commission structure, in toto, should provide reasonable compensation to agents for the sale of domestic air transportation. We note the cost study determined that, expressed as a percent of sales, it cost the travel agent 8.14 percent to sell the domestic point-to-point product line. Thus, under the preexisting rate level (5 percent) the average agent received $3.14 less than his costs on the sale of $100 worth of point-to-point transportation. Under the present commission the agent receives $2.14 less than his costs on the same sale. Similarly, when selling the average value ticket, found to be $83.87, the agent receives $1.80 less than his costs on every sale under the new commission schedule approved by Order 69-8-75. We note also that the sale of point-to-point tickets is singularly important to agents, representing on an average 63 percent of their bookings (sales) and 56 percent of their revenues. By comparison, air tours, which command the highest commissions, represent 5 percent of agents' bookings and 9 percent of their revenues, according to the cost study.

In pursuit of the basic objective of developing a reasonable commission structure, it appears to the Board that the rate on any one product line could be fixed at cost or below cost, provided an opportunity for profit from the sale of all domestic air transportation existed elsewhere in the commission structure.[9] But clearly a commission rate on any particular product line could not be fixed too far below cost without distorting the commission structure, creating hardship for individual agencies whose business unavoidably consists of a heavy proportion of that product line, and hence negating achievement of a reasonable commission structure.

On the basis of available data it is the Board's tentative view that the bottom point of the permissible range for point-to-point commissions should not be below 7 percent, without regard to the value of a ticket. By the same token, there may well be persuasive reasons for concluding that the rate on this product line should be above 7 percent in order more closely to approximate cost. On this basis we would believe that the upper range should not reasonably exceed the level of 8 percent. Accordingly, the Board will entertain argument on the question of at what point within this range it would be appropriate to establish the point-to-point commission level.

In-plant sales. The present rules governing in-plant facilities arose from an ATC resolution banning sales at agency locations on the premises of commercial customers. The Board disagreed with such prohibition, but did decide that these operations should be permitted under carrier rules.[10] Ultimately, the Board approved a resolution of the ATC members embodying rules which, inter alia, provide for a 3 percent commission on point-to-point sales made at in-plant locations.[11]

The carriers have pointed out that, in developing a new commission structure which would reward and encourage the promotion and sale of personal, discretionary air travel, they concluded that an increased commission rate for in-plant sales was not warranted. On the other hand, the agents contend that there is ample reason for increasing the point-to-point commission rate. Thus, ASTA suggests that an appropriate rate can be reached by substracting from agents' point-to-point sales costs at "standard locations" those specific costs which are not generally incurred at in-plant locations. ASTA believes that a commission level of 5 percent is fully justifiable. ARTA urges a rate of 6 percent. Don Travel Service, Inc. argues that the in-plant commission rate be established at a level of 2 percent below that which is paid for point-to-point sales made at other approved agency locations.

The Board finds no clear basis for concluding that commissions on point-to-point "in-plant" sales should necessarily be increased at this time. We understand that offices of this nature are relatively few in number (8). Furthermore, their operation was not examined in the course of the cost study, nor is it apparent that the findings of such study necessarily offer an appropriate point of departure for consideration of the matter. Moreover, no meaningful economic data on the costs of such offices have been submitted in this proceeding.[12] Under these circumstances, the Board is not disposed to suggest a change in the present rate.

Universal air travel plan point-to-point sales. The instant resolution made fully commissionable, under UATP, sales involving "Discover America" and "Family Travel" in addition to tour sales which previously were commissionable. Point-to-point sales at present are not commissionable.

In the order granting temporary approval to the new commission changes the Board asked: "Should the commission rates payable on point-to-point sales be made applicable to sales made under

[6] Carriers' comments p. 30.

[7] For example, ASTA contends: "The cost of handling a lower value ticket as a percentage of its value is higher than the cost of handling a higher value ticket as a percentage of its value." ASTA comments p. 22.

[8] ARTA notes: "The unanimity rule followed by the air carriers in adopting agreements fixing commissions denies to travel agents, the carriers and the public the benefits of price competition in commission rates for the services of travel agents and assures that commission levels are fixed upon a lowest-common-denominator basis among the carriers rather than upon the need for a fair, equitable and compensatory commission structure." ARTA comments p. 6.

[9] In this connection, we note that the previous and current commission levels do not appear to have fostered an agency industry which is stagnant or which is unable to accommodate the growth in air transportation.

[10] Order E-21726, Jan. 27, 1965.

[11] Order E-24860, Mar. 16, 1967.

[12] It may also be significant that none of the persons currently operating approved in-plant locations have filed individual comments concerning the matter.

the Universal Air Travel Plan? If not, why not?"

In responding, the carriers made these points: UATP point-to-point sales involve "business" travel almost exclusively. Such travel is not generated by the sales efforts of a travel agent; but, rather, is dictated by a company's business requirements. Travel agents are neither required nor encouraged in any way to sell UATP point-to-point travel, and virtually none is sold by them. As more than 100 different credit cards are accepted by one or more ATC members, the exclusion of UATP does not hinder agents' promotion of discretionary travel through use of such other credit cards. Finally, there is no reason to underwrite an agent's extension of credit and also pay him a fee to serve the commercial account which the carriers developed through the sale of the UATP program.

The agents contend that the public continues to request them to write UATP point-to-point tickets, that it costs them as much to write a UATP ticket as it does any other point-to-point ticket, and that it is inequitable for the carriers to deny them revenues on these sales.

It is not apparent to the Board that these sales should be commissionable. Presumably, requests to agents to issue point-to-point tickets under UATP are relatively few in number, and hence the present situation would not seem to impose an undue burden on the agents. There are, as the carriers have noted, various other credit programs available. Thus, the omission of UATP would not appear to be significant, nor does the record contain any compelling evidence that the status quo should be altered. Furthermore, the carriers have made important adjustments in the commission structure as a whole to meet present-day circumstances. Consequently, the Board does not propose to withdraw its approval of the provision in the ATC agency resolution prohibiting the payment of commissions to travel agents on point-to-point UATP sales.

SELECTION AND RETENTION PROVISIONS

Limitation on entry and productivity provisions. The carriers state that the proposal to limit entry into the travel agency business is designed basically to avoid any proliferation of agents because of the more attractive commission rates. In turn, such restriction will allow existing agents to reap the benefits of the increased commissions. These steps are necessary, according to the airlines, "if a financially healthy travel agency industry is to become and remain a reality." [13]

The "productivity" requirement,[14] according to the carriers, is designed to provide an objective standard by which to administer the preexisting ATC requirement that an agent is expected to provide an adequate amount of business in order to justify his retention.

We note that agents oppose the "quota" (entry) requirement on the basis that it raises an arbitrary and unreasonable barrier, both to entry into the travel agency business and to expansion in that business through the addition of new branch offices. Many agents also oppose the "productivity" requirement, asserting that, if implemented, it would force them out of business. The Department of Justice contends that the two requirements amount to collective refusals to deal and, as such, are per se violations of the antitrust laws [15] and hence cannot be approved absent a showing by the carriers that the procedures are required either to meet a serious transportation need or to secure important public benefits.[16]

On the basis of the present record, it does not appear that the carriers have made a showing which would justify favorable action on the foregoing. Consequently, we have tentatively decided to disapprove these two provisions. Among other things, we have not seen any evidence that the higher commission structure, in effect since September 1, 1969, has increased the rate of growth of agency locations. Thus, the predicate for these proposals is not readily apparent. Any proposal that has as its primary aim the restriction of entry into the travel agency business or which could cause the termination of existing agencies must be bottomed on the clearest evidence. We do not find this to be true here. Also, as has been pointed out by at least one agent, unilateral, rather than collective, carrier action may be a better way in which to deal with the issue of productivity. Notwithstanding our serious concern with these particular procedures, however, we endorse the desirability of insuring that the public is served by qualified agents under a program which will provide a healthy financial climate for the industry.

Service charges. With respect to the provision which would allow agents to assess service charges, we do not find that the record provides an adequate basis for a tentative finding on the merits.[17] The carriers' action in this regard is bottomed, we note, on the belief that compensation for special customer service will better serve the client because the agent can devote more time to these customer requirements "without undue concern about being deviated from other revenue-producing activities." The agents seem particularly interested in applying service charges for ticket cancellations and revalidations and for the preparation of complex itineraries.

In this connection, the Board believes that when a travel agent acts within the scope of his representation of the air carrier, he may not demand or collect any charges beyond those set forth in the carrier's tariffs. However, where the travel agent acts as an advisor or consultant for his client, performing services neither covered in, nor contemplated by, tariff requirements, nor part of the carrier's obligation, he acts as a private entrepreneur. Unless prohibited from doing so by his agency agreement, as approved or conditioned by the Board, and in the absence of any unfair or deceptive practice, the Board believes the agent may make reasonable charges for his services insofar as the limitations of the Federal Aviation Act are involved. Of course, those service charges must be assessed under circumstances which would preclude any implication that the charges were tied to, or in connection with, air transportation offered by the carrier.

It is evident from the foregoing that the legality of any given service charge may not be free from doubt, and hence such determination should not be left to each individual travel agent as would be the case under the carriers' proposal. In short, we cannot see that relationships among agents, between carriers and agents, and between agents and their customers would be enhanced by a proposal as broad and vague as that proposed. At minimum, it would seem that any service charge program must, of necessity, be specific to avoid wide-spread public confusion.

Separation of agency and other activities.[18] The carriers' views are: (1) The premises occupied by an agent are a significant factor in its ability to serve the public. (2) Ideally, a travel office should be located in its own separate premises and the people in the office should devote full time to serving the traveling public. (3) It is impossible for agency personnel to function effectively if subject to distractions by the transaction of other types of business in their midst. (4) "Reasonable standards of adequacy as to dimension and appearance" means that the agency location "be in keeping with the carriers' image of professionalism and service and that it be consistent with the level of other business establishments in the neighborhood." [19]

ASTA claims the rule is too vague and needs clarification, particularly with respect to what constitutes reasonable

[13] The requirement in question provides that no new agent will be added to the ATC list of approved agents in areas where 25 percent or more of the existing locations which have been in business two or more years have not sold at least $150,000 in air passenger transportation on Standard Agent Tickets during the most recent calendar year.

[14] This provides for the removal from the list of approved agents those who fail to achieve total annual air sales of $150,000 on scheduled certificated United States and foreign air carriers.

[15] Klor's v. Broadway Hale Stores, 359 U.S. 207 (1959), United States v. General Motors Corporation, 384 U.S. 127 (1966).

[16] Local Cartage Agreement Case, 15 CAB 850, 853 (1952).

[17] This provision would allow agents to assess service charges to customers to the extent permitted by the Act and the Board's regulations.

[18] An agent's office must be identified clearly as a travel agency and must be "adequate in dimensions and appearance to conduct the business of a travel agency representing the carrier."

[19] Carriers' comments p. 20.

standards. ARTA believes the proposals should be the subject of carrier-agent discussions. AAA reports the resolution will work a hardship on it because some of its offices, for purposes of efficiency and economy, have been organized on a physically integrated basis to offer various services including travel.

Here again, the record does not contain sufficient evidence of the economic or other advantages or disadvantages of the proposal when viewed from the standpoint of the carriers, the agents and the traveling public. Oral argument will provide an opportunity to focus on these considerations.

Limited representation. We also have decided tentatively to disapprove the provision of the resolution which specifies that an agent may limit his representation to certain of the carriers' product lines.[2] The carriers state that this provision is permissive, and that specialization is common in all types of businesses and works to the benefit of all. On the other hand, the agents generally oppose the rule, claiming that it is inconsistent with the basic philosophy that the agent should be an all-around travel counselor holding himself out as being able to assist all members of the traveling public in obtaining the benefit of services offered by the carriers.

The Board is inclined to agree with the agents. In short, we cannot find that approval of this provision would serve any valid purpose or provide any real or lasting benefits to carriers, agents, or the public.

As noted at the outset, we believe that oral argument on the matter is appropriate; however, it is not apparent that a full evidentiary hearing is warranted. The record in this docket is replete with data and it does not appear that a hearing would generate any new significant information. Thus, any person who believes a hearing is desirable should so indicate at oral argument and identify the issues it would seek to have resolved at hearing and the nature of evidence it would submit.

Accordingly, it is ordered, That:

1. Agreement CAB 5044–A144 be and it hereby is assigned for oral argument before the Board on June 3, 1970, at 10 a.m., e.d.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.,

2. All parties of record in this proceeding who desire to participate in such oral argument shall advise the Board in writing of their intention to participate on or before May 22, 1970; and

3. The motion to consolidate of Diners/Fugazy in Docket 21121 be and it hereby is granted.

This order will be served upon all scheduled certificated air carriers, ATC, the American Society of Travel Agents, the Association of Retail Travel Agents, the Association of Bank Travel Bureaus, the American Automobile Association, the American Express Co., Mary R. McManus, Diners/Fugazy, the Greater Independent Association of National Travel Services, Inc., Don Travel Service, Inc., Los Altos Travel Center, Peter Grimes International, Inc., Ober Steamship and Tourist Agency, Inc., and the Department of Justice and shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[F.R. Doc. 70-5882; Filed, May 12, 1970; 8:51 a.m.]

[2] The resolution provides that an agent may limit his representation of the carrier to certain specific product lines providing the agent limit its representation of all the carriers' services alike.

[Docket No. 21857; Order 70-5-33]

ROSS AVIATION, INC.

Order To Show Cause Regarding Establishment of Service Mail Rates

Issued under delegated authority May 7, 1970.

Final service mail rates established by orders 68-12-72, 69-3-29, 69-10-90, 68-12-128, 69-2-70, and 69-2-67 for the transportation of mail by aircraft are currently in effect for Ross Aviation, Inc. (Ross), an air taxi operator under 14 CFR Part 298.

On January 27, 1970, Ross filed a petition requesting the Board to fix new final service mail rates for routes in seven different dockets. The Board consolidated these seven dockets into the above docket number. On April 9, 1970, the Postmaster General filed a reply to Ross' petition. The Postmaster General stated that it was in agreement with Ross that the present rates are no longer fair and reasonable because of increased costs experienced by Ross which were not known or reasonably foreseeable at the time the rates were set.

The Postmaster General, however, concluded that he could support increased rates which in each instance were less than those petitioned for by Ross. Ross did not agree that the rates supported by the Postmaster General were just and reasonable. On May 1, 1970, the Postmaster General filed an amendment to the earlier reply. The amended reply indicates that the Postmaster General will support increases in the amount shown in the following table:

Previous docket No.	Route	Cents per mile		
		Present rate	Ross' proposal	Post Office Department support
19563	Poteau, McAlester, and Oklahoma City	33.13	42.08	38.85
19565	Altus, Lawton, and Oklahoma City	47.30	59.16	55.23
19567	Ponca City, Enid, and Oklahoma City	41.16	62.01	49.91
19666	Martinsburg, Clarksburg, and Charleston (W. Va.)	37.28	48.49	39.84
20101	Florence, Columbia, and Atlanta	45.08	52.24	49.09
20632	Savannah, Augusta, and Atlanta	47.47	55.46	51.81
20645	Charleston (S.C.), Columbia and Charlotte	56.38	66.16	61.85

On May 4, 1970, Ross filed a response to the Postmaster General's amended reply and agreed that the rates supported by the Postmaster General, as set forth above, are fair and reasonable rates of compensation.

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 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 January 27, 1970, the fair and reasonable final service mail rates per great circle aircraft mile to be paid in their entirety by the Postmaster General to Ross Aviation, 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 the following points shall be as follows:

	Route	Cents per mile
1	Poteau, McAlester, and Oklahoma City, Okla.	38.85
2	Altus, Lawton, and Oklahoma City, Okla.	55.23
3	Ponca City, Enid, and Oklahoma City, Okla.	49.91
4	Martinsburg, Clarksburg, and Charleston, W. Va.	39.84
5	Florence and Columbia, S.C., and Atlanta, Ga.	49.09
6	Savannah, Augusta, and Atlanta, Ga.	51.81
7	Charleston and Columbia, S.C., and Charlotte, N.C.	61.85

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

It is ordered, That:

1. All interested persons and particularly Ross Aviation, 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 Ross Aviation, 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 Ross Aviation, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[1] This order to show cause is not a final action and it 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).

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. 70-5881; Filed, May 12, 1970; 8:51 a.m.]

CIVIL SERVICE COMMISSION

TEACHERS

Notice of Establishment of Special Minimum Salary Rates and Rate Ranges

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

GS-1710 TEACHER

(Note: Eligibility for these special rates is limited to employees engaged in teaching students with "special needs" in the school identified.)

Geographic coverage: Mary G. Zeigler School, Department of Public Welfare, District of Columbia Government, Laurel, Md.

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

PER ANNUM RATES

Grade	1[1]	2	3	4	5	6	7	8	9	10
GS-5	$8,292	$8,510	$8,728	$8,946	$9,164	$9,382	$9,600	$9,818	$10,036	$10,254
GS-7	8,638	8,908	9,178	9,448	9,718	9,988	10,258	10,528	10,798	11,068
GS-8	9,255	9,554	9,853	10,152	10,451	10,750	11,049	11,348	11,647	11,946

[1] Corresponding statutory rates: GS-5—ninth; GS-7—third; GS-8—second.

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

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

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

[F.R. Doc. 70-5832; Filed, May 12, 1970; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18650; FCC 70-463]

WGAL TELEVISION, INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of WGAL Television, Inc. (W8OAJ) Williamsport, Pa., for construction permit for new television broadcast translator station, File No. BPTT-1770.

1. The Commission has before it for consideration the above-captioned application of WGAL Television, Inc., licensee of station WGAL-TV, channel 8, Lancaster Pa. (NBC), requesting a construction permit for a new UHF television broadcast translator station to serve Williamsport, Pa., by rebroadcasting station WGAL-TV on output Channel 80. On January 30, 1970, the Commission released a memorandum opinion and order (FCC 70-105), granting the above-captioned application subject to a same-day nonduplication condition intended to protect the NBC network programing of station WBRE-TV, Channel 28, Wilkes-Barre, Pa., from duplication by the WGAL translator. The translator would be located outside WGAL's predicted Grade B contour and within the predicted Grade A contour of station WBRE-TV.

2. On March 2, 1970, WGAL-TV filed a petition for reconsideration, requesting that the Commission rescind the nonduplication condition and grant the application without a condition.[1] The petition states that:

We respectfully request reconsideration and a grant of the translator without the condition attached. If the Commission is unable to so reconsider, then a hearing is requested. The grant, as it now stands, is valueless and of no public or private benefit.

In our memorandum opinion and order granting the application subject to the condition, we recognized that the grant was made subject to a condition not requested by the applicant and we stated that the grant would be considered final unless the applicant, within 30 days of the date of the grant, filed with the Commission a written request, pursuant to § 1.110 of the Commission's rules, rejecting the grant as made. Upon receipt of such a request, we stated that we would vacate the grant and designate the application for hearing. This provision parallels the language of § 1.110 of the rules.

3. The applicant contends that, because it proposes a UHF translator, the imposition of a nonduplication condition is inconsistent with existing Commission policies. None of the Commission's rules or policies, however, preclude the imposition of a nonduplication condition if circumstances indicate that such a condition would be appropriate, whether the translator is UHF or VHF, licensee-owned or not. Here, a VHF television station would construct a translator to serve a community substantially beyond its predicted Grade B contour into an all-UHF area and within the predicted Grade A contour of a UHF television station whose programing it would duplicate. Under these circumstances, we think that the effect of the UHF translator would be essentially that of a VHF translator, extending a VHF television station's service area into the predicted Grade A contour of another television station whose programing it would duplicate. Cf. § 74.732(e)(2) of the Commission's rules. In the Second Report and Order in Docket No. 14895 et al. (2 FCC 2d 725, 6 RR 2d 1717), we declined to impose nonduplication conditions on community-type translators and "* * * on UHF translator grants for facilities to operate in an all-VHF area." In our further notice of proposed rule making and notice of inquiry in Docket No. 15971 (8 FCC 2d 569, 10 RR 2d 1545), we reviewed our translator nonduplication policies, discussing the imposition of such conditions on UHF translators, and again declined to change existing policies. The policies were again retained following our review of them in the report and order in Docket No. 15971 (13 FCC 2d 305, 13 RR 2d 1577). We have, in appropriate cases, imposed such conditions on UHF translators (J. R. Karban, 18 FCC 2d 39, 16 RR 2d 469), or have indicated that, where appropriate, such a condition may be imposed (WMT-TV, Inc. (K74BD), 20 FCC 2d 601, 17 RR 2d 890). The possible fragmentation of WBRE-TV's audience within its predicted Grade A contour was the subject of the proceedings in Docket No. 18581 (Citizens Cable Company, Inc., 18 FCC 2d 409), and program exclusivity is now being provided to station WBRE-TV in Williamsport by the

[1] On Mar. 16, 1970, WBRE-TV filed an opposition to the petition and on Mar. 26, 1970, petitioner filed a reply thereto.

local CATV system. To avoid such fragmentation by a distant VHF television station's translator, we believed that it was necessary to require that similar protection be afforded WBRE–TV by the translator.

4. In its reply to WBRE–TV's opposition to the petition for reconsideration, petitioner raises, for the first time, the question of whether Williamsport is within WBRE–TV's predicted Grade A contour and, in fact, whether it is within WBRE–TV's predicted Grade B contour. Petitioner also raises, for the first time, a question as to whether WBRE–TV will suffer economic injury by grant of the translator application unconditionally. At the outset, these questions are improperly raised, for § 1.106(h) of the Commission's rules specifically requires that a reply to an opposition be limited to matters raised in the opposition. Neither of these questions was raised in the opposition and, in fact, neither was raised by the petitioner in the petition for reconsideration. On the contrary, the petition expressly concedes that Williamsport is within WBRE–TV's Grade A contour.[3] Petitioner fares no better on the merits than it does procedurally. Station WBRE–TV's service contours with predicted in accordance with the methods prescribed in § 73.684 (c) and (d) of the Commission's rules; petitioner claims that they should have been predicted by use of the curves and methods proposed in Docket No. 16004. Since that proposal has not been, and may not be, adopted by the Commission, the use of those curves and methods is improper and unacceptable.[4] Where the translator rules speak in terms of "Grade B contour," they mean the Grade B contour predicted in accordance with § 73.684 (c) and (d) of the rules. See Oregon Broadcasting Company, 18 FCC 2d 612, 16 RR 2d 878, reconsideration denied, 20 FCC 2d 246, 177 RR 2d 751. Furthermore, WBRE–TV's programing is actually available in Williamsport from WBRE–TV's 100-watt UHF translator station W76AK, so that, for the purposes of this proceeding, the method used to arrive at the location of WBRE–TV's terrain-limited contours has little relevance. This is a factor, however, which we think must be considered in determining whether a need exist in Williamsport for the NBC network programing which would be provided by the proposed WGAL–TV translator. We have already discussed in this document the matter of economic injury to WBRE–TV by fragmentation of its viewing audience.

5. The petition for reconsideration is a written rejection of the grant as made and, in view of our original order and the provisions of § 1.110 of the rules, we will vacate the grant and designate the application for hearing.

Accordingly, it is ordered, That the Commission's action of January 28, 1970, granting without hearing the above-captioned application of WGAL Television, Inc., is set aside and the grant is vacated.

It is further ordered, That the above-captioned application of WGAL Television, Inc., is designated for hearing at a time and place to be fixed by a subsequent order, upon the following issues:

1. To determine the extent to which the signals of station WGAL–TV, Lancaster, Pa., are presently available in Williamsport, Pa.

2. To determine whether a need exists in Williamsport, Pa., for the network programing which would be provided by the proposed translator station.

3. To determine the impact, if any, which an unconditional grant of the application would have upon the operation of station WBRE–TV, Wilkes-Barre, Pa.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether an unconditional grant of the application would serve the public interest, convenience and necessity and, if not, whether grant of the application subject to a same-day nonduplication condition would serve the public interest, convenience, and necessity.

It is further ordered, That WBRE–TV, Inc., is made a party to this proceeding.

It is further ordered, That the burden of proceeding with the introduction of evidence with respect to Issues 1 and 3, and the burden of proof with respect to Issue 3, is hereby placed upon WBRE–TV, Inc., and the burden of proceeding with the introduction of evidence and the burden of proof with respect to Issue 2 and the burden of proof with respect to Issue 1 remain upon the applicant.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and the party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by §1.594(g) of the rules.

Adopted: April 29, 1970.

Released: May 6, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70–5872; Filed, May 12, 1970; 8:50 a.m.]

[3] Paragraph 7 of the petition for reconsideration says: "Its [WBRE–TV's] Grade A contour alone extends more than 60 miles in the relevant directions with which we are concerned * * *" and, in paragraph 11, states: "WGAL–TV, a VHF television station which is affiliated with NBC, has applied for a translator in the UHF band which will be located within the Grade A signal of WBRE–TV, also an affiliate of NBC."

[4] See RKO General, Inc., FCC 70–299, released Mar. 25, 1970, paragraph 8; report and order in Docket No. 17253, FCC 70–345, released Apr. 3, 1970, paragraph 13. Proposed rules are only effective upon adoption by the Commission and, until that time, the only field intensity curves acceptable for use are those contained in the current rules. Any other procedure would constitute prejudgment of the rule-making proceeding, rendering nugatory the Commission's rule-making function.

[4] Commissioner Bartley absent.

FEDERAL MARITIME COMMISSION

STEAMSHIP OPERATORS INTERMODAL COMMITTEE

Notice of Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of Agreement filed by:

Howard A. Levy, Attorney, Kurrus and Jacobi, 2000 K Street NW., Washington, D.C. 20006.

Agreement No. 9735–4, between the member lines of the Steamship Operators Intermodal Committee, provides for a three (3) month extension of the agreement, i.e., to and including September 9, 1970.

The basic agreement, which is now scheduled to terminate on June 9, 1970, pursuant to Article 11 thereof, is a cooperative working arrangement which allows the parties to discuss matters enumerated in the agreement to try to arrive at a common position to be taken

in consultation with governmental agencies or private associations, and in appearances at hearings and other public or private proceedings.

Dated: May 11, 1970.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5915; Filed, May 12, 1970; 8:51 a.m.]

FEDERAL RESERVE SYSTEM

COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Commerce Bancshares, Inc., Kansas City, Mo., for approval of acquisition of more than 80 percent of the voting shares of Tipton Farmers Bank, Tipton, Mo.

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 Commerce Bancshares, Inc., Kansas City, Mo. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of more than 80 per cent of the voting shares of Tipton Farmers Bank, Tipton, Mo. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance of the State of Missouri, and requested his views and recommendation. The Commissioner commented that he viewed the proposal as a progressive step for banking in the area involved.

Notice of receipt of the application was published in the FEDERAL REGISTER on December 18, 1969 (34 F.R. 19839), 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 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. Upon such consideration, the Board finds that:

Applicant has 10 subsidiary banks with $700 million in deposits, and is the largest bank holding company and the third largest banking organization in the State of Missouri. (All banking data are as of June 30, 1969, adjusted to reflect holding company formations and acquisitions approved by the Board to date. Not reflected in the foregoing figures is the Board's approval today, under separate order, of the acquisition of American Trust Co. of Hannibal, Hannibal, Mo. (deposits $7.6 million)). Bank, with deposits of $3.5 million, is the only bank located in Tipton, and ranks third in size among five banks in Moniteau County. Applicant's closest subsidiary is located about 56 miles from Tipton. It does not appear that existing competition would be eliminated, or significant potential competition foreclosed, by consummation of applicant's proposal, or that there would be undue adverse effects on any other bank in the area involved.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. Banking factors, as related to the facts of record, are consistent with approval of the application. Bank has pursued very conservative lending policies and has a limited service offering; it does not presently offer time and savings deposit services. Affiliation with applicant would result in a liberalization of lending policies and an expansion of the services offered, and should increase bank's service to the community. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, That, on the basis of the Board's findings, summarized above, 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 Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] May 6, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-5840; Filed, May 12, 1970; 8:47 a.m.]

COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Commerce Bancshares, Inc., Kansas City, Mo., for approval of acquisition of more than 80 percent of the voting shares of American Trust Co. of Hannibal, Hannibal, Mo.

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 Commerce Bancshares, Inc., Kansas City, Mo. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of more than 80 percent of the voting shares of American Trust Co. of Hannibal, Hannibal, Mo. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance of the State of Missouri, and requested his views and recommendation. The Commissioner indicated that he had no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on January 24, 1970 (35 F.R. 1027), 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 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. Upon such consideration, the Board finds that:

Applicant has 10 subsidiary banks with $700 million in deposits, and is the largest bank holding company and the third largest banking organization in the State of Missouri. (All banking data are as of June 30, 1969, adjusted to reflect holding company formations and acquisitions approved by the Board to date. Not reflected in the foregoing figures is the Board's approval today, under separate order, of the acquisition of Tipton Farmers Bank, Tipton, Mo. (deposits $3.5 million).) Bank, with deposits of $7.6 million, is the smallest of three banks in Hannibal and of four banks in Marion County, and is located about 60 miles from the nearest of applicant's present subsidiaries. It does not appear that existing competition would be eliminated, or significant potential competition foreclosed, by consummation of applicant's proposal, or that there would be undue adverse effects on other banks in the area involved.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. The banking factors lend some support for approval of the application, in that it will resolve a management succession problem at bank, result in improved asset administration, and generally enhance bank's prospects. Applicant intends to expand the services offered by bank and improve its physical facilities, which should enable it to better serve its community. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, That, on the basis of the Board's findings, summarized above, said application be and hereby is

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

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 Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] May 6, 1970.

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

[F.R. Doc. 70-5841; Filed, May 12, 1970; 8:47 a.m.]

CENTRAL BANKING SYSTEM, INC.

Order Making Determination Under Bank Holding Company Act

In the matter of the application of Central Banking System, Inc., Oakland, Calif., pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956 for a determination as to Cenval Agency, Inc., a proposed nonbank subsidiary. (Docket No. BHC-97)

Central Banking System, Inc., Oakland, Calif., a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(a)), has filed a request for a determination by the Board of Governors of the Federal Reserve System that the activities planned to be undertaken by its proposed nonbank subsidiary Cenval Agency, Inc., are of the kind described in section 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)) and § 222.4(a) of Federal Reserve Regulation Y (12 CFR § 222.4(a)) so as to make it unnecessary for the prohibitions of section 4(a) of the Act, respecting the ownership or control of voting shares of nonbanking companies, to apply in order to carry out the purposes of the Act.

Pursuant to the requirements of section 4(c)(8) of the Act, and in accordance with the provisions of §§ 222.4(a) and 222.5(a) of Regulation Y (12 CFR §§ 222.4(a) and 222.5(a)), a hearing was held on these matters on August 22, 1969. On March 13, 1970, the hearing examiner filed his report and recommended decision,[2] a copy of which is appended hereto, wherein he recommended that the Board make the requested determination. The time for filing exceptions to the report and recommended decision has expired, and none has been filed. The findings of fact, conclusions of law, and recommendations embodied therein are adopted, and on the basis of the entire record,

It is hereby ordered, That the activities planned to be undertaken by the proposed subsidiary named hereinabove are determined to be so closely related to the business of banking and of managing or controlling banks as to be a proper incident thereto and as to make it unnecessary for the prohibitions of section 4(a) of the Bank Holding Company Act of 1956 to apply in order to carry out the purposes of that Act. *Provided, however*, That this determinaion is subject to revocation by the Board if the facts upon which it is based change in any material respect.

By order of the General Counsel of the Board of Governors, May 6, 1970, acting on behalf of the Board pursuant to delegated authority (12 CFR § 265.2(b)(2)).

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

[F.R. Doc. 70-5864; Filed, May 12, 1970; 8:49 a.m.]

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

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

SECURITIES AND EXCHANGE COMMISSION

[File No. 24B-1564]

CONTINENTAL PHOTOCOLOR CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

MAY 6, 1970.

I. Continental Photocolor Corp. (Continental), 26 Quincy Avenue, Braintree, Mass., a Massachusetts corporation located at 26 Quincy Avenue, Braintree, Mass., filed with the Commission on March 19, 1969, a notification on Form 1-A and an offering circular relating to a proposed offering of 80,000 shares of its $0.01 par value class A common stock at $3.75 per share. The sales were to be made by the officers of Continental for total proceeds of $300,000. The offering was commenced on May 5, 1969; of the 80,000 shares offered, 13,986 shares were sold. No market developed in the stock nor was any attempt made to trade the stock in the over-the-counter market or otherwise. Continental, which was in poor financial condition, continued to incur substantial losses and was forced to cease operations in July, 1969 and was ultimately liquidated. No funds were returned to investors.

II. The Commission has reasonable cause to believe from information reported to it by the staff that:

A. The officers of Continental (who were named as underwriters) offered and sold Continental stock on the basis of untrue statements of material facts and omissions to state facts necessary to make statements made in the light of the circumstances in which they were made not misleading. Concerning among other things:

1. The fact that the offering was oversubscribed;

2. The stock would seen begin trading at a price higher than the offering price;

3. That buyers would be able to resell the stock at a quick profit;

4. That the stock would soon be listed on an exchange;

5. That Continental was operating at a profit;

6. That Continental had a unique pricing method, which gave it a competitive advantage; and

7. That an investment in Continental would be a good one.

B. The issuer has violated the terms and conditions of the Regulation A exemption in the following respects:

1. In connection with the offer of its stock, by failing to furnish an offering circular as required by Rule 256.

2. By urging prospective investors to disregard the offering circular disclosures.

3. By making false statements of material facts and omitting to state material facts.

C. The practices recounted in paragraphs A and B above constituted violations of section 17(a) of the Securities Act of 1933.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in the order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters of the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

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

[F.R. Doc. 70-5868; Filed, May 12, 1970; 8:49 a.m.]

[File No. 24B-1577]

LACY SALES INSTITUTE, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor and Notice of Opportunity for Hearing

MAY 6, 1970.

I. Lacy Sales Institute, Inc. (Issuer), 80 Union Street, Newton Centre, Mass., a Massachusetts corporation located at

Newton Centre, Mass., filed with the Commission on April 28, 1969, a notification on Form 1–A and an offering circular relating to its proposed offering of 100,000 shares of its 0.05 cent par value common stock at $2 per share with net proceeds to the Issuer of $270,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933 ("Securities Act"), as amended, pursuant to the provisions of section 3(b) and Regulation A, promulgated thereunder. The proposed offering was to be underwritten on a "best efforts or none" basis by Albert Yanow & Co. ("Yanow"), Chestnut Hill, Mass. Yanow's discount was 0.2 cent per share, plus $12,500 for nonaccountable expenses, warrants, and other considerations.

II. The Commission has reasonable cause to believe from information reported to it by its staff that:

A. The notification and offering circular contain untrue statements of material fact and omit to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The failure to disclose that Viscount Securities, Inc. (Viscount), 79 Milk Street, Boston, Mass. 02109, and Joseph P. Abdella, President of Viscount, participated as an underwriter in the offering of securities of Issuer.

2. The failure to disclose that additional warrants and "investment securities" were issued to Joseph P. Abdella and Viscount.

B. The terms and conditions of Regulation A have not been complied with in that:

1. The Form 1–A failed to disclose that Joseph P. Abdella (Abdella) and Viscount Securities, Inc., were employed as underwriters by Issuer as required by Item 11.

2. The Form 1–A failed to include the written consent of all underwriters employed by the issuer as required by Item 11(c).

3. The offering circular failed to disclose the aggregate underwriting discounts paid to Abdella and Viscount as required by paragraph 4(a) of Schedule I.

4. The offering circular failed to disclose all warrants outstanding or proposed to be granted to purchase securities of the issuer as required by paragraph 10 of Schedule I.

5. The offering circular failed to disclose the method by which the securities were to be offered and the nature of the relationship between Issuer and Viscount as required by paragraph 5 of Schedule I.

6. The Form 2–A report pursuant to Rule 260 of regulation A filed by the issuer failed to describe total underwriting discounts as required by Item 6(a).

C. The issuer and underwriters in the distribution of the securities have engaged in transactions, practices, and a course of business which would operate and did operate as a fraud and deceit upon the purchasers of such securities in violation of section 17(a) of the Securities Act of 1933, as amended.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-5889; Filed, May 12, 1970; 8:49 a.m.]

[70-4882]

WEST PENN POWER CO.

Notice of Proposed Issue and Sale at Competitive Bidding of First Mortgage Bonds and Shares of Preferred Stock

MAY 7, 1970.

Notice is hereby given that West Penn Power Co. (West Penn), Cabin Hill, Greensburg, Pa. 15601, an electric utility subsidiary company of Allegheny Power System, Inc., a registered holding company, has filed an application with this Commission, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

West Penn proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $25 million principal amount of its First Mortgage Bonds, Series Y, ____ percent due June 1, 2000. The interest rate of the bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to West Penn (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the indenture dated March 1, 1916, between West Penn and The Chase Manhattan Bank, as Trustee, as heretofore supplemented and as to be further supplemented by a supplemental indenture to be dated as of June 1, 1970, which includes a 5-year prohibition against redemption with or in anticipation of moneys borrowed at lower interest costs.

West Penn also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 50,000 shares of its authorized but unissued $____ Preferred Stock, Series F, par value $100 per share. The dividend rate (which shall be a multiple of 4 cents) and the price (exclusive of accrued dividends) to be paid to West Penn (which shall be not less than $100 or more than $102.75 per share), will be determined by the competitive bidding.

The net proceeds realized from the sale of the bonds and the preferred stock will be used to finance, in part, the construction program of West Penn and its subsidiary companies, including payment of $27 million of short-term notes incurred therefor. Construction expenditures for 1970, 1971, and 1972 are presently estimated at $61 million, $85 million, and $66 million respectively.

It is stated that registration by the Pennsylvania Public Utility Commission of a securities certificate with respect to the bonds and preferred stock is required for their issue and sale, that such securities certificate is being filed with that Commission, and that a copy of the securities certificate and order of that Commission will be filed herein by amendment. It is further stated that no other State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The fees and expenses to be incurred in connection with the transactions are estimated at $41,000 for the bonds and $19,000 for the preferred stock, including legal fees of $10,000 for the bonds and $6,000 for the preferred stock. The fees of counsel for the successful bidders, estimated at $9,000 with respect to the bonds and $5,500 with respect to the preferred stock, are to be paid by such bidders.

Notice is further given that any interested person may, not later than May 28, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application 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 applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70-5870; Filed, May 12, 1970; 8:49 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30-C Lubbock, Texas Disaster 760]

MANAGER, PLAINVIEW, TEXAS DISASTER BRANCH OFFICE

Delegations Relating to Financial Assistance Functions

I. Pursuant to the authority delegated to the district director by Delegation of Authority No. 30-C, 35 F.R. 5440, the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, Plainview, Tex., Disaster Branch Office.* 1. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (a) $50,000 per household for repairs for replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan: to approve disaster guaranteed loans up to $350,000, and to decline disaster guaranteed loans in any amount.

2. To execute loan authorizations for Central, regional, and district approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By _____
Manager, Disaster Branch Office

3. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: April 19, 1970.

F. S. NEUMANN,
District Director,
Lubbock, Tex.

[F.R. Doc. 70-5871; Filed, May 12, 1970; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 5]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 8, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(0)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

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

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 544), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed April 28, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Atlanta, Ga., over Interstate Highway 85 to junction Georgia Highway 139, thence over Georgia Highway 139 to junction Georgia Highway 134, thence over Georgia Highway 134 to junction Georgia Highway 85, thence over Georgia Highway 85 to junction Georgia Highway 85E, thence over Georgia Highway 85E to Manchester, Ga., with following access route: From College Park, Ga., over unnumbered highway (Virginia Avenue) to junction Interstate Highway 85, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Atlanta, Ga., over U.S. Highway 29 via Moreland and La Grange, Ga., and Opelika, Ala., to Tuskegee, Ala. (also from Moreland, Ga., over Alternate U.S. Highway 27 to Warm Springs, Ga., thence northerly over Georgia Highway 85W to junction Georgia Highway 85E, thence over Georgia Highway 85E to junction Alternate U.S. Highway 27, thence over Alternate U.S. Highway 27 to Columbus, Ga., thence over U.S. Highway 80 to Tuskegee); and (2) from Warm Springs, Ga., over Alternate U.S. Highway 27 to Manchester, Ga., and return over the same routes.

By the Commission.

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

[F.R. Doc. 70-5875; Filed, May 12, 1970; 8:50 a.m.]

[Notice 16]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 8, 1970.

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

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

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

MOTOR CARRIERS OF PROPERTY

No. MC 89723 (Deviation No. 17), MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, Mo. 63103, filed April 29, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Jonesboro, Ark., over U.S. Highway 63 to junction Interstate Highway 55, thence over Interstate Highway 55 to junction U.S. Highway 64, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the

same commodities, over pertinent service routes as follows: (1) From Knobel, Ark., over Arkansas Highway 90 to junction Arkansas Highway 135, thence over Arkansas Highway 135 to Paragould, Ark., thence over Arkansas Highway 1 to Wayne, Ark.; and (2) from Memphis, Tenn., over U.S. Highway 70 to West Memphis, Ark., thence over U.S. Highway 64 to Bald Knob, Ark., and return over the same routes, limited to service which is auxiliary to, or supplemental of, the rail service of the Missouri Pacific Railroad Co.

By the Commission.

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

[F.R. Doc. 70-5846; Filed, May 12, 1970; 8:47 a.m.]

[Notice 73]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 7, 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 25869 (Sub-No. 100 TA), filed May 1, 1970. Applicant: NOLTE BROS. TRUCK LINE, INC., Post Office Box 7184, Omaha, Nebr. 68107. Applicant's representative: Marshall D. Becker, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, adhesives, coatings, printing inks, putty, paints, and materials, supplies, and equipment*, used in the manufacture or application thereof (except commodities in bulk), between the plantsite and storage facilities of The Valspar Corp. at Rockford, Ill., and its commercial zone, on the one hand, and, on the other, points in Nebraska and Colorado, restricted to traffic originating at and destined to the named origins and destinations, for 180 days. Supporting shipper: The Valspar Corp., 200 Sayre Street, Rockford, Ill. 61101 (David P. Uetz). Send protests to: Keith P. Kohrs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 41951 (Sub-No. 11 TA), filed May 1, 1970. Applicant: WHEATLEY TRUCKING, INC., 125 Brohawn Avenue, Cambridge, Md. 21613. Applicant's representative: Marion L. Wheatley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, dry in bulk (except in hopper or pneumatic equipment), and in bags, from Chesapeake, Va., to Seaford, Del., and Cambridge, Md., for 180 days. NOTE: Application states it does not intend to tack the authority here applied for to other authority held by it. Supporting shipper: Smith-Douglass Division of Borden Chemical, Borden, Inc., Norfolk, Va., George W. Olsen, Traffic Manager. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 65429 (Sub-No. 5 TA), filed May 4, 1970. Applicant: J & T TRANSPORT, INC., 7990 National Highway, Pennsauken, N.J. 08110. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic resins*, from Woodbury, N.J., to points in the commercial zone of Winchester, Va., for 150 days. Supporting shipper: Polyrez Co., South Columbia Street and Railroad, Woodbury, N.J. 08096. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 87720 (Sub-No. 99 TA), filed May 4, 1970. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household products and related articles*, between Chicago, Ill., and Canton, Ohio, for 180 days. Supporting shipper: Boyle-Midway, Division of American Home Products Corp., 685 Third Avenue, New York, N.Y. 10017. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 107064 (Sub-No. 76 TA), filed May 1, 1970. Applicant: STEERE TANK LINES, INC., 2808 Fairmount Street, Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potash, potash products and potash byproducts*, from points in Lea and Eddy Counties, N. Mex., to points in Oklahoma, Kansas, Nebraska, South Dakota, Illinois, Iowa, Arkansas, Missouri, Mississippi, California, Arizona, and Texas on and north of a line beginning at the Texas-Louisiana State line near Panola, Tex., and extending along U.S. Highway 79 to its intersection with U.S. Highway 81 at Round Rock, Tex., thence along U.S. Highway 81 to the international boundary of the United States and Mexico near Laredo, Tex. (except San Antonia, Tex.), for 150 days. Supporting shippers: Goodpasture, Inc., Post Office Box 912, Brownfield, Tex. 79316; Kerr-McGee Corp., Oklahoma City, Okla. 73102; Texas Farm Products Co., Post Office Box 9, Nacogdoches, Tex. 75961; Tide Products, Inc., Box 568, Littlefield, Tex. 79339; Occidental Chemical Co., Post Office Box 1185, Houston, Tex. 77001; Red Barn Chemicals, Inc., Post Office Box 141, Tulsa, Okla. 74102. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 110686 (Sub-No. 40 TA), filed May 4, 1970. Applicant: McCORMICK DRAY LINE, INC., Avis, Pa. 17721. Applicant's representative: J. S. Griffith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel bars*, from Avis, Pa., to Winchester, Ky., for 150 days. Supporting shipper: Jersey Shore Steel Co., Jersey Shore, Pa. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 112595 (Sub-No. 43 TA), filed May 4, 1970. Applicant: FORD BROTHERS, INC., Post Office Box 727, Coal Grove, Ironton, Ohio 45638. Applicant's representative: Walter S. Dail (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid spent yeast*, in bulk, in tank vehicles, from Pittsburgh, Pa., to Columbus, Ohio, for 150 days. Supporting shipper: Pittsburgh Brewing Co., 3340 Liberty Avenue, Pittsburgh, Pa. 15201; Attention: Kenneth A. McCulloch, Director of Personnel and Labor Relations. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 25301.

No. MC 113024 (Sub-No. 89 TA), filed May 1, 1970. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products* (except in bulk) for account Haskon, Inc., from Middletown and Marshallton, Del., to points in Columbiana, Allen, Henry, Licking, Mercer, Sioto, Darke, Summit, and Williams Counties, Ohio (except plastic products from Middletown, Del., to Delphos and

Versailles, Ohio), those in Ottawa, Kent, Huron, Gratiot, Wayne, Washtenaw, Bay, Brach, and Macomb, Mich., and those in Logan and Cook Counties, Ill., for 180 days. Supporting shipper: Haskon Plastic Products Division, Post Office Box 257, Middletown, Del. 19709; Daniel J. Ward, Traffic Manager. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 126472 (Sub-No. 9 TA), filed May 4, 1970. Applicant: WILLCOXSON TRANSPORT, INC., Post Office Box 16, Bloomfield, Iowa 52537. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank trucks, from Bellevue, Iowa, to points in Illinois and Minnesota, for 180 days. Supporting shipper: Chevron Chemical Co., Post Office Box 282, Fort Madison, Iowa 52627. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 126472 (Sub-No. 10 TA), filed May 4, 1970. Applicant: WILLCOXSON TRANSPORT, INC., Post Office Box 16, Bloomfield, Iowa 52537. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Early, Iowa, to points in Minnesota, Nebraska, and South Dakota, for 180 days. Supporting shipper: Chevron Chemical Co., Post Office Box 282, Fort Madison, Iowa 52627. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 127335 (Sub-No. 3 TA), filed May 1, 1970. Applicant: HAROLD COUSINS, INC., 117 Turk Street, Pontiac, Mich. 48053. Applicant's representative: John W. Ester, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from La Crosse and Sheboygan, Wis., to Milwaukee, Wis., and points within the Milwaukee, Wis., commercial zone, restricted to traffic having a subsequent movement by rail to Pontiac, Mich., for 180 days. NOTE: Applicant states it intends to tack and interline the authority sought herein. Supporting shippers: H. J. Van Hollenbeck, Distributor, Inc., 60 North Rose Street, Mount Clemens, Mich. 48044; Beer Co. of Battle Creek, Inc., 4407 West Columbia Avenue, Battle Creek, Mich. 49017; Becker Distributing Co., 1543 Memorial Highway, Post Office Box 1273, Saginaw, Mich. Send protests to: District Supervisor Gerald J. Davis, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, Mich.

No. MC 128205 (Sub-No. 12 TA), filed May 4, 1970. Applicant: BULKMATIC TRANSPORT COMPANY, 4141 George Street, Schiller Park, Ill. 60176. Applicant's representative: Irving Stillerman, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in pneumatic tank vehicles, from Fort Wayne, Ind., to Chicago, Ill., and points in the Chicago, Ill., commercial zone, for 180 days. Supporting shipper: L. G. Ebbing, Traffic Manager, Mayflower Mills, 931 Leesburg Road, Fort Wayne, Ind. 46808. Send protests to: Andrew J. Montgomery, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse and Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 128273 (Sub-No. 69 TA), filed May 4, 1970. Applicant: MIDWESTERN EXPRESS, INC., 121 Humboldt Street, Box 189, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from Houston, Tex., to points in Oklahoma, Kansas, Missouri, Arkansas, Colorado, Nebraska, Louisiana, and New Mexico, for 180 days. Supporting shipper: Olin Corp., Post Office Box 991, Little Rock, Ark. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, 221 South Broadway, Wichita, Kans. 67202.

No. MC 134535 (Sub-No. 1 TA), filed May 4, 1970. Applicant: CASALE CONTRACT CARRIERS INC., 156 Old Post Road, Edison, N.J. 08817. Applicant's representative: Edward Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, rugs, and padding*, from Inwood, N.Y., to points in New Jersey, Philadelphia, Pa., points in Bucks, Chester, Delaware, and Montgomery Counties, Pa., Bridgeport, Conn., and Staten Island, N.Y., and between Inwood, N.Y. and Dedham, Mass., for 150 days. Supporting shipper: Allen Carpet Shops, Inc., 600 Bayview Avenue, Inwood, N.Y. 11696. Send protests to: District Supevisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 134554 TA, filed May 1, 1970. Applicant: McLEAN TRANSPORT CO., Post Office Box 237, Bowling Green, Ky. 42101. Applicant's representative: Louis J. Amato, Central Building, 1033 State Street, Bowling Green, Ky. 42101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Logs, lumber, pallets, skids, bases, waste wood products, wood products, plastic mouldings, finished brushes, new furniture, furniture assemblies, and canvas assemblies, and canvas assemblies for furniture*, from the plantsite of L. F. Strassheim Co., at Bowling Green, Ky., and the plantsite of Kentucky Pallet Corp. at Scottsville, Ky., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, and *all States east thereof*; (2) *materials, supplies, and equipment* (except commodities in bulk) from the destination States in (1) above to the plantsites specified in (1) above, for 180 days. NOTE: The authority requested will be performed under continuing contracts with L. F. Strassheim Co., Bowling Green, Ky., and Kentucky Pallet Corp., Scottsville, Ky. Supporting shippers: Scott McLean, L. F. Strassheim Co., West Main Street, Bowling Green, Ky. 42101; Scott McLean, Kentucky Pallet Corp., Scottsville, Ky. 42164. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 134561 TA, filed May 4, 1970. Applicant: CORLISS E. THORNHILL, SR., doing business as THORNHILL ENTERPRISES, May Ray Avenue, Plaistow, N.H. 03865. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shoe findings*, from Haverhill, Mass., to Manchester, N.H., for 180 days. Supporting shippers: The Gold Stampers Inc., 326 Taylor Street, Manchester, N.H.; G. R. Swartz Co., Inc., 104 Essex Street, Haverhill, Mass.; Servcut, Inc., Hale Street, Haverhill, Mass. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

By the Commission.

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

[F.R. Doc. 70-5847; Filed, May 12, 1970; 8:47 a.m.]

[Notice 74]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 8, 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 102616 (Sub-No. 854 TA), filed May 6, 1970. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, Akron, Ohio 44319. Applicant's representative: James Annand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol A*, in bulk, in tank vehicles, from Wheeling, W. Va., to Natrium, W. Va., on traffic having a prior out-of-State movement, for 180 days. Supporting shipper: Mobay Chemical Co., Penn Lincoln Parkway West, Pittsburgh, Pa. 15205. Send protests to: G. J. Baccei, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 107064 (Sub-No. 77 TA), filed May 4, 1970. Applicant: STEERE TANK LINES, INC., 2808 Fairmount Street, Dallas, Tex. 75221. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, from points in Hale County, Tex., to points in El Paso, Hudspeth, Culberson, Loving, Reeves, Jeff Davis, and Presidio Counties, Tex., for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Occidental Chemical Co., Post Office Box 1185, Houston, Tex. 77001. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 107295 (Sub-No. 380 TA), filed May 6, 1970. Applicant: PRE-FAB TRANSIT CO., Post Office Box 146, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished paneling and particleboard*, from the plantsite and warehouse facilities of Evans Products Co., at Memphis, Tenn., to points in Arkansas, Connecticut, Delaware, Massachusetts, Minnesota, Nebraska, New Jersey, New York, North Carolina, Oklahoma, Vermont, and West Virginia, for 180 days. Supporting shipper: Evans Products Co., Post Office Box 880, Corona, Calif. 91720. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 111170 (Sub-No. 142 TA), filed May 6, 1970. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, El Dorado, Ark. 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Novacite/novaculite* (Silica), dry, in bulk, from Hot Springs, Ark., to Chesterfield and St. Louis, Mo., for 180 days. Supporting shipper: Malvern Minerals Co., Hot Springs, Ark. 71901. Send protests to District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 114389 (Sub-No. 12 TA), filed May 6, 1970. Applicant: GALE B. ALEXANDER, 120 South Ward Street, Ottumwa, Iowa 52501. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Car crushers, office machine crushers, motor block breakers, engine pullers, and related parts and accessories*, from the plantsite and facilities of Al-Jon, Inc., near Ottumwa, Iowa, to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Al-Jon, Inc., Post Office Box 592, Ottumwa, Iowa 52501. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 123936 (Sub-No. 3 TA), filed May 6, 1970. Applicant: RETAIL STORES DELIVERY OF RHODE ISLAND, INC., 208 Kinsley Avenue, Providence, R.I. 02903. Applicant's representative: Arthur Liberstein, 30 Church Street, New York, N.Y. 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are dealt in by retail department stores, in a retail delivery service, between New London, Conn.; Fall River, Mass.; New Bedford, Mass.; and points in Rhode Island, for 180 days. NOTE: Applicant does not intend to tack with its existing authority and Sub Nos. thereunder. Supporting shippers: The Outlet Co. of Providence, Rhode Island, 176 Weybosset Street, Providence, R.I. 02903; Cherry & Webb, Inc., 789 Waterman Avenue, East Providence, R.I. 02914. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, R.I. 02903.

No. MC 124377 (Sub-No. 15 TA), filed May 6, 1970. Applicant: REFRIGERATED FOODS, INC., Post Office Box 1018, Denver, Colo. 80201. Applicant's representative: John H. Lewis, The 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, as described in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766; (1) from plantsite, warehouse, and storage facilities utilized by the Pepper Packing Co. at Denver, Colo., to points in California; (2) from plantsite, warehouse, and storage facilities utilized by the York Packing Co., Inc., at York, Nebr., to Denver, Colo., and points in California. The purpose of this application is to permit applicant to serve the shippers from warehouse and storage facilities of said companys rather only from the plantsite of these shippers. Applicant presently has all the authority requested herein with the exception that it all must originate at the plantsite, for 180 days. Supporting shippers: Pepper Packing Co., 901 East 46th Avenue, Denver, Colo. 80216 (Post Office Box 16557); York Packing Co., Inc., Post Office Box 5244 T.A., Denver, Colo. 80217. Send protests to: District Supervisor C. W. Buckner, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 127834 (Sub-No. 54 TA), filed May 6, 1970. Applicant: CHEROKEE HAULING & RIGGING, INC., 540–42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: N. Bryan Stanley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk), from the plantsites, warehouses, production, and distribution facilities of Consolidated Aluminum Corp., located at or near New Johnsonville and Jackson, Tenn., to points in Alabama, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin, for 180 days. Supporting shipper: Consolidated Aluminum Corp., Jackson, Tenn. 38301. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 134567 TA, filed May 6, 1970. Applicant: RAMON RINE, Osceola, Ark. 72370. Applicant's representative: Louis Tarlowski, Pyramid Life Building, Little Rock, Ark. 72201. Authority sought to operate as a *contract carrier*, vehicle over irregular routes, transporting: *Household goods shipping and storage containers*, knocked-down flat palletized, from plantsite and warehouse facilities of Mizpah Container Co., Caruthersville, Mo., to points in the continental United States on and east of U.S. Highway 85 and Interstate Highway 25, for 150 days. Supporting shipper: Mizpah Container Co., Post Office Box 215, Caruthersville, Mo. 63830. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

By the Commission.

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

[F.R. Doc. 70-5876; Filed, May 12, 1970; 8:50 a.m.]

[Notice 534]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 8, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72028. By order of May 6, 1970, the Motor Carrier Board, on reconsideration, approved the transfer to American Freight Line, Inc., Kansas City, Mo., the operating rights in certificate No. MC-129385 issued October 31, 1968, to Bonita Motor Line, Inc., Kansas City, Mo., authorizing the transportation of general commodities, excluding household goods and commodities in bulk and other usual exceptions, and specific commodities, from, to, or between specified points in Kansas, Missouri, and Iowa. Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106, attorney for applicants.

No. MC-FC-72120. By order of May 6, 1970, the Motor Carrier Board approved the transfer to Glen Canny and Ronald Canny, a partnership, doing business as Canny's Livestock, Osage, Iowa, of the operating rights in certificates Nos. MC-19595 and MC-19595 (Sub-No. 2), issued May 11, 1964, and October 30, 1964, respectively, to Ralph Brumm and Glen G. Canny, a partnership, doing business as Brumm & Canny, Osage, Iowa, authorizing the transportation of livestock, from Osage, Iowa, and points within 30 miles of Osage, to Albert Lea and St. Paul, Minn., and Chicago, Ill.; feed, seed, tankage, livestock, and farm implements, from Albert Lea and St. Paul, Minn., and Chicago, Ill., to Osage, Iowa, and points within 30 miles of Osage; livestock, feed, seed, and tankage, between Osage, Iowa, and points within 30 miles of Osage, on the one hand, and, on the other, South St. Paul and Austin, Minn.; and animal blood, from Albert Lea, Minn., to Osage, Iowa. Erwin Larson, 200 Wisconsin Street, Charles City, Iowa 50616, attorney for applicants.

No. MC-FC-72123. By order of May 6, 1970, the Motor Carrier Board approved the transfer to Berens Express, Inc., North Chicago, Ill., of certificate of registration No. MC-98917 (Sub-No. 1) issued May 20, 1965, to Jerome T. Berens, doing business as Berens Express, North Chicago, Ill., evidencing a right to engage in transportation in interstate commerce as described in certificate of public convenience and necessity No. 2721MC, dated October 5, 1954, issued by the Illinois Commerce Commission. Irving Stillerman, 29 South La Salle Street, Chicago, Ill. 60603, attorney for applicants.

No. MC-FC-72128. By order of May 6, 1970, the Motor Carrier Board approved the transfer to Reba Burns Moody, 133 Oak Hill Drive, Greenville, S.C. 29611, of certificate No. MC-107140, issued November 8, 1950, to C. J. Moody, doing business as City View Transfer, 1010 Woodside Avenue, Greenville, S.C. 29611, authorizing the transportation of household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between Greenville, S.C., and points in South Carolina within 35 miles of Greenville, on the one hand, and, on the other, points in Georgia and North Carolina.

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

[F.R. Doc. 70-5877; Filed, May 12, 1970; 8:50 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 8, 1970.

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

LONG-AND-SHORT HAUL

FSA No. 41951—*Iron and steel articles from Hennepin, Ill.* Filed by Illinois Freight Association, agent (No. 354), for interested rail carriers. Rates on iron and steel articles, in carloads, as described in the application, from Hennepin, Ill., to Cedars, Miss.

Grounds for relief—Market competition.

Tariff—Supplement 47 to Illinois Freight Association, agent, tariff ICC 1159.

FSA No. 41952—*Iron and steel articles from Hennepin, Ill.* Filed by Illinois Freight Association, agent (No. 355), for interested rail carriers. Rates on iron and steel articles, in carloads, as described in the application, from Hennepin, Ill., to New Orleans, La.

Grounds for relief—Market competition.

Tariff—Supplement 47 to Illinois Freight Association, agent, tariff ICC 1159.

By the Commission.

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

[F.R. Doc. 70-5878; Filed, May 12, 1970; 8:50 a.m.]

[Notice 43]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 8, 1970.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 124004 (Sub-No. 16), filed April 17, 1970. Applicant: RICHARD DAHN, INC., Rural Delivery 1, Sparta, N.J. 07871. 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: (1) *Salt*, from Seneca Lake Mine, Milo Township (Yates County), N.Y., to points in Connecticut, Delaware, District of Columbia, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; and (2) *returned shipments of salt*, from points in the above-named destination States to Seneca Lake Mine, Milo Township (Yates County), N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: June 23, 1970, at the Offices of the Interstate Commerce Commission, Washington, D.C., before an examiner to be later designated.

No. MC 133419 (Sub-No. 1), filed March 30, 1970. Applicant: WILLIAM PFOHL TRUCKING CORP., 83 Pfohl Road, Cheektowaga, N.Y. 14225. Applicant's representative: Edward B. Murphy, 1103 Liberty Bank Building, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock salt*, in packages and in bulk, from Seneca Lake Mine, of Morton Salt Co., Severne Road, Himrod (Yates County), State of New York, to points in Pennsylvania; and returned, refused, and rejected merchandise of the same description, on return.

HEARING: June 23, 1970, at the Offices of the Interstate Commerce Commission, Washington, D.C., before an examiner to be later designated.

No. MC 1486 (Sub-No. 3) (Republication), filed September 8, 1969, published in the FEDERAL REGISTER issue of October 23, 1969, and republished this issue. Applicant: VAN BRUNT & SON, INC., Box 192, Bordentown Avenue, Old Bridge, N.J. 08857. Applicant's representative: Alexander Markowitz, 1619 Woodcrest Drive, Vineland, N.J. 08360. The modified procedure has been followed in this proceeding, and an order of the Commission, Operating Rights Board, dated April 21, 1970, and served April 29, 1970, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring

special equipment), between points in Berks, Lehigh, Philadelphia, Montgomery, Northampton, Carbon, Bucks, and Luzerne Counties, Pa.; restricted to the transportation of traffic having an immediately prior or subsequent movement by rail; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as previously published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 115771 (Sub-No. 11) (Republication), filed September 5, 1969, published in the FEDERAL REGISTER issue of October 2, 1969, and republished this issue. Applicant: PENBROOK HAULING COMPANY, INC., Post Office Box 4213, Harrisburg, Pa. 17111. Applicant's representative: Robert L. Bailey (same address as applicant). The modified procedure has been followed in this proceeding, and an Order of the Commission, Operating Rights Board, dated April 24, 1970, and served May 4, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, (1) of *mobile offices, mobile shops, mobile storage units,* and *mobile display facilities* (except, in each case, trailers designed to be drawn by passenger automobiles, and buildings in sections mounted on wheeled undercarriages with hitchball connectors); and (2) of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) when transported in, and in connection with, the commodities described in (1) above, between points in Maryland, New Jersey, New York, Pennsylvania, and Virginia, on the one hand, and, on the other, points in the United States (except Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming). Because it is possible that other parties, who have relied upon the notice of the application as previously published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 118457 (Sub-No. 6) (Republication), filed June 17, 1968, published in the FEDERAL REGISTER issue of July 4, 1968, and republished this issue. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 300 Dodge Street, Racine, Wis. 53402. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. A report and recommended order of the Hearing Examiner which became effective April 20, 1970, and was served April 27, 1970, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle in interstate or foreign commerce, over irregular routes, of (1) frozen foods, and prepared food products, from Waukesha, Wis., to points in Illinois, Indiana, Ohio, Kentucky, Missouri, and the Lower Peninsula of Michigan; (2) 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 *Motor Carrier Certificates*, 61 M.C.C. 209 and 766 from Kenosha, Wis., to points in Illinois, Indiana, Ohio, Kentucky, Missouri, and the Lower Peninsula of Michigan; (3) meats, meat products, and meat byproducts, and articles distributed by meat packinghouses as described in sections A and C of appendix I to the *descriptions case*, frozen foods, flour, maple syrup, and cheese from Fort Atkinson, Wis., to points in Illinois, Indiana, Ohio, Kentucky, Missouri and the Lower Peninsula of Michigan;

(4) Frozen foods from Milwaukee, Wis., to points in Illinois, Indiana, Ohio, Kentucky, Missouri, and the Lower Peninsula of Michigan; (5) cheese, from Mayville, Watertown, and Kiel, Wis., to points in Illinois, Indiana, Ohio, Kentucky, Missouri, and the Lower Peninsula of Michigan; (6) cheese and cheese food products, from Waupaca, Hilbert, and Kaukauna, Wis., to points in Illinois, Indiana, Ohio, Kentucky, Missouri, and the Lower Peninsula of Michigan; (7) frozen foods from Chicago and Deerfield, Ill., to points in Wisconsin; and (8) frozen pizza, from Chicago Heights, Ill., to points in Wisconsin, restricted to transportation of traffic originating at the named origins and destined to points in the named destination States; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 121060 (Sub-No. 6) (Republication) filed April 2, 1969, published in the FEDERAL REGISTER issue of May 1, 1969, and republished this issue. Applicant: ARROW TRUCK LINES, INC., 1220 West Third, Post Office Box 5568, Birmingham, Ala. 35407. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, Ala. 36401. A decision and order of the Commission, Review Board No. 2, dated April 22, 1970, and served April 28, 1970, upon consideration of the application and the record in the proceeding including the report and recommended order of the Examiner, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes; (1) of *lime, cement, lumber, concrete products, pipe, brick, and terra cotta pipe*, between points in Jefferson, Shelby, and St. Clair Counties, Ala., on the one hand, and, on the other, points in Alabama; and (2) of *road building and excavating equipment, construction materials and supplies, and contractors machinery* between points in Alabama except points in Washington, Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Henry, and Houston Counties, both (1) and (2), above, restricted against the transportation of commodities in bulk. That applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 123048 (Sub-No. 153) (Republication), filed May 12, 1969, published in the FEDERAL REGISTER issue of May 29, 1969, and republished, this issue. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. Applicant's representatives: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703, and Paul Martinson, Post Office Box A, Racine, Wis. 53401. A report and recommended order of the Hearing Examiner, which became effective April 6, 1970, and was served April 16, 1970, finds; that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over

irregular routes, of (1)(a) beach cleaners; (b) rock pickers; and (c) parts and attachments for agricultural machinery, for agricultural implements, for beach cleaners, and for rock pickers, from Gering, Nebr., to points in Florida, Michigan, North Dakota, Texas, and Wisconsin; (2) parts and attachments for agricultural machinery, for agricultural implements, for beach cleaners, and for rock pickers, from Gering, Nebr., to points in Alabma, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, South Dakota, and Virginia;

(3) (a) agricultural machinery and agricultural implements; (b) beach cleaners; (c) rock pickers; and (d) parts and attachments for the commodities described above in (a), (b), and (c), from Gering, Nebr., to points in Arkansas, Georgia, Kentucky, Maryland, New Hampshire, Oklahoma, Rhode Island, Tenneessee, Vermont, and West Virginia; with the authority specified above in (1), (2), and (3), restricted to traffic originating at Gering, Nebr., and restricted against the transportation of commodities requiring special equipment by reason of size or weight: *Provided*, That the authority herein authorized, to the extent it duplicates any heretofore granted to applicant, shall not be construed as conferring more than one operating right; that applicant is fit, willing, and able properly to perform the operation described in this order, and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 126874 (Sub-No. 2) (Republication), filed March 24, 1969, published in the FEDERAL REGISTER issue of April 17, 1969, and republished this issue. Applicant: MOBILE EXHIBITS, INC., 1518 South Mayflower Avenue, Monrovia, Calif. 91016. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. An Order of the Commission, Division 1, dated April 22, 1970, and served April 28, 1970, upon consideration of the record in the proceeding and the prior report of the Commission, Review Board number 3, decided November 7, 1969, and served November 19, 1969, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *display materials and equipment exhibits*, in demonstration trailers (except those designed to be drawn by passenger automobiles), between points in the United States, except Alaska and Hawaii; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133356 (Sub-No. 1) (Republication), filed September 8, 1969, published in the FEDERAL REGISTER issue of October 9, 1969, and republished this issue. Applicant: SUNVAN & STORAGE COMPANY, INC., 534 Westlake Avenue N., Seattle, Wash. 98109. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, Wash. 98104. The modified procedure has been followed in this proceeding, and a report and order of the Commission, Review Board Number 1, decided April 30, 1970, and served May 6, 1970, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of used household goods between the points indicated below, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic; between points in King, Pierce, Thurston, Snohomish, and Kitsap Counties, Wash., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133607 (Sub-No. 1) (Republication), filed August 8, 1969, published in the FEDERAL REGISTER issue of September 5, 1969, and republished this issue. Applicant: JAMES DOSS, doing business as DOSS MOVING & STORAGE, 400 Wilcox SW., Post Office Box 1341, Sierra Vista, Ariz. 85635. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. The modified procedure has been followed in this proceeding, and a report and order of the Commission, decided April 30, 1970, and served May 6, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of used household goods between the points indicated below, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic; between points in Cochise, Santa Cruz and Pima Counties, Ariz., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 105984 (Sub-No. 7), (Notice of Filing of Petition Under Rule 102 To Waive Time Requirements For Filing Petition For Reconsideration Under Rule 101 and Petition For Reconsideration of the Supplemental Decision and Order of the Commission), filed February 3, 1970. Petitioner: JOHN B. BARBOUR, JR., doing business as JOHN B. BARBOUR TRUCKING COMPANY, Iowa Park, Tex. Petitioner's representative: Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex. 78701. Petitioner holds a Certificate in No. MC 105984 Sub-7 to transport: Earth drilling machinery and equipment and machinery; equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery

and equipment, (b) the completion of holes or wells drilled (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Texas, Oklahoma, Kansas, Louisiana, and New Mexico. Between points in Texas, on the one hand, and, on the other, points in Montana and Wyoming. Between points in that part of Texas south and east of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 80 to Fort Worth, Tex., thence along U.S. Highway 377 to Denton, Tex., and thence along U.S. Highway 77 to the Texas-Oklahoma State line, on the one hand, and, on the other, points in Colorado and Utah. By the instant petition, petitioner requests that the territorial scope of authority in No. MC 105984 Sub 7 be corrected to read as follows: Between points in Texas, Oklahoma, Kansas, Louisiana, and New Mexico. Between points in Texas, on the one hand, and, on the other, points in Montana and Wyoming. Between points to that part of Texas south and east of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 80 to Fort Worth, Tex., thence along U.S. Highway 377 to Denton, Tex., and thence along U.S. Highway 77 to the Texas-Oklahoma State line, on the one hand, and, on the other, points in Colorado and Utah. Between points in Texas on and west of U.S. Highway 77 between the Oklahoma-Texas State line and Denton, on and west of U.S. Highway 377 between Denton and Fort Worth, and on and north of U.S. Highway 80 between Fort Worth and the Texas-New Mexico State line, on the one hand, and, on the other, points in Colorado and Utah. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of application in the FEDERAL REGISTER.

No. MC 110525 (Sub-No. 924) (Notice of Filing of Petition For Modification of Existing Commodity Descriptions), filed April 20, 1970. Petitioner: CHEMICAL LEAMAN TANK LINES, INC., Downingtown, Pa. Petitioner's representative: Leonard A. Jasckiewicz, 1730 M Street NW., Washington, D.C. 20036. Petitioner states that in the report on reconsideration in MC 109637 Sub-74, *Southern Tank Lines, Inc., Extension—St. Bernard, Ohio*, decided October 16, 1961, the Commission redefined the commodity description "liquid chemicals, in bulk, in tank vehicles" and outlined a procedure for reforming certificates and permits of motor carriers authorizing the transportation of liquid chemicals as defined by the Commission in other proceedings. By the instant petition, petitioner seeks to have the following authorities in its Certificate No. MC 110525 Sub-924, issued January 13, 1970, modified to reflect the commodity description immediately following the recital of each authority. The authorities are listed by sheet and paragraph number, and, in the interests of brevity, do not include the territorial scope involved. *Docket No. MC 110525, Sub-924*, Sheet 7, paragraph 1, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles. *Modification: Liquid chemicals* in bulk, in tank vehicles, sheet 7, paragraph 2, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles.

Modification: Liquid chemicals, in bulk, in tank vehicles. Sheet 7, paragraph 3, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles. *Modification: Liquid chemicals* in bulk, in tank vehicles. Sheet II, paragraph 2, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles. *Modification: Liquid chemicals*, in bulk, in tank vehicles. Sheet II, paragraph 3, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles. Sheet II, paragraph 4, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles. *Modification: Liquid chemicals*, in bulk, in tank vehicles. Sheet II, paragraph 5, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles. *Modification: Liquid chemicals*, in bulk, in tank vehicles. Sheet II, paragraph 6, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles. *Modification: Liquid chemicals*, in bulk, in tank vehicles. Sheet 16, paragraph 2, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles. *Modification: Liquid chemicals*, in bulk, in tank vehicles. Sheet 16, paragraph 3, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles.

Modification: Liquid chemicals, in bulk, in tank vehicles. Sheet 18, paragraph 2, *Liquid chemicals*, as defined in *The Maxwell Co. Extension—Addyston*, 63 M.C.C. 677. *Modification: Liquid chemicals*. Petitioner requests that the authorities listed below also be modified to eliminate "as defined by the Commission" as reflected in the commodity description immediately following the recital of each of the authorities. The purpose of such modifications is to eliminate all unnecessary surplusage within the certificate. *Certificate No. MC 110525*, Sub-924, paragraph 678, *Dry chemicals*, as defined by the Commission and *Phosphatic Fertilizer Solutions*, in bulk, in tank and hopper-type vehicles. *Modification: Dry chemicals and phosphatic fertilizer solutions*, in bulk, paragraph 679, *Liquid Acids and Chemicals*, as defined by the Commission, in bulk, in tank and hopper-type vehicles. *Modification: Liquid acids and chemicals*, in bulk, in tank and hopper-type vehicles. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 115841 (formerly No. MC 115841) (Sub-No. 15), (Notice of Filing of Petition for Modification of Certificate), filed April 21, 1970. Petitioner: COLONIAL REFRIGERATED TRANSPORTATION, INC., Birmingham, Ala. Petitioner's representatives: Harry C. Ames, Jr., and E. Stephen Heisley, 705 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001, and C. E. Wesley, Post Office Box 2169, Birmingham, Ala. Petitioner presently holds authority under Docket No. MC-115841 and its lead certificate, which formerly was its Sub 15 authority to transport: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *foodstuffs* (except those hereinbefore specified when moving in refrigerated vehicles), *in pool car distribution service* (emphasis supplied), between points in Alabama. The purpose of this petition is to eliminate the phrase "In pool car distribution service." Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 117574 (Sub-No. 56) (Notice of Filing of Petition for Waiver of Rule 1.101(e), for Reconsideration and for Modification of Certificate), filed April 27, 1970. Petitioner: DAILY EXPRESS, INC., Carlisle, Pa. Petitioner's representative: James W. Hagar, 100 Pine Street, Post Office Box 1166, Harrisburg, Pa. 17108. Petitioner holds interstate operating authority at Docket No. MC-117574 (Sub-No. 56) authorizing the following transportation: *Machinery*, between points in Pennsylvania in an area on and east of U.S. Highway 15, in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, Ohio, and the District of Columbia (except machinery, not requiring the use of special equipment between Baltimore, Maryland, on the one hand, and, on the other, points in Cumberland County, Pa., on or east of U.S. Highway 15, in Adams County on and east of U.S. Highway 15 and north of U.S. Highway 30, and in York County north of U.S. Highway 30 and west of U.S. Highway 111, but not excluding service to or from Gettysburg, and York, Pa., points in Adams and York Counties, on or within 1 mile of that portion of U.S. Highway 30 between Gettysburg and York, and points in New York County on or within 1 mile of that portion of U.S. Highway 11 between York and the York-Cumberland County line). By the instant petition, petitioner requests that the Commission grant this petition for waiver of the provisions of Rule 1.101(e) and reopen the proceedings

in order to modify the certificate in No. MC 117574 Sub No. 56, to read as follows: "(1) Machinery, (2) commodities, the transportion of which because of their size or weight requires the use of special equipment, and of related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment; and (3) self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts and supplies moving therewith (when transported on trailers)." Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 124190 (Notice of Filing of Petition to Modify Permit), filed April 27, 1970. Petitioner: GRIFFIN MOBILE HOME TRANSPORTATION CO., a corporation, Oklahoma City, Okla. Petitioner's representative: David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Petitioner holds a permit authorizing the transportation as a contract carrier, over irregular routes, of house trailers, between points in Oklahoma, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, limited to a transportation service to be performed under a continuing contract with five named companies, including B & B Mobile Homes, Inc., of Oklahoma City, Okla. By the instant petition, petitioner requests that B & B Mobile Homes, Inc., be eliminated from its permit and substitute in its stead, Cherokee Homes, Inc., or Prior, Okla. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 124608 and No. MC 124608 (Sub-No. 2), (Notice of Filing of Petition for Conversion of Operating Authority From a Permit to a Certificate of Public Convenience and Necessity), filed March 30, 1970. Petitioner: WILLIAM GILCHRIST, Old Forge, Pa. Petitioner's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Petitioner holds the following operating authority as a contract carrier at permit No. MC–124608 issued the 29th day of August 1963. Irregular routes: *Hollow metal building products and materials, parts, and supplies* used in the installation of hollow metal building products. From the plantsite or sites of the Superior Fireproof Door and Sash Co., Inc., in Scranton, Pa., to points in Alabama, Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia. *Materials, supplies and equipment* used in the manufacture and installation of Hollow Metal Building Products. From points in the above specified destination States to Scranton, Pa. Restriction: The service authorized herein is subject to the following conditions: The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operation shall conform to the provisions of section 210 of the Act. The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Superior Fireproof Door and Sash Co., Inc. Petitioner holds other authority at MC–124608 Sub. 2, issued April 8, 1964, authorizing the following transportation as a contract carrier:

Irregular Routes: *Hollow metal building products and materials, parts, and supplies* used in the installation of Hollow Metal Building Products (except commodities in bulk). From the site of the Superior Fireproof Door and Sash Co., Inc., plant at Scranton, Pa., to Bangor, Augusta, and Waterville, Maine, and points in Arizona, California, Colorado, Idaho, Massachusetts, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Washington, Wyoming; and, *Damaged or returned shipments* of the above described commodities: From the specified destination points to the site of the Superior Fireproof Door and Sash Co., Inc., plant at Scranton, Pa. Restriction: The service authorized herein is subject to the following conditions: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Superior Fireproof Door and Sash Co., Inc., of Scranton, Pa. The authority granted shall be subject to the right of the Commission, which is hereby expressly reserved to impost such terms, conditions or limitations in the future as it may find necessary in order to insure that carriers operation shall conform to the provisions of section 210 of the Act. By the instant petition, petitioner requests that operating authority at MC–124608 and MC–124608 Sub. 2 be converted to a common carrier's certificate of public convenience and necessity, reading as follows:

Irregular Routes: *Hollow metal building products and materials, parts and supplies* used in the installation of Hollow metal building products. From the plantsite or sites of the Superior Fireproof Door and Sash Co., Inc., in Scranton, Pa., to points in Alabama, Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia. *Materials, supplies and equipment* used in the manufacture and installation of Hollow metal building products. From the above-specified destination States to Scranton, Pa. *Hollow metal building products and materials, parts and supplies* used in the installation of Hollow metal building products (except commodities in bulk). From the plantsite of the Superior Fireproof Door and Sash Co., Inc. in Scranton, Pa., to Bangor, Augusta, and Waterville, Maine and points in Arizona, California, Colorado, Idaho, Massachusetts, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Washington, and Wyoming; and *Damaged or returned shipments* of the above-described commodities. From the above-specified destination points to the site of the Superior Fireproof Door and Sash Co., Inc. plant at Scranton, Pa. *Restriction:* Restricted to the transportation of traffic originating at the plantsite of Superior Fireproof Door and Sash Co., Inc., Scranton, Pa., and destined to points set forth in the above-described authority. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 128543 (Sub-No. 2) (Notice of Filing of Petition for Modification of Permit), filed April 13, 1970. Petitioner: CRESCO LINES, INC., Crestwood, Ill. 60445. Petitioner's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. Petitioner states that commencing April 1, 1970, its contracting shipper, Allied Tube & Conduit Corp. of Harvey, Ill., hereafter referred to as "Allied" took possession of a large warehouse in Blue Island, Ill., pursuant to a long-term lease. Blue Island, Ill., is a point located within the Harvey, Ill., commercial zone, being approximately 2½ miles from Harvey. Harvey, with a population of approximately 33,000, has a commercial zone of 4 miles, which includes the municipality of Blue Island. Petitioner states that it is its position that, under its existing authority, it may provide the same service for Allied out of the new warehouse at Blue Island that it is authorized to perform for Allied under its Sub 2 permit out of Allied's Harvey plant. However, out of an abundance of caution, this petition is being filed for the purpose of (a) having the Commission determine that Cresco may, under its Sub 2 permit, also provide service to and from Allied's warehouse at Blue Island; or, in the alternative: (b) that Cresco's Sub 2 permit be modified to provide for service outbound on iron and steel pipe and pipe fittings, shapes and forms, from the warehouse site of Allied located at Blue Island, Ill., to the same States listed in its Sub 2 permit, and, in the reverse direction, be modified to include the transportation of iron and steel pipe and pipe fittings from points

in Ohio to Allied's warehouse at Blue Island, Ill.

Petitioner believes since Blue Island is in the commercial zone of Harvey, and the warehouse is simply an extension of the plant of Allied which is located at Harvey, its present Sub 2 permit should be interpreted to include the authorization of operations to and from Allied's warehouse in Blue Island. If, however, petitioner is in error in its interpretation of its Sub 2 permit, then, it is respectfully submitted, the Sub 2 permit should be modified by the inclusion of the words "warehouse facilities" and the Sub 2 authority would read as follows: "Irregular routes: *Iron and steel pipe and pipe fittings, shapes and forms,* from the plantsite and warehouse facilities of Allied Tube & Conduit Corp., at Harvey, Ill., and points in its commercial zone, to points in Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Misssouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, West Virginia, and Wisconsin, with no transportation for compensation on return except as otherwise authorized. *Iron and steel pipe and pipe fittings,* from points in Ohio, to the plantsite and warehouse facilities of Allied Tube & Conduit Corp., at Harvey, Ill., and points in its commercial zone, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Allied Tube & Conduit Corp., of Harvey, Ill." Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 128804 (Sub-No. 1) (Notice of Filing of Petition To Modify Permit), filed April 10, 1970. Petitioner: BLUE FLEET DISTRIBUTORS, CORP., New York, N.Y. Petitioner's representative: William J. Augello, Jr., 103 Fort Salonga Road, Northport, N.Y. 11768. Petitioner holds a permit in No. MC 128804 (Sub-No. 1) to conduct operations as a motor contract carrier, over irregular routes, transporting: Toilet paper, facial tissue, paper towels, and napkins, paper bags, freezer wrapping paper, and new furniture, from Bronx, N.Y., to points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y., and Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset, and Union Counties, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized herein is subject to the following conditions: Said service is restricted to traffic having a prior interstate movement by rail or motor carrier. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: Swanee Paper Corp., of Ranson, Pa., Hudson Pulp & Paper Corp. of East Orange, N.J., and Craft Associates, Inc., of Wilkes-Barre, Pa. By the instant petition, petitioner seeks to add an additional contracting shipper, the Procter & Gamble Co., including its wholly owned subsidiary, The Procter & Gamble Distributing Co. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 68860 (Sub-No. 11), filed April 22, 1970. Applicant: RUSSELL TRANSFER, INCORPORATED, 444 Glenmore Drive, Salem, Va. 24153. Applicant's representatives: Robert G. Perry and Robert E. Douglas, 1701 Charleston National Plaza, Charleston, W. Va. 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 Kanawha County, W. Va.; and (2) between points in Kanawha County, W. Va. on the one hand, and, on the other, points in West Virginia. NOTE: Applicant states it intends to tack the authority requested herein with its presently held authority at Charleston, W. Va., to serve all points in West Virginia, and applicant's present territory. The instant application is a matter directly related to No. MC-F-10729, published in the FEDERAL REGISTER issue of January 28, 1970. If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC-F-9677 (Petition) (CROUCH BROS., INC.—Control and Purchase—JACKSON TRUCK LINE, INC.), published in the March 1, 1967, issue of the FEDERAL REGISTER, on page 3429. By petition filed May 5, 1970, Applicants seek to control and *merge* the operating rights and property of JACKSON TRUCK LINE, INC., and to change or modify the order, by Division 3, granted January 5, 1970.

No. MC-F-10824 ((Correction) TUCKER FREIGHT LINES, INC.—Control and Merger—CLEMANS TRUCK LINE, INC.), published in the May 6, 1970, issue of the FEDERAL REGISTER on page 7162. The number inadvertently read No. *MC-F-1082* and should read No. *MC-F-10824.*

No. MC-F-10825. Authority sought for purchase by SHIPPERS TRANSPORTS, INC., 2000 Wheeler Street, West Memphis, Ark. 72301, of a portion of the operating rights of POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401, and for acquisition by L. BUFORD WRIGHT, also of West Memphis, Ark., of control of such rights through the purchase. Applicants' representative: Robert E. Tate, Post Office Box 500, Evergreen, Ala. 36401. Operating rights sought to be transferred: *Canned and bottled foodstuffs,* other than frozen, as a *common carrier,* over irregular routes, from Cade and Lozes, La., to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin. Restriction: The service authorized immediately above is restricted to the transportation of traffic originating at Cade and Lozes, La.; and *foodstuffs,* canned and bottled, other than frozen, from Cade and Lozes, La., to points in those parts of West Virginia and Pennsylvania which are on and west of U.S. Highway 19. Vendee is authorized to operate as a *common carrier* in Maryland, Delaware, Alabama, Arkansas, Louisiana, Mississippi, Tennessee, Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10826. Authority sought for purchase by MURAL TRANSPORT, INC., 2900 Review Avenue, Long Island City, N.Y. 11101, of the operating rights of M. MORRISON TRUCKING, INC., 531 Carroll Street, Brooklyn, N.Y. 11215, and for acquisition by ALEXANDER SHAPIRO, also of Long Island City, N.Y., of control of such rights through the purchase. Applicants' attorney: S. S. Eisen, 140 Cedar Street, New York, N.Y. 10006. Operating rights sought to be transferred: *Store fixtures and equipment,* as a *common carrier,* over irregular routes, between New York, N.Y., on the one hand, and, on the other, Wilmington, Del., and points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia; *such commodities* as are dealt in by persons engaged in the manufacture of or sale of store fixtures and store equipment, uncrated, between New York, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of U.S. Highway 12; and *new and used store fixtures and equipment,* between New York, N.Y., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Ohio, West Virginia, North Carolina, South Carolina, points in Delaware except Wilmington and those in that part of Virginia west of U.S. Highway 15. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10827. Authority sought for control by DUFF TRUCK LINE, INC., Broadway and Vine Streets, Lima, Ohio 45802, of SCHRODER'S EXPRESS, INC., 1550 Perrin Street, Cincinnati, Ohio, and

for acquisition by L. EUGENE DUFF, 1422 Fox Run Drive, Lima, Ohio, of control of SCHRODER'S EXPRESS, INC., through the acquisition by DUFF TRUCK LINE, INC. Applicants' attorneys: James Stiverson, 50 West Broad Street, Columbus, Ohio, Herbert Baker, 2651 Abington Road, Upper Arlington, Ohio 43221, and David Axelrod, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be controlled: *General commodities*, excepting, among others, class A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between Alexandria, Ky., and Cincinnati, Ohio, serving all intermediate points, and the off-route points within 3 miles of the below-specified route, between Louisville, Ky., and North Vernon, Ind., serving all intermediate points; between Palmyra, Ind., and Louisville, Ky., between junction Indiana Highways 135 and 64 and junction Indiana Highways 62 and 64, between junction Indiana Highway 135 and county road north of Central Barren, Ind., and junction of U.S. Highway 150 and county road, north of Bradford, Ind., serving all intermediate points, except Central Barren, Ind., and those on Indiana Highway 62, with restriction; between Louisville, Ky., and Ramsey, Ind., serving all intermediate points, between North Vernon, Ind., and Cincinnati, Ohio;

Serving the intermediate point of Lawrenceburg, Ind.; between Jasper, Ind., and St. Louis, Mo., serving all intermediate points, with restriction; between Evansville, Ind., and Vincennes, Ind., serving all intermediate points, and serving the site of the Warrick Works of the Aluminum Co. of America plant, located near Newburgh, Warrick County, Ind., as an off-route point, serving the off-route points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission, points within 5 miles of Jasper, Ind., those within 5 miles of Evansville, Ind., and George Field, Ill., unrestricted, the site of the Ford Motor Company plant near Robertson, Mo., restricted against service between said plant and points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, and serving from Alton, Ill., to points on the regular routes authorized above, except those in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, restricted to the transportation of iron and steel articles, in quantities of 20,000 or more, with restriction; between Treloar, Mo., and East St. Louis, Ill., serving all intermediate points; between Evansville, Ind., and Greenville, Ky., serving all intermediate points (except points between Evansville, Ind., and Anthosten, Ky.), between junction U.S. Highways 41 and 62 and Princeton, Ky., serving all intermediate points, with restrictions; over numerous alternate routes for operating convenience only; *general commodities*, excepting, among others, Class A and B explosives, and commodities in bulk, but not excepting household goods, between Louisville, Ky., and Evansville, Ind., serving certain intermediate and certain off-route points;

General commodities, excepting, among others, class A and B explosives, household goods, and commodities in bulk, over irregular routes, between points in Ohio within 10 miles of Cincinnati, on the one hand, and, on the other, certain specified points in Kentucky, between Cincinnati, Ohio, on the one hand, and, on the other, points in Kentucky within 10 miles of Cincinnati, and those in Ohio within 5 miles of Cincinnati, including Cincinnati; *animal and poultry feed*, from East St. Louis, Ill., to certain specified points in Indiana, with restriction; *livestock and agricultural commodities*, from points in the counties as immediately above to East St. Louis, Ill., with restriction; *animal and poultry feeds and medicines*, from St. Louis, Mo., to certain specified points in Indiana, with restriction; *livestock*, from New Melle, Mo., and points within 12 miles of New Melle, to East St. Louis, Ill.; *plastic bags, plastic boxes, plastic sheeting, and plastic film, machines and machine parts* used in the manufacture of plastic articles, and *cardboard cartons*, between the plantsites of the Mehl Manufacturing Co., at Providence, Ky., and Evansville, Ind. DUFF TRUCK LINE, INC., is authorized to operate as a *common carrier* in Ohio, and under a certificate of registration, within the State of Ohio. Application has not been filed for temporary authority under section 210a(b). NOTE: No. MC 14314 Sub-17 is a matter directly related, and No. MC 35540 Sub-19 is a matter simultaneously filed.

No. MC-F-10828. Authority sought for control by PIC-WALSH FREIGHT CO., 731 Campbell Avenue, St. Louis, Mo. 63147, of ILLINOIS MOTOR EXPRESS, INC., 6510 North Broadway, St. Louis, Mo. 63147, and for acquisition by JULIUS BLUMOFF, also of 731 Campbell, St. Louis, Mo. 63147, of control of ILLINOIS MOTOR EXPRESS, INC., through the acquisition by PIC-WALSH FREIGHT CO. Applicants' attorney: G. M. REBMAN, 314 North Broadway, St. Louis, Mo. 63102. Operating rights sought to be controlled: *General commodities*, except livestock and articles of extraordinary value, as a *common carrier* over regular routes, between Alton, Ill., and St. Louis, Mo., serving all intermediate points, and off-route points in St. Louis County, Mo., within the St. Louis-East St. Louis commercial zone, as defined in St. Louis, Mo.-East St. Louis, Ill., commercial zone, 1 M.C.C. 656, and 2 M.C.C. 285, over one alternate route for operating convenience only. PIC-WALSH FREIGHT CO., is authorized to operate as a *common carrier* in Missouri, Illinois, Indiana, Ohio, Mississippi, Kentucky, Arkansas, Tennessee, and Iowa. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10829. Authority sought for control by ELZENA W. HARVEY, Post Office Box 3601, Wilmington, D.C. 28401, of (1) BULK HAULERS, INC., Post Office Box 3601, Wilmington, N.C. 28401, and (2) A. C. WIDENHOUSE, INC., Post Office Box 10, Old Charlotte Highway, Concord, N.C. 28025. Applicants' attorney: John C. Bradley, 618 Perpetual Building, Washington, D.C. 20004. Operating rights sought to be controlled: (1) *Molten sulphur, anhydrous ammonia, and nitrogen fertilizer solutions*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, from Wilmington, N.C., and points within 25 miles thereof, to points in Virginia and South Carolina; *salt*, in bulk, from Wilmington, N.C., to points in South Carolina and Virginia; *phosphate rock*, in bulk, from points in Beaufort County, N.C., south of the Pamlico River and east of Durham Creek, to points in Virginia and South Carolina, from points in Beaufort County, N.C., south of the Pamlico River and east of Durham Creek, to points in North Carolina; *urea*, in bulk, from Wilmington, N.C., to points in North Carolina, with restriction; *phosphate products*, in bulk, from points in Beaufort County, N.C., south of the Pamlico River and east of Durham Creek to points in North Carolina, South Carolina, and Virginia, with restriction; *dry fertilizer and dry fertilizer materials*, in bulk, from Wilmington, N.C., to points in South Carolina; *caustic soda*, in bulk, in tank vehicles, from Wilmington and Acme, N.C., to points in South Carolina; *fertilizer and fertilizer materials*, from points in Hertford County, N.C., to points in Delaware, Georgia, Maryland, New Jersey, Pennsylvania, South Carolina, Virginia, and West Virginia, with restriction; *fish meal*, in bulk, from Wilmington, N.C., to points in Maryland, Tennessee, and West Virginia; and *fish meal*, in bags, from Wilmington, N.C., to points in South Carolina, Georgia, and Tennessee, and points in that part of Maryland on and west of U.S. Highway 11; and (2) *asphalt*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, from Salisbury and Wilmington, N.C., to certain specified points in Tennessee, from Salisbury, N.C., to certain specified points in South Carolina. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 70-5879; Filed, May 12, 1970; 8:50 a.m.]

[S.O. 1062; Car Distribution Direction No. 80-A]

ILLINOIS CENTRAL RAILROAD CO. AND CHICAGO AND NORTH WESTERN RAILWAY CO.

Car Distribution

Upon further consideration of Car Distribution Direction No. 80, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 80 be, and it is hereby vacated.

It is further ordered, That this order shall become effective at 11:59 p.m., May 10, 1970, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

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

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-5880; Filed, May 12, 1970; 8:50 a.m.]

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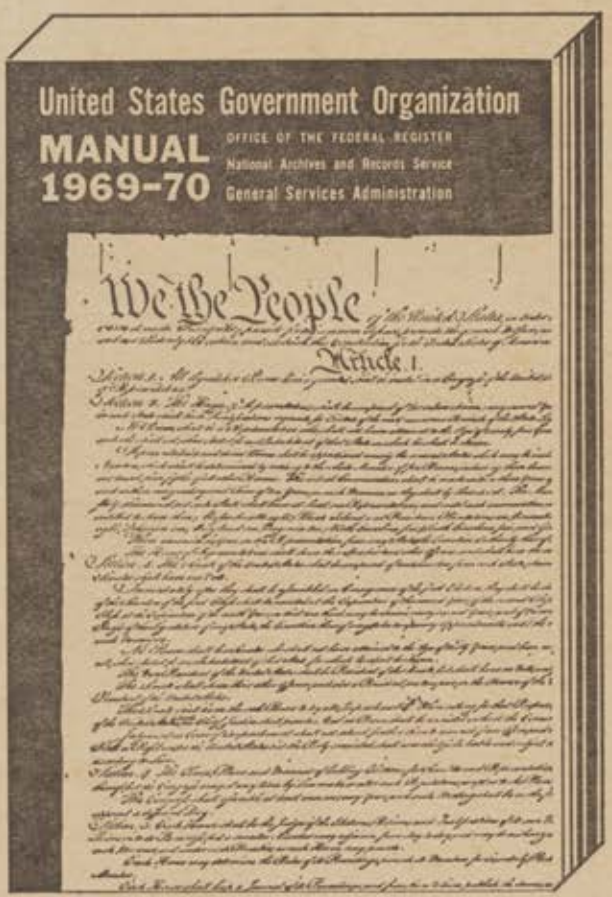

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