FEDERAL REGISTER

VOLUME 35 • NUMBER 110

Saturday, June 6, 1970 • Washington, D.C.

Pages 8795–8856

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FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 3—THE PRESIDENT

Executive Order 11533

ADMINISTRATION OF THE EXPORT ADMINISTRATION ACT OF 1969

By virtue of the authority vested in me by the Export Administration Act of 1969, and as President of the United States, it is ordered as follows:

SECTION 1. The power, authority, and discretion conferred upon the President by the provisions of the Export Administration Act of 1969 (83 Stat. 841; Public Law 91-184), are hereby delegated to the Secretary of Commerce, with power of successive redelegation.

SEC. 2. The Export Control Review Board established by section 2 of Executive Order No. 10945 of May 24, 1961, is hereby reestablished as the Export Administration Review Board (hereinafter referred to as the Board). The Board shall be composed of the Secretary of Commerce, who shall be the Chairman of the Board, the Secretary of State, and the Secretary of Defense. No alternate Board members shall be designated, but the acting head of any department may serve in lieu of the head of the department concerned. The Board may invite the heads of Government agencies, other than the departments represented by the Board members, to participate in the activities of the Board when matters of interest to such agencies are under consideration.

SEC. 3. The Secretary of Commerce may from time to time refer to the Board such particular export license matters, involving questions of national security or other major policy issues, as he shall select. The Secretary of Commerce shall also refer to the Board any other such export license matter, upon the request of any other member of the Board or of the head of any other Government department or agency having an interest in such matter. The Board shall consider the matters so referred to it, giving due consideration to the foreign policy of the United States, the national security, and the domestic economy, and shall make recommendations thereon to the Secretary of Commerce.

SEC. 4. The President may at any time (a) prescribe rules and regulations applicable to the power, authority, and discretion referred to in section 1 of this order, and (b) communicate to the Secretary of Commerce such specific directives applicable thereto as the President shall determine. The Secretary of Commerce shall from time to time report to the President upon the administration of the Export Administration Act of 1969 and, as he may deem necessary, may refer to the President recommendations made by the Board under section 3 of this order. Neither the provisions of this section nor those of section 3 shall be construed as limiting the provisions of section 1 of this order.

SEC. 5. All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action made, issued, or otherwise taken under, or continued in force by the Export Control Act of 1949, as amended, shall remain in full force and effect under the Export Administration Act of 1969 and under this order, until amended, modified, or terminated by proper authority.

SEC. 6. This order shall be effective January 1, 1970.

Richard Nixon

THE WHITE HOUSE,
June 4, 1970.

[F.R. Doc. 70-7111; Filed, June 4, 1970; 1:27 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Interior

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

§ 213.3312 **Department of the Interior.**

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

(2) Six Special Assistants to the Secretary.

* * * * *

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

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

[F.R. Doc. 70-7034; Filed, June 5, 1970; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 295—AVAILABILITY OF INFORMATION TO THE PUBLIC

Chapter II, Title 7, CFR, is hereby amended by adding new Part 295 dealing with availability to the public of records of the Food and Nutrition Service. The description of the organization of the Food and Nutrition Service is published as a notice in the FEDERAL REGISTER (currently 35 F.R. 8835). The fee schedule for copies of available documents is also published as a notice in the FEDERAL REGISTER (currently 33 F.R. 14726). Such notices are subject to revision from time to time. The new Part 295 reads as follows:

Sec.

Subpart A—General

295.1 General statement.
295.2 Organizational description.

Subpart B—Availability of Program Information, Staff Manuals, and Related Material

295.3 Indices.
295.4 Records available from indices.
295.5 Facilities for inspection and availability of copies.

Subpart C—Availability of Identifiable Records

295.6 Requests.
295.7 Exempt records.
295.8 Denials.
295.9 Appeals.
295.10 Addresses of offices.

AUTHORITY: The provisions of this Part 295 issued under 5 U.S.C. 301, 552(a) (2), (3), and 552(b); 5 U.S.C. 559.

Subpart A—General

§ 295.1 **General statement.**

This part is issued in accordance with and subject to the regulations of the Secretary of Agriculture, §§ 1.1 through 1.4 of this title, and governs the availability of records of the Food and Nutrition Service ("FNS") to the public upon request.

§ 295.2 **Organizational description.**

The description of the central and field organization of FNS is published as a notice in the FEDERAL REGISTER and may be revised from time to time in like manner. Such description contains a listing of FNS Washington and field organizational units and their functions.

Subpart B—Availability of Program Information, Staff Manuals, and Related Material

§ 295.3 **Indices.**

Each Division (such term as used in this part includes the Program Reporting Staff) and each Regional Office will maintain a current index providing identifying information with respect to records referred to in § 295.4.

§ 295.4 **Records available from indices.**

Records listed in the indices will include final orders, and opinions, statements of policy and interpretation, and administrative staff manuals and instructions.

§ 295.5 **Facilities for inspection and availability of copies.**

(a) There will be no central facility for the inspection of FNS records listed in the various indices.

(b) The index, and the material listed therein, maintained by each Division and Regional Office may be inspected and copied at such Division or Regional Office during regular working hours, or may be obtained by mail.

(c) Copies of the index, and the material listed therein, may be obtained from the appropriate Division or Regional Office upon payment of any applicable fees.

Subpart C—Availability of Identifiable Records

§ 295.6 **Requests.**

(a) Requests for FNS records, other than those available under subpart B, shall be made in writing either to the Director of the appropriate Division or of the appropriate Regional Office. A Regional Office will normally have in its files only records pertaining to its functions and activities.

(b) Each record requested must be identified with reasonable specificity.

(c) Records so requested will be made available, except for exempt records in the categories specified in § 295.7.

(d) Available records may be inspected and copied at the appropriate Division or Regional Office during regular working hours, or may be obtained by mail. Copies will be provided upon payment of any applicable fees.

§ 295.7 **Exempt records.**

The following records of FNS are exempt from disclosure:

(a) Matters specifically required by Executive Order to be kept secret.

(b) Matters related solely to the internal personnel rules and practices.

(c) Matters specifically exempted from disclosure by statute.

(d) Matters that are trade secrets and commercial or financial information obtained from a person and privileged or confidential. This includes, but is not limited to, records containing information obtained by FNS personnel from authorized food stamp firms; food coupon redemption information supplied by authorized firms through the mandatory use of special certificates for redemption purposes; information, including notarized claim affidavits, furnished by individual food stores to support their claims for redemption of prematurely accepted food coupons; information concerning the personal and financial circumstances of food stamp recipients or applicants; files and records of retail food stores and wholesale food concerns on volume of business; information received from commercial food processors respecting composition of food products or specific product formulas; and information received in expressed or implied confidence in connection with a contract or other benefit or service.

(e) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. This includes, but is not limited to, information relating to policy determinations, the advance disclosure of which would give an undue advantage to some or disadvantage to others, or might improperly affect a pending action; analyses and data being prepared for release prior to actual release; minutes of advisory committees chaired by FNS officials; and interagency or intra-agency communications applicable to the formulation of instructions, regulations, or decisions.

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. This includes, but is not limited to, individual personnel, medical, and financial information files and related records. It also includes lists of names of farmers, businessmen, persons, organizations, or firms if such lists will be used for solicitation purposes,

or provide information which would not be released to the public by the person from whom obtained.

(g) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency. This includes, but is not limited to, charges, complaints, and other processes in connection with, and prior to being filed in adjudicative proceedings; administrative charges, complaints, compliance, investigations, claims, accounting reports, administrative reviews, and supporting data assembled by FNS and pertaining to compliance with laws or regulations; Office of Inspector General audits and reports of investigation and related correspondence.

§ 295.8 Denials.

If the appropriate Division or Regional Office Director determines that a requested record is exempt, he shall give prompt written notice of denial, together with the reasons therefor.

§ 295.9 Appeals.

A denial by a Division or Regional Office Director of any request may be appealed, by the person who made the request, to the Administrator, FNS. The appeal shall be made in writing within 15 days of the date of receipt of the Director's notice of denial. Upon timely appeal, the Administrator shall make the final determination and give written notice thereof, together with the reasons therefor in the case of denials.

§ 295.10 Addresses of offices.

(a) Requests made to FNS in Washington shall be addressed to the Director of the appropriate Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) Requests made to Regional Offices should be addressed to the Director of the appropriate Office, as follows:

Northeast Region, Food and Nutrition Service, USDA, 26 Federal Plaza, Room 1611, New York, N.Y. 10007, for the following States and the District of Columbia: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia.

Southeast Region, Food and Nutrition Service, USDA, 1795 Peachtree Road NE., Room 302, Atlanta, Ga. 30309, for the following States: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, Puerto Rico, and the Virgin Islands.

Midwest Region, Food and Nutrition Service, USDA, 536 South Clark Street, Chicago, Ill. 60605, for the following States: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

Southwest Region, Food and Nutrition Service, USDA, 500 South Ervay Street, Room 3-127, Dallas, Tex. 75201, for the following States: Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, and Texas.

Western Region, Food and Nutrition Service, USDA, 630 Sansome Street, Room 734, San Francisco, Calif. 94111 for the following States: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, American Samoa, Guam, and the Trust Territories of the Pacific.

Effective date. This part shall become effective upon the date of its publication in the FEDERAL REGISTER.

Dated: June 3, 1970.

EDWARD J. HEKMAN,
Administrator.

[F.R. Doc. 70-7081; Filed, June 5, 1970; 8:50 a.m.]

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

[Valencia Orange Reg. 315, Amdt. 1]

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

Limitation of Handling

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

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

Order, as amended. The provisions in paragraph (b)(1)-(i), (ii), and (iii) of § 908.615 (Valencia Orange Reg. 315; 35 F.R. 8340) are hereby amended to read as follows:

§ 908.615 Valencia Orange Regulation 315.

* * * * *

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

(i) District 1: 331,000 cartons;

(ii) District 2: 389,000 cartons;

(iii) District 3: 280,000 cartons.

* * * * *

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

Dated: June 3, 1970.

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

[F.R. Doc. 70-7079; Filed, June 5, 1970; 8:50 a.m.]

[Peach Reg. 1]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Peach Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the Peach Commodity Committee reflect its appraisal of the California peach crop and the current and prospective market conditions. Shipments of California peaches are expected to begin on or about June 15, 1970. The grade and size requirements provided herein are necessary to prevent the handling, on and after June 15, 1970, of California peaches of a lower grade or smaller size than specified herein for such peaches, so as to provide consumers with good quality fruit consistent with (1) the overall quality of the crop, and (2) maximizing returns to the producers pursuant to the declared policy of the act.

(3) 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 regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than June 15, 1970. A reasonable determination as to the supply of, and the demand for, such peaches must await the development of the crop thereof, and adequate information thereon was not available to the Peach Commodity Committee until May 13, 1970, on which date an open meeting was held, after giving

due notice thereof, to consider the need for, and the extent of, regulation of shipments of such peaches. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; necessary supplemental information was submitted to the Department on May 25, 1970; shipments of the current crop of such peaches are expected to begin on or about the effective date hereof; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such peaches; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 917.421 Peach Regulation 1.

(a) Order: During the period June 15, 1970, through October 31, 1970, no shipper shall ship:

(1) Any lot of packages or containers of peaches unless such peaches meet the requirements of the U.S. No. 1 grade: *Provided*, That with respect to ripe peaches, a tolerance of 10 percent, by count, for bruises not causing serious damage is allowed in addition to the tolerances provided for such U.S. No. 1 grade;

(2) Any package or container of peaches unless at least 85 percent, by count, of such peaches are well matured (as such term is defined in paragraph (b) of this section);

(3) Any lot of packages or containers of peaches if more than three (3) percent, by count, of the peaches in such lot are immature;

(4) Any package or container of peaches unless at least 85 percent of the peaches contained in such package or container measure not less than 2⅜ inches in diameter: *Provided*, That peaches (i) when packed in a No. 12B California fruit box, which are of the size that will pack, in accordance with the requirements prescribed for a standard pack, 65 peaches in said box, or (ii) when packed in a No. 22D standard lug box, which are of the size that will pack, in accordance with the requirements prescribed by a standard pack, not more than 80 peaches in the respective lug box, shall be deemed to meet the said minimum diameter requirement: *And provided, further*, That for the purpose of determining whether ripe peaches meet the said standard pack requirements, such peaches may be fairly tightly packed rather than tightly packed.

(b) "Well matured" means peaches which, at the time of picking:

(1) Have shoulders and sutures well filled out and smooth;

(2) Have skin that is at least very light green to yellowish green in color;

(3) Have flesh that is yellow or straw color with only a small portion, usually next to the skin, that is greenish yellow or greenish straw color;

(4) Have flesh that shows some juiciness; and

(5) Yield very slightly to moderate pressure at the suture or tip.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said amended marketing agreement and order; "U.S. No. 1," "bruises," "defects," "damage," "serious damage," "standard pack," "tightly packed," and "fairly tightly packed" shall have the same meaning as when used in the U.S. Standards for Peaches (§§ 51.1210-51.1223 of this title); "No. 22D standard lug box" shall have the same meaning as set forth in section 43601 of the Agricultural Code of California; "No. 12B California fruit box" shall have the same meaning as set forth in section 43598 of the Agricultural Code of California; and "diameter" shall mean the distance through the widest portion of the cross section of a peach at right angles to a line running from the stem to the blossom end.

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

Dated: June 3, 1970.

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

[F.R. Doc. 70-7078; Filed, June 5, 1970; 8:50 a.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATION

[FHA Instruction 465.1, Administration Letters 920(465), 937(465), 18(465)]

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidations

Subpart A, Part 1872, Title 7, Code of Federal Regulations (32 F.R. 8066), is revised to read as follows:

Subpart A—Servicing and Liquidations

Sec.

AUTHORITY: The provisions of this Subpart A issued under R.S. 161, 5 U.S.C. 301; sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 4, 64 Stat. 100, 40 U.S.C. 442; sec. 510, 63 Stat. 437, 42 U.S.C. 1480; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; sec. 203, 79 Stat. 13, 40 U.S.C. Appendix A, 203; Order of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650; Order of Director, Office of Economic Opportunity, 29 F.R. 14764.

§ 1872.1 General.

This subpart is modified by Subparts N, P, and X, all in Part 1890 of this chapter.

(a) *Scope.* This subpart delegates authority and prescribes policies and procedures for servicing and liquidating real estate security for Farmers Home Administration (FHA) loans except for (1) Watershed (WS) loans, (2) Soil and Water (SW) loans to associations, (3) Rural Rental Housing (RRH) loans, or Labor Housing (LH) loans to organizations or to individuals operating under a loan agreement, (4) Rural Housing (RH) loans on leasehold interests, (5) Resource Conservation and Development (RCD) loans, and (6) Economic Opportunity (EO) Cooperative loans.

(b) *General policies.* Real estate security will be serviced in a manner to accomplish the loan objectives and protect the Government's financial interest. To accomplish these purposes, the real estate security will be serviced in accordance with the security instruments and related agreements, including any authorized modifications, so long as the borrower (1) has reasonable prospects of accomplishing his loan objective, (2) continues to make payments on his loan in accordance with his ability, (3) properly maintains and accounts for the security, and (4) otherwise meets his loan obligation in a satisfactory manner. When the above conditions are not satisfied, or it is determined that the loan must be liquidated for other reasons and that sufficient legal grounds for liquidation exist, prompt action will be taken to liquidate the security in order to avoid additional interest accrual and loss of security value and to protect the Government's financial interest.

(c) *Borrower's responsibility.* Each borrower is responsible for the payment of real estate taxes, providing adequate property insurance, maintaining, protecting, and accounting to the FHA for all real estate security, and complying with other loan requirements.

(d) *County supervisor's responsibility.* The county supervisor is responsible for informing each borrower of his responsibilities in connection with the loan. The county supervisor is also responsible for seeing that the security is being properly maintained and accounted for and for servicing the security in accordance with this subpart. The county supervisor will inspect the security periodically. If the security is located in another county office area the county supervisor for that area may be requested to inspect that property. When a borrower fails to maintain, protect, or account for the security to the extent that the FHA's financial interest is in jeopardy or makes unauthorized disposition or use of any security, prompt action will be instituted to protect the FHA's interests.

(1) *County supervisor's relationship with the Office of the General Counsel (OGC) and the U.S. Attorney.* The county supervisor will obtain any legal advice he needs from the OGC through the State Director and not from the designated attorney(s). In cases that have been referred to the OGC for legal action, no further action will be taken by the county supervisor or other FHA personnel without prior clearance with the OGC. Normally, clearance with the OGC will be obtained through the State Director, and, if the case has been referred to the U.S. Attorney, clearance with him will be obtained by the OGC.

(e) *Servicing insured loans—(1) Contact with holder.* Contacts with holders of insured loans other than those by the Director, Finance Office, will be made by the county supervisor when the lender is local, and by the State Director, when a State or national lender is involved in a transaction authorized by this subpart. The National Office will contact a lender when requested to do so by the State Director.

(2) *Other servicing actions.* Servicing actions for insured loans will be the same as for direct loans except that (i) in voluntary conveyance, and foreclosure cases, the Finance Office will be requested to obtain assignment of the insured loan to the Government as provided in §§ 1872.17 and 1872.18, respectively, and (ii) when an insured Farm Ownership (FO) mortgage running to the lender as mortgagee is not held by the FHA under trust assignment, or declaration of trust, or in the insurance fund (called insured FO mortgage held by the lender in this subpart) and a written subordination or partial release or other servicing document is requested, the document will be executed by the holder on a form prepared or approved by the OGC. The holder's execution of the document will constitute his consent.

(3) *Execution of documents by Government.* (i) When the mortgage names the United States as mortgagee, or when a mortgage running to the lender is not under a trust assignment or declaration of trust and the note is held by the insurance fund, the servicing documents will be executed in the name of "United States of America."

(ii) When an FO mortgage is held by the FHA under a trust assignment or declaration of trust, regardless of whether the note is held by a lender or by the insurance fund, servicing documents will be executed in the name of "United States of America, for Itself and as Trustee."

(iii) When the mortgagee named in an FO mortgage is the United States as Trustee for a State Rural Rehabilitation Corporation (SRRC) and the mortgage is not under a trust assignment or declaration of trust and the note is not held by the insurance fund, the servicing documents will be executed in the name of "United States of America, Trustee of the Assets of the _____ Rural Rehabilitation Corporation."
(State)

(iv) The county supervisor is authorized to execute all necessary forms, satisfactions and releases, and other documents required to complete any transaction in this subpart after the action has been approved by the appropriate approval official.

(f) *Consent of lienholders.* When this subpart requires the consent of other lienholders before the FHA consents to a transaction which affects its security or its lien, such consent will be obtained and furnished to the FHA by the borrower. The consent will, unless otherwise provided in a State instruction, include agreement as to the disposition of any funds involved in the transaction.

(g) *Definitions.* Unless otherwise indicated, the terms "FHA loans," "FHA accounts," "FHA liens," "FHA interests," "FHA security," "FHA debts," and similar terms apply to indebtedness owed to or insured by the United States of America acting through the FHA, and to related security instruments. The term "note" includes any note, bond, assumption agreement, or other evidence of indebtedness. The term "mortgage" includes deeds of trust and similar real estate security instruments and chattel security instruments where appropriate.

§ 1872.2 Subordination of FHA mortgage to permit refinancing, extension, reamortization, or increase in amount of existing prior lien or to permit a prior lien.

(a) *Request for subordination.* When a borrower requests the FHA to subordinate a mortgage taken in connection with a direct or insured loan so that he can refinance, extend, reamortize, or increase the amount of a prior lien, or place a lien ahead of the FHA lien, Form FHA 465–1, "Application for Partial Release, Subordination, or Consent," will be prepared. If an agreement to give notice of foreclosure is required for approval of an initial FHA loan, an agreement with a new prior lienholder will be obtained as required in Part 1807 of this chapter. In case of an insured FO mortgage held by the lender, the holder's consent will be obtained in accordance with § 1872.1(e). Any junior lienholder's consent to the transaction and use of the proceeds will be obtained as provided in § 1872.1(f). A current appraisal report will be obtained unless there is an appraisal report in the docket not over 2 years old which will permit the official authorized to approve the transaction to make the determination required in this paragraph. However, a new appraisal will not be required in a refinancing, extension, or reamortization of a prior lien when the existing debt will remain the same except for a reasonable closing cost. Subject to the provisions of paragraphs (b) and (c) of this section, a subordination may be granted if:

(1) The borrower is unable to refinance the FHA mortgage on terms which he can reasonably be expected to meet,

(2) The transaction will either further the objectives for which the FHA loan was made or improve the borrower's debt-paying ability,

(3) The terms and conditions of the prior lien will be such that the borrower can reasonably be expected to meet them, as well as all other debts,

(4) The amount of any prior lien plus the balance of the FHA debt will not exceed the normal value of the security except for an FO or SW loan, it will not exceed the normal value of the security or $60,000, whichever is less. When the FHA indebtedness was not fully secured by the normal value of the security before the transaction, a subordination may be granted only if the normal value of the total security will be increased by an amount at least equal to the amount of the additional advance. The normal value or $60,000 limitation will not apply to loans if, because of fire, flood, windstorm, or other casualties, the subordination is necessary for land development or for the repair or replacement of essential buildings to put the property in

livable and operable condition or to protect it against further deterioration. However, the subordination will not be made to replace funds obtained from property insurance or to permit the total indebtedness to exceed the present market value of the security, and

(5) An assignment of the beneficial interest in any stock required in connection with a loan will be obtained as collateral security, when possible.

(b) *County supervisor's authority.* The county supervisor is authorized to approve a subordination and execute appropriate documents in a transaction which involves refinancing, extending, or reamortizing an existing prior lien provided the amount of the indebtedness secured by the prior lien as of the date of the transaction is not increased by more than reasonable costs incident to loan closing plus funds for the purchase of any required stock.

(c) *State Director's authority.* The State Director is authorized to approve subordinations involving an increase in the amount of the prior lien or the placement of a prior lien when the funds representing the increase in the indebtedness prior to the FHA's debt will be used for development or enlargement purposes, as well as the payment of reasonable costs incident to the loan closing and for any required stock when the following requirements in addition to those specified in the lead paragraph are satisfied:

(1) The proposed development or enlargement will improve the borrower's ability to repay the FHA loan(s) or is necessary to place his operation on a sound basis.

(2) In the case of either an Operating loan or FO loan, the development or enlargement will not result in the farm being larger than a family farm or family farming operation.

(3) Any proposed development will be planned and performed in accordance with Part 1804 of this chapter or in a manner directed by the creditor which reasonably attains the objectives of Part 1804 of this chapter and is concurred in by the State Director.

(4) Funds to be used for development or enlargement will be handled as prescribed for FO loan funds in Part 1803 of this chapter, except that if the creditor will not permit the use of a supervised bank account, arrangements satisfactory to the FHA which will assure that the funds will be spent for the planned purposes may be substituted.

(5) In case of land purchase, the FHA will obtain a mortgage on such purchased land.

(d) *Processing.* When the approval of the transaction by the State Director is required or the county supervisor desires advice before his approval of the transaction, the borrower's case folder with current documents to support the applicable determinations such as, where appropriate, Forms FHA 431–2, "Farm and Home Plan," FHA 431–1, "Long-Time Farm and Home Plan," FHA 431–3, "Family Budget," FHA 422–1, "Appraisal Report (Farm Tract)," FHA 440–2, "County Committee Certification or Recommendation," and other necessary forms along with Form FHA 465–1 will be sent to the State office. After approval of the transaction by the county supervisor or the State Director, the transaction will be closed in accordance with State instructions to the maximum extent possible as provided in § 1872.24. However, where legal advice on an individual case is necessary, Form FHA 465–1, any subordination form furnished in connection therewith, the original or a copy of the FHA mortgage, the refinancing mortgage or agreement, and related documents will be submitted to the OGC for review and preparation of the necessary instruments and closing instructions. The documents and closing instructions will be sent to the county office. If the signature of the State Director is required on some of the instruments, the docket and closing instructions will be routed through the State office. The transaction will be completed in accordance with the closing instructions.

§ 1872.3 Consent by partial release, subordination, or otherwise, to sale or other disposition of portion of or interest in security except leases.

The consent of FHA or other lienholders may be in the form of a partial release, subordination, or other form of written consent, depending on the circumstances. The consent authorized herein is applicable to the disposition of security or an interest in the security rather than to a release of security granted to the mortgagor upon his reduction of the debt from regular or other personal funds. A formal release may not be delivered for 15 days after the payment is received unless such payment is made in the form of cash, money order, certified check, or check from a reputable lending agency. Other executed releases not delivered will usually be voided 30 days after notification to the requesting party that the release is available.

(a) *Provisions of FHA mortgages.* In all FHA mortgages except RH loan mortgages prepared before October 1, 1950, and a few Operating loans, Emergency (EM) loan, Special Livestock (SL) loan, and Water Facilities (WF) loan mortgages, the borrower has agreed not to sell, transfer, assign, mortgage, or otherwise encumber the security, or any portion of or interest in it, without the prior written consent of the mortgagee. Furthermore, even in the case of the few RH, Operating, EM, SL, and WF loan mortgages not requiring FHA consent, any property, or any part thereof or interest therein, which is subject to the FHA mortgage and which is disposed of by the borrower without consent remains subject to the mortgage lien. In all FHA mortgages the borrower expressly agrees not to engage, without prior consent, in certain specified transactions, including the cutting or removal of timber, or mining or removal of gravel, oil, gas, coal, or other minerals, aside from small amounts used by the borrower for ordinary domestic purposes.

(b) *Consent and partial release and subordination forms.* When FHA consent is requested, it will be given by approving a completed Form FHA 465–1 if the transaction meets the conditions of paragraph (c) of this section. Also, when requested, the FHA will give a written partial release or subordination on Form FHA 460–1, "Partial Release," Form FHA 460–2, "Subordination by the Government," or other form, approved by the OGC. Written consent of any prior or junior lienholders will be obtained by the borrower and delivered to the FHA if any proceeds are not to be applied on liens in accordance with their priorities. When an insured FO mortgage is held by the lender, his consent will be obtained only if a written partial release, subordination, or other written servicing document is requested. Any such consent will be obtained in accordance with § 1872.1(e).

(c) *Conditions of FHA consent.* FHA consent may be granted and a partial release or subordination executed if: The consideration is adequate for the security property being disposed of or rights granted; orderly repayment of the FHA indebtedness will not be impaired; the transaction will not interfere with successful operation of any farming enterprise or other enterprise providing repayment ability of the borrower; the normal value of the remaining security is adequate to secure the unpaid balance of the FHA debts, or if the normal value of the security before the transaction was inadequate to fully secure the FHA debt, the FHA's security interest is not adversely affected; and the provisions of paragraphs (d) and (e) of this section and § 1872.7 are complied with. Exceptions to the foregoing sentence are provided in subparagraphs (1) and (2) of this paragraph.

(1) *Condemnations.* Subparagraphs (2) and (3) of this paragraph will not apply in condemnation cases after final judgment or award which is not appealed.

(2) *Costs.* In any case of consent, partial release, or subordination the county supervisor may authorize the borrower to use a portion of the proceeds to pay customary incidental costs appropriate to the transaction and reasonable in amount, which the borrower cannot arrange to pay from personal funds or have the purchaser pay, including real estate taxes which must be paid in order to consummate the transaction. Such costs may, for example, include the following in justifiable cases: (i) Costs of title examination, surveys, abstracts, title insurance, reasonable attorneys' fees, and recording fees, (ii) reasonable attorneys' fees and court costs in condemnation cases, (iii) costs necessary to determine the reasonableness of an offer or asking price, such as fees for appraisal of minerals, land, or timber where the necessary appraisal cannot be obtained without costs, (iv) real estate brokers' commissions when a borrower can reasonably expect to obtain proceeds in an amount at least equal to the commission in excess of what could otherwise be obtained, (v) additional income tax which the borrower is required to pay for the year because of the capital gain or mineral royalty payments on the transaction. The amount of the estimated tax on the

particular transaction will be deposited in the supervised bank account. Any deposited funds not needed to pay the borrower's adjusted tax liability for the year of the transaction will immediately be applied on the account as an extra payment. In any State in which it is necessary to obtain the insured note from the lender to present to the recorder before a release of a portion of the land from the mortgage, the borrower must pay any costs for postage and insurance of the note while in transit. The county supervisor will advise the borrower when he requests a partial release that he must pay such costs. If the borrower is unable to pay the costs from personal funds they may be deducted from the sales proceeds. However, the county supervisor may prepare and process Standard Form 1034, "Public Voucher for Purchases and Services Other than Personal," to cover the cost of the transaction if sales receipts are insufficient or the borrower is unable to provide the funds to pay the cost of the transaction. The amount of the charge will be based on the statement of actual cost furnished by the lender.

(3) *Appraisals.* When the official authorized to approve the transaction is uncertain whether a proposed consideration is adequate or for any other reason considers an appraisal necessary in order to complete Form FHA 465–1, or when the transaction involves more than $2,000, a new appraisal report will be obtained in accordance with the applicable appraisal procedure. However, a new appraisal report need not be obtained if there is an appraisal report not over 2 years old in the case file which will permit the official authorized to approve the transaction to make the proper determination as to the normal value of the property being retained as well as the present market value of the portion to be released. When a new appraisal is not required, the appraiser will indicate his determination of values and the basis for it in the comments section of the existing appraisal report. The notation will be initialed and dated.

(i) Where a new appraisal report is required, it will be completed to show the normal value of the property being retained. Also, the present market value of the property being released will be shown under the comments section of the same appraisal report. Information in regard to sales of comparable properties used in arriving at the present market value of the property being released will be shown in the comments section or on an attached sheet.

(*a*) If timber or minerals including sand, gravel, or stone, which appear to be worth more than $1,000 are to be sold on the basis of the timber stand or the mineral deposit rather than the units to be removed, the borrower will be encouraged to obtain the assistance of a qualified technician other than an FHA employee to advise him as to the quantity or value of the timber or minerals, and the manner in which they should be sold. Generally, such assistance can be obtained from State or Federal employees who are located in the area.

(*b*) When timber or minerals, including sand, gravel, or stone, are to be sold on the basis of the units to be removed, or when an easement or a right-of-way is to be sold or granted, the employee authorized to make the appraisal may insert, date, and initial a notation on the existing appraisal report instead of making a new appraisal report. The notation should show (*1*) the unit value of timber or minerals, or the value of the easement or right-of-way, based on the consideration being paid for similar items to the area, and (2) the manner in which the remaining property will be affected. If the normal value of the remaining property is significantly decreased, a normal value appraisal of the remaining property usually will be required.

(d) *Authority of county and district supervisors.* When liquidation in accordance with § 1872.15 is not pending, the county supervisor is authorized to approve transactions when the entire proceeds (other than costs authorized in paragraph (c) (2) of this section, or normal income as defined in § 1872.17(b)) will be applied on the liens in the order of their priority. The district supervisor is authorized to approve any transactions that are within his loan approval authorization. However, the employee who appraises the property cannot approve the transaction. For example, if the assistant county supervisor makes the appraisal, the transaction may be approved by the county supervisor; if the county supervisor makes the appraisal, the transaction may be approved by the district supervisor.

(1) In case of a 3 percent loan for forestry purposes the application for consent or release involving the harvest or sale of forest products will be forwarded to the State office for approval if (i) the harvest or sale is not in strict accordance with provisions of the initially-approved forestry plan, (ii) future repayments on the 3 percent advance are scheduled on any basis other than equal annual installments (iii) there is a lien on the forest land prior to the lien of the FHA, or (iv) there is a delinquency on any FHA real estate loan.

(e) *State Director's authority.* The State Director is authorized to approve transactions involving: Exchange of all or part of the security for other real estate; use of all or part of the proceeds for development or enlargement or as provided in subparagraph (3) of this paragraph; an easement or fee title right-of-way granted or conveyed without monetary compensation or for a token consideration if the Government's security interests are not adversely affected; sale of a portion of the security for its present market value and on terms not less favorable than 20 percent down, and five annual installments of principal plus interest at least equal to 5 percent per annum, *Provided:* The Government's security rights, including the right to foreclose, are retained; the down payment and subsequent payments are applied to the FHA debts, prior liens, or used as authorized in this paragraph; any security instruments the borrower obtained in the transaction are assigned to the FHA; the property sold is not released prior to full payment of the account or receipt of the sale price with proper application or release of such proceeds; and unless appropriate reamortization is made in accordance with Subpart A of Part 1861 of this chapter, the borrower understands and agrees that such sale proceeds will not affect his primary and continued obligations for making payments under the note. In any case in which the proceeds under § 1872.7(a) will not be applied on prior liens or FHA accounts secured by real estate liens, the following requirements must be complied with:

(1) Use of any proceeds for development or enlargement must be necessary to improve the borrower's debt-paying ability and to place his operation on a sound basis or otherwise further the objectives of the loan. In the case of an FO farm, the use of proceeds for such purposes will not result in making the farm larger than an adequate family farm.

(2) Any proposed development work will be in accordance with Subpart A of Part 1804 of this chapter.

(3) When FHA loans secured by a lien on real estate will be adequately secured after the transaction, proceeds in excess of the normal value of the real estate security released may, with the consent of other lienholders, be applied to inadequately secured FHA loans or, except for EM loans, up to $2,500 may be used for development of nonowned land essential to the borrower's operation whether or not taken as security for the loan. If funds are used on nonowned land it must be determined that the improvements are essential to his operation or repayment ability and that the borrower has tenure arrangements that will justify the use of such proceeds on that land. Proceeds released for payments on other FHA debts will be applied as extra payments unless the State Director approves a specific written request from the borrower to apply proceeds on a delinquency or currently maturing installment because the borrower is otherwise unable to make such payments. That part of the proceeds which represents the normal value of the security must, if not applied to any prior lien, be applied to the FHA lien on the security property of the highest priority if not used to develop or enlarge the security.

(4) Funds to be used for farm development or enlargement will be handled in the manner prescribed for FO loan funds in Part 1803 of this chapter.

(f) *Processing.* When the approval of a transaction by the State Director is required or the county supervisor desires advice in connection with his approval of the transaction, the borrower's case folder along with Form FHA 465–1 and any other information pertinent to the transaction will be sent to the State office. In an exchange of security, the provisions of this subpart applicable to a sale of a portion of the security will apply to the property being released and the present market value of the property being released will be used. The provisions of Subpart A, Part 1821, of this chapter

applicable to the purchase of land will apply to land being acquired in connection with FO and SW loans. The provisions of that subpart applicable to title clearance, security, and appraisals will apply to lands being acquired in connection with other loans.

§ 1872.4 Consent to junior liens.

(a) As a general policy, FHA borrowers will be discouraged from giving to other creditors junior liens on real estate securing an FHA loan. When consent is required by FHA mortgage, the State Director may consent by executing Form FHA 465–1 provided: (1) The loan is necessary for the successful operation of the borrower's farm or because of his financial condition; (2) the terms of the junior lien debt are such that its payment will not likely jeopardize payment of the FHA loan; (3) any operating plans made with the junior mortgage holder are consistent with any plans made by the FHA with the borrower; and (4) the junior creditor agrees in writing that he will not foreclose his mortgage before a discussion with the county supervisor and after giving a reasonable specified period of notice to the FHA.

(b) When a junior lien is placed on any property without FHA consent and consent is required by the mortgage and may not be granted in accordance with the policy indicated in paragraph (a) of this section, the State Director will determine if any servicing or liquidation action is needed at that time to protect the Government's interests.

§ 1872.5 Consent to borrower's granting lease of security.

When consent to a lease is required by the security instruments and a borrower requests FHA's consent to lease all or a portion of the security or the county supervisor discovers that a borrower is leasing the security without consent, Form FHA 465–1 will be prepared. That form will show the terms of the proposed lease and will specify the use of proceeds including any proceeds to be released to the borrower. When another lienholder's mortgage requires consent to lease, his consent will be obtained as provided in § 1872.1(f). FHA consent to the lease may be granted on the basis of the situation at the time of the proposed action when: The lease or its terms will not adversely affect the repayment of the loan or the Government's rights under the mortgage; leasing is not an alternative to, or means of, delaying liquidation action; the operation of all or a portion of the security under the lease will not adversely affect any applicable crop allotments; the lease and use of any proceeds will further the objectives of the loan; if liquidation is not pending, rental income sufficient to make regular payments under the note, pay taxes and insurance, and maintain the security is assigned to FHA for these purposes unless such payments are otherwise reasonably assured; the lease is advantageous to the borrower and is not to the Government's disadvantage; and if foreclosure action has been approved, consent to lease and use of proceeds will be granted only under directions by the OGC or U.S. Attorney, as appropriate. Consent to lease will be subject to the additional conditions specified below for each kind of lease:

(a) *Leases of security for agricultural purposes.* (1) When liquidation in accordance with § 1872.15 is not pending, the county supervisor is authorized to approve annual leases on all or a part of the security for borrowers with:

(i) Section 502 RH or LH loans on farms, or SW or Other Real Estate (ORE) loans. A section 502 RH loan under this provision includes a Senior Citizen RH loan on a farm only for lease of the security property other than dwelling. For the purposes of this paragraph, leases for an annual term with option to the lessor to renew for a longer term with option to the lessor to cancel at least at the end of each year, will be considered annual leases. The consent of the FHA will reserve the right to withdraw the consent at the end of any year should liquidation or other servicing action be required by FHA.

(ii) Section 503 RH loans, Operating, EM, or FO loans provided:

(*a*) Failure to personally operate the security to be leased is due to old age, poor health, or death in family, or

(*b*) The part of the security to be leased is insignificant to the total farm acreage and is surplus to the borrower's need. For example, a surplus building, wasteland, or a few acres of land inconveniently located or otherwise unsuitable and unnecessary for the successful personal operation of the farm by the borrower. This is not intended to authorize consent for lease of acreage of crop allotments because of economic advantage to the borrower, and

(*c*) Annual consent is not given for more than 2 consecutive years without further authorization from the State office.

(2) The State Director is authorized to approve annual leases when:

(i) Failure to personally operate section 503 RH loans, Operating, EM, or FO security is due to old age, poor health, or death in the family and the borrower or his family will continue to occupy the security as a home. In such a situation, the State Director may authorize the county supervisor to grant consent annually to a lease of the security property so long as the borrower's situation does not change to make further consent for a lease inappropriate.

(ii) Failure to personally operate section 503 RH loans, Operating, EM, or FO security is due to adverse conditions beyond the borrower's control and it is determined that the borrower will resume personal operation of the property within a reasonable period of time generally not to exceed 2 years.

(iii) Liquidation in accordance with § 1872.15 is pending and the lease is to protect the Government's interests. Form FHA 465–2, "Lease of Security Property," will be used and rental income will be applied to the FHA secured debt or prior lien(s). However, when the value of the property is adequate to cover the secured debts and foreclosure action has not been approved, the proceeds may be applied on unsecured or under-secured FHA debts.

(iv) Consent is not granted for a lease effective for a period in excess of 1 year at a time without prior concurrence of the National Office.

(b) *Lease of dwelling for RH loans on nonfarm tracts or for section 502 Senior Citizens loans.* (1) When a borrower who received an RH loan on a nonfarm tract or a Senior Citizen loan no longer occupies the dwelling purchased, improved, or constructed and given as security for an RH loan, the loan will be serviced promptly in accordance with § 1872.15 (f), unless the State Director determines that the borrower vacated the dwelling for reasons beyond his control and he intends personally to reoccupy the buildings within a reasonable period usually not to exceed 2 years. In such a case the State Director is authorized to grant consent to lease of the security for not more than a year at a time. In any other case, the RH account will be serviced promptly in accordance with § 1872.15(f) and the State Director may, pending liquidation, consent to the borrower's temporarily leasing the property if such action is in the best interests of the Government. The aggregate period for which consent to such temporary leases may be granted without National Office approval may not exceed 1 year. If the lease is for a term of more than 1 month, it will provide for cancellation by 30 days' notice after transfer of title to the property.

(c) *Leases of security under conditions other than specified in paragraph (a), (b), (d), or (e) of this section.* (1) The State Director is authorized to grant consent to the lease of part of the security for periods not to exceed 1 year at a time provided:

(i) The lease is advantageous to the Government and the borrower and will not adversely affect the borrower's personal operation of the farm securing any FHA loan or the occupancy of the dwelling by a borrower with an RH loan on a nonfarm tract or a Senior Citizens RH loan and the land or building to be leased is surplus to the borrower's needs.

(ii) Annual consent for lease is not granted for more than 2 consecutive years or consent for a lease covering a period in excess of 1 year at a time as specified in this paragraph is not granted without prior approval of the National Office. In any such case recommended by the State Director, the county office case file, the justification for a lease for a longer period of time, and the reasons why a lease is preferable to disposition of the property will be sent to the National Office for consideration.

(d) *Mineral leases.* The county supervisor, unless restricted by a State Instruction, or liquidation is pending, and the State Director in any case, are each authorized to consent on behalf of the Government and to execute recordable forms and such other forms as may be necessary, under the following conditions:

(1) The lessee agrees in the lease or elsewhere, or is liable without any agreement, to pay adequate compensation for

any damage to the real estate surface, improvements, and growing crops. When an oil and gas lease provides for payment of damage to growing crops and contains other provisions which are generally included in so-called "standard" lease forms that are used in the area, the State Director may determine that it will not be necessary to obtain any additional agreement for payment of damages if the value of the security likely will not be lessened. Damage compensation will be assigned to the FHA by the use of Form FHA 443–16, "Assignment of Income from Real Estate Security," or to the prior lienholder. However, the crop damage payment liability requirement may be omitted or deleted from the lease in small nonfarm tract cases.

(2) Royalty payments are adequate and are assigned on Form FHA 443–16.

(3) The bonus and rentals are at least equal to any minimum amounts established by a State instruction. All or a portion of delay rentals and bonus payments may be assigned on Form FHA 443–16 if needed for protection of the Government's interests.

(4) The lease, subordination, or consent form is prepared by or is acceptable to the OGC. If standard lease forms are acceptable, the use of such forms may be authorized in a State instruction.

(e) *Naval stores leases.* The county supervisor, unless liquidation is pending, and the State Director in any case, are each authorized to execute Form FHA 465–1 giving FHA consent to lease of naval stores and to execute such other forms on behalf of the FHA as may be necessary. No lease may be consented to unless it requires operation consistent with approved naval stores practices in the community and any State instruction on this subject. When naval stores are not managed or operated by the borrower, an assignment of the proceeds will be taken on Form FHA 443–16.

§ 1872.6 Severance agreements.

When a borrower requests the FHA's consent to a severance agreement or other instrument of similar effect under which an item or items to be acquired by him through other credit will not become a part of the real estate securing the FHA debt, such as a silo, storage bin, bulk milk tank, irrigation or recreational equipment, or other income-producing facilities and such facilities will be subject to a chattel lien, Form FHA 465–1 will be completed. The county supervisor, if the value of the item does not exceed $4,000, and the State Director in any case, are each authorized to give FHA consent by executing Form FHA 465–1 and any necessary severance agreements provided the following determinations are made: (a) The financing arrangements are sound and proper, (b) the transaction will not adversely affect the FHA's security position and will be within the borrower's debt-paying ability, and (c) the facility is not in excess of the borrower's needs but is modest and in line with FHA financing policies. In any case in excess of the county supervisor's approval authority, the county supervisor will forward to the State Director the Form FHA 465–1, the borrower's case file, and his recommendations regarding the request. The OGC will be requested to prepare or approve the severance agreement and, where necessary, issue closing instructions.

§ 1872.7 Disposition of proceeds of partial release, subordination, and consent transactions.

(a) *Payment on FHA account or prior lien or use for development or enlargement.* Proceeds from the sale of a portion of the security, the granting of an easement or right-of-way, royalties and damage compensation payments, except for compensation for damages for growing crops, the sale of timber that clearly depletes the Government's security, other than that harvested on a selective cutting basis as authorized in paragraph (b) of this section, naval stores production not managed by or under the supervision of the borrower, and all similar transactions will be either released for payment on the prior lien, applied as an extra payment on the FHA loan as provided in Subpart A, Part 1861, of this chapter, used for replacement or repair of damages for which compensation was paid, or used as provided in § 1872.3 (c), (d), and (e).

(b) *Normal income.* Proceeds from leases authorized in § 1872.5, bonuses and rentals under mineral leases, proceeds from the sale of timber that is harvested on a selective cutting basis that does not deplete the Government's security or from naval stores production managed by or under the supervision of the borrower, compensation to the borrower for growing crops, labor or services in cutting, loading, and hauling of security, and all similar transactions will be considered as normal income and may be used for the same purposes as for normal income security as outlined in Subpart A, Part 1871, of this chapter. When forestry products income is received by the borrower even though it is considered normal income, the county supervisor must determine the amount of such proceeds that may be released to the borrower. In making such a determination, protection of the Government's security position must be fully considered in the light of the amount of forest resources remaining and the unpaid balance of the loan, together with any other debts owed the FHA.

(c) *Assignment.* Any proceeds to be paid to the FHA subsequent to the time of closing the transaction and not otherwise assigned or made payable to the FHA will be assigned by the use of Form FHA 443–16 or other assignment form approved by the OGC.

§ 1872.8 Submission to national office of certain partial release, subordination, or consent transactions.

The State Director may submit to the National Office for determination by the Administrator or his delegate any proposed transaction in which the conditions prescribed in the foregoing sections for partial release, subordination, or consent by the FHA cannot be satisfied, if the State Director recommends approval of the transaction and if he finds (a) that either (1) the FHA secured indebtedness remaining after the transaction will be adequately secured or (2) the Government's security interest will not be adversely affected, and (b) that the transaction and use of any proceeds will (1) further the purposes for which the loan was made, (2) improve the borrower's debt-paying ability, and (3) permit necessary payment of reasonable costs and expenses incident to the transaction which the borrower is unable to pay from other sources. This section is intended to be used for those cases in which the use of the proceeds would be necessary for the borrower to retain the farm or rural residence that otherwise usually could not be accomplished. The State Director will submit to the National Office the full facts and justification supporting his recommendation, together with the county office files.

§ 1872.9 Actions by FHA for account of borrower, including advances for preservation of security or protection of lien.

When necessary to protect the interest of the FHA, actions will be taken by the FHA for the account of the borrower as provided in this section. Advances made for such purposes will be paid by Standard Form 1034 and charged to the borrower's account.

(a) *Operation of security by lessee or caretaker.* When approved by the State Director, the county supervisor will take possession of the property and will enter into a lease or caretaker's agreement for the account of the borrower on the best terms obtainable but not to exceed the time limitations provided in § 1872.5(a). Lease or caretaker's agreements will not be used as an alternative for, or as a means of delaying, prompt liquidation of the loan. Lease agreements will be entered into on Form FHA 465–2 and caretaker's agreements on Form FHA 465–3, "Caretaker's Agreement (Real Property Only)."

(b) *Taxes and assessments.* Real estate taxes and assessments will be handled in accordance with Part 1863 of this chapter.

(c) *Insurance.* For FO, SW, RH, LH, and ORE loans, property insurance will be required and serviced in accordance with Part 1806 of this chapter. For other FHA loans secured by liens on real estate, property insurance will be obtained and serviced in accordance with requirements for the kind of loan involved.

(d) *Maintenance.* Where emergency repairs are necessary to protect interests of the FHA, the State Director may authorize such repairs only in abandonment and pending liquidation cases without prior approval of the National Office. Such repairs will be properly documented on Form FHA 424–1, "Development Plan." If a prior lien is involved, such expenditures for maintenance will not be made unless the prior lienholders refuse to make them.

§ 1872.10 Actions by third parties which affect security.

The borrower will be expected to protect his own interest in condemnation, trespass, quiet title, and other cases affecting the security. Third party actions include court action in divorce or other cases in which the security property is involved. The complete facts concerning any action taken by third parties which may affect the security will be furnished immediately to the State Director together with the county office case file.

(a) *Sale under prior lien foreclosure.* When a prior lien foreclosure sale is to be held and the State Director determines that a substantial net recovery on the Government's interest can be made by acquiring and reselling the security, he will authorize a bid in accordance with § 1872.18(b)(4) (vii) and (viii). Such bid may provide for payment of the prior lien indebtedness and costs incidental to the sale which must be paid from the sale proceeds. If the amount of the check needed to cover the Government's bid exceeds $40,000, the prior concurrence of the National Office will be obtained before a bid on behalf of the FHA is authorized. When under State law it is necessary prior to such foreclosure to acquire the prior lienholder's rights to protect the Government's junior lien interest, payment of the prior lien and required costs may be made with the advice of the OGC, provided: The FHA account after the acquisition of the prior lien will be liquidated as provided in § 1872.15; and prior approval of the National Office is obtained for any payment in excess of $40,000. In other situations, payment of the prior lien and required costs may be made with prior approval of the National Office if: It will enable the Government to obtain a greater recovery of the secured debt (not an inventory profit) than it could by bidding at the prior lien foreclosure sale; and the FHA account after acquisition of the prior lien will be liquidated as provided in § 1872.15. Recommendations to the National Office for such payments will be accompanied by information clearly supporting the action as being to the Government's financial advantage. An insured loan which is not held by the insurance fund will be assigned to the insurance fund in sufficient time before the foreclosure sale to enable the FHA to protect the interests of the Government.

(1) *Title evidence and payment of costs.* Prior to making a bid on the property or acquisition of the prior lienholder's rights, title evidence will be obtained in the same manner as prescribed in § 1872.18 to see whether the FHA can acquire a title merchantable in fact if it is the successful bidder. The payment of the bid, any costs, and the reporting and completing of the transaction will be handled in accordance with the applicable portions of § 1872.18. This reporting of the case includes a narrative report to the Finance Office in which no recovery is made by the Government. If the Government is to rely on redemption rights, that fact will be indicated in the report.

(2) *Servicing Government redemption rights.* If after the sale the Government has any redemption rights, it will be determined whether to redeem the property before the redemption period expires. Such determination will be made after considering all factors including the value of the property or changes in its value after the sale and any other pertinent information. This determination will be made at a time sufficiently prior to expiration of the redemption period to permit exercise of the Government's rights. If redemption of the property is appropriate, the State Director's recommendation accompanied by complete information showing the basis for not acquiring the security at the sale and factors which justify its redemption should be sent to the National Office for prior consideration. If it is decided not to redeem the property, the right of redemption may be sold for its value by the State Director. There is no authority to dispose of redemption rights without consideration.

(b) *Foreclosure sale subject to FHA mortgage.* If a lien junior to the FHA lien is foreclosed and the property is sold subject to the FHA mortgage, the account will be transferred under § 1872.16, if appropriate. Otherwise, it will be liquidated as provided in § 1872.15.

§ 1872.11 Deceased borrower.

Deceased borrower cases will be handled in accordance with the policy outlined in Subpart B, Part 1871, of this chapter, for such cases.

§ 1872.12 Bankruptcy and insolvency.

Bankruptcy and insolvency cases will be handled in accordance with the policy outlined in Subpart B, Part 1871, of this chapter, for such cases, except that in continuation cases a form or acknowledgment of debt and new promise to pay prepared or approved by OGC will be used in lieu of Form FHA 455–19, "Renewal Promissory Note."

§ 1872.13 Servicing note-only cases.

Each loan made on a note-only basis without mortgage security will be serviced in a manner consistent with the best interests of the borrower and the FHA.

(a) *Sale of real property on which improvements were made with note-only FHA funds except EO loans.* Any loan evidenced only by an unsecured note will be collected by voluntary means, at the time of the sale of the property, if possible. If such collection is not possible, the loan may be assumed by the purchaser of the property on the terms of the note if such assumption is determined to be to the FHA's best financial interests. If such collection or assumption cannot be effected, consideration should be given to settling the account in accordance with Part 1864 of this chapter if it is eligible, or classifying it as collection-only.

(b) *Assumption of note-only (except EO loans) when real property securing another FHA loan is involved.* When a borrower has an FHA loan secured by real estate and another FHA loan evidenced only by a note and the entire secured real estate debt is to be assumed, all or a part of the unsecured note up to the present market value of the property in excess of existing liens, must be assumed as appropriate under § 1872.16, if approval of assumption of the secured note and transfer of the real estate is approved. If the entire note-only account is assumed, it may be assumed by use of Form FHA 460–9, "Assumption Agreement (Same Terms—Eligible Transferee)," in accordance with the terms of the existing note. Otherwise, it may be assumed by use of Form FHA 460–5, "Assumption Agreement (New Terms)," by an applicant who meets the eligibility requirements for the type of loan involved and on terms applicable to such a loan. Form FHA 460–5 or Form FHA 460–9 will be modified as appropriate, with the advice of OGC.

(c) *Deceased borrower cases.* When a borrower who dies owes an FHA unsecured note, the case will be handled in accordance with the applicable policies in Part 1871 of this chapter. If it is determined that there are no assets in the estate from which the claim can be collected and there are no survivors or others who will assume the account and continue to make payments on the note in accordance with its terms, the account will be settled immediately in accordance with Part 1864 of this chapter.

§ 1872.14 Release of FHA mortgage without monetary consideration on basis of additional security or because of mutual mistake or nonexistence of evidence of indebtedness.

(a) *Additional real estate, chattel, or miscellaneous security.* Real estate, chattel, or miscellaneous items which were taken as additional security for a loan secured by real estate may be released by the State Director without consideration before the loan is paid in full, if the normal value of the remaining security for the loan is clearly adequate to secure the unpaid balance of the loan(s) provided:

(1) No part of the FO, SW, or RH farm or RH nonfarm tract, or the borrower's dwelling for an RH or FO loan is considered as additional security for this purpose.

(2) Only additional real estate for Operating and EM loans is considered for release under this paragraph.

(3) There is reasonable assurance that orderly payments can be made on the FHA indebtedness and,

(i) The release is needed to help finance the borrower's operations, or,

(ii) The purposes for which the loan was made would be facilitated, or,

(iii) The borrower's ability to repay the loan will be improved.

(b) *Release of real estate from mortgage because of mutual mistake.* Land or buildings included in the mortgage through mutual mistake when substantiated by the factual situation may be released from the mortgage by the State Director. The release is contingent on the State Director with the advice of the OGC determining that a mutual error existed at the time such property was included in the Government's mortgage.

(c) *No evidence of indebtedness.* The FHA mortgage may be released by the

county supervisor in situations where there is no evidence of an existing indebtedness secured by the mortgage to be released in the records of the FHA county, State, or Finance Office.

§ 1872.15 Liquidation action.

When it is determined by the county supervisor, with the advice of the county committee and the district supervisor, that continued servicing of the loan will not accomplish the objectives of the loan or that for other reasons further servicing cannot be justified under the policy stated in § 1872.1(b), liquidation of the account(s) will be accomplished as expeditiously as possible.

(a) When the borrower is willing to voluntarily liquidate the account immediately by (1) selling the property and paying the account in full, (2) transferring the total security with an assumption of all or the appropriate portion of the debt under § 1872.16, (3) selling the property for not less than its present market value under § 1872.16, or (4) conveying the security to the FHA under § 1872.17, the county supervisor may give him 60 days to accomplish such action.

(i) If the property is to be sold for its present market value which is less than the total secured debts against it, the county supervisor will appraise the property immediately and send such appraisal report to the State Director for establishing the present market value.

(b) If the borrower is unwilling to take any of the actions specified in this § 1872.15 or fails to carry out any such action within 60 days, the county supervisor will complete Form FHA 465–7, "Report on Real Estate Problem Case," and send it to the State Office through the district supervisor so that the district supervisor's recommendation may be attached. If the State Director agrees that forced liquidation is appropriate, he should approve such liquidation. If he considers it justifiable, he may give the borrower additional time to make the sale, transfer, or voluntary conveyance before sending the case to the OGC for initiation of foreclosure action.

(c) In all cases in which the State Director approves forced liquidation, the account should be accelerated even though he gives the borrower additional time to voluntarily liquidate the account. He should place a time limit on the borrower which usually should not exceed 3 months in the first instance. The original period fixed by the State Director plus any extensions granted by him should in no case exceed 1 year without prior concurrence of the National Office. Prior to granting any extension after the original period fixed by him, the State Director will require the county supervisor to report the steps taken by the borrower to liquidate the account. If a sale is involved, the county supervisor's report should indicate whether the borrower's asking price is reasonable and whether the asking price is delaying the sale unreasonably. Acceleration or granting time for voluntary liquidation as provided for above will not preclude exercise of the authority in paragraph (g) of this section. However, the above authority should never be used for the purpose of extending the liquidation period under paragraph (f) of this section.

(d) When an insured loan case is sent to the OGC to initiate liquidation action, the insured loan will be simultaneously assigned to the fund as provided in Part 1873 and Subparts A and B of Part 1874 of this chapter.

(e) When a borrower is indebted to the FHA for more than one type of FHA loan, a thorough study should be made of each loan and of the effect liquidation of one or more of the loans would have on any other loan. When liquidation of one or more FHA loans secured by real estate is necessary and it will jeopardize the repayment of or the accomplishment of the purposes of other FHA loans, all FHA loans should be liquidated if legally possible. When more than one type of loan is to be liquidated, for example, an Operating and FO loan, the liquidation action will be started simultaneously, and the liquidation of real estate and chattel security will be coordinated to the extent possible. However, the chattel security will be liquidated in accordance with Subpart B of Part 1871 of this chapter, except that when an account(s) is secured by both real estate and chattels and the account(s) will be transferred, such transfer(s) will be accomplished in accordance with § 1872.16.

(f) An RH borrower who obtained a loan on a nonfarm tract or a section 502 Senior Citizen RH loan borrower who no longer lives in the dwelling on the tract of land, or any FO borrower who without FHA consent does not personally operate the farm or when required by the mortgage does not live on the security property, is violating his agreements with the FHA. Such a borrower, if available, will be promptly contacted in person by the county supervisor and advised of the violation and that it will be necessary to liquidate the account by payment in full by refinancing or otherwise, unless definite agreements are reached to remove the violation by reoccupying or resuming personal operation of the property as required or consent for lease is granted as authorized in this subpart. If the borrower is not available for personal contact or definite agreements cannot be reached or consent to a lease is not authorized, the county supervisor will make a narrative report of the circumstances to the State Director. Upon receiving such a report, the State Director will write the borrower, notifying him of the violation involved and advising him that, because of the violation, it will be necessary to liquidate the account and give a reasonable period of time (60 to 90 days) in which to comply. If during such period the borrower fails to remove the violation or to take appropriate action for liquidation of the account in full, a notice of acceleration will be sent to the borrower by the State Director. Following the notice of acceleration, the borrower may be given additional time to voluntarily liquidate the account in accordance with the policy outlined in the general statement of this section.

(g) When liquidation of the account is necessary because of failure to refinance or for other reasons and the remaining loan repayment period exceeds 5 years, the State Director may, in lieu of foreclosure, permit the borrower to pay the account under an acceleration agreement providing for not to exceed five equal amortized annual installments of combined principal and interest, with interest at the rate shown in the note, if (1) the FHA interests will not be adversely affected, (2) the borrower can reasonably be expected to meet the accelerated payments, and (3) the borrower will continue to comply with other requirements of the loan and security instruments. However, in an unusual case where a borrower owes a small amount and the remaining period of the loan is 5 years or less, the State Director may authorize acceleration of the account for 1 or 2 years, as appropriate. When an understanding to accelerate is reached with the borrower, Form FHA 465–11, "Accelerated Repayment Agreement," will be completed and executed. Separate Forms FHA 465–11 will be used for each type of loan and for direct or insured loans. If the borrower fails to meet any installment when due as provided in such an agreement, foreclosure action will be initiated.

(h) In any case where it has been determined that the loan objectives cannot be accomplished, liquidation of the account is necessary and where the remaining loan repayment period exceeds 5 years the State Director may in lieu of foreclosure permit the borrower to pay the account under an acceleration agreement providing for not to exceed five equal annual payments with interest at the rate shown in the note subject to the obligation of the borrower to refinance the account when he is able to do so, if the State Director determines (1) the borrower is unable to immediately refinance the account, (2) the FHA interests will not be adversely affected, (3) the borrower can reasonably be expected to meet the accelerated payments, and (4) the borrower will continue to comply with other requirements of the mortgage. When such an understanding is reached with a borrower, Form FHA 465–11, "Accelerated Repayment Agreement," will be completed and executed. A separate Form FHA 465–11 will be used for each type of loan and for accelerating a direct or insured loan. If the borrower fails to meet any installment when due as provided in such agreement, foreclosure action will be initiated.

(i) If an account is to be liquidated by a method other than immediate payment in full by cash, the county supervisor will, after approval by the State Director, take appropriate action and execute all necessary forms, including satisfactions, releases, and so forth, for completion of the transaction except for those actions specifically reserved to the State Director by this subpart.

(j) The county supervisor is authorized to approve a cash sale of mortgaged

real estate for not less than its present market value established by the State Director and to authorize release of the Government's lien(s), provided:

(1) A substantial recovery can be made on the FHA secured indebtedness based on a recent appraisal report showing the present market value of the property.

(2) All the proceeds are applied on the mortgage debts in accordance with their respective priorities except authorized costs as specified in § 1872.3.

(3) The FHA liens are not released by the county supervisor until receipt of the appropriate sale proceeds for application on the Government's claim. The release will be made on forms approved or prepared by the OGC. The borrower is not released from personal liability for any deficiency and the borrower is reclassed as collection-only by use of Form FHA 404–1, "Case Reclassification," unless he owes other FHA accounts and is classified as an active borrower. Also Form FHA 450–10, "Advice of Borrower's Change of Address or Name," will be sent to the Finance Office.

§ 1872.16 Transfer of real estate security.

When the mortgage requires the consent of the FHA to any proposed sale of real estate security for FHA loans, borrowers should be so advised; therefore, before firm agreements have been reached with purchasers for sale of all or a portion of the security, they should contact the county supervisor relative to the proposed sale. If the proposed sale would not result in the FHA account being paid in full at the time of the sale, the county supervisor should explain thoroughly the requirements of this section and §§ 1872.3 and 1872.15, as appropriate, to the transaction. When the transferor is receiving a substantial downpayment in connection with the sale of his property, the purchaser should be required to contact other sources of credit to secure a loan for repayment of the FHA loan in full and make the transfer unnecessary. When real estate security, including water rights, is sold and the mortgage requires FHA consent to the sale and the transaction cannot be approved under the appropriate sections of this subpart, the account will be liquidated as required in § 1872.15.

(a) *Authority.* County supervisors, district supervisors, and State Directors are authorized to approve transfers with assumption of FHA accounts to eligible or ineligible transferees in accordance with this section and releases of liability when the secured debts are within their respective loan approval authorizations and limitations. State Directors also are authorized to approve such transfers to and assumptions by ineligible transferees regardless of the amount of the outstanding FHA debts or the amount of prior liens. Proposed transfers to and assumptions by eligible transferees which will exceed the authorizations and limitations of the State Director for an initial or subsequent loan of the same type will be submitted to the National Office for review prior to approval.

(b) *General policies.* The following general policies will be applicable when an FHA borrower sells or proposes to sell real estate which is security for an FHA loan(s) and the loan account(s) is to be assumed by use of either Form FHA 460–9 or Form FHA 460–5.

(1) Form FHA 465–5, "Transfer of Real Estate Security," will be completed to reflect the agreement between the transferor and the transferee.

(2) If an insured loan is involved, the Finance Office will have the insured note assigned to the fund when the assumption agreement changes the terms of the note.

(3) All transfers will be based on present market value. When the total secured FHA debt(s) exceeds the present market value, the transferee will assume an amount equal to the present market value less any prior liens. Otherwise, the transferee will assume the total FHA secured debt(s).

(4) Notwithstanding that part of Subpart D of Part 1800 of this chapter regarding the effect of a wife's signature on a promissory note, a divorced or deceased borrower's spouse will execute an assumption agreement when the spouse is not already liable for the indebtedness because of not having signed the note(s) or would be absolved from liability under State law after having signed the note(s) The assumption agreement, when required in such cases, will be completed and sent to the Finance Office. The interest rate and terms of the assumption agreement of such a spouse usually will remain the same as they were in the note(s). If, however, the number of years over which a note was amortized needs to be extended to be within the repayment ability of the assuming spouse, the reamortization period may be extended but cannot exceed the repayment period applicable to the kind of loan being assumed.

(5) When one of the joint borrowers (including the jointly liable spouse of a divorced borrower) withdraws from the operation and conveys his interest in the security or any EO property to the remaining borrower who desires to assume the total indebtedness as between himself and the other party, the assumption will be made on the basis of the existing note(s) by use of Form FHA 460–9, or in case of an ineligible transferee, on Form FHA 460–5, on terms applicable to ineligible applicants. In such case, the other spouse or joint owner will be released of liability for the indebtedness if the conditions of paragraph (f) of this section are met.

(6) When the spouse or another member of a borrower's family who is eligible for the kind of loan involved will assume the indebtedness along with one or more of the existing borrowers, the assumption will be made on the same basis as the existing note(s) by use of Form FHA 460–9. Such assumptions are frequently made in accordance with all of the applicable requirements of this section when an aged couple has a son or daughter who will (i) assist in operating the farm or live in the RH house, (ii) help make the payments, and (iii) obtain title to the property individually or jointly with the borrower(s), or subject to a life estate reservation by the existing borrower(s).

(7) The kind(s) of loan will remain the same for all loans except loans which are transferred to ineligible applicants will be classified as ORE.

(8) Generally, title to all FHA real estate security, including water rights, must be conveyed to the transferee not later than the date of closing the transfer. However, in an unusual case where the borrower's personal liability for the debt is retained and the account is being assumed for 5 years or less, a transfer of a portion of the FHA real estate security with an assumption of the indebtedness may be approved, provided: (i) The portion of the FHA security transferred has a present market value at least equal to the total indebtedness owed by the borrower or such indebtedness is reduced by a cash payment to the present market value of such property, and (ii) the transaction is advantageous to the Government and the borrower. In such a transaction, the security retained by the borrower may be released from the Government's lien.

(9) When a request is made by a borrower to transfer the total real estate security as parcels to each of different transferees with assumption of a portion of the debt, the proposed action may be sent to the National Office for consideration if it is recommended after a determination has been made that such transaction would be advantageous to the Government. In such a case, the complete factual information concerning the transaction will be submitted. It will include appraisal reports showing the present market value of each portion to be transferred and such value of the total unit before subdivision, the amount of indebtedness to be assumed by each transferee, and the case file with other pertinent information outlining the reasons for the proposed actions.

(10) When the account(s) is secured by both chattel and real estate, all the chattel security must be transferred, sold, or liquidated by the time of the transfer of the account(s), except that in case of security for emergency or special livestock loans, the real estate security may be transferred without transfer or liquidation of the chattel security upon prior approval of the National Office.

(11) The written consent of any lienholder must be obtained if required by the mortgage.

(12) When the full amount of the FHA debt is assumed, there must be no liens, judgments, or other claims against the security which are junior to any FHA liens being assumed unless the State Director determines that such liens, judgments, or claims will not adversely affect the Government's security interest and that the transferee's ability to pay the FHA debt will not be impaired thereby.

(13) When less than the full amount of the FHA debt is being assumed, there must be no liens, judgments, or other

claims against the security which are junior to any FHA loans being assumed.

(14) An initial or subsequent loan for which the transferee is eligible may be made in connection with a transfer subject to the policies and procedures governing the kind of loan being made. When the transfer is being made to an eligible FO applicant, FO loan funds may be used to pay equity. When real estate security for an RH loan is transferred to a person eligible under Subpart A, Part 1822 of this chapter for an RH loan to purchase such real estate, RH loan funds may be used to pay the equity.

(15) If a payment to the transferor is to be made in connection with the transfer, the total FHA debt must be assumed unless the payment received by the transferor is applied on a prior lien or to the portion of the transferor's FHA debt not assumed.

(16) When the full amount of the FHA secured debt is being assumed and other FHA debts owed by the transferor are not adequately secured, the State Director may, as a condition of approving the transfer, require that all or a part of any equity payment be applied on such debts.

(17) The transferee will make a downpayment on the FHA secured debts if he is financially able. When a payment is required, the transfer will not be closed nor the apropriate assumption agreement executed prior to receipt of such payment.

(18) The effective date of the transfer will be the date shown on Form FHA 451–11, "Statement of Account," to which "Interest Has Been Accrued Through," and any charges or credits received by the Finance Office after the "Date of Certification" of the statement of account will be held in suspense and applied on the transferee's account upon receipt of the assumption agreement, unless the Finance Office is notified that the transfer will not be completed. The transferee's and transferor's agreement that all credit or charges to be made to the account after the date of the certification will be shown in Form FHA 465–5.

(c) *Transfer of FHA direct or insured loans to eligible applicants*—(1) *Eligibility.* A direct or insured loan may be transferred to an applicant who meets the eligibility requirements for the kind of loan being assumed or whose situation after the transfer will satisfy such eligibility requirements. Also, an RH Senior Citizen loan may be transferred to anyone eligible for a section 502 RH loan. An ORE loan may be transferred to an applicant who meets the eligibility requirements for an FO loan, or to an applicant who meets the eligibility requirements for an RH loan if it is a nonfarm tract and was security for an RH loan originally. An RH loan to a person of low or moderate income may be transferred to a person whose income is above moderate and who meets the other requirements of an eligible transferee, only if there are no eligible low or moderate income applicants available for the transfer, and if the approval official determines that the transfer will be in the financial interest of FHA. Livestock or other emergency type loans no longer being made may be transferred to an applicant who meets current EM loan requirements. Any other type of loan for which there are no present authorizations or eligibility requirements may be transferred only with the advice of the National Office after considering the recommendation of the State Director and reviewing the case file.

(2) *Repayment and reamortization terms.* (i) Assumption of any FHA loan may be approved without any change in the balance owed, interest rate, or other terms. In such cases Form FHA 460–9 will be used. A loan may be transferred even though it is on schedule, ahead of schedule, or behind schedule. Whenever reasonably possible, any delinquency should be paid at the time of assumption. However, this is not required if the total FHA debt to be assumed is within the debt paying ability of the transferee.

(ii) If an extension of the existing loan repayment period is necessary to enable the transferee to be successful, Form FHA 460–5 will be used. The new repayment period will be the same as the repayment period for a new loan of the type involved; for example, FO—40 years, Operating—7 years, and RH—33 years. If a new repayment period is used and the current interest rate is higher than the rate specified in the note, the current interest rate for a new loan of the type involved will be used, and any insurance charge applicable to such a loan will be provided for, except in (*a*) assumptions by a surviving spouse under paragraph (b)(4) of this section and (*b*) direct sections 502 and 503 RH loans. In determining the new repayment period and interest rate, (*1*) all direct sections 502 and 503 RH loans will be transferred at an interest rate of 5 percent per annum or the interest rate specified in the note, whichever is greater, (2) an ORE loan will be considered an FO or RH loan in accordance with subparagraph (1) of this paragraph, and (3) a livestock or other emergency type loan no longer being made will be considered an EM loan.

(d) *Transfer of direct and insured loans to ineligible transferees.* When a borrower sells or proposes to sell the real estate security to a person(s) who is not eligible to assume the indebtedness in accordance with paragraph (c) of this section and the mortgage requires the Government's consent for the transaction, it will be the policy to immediately liquidate the account unless it is to the best financial interest of the FHA to permit assumption of the account. For any type of loan for which there are no existing authorizations or eligibility requirements in FHA Instructions, the loan may be transferred under the requirements and conditions of this paragraph. If the approval official determines that it is to the best financial interest of the FHA to transfer the account, he may consent to the transfer by assumption agreement, provided:

(1) Each transferee will be required to make as large a downpayment on the FHA secured debt as he is financially able to make under the circumstances. However, the transfer may be approved without any downpayment if (i) the transferee is not financially able to make a downpayment, and (ii) the approval official determines that the transfer and assumption will be in the best financial interests of FHA.

(2) The balance of the FHA debt assumed is scheduled for repayment in not to exceed five equal annual installments with interest to the borrower at the rate of 6 percent per annum, or at the rate of interest specified in the note being assumed, whichever is greater.

(3) The transferee has ability to pay the FHA debt in accordance with the assumption agreement and the legal capacity to enter into the contract.

(4) The county committee finds that the transferee will honestly endeavor to make payments in accordance with the assumption agreements, maintain the security property, and carry out his other obligations in connection with the loan.

(5) The transfer will not adversely affect the FHA program in the area.

(e) *Consent of FHA not required to transfer.* Where the FHA mortgage(s) does not require the Government's consent to the sale of the security and the borrower conveys or proposes to convey the security to a person who is ineligible or unwilling to assume the FHA debt in accordance with paragraph (c) or (d) of this section, the Government will not consent to the sale. In such a case the county supervisor will advise the State Director of the sale. If the account is delinquent or the loan is otherwise in default, the county supervisor also will advise the State Director of the nature of the default and any specific plans that may have been made to correct the default. If it is determined to continue with the account, it will be serviced in the name of the borrower and otherwise serviced in the normal manner.

(f) *Release of transferor from liability.* When all of the real estate security for an FHA loan is transferred under paragraph (c) or (d) of this section, and the total outstanding debt is assumed it will be the policy to release the borrower (and any cosigner for an RH loan) from personal liability to the FHA. However, if a portion of the outstanding debt is not assumed, the following conditions must be satisfied:

(1) The county committee has made the appropriate certification and recommendations prescribed in paragraph (g)(6) of this section.

(2) The transferor and any cosigner do not have reasonable debt-paying ability considering his assets and income at the time of the transfer.

(3) For an RH loan involving a cosigner, the transferor may be released from personal liability only if the cosigner also can be released.

(g) *Processing transfer by assumption of indebtedness.* When the transfer is not within the county supervisor's approval authority, the docket with the transferor's case file will be sent to the district supervisor or State office, as appropriate, for approval or disapproval.

(1) *Refund of unused funds, loan funds not advanced, statement of account.* Unexpended funds in the supervised bank account will be applied as a refund unless FO, RH, SW, or EM security is involved and the funds are needed for completing planned development. Any obligation of or request for loan funds not yet advanced will be canceled. A certified statement of account on Form FHA 451–11, "Statement of Account," computed to the tentative date of the transfer will be obtained by use of Form FHA 451–10, "Request for Certified Statement of Account."

(2) *Preparation and distribution of transfer docket—(i) Checking docket forms.* When the transfer docket forms have been completed, they will be checked thoroughly to determine that (*a*) the proposed transfer conforms to the applicable procedural requirements, (*b*) each form is prepared correctly in accordance with the Forms Manual Insert or other appropriate instructions, and (*c*) items such as names, addresses, and the amount of the indebtedness to be assumed are the same on all forms in which such items appear.

(ii) *Information on the availability of other credit.* The county supervisor will record in the running case record the pertinent information concerning the negotiations made by an eligible transferee and the discussion by FHA personnel with the applicant's creditors and other lenders.

(*a*) The investigation and availability of other credit for eligible transferees will be documented as required for the kind of loan being assumed. This must be sufficiently clear and adequate to establish that other credit is not available to pay the debt in full and make the transfer unnecessary. Any letters from lenders or other evidence which may have been obtained indicating that the applicant is unable to obtain satisfactory credit elsewhere will be included in the loan docket.

(3) *Collections and receipts.* (i) Any payment received by the Finance Office after Form FHA 451–11 has been issued will be held in suspense and applied on the transferee's account as soon as the Finance Office receives the executed assumption agreement.

(ii) Any payment made on the date of the transfer will not be deducted from the amount shown on Form FHA 451–11. The assumption agreement will reflect the total debt as shown on Form FHA 451–11 unless the transfer is being made for less than the full amount of the debt. For payments received on the date of transfer, Form FHA 451–1, "Receipt for Payment," will be issued to: "Transfer in process of account owed by (borrower's name and case number) to be transferred to (name of transferee and case number, if known)." If the borrower number portion of the case number has not yet been assigned for a transferee only the State and county portion of the case number will be shown. A statement for the information of the Finance Office will be attached to the assumption agreement showing the number of any such receipt and the amount paid. In such a case, the original receipt will be given to the party making the payment. Form FHA 451–2, "Summary of Remittances," also will indicate both names and case numbers and that a transfer is in process.

(iii) When a payment is due on the assumption agreement shortly after the transfer is completed, such a payment should, if possible, be collected at the time of transfer and remitted in the same of the transferee.

(4) *Farm and home plans and financial statements.* When the transfer involves an ineligible transferee, Form FHA 431–3 or Form FHA 431–2 will be used with Tables A and J being completed in the same manner as for any other borrower but other tables and portions of the Form will be completed only to the extent necessary to determine the debt-paying ability of the transferee and to give sufficient information for completing Table J. When a transfer is to be made for less than the amount of the indebtedness and a release of liability is involved, a current financial and income statement of the transferor will be obtained on Form FHA 431–3 or Form FHA 431–2.

(5) *Appraisal report.* Form FHA 422–1 or Form FHA 422–8 will be obtained when (i) the amount to be assumed is less than the full amount of the indebtedness, (ii) required in connection with an initial or subsequent FO, RL, SW, or RH loan to be processed with the transfer, or (iii) the loan approval official requests a current appraisal.

(6) *County committee certification and recommendation.* When a transfer docket is completed, it will be presented to the county committee for review because the transfer will be contingent upon the county committee making its appropriate certification on Form FHA 440–2 for an eligible applicant or completing the following memorandum statement for an ineligible applicant:

In our opinion, the transferee, ----------, will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out the other obligations in connection with the loan.
(name of transferee)

(i) When the county committee recommends a release of the transferor and any cosigner from liability in any case where real estate security is being transferred under paragraph (c) or (d) of this section with an assumption of less than the total debt, it will provide the following statement to be added to Form FHA 440–2 or the memorandum statement for an ineligible applicant:

(Name of transferor and any cosigner), in our opinion do not have reasonable debt-ability to pay all or a substantial part of the balance of the debt not assumed after considering their assets and income at the time of the transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of their ability. Therefore, we recommend that the transferor and any cosigner be released of personal liability upon the transferees' assumption of that portion of the indebtedness equal to the present market value of the security.

(7) *Property insurance.* The transferee will obtain property insurance in accordance with the requirement for the loan(s) involved unless the approval official requires additional insurance as a condition of approval. If insurance is required, it may be obtained either by transfer of the existing coverage by the transferor or by acquisition of new coverage by the transferee. The insurance company will be notified by the county supervisor immediately after completion of the transfer. When the full amount of the FHA indebtedness is being assumed and an insurance premium has been advanced to the account, the transfer will not be completed until the amount of the premium has been charged to the transferor's account.

(8) *Title clearance and legal services.* Title clearance and legal services for closing transfers will be accomplished in accordance with Part 1807 of this chapter in case of a transfer involving an FO, RL, RH, LH, RRH, RCH, or SW not coded J, or a Land Conservation and Development (LCD) loan. For all other kinds of loans being transferred, title clearance and loan closing services will not be required unless the approval official, with the advice of the OGC, determines that such services are needed in order to maintain the FHA's security position or for other reasons. When required, the title clearance and loan closing services will be accomplished in accordance with Part 1807 of this chapter. If other than an FHA mortgage is involved which requires the mortgagee's consent to the transfer, such consent will be obtained.

(9) *Assumption agreement, release from personal liability, receipts.* Forms FHA 460–5 or FHA 460–9, FHA 451–1, and FHA 465–8, "Release from Personal Liability," in each case where the full amount of the debt is assumed or a release from personal liability is otherwise approved under this subpart and all of the security is being transferred, will be completed and executed simultaneously with closing of the transaction. The original (and signed copy for insured loan) Form FHA 460–5 or Form FHA 460–9 and, when applicable, Form FHA 451–1, and a signed copy of Form FHA 465–8 will be transmitted immediately to the Finance Office. If a loan is involved, Form FHA 440–3 also will be sent to the Finance Office.

(10) *Transfer of unused development funds.* Any remaining funds not to be refunded that are in the transferor's supervised bank account will be transferred to the transferee's supervised bank account simultaneously with the closing of the transfer for use in completing planned development.

(11) *Case folder.* The transferor's county office case folder will be used for the transferee after adjustments have been made in accordance with established policies and procedures.

(h) *Transfer not completed.* If for any reason the transfer is not completed, the Finance Office will be notified to resume servicing of the account in the name of the transferor.

§ 1872.17 Voluntary conveyance of security to FHA.

When voluntary conveyance of security to the FHA is determined to be appropriate, the voluntary conveyance docket will be assembled and submitted to the State office with the borrower's county office case folder(s). If voluntary conveyance is approved as being to the best financial interests of the Government by permitting a substantial recovery on the Government's loan, the State Director will send to the county office any title information or evidence of ownership of water rights held in the State office. When a prior lien(s) exists, such lien(s) will be paid by Standard Form 1034, only if it is determined that: A substantially greater recovery on the Government's investment can be obtained from the sale of the real estate without the lien(s) than could be otherwise obtained; or the property is suitable for sale to an eligible applicant subject to the terms of the prior lien and the holder of the prior lien(s) will not agree for the Government to acquire the property and resell it subject to his lien(s). If the property is acquired subject to a prior lien(s), payment of annual installments on the prior mortgage may be made while title to the property is held by the Government. All junior liens on the property except FHA liens and taxes and assessments which are or will become a lien on the property must be satisfied by the borrower without FHA assistance. The word "property" as used in this paragraph includes the real estate, items which are considered real estate, items which customarily pass with the real estate in the change of ownership, and any irrigation equipment and other equipment such as bulk milk tanks, feed storage facilities which are chattel security if it is necessary for the successful operation of the farm, will enhance the sale of the farm, and is a part of the security for the loan involved in the conveyance.

(a) *Authority.* The State Director, subject to the policies outlined in this paragraph, is authorized to approve a voluntary conveyance with or without release of personal liability. The State Director is authorized to consent to release of a borrower and any cosigner in connection with a voluntary conveyance as justified in § 1872.16(f) applicable to a transfer.

(b) *Preparation, processing, and distribution of voluntary conveyance docket.* When a borrower offers to voluntarily convey his property to the FHA and agrees to carry out all the conditions contained in Form FHA 465–4, "Offer to Convey Security," the form will be completed and he will signify his agreement by signing the form. A warranty deed on a State-approved form or a deed meeting the requirements of § 1807.2(e) of this chapter will be required and, whenever possible, completed and signed simultaneously with Form FHA 465–4; however, it will not be recorded until closing of the transaction. Also, if water rights involved are not fully conveyed in the deed, any necessary assignments or transfers of water stock or membership certificates or other water right title documents required by the OGC will be obtained simultaneously with the execution of Form FHA 465–4 whenever possible but not later than the execution of the deed and will be recorded, if necessary or appropriate, in connection with closing the transaction. When the borrower executes Form FHA 465–4, a preliminary determination will be made by the county supervisor as to whether the property constitutes either an "adequate" or "less than adequate" family farm as defined in Subpart A, Part 1821, of this chapter.

(1) *Acceptance of offer.* When the offer provides only for a credit to be allowed on the account equal to the value of the security as determined by the FHA less any prior liens that are to remain outstanding, the State Director will immediately accept the offer subject to the conditions outlined in Form FHA 465–4, irrespective of the amount of credit to be allowed as the value of the security. If the offer provides for full satisfaction of all FHA debts secured by the real estate, it will be accepted when it is determined that the value of the security less any prior liens to remain outstanding will satisfy the FHA debts or that the borrower will be released from personal liability for the deficiency. If the offer to convey in full satisfaction of such debts is not acceptable, it will be returned to the county supervisor and he will attempt to obtain an offer which will convey the security for its value as determined by the FHA. When an insured loan not held by the insurance fund is involved and the State Director decides to accept the offer to convey, he will request the Director, Finance Office, to have the insured loan assigned to the insurance fund.

(2) *Taxes.* When Form FHA 465–4 is submitted to the State Director, Standard Form 1034 will be attached thereto for the payment of any taxes and assessments which are a lien or will become a lien on the property or water assessments or charges to protect the right to receive water, which are due and payable and which Form FHA 465–4 does not obligate the borrower to pay. If Form FHA 465–4 is accepted, the State Director will forward the voucher to the Finance Office.

(3) *Appraisals.* A current appraisal report for the farm or nonfarm tract will be obtained in each case and will reflect the normal value as well as the present market value of the land in its present condition.

(4) *County committee's certification and recommendation.* When property is to be voluntarily conveyed for a credit on the borrower's account of less than the FHA indebtedness secured by the property, the county committee will determine whether in its opinion the borrower should be released of liability for any balance owed on such indebtedness. If the county committee recommends that the borrower and any cosigner be released of liability for such balance, it will make the following certification:

In our opinion _____ (Name of borrower(s) and _____ do not have reasonable debt-paying ability to pay all or a substantial part of the balance of the debt owed after the voluntary conveyance, taking into consideration their assets and income at the time of the conveyance. The borrower has cooperated in good faith, used due diligence to maintain the security property against loss, and otherwise fulfilled the covenants incident to the loan to the best of his ability. Therefore, we recommend that the borrower and any cosigner be released of personal liability for any balance due on the secured indebtedness upon conveyance of the property to the Government.

(5) *Determining the value of security to be conveyed.* The value of the security to be voluntarily conveyed to the FHA will be determined by the State Director taking into consideration a recently prepared appraisal report. The value of such security will be the estimated sale price of the property based on its present market value on terms of 20 percent down with the balance payable in not to exceed five annual installments with interest calculated at 6 percent per annum. Based on the recommendation of the county supervisor, a decision will be made by the state office at the time of acquisition of the property as to whether such property is suitable for sale under the terms and conditions of Subpart C of Part 1872 of this chapter to applicants eligible for FO, SW Association or RH assistance, or as surplus property.

(6) *Obtaining statement of account and refunding unused loan funds.* Any funds remaining in the supervised bank account will be applied as a refund prior to assembling the voluntary conveyance docket. A statement of account will be requested by use of Form FHA 451–10.

(7) *Checking docket forms.* When the docket forms have been completed, they will be checked thoroughly to determine that (i) each form is prepared correctly in accordance with the Forms Manual Insert or other appropriate instructions, and (ii) items such as names and addresses are the same on all forms in which such items appear.

(8) *Title examination and closing instructions.* Upon acceptance of the borrower's offer, title examination will be accomplished in accordance with § 1807.3 of this chapter, and the State Director, with the advice of the OGC will determine whether title clearance will be accomplished by the assistance of the designated attorney, other local attorney, title insurance company, or combination thereof, or by other method, as outlined in a State instruction. All junior liens except FHA liens and taxes and assessments to be advanced by the FHA will be removed by the borrower. Any additional title defects and encumbrances will be removed by the borrower except those recited in the FHA mortgage or subsequently approved by the

FHA. When title defects and encumbrances have been removed as required, the title examination information will be submitted with a memorandum to the OGC along with Form FHA 465–4, the deed of conveyance, any water right documents, the original or a conformed copy of the FHA mortgage and any assignment instruments, and conformed copies of any remaining encumbrances such as mineral leases, argicultural leases, easements, rights-of-way, and partial releases. The memorandum will include information as to items of expense incident to conveyance of title which have been paid by the FHA, but are not shown on the statement of account, items of expense which are to be paid by the FHA, a statement as to whether the account is to be fully satisfied, a request for preparation of necessary legal instruments including any necessary separate instruments of assignment (which will become effective when the deed is recorded) pursuant to Form FHA 465–4, and a request for closing instructions. The closing instructions will specify the manner in which any necessary notices of assignment of leases will be given to the lessees.

(9) *Closing of conveyance.* The conveyance transaction will be closed in accordance with closing instructions issued by the OGC. When an insured loan is involved, the transaction will not be closed until the assignment of the insured loan to the insurance fund is completed. After the OGC determines that the transaction has been properly closed, he will return to the county supervisor all documents submitted to him in accordance with the closing instructions and advise as to the date when title to the property was vested in the Government. A copy of this memorandum to the county supervisor will be forwarded to the State Director and to the Finance Office. Property insurance will be handled in accordance with Part 1806 of this chapter.

(10) *Credit of value of property on indebtedness and inventory records.* The credit to be allowed on the account will be either: The value of the security to be conveyed as determined in accordance with subparagraph (5) of this paragraph; or the total amount of the indebtedness owed on the account after all expense items have been charged thereto, whichever is less. Immediately after the transaction is closed in accordance with the closing instructions and the amount of the credit to be allowed on the account is determined, Form FHA 465–6, "Advice of Mortgaged Real Estate Acquired," and where applicable, Form FHA 465–8 will be completed and transmitted to the Finance Office by the county supervisor for processing. Any assigned agricultural, mineral, or other lease on the property will be sent to the Finance Office along with Form FHA 465–6. If an oral lease of the property or on a portion of the property exists, it will be reduced to writing on Form FHA 465–2, and if possible its execution by the lessee will be obtained. A copy of the Form FHA 465–2 will be sent to the Finance Office. After the Finance Office assigns an advice number to Form FHA 465–6 and a contract number to the lease, it will advise the county supervisor by memorandum with a copy to the state office of such number for proper identification of the inventory property and lease.

(i) *Satisfied account.* The Finance Office will stamp the borrower's note "Satisfied by surrender of security and release from liability" when the account is fully satisfied or the borrower is released from personal liability for any deficiency. The Finance Office will forward the stamped note to the county supervisor for delivery to the borrower.

(ii) *Unsatisfied account.* Where the account is not fully satisfied by surrender of the security and the borrower is not released from personal liability for the deficiency, the borrower will be classified as collection-only if appropriate by processing Form FHA 404–1 and Form FHA 450–10 and submitting them to the Finance Office together with Form FHA 465–6. The remaining amount will be accelerated by written notice if grounds for acceleration exist. The Finance Office will retain the note(s) and send the county office a current Form FHA 451–11. Upon receipt of Form FHA 451–11 from the Finance Office, the loan record card will be reconciled with the statement of account and the account will be serviced as a collection-only case in accordance with Subpart A of Part 1861 of this chapter.

§ 1872.18 Foreclosure by the Government.

Foreclosure action will be recommended in a default case when: Liquidation has been decided upon; a substantial net recovery can be obtained on the FHA account(s); and foreclosure is determined to be the most practicable method of liquidation by which the interest of the FHA can be protected or failure to foreclose would adversely affect the FHA program in the area. If these requirements cannot be met under the circumstances existing when foreclosure is first considered, but conditions change so that the requirements can be met at a later date, foreclosure will be instituted at a later date. When there is a prior lien(s) and the State Director has determined that foreclosure is necessary, he will contact the prior lienholder, either directly or through the county supervisor, and give him an opportunity to institute the foreclosure proceedings, if his lien is in default, with the FHA taking whatever action is necessary to protect the interests of the Government. If the prior lienholder is unable or unwilling to institute the foreclosure, the FHA will institute foreclosure proceedings, subject to the prior lien if feasible. Whether foreclosure of the FHA mortgage will be subject to the prior lien will depend upon such factors as the State law, the action or inaction of the prior lienholder, the condition of the prior lien account, the amount of the prior lien debt in relation to the debt, and other factors. After issuance of the acceleration notice, or after determination by the OGC that one will not be issued, account and security servicing actions, including payment of insurance and taxes, will be taken only with the advice of the OGC. Expenses incident to the foreclosure action which are approved by the OGC for payment by the FHA will be paid as appropriate. If the OGC advises that a credit on the borrower's account or a Standard Form 1034 will not be acceptable for payment of the FHA bid, the State Director will obtain a check from the Finance Office for making the payment. Standard Form 1034 will be used for this purpose and will fully explain why it is necessary to immediately obtain a check for such payment.

(a) *Authority.* The State Director is authorized to approve foreclosures and to execute any necessary documents. After such approval, the county supervisor will take appropriate action and execute all necessary forms for completion of the transaction except as otherwise provided in this paragraph.

(b) *Processing*—(1) *Form FHA 465–7 and recommendation for deficiency judgment.* If Form FHA 465–7 has not been recently submitted to the State office and foreclosure is recommended in accordance with § 1872.15, the form will be completed; and if chattel security is involved, Form FHA 455–1, "Request for Legal Action," and Form FHA 455–2, "Evidence of Conversion," when appropriate, providing necessary supplementary information will be attached to Form FHA 465–7. The completed Form FHA 465–7 will be forwarded with the county office case file to the State office. If it appears that the recovery to the Government from a sale by foreclosure will be insufficient to fully satisfy the indebtedness, the borrower's situation will be reviewed by the county supervisor to determine if there is a possibility of making a further recovery on the account. The facts revealed by his review should be included in the recommendation made on Form FHA 465–7. Where foreclosure action does not automatically result in a deficiency judgment and there are other assets from which a substantial recovery can be made, the OGC will be requested by the Sate Director on Form FHA 465–7 to obtain such a judgment if legally permissible.

(2) *Appraisal report, additional instructions, and withdrawal of funds in supervised bank account.* The State Director will obtain a present market value appraisal report unless there is a current appraisal report that can be relied upon for completing Form FHA 465–7. Any additional instructions and the case folder will be returned to the county office. Also, when foreclosure is approved, the State Director will include any title information or evidence of ownership of water rights held in the State office. Any order to the bank will be included for withdrawal of any funds remaining in the supervised bank account.

(3) *Foreclosure not approved.* If foreclosure is not approved, the State Director will instruct the county supervisor on Form FHA 465–7 on future servicing of the account. The original of Form FHA 465–7 will be forwarded to the

county supervisor, a copy retained in the state office and a copy sent to the district supervisor.

(4) *Actions after approval of foreclosure.* When foreclosure action is approved, steps will be taken to consummate the foreclosure as follows:

(i) *Unused loan funds.* Any funds remaining in the supervised bank account will be refunded.

(ii) *Statement of account.* Form FHA 451–10 will be forwarded to the Finance Office to obtain a statement of account for each account to be included in the foreclosure and to request the Finance Office not to issue any statements of account to the borrower until further notice.

(iii) *Cancellation of foreclosure action.* When it has been determined that foreclosure is warranted and circumstances change which, in the opinion of the State Director, makes liquidation of the account unnecessary, he may stop the action or request that it be stopped. If the action is stopped, the account will be reinstated. The state and county office records will be properly noted to indicate the situation and the borrower will be informed. The Finance Office will be notified. The OGC also will be informed of the situation if it has been consulted.

(iv) *Forwarding docket to the OGC.* The borrower's case folder, including a conformed copy of any prior mortgage(s), the original approved Form FHA 465–7, Forms FHA 451–11, and a conformed copy of each FHA note and any assumption or cosigner agreements involved will be forwarded to the OGC with a request for instructions relative to foreclosure action. If OGC determines that a legal basis for the foreclosure action does not exist, the case folder and other documents with its comments will be returned to the state office. If OGC determines that a legal basis exists, it will forward to the state office a form of acceleration notice if one is legally necessary or desirable, case folder, and appropriate instructions.

(v) *Issuance of acceleration notice.* The State Director will date, sign, and forward the acceleration notice, if one is issued, to the borrower with two conformed copies to the county supervisor, along with the case folder and any necessary instructions. A copy of Form FHA 465–7 will be retained in the State office and a copy forwarded to the district supervisor. Thereafter, except as otherwise provided in State Instructions where State law requires acceptances of defaulted installments after acceleration, the county supervisor will not accept payment of less than the full amount of the indebtedness but will notify the State Director of any such offer and ask for instructions.

(vi) *Institution of foreclosure action.* When the period provided by the acceleration notice expires, or, if one is not issued upon the advice of the OGC the following action will be taken:

(*a*) If a direct loan is involved, the State Director will request the Finance Office to send the original or conformed copy of the note as required by State instruction to the county office. If an insured loan is involved and the note is not held by the insurance fund, the State Director will request the Finance Office to have the loan assigned to the insurance fund in accordance with Part 1874 of this chapter, as appropriate. The Finance Office will send the original or conformed copy of the assigned note as required by State instruction and related documents to the State Director with instructions as to any necessary action in connection with the assignment.

(*b*) Title evidence required by the OGC will be obtained and furnished to it so that an opinion can be issued as to whether the FHA will obtain a title merchantable in fact if it is the successful bidder.

(*c*) Ordinarily, no curative action will be taken with respect to title defects before foreclosure sale. However, where for special reasons the State Director with the advice of the OGC determines it would be in the best interest of the FHA to cure certain defects before the foreclosure sale, the State Director may authorize the necessary curative action.

(*d*) The OGC will be requested to proceed with or issue instructions regarding foreclosure, and will be furnished such additional information and copies as it may require. Also, the expiration date of the property insurance will be called to the attention of the OGC so that office will be aware of the fact that an additional cost will be incurred if the sale is not completed before the expiration date of insurance. A copy of the acceleration notice will be sent to the Finance Office. When it has been determined that a title merchantable in fact can be obtained, the OGC will advise the county supervisor, who will prepare and submit Standard Form 1034 to the Finance Office for payment of all real estate taxes and assessments including water assessments which are due and payable. The OGC also will request the Finance Office to send it a current statement of account which reflects the amounts of vouchers it advised the county supervisor to process in connection with the forclosure.

(*e*) The OGC will, except in judicial foreclosure cases, route the docket through the state office so that any advertising notices, and so forth, may be prepared in the state office or signed by the State Director if they were prepared by the OGC.

(vii) *Maximum bid.* The State Director will establish the maximum amount of the FHA bid. Such bid will be either the estimated resale value of the security or gross investment, whichever is less.

(*a*) The estimated resale value means the amount for which the FHA expects to resell the property in its present condition, on terms of 20 percent down with the balance payable in five equal annual installments with interest calculated at 6 percent per annum, and subject to any prior liens that will remain outstanding after the foreclosure sale. In establishing the estimated resale value the State Director will consider (*1*) the effect that any outstanding mineral rights, easements, other interests, or title defects will have on the resale of the property, and (*2*) any other pertinent information affecting or indicating the resale price including an appraisal report.

(*b*) Gross investment means the amount of the FHA secured indebtedness, including all advances made or to be made by the FHA and charged to the mortgage debt before the foreclosure sale, plus the amount of any prior liens or other costs which the OGC advises must be paid from proceeds of the foreclosure sale before payment of the FHA mortgage debts.

(viii) *Bidding.* The State Director or an employee designated by him is authorized to bid on behalf of the FHA. However, if the bid is to include an amount for payment of a prior lien(s) exceeding $40,000, the prior concurrence of the National Office will be obtained before authorizing the bid on behalf of the FHA. The State Director will inform the county supervisor, by memorandum, as to the maximum amount to be bid whether he or some other person is authorized to bid. A copy of this memorandum will be sent to the OGC. Ordinarily, the State Director will designate the county supervisor to bid on behalf of the FHA unless circumstances make it necessary or desirable to designate another person. In court action foreclosures, the OGC will inform the U.S. Attorney of the maximum amount recommended by the FHA to be bid and will suggest that an FHA employee will be available at the sale to make the bid. The FHA employee will make only one bid and that will be for the authorized maximum bid. This bid will be made when no other party makes a bid or when it appears that the bidding has slowed down and likely will stop and result in the property being sold for less than the authorized maximum bid.

(ix) *Final report on foreclosure sale.* Immediately after a foreclosure sale at which the bidder on behalf of the FHA is an FHA employee, the county supervisor will furnish the OGC a narrative statement giving complete information relative to the sale, including a copy of Form FHA 465–6 if sufficient information is available for completion of the form at that time. When the OGC receives a report of a foreclosure sale, whether from FHA or the U.S. Attorney, he will furnish the county supervisor any necessary instructions for completing the transactions and advise of any rights of the Government, taking into consideration privileges provided by law and any other pertinent information. As soon as practicable, the OGC will also furnish the county supervisor a final title opinion on any acquired property. The final opinion will include instructions concerning any additional steps which should be taken to complete the transaction. A copy of this opinion will be forwarded to the State Director and to the Finance Office.

(x) *Completion of Form FHA 465–6.* If the FHA is the successful bidder at the foreclosure sale, Form FHA 465–6 will be completed and forwarded to the Finance Office by the county supervisor as soon as all information necessary for

completion of the form is available except the date the Government acquired title to the property, without waiting for the final opinion of the OGC. A copy of information furnished by the OGC relative to the Government's rights acquired at the sale should be sent to the Finance Office, along with Form FHA 465–6. The form will be dated as of the date of the sale.

(xi) *Leases.* If the sale is made subject to an agricultural, mineral, or other lease in which the lessor's interest is acquired by the FHA through the sale, the original or a copy of the lease will be submitted to the Finance Office along with Form FHA 465–6 for processing in accordance with § 1872.17(b)(9). Any oral lease in effect at the time the Government acquires the property will be reduced to writing using Form FHA 465–2 and its execution by the lessee will be obtained if possible. The county supervisor will notify any lessee in writing that the Government has acquired the lessor's rights under the lease and will direct the lessee to remit all payments to the county office. Payments to FHA under a lease which by its terms were due and payable prior to the date of the foreclosure sale will be applied first on any deficiency claim resulting from the foreclosure and then on any other FHA claim against the borrower. Any surplus remaining will be remitted to the borrower. Payments due and payable to the FHA after the date of foreclosure will be collected and forwarded to the Finance Office as miscellaneous income. Receipts for collections made in accordance with this paragraph will be issued to: "Lease proceeds from farm formerly owned by (borrower's name and case number) and leased to (name of lessee)." After a foreclosure sale is held, if a redemption period is involved and the borrower has possession of the property during such period or a right to lease proceeds during the redemption period, a lease will not be obtained by the Government or be sent to the Finance Office until the redemption period has expired and the Government has a right to such proceeds.

(xii) *Deficiency judgment.* When a deficiency judgment is obtained, the account will be classified as a judgment case and the county supervisor will send Form FHA 455–20, "Notice of Judgment," to the Finance Office and the account will be serviced in accordance with Subpart B of Part 1871 of this chapter. When action to obtain a deficiency judgment is pending at the time Form FHA 465–6 is sent to the Finance Office, the fact that it is pending will be indicated on Form FHA 465–6. When a deficiency judgment is not obtained, the borrower will be classified as collection-only, if appropriate, and Forms FHA 404–1 and FHA 450–10 will be sent immediately to the Finance Office and the account will be serviced accordingly.

(xiii) *Property insurance.* Property insurance will be handled in accordance with § 1806.4(a) of this chapter.

§ 1872.19 Taking liens on real estate as additional security in servicing FHA loans.

(a) In servicing FHA loans the best lien obtainable will be taken on any real estate owned by the borower, including any real estate which already serves as security for another loan. Normally, the prior concurrence of the district supervisor will be obtained. Such liens will be taken only when:

(1) Present security for the loan is not adequate to protect the interests of the FHA, and

(2) The borrower has substantial equity in the real estate to be mortgaged and it is determined that the taking of such mortgage will not prevent the making of an FHA real estate loan, which he might need in the foreseeable future.

(b) Before taking real estate as additional security for an FHA loan, the following items will be documented in the running record:

(1) The facts justifying the taking of such real estate lien;

(2) A conservative estimate of the present market value of the real estate to be mortgaged; (It will not be necessary to submit an appraisal of the property to be mortgaged.)

(3) A brief description of any existing liens on such property including the repayment terms and the unpaid balance on the debts secured by such existing liens, unless this is accurately reflected on a recent financial statement; and

(4) The name of the title holder and how title of the property is held. (Title evidence need not be required.)

(c) Each real estate lien taken as additional security for FHA direct loans will be taken on Form FHA 42–2 (State), "Real Estate Mortgage for _____ _____ (Direct Loan)." The note note(s) evidencing FHA direct loans for which the additional security will be taken will be described in one mortgage. Each real estate lien taken as additional security for an FHA insured loan will be taken on a separate mortgage for each insured note. Form FHA 427–1 (State), "Real Estate Mortgage for _____ _____ (Insured Loans to Individuals)," will be used unless a State instruction requires the use of a form of mortgage comparable to that which secures the existing insured loan to be additionally secured.

§ 1872.20 Assignment of direct and insured notes and security instruments outside the program.

The policy described in Subpart A of Part 1871 of this chapter for assigning notes and security instruments to third parties will apply to all loans secured by real estate. Payment of the FHA debt in full will be collected and transmitted to the Finance Office at the time the assigned instruments are delivered.

(a) *Insured loans.* For insured loans, an assignment may be made on a non-insured basis after the note has been assigned to the insurance fund in accordance with Part 1873 of this chapter, and Subparts A and B of Part 1874 of this chapter, as appropriate. The assignment will be effected on an assignment form furnished by the OGC which will include provisions (1) releasing the FHA from liability as insurer, and (2) nullifying the provisions and covenants in the note and security instrument relating to the Government's rights and obligations as insurer and collection agent. The Government's endorsement of the promissory note will be made without recourse. The State Director will execute the assignment instruments unless he delegates authority to the county supervisor in a State instruction. At the time the assigned instruments are delivered, the county supervisor will write "Insurance Contract Canceled" across the face of the Government's insurance endorsement and will sign and date such cancellation.

§ 1872.21 Release of valueless junior lien.

The Administrator may release FHA mortgages or other contract liens which have no present or prospective value or when their enforcement likely would be ineffectual or uneconomical. This authority does not extend to valueless judgment liens or to valueless statutory redemption rights.

(a) *Action by prior lienholder.* A prior lienholder requesting release of an FHA junior lien without consideration will submit the following:

(1) Original and one copy of an application in narrative form, addressed to the Farmer Home Administration, or an officer thereof.

(2) Original of a statement of the amount secured by each lien prior to the FHA lien, sworn to be the lienholder or a duly authorized officer thereof.

(3) A photostat or certified copy of the FHA lien and of all liens superior thereto, including information as to the place and date of recording.

(4) Original certificate by the tax assessor, or other appropriate public officer, showing the assessed value of the property for the current tax year and the previous tax year and indicating whether the assessment was based on the full market value of the property or a percentage thereof.

(5) Original current statement by the county treasurer, or other appropriate public officer, showing the total amount of taxes constituting a lien on the property described in the FHA junior lien.

(6) Original opinion of a trust officer or real estate officer of a bank, trust company, or title company, or a qualified appraiser, as to the market value of the property, or if such an opinion is not available, the opinion of a reputable local real estate dealer or broker.

(b) *Action by State Director.* After reviewing the foregoing information together with the recommendation of the county supervisor, the State Director will determine whether to obtain a

present market value appraisal of the security. If the State Director finds that the FHA lien is valueless or that the enforcement thereof likely would be ineffectual or uneconomical, he will submit to the National Office his findings together with the original of each document required.

§ 1872.22 Cosigners—RH loans.

A cosigner as defined in Subpart A, Part 1822 of this chapter is personally liable for payment of the RH debt. He is not entitled as a cosigner to any interest in the security property or the rights of the borrower under the loan agreements or security instruments. However, he may pay the account in full and take any assignment of FHA's interests.

(a) *Transfer or other servicing action.* In a case of transfer, a cosigner may be given preference to assume the FHA indebtedness as either an eligible or ineligible applicant, whichever is appropriate. Otherwise, the cosigner's status does not make inapplicable any conditions or provisions required for transactions authorized in this subpart.

(b) *Substitution or replacement of cosigner.* Any person with ability to repay the RH loan in accordance with its terms may be substituted for the other party who is previously obligated as cosigner on the loan. The new cosigner will execute an agreement to pay the balance owed on the RH debt. This agreement will be made in consideration of the release of the existing cosigner from personal liability. The original of the new cosigner's agreement will be attached to the original note and a copy will be attached to each copy of the note. The new agreement will be prepared by the OGC.

(c) *Release of liability.* A cosigner of an RH note may be released from personal liability for the debt upon satisfactory substitution of a new cosigner. The release may be accomplished by modifying and using Form FHA 465–8 with the advice of the OGC or on an appropriate release form prepared by the OGC.

§ 1872.23 Assignment and release of soil bank or similar program payments.

The county supervisor may take an assignment on income to be received under a Soil Bank or similar contract to protect the financial interest of the Government or to facilitate loan servicing. The assignment of all or a portion of the income from the assignment may be released to the borrower by the county supervisor when not to the financial detriment of the Government, and payments due on all FHA loans have been made from other income or the income is urgently needed to meet emergency expenses or other justifiable uses.

§ 1872.24 State instructions and reference to the Office of the General Counsel.

State instructions will be prepared, with the advice of the OGC, as necessary, to carry out this subpart and forwarded to the National Office for prior approval. Whenever, in this subpart, reference is made to advice or approval of the OGC it is contemplated that to the maximum extent possible the legal advice or approval may be stated in a general way whether included in State instructions, State bulletins, or other statements or explanations, rather than on the submission of individual matters to the OGC. It should be possible under such a plan to procure most efficient legal assistance in handling real estate security servicing transactions.

§ 1872.25 Redelegation of authority.

The State Director is authorized to redelegate in writing any authority delegated to the State Director in this subpart to one or more of the following State office employees: Chief, Real Estate Loans; Chief, Operating Loans; Chief, Program Operations; Chief, Community Services; Program Loan Officer; Real Estate Loan Officer; Operating Loan Officer; Community Services Officer. Also, the State Director's authority may be redelegated to the district supervisor provided the redelegated authority does not exceed the appropriate amount of the loan approval authorization of the district supervisor.

§ 1872.26 Subordination of Farmers Home Administration real estate mortgages to easements to the Bureau of Sport Fisheries and Wildlife.

(a) *General.* This section sets forth the policies and procedures for subordinating FHA mortgages on wetlands on which the Bureau of Sport Fisheries and Wildlife (Bureau) obtains easements for waterfowl nesting habitat. A memorandum of understanding, the text of which is set forth in subparagraph (1) of this paragraph, has been reached with the Bureau outlining the procedure to follow in the processing of such subordinations. To the extent of any conflict, subparagraph (1) of this paragraph supersedes the provisions of this subpart.

(1)—

Memorandum of understanding between Bureau of Sport Fisheries and Wildlife and the Farmers Home Administration. The purpose of this memorandum is to simplify and facilitate the obtaining by the Bureau of Sport Fisheries and Wildlife (Bureau) of subordination of mortgages held by the Farmers Home Administration (FHA) on lands with respect to which the Bureau obtains a "Conveyance of Easement for Waterfowl Management Rights" (3–1916 Rev. 1963). In order to accomplish this purpose it is agreed that:

1. In each case in which the Bureau proposes to take an easement from a landowner whose land is subject to a mortgage held by FHA and the Bureau's proposal is acceptable to the landowner, the Bureau will notify the local FHA county supervisor. The notification will show the amount of consideration to be offered for the easement and legal description of the land to be affected by the easement. Where there are existing drainage facilities on the land, the affected wetland areas that are to be excluded from coverage by the easement will be outlined on a map and furnished to FHA and the landowner.

2. Where a subordination agreement is required, the FHA county supervisor will advise the designated local official of the Bureau as to whether the consideration is adequate from the standpoint of FHA as mortgagee.

3. Where a subordination is required and the county supervisor advises that the consideration is adequate, said easement form will be amended by: inserting at the end of the instrument the following: "In consideration of payment which is determined to be adequate from the standpoint of the FHA as mortgagee, for the foregoing easement as provided in paragraph 5 thereof, the United States of America acting through FHA hereby subordinates its mortgage dated _____, recorded in Book _____, page _____, of real estate records in _____ county, State of _____, to said easement.

UNITED STATES OF AMERICA

By _____ _____"

(FHA County Supervisor) (Date)

4. Where a subordination is not required of FHA, because of a waiver of the need for a subordination by the U.S. Attorney General, the Bureau nevertheless will send a copy of the agreement and the check for the easement consideration, which will include FHA as a copayee, to the FHA county supervisor.

5. In all cases where an FHA mortgage is involved, the easement form will be amended by: Inserting at the end of paragraph 5 an additional sentence as follows: "The check for the easement consideration will be made payable to the Farmers Home Administration (FHA) and the landowners, as copayees, and will be mailed to the FHA to be applied to its mortgage unless applied on a prior mortgage debt or released for other use as permitted by FHA regulations."

6. The Bureau and FHA will issue such procedures or directives to their respective field offices as may be necessary to effectuate this memorandum of understanding.

(b) *Authorization.* When a request for a subordination is received from the Bureau, the FHA county supervisor will handle the request in accordance with the steps outlined in subparagraph (1) of paragraph (a) of this section and the applicable portions of this subpart not in conflict with subparagraph (1) of paragraph (a) of this section.

§ 1872.27 Transfer of upland cotton, peanut or tobacco allotments in Alabama, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Mississippi, Massachusetts, Missouri, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.

(a) *General.* Agricultural Stabilization and Conservation Service (ASCS) regulations pursuant to recently approved legislation permits the transfer of upland cotton, peanut, or tobacco allotments by one or more of the following transactions: (1) Sale, (2) lease, or (3) transfer by the owner to another farm owned or controlled by him. These regulations require, among other things, that no allotment may be transferred from a farm which is subject to a mortgage or other lien, unless the transfer is agreed to by the lienholders. It is the policy of the Farmers Home Administration (FHA) to approve the transfer of any crop allotments permitted by the ASCS regulations if the conditions and requirements of this subpart can be met, except as otherwise modified by this

section. FHA personnel should familiarize themselves with the State ASCS policies and requirements concerning the sale, lease, or transfer of allotments to assure compliance with established FHA policies and servicing of security.

(b) *Authorization.* The county supervisor is authorized to approve a transfer of upland cotton, peanut, or tobacco allotment by execution of a completed Form FHA 465–1, "Application For Partial Release Subordination, or Consent." He is also authorized to execute the lienholder or mortgagee agreement on appropriate ASCS forms provided for this purpose for those cases in which he approves a transfer.

(c) *Transfer by sale.* Crop allotments enhance the value of a farm mortgaged to the FHA and constitute basic security for the FHA loan. Accordingly, when an applicant whose farm is mortgaged to the FHA inquires about the sale of any of his allotted acres or requests the FHA to sign the required lienholder or mortgagee agreement, the request will be treated the same as for a sale of a portion of the security and approval of the sale can be granted only in accordance with the applicable conditions and requirements of § 1872.3. The sale proceeds may be used only as authorized in that paragraph after obtaining the concurrence of the employee authorized to permit use of the proceeds for other than application on the secured debt.

(d) *Transfer of allotment by lease.* The county supervisor's authority to approve lease of all or a portion of an allotment for a 1-year period is contingent upon compliance with the policy outlined in the introductory statement of § 1872.5, except that item (3) will not be applicable. If the 1-year lease is approved, the lease proceeds may be used as normal income. Leases for a period of more than 1 year will be granted only with the concurrence of the district supervisor. When a lease is for more than 1 year, an assignment of the rental proceeds should be obtained for application on the appropriate FHA debt in accordance with the distribution formula for regular payments as outlined in § 1861.3 of this chapter.

(e) *Transfer of allotment by owner to other land owned or controlled by him.* A transfer by an owner to land owned or controlled by him is normally interpreted by the ASCS as a permanent transfer and can be avoided only by stipulating in the mortgagee approval that the transfer is to be considered as a lease for the appropriate number of years. This type of transfer will be approved only as a lease under conditions outlined in paragraph (d) of this section to assure that the crop allotment on the security is not adversely affected.

§ 1872.28 Subordination of FHA's lien to the Commodity Credit Corporation's (CCC's) security interest taken for loans for farm storage and drying equipment.

(a) *General.* This section sets forth the procedures for subordinating FHA's lien under financing statements and security agreements and real estate mortgages to the security interest of the CCC. A memorandum of understanding has been agreed upon with the CCC outlining the procedures and policies to follow in the processing of the subordinations. To the extent of any conflict, the memorandum of understanding supersedes the preceding sections of this subpart.

(1)—

Memorandum of understanding and blanket consent and subordination agreement between Commodity Credit Corporation and Farmers Home Administration.

Whereas, the Commodity Credit Corporation (hereinafter called "CCC") makes loans under its Farm Storage and Drying Equipment Loan Program for the purchase, construction, erection, remodeling, or installation of either farm storage or drying equipment or both, and requires that such loans be secured under applicable State law by sole or paramount lien; and

Whereas, FHA makes loans to producers which are secured in whole or in part by real estate or chattel security, or both; and

Whereas, in some instances FHA acquires a security interest in or lien on farm storage or drying equipment by virtue of its financing statement and security agreement or real estate mortgage which will take priority over the CCC security interest; and

Whereas, both CCC and FHA desire to make loans available to producers under their respective programs without unduly impairing or undermining their respective security interest; and

Whereas, it is desirable to enter into a blanket consent and subordination agreement between CCC and FHA in lieu of procuring an individual consent and subordination agreement in each instance, thus saving time and expense for both the parties hereto and avoiding undue inconvenience to borrowers;

Now, therefore, it is mutually agreed by and between CCC and FHA that:

1. Except as hereafter provided, whenever CCC makes a loan under its Farm Storage and Drying Equipment Loan Program which is required to be secured by the sole or paramount lien on the collateral therefor, and an FHA security interest in or real estate lien on the collateral would take priority over the CCC security interest, the FHA security interest in or real estate lien on such collateral will be and hereby is made subordinate to the rights and interests which CCC has or will obtain therein. This agreement is applicable only to the collateral provided for under the regulations governing such Program as of the date hereof. This agreement is not applicable when (1) an FHA loan to the borrower is in default and is in the process of liquidation at the time the CCC loan is made, or (2) a third party security interest or lien intervenes between the FHA security interest or lien and the CCC security interest.

2. Upon default of the borrower, CCC may take possession of and enforce its security interest in such collateral in accordance with applicable State law and the security agreement between CCC and the borrower: *Provided, however,* That if FHA has an encumbrance on the real estate, CCC will reimburse FHA for the cost of repair of any physical injury to the real estate caused by the removal of the collateral; and *Provided further,* That if the collateral is sold by CCC it will pay to FHA, to the extent of its subordinate security interest, any amount received in excess of (1) the expenses of retaking, holding, preparing for sale, selling and the like, and for payment of reasonable attorneys' fees and legal expenses incurred by CCC, and (2) the amount necessary to satisfy CCC's security interest in such collateral.

3. Upon the full repayment or satisfaction of the CCC loan secured by such collateral, the security interest or real estate lien of FHA in such collateral or the proceeds of the collateral will continue in existence and will be restored to its original priority and nothing contained in this memorandum of understanding shall be construed to affect the rights and obligations of the parties to the FHA loan transaction except as specifically provided herein.

4. This agreement may be terminated by either party on 30 days' written notice to the other party, but such termination shall not affect any loans made during the life of this agreement.

(b) *Authorizations.* When the CCC makes loans under its farm storage and drying equipment loan program and an FHA loan is secured by a real estate mortgage or a security interest in personal property or fixtures that would take priority over the CCC security interest, the county supervisor will handle the situation in accordance with the provisions outlined in the memorandum of understanding. If under paragraph 1 of the memorandum of understanding a subordination of the FHA interest is not applicable, the CCC and other interested parties will be informed that the Government lien is not subordinated. If under the provision of that paragraph priority of the CCC interest is established, the county supervisor will complete Form FHA 465–1, "Application for Partial Release, Subordination or Consent," to show the subordination as approved and file this form in the borrower's county office case folder.

Dated: June 2, 1970.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[F.R. Doc. 70-7037; Filed, June 5, 1970; 8:47 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2, in paragraph (e) (4) relating to the State of Illinois, subdivision (ii) relating to Kendall County is deleted.

2. In § 76.2, in paragraph (e) (8) relating to the State of Mississippi, a new

subdivision (viii) relating to Rankin County is added to read:

(8) *Mississippi.* * * *

(viii) That portion of Rankin County bounded by a line beginning at the junction of U.S. Highway 80 and State Highway 469; thence, following State Highway 469 in a southwesterly direction to Tumbaloo Creek; thence, following the north bank of Tumbaloo Creek in a generally easterly direction to State Highway 18; thence, following State Highway 18 in a southeasterly direction to the Southern Natural Gas Line; thence, following the Southern Natural Gas Line in a northerly direction to U.S. Highway 80; thence, following U.S. Highway 80 in a southwesterly direction to its junction with State Highway 469.

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

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

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

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

Done at Washington, D.C., this 2d day of June 1970.

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

[F.R. Doc. 70-7076; Filed, June 5, 1970; 8:50 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

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

Exemption of Microwave Receiver Protector Tubes Containing Tritium

On December 25, 1969, the Atomic Energy Commission published in the FEDERAL REGISTER (34 F.R. 20277) a proposed amendment to its regulation, "Rules of General Applicability to Licensing of Byproduct Material", 10 CFR Part 30, to exempt from licensing requirements the possession and use of microwave receiver protector tubes containing not more than 150 millicuries of tritium.

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendment within thirty (30) days after publication of the notice in the FEDERAL REGISTER. After consideration of the comments and other factors involved, the Commission has adopted the proposed amendment. The text of the amendment set out below is identical with the text of the proposed amendment published December 25, 1969.

The Commission has found that exemption from licensing requirements for the receipt, possession, use, transfer, export, ownership, and acquisition of microwave receiver protector tubes containing not more than 150 millicuries of tritium under the conditions set forth below will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

Under the provisions of § 150.15(a)(6) of 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274", the transfer of possession or control by the manufacturer, processor, or producer of microwave receiver protector tubes distributed for use under the exemption would be subject to the Commission's licensing and regulatory requirements even if the product is manufactured pursuant to an Agreement State license.

Since the following amendment relieves from, rather than imposes, restrictions under regulations currently in effect, it will become effective without the customary 30-day notice. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 30 is published as a document subject to codification effective upon publication in the FEDERAL REGISTER.

1. In § 30.15 of 10 CFR Part 30, § 30.15(a)(8)(i) is amended to read as follows:

§ 30.15 Certain items containing byproduct material.

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

* * * * *

(8) Electron tubes: *Provided,* That each tube does not contain more than one of the following specified quantities of byproduct material:

(i) 150 millicuries of tritium per microwave receiver protector tube or 10 millicuries of tritium per any other electron tube;

* * * * *

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

Dated at Washington, D.C., this 22d day of May 1970.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 70-7041; Filed, June 5, 1970; 8:47 a.m.]

PART 161—CONTROL OF TRAFFIC AT NEVADA TEST SITE

Perimeter Description; Correction

On March 7, 1970, F.R. Doc. 70-2801 was published in the FEDERAL REGISTER (35 F.R. 4255), adopting the Atomic Energy Commission's regulation, 10 CFR Part 161. Two errors appear in the Perimeter Description of the Atomic Energy Commission's Nevada Test Site in the State of Nevada on page 4256. The paragraph which presently reads:

Thence northwesterly approximately 5.16 miles to a point at latitude 36°40'28.854", longitude 116°04'17.749";

should read:

Thence northwesterly approximately 5.16 miles to a point at latitude 36°40'28.854", longitude 116°08'17.749".

The paragraph which reads:

Thence southerly approximately 0.19 mile to a point at latitude 36°40'13.330", longitude 116°17'36.461";

should read:

Thence southerly approximately 0.19 mile to a point at latitude 36°40'13.330", longitude 116°17'37.461".

Dated at Las Vegas, Nev., this 1st day of June 1970.

For the Atomic Energy Commission.

ROBERT E. MILLER,
Manager,
Nevada Operations Office.

[F.R. Doc. 70-7040; Filed, June 5, 1970; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 10346; Amdt. 39-1006]

PART 39—AIRWORTHINESS DIRECTIVES

Britten Norman BN-2 and BN-2A Airplanes

There have been reports of failures of the flap center operating lever on Britten Norman BN-2 and BN-2A airplanes, one of which resulted in blow back of the selected flap position during flight. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require replacement of the flap center operating lever and flap lever drive attachment bolt with a reinforced lever and compatible bolt.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITTEN NORMAN LTD. Applies to BN-2 and BN-2A airplanes, serial numbers up to and including S/N C231.

Compliance is required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent failure of the flap actuating system, replace flap lever drive attachment bolt P/N A111-6G with a serviceable bolt, P/N A111-9G, and replace the flap center operating lever P/N NB-45-D-997 with either—

(1) A serviceable flap center operating lever P/N NB-45-D-997 modified and remarked as P/N NB-45-D-2173 (MOD. NB/M/417) in accordance with Britten Norman Modification Leaflet No. BN-2/NB/M/417, Part 2, Issue 1, dated April 8, 1970, or a later ARB-approved issue or an FAA-approved equivalent; or

(2) A serviceable flap center operating lever P/N NB-45-D-2173.

This amendment becomes effective June 11, 1970.

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

Issued in Washington, D.C., on June 1, 1970.

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

[F.R. Doc. 70-7026; Filed, June 5, 1970; 8:46 a.m.]

[Docket No. 10345; Amdt. 39-1005]

PART 39—AIRWORTHINESS DIRECTIVES

Dornier Model Do-28D-1 Airplane

It has been determined that it is possible for the right hand trim tab actuator bellcrank to become laterally displaced on the bearing on certain Dornier Model Do-28D-1 airplanes. This could result in the disconnection of the right hand elevator trim tab system. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued to require replacement of an existing washer in the trim tab actuator system with a larger washer to improve retention of the right hand trim tab actuator bellcrank on these airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

DORNIER, AG. Applies to Model Do-28D-1 airplanes with Serial Nos. 0401, and 4002 through 4039.

To prevent disconnection of the right hand elevator trim tab system, within the next 50 hours' time in service after the effective date of this AD, unless already accomplished, replace washer P/N MS20002-C5 on the right hand elevator trim tab actuator bellcrank with a larger washer P/N 28.01.303-111.43 in accordance with Dornier Alert Service Bulletin A024-1303, dated February 23, 1970, or later ARB-approved issue or an FAA-approved equivalent.

This amendment becomes effective June 11, 1970.

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

Issued in Washington, D.C., on June 1, 1970.

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

[F.R. Doc. 70-7025; Filed, June 5, 1970; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket 10297; Amdt. 701]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

Correction

In F.R. Doc. 70-5779 appearing at page 7860 in the issue for Friday, May 22, 1970, the reference to "ILS Runway 27" in the penultimate line on page 7877 (§ 97.29), should read "ILS Runway 29".

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER D—APPROVED FORMS, FEDERAL POWER ACT

[Docket No. R-383; Order 406]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Annual Report for Municipal Electric Utilities

MAY 28, 1970.

On February 19, 1970, the Commission issued a notice of proposed rule making in this proceeding (35 F.R. 3824, Feb. 27, 1970) proposing to revise, effective for the reporting year 1970, certain schedules in FPC Annual Report Form 1-M prescribed by § 141.7 of the Commission's regulations (18 CFR 141.7) for use by municipal electric utilities having annual electric operating revenues of $250,000 or more.

Comments were invited from interested persons to be submitted by April 6, 1970. In response to this notice, the Commission has received comments from two respondents.[1] Both comments were in agreement with the revisions as proposed. However, one respondent recommended that the revisions should also include changes similar to those included in Commission Order No. 389, issued October 9, 1969 in Rulemaking Docket No. R-344 (34 F.R. 17434, Oct. 29, 1969) and Supplemental Order No. 389A issued January 14, 1970 (35 F.R. 879, Jan. 22, 1970), which dealt with the all-inclusive income statement for Class A and B public utilities and licensees.

We do not concur in and have not adopted the revision recommended by the respondent. This proposal would involve expansion of the condensed income statement to include gains and losses on dispositions of property, change of the earned surplus statement title to retained earnings both in the statement and balance sheet, and inclusion of an adjustment to retained earnings item in the statement. As so proposed the additional revision goes beyond the present needs of the Commission and falls outside the scope of this rulemaking proceeding.

The Commission's basic purpose in revising FPC Annual Report Form 1-M as ordered herein is to extend the "all-inclusive income statement" concept to municipal electric utilities filing reports with the Commission. Pursuant to this concept, the revisions prescribed by this order will require all items of revenue and expense, with few exceptions, to be included in the condensed income statement and will relocate the item "Interest Charged to Construction—Credit" in the

[1] State auditor for the State of Washington, and the Salt River Project.

condensed income statement (FPC Form 1–M, page 3) so that an offset to interest charges will not be implied. The other additional revisions on pages 1, 2, and 4 of FPC Form 1–M are in support of this purpose, with the exception of the requirement on page 1 to report the telephone number of the person to be contacted concerning the report.

The Commission finds:

(1) The notice and opportunity to participate in this rulemaking by submission in writing of data, views and comments in the manner described above are consistent and in accordance with the procedural requirements of section 553 of title 5 of the United States Code.

(2) Since the revisions of FPC Form 1–M prescribed herein are for use for reports covering the calendar year beginning January 1, 1970, or for a year beginning or ending during the calendar year 1970, good cause exists for making this order effective upon issuance.

(3) The revisions of the Commission's Annual Report Form 1–M herein prescribed are necessary and appropriate for the administration of the Federal Power Act.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 309 and 311 thereof (49 Stat. 858, 859; 16 U.S.C. 825h, 825j) orders:

(A) Effective for the calendar year beginning January 1, 1970, or for a year beginning or ending during the calendar year 1970, pages 1 through 4 of FPC Annual Report Form 1–M, prescribed for use by certain municipal electric utilities by § 141.7 of Subchapter D, Chapter 1, Title 18 of the Code of Federal Regulations, are revised as follows, all as set out in the attachment hereto[3]:

(1) On page 1, the General Information section is revised by adding a requirement to report the telephone number of the person to be contacted concerning the report.

(2) On page 2, the instructional information at the bottom of the page is removed and relocated at the bottom of page 4.

(3) On page 3, the condensed income statement is revised by adding the following new items: "Income before extraordinary items; Extraordinary income; and Extraordinary deductions;" in order between the items "Total income deductions" and "Net income;" and by relocating "Interest charged to construction—credit" from a location under "Income deductions" to a location under "Other income."

(4) On page 4, the relocated instructional information transferred from page 2 is amended by adding a new instruction "9i)" which reads:

(i) Extraordinary Income (Deductions). These accounts are designed to include those items related to transactions of a nonrecurring nature which are not typical or customary business activities of the utility and which would significantly distort the current year's net income if reported other than as extraordinary items.

(B) The Secretary of the Commission 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. 70–7018; Filed, June 5, 1970; 8:46 a.m.]

[3] Form 1–M is filed as part of the original document.

Title 21—FOOD AND DRUGS

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 320—DEPRESSANT AND STIMULANT DRUGS; DEFINITIONS, PROCEDURAL AND INTERPRETATIVE REGULATIONS

Meprobamate; End of Stay of Effective Date of Order Listing Drug as Subject to Control

In the matter of listing meprobamate as a drug subject to control under the Drug Abuse Control Amendments of 1965:

By an order published in the FEDERAL REGISTER on March 1, 1968 (33 F.R. 3635), the Commissioner of Food and Drugs stayed the effective date of the final order published in the FEDERAL REGISTER on December 6, 1967 (32 F.R. 17473), listing meprobamate as a drug subject to control under the Federal Food, Drug, and Cosmetic Act, as amended by the Drug Abuse Control Amendments of 1965. This stay was requested by Wallace Laboratories, a division of Carter-Wallace, Inc., Cranbury, N.J., pending their petitioning, pursuant to section 701(f) of the Federal Food, Drug, and Cosmetic Act, for judicial review in the U.S. Court of Appeals and review of petition, if any, for writ of certiorari to the U.S. Supreme Court.

On November 4, 1969, the U.S. Court of Appeals for the Fourth Circuit confirmed the order of December 6, 1967 (32 F.R. 17473), of the Commissioner of Food and Drugs. On June 1, 1970, the U.S. Supreme Court denied the petition for writ of certiorari.

Therefore it is ordered, That the stay of effectiveness granted by the order of March 1, 1968 (33 F.R. 3635), on the listing of meprobamate in § 320.3(c)(1) (formerly 166.3(c)(1)) as a drug subject to control under the Drug Abuse Control Amendments of 1965, be ended.

Effective date. This order shall become effective on July 6, 1970.

Dated: June 2, 1970.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[F.R. Doc. 70–7038; Filed, June 5, 1970; 8:47 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

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

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

REGIONAL ADMINISTRATORS AND ASSISTANT REGIONAL ADMINISTRATORS

In § 200.109 paragraph (e) is amended to read as follows:

§ 200.109 HUD Regional Administrators and Assistant Regional Administrators for FHA.

* * * * *

(e) To approve or disapprove loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959 and to make contracts and execute documents in connection therewith and, with respect to project applications filed under section 202 of the Housing Act of 1959 and converted to applications for mortgage insurance under section 236 of the National Housing Act, to determine feasibility under section 236, issue commitments for mortgage insurance under section 236, insure such mortgages pursuant to such commitments, including approval of insured advances during construction, and in connection with section 202 loans to be converted to insured mortgages under section 236, to assign and deliver such mortgages to the permanent lender.

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 607, 55 Stat. 61, as amended; sec. 712, 62 Stat. 1281, as amended; sec. 907, 65 Stat. 301, as amended; sec. 807, 69 Stat 651, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f)

Issued at Washington, D.C., June 3, 1970.

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

[F.R. Doc. 70–7068; Filed, June 5, 1970; 8:49 a.m.]

Title 25—INDIANS

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

SUBCHAPTER F—ENROLLMENT

PART 46—ENROLLMENT OF INDIANS OF THE RINCON, SAN LUISENO BAND OF MISSION INDIANS IN CALIFORNIA

Applications for Enrollment

MAY 27, 1970.

This notice is published in the exercise of rule-making authority delegated by the Secretary of the Interior to the

Commissioner of Indian Affairs by 230 DM 2.

The following amendment is made to Title 25—Indians, § 46.4 of Part 46 to extend the deadline date for filing applications for enrollment with the Indians of the Rincon, San Luiseno Band of Mission Indians in California. Since the amendment to § 46.4 of Part 46 imposes a deadline for filing enrollment applications, advance notice and public procedure thereon would curtail the filing period and are, therefore, dispensed with under the exceptions provided in subsection (d)(3) of 5 U.S.C. 553 (Supp. III, 1965–67). Accordingly, this amendment will become effective upon publication in the FEDERAL REGISTER.

Section 46.4 is amended by extending the period for applying for enrollment to 1 year from the date of this publication. As so amended, the introductory paragraph will read:

§ 46.4 Application for enrollment.

A person who believes that he, or a minor, or mental incompetent, is entitled to enrollment with the Band, may within 1 year from the date of publication of this part in the FEDERAL REGISTER, file with the Field Representative a written application for enrollment in this Band. Application forms may be obtained from the Field Representative or a member of the Enrollment Committee. The form of the application shall be prescribed by the Director. The execution of each application shall be witnessed by two (2) disinterested persons who are not members of the household of the applicant. An application on behalf of a minor or mental incompetent shall be executed by a parent, natural guardian, or other person responsible for his care. If the Area Director has knowledge of a minor or mental incompetent for whom an application has not been filed within the 1-year period, he shall file an application for that person and submit it to the Enrollment Committee. Each application shall contain the following information:

* * * * *

HAROLD D. COX,
Acting Commissioner.

[F.R. Doc. 70–7024; Filed, June 5, 1970; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER I—ANCHORAGES

[CGFR 70–16A]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

SHELBURNE BAY, LAKE CHAMPLAIN, N.Y. AND VT.

1. The Commander, Third Coast Guard District, New York, N.Y., by letter dated March 27, 1970 requested the establishment of a special anchorage area at Shelburne Bay, Lake Champlain, N.Y. and Vt. A public notice dated November 25, 1969 was issued by the Commander, Third Coast Guard District describing the proposed area. In addition, a notice of proposed rule making was published in the FEDERAL REGISTER of March 13, 1970 (35 F.R. 4518). No objections were received. Therefore, the request to establish a special anchorage area at Shelburne Bay, Lake Champlain, N.Y. and Vt., is granted. In this special anchorage area, vessels not more than 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

2. Section 110.8 of Part 110 is amended by adding a new paragraph (c–1), reading as follows:

§ 110.8 Lake Champlain, N.Y. and Vt.

* * * * *

(c–1) *Shelburne Bay.* Beginning at a point on the shoreline at latitude 44°25'53.0" N., longitude 73°14'47.3" W.; thence north to a point at latitude 44°26'04.8" N., longitude 73°14'46.6" W.; thence northwesterly to a point on the shoreline at latitude 44°26'06.9" N., longitude 73°14'50.2" W.; thence along the shoreline to the point of beginning.

* * * * *

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g)(1)(B), 80 Stat. 937; 33 U.S.C. 180, 49 U.S.C. 1655(g)(1)(B); 49 CFR 1.46(c)(2))

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

Dated: May 28, 1970.

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

[F.R. Doc. 70–7055; Filed, June 5, 1970; 8:48 a.m.]

[CGFR 70–15A]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

STURGEON BAY, WIS.

1. The Commander, Ninth Coast Guard District, Cleveland, Ohio, by letter dated March 30, 1970, requested the establishment of a special anchorage area on Sturgeon Bay, at Sturgeon Bay, Wis. An amended public notice dated February 2, 1970 was isued by the Commander, Ninth Coast Guard District. In addition, a notice of proposed rule making was published in the FEDERAL REGISTER of March 5, 1970 (35 F.R. 4136). No objections were received. Therefore, the request to establish a special anchorage area on Sturgeon Bay, at Sturgeon Bay, Wis., is granted. In this special anchorage area, vessels not more than 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights. The area is southeasterly from the Wisconsin Routes 42 and 57 highway bridge that crosses Sturgeon Bay and south of the main ship channel in an area approximately in front of Baudhuin Yacht Harbor.

2. Part 110 is amended by adding a new § 110.78 reading as follows:

§ 110.78 Sturgeon Bay, Sturgeon Bay, Wis.

(a) *Area 1.* Beginning at a point bearing 126°, 3,000 feet from the fixed green Sturgeon Bay Canal Leading Light mounted on the highway bridge; thence 120°, 1,200 feet, this line being parallel to and 150 feet from the channel edge; thence 222°, 500 feet; thence 300°, 1,200 feet; thence 042°, 500 feet to the point of beginning.

(Rule 9, 28 Stat. 647, as amended, sec. 6(g)(1)(C), 80 Stat. 937; 33 U.S.C. 258; 49 U.S.C. 1655(g)(1)(C); 49 CFR 1.46(c)(3))

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

Dated: May 28, 1970.

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

[F.R. Doc. 70–7054; Filed, June 5, 1970; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7044]

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Revocation of Election To Report Income on Installment Basis

The following regulations relate to the application of section 453(c) (4) and (5) of the Internal Revenue Code of 1954, as added by section 916 of the Tax Reform Act of 1969 (83 Stat. 723) to revocation of an election to report income on the installment basis.

The regulations set forth herein are temporary and are designed to provide rules governing the manner in which an election to report income on the installment basis may be revoked. The regulations are effective until the issuance of final regulations to be prescribed by the Commissioner and approved by the Secretary or his delegate.

In order to provide such temporary regulations under section 453(c) of the Internal Revenue Code of 1954, the following regulations are adopted:

§ 13.11 Revocation of election to report income on the installment basis.

(a) *In general.* Under section 453(c)(4) taxpayers who are dealers in personal property and who elected installment-basis income reporting, subject to the provisions of section 453(c)(1) (relating to change from accrual to installment basis), may revoke their previously made election.

(b) *Time and manner of revoking election.* The revocation by a taxpayer may be made by filing an amended return on an appropriate form or forms, such as Form 1040X for an individual taxpayer, for the year of change (the first year for which income was computed using the installment basis) and for each subsequent year for which a return was filed using the installment basis. The taxpayer should indicate on such amended returns that he is revoking an election to report income on the installment basis. Such revocation must be made within 3 years from the last date prescribed for the filing of the return for the year of change including any extension of time granted the taxpayer. In reporting income on the amended returns described in this section, the taxpayer shall use the accrual method of accounting.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

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

Approved: June 3, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-7083; Filed, June 5, 1970; 8:50 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4836]

[Idaho 016758]

IDAHO

Withdrawal for Ririe Dam and Reservoir Project

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, and reserved for use of the Corps of Engineers, Department of the Army for the Ririe Dam and Reservoir Project:

BOISE MERIDIAN

T. 1 N., R. 40 E.,
Sec. 2, lot 4, N½SW¼NW¼;
Sec. 3, lot 1, N½SE¼NE¼.
T. 2 N., R. 40 E.,
Sec. 2, lot 4;
Sec. 3, lots 1, 2, and 3;
Sec. 27, E½NE¼, NE¼SE¼, S½SE¼;
Sec. 34, N½NE¼, SE¼SE¼;
Sec. 35, W½SW¼SW¼.
T. 3 N., R. 40 E.,
Sec. 27, W½E½;
Sec. 34, E½W½, NW¼NE¼, W½SE¼, SE¼SE¼.

The area described aggregates 1,105.18 acres in Bonneville County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws. However, leases, licenses or permits will be issued only if the Corps of Engineers, Department of the Army, finds that the proposed use of the lands will not interfere with the proper operation of the facilities on the lands. Grazing of domestic livestock on the lands shall be administered in accordance with provisions of the Taylor Grazing Act of June 28, 1934, 48 Stat. 1269, as amended, 43 U.S.C. 315 (1964), and the regulations thereunder.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 2, 1970.

[F.R. Doc. 70-7019; Filed, June 5, 1970; 8:46 a.m.]

[Public Land Order 4837]

[AA-2614]

ALASKA

Modification of Public Land Order No. 4582 and Withdrawal of Public Lands

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910, 36 Stat. 847, 43 U.S.C. 141 (1964), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and the Act of May 31, 1938, 52 Stat. 593, it is ordered as follows:

1. Public Land Order No. 4582 of January 17, 1969, withdrawing all unreserved public lands in Alaska for the determination and protection of the rights of the native Aleuts, Eskimos, and Indians of Alaska, is hereby modified to the extent necessary to permit withdrawal of the following described public land for educational purposes:

TOGIAK TOWNSITE, ALASKA

Latitude 59°03½' N., Longitude 160°23½' W.
U.S. Survey No. 4905 (unapproved),
Lot 9, Block 4;
Lot 2, Block 14.

Containing approximately 3.16 acres.

2. Subject to valid existing rights, the land described in paragraph 1 of this order is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), and from leasing under the mineral leasing laws, and reserved for educational purposse in connection with the administration of the affairs of the Aleuts, Eskimos, and Indians of Alaska.

3. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining and mineral leasing laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 1, 1970.

[F.R. Doc. 70-7020; Filed, June 5, 1970; 8:46 a.m.]

[Public Land Order 4838]

[Sacramento 1340]

CALIFORNIA

Withdrawal for Proposed Reclamation Project

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. 416 (1964), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, and national forest lands, which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, for the proposed Paskenta-Newville Unit, Central Valley Project:

MOUNT DIABLO MERIDIAN

NEWVILLE RESERVOIR AREA

Mendocino National Forest

T. 22 N., R. 7 W.,
Sec. 1, lots 3 and 4, S½NW¼, N½SW¼, SE¼SW¼;
Sec. 12, NW¼NE¼.
T. 23 N., R. 7 W.,
Sec. 26, E½SE¼.

Public Domain

T. 22 N., R. 6 W.,
Sec. 19, lots 1, 2, 3, and 4, E½W½;
Sec. 30, lots 1, 2, 3, and 4, W½NE¼, E½W½, SW¼SE¼;
Sec. 31, lot 1, NW¼NE¼, NE¼NW¼.

PASKENTA RESERVOIR AREA

Mendocino National Forest

T. 23 N., R. 7 W.,
Sec. 22, NE¼NE¼.

Public Domain

T. 23 N., R. 7 W.,
Sec. 2, lots 3 and 4, S½NW¼, S½;
Sec. 10, E½NW¼;
Sec. 12, lot 3;
Sec. 14, SE¼SW¼.

The areas described aggregate 1,953.23 acres in Glenn and Tehama Counties.

2. The withdrawal from entry under the mining laws (30 U.S.C., Ch. 2), made by this order shall apply, in addition to the lands described in paragraph 1, to the minerals in the following described lands which have been patented under the Stockraising Homestead Act of December 29, 1916, 39 Stat. 862, as amended, 43 U.S.C. 291 (1964), with a reservation of all minerals to the United States:

MOUNT DIABLO MERIDIAN

PASKENTA RESERVOIR AREA

T. 23 N., R. 7 W.,
Sec. 10, S½S½.

The area described aggregates 160 acres in Tehama County.

3. The use and administration of the public and national forest lands described in paragraph 1 affected by this order, and which are needed or used for operation of the project, will become subject to the provisions of the Reclamation Act of June 17, 1902, supra, including the use of the lands under lease, license, or permit, at such time as the Paskenta and Newville Reservoir areas are authorized by Congress.

4. Pending authorization of the project, the withdrawal made by this order does not alter the applicability of the public land laws governing the use of the public and/or national forest lands under lease, license, or permit, or the disposal of their mineral or vegetative resources other than under the mining laws: *Provided*, That on those lands needed for the project such use or disposition will not be inconsistent with the purpose for which the lands are withdrawn.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 1, 1970.

[F.R. Doc. 70-7021; Filed, June 5, 1970; 8:46 a.m.]

[Public Land Order 4839]

[Oregon 5546]

OREGON

Withdrawal for Public Recreation and Scientific Study Sites

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described revested Oregon and California Railroad grant lands which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for protection of public recreation and scientific study values:

WILLAMETTE MERIDIAN

ROGERS MOUNTAIN PETRIFIED WOOD AREA

T. 10 S., R. 1 E.,
Sec. 31, fractional NW¼NW¼, NE¼NW¼, N½NE¼.

The area described contains 158.44 acres in Linn County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the United States mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 1, 1970.

[F.R. Doc. 70-7022; Filed, June 5, 1970; 8:46 a.m.]

[Public Land Order 4840]

[Oregon 5049 (Wash.)]

WASHINGTON

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

SNOQUALMIE NATIONAL FOREST

WILLAMETTE MERIDIAN

Snoqualmie Pass-Denny Creek Recreation Area Addition

T. 22 N., R. 11 E.,
Sec. 5, lots 5, 18, 19, and 20;
Sec. 8, NW¼NE¼, S½NE¼, N½NW¼SE¼.

The area described contains approximately 265 acres in King County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 1, 1970.

[F.R. Doc. 70-7023; Filed, June 5, 1970; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18244; FCC 70-545]

PART 0—COMMISSION ORGANIZATION

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

Nondiscrimination in Employment Practices of Broadcast Licensees

Report and order. In the matter of Petition for rule making to require broadcast licensees to show nondiscrimination in their employment practices; Docket No. 18244, RM-1144.

1. On June 4, 1969, the Commission adopted rules requiring equal opportunity in the employment practices of broadcast licensees (34 F.R. 9284). At the same time, we issued a further notice of proposed rule making (34 F.R. 9288) requesting comments with respect to a proposed annual employment reporting requirement and a proposed requirement for the preparation of equal opportunity programs to be furnished by existing stations and in applications for construction permits, assignments or transfers of control, and renewals of licenses. These proposals, applicable only to stations with five or more full-time employees, were intended to provide useful statistical data and to ensure that licensees focus on the best method of assuring effective equal employment practices.

2. Upon consideration of all of the comments, including the earlier comments in this docket, we have decided to adopt the rules as proposed. Nothing in the comments indicates that we erred in believing further action to prohibit discrimination to be desirable, and the Community Relations Service of the Department of Justice, joining public groups who have urged the adoption of an affirmative program, has advised us that "there is a compelling need for extensive reform of media employment practices to help reduce racial discrimination and bring about progress in race relations." As before, some parties have urged that it is inappropriate for the Commission to act in this area, and particularly to go beyond the 25-employee cutoff point adopted by Congress in the Civil Rights Act of 1964. We addressed ourselves to these general issues in our two previous opinions in this proceeding, and there decided that Commission action to insure equal employment practices by all broadcast licensees is both legal and appropriate. Memorandum opinion and order and notice of proposed rule making released July 5, 1968, 13 FCC 2d 766, 33 F.R. 9960; Report and order released June 6, 1969, 18 FCC 2d 240, 34 F.R. 9284. We do not believe that anything in the present comments warrants further treatment of these broad questions. However, the comments raise certain specific questions concerning the operation of the rules which require further examination.

3. It has been urged that the Commission should include discrimination based on sex in light of the inclusion of this category in the Civil Rights Act of 1964, Title VII, and the national policy of insuring equal employment rights to women. We agree that no station should discriminate on the basis of sex and that the national policy in this regard should be reflected in our rules. We are therefore amending the general rules previously adopted to include this category (§§ 73.125, 73.301, 73.599, 73.680, 73.793). (See Appendix A.) We do not believe that it is necessary to issue a further notice of rule making to make this change; the issue has been raised in the comments without disagreement and the national policy is clear. Employment discrimination because of sex would violate the Civil Rights Act and would accordingly be proscribed by the public interest requirements of the Communications Act of 1934.[1] We are also adding this category to the new annual statistical reports. However, we have determined to focus our major efforts in requiring development of equal employment opportunity programs at this time on Negroes, American Indians, Spanish-Surnamed Americans and Orientals, in light of our

[1] See 13 FCC 2d 766; 18 FCC 2d 240.

own limited resources and the national crisis which exists with regard to the problems of racial harmony.

4. The proposal to gather statistical data is opposed by some on the ground that statistics cannot properly be utilized to determine the existence of discriminatory practices, and that such use would be improper since other factors than discrimination may prevent "fully proportional minority group employment." It is also said that statistical data can only be useful for any purpose when large numbers are involved. It is also pointed out that the forms will not show the number of qualified people available. These comments, we believe, warrant clarification of our purpose rather than abandonment of the proposal to obtain industry statistics on minority employment. We have not suggested that such data for any particular year would demonstrate the existence of discrimination at any station. What we do believe is that it is useful to show industry employment patterns and to raise appropriate questions as to the causes of such patterns. Thus, if none of the broadcast stations in a city with a large Negro population had any Negro employees in other than menial jobs, a fair question would be raised as to the cause of this situation. The absence of data on the number of Negroes "qualified" for other positions does not affect the legitimacy of the query, unless we are to assume that there are no Negroes qualified for other than menial positions, an assumption we are not prepared to make. We have at no time indicated that "fully proportional" employment of minority groups is called for by our rules, since we do not believe that fair employment practices will necessarily result in the employment of any minority group in direct proportion to its numbers in the community. But we do not understand the reluctance to having the Commission obtain statistical data on the employment situation. We should have thought the industry would be interested in such a picture of itself,[3] and we note in this connection that the National Association of Educational Broadcasters has been conducting a study of employment practices and statistics of its members. Statistics may not give definitive answers, but they clearly can raise valid questions.[3]

5. A significant number of those commenting on the proposed rules criticized the illustrative job categories used in the annual reporting form as being largely irrelevant to the types of job categories which are unique to the broadcast industry. Opponents of any reporting requirement argued that since the proposed categories were irrelevant to the broadcast industry and duplicative of the EEOC forms, there was no need or necessity for adoption of this part of the proposed rules, while proponents urged that more meaningful categories be adopted, e.g., the job categories used by the National Association of Educational Broadcasters. The appropriate job categories present a difficult problem. We proposed use of the job categories in the EEO–1 form because it would allow interindustry comparisons and would simplify the reporting for all stations, particularly those now supplying data on the EEO–1 form. On the other hand, the EEO–1 job categories are generalized and not particularly suited to the broadcast industry. The job categories utilized by the National Association of Educational Broadcasters would clearly be more pertinent. They are as follows: Chief Executive; Major Department Heads; Other Supervisory; Traffic/Continuity; Executive Producer and/or Writer; Staff Producer-Directors; On-the-Air Talent; Production Assistants, Cameramen; Staging/Lighting/Artists/Photogs; Operating Engineers; Maintenance Engineers; Clerical. These categories are specifically relevant to broadcasting and would give more useful statistics. However, the job categories in the present EEO–1 form will also give a useful picture of the primary job areas and we are reluctant at this time to require stations now using those forms to give us parallel information with a different job breakdown. We will therefore retain the job categories in our proposal.

6. The other part of our proposal was that applicants for construction permits, transfers, and renewals, as well as existing stations, describe their equal employment programs in terms of recruitment, selection, training, placement, promotion, pay, working conditions, demotions, layoffs, and terminations. Some opposition comments showed particular concern for the problem small- and medium-sized broadcasters would encounter in effectuating an affirmative equal employment program along the lines described in our proposed rule making. The lack of formal recruitment procedures, the lack of upward mobility or training for it, and the relatively slow turnover in small- and medium-sized stations were specific reasons for concern. In view of these considerations, the meaningfulness of affirmative equal employment programs was questioned. We understand these concerns, and wish to make clear that the depth and detail of any station's equal opportunity program will be expected to vary not only with the racial makeup of the community and area, but also with the size of the station. We do not expect small stations to submit elaborate programs. On the contrary, we recognize that with such smallness, a simpler response is correspondingly to be expected. Nor do we propose that stations depart from established hiring practices, if these practices give an equal opportunity to minority groups. The National Association of Broadcasters suggests, for example, that our guidelines will force stations to go to sources of employment which cannot supply qualified persons, e.g., schools and colleges with significant minority group enrollments. But our proposal was that a station's equal employment opportunity program "reasonably" address itself to the suggested guidelines. If a college cannot supply qualified persons, a station is not expected to seek employees there merely because the college has a significant minority enrollment. On the other hand, a station which does seek employees in colleges must do so on a fair basis, and it cannot set up arbitrary recruitment policies which result in discrimination. Thus, it could not limit its recruitment efforts to a technical school which discriminates. The proposed requirement will make the broadcaster focus upon the problem. It can be met by all stations, large or small, with reasonable good will. As we noted in our second opinion on this subject, the employment of qualified people may be hindered by indifference as well as overt discrimination. The need to prepare a positive program of nondiscrimination should be of benefit from this point of view. It will not lower valid employment standards, as some appear to fear; it will help to insure that qualified people are not overlooked.[4]

7. The International Brotherhood of Electrical Workers, the American Broadcasting Companies, Inc., and the National Association of Broadcasters have raised the issue of Commission involvement in labor-management negotiations. However, as pointed out in the Memorandum Opinion and Order and Notice of Proposed Rule Making of July 5, 1968, and the Report and Order of June 6,

[3] The burden to the industry of furnishing the data we have determined to require is surely minimal compared to the importance of the subject. We have also considered the burden upon the Commission. After studying our own computer capability and consulting with computer programers at EEOC, we have come to the decision that annual reports designed to be fed into a computer will pose no problem. Retrieval of the information can be programed to provide a variety of "profile" statistics. Use of the computer will relieve the Commission of any heavy administrative burden, will provide ready access to the information contained on these forms, and will allow ease of data storage for cumulative or comparative purposes.

[3] Hector Richard, President, Broadcasters Association of Puerto Rico, wrote the Commission requesting that Puerto Rican broadcasters be exempted from the reporting requirements because of the lack of racial problems in Puerto Rico and in light of the large percentage of Spanish-Surnamed individuals. We must reject this request. The fact that a predominant number of the members of a particular community are members of one of the minority categories does not relieve the broadcaster's responsibility to other minority persons and does not obviate the usefulness of the data, although it will call for a different interpretation of the results.

[4] It is true that examination of these programs will put a new burden upon the Commission. We note that they can and should be treated as any other part of the application. Furthermore, as we have already emphasized they have value by their preparation and public filing in forcing attention to a matter of vital national concern.

1969, this Nation has adopted a national policy against discrimination in employment, and the recognition of this important policy must be a part of collective bargaining by labor and management. We assume there is no disagreement with this view, and the NAB tells us that most station contracts already contain nondiscrimination language as part of the agreement's preamble. We then see no conflict between our action and normal labor-management negotiations which must always adjust to the law. The free play of such negotiations remains unaffected, as does whatever hiring prerogatives management would otherwise have. There is no requirement, as the NAB fears, that this prerogative be negotiated away.

8. The American Broadcasting Companies, Inc., and the National Association of Broadcasters suggested that a specific definition of the terms "area" and "insignificant number of minority members" would be necessary for licensees to know what is required of them. The Commission's Program Policy Statement of July 29, 1960, 20 Pike & Fischer, R.R. 1901, clearly placed the primary responsibility for examining a community's tastes, needs and desires on the licensee.[5] The responsibility was affirmed in Henry v. F.C.C., 112 U.S. App. D.C. 257, 302 F. 2d 191 (C.A.D.C., 1962), cert. denied 371 U.S. 821. Since every licensee has the continuing responsibility to know and serve the tastes, needs and desires of his community and area, the licensee is in the best position to know the minority population in his service area and to respond accordingly. Therefore, we believe that a specific definition formulated by the Commission would be inappropriate.[6]

9. RKO, which has supported the rule making, suggested that statistics should be prepared separately for each station in a community under common ownership. We recognize the utility of this suggestion because of the increased independent AM and FM operations promoted by the Commission, but we think that here again simplicity outweighs the benefits. As conditions change, and more stations have separate staffs, we can reconsider this question. RKO has also requested further definition of three terms used in the elements mentioned for inclusion in stations' equal employment opportunity programs: Media with "significant" circulation among minority groups to be used for employment advertisements; the maintenance of "systematic" contacts with minority groups and human relations organizations; and the avoidance of techniques and tests which "have the effect" of discriminating. The first two of these we believe to be adequately precise. The third element, as is the case with the others, is to be employed reasonably in terms of the station's size and normal hiring methods. Most stations probably do not do testing. Those that do should review their tests to make sure that they are relevant to job requirements. There is developing law and policy on this subject through Equal Employment Opportunity Commission and judicial pronouncements which can serve as a guide in an admittedly difficult area. We have no intention of considering sanctions in an area of doubt, but do expect a good faith attempt to meet the intent of this provision.

10. For the reasons set forth in the foregoing paragraphs, and the public policy considerations discussed in prior Commsision opinions: *It is ordered*, Pursuant to the authority contained in sections 4(i), 303, 307, 308, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, 307, 308, 309, and 310, that effective July 10, 1970, Part 73, §§ 73.125, 73.301, 73.599, 73.680, and 73.793, are amended as set forth in Appendix A, and Parts 0 and 1 of the Commission's rules are amended as set forth in Appendix B of this report and order.[7]

11. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 308, 309, 310, 48 Stat., as amended, 1066, 1082, 1083, 1084, 1085, 1086; 47 U.S.C. 154, 303, 307, 308, 309, 310)

Adopted: May 20, 1970.

Released: June 3, 1970.

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

APPENDIX A

In Part 73 of Chapter I of Title 47 of the Code of Federal Regulations, §§ 73.125, 73.301, 73.599, 73.680, and 73.793, the wording of which is identical, are amended to read as follows:

§ 73.____ Equal employment opportunities.

(a) *General policy.* Equal opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated standard, FM, television or international broadcast stations (as defined in this part) to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin or sex.

(b) *Equal employment opportunity program.* Each station shall establish, maintain and carry out, a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice. Under the terms of its program, a station shall:

(1) Define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(2) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(3) Communicate the station's equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin or sex, and solicit their recruitment assistance on a continuing basis.

(4) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon race, color, religion, national origin or sex, from the station's personnel policies and practices and working conditions.

(5) Conduct continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to insure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility in the station.

APPENDIX B

A. Parts 0 and 1 of the Commission's rules are amended as follows:

1. In § 0.455(b), subparagraph (4) is added to read as follows:

§ 0.455 Other locations at which records may be inspected.

* * * * *

(b) *Broadcast Bureau.* * * *

(4) Annual employment report filed by licensees and permittees of broadcast stations pursuant to § 1.612 of this chapter.

* * * * *

2. In § 1.526, the introductory text of paragraphs (a) and (e) is amended and a new paragraph (a)(5) is added to read as follows:

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

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraph (1) of this paragraph, and every permittee or licensee of a station in the broadcast services shall maintain for public inspection a

[5] We note that even at that date the Commission specifically included "Service to Minority Groups."

[6] One party has also urged that we not require submission of unadjudicated complaints filed with Federal or local bodies. However, it is useful to keep advised of the existence and progress of such complaints. We also note that WPIX suggests making a new subtotal for unskilled laborers and service workers, so that this category can be broken out, and stations doing their own cleaning work and using minority group employees in that category will not get undue credit for the employment of a high percentage of minority personnel. We think that this factor can easily be taken account of without changing the proposed form.

[7] The forms are subject to clearance by the Bureau of the Budget and will be utilized only in their final version following clearance by the Bureau under the Federal Reports Act. Tentative FCC Form 395 is filed as part of the original document.

[8] Concurring and dissenting statements of Commissioners Bartley and Wells filed as part of original document; Commissioner Robert E. Lee absent.

file for such station containing the material in subparagraphs (1), (2), (3), (4), and (5) of this paragraph: *Provided, however*, That the foregoing requirements shall not apply to applicants for or permittees or licensees of television broadcast translator stations. The material to be contained in the file is as follows:

* * * * *

(5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference and which according to the provisions of §§ 0.451—0.461 of this chapter are open for public inspection at the offices of the Commission.

* * * * *

(e) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the periods specified in §§ 73.120(d), 73.290(d), 73.590(d), and 73.657(d) of this chapter (2 years). The records specified in paragraph (a) (1), (2), (3), and (5) of this section shall be retained as follows:

* * * * *

3. Section 1.612 is added to read as follows:

§ 1.612 **Annual employment report.**

Each licensee or permittee of a commercially or noncommercially operated standard, FM, television, or international broadcast station (as defined in Part 73 of this chapter) with five or more fulltime employees shall file with the Commission on or before April 1 of each year, on FCC Form 395, an annual employment report.

B. A new section VI in FCC Form 301, 303, 309, 311, 314, 315, 340, and 342, is adopted.[1]

[F.R. Doc. 70-6938; Filed, June 5, 1970; 8:45 a.m.]

[1] Filed as part of the original document.

[Docket No. 18426]

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

Sale, Import, or Shipment for Sale of Devices Which Cause Harmful Interference to Radiocommunications; Correction

The report and order in the above-entitled matter, FCC 70-506, released May 18, 1970, and published in the FEDERAL REGISTER on May 22, 1970 (35 F.R. 7894), is corrected by deleting footnote 9 which reads "Commissioner Wells dissenting".

Released: June 1, 1970.

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

[F.R. Doc. 70-7060; Filed, June 5, 1970; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 4, 5, 6, 8, 15, 18]

UNIFORM SYSTEM OF ACCOUNTING

Manifested and Entered Quantities of Merchandise

Notice is hereby given that pursuant to the authority contained in R.S. 251, secs. 2, 3, 23 Stat. 118, as amended, 119, secs. 439, 440, 459, 460, 484, 498(a), 505, 584, 623, 624, 46 Stat. 712, 722, 728, as amended, 717, 732, 748, 759, as amended, sec. 1109, 72 Stat. 799, as amended, 19 U.S.C. 66, 1439, 1440, 1459, 1460, 1484, 1498(a), 1505, 1584, 1623, 1624, 46 U.S.C. 2, 3, 49 U.S.C. 1509, 5 U.S.C. 301, it is proposed to amend § 4.12(a), 5.1, 6.7(h), 8.28(b), 15.8, 18.2(b), and 18.6 (b) and (c), Customs Regulations, relating to the manifesting of merchandise imported by vessel, vehicles and by aircraft, to the granting of permits to release merchandise by Customs, to allowances granted in the assessment of duties when lost or missing merchandise was not imported, and to shortages in merchandise shipped under a transportation entry.

A nationwide uniform method of accounting for manifested merchandise and treatment of quantity discrepancies of imported merchandise will benefit carriers and importers by reducing uncertainties in establishing the facts necessary to be relieved of liability for merchandise not, in fact, imported. Customs will also benefit by the installation of a system that will reduce paperwork and which will allow a carrier and a consignee to reconcile between themselves, without the intervention of Customs, differences between manifested quantities and quantities of merchandise available for delivery to the consignee by the carrier under the provisions of section 448(a) of the Tariff Act of 1930 (19 U.S.C. 1448(a)).

In order to provide such a uniform system, it is proposed to amend the Customs Regulations as tentatively set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

In § 4.12, paragraph (a) is amended to read:

§ 4.12 **Correction of manifest.**

(a) Vessel masters or agents shall notify the district director on Customs Form 5931 of overages (merchandise found, but not manifested) or shortages (merchandise manifested, but not found) of merchandise. Overages shall be reported within 3 weeks and shortages shall be reported within 2 months after entry of the vessel. If the district director discovers discrepancies which are not timely reported by the master or agent, he shall notify the master or agent of such discrepancies and the master or agent shall furnish a report on Customs Form 5931 to the district director within 3 weeks of the notification. In that case, the master or agent shall include a statement as to why the discrepancy was not reported by him in accordance with the first sentence of this section. A shortage certificate,[23] post entry,[24] or other suitable explanation of the corrective action taken (see § 4.34) shall be completed on Customs Form 5931 submitted by the master or agent. In the case of a shortage, satisfactory evidence to support a claim of nonarrival or proper disposition of the merchandise shall be obtained by the master or agent and shall be retained by the carrier in his files for 1 year. Unless the required notification and explanation is made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and there has been no loss to the revenue (and in the case of a discrepancy not initially reported by the master or agent that there was a valid reason for the failure to so report), applicable penalties under section 584, Tariff Act of 1930, as amended, shall be assessed (see § 23.23 of this chapter). For the purpose of assessing such penalties, the value of the merchandise shall be determined as prescribed in § 23.12 of this chapter. The fact that the master or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

* * * * *

PART 5—CUSTOMS RELATIONS WITH CONTIGUOUS FOREIGN TERRITORY

The section heading for § 5.1 is amended and a new paragraph (e) is added as follows:

§ 5.1 **Imports from contiguous countries; manifests; report of arrival; correction of manifests.**

* * * * *

(e) The provisions of sections 440 and 584, Tariff Act of 1930, as amended (19 U.S.C. 1440 and 1584), relate, respectively, to post entry for correction of and to penalties for falsity or lack of a manifest. Those provisions are applicable to all vehicles and to vessels of less than 5 net tons arriving from a place outside the United States and required to file a manifest. The time limitations and the requirement for notification set forth in § 4.12 of this chapter with respect to the correction of vessel manifests are applicable to the correction of manifests of all vehicles and of vessels of less than 5 net tons arriving from a contiguous country otherwise than by sea. Post entry to add to a manifest any merchandise omitted from or which does not agree with the manifest may be made on a separate copy of the cargo manifest form marked or stamped "Post Entry." Correction of a manifest to delete merchandise not found on the vehicle or vessel at the time of arrival may be made by submission of a separate copy of the cargo manifest form marked or stamped "Shortage Declaration." Such copies shall list the merchandise involved, state the reasons for the discrepancy, and bear a signed declaration of the person in charge of the vehicle or vessel, or an authorized agent, reading, "I declare to the best of my knowledge and belief that the overage or shortage described herein occurred for the reasons stated. I also certify that evidence to support a claim of nonarrival of merchandise will be retained in the carrier's files for a period of at least 1 year and will be made available to Customs on demand." If a copy of the cargo manifest is not so used, Customs Form 5931 shall be used for corrections of the manifest. Unless the required notification and explanation are made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and there has been no loss to the revenue, applicable penalties under section 584, Tariff Act of 1930, as amended, shall be assessed. For the purpose of assessing such penalties, the value of the merchandise shall be determined as prescribed in § 23.12 of this chapter. The fact that the person in charge or the owner of the vehicle or vessel had no knowledge of the discrepancy shall not relieve him from the penalty.

(Secs. 440, 459, 460, 498(a), 584, 46 Stat. 712, as amended, 717, as amended, 728, as amended, 748, as amended; 19 U.S.C. 1440, 1459, 1460, 1498(a), 1584)

NOTE: The proposed amendment to § 5.1 will appear on adoption as an amendment to Part 123 of the Customs Regulations which will become effective on June 25, 1970.

PART 6—AIR COMMERCE REGULATIONS

In § 6.7, paragraph (h) is amended to read:

§ 6.7 **Documents for entry.**

* * * * *

(h) The provisions of sections 440[25] and 584[26], Tariff Act of 1930, as amended, relate, respectively, to post entry for correction of and to penalties for falsity or lack of a manifest. Those provisions are applicable to aircraft arriving from a place outside the United States with merchandise and unaccompanied baggage for which a manifest is required to be filed. The time limitations and the requirements for notification set forth in § 4.12 of this chapter with respect to the correction of vessel manifests are applicable to the correction of aircraft

manifests. Post entry to add to a manifest any merchandise omitted from or which does not agree with the manifest may be made by the airline on a separate copy of the cargo manifest form marked or stamped "Post Entry." Correction of a manifest to delete merchandise not found on board the aircraft at the time of arrival may be made by submission of a separate copy of the cargo manifest form marked or stamped "Shortage Declaration." Such copies shall list the merchandise involved, state the reasons for the discrepancy, and bear a signed declaration of the aircraft commander or an authorized agent reading "I declare to the best of my knowledge and belief that the overages or shortages described herein occurred for the reasons stated. I also certify that evidence to support a claim of nonarrival of merchandise will be retained in the carrier's files for a period of at least 1 year and will be made available to Customs on demand." If a copy of the cargo manifest is not so used, Customs Form 5931 shall be used for corrections of the manifest. Unless the required notification and explanation are made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and there has been no loss to the revenue, applicable penalties under section 584, Tariff Act of 1930, as amended, shall be assessed. For the purpose of assessing such penalties, the value of the merchandise shall be determined as prescribed in § 23.12 of this chapter. The fact that the aircraft commander or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

(Sec. 644, 46 Stat. 766, sec. 1109, 72 Stat. 799; 19 U.S.C. 1644, 49 U.S.C. 1509)

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

In § 8.28, paragraph (b) is amended to read:

§ 8.28 Release under bond; deposit of estimated duties; permit.

* * * * *

(b) The estimated duties, if any, having been deposited as required by section 505, Tariff Act of 1930, 32 and the bond filed, an authorization for delivery on Customs Form 7501–A shall be issued and delivered to the importer or his agent, to be by him sent to the inspector in charge of the merchandise, who shall authorize the carrier to deliver that part of the merchandise not designated for examination, and which the carrier has retained under the provisions of section 499, Tariff Act of 1930, with discrepancies between the invoiced, entered quantities delivered to the consignee by the carrier accounted for in accordance with the provisions of § 15.8 of this chapter: *Provided*, That the district director may authorize an examiner to release both examined and unexamined packages in a shipment examined by such officer at a place not in charge of a customs officer when this can be done without any real interference with the performance of the examiner's regular duties.

* * * * *

(Sec. 484, 505, 623, 46 Stat. 722, as amended, 732, 759, as amended; 19 U.S.C. 1484, 1505, 1623)

PART 15—RELIEF FROM DUTIES ON MERCHANDISE LOST, STOLEN, DESTROYED, INJURED, ABANDONED, OR SHORT-SHIPPED

Section 15.8 is amended to read:

§ 15.8 Shortages in invoiced or entered quantities of merchandise; lost packages, deficiencies in contents of packages, definition of "permitted" merchandise.

(a)(1) An importer will be allowed to file a consumption or warehouse entry for less than the invoiced and manifested amount of merchandise where the number of packages of merchandise "permitted" and delivered to him by the carrier, under the immediate delivery provisions of § 8.59 of this chapter is less than the amount invoiced and manifested, provided there is filed with the entry a Customs Form 5931, in triplicate, executed by both the importer and the importing carrier or bonded carrier, and the said carrier declares therein that the missing package(s) were not available for release by the carrier within the provisions of 19 U.S.C. 1448(a).

(2) Allowance shall be made in the assessment of duties for lost or missing packages of merchandise included in an entry whenever it is established to the satisfaction of the district director of customs before the liquidation of the entry becomes final that the merchandise claimed to be lost or missing was not permitted (see paragraph (c) of this section). A claim for such allowance must be made on Customs Form 5931, in triplicate, executed by the importer and the importing carrier or bonded carrier, as appropriate. Where the importing or bonded carrier refuses to execute the Form 5931, a claim may be allowed if the importer properly executes the Form 5931 and attaches copies of the dock receipt or other document evidencing nonreceipt of the missing or lost packages. When there is a difference between the quantities shown on an importing carrier's manifest and the quantity permitted to the importer, duties or liquidated damages shall be assessed under the provisions of 19 U.S.C. 1448 or the provisions of the carrier's bond, unless the carrier corrects his manifest (see § 4.12 of this chapter). Liquidated damages for lost or missing packages shall be assessed against a bonded common carrier in accordance with § 18.8 of this chapter.

(3) An allowance shall be made in the assessment of duties for deficiencies in a package or packages when:

(i) The importer files a Customs Form 5931, in triplicate, executed by the importer alone, where the claim is made that the shortage was concealed and the district director satisfies himself as to the validity of the claims; or

(ii) In the case of unconcealed shortages, the importer files a Customs Form 5931, in triplicate, executed by both the importer and the importing carrier.

(b) Allowance for deficiency in any examination, package reported to the district director by a customs officer shall be made in the liquidation of the entry, but no customs officer except one making an examination contemplated by section 499, Tariff Act of 1930, as amended, shall report a supposed deficiency to the district director unless it is established to the satisfaction of the reporting officer that the merchandise was not imported.

(c) Permitted merchandise, definition of—Merchandise is permitted when:

(1) Customs has authorized the carrier to make delivery to the consignee or subsequent carrier and these parties in interest, or their agents, have made a joint determination of quantities; or

(2) The carrier, at its option, independently declares the quantity to be permitted by Customs by;

(i) Furnishing a signed statement to Customs that at least 4 days have elapsed since the consignee or his agent was notified of the availability of the merchandise for delivery, that a determination of the quantities of merchandise available for delivery has been made, indicating the date on which the said determination was made; and

(ii) By filing the said statement no later than the close of business on the next working day after such determination has been made.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

In § 18.2, paragraph (b) is amended to read:

§ 18.2 Receipt by carrier; manifest.

* * * * *

(b) A manifest, Customs Form 7512, containing a description of the merchandise shall be prepared by the carrier or shipper and signed by the agent of the carrier whenever merchandise is being transported in bond. All copies of the in bond manifest shall be signed by the importing carrier or his agent and the in bond carrier or his agent to indicate the quantity delivered for transportation in bond. When there is no discrepancy between the quantity manifested by the importing carrier and the quantity delivered to the in bond carrier, the district director may authorize waiving the signatures of the parties in interest as to delivered quantities. Except as prescribed in § 5.11 of this chapter, relating to merchandise in transit through the United States between ports in contiguous foreign territory, a separate set shall be prepared for each entry and, if the consignment is contained in more than one conveyance, a separate set shall be prepared for each conveyance.

In § 18.6, paragraphs (b) and (c) are amended to read:

§ 18.6 Short shipments; shortages; entry and allowance.

* * * * *

(b) When there is a shortage of one or more packages or nondelivery of an entire shipment, and inquiry by the carrier

discloses that the merchandise has been delivered directly to the consignee, entry therefore may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity shall be presumed to have occurred while the merchandise was in the possession of the bonded carrier.

(c) If the merchandise cannot be recovered intact, as above specified, entry shall not be accepted and there shall be sent to the initial bonded carrier a demand for liquidated damages on Customs Form 5955–A, in the case of nondelivery of an entire shipment, or on Customs Form 5931, in the case of a partial shortage.

* * * * *

Before action is taken on the proposed amendments, consideration will be given to all relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Bureau of Customs, Washington, D.C. 20226, no later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: June 1, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-7082; Filed, June 5, 1970; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

[49 CFR Parts 170–189]

[Docket No. HM–51]

CLASSIFICATION OF CERTAIN HAZARDOUS MATERIALS ON BASIS OF THEIR HEALTH HAZARDS

Advance Notice of Proposed Rule Making

On August 21, 1968 (33 F.R. 11862), the Hazardous Materials Regulations Board announced a plan to revise the regulations governing the transportation of hazardous materials. That document announced the intention to issue notices of proposed rule making in at least four areas, including, "classification and labels", and invited public help in developing the basic regulartory principles to guide the Board in revising the regulations.

The Board is planning to consider, in the near future, a proposal for classification tests for poisonous materials. To assist the Board in that consideration, the public is invited to express its views on the health hazard classification tests proposed herein. This document is not a proposal to change the regulations. It is an effort to get public participation early in the rule-making process.

The present definitions of poisonous materials contain specific testing criteria only in the case of class B poisons. There are no criteria now provided for class A poisons or irritating materials (including tear gases). As a result, the public cannot practically rely upon those definitions to determine when the Federal regulations apply. In order to correct that situation, the Department proposes to adopt testing criteria for those latter two categories.

The National Research Council-National Academy of Sciences assisted the Department in developing these test criteria. In addition, the testing procedures and benchmarks used by the Departments of Agriculture and Health, Education, and Welfare have also been considered to ensure harmony between the regulatory standards of the several Federal agencies having jurisdiction in this area (see, for example, § 191.1 of the regulations of the Department of Health, Education, and Welfare, 21 CFR Part 191, and § 362.116 of the regulations of the Department of Agriculture, 7 CFR Part 362).

Types of health hazards. The health hazards of materials being transported are characterized by their acute effects on human health. Hazards to be considered are:

Systemic hazards.
Contact hazards.
Irritant hazards.

Systemic hazards exist when materials are capable of causing harmful effects through inhalation, ingestion, or absorption through the skin. Contact hazards exist when materials are capable of causing destruction of living tissue or tissue reaction by thermal or chemical action at the site of contact. Irritant hazards exist when the materials are capable of causing local irritating effects on eyes, nose, or throat, or are capable of causing severe lachrimation.

Hazard degrees. Degrees of hazard are ranked according to the potential severity of the hazard to people. The establishment of hazard degrees is necessary in order to establish packaging criteria reflecting the potential severity of the damage if a product should escape from its packaging during transportation. This potential must be taken into account in the design and integrity of packaging used in the shipment of the toxic products. The major categories and criteria are as follows:

Extremely dangerous poisons. Materials would be classified as extremely dangerous poisons if, on short exposure, they could cause deaths or major residual injury to humans. In the absence of adequate data on human toxicity, a material would be presumed to be extremely poisonous to humans if it falls within any one of the following categories when tested on laboratory animals:

(1) *Ingestion (oral).* Any material that has a single dose LD_{50}[1] of 5 milligrams or less per kilogram of body weight when administered orally to both male and female rats, each weighing between 200 and 300 grams, and which have been fasted for a period of 24 hours.

(2) *Inhalation.* Any material that has an LC_{50}[1] of 75 parts per million by volume or less or 0.75 milligrams per liter by volume or less of vapor, mist or dust when administered by continuous inhalation for 1 hour or less to both male and female rats, each weighing between 200 and 300 grams. If the material is administered to the animals as a dust or mist, more than 90 percent of the particles available for inhalation in the test must have a diameter of 10 microns or less.

(3) *Skin contact.* Any material that has an LC_{50} of 100 milligrams or lower per kilogram of body weight when administered by continuous contact for 1 hour with the bare skin of rabbits, each weighing between 2.3 and 3.0 kilograms, according to test procedures described in § 191.10 of the regulations of the Department of Health, Education, and Welfare (21 CFR Part 191). (This test procedure is also listed in NAS-NRC Publication 1138, "Principles and Procedures for Establishing the Toxicity of Household Substances", available from the Printing and Publishing Office, National Academy of Sciences, Washington, D.C. 20408 at $1.50.)

Toxic materials. Materials would be classified as toxic if on short exposure they could cause serious temporary or residual injury to humans. In the absence of adequate data on human toxicity, a material would be presumed to be toxic to humans if it falls within any one of the following categories when tested on laboratory animals:

(1) *Ingestion (oral).* Any material that has a single dose LD_{50} of more than 5 milligrams but not more than 50 milligrams per kilogram of body weight when orally administered to both male and female rats, each weighing between 200 and 300 grams, and which have been fasted for a period of 24 hours.

(2) *Inhalation.* Any material that has an LC_{50} of more than 75 parts per million by volume but not more than 200 parts per million or more than 0.75 milligram but not more than 2 milligrams per liter of vapor, mist, or dust when administered by continuous inhalation for 1 hour or less to both male and female rats, each weighing between 200 and 300 grams. If the product is administered to the animals as a dust or mist, more than 90 percent of the particles available for inhalation in the test must have a diameter of 10 microns or less.

(3) *Skin contact.* Any material that has an LD_{50} of greater than 100 milligrams but not more than 200 milligrams per kilogram of body weight when administered by continuous contact for 1 hour with the bare skin of rabbits, each weighing between 2.3 and 3.0 kilograms, according to the test procedure described in § 191.10 of 21 CFR Part 191.

Irritating materials. Materials would be classified as irritants if they would

[1] LD_{50}, LC_{50}: That dose (LD) or concentration (LC) which will cause death within 14 days to at least one-half of the test animals.

cause reversible local irritant effects on eyes, nose, or throat, or cause slight irritation to the skin of humans. In the absence of adequate data on human reaction, they would be presumed to be irritating if they fall within either of the following categories:

(1) *Skin irritation.* Any material with an average irritation score of 4 or more, but less than 6, according to the test procedures described in § 191.11 of 21 CFR Part 191. (If the score is 6 or more, the material would be classified as corrosive.)

(2) *Eye irritation.* Any material which exhibits a reaction with an average score of 2 or more according to the test for eye irritants described in § 191.12 of 21 CFR Part 191, and the "Illustrated Guide for Grading Eye Irritation by Hazardous Substances" prepared by the U.S. Department of Health, Education, and Welfare, and available from the U.S. Government Printing Office, Washington, D.C.

If human experience or other data indicate that the hazard of a given material that may be encountered during an accidental exposure in transportation is greater or lesser than indicated by the data from the specified animal tests, the classification for that specific material would be revised upward or downward.

If these classifications are adopted, appropriate changes will be required in the labels required to be applied to packages.

Interested persons are invited to give their views as to whether this approach is a reasonable and practical one. Alternative approaches, along with supporting data, will be welcome. Comments (identifying the docket number) should be submitted prior to September 4, 1970, in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

WILLIAM C. JENNINGS,
Director,
Office of Hazardous Materials.

[F.R. Doc. 70-7039; Filed, June 5, 1970; 8:47 a.m.]

National Highway Safety Bureau

[49 CFR Part 575]

[Docket No. 70-13; Notice 1]

MOTOR VEHICLE SAFETY REGULATIONS

Consumer Information; Effect of Vehicle Loading on Headlamp Aim

An advance notice of a proposed consumer information requirement on Illumination and Glare Produced by Headlamps was issued on October 5, 1968 (Docket No. 28-4, 33 F.R. 14971). As a result of comments received in response to that notice, and other information gathered since that time, this notice proposes a new consumer information requirement on Effect of Vehicle Loading on Headlamp Aim.

Limited tests have indicated that passenger car loading causes vehicle pitch angle changes ranging from a fraction of a degree to over 1.5°. An upward pitch change of 1.5° can increase the glare from low-beam headlamps more than 200 percent. An upward or downward pitch of 1.5° can also reduce by more than 50 percent the headway illumination by high beams on the critical portions of the road surface.

Since heavy commercial vehicles have spring rates that generally cause the pitch change as a result of loading to be smaller than that for lighter vehicles, and the cost of conducting tests increases with loading capabilities due to the number of design variations and limited production, the proposed regulation is limited in application to vehicles of gross vehicle weight rating of less than 10,000 pounds.

The proposed regulation would require vehicle manufacturers to indicate the amount of change in vehicle pitch between a load consisting of the driver only and a load that brings the vehicle up to its gross vehicle weight rating. The full-load condition would be described, in the required presentation, in terms of number of occupants and weight of cargo. The presentation would also provide a scale indicating to consumers the approximate effects on lighting and safety of various levels of pitch change. The figure provided for pitch change would be required to be accurate within specified tolerances: The actual figure for a particular vehicle to be no greater than, and not over 0.3° less than, the stated figure.

It is therefore proposed that Part 575, Consumer Information, of Title 49 of the Code of Federal Regulations be amended by adding a a new § 575.104, *Effect of vehicle loading on headlamp aim*, to read as set forth below. Interested persons are invited to submit written data, views, or arguments concerning the proposed rule. Comments should identify the docket number (70-10), and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received by the close of business on September 3, 1970, will be considered. All comments will be available for examination in the docket at the above address both before and after the closing date.

Proposed effective date: January 1, 1971.

This notice of proposed rulemaking is issued under the authority of sections 112 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401, 1407) and the delegation of authority by the Secretary of Transportation to the Director of the National Highway Safety Bureau, 49 CFR 1.51.

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

JUNE 1, 1970.

§ 575.104 Effect of vehicle loading on headlamp aim.

(a) *Purpose and scope.* This section requires manufacturers of certain motor vehicles to provide information concerning the effect of vehicle loading on headlamp aim.

(b) *Application.* This section applies to passenger cars, multipurpose passenger vehicles, and motorcycles, and to trucks and buses of less than 10,000 pounds gross vehicle weight rating (GVWR).

(c) *Requirements.* Each manufacturer shall furnish the information specified in subparagraphs (1) through (3) of this paragraph, in the form illustrated in Figure 1 of this section. The information shall include the textual notations shown in that figure, altered as necessary for the vehicles to which the information applies. Each vehicle in the group to which the information applies shall, if tested according to the conditions and procedures specified in this section, have a measured difference in the vertical angle of headlamp aim not greater than, and not over 0.3° less than, the value required to be furnished under subparagraph (3) of this paragraph.

(1) The group of vehicles to which the information applies, identified in the terms by which they are described to the public by the manufacturer.

(2) The number of occupants (designated seating positions) and the weight of cargo carried when the vehicle is loaded to its gross vehicle weight rating.

(3) The difference in the vertical angle of headlamp aim, expressed in degrees and 10ths of degrees, between the driver-only condition and the fully-loaded condition, obtained under the conditions and procedures set forth in paragraphs (d) and (e) of this section.

(d) *Conditions.* (1) The vehicle with driver-only load is at curb weight plus 150 pounds in the driver's designated seating position.

(2) The fully-loaded vehicle is loaded to its gross vehicle weight rating, with 150 pounds in each designated seating position, and the remaining load distributed according to the manufacturer's recommendations, or if there are no applicable recommendations, with the remaining load distributed evenly in the cargo-carrying areas of the vehicle.

(3) The ground surface on which the vehicle rests during the taking of the angular measurements has a grade of zero degrees.

(e) *Procedures.* (1) Adjust the tire pressure to the manufacturer's recommended cold inflation pressure.

(2) Drive the vehicle with driver-only load 3 miles on a smooth road at a speed of 30 miles per hour, and stop it

smoothly with a deceleration not to exceed 4 feet per second per second.

(3) Place the transmission in neutral, with the driver remaining in his seat and no further movement of the vehicle in any direction.

(4) Measure the longitudinal angular relationship to the ground surface of the sprung mass of the vehicle.

(5) Repeat the steps in subparagraphs (1) through (4) of this paragraph with the vehicle fully loaded.

(6) Calculate the difference between the two angular relationships measured above. If the vehicle contains no automatic device to correct vertical headlamp aim for the change in vehicle pitch, this difference represents the headlamp aim change value. If the vehicle contains such a device, adjust the value by the amount of vertical headlamp aim correction for vehicle pitch provided by the device.

FIGURE 1—EFFECT OF VEHICLE LOADING ON HEADLAMP AIM

Description of vehicles to which this information applies:----------

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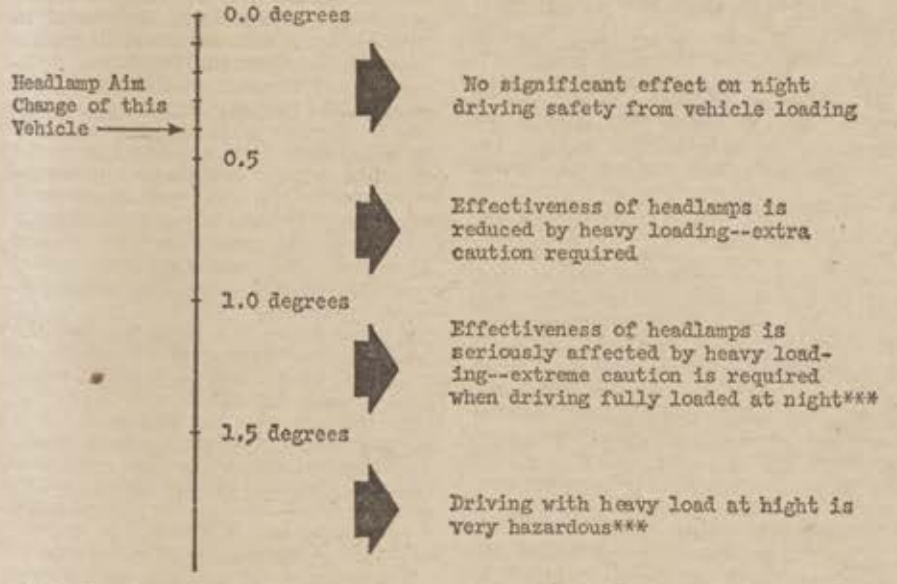
The headlamps on this vehicle, when properly aimed, provide maximum seeing distance without excessive glare to oncoming cars when only the driver is in the vehicle. When the vehicle is fully loaded, carrying 6* persons weighing 150 pounds each, and 300* pounds in the cargo area, the aim of the headlamps changes by 0.4* degrees upward.**

[*Insert proper figure. **Substitute "downward" where applicable]

The following chart gives an approximate indication of the effect of this aim change on night driving safety.

EFFECT OF HEAVY LOADING ON NIGHT DRIVING



* * * If you drive at night with a fully-loaded vehicle, or if you pull a trailer that puts a significant load on the rear of your car, consult your dealer on equipment options that can correct serious headlamp aim change conditions.

[F.R. Doc. 70-6969; Filed, June 5, 1970; 8:45 a.m.]

Office of Pipeline Safety

[49 CFR Part 190]

[Notice 70-9; Docket No. OPS-4]

INSPECTION AND MAINTENANCE PLANS

Notice of Proposed Rule Making

On December 31, 1969, the Office of Pipeline Safety issued a notice proposing to adopt requirements for the filing of inspection and maintenance plans to implement section 11 of the Natural Gas Pipeline Safety Act. A number of comments were received and several questions that were raised by the commenters must be resolved before a final rule is issued.

The purpose of this amendment of that notice is to announce that the proposed effective date of July 1, 1970, is no longer being considered and that it is now anticipated that the effective date of any rule adopted on this subject will be January 1, 1971. This will allow time for inspection and maintenance plans to be revised, as necessary to reflect the first comprehensive Federal pipeline safety standards which are expected to be issued by August 12, 1970, before they must be filed with this Department.

In requesting that the effective date be after the issuance of the comprehensive Federal regulations, several commenters indicated that inspection and maintenance plans could not be established until after these regulations are issued. However, it should be pointed out that under section 850.2 of the USAS B31.8 Code, each company is presently required to "[H]ave a plan covering operating and maintenance procedures * * *." When the other requirements of chapter 5 of the B31.8 Code are read, it is apparent that the operating and maintenance procedures required by section 850.2 would include the same kinds of procedures to be included in an "inspection and maintenance plan" as envisioned by section 11 of the Act. Thus, since the B31.8 Code is the basis for most of the present interim Federal gas pipeline safety regulations, each company subject to these regulations should already have some sort of plan in existence. Thus, the delay in establishing a requirement to implement section 11 of the Act does not relieve any pipeline company of its present obligation under the interim Federal regulations to have operating and maintenance procedures.

This amendment to notice 69-4 is issued under the authority of section 11 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. section 1671, et seq.), Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

Issued in Washington, D.C., on June 3, 1970.

WILLIAM C. JENNINGS,
Acting Director,
Office of Pipeline Safety.

[F.R. Doc. 70-7052; Filed, June 5, 1970; 8:48 a.m.]

[49 CFR Part 192]

[Notice 70-10; Docket No. OPS-5]

MINIMUM FEDERAL SAFETY STANDARDS FOR GAS PIPELINES

Requirements for Corrosion Control

On April 30, 1970, the Office of Pipeline Safety issued a notice of proposed rule making, notice 70-8, containing requirements for corrosion control (35 F.R. 7127). The purpose of this notice is to make certain changes in that proposal relating to cast iron and ductile iron pipe.

Proposed § 192.471 would require cathodic protection of existing coated and bare cast iron and ductile pipe. Upon further review, it has been determined that, with respect to cast iron or ductile iron pipe that has been installed in the ground for any extensive period of time, cathodic protection is of little if any benefit and therefore that this proposal is impractical. Therefore, to avoid unnecessary work by commenters, notice 70-8 is amended to delete proposed § 192.471.

In addition, notice 70-8 is being amended by adding a new paragraph (d) to proposed § 192.485 to provide that, for cast iron and ductile iron pipelines, mains, or service lines operated at less than 20 percent of specified minimum yield strength, isolated corrosion in a line where adjoining pipe has had no prior history of corrosion may be either repaired or sealed by internal sealing methods. Section 192.485 is further revised to make it clear that proposed paragraphs (a) and (b) are intended to apply to all pipe other than cast iron or ductile iron pipe.

Revised proposed § 192.485 reads as follows:

§ 192.485 Existing pipelines: Remedial measure; pipelines, mains, or service lines operating at less than 20 percent of specified minimum yield strength.

(a) Except for cast iron or ductile iron pipe, each pipeline, main, or service line operating at less than 20 percent of specified minimum yield strength found to be so generally corroded that the remaining wall thickness is less than 50 percent of the nominal wall thickness, must be replaced or, if the area is small, repaired.

(b) Except for cast iron or ductile iron pipe, if isolated corrosion pitting is found on a pipeline, main, or service line operating at less than 20 percent of specified minimum yield strength, the pipe must be repaired or replaced, unless the diameter of the corrosion pits, as measured by the surface of the pipe, is less than three times the nominal wall thickness, and the remaining wall thickness at the bottom of the pits is at least 30 percent of the nominal wall thickness.

(c) Each cast iron or ductile iron pipe operating at less than 20 percent of specified minimum yield strength, on which general graphitization is found to a degree where fracture or any leakage might result, must be replaced.

(d) Each cast iron or ductile iron pipe operating at less than 20 percent of specified minimum yield strength, on which isolated corrosion is found and on which the adjoining pipe has no history of corrosion, must be repaired or sealed by internal sealing methods adequate to prevent leakage.

This amendment to notice 70–8 is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. sec. 1671 et seq.), Part 1 of the regulations of the office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, office of Pipeline Safety dated November 6, 1968 (33 F.R. 16468).

Issued in Washington, D.C., on June 3, 1970.

W. C. JENNINGS,
Acting Director,
Office of Pipeline Safety.

[F.R. Doc. 70–7053; Filed, June 5, 1970; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18859]

FAIRNESS DOCTRINE

Obligations of Broadcast Licensees; Correction

The notice of inquiry and notice of proposed rule making, in the above-entitled matter, FCC 70–507, released May 18, 1970, and published in the FEDERAL REGISTER on May 21, 1970, 35 F.R. 7820, is corrected by adding a footnote to indicate "Commissioner Wells dissenting".

Released: June 1, 1970.

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

[F.R. Doc. 70–7061; Filed, June 5, 1970; 8:49 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

LAND RECORDS

Transfer of Records From Phoenix Title Plant to Southwest Title Plant

MAY 28, 1970.

In accordance with 25 CFR Part 120, and pursuant to authority delegated by Amendment No. 49 to Secretarial Order No. 2508 (26 F.R. 11395), notice is hereby given as follows:

On April 17, 1969, there was published in the FEDERAL REGISTER (34 F.R. 6619), a notice of the official transfer to the Phoenix Title Plant, Bureau of Indian Affairs, 124 West Thomas Road, Phoenix, Ariz., of land records and source title documents pertaining to Indian-owned trust or restricted lands under the jurisdiction of the Albuquerque, Anadarko, Muskogee, Navajo, and Phoenix Area Offices.

Effective May 4, 1970, the said Phoenix Title Plant will be closed and the records in its custody transferred to the Southwest Title Plant of the Bureau of Indian Affairs, located at Suite 1000, First National Bank Building-East, 5301 Central Avenue NE., Albuquerque, N. Mex. 87108. Therefore, the Southwest Title Plant will be the office of record for the recording and the maintenance of the land records for Indian-owned trust or restricted lands under the jurisdiction of the five Area Offices set forth above.

HAROLD D. COX,
Acting Commissioner.

[F.R. Doc. 70-7042; Filed, June 5, 1970; 8:47 a.m.]

Bureau of Land Management

[Serial No. A 702 A]

ARIZONA

Notice of Classification of Public Lands for Multiple-Use Management

MAY 28, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands described below are hereby classified for Multiple-Use Management. Publication of this notice has the effect of segregating all the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334), from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), and from private exchange (43 U.S.C. 315g(b)). All the described lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used in this order, the term "public lands" means any lands (1) withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The notice of proposed classification of these lands was published March 26, 1970, in 35 F.R. 5126. No comments adverse to the proposal were received and the classification is being made as proposed. These lands are within the area discussed in a public hearing held on May 9, 1967, in Fredonia, Ariz. They were proposed at that time for classification as provided in paragraph 1, but were inadvertently omitted from the notice of proposed classification appearing in 32 F.R. 9175 and 9176.

3. The lands involved are in Coconino County and are described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 40 N., R. 1 E.,
Secs. 4 to 9, inclusive;
Secs. 17 to 20, inclusive;
Sec. 28, N½ and SE¼SE¼;
Secs. 29 to 31, inclusive;
Sec. 33, E½E½, S½SW¼, and SW¼SE¼.

The land described aggregates 8,860 acres of public land.

4. The public lands classified in this notice are shown on maps on file and available for inspection in the Arizona Strip District Office, Bureau of Land Management, St. George, Utah, and Land Office, Bureau of Land Management, Federal Building, Phoenix, Ariz.

5. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

RILEY E. FOREMAN,
Acting State Director.

[F.R. Doc. 70-7062; Filed, June 5, 1970; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 10]

SALES OF CERTAIN COMMODITIES

Annual Sales List

The CCC Annual Sales List for the fiscal year ending June 30, 1970, published in 35 F.R. 2602, is amended as follows:

1. The provisions of section 18 entitled "Barley, export sales (bulk)" are deleted.

2. A section 24 is inserted and reads as follows:

24. *Rice, rough—export as milled or brown rice.* Competitive bids at market price but not less than minimum price for each lot stated on schedule issued by Kansas City ASCS commodity office under sales announcement GR-379 Revision II.

3. Section 30 entitled "Peanuts, shelled or farmers stock—Restricted use sales" is revised to read as follows:

30. *Peanuts, shelled—Restricted use sales.* When stocks are available in their area of responsibility, the quantity, type, and grade offered are announced in weekly lot lists or invitations to bid issued by the following:

GFA Peanut Association, Camilla, Ga. 31730.
Peanut Growers Cooperative Marketing Association, Franklin, Va. 23851.
Southwestern Peanut Growers' Association, Gorman, Tex. 76454.

Terms and conditions of sale are set forth in Announcement PR-1 of July 1, 1966, as amended, and the applicable lot list.

Shelled peanuts of less than U.S. No. 1 grade may be purchased for foreign or domestic crushing.

Sales are made on the basis of competitive bids each Wednesday by the Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250, to which all bids must be sent.

Signed at Washington, D.C., on June 2, 1970.

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

[F.R. Doc. 70-7077; Filed, June 5, 1970; 8:50 a.m.]

Food and Nutrition Service

ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Pursuant to the authority delegated to the Food and Nutrition Service in section 200 of the Statement of Organization and Delegations appearing at 34 F.R. 19475 as amended in 35 F.R. 4146, the Administrator, Food and Nutrition Service, makes the following Statement of Organization, Functions and Delegations of Authority of the Food and Nutrition Service.

ORGANIZATION AND FUNCTIONS

SECTION 1. *General.* The Food and Nutrition Service, hereinafter referred to as "FNS," was created by the Secretary of Agriculture on August 8, 1969, pursuant to his authority under Reorganization Plan No. 2 of 1953. The principal office of FNS is located at Washington, D.C. Program activity in the field is carried on through five regional offices.

SEC. 2. *The Office of the Administrator*—(a) *The Administrator.* The Administrator is responsible for the general

direction and supervision of programs and activities assigned to FNS. He reports to the Assistant Secretary for Marketing and Consumer Services.

(b) *Deputy Administrator, Program Operations.* The Deputy Administrator, Program Operations, is responsible for:

(1) Participating with the Administrator in the overall planning and formulation of all policies, programs, and activities of FNS; and

(2) Directing and coordinating the administration of Food and Nutrition Service programs, including the national school lunch program (7 CFR Part 210), the special milk program (7 CFR 215), the school breakfast program (7 CFR 220), the program for distribution of donated commodities acquired under the price support and surplus removal authorities (7 CFR Part 250), the food stamp program (7 CFR Parts 1600–1603), and related activities, and the food management phases of the civil defense and defense mobilization programs. These programs are carried out by three functional Divisions (Commodity Distribution, Food Stamp, and Child Nutrition), one program services staff (Program Reporting Staff), located at Washington, D.C., and by five Food and Nutrition Service Regional Offices in the field.

(c) *Deputy Administrator, Management.* The Deputy Administrator, Management, is responsible for:

(1) Participating with the Administrator in the overall planning and formulation of all policies, programs, and activities of FNS; and

(2) Directing and coordinating the administration and integration of the overall management, budget, fiscal, personnel, systems analysis, administrative services and the planning-programing-budgeting system necessary to meet the requirements of the food and nutrition programs of FNS, and assigned civil defense, defense mobilization, and related programs and activities. These programs and activities are carried out by the Budget and Planning, Finance and Program Accounting, Management Services, and Personnel Divisions, located at Washington, D.C.

SEC. 3. *Information.* The responsibility for planning and administering an information program involving the activities of FNS is in the Information Division of the Consumer and Marketing Service.

SEC. 4. *Food and Nutrition Service Programs.* The Child Nutrition Division, the Commodity Distribution Division, the Food Stamp Division, the Program Reporting Staff, and the Food and Nutrition Service Regional Offices, under the administrative direction of the Administrator and the Deputy Administrator for Program Operations, are responsible as follows:

(a) *Child Nutrition Division.* The Child Nutrition Division is responsible for:

(1) Planning and administering the programs authorized by the National School Lunch Act (42 U.S.C. 1751–1761), namely, the National School Lunch Program and the Special Food Service Program for Children, and the programs authorized by the Child Nutrition Act of 1966 (42 U.S.C. 1771–1785), namely the Special Milk Program, the School Breakfast and the Nonfood Assistance Programs and State Administrative Expenses, including technical services for these and other Food and Nutrition Service Programs.

(2) Participating in the purchase plans for commodities donated under section 6 of the National School Lunch Act (42 U.S.C. 1755) and planning the utilization of commodities donated under section 6 and under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and section 709 of the Food and Agricultural Act of 1965 (7 U.S.C. 1446a–1).

(3) Executing assigned civil defense and defense mobilization activities.

(b) *Commodity Distribution Division.* The Commodity Distribution Division is responsible for:

(1) Planning and administering the program for the donation and distribution of foods available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c); section 6 of the National School Lunch Act (42 U.S.C. 1755); section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); section 709 of the Food and Agricultural Act of 1965 (7 U.S.C. 1446a–1); and section 210 of the Agricultural Act of 1956 (7 U.S.C. 1859), except donation to Federal penal and correctional institutions;

(2) Planning and administering a program of monetary support to provide States and local governments with assistance in expanding and improving family distribution programs in needy households;

(3) Planning and administering the distribution of commodities for disaster and emergency relief; and

(4) Executing assigned civil defense and defense mobilization activities.

(c) *Food Stamp Division.* The Food Stamp Division is responsible for:

(1) Planning and administering the food stamp program authorized by the Food Stamp Act of 1964 (7 U.S.C. 2011), including coupon allotment, coupon issuance, negotiations with State agencies, and wholesaler-retailer operations; and

(2) Executing assigned civil defense and defense mobilization activities.

(d) *Program Reporting Staff.* The Program Reporting Staff is responsible for planning and providing for compilation and analysis of program and statistical data and reporting services for Food and Nutrition Service Program Divisions and Regional Offices.

(e) *Food and Nutrition Service Regional Offices.* Each Food and Nutrition Service Regional Office is responsible for:

(1) Planning, coordinating, and administering the Food and Nutrition Service programs within its region, and;

(2) Executing assigned civil defense and defense mobilization activities.

SEC. 5. *Management Services.* The Budget and Planning, Finance and Program Accounting, Management Services and Personnel Divisions, under administrative direction of the Administrator and the Deputy Administrator, Management, are responsible as follows:

(a) *Budget and Planning Division.* The Budget and Planning Division is responsible for:

(1) Planning and administering the budget and related programs, including legislative reporting, necessary to meet the requirements of the overall programs and activities of FNS;

(2) Developing and assisting in establishing required budgetary systems and controls with respect to apportionments, obligations, expenditures of available funds, and ceilings;

(3) Planning and administering agencywide systems for integrating long-range program plans with annual resource requirements; and

(4) Coordinating the planning and programing functions related to determination and accomplishment of goals and objectives of the agency within the planning-programing-budgeting system.

(b) *Finance and Program Accounting Division.* The Finance and Program Accouting Division is responsible for:

(1) Planning and administering the fiscal and related accounting programs necessary to meet the requirements of the overall programs and activities of FNS;

(2) Developing and assisting in establishing required systems and controls with respect to obligations and expenditures; and

(3) Developing, installing, and revising accounting systems, methods and procedures for FNS.

(c) *Management Services Division.* The Management Services Division is responsible for:

(1) Planning and administering procurement and supply, real and personal property, printing, records, communications, directives, forms, reports, paperwork, and related management services programs necessary to meet requirements of the overall programs and activities of FNS;

(2) Developing standards and procedures for the preparation of program dockets and authorities, and clearing for conformance with governing rules and regulations materials to be published in the FEDERAL REGISTER and the Code of Federal Regulations;

(3) Providing staff assistance to the Deputy Administrator, Management, with respect to committee management and civil defense activities in FNS;

(4) Planning and administering a broad program of review, research, analysis, and coordination in operations improvement work simplication as it relates to the efficiency and effectiveness of FNS program operations; and

(5) Leadership and coordination in the implementation of automatic data processing and related systems design.

(d) *Personnel Division.* The Personnel Division is responsible for planning and administering the organization, classification, wage and salary, employment, employee relations, equal employment opportunity, labor management relations, training, awards, safety, and health phases of a personnel program to

meet requirements of the overall programs and activities of FNS.

DELEGATIONS OF AUTHORITY

SEC. 6. *Deputy Administrators.* The Deputy Administrator, Program Operations, and the Deputy Administrator, Management, are hereby delegated the authority, severally, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is, or may be, reserved to the Administrator. Each Deputy Administrator shall be primarily responsible for the programs and activities of the Food and Nutrition Service herein or hereafter assigned to him.

SEC. 7. *Food and Nutrition Service Program Divisions, Regional Offices, and Program Reporting Staff.* The Directors of the Child Nutrition Division, the Commodity Distribution Division, the Food Stamp Division, the Program Reporting Staff, and the Food and Nutrition Service Regional Offices are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited), except such authority as is, or may be reserved to the Administrator and Deputy Administrators.

SEC. 8. *Management Services Division.* The Directors of the Budget and Planning, Finance and Program Accounting, Management Services, and Personnel Divisions are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited), except such as authority as is, or may be, reserved to the Administrator and Deputy Administrators.

SEC. 9. *Concurrent authority and responsibility.* No delegation or authorization prescribed herein shall preclude the Administrator or each Deputy Administrator, from exercising any of the powers or functions or from performing any of the duties conferred herein, and any such delegation or authorization is subject at all times to withdrawal or amendment by the Administrator and in their respective fields, by each Deputy Administrator. The officers to whom authority is delegated herein shall (a) maintain close working relationships with the officers to whom they report, (b) keep them advised with respect to major problems and developments, and (c) discuss with them proposed actions involving major policy questions or other important considerations or questions, including matters involving relationships with other Federal agencies, other agencies of the Department, other Divisions or Offices of FNS or other governmental or private organizations or groups.

SEC. 10. *Prior authorizations and delegations.* All prior delegations and redelegations of authority relating to any function, program, or activity covered by this Statement of Organization, Functions, and Delegations of Authority, shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked. Nothing herein shall affect the validity of any action heretofore taken under prior delegations or redelegations of authority or assignments of functions.

AVAILABILITY OF INFORMATION AND RECORDS

SEC. 11. *Availability of information and records.* Any person desiring information or to make submittals or requests with respect to the programs and functions of FNS should address his request to the Director of the appropriate Division, or, when applicable, to the Director, Program Reporting Staff, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, or to the Director of the appropriate Regional Office, as follows:

Northeast Region, Food and Nutrition Service, USDA, 26 Federal Plaza, Room 1611, New York, N.Y. 10007, for the following States and the District of Columbia: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia.

Southeast Region, Food and Nutrition Service, USDA, 1795 Peachtree Road NE., Room 302, Atlanta, Ga. 30309, for the following States: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, Puerto Rico, and the Virgin Islands.

Midwest Region, Food and Nutrition Service, USDA, 536 South Clark Street, Chicago, Ill. 60605, for the following States: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

Southwest Region, Food and Nutrition Service, USDA, 500 South Ervay Street, Room 3-127, Dallas, Tex. 75201, for the following States: Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, and Texas.

Western Region, Food and Nutrition Service, USDA, 630 Sansome Street, Room 734, San Francisco, Calif. 94111, for the following States: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, American Samoa, Guam, and the Trust Territories of the Pacific.

The availability of information and records of FNS is governed by the Code of Federal Regulations, Title 7, Chapter II, Part 295.

Issued at Washington, D.C., this 3d day of June 1970.

EDWARD J. HEKMAN,
Administrator.

[F.R. Doc. 70-7080; Filed, June 5, 1970; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

MOUNT SINAI HOSPITAL SCHOOL OF MEDICINE, NEW YORK

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. 70-00166-33-46500. Applicant: Mount Sinai Hospital School of Medicine, 10 East 102d Street, New York, N.Y. 10029. Article: Ultramicrotome, Model LKB 8800 Ultrotome III. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to produce ultrathin sections for electron microscopic examination of nervous tissue, primarily the study of synaptology. Because the continuity between nervous tissue elements is of primary concern, there is a need for extremely thin sections to determine the specific relationship between these synapsing structures. Therefore, it is mandatory to cut long series of equal thickness serial section. These sections should be easily varied by the operator between the values of 50 angstroms and 2 microns.

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, was being manufactured in the United States at the time the application was received.

Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument available at the time the application was received was the Model MT-2 ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 had a guaranteed minimum thickness capability of 100 angstroms. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 20, 1970, that a minimum thickness capability of less than 100 angstroms is pertinent to the applicant's research studies.

We, therefore, find that the Sorvall Model MT-2 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 was being manufactured in the United States at the time the application was received.

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

[F.R. Doc. 70-7005; Filed, June 5, 1970; 8:45 a.m.]

NORTHWESTERN 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. 70-00421-99-46040. Applicant: Northwestern University, Department of Materials Science, 2145 Sheridan Road, Evanston, Ill. 60201. Article: High voltage electron microscope and automatic tilting, rotating and heating stage Model HU-200E. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used to study the structure and properties of materials, primarily by the faculty, staff, and graduate students. The following research projects will utilize the microscope in the immediate future.

1. The dynamic observation of electron irradiation in situ.
2. The direct observation of heat treatments of specimen in the microscope.
3. The structural study of fatigued copper and copper alloys.
4. The study of high temperature materials with the emphasis on the 3-D morphology and second phases.
5. The structure and diffraction analysis of small defect clusters.
6. The dislocation structures in magnesium and magnesium-lithium alloys and their annealing out during heating.
7. Phase transformation in tin.
8. The simultaneous observation of surface and internal structure of metals.
9. Precipitation hardening in gold based alloys.
10. The dynamic observation of plastic deformation of metals in the microscopes.
11. Structural study of magnetic phase in oxide.

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 a maximum accelerating voltage of 200 kilovolts. The most closely comparable domestic instrument is the Model EMU-4B which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo Corp. (Forgflo). The Model EMU-4B has a specified maximum accelerating voltage of 100 kilovolts.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated April 21, 1970, that the higher accelerating voltage provides proportionately greater penetrating power and, consequently, higher resolution for a specimen of a given thickness. NBS further advises that due to the nature of the material on which research will be conducted with the use of the foreign article, relatively thick specimens must be used in the experiments and, therefore, the higher accelerating voltage of the foreign article is a pertinent characteristic.

For these reasons, we find that the Model EMU-4B 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 being manufactured in the United States, which is of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

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

[F.R. Doc. 70-7006; Filed, June 5, 1970; 8:45 a.m.]

UNIVERSITY OF CONNECTICUT

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. 70-00255-33-46500. Applicant: University of Connecticut Health Center, Farmington Site, Route 4, Farmington Avenue, Farmington, Conn. 06032. Article: Ultramicrotome, Model "OmU2". Manufacturer: C. Reichert Optische Werke A.G., Austria.

Intended use of article: The article will be used to section material embedded in a variety of embedding media. The major project will concern the ultrastructure nucleoli either in situ or isolated from hepatic parenchymal cells.

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, was being manufactured in the United States at the time the application was received.

Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument available at the time the application was received was the Model MT-2 ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 had a guaranteed minimum thickness capability of 100 angstroms. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 22, 1970, that a minimum thickness capability of less than 100 angstroms is pertinent to the applicant's research studies.

We, therefore, find that the Sorvall Model MT-2 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 was being manufactured in the United States at the time the application was received.

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

[F.R. Doc. 70-7007; Filed, June 5, 1970; 8:45 a.m.]

[Docket No. 20291; Order 70-6-16]

CIVIL AERONAUTICS BOARD

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority June 2, 1970.

By Order 70-5-71, dated May 18, 1970, action was deferred with a view toward eventual approval on an agreement adopted by Traffic Conference 1 of the International Air Transport Association (IATA). The agreement proposes to establish 7-21-day group inclusive tour (GIT) fares for 15 or more passengers traveling between Kingston/Montego Bay and Los Angeles/San Diego/San Francisco.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within

the filing period and the tentative conclusions in Order 70-5-71 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21724 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-7073; Filed, June 5, 1970; 8:50 a.m.]

[Docket No. 20993; Order 70-6-17]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority June 2, 1970.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated May 4, 1970, reflects an increase in a specific commodity rate from 34 to 45 cents per kilogram for shipments of foodstuffs (Commodity Item 0003), with a minimum weight of 1,000 kilograms, from Los Angeles to Papeete. Despite this increase, the proposal provides a substantial reduction from the otherwise applicable general cargo rate.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act, provided that tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 21753, R-3, be and hereby is deferred with a view toward eventual approval: *Provided*, That approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-7074; Filed, June 5, 1970; 8:50 a.m.]

[Docket No. 22250; Order 70-6-25]

WTC AIR FREIGHT

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of June 1970.

By tariff revision filed May 6, marked to become effective June 5, 1970, WTC Air Freight, an air freight forwarder, (WTC) proposes to reduce the dollar valuation per shipment for which it is liable at no extra charge and to increase charges for excess value on parcel post shipments. These are shipments consigned to a U.S. Post Office, which are to move beyond in postal service. The forwarder proposes to reduce its "free" valuation dollar amount from $50 to $25 per shipment; the alternative of 50 cents per pound would remain in effect. Excess valuation charges would be increased from 15 cents per $100 by which the declared value for a shipment exceeds 50 cents per pound or $50 per shipment, whichever is higher, to charges in accordance with the following table:

When the amount by which the declared value on the air-bill exceeds $0.50 per pound or $25 (whichever is higher) is:	The additional charge is:
$0.01 to $15.00	$0.20
$15.01 to $50.00	0.30
$50.01 to $100.00	0.40
$100.01 to $150.00	0.50
$150.01 to $200.00	0.60
$200.01 and over	0.60 for each $100 (or fraction thereof)

The proposed charges are marked to expire June 5, 1971.

Upon consideration of all relevant factors, the Board finds that the proposals may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and should be suspended pending investigation.

WTC's proposal would reduce its free valuation by 50 percent and increase its excess value charges by up to 300 percent, but the forwarder has not submitted adequate justification for those increases.[1] WTC asserts that large numbers of parcel post shipments have been stolen because of the small size of parcel post packages and their high value. The forwarder presents detailed data showing that in 1967 and 1968 the total dollar amount of parcel post claims was much greater than excess value charges for such shipments. From these data the forwarder contends that its excess value rates are unduly low.

The foregoing comparison is defective in that WTC assumes that the excess valuation charges should cover the total amount of the claims on the traffic for which excess valuation was declared. Excess valuation charges as set forth in the tariff, however, are by definition imposed to cover only the forwarder's additional liability over and above that assumed by it under the $0.50 per pound or $50 declared value provision.

For a proper comparison, excess valuation charges should be compared with that element of the claims paid on excess valuation shipments over and above the $50 amount for which WTC is liable under the $0.50–$50 rule.

In support of its proposed reduction in free valuation from $50 to $25 per shipment, WTC presents data indicating that 79 percent of the dollar value of all parcel post shipment claims paid are $25 per shipment or more. Of the foregoing, 24 percent of the amount of claims is between $25 and $50 per shipment and 55 percent is for larger claims. This leaves only 21 percent of the total amount for claims $25 or less.

Contrary to WTC's contention, however, the foregoing indicates that the free valuation should not be reduced to $25 since only a minor part of the claims falls in this category. In fact, the forwarder's data show that the bulk of the claims is over $50.

The Board is aware that the excess value charges proposed by WTC are similar to the insurance rates established by the U.S. Post Office for parcel post traffic. The rates are identical to those of the Post Office but the latter's rates do not provide for any free valuation and involve a maximum limitation of $200 of liability. Postal operations are not comparable to those of a common carrier and postal rules have never been considered as a standard for the liability rules of a common carrier.

The Board would consider revisions to WTC's excess value charges upon an adequate showing that existing charges do not cover the amount of claims which stem solely from declarations of excess valuation.[2]

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[1] The Board, by Orders E-22846, Nov. 4, 1965, and 69-2-10, Feb. 3, 1969, suspended and set for investigation proposals by WTC to increase excess value charges on this traffic to $5 and $2, respectively. The former proposal also included a reduction of free valuation from $50 to $25 per shipment. These proposals were suspended essentially on the ground that the forwarder did not present any factual data as to the actual extent of loss for parcel post traffic and that the proposed rates would be reasonable in the light of experienced claim costs. WTC canceled both of the suspended proposals.

[2] Cf., "Increased valuation and c.o.d. charges proposed by Railway Express Agency, Inc.," 27 CAB 542 (1958). The Board after investigation found REA's proposed increases in excess valuation and c.o.d. charges unjust and unreasonable chiefly on the ground that REA had failed to sustain the burden of coming forward with evidence to show what the increased costs of such services are. In similar actions, the Board suspended, pending investigation, (1) increased excess valuation charges proposed by REA (Order E-13820, May 1, 1959); (2) increased excess valuation charges proposed by Bekins Airvan Co. (Order E-23746, May 27, 1966); (3) increased excess valuation rates by Astro Air Express, Inc., and Comet Air Freight (Order 69-4-26, Apr. 4, 1969), and (4) increased excess valuation rate proposed by Medallion Air Freight Corp. (Order 70-5-22, May 6, 1970).

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the:

(1) Provisions in the Exception to paragraph (a) of Rule No. 35;

(2) Provisions reading "except as provided in Exception No. 4 below," in Exception No. 1, Exception No. 2, and Exception No. 3 to paragraph (b) of Rule No. 35; and

(3) Provisions and charges in Exception No. 4 to paragraph (b) of Rule No. 35,

on 21st revised page 10 of WTC Air Freight's CAB No. 7, and rules, regulations, and practices affecting such provisions and charges, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions and charges, and rules, regulations, or practices affecting such provisions and charges;

2. Pending hearing and decision by the Board, the:

(1) Provisions in the Exception to paragraph (a) of Rule No. 35;

(2) Provisions reading "Except as provided in Exception No. 4 below," in Exception No. 1, Exception No. 2, and Exception No. 3 to paragraph (b) of Rule No. 35; and

(3) Provisions and charges in Exception No. 4 to paragraph (b) of Rule No. 35,

on 21st revised page 10 of WTC Air Freight's CAB No. 7 are suspended and their use deferred to and including September 2, 1970, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. The proceeding herein be assigned to hearing before an examiner of the Board at a time and place hereafter to be designated; and

4. A copy of this order shall be filed with the tariff and served upon WTC Air Freight, which is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-7075; Filed, June 5, 1970; 8:50 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Confidential Assistant to the Secretary, Office of the Secretary.

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

[F.R. Doc. 70-7031; Filed, June 5, 1970; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under the authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary for Public Affairs, Office of Public Affairs, Office of the Secretary.

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

[F.R. Doc. 70-7032; Filed, June 5, 1970; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Solicitor for Mine Health and Safety, Office of the Solicitor.

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

[F.R. Doc. 70-7033; Filed, June 5, 1970; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18285; FCC 70-543]

BLUEGRASS BROADCASTING CO., INC.

Memorandum Opinion and Order Revising Issues

In regard application of Bluegrass Broadcasting Co., Inc., Lexington, Ky., for renewal of license of standard broadcast station WVLK, Lexington, Ky.; File No. BR-1953.

1. The Commission has under consideration: (a) An order (FCC 68-811), released by the Commission on August 5, 1968, designating for hearing the application of Bluegrass Broadcasting Co., Inc. (hereinafter Bluegrass) for renewal of the license for standard broadcast station WVLK, Lexington, Ky., on a number of issue; (b) a petition for reconsideration, filed September 4, 1968, by Bluegrass; an opposition, filed September 18, 1968, by the Chief, Broadcast Bureau; and a reply, filed September 30, 1968, by Bluegrass; and (c) a petition for reconsideration and grant without hearing, filed September 15, 1969, by Bluegrass; an opposition, filed November 21, 1969, by the Chief, Broadcast Bureau; and a reply, filed December 15, 1969, by Bluegrass.

2. This proceeding was initiated pursuant to an investigation conducted by the Commission's staff which disclosed extensive improprieties by Bluegrass including the fraudulent billing of advertisers. On the basis of this investigation, we designated Bluegrass' renewal application for hearing on the following issues (FCC 68-811, released August 5, 1968):

(1) To determine the extent to which the applicant herein has engaged in fraudulent billing practices.

(2) To determine whether the applicant misrepresented its policy on commercial time standards.

(3) To determine whether in written or oral statements to the Commission the applicant or its agents, employees or representatives misrepresented facts to the Commission or were lacking in candor.

(4) To determine whether the applicant falsified its program logs during August 1967.

(5) To determine whether the applicant violated §§ 73.111 and 73.112 of the Commission's rules.

(6) To determine whether the applicant conformed to its proposals regarding public service announcements.

(7) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the applicant herein has exercised reasonable licensee responsibility in the management of the station, and possesses the requisite qualifications to continue to be a licensee of the Commission.

(8) To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application for renewal of the license of Station WVLK would serve the public interest, convenience and necessity.

Although several of the improprieties and violations occurred within 1 year of the release date of the designation order, that order did not include a notice of apparent liability for a monetary forfeiture. On October 18, 1968, the Review Board added an issue which would permit consideration of Bluegrass's past broadcast record.

3. In its first petition for reconsideration, Bluegrass requests modification of the designation order to permit consideration of a monetary forfeiture as a possible alternative sanction. In its petition for reconsideration and grant without hearing, Bluegrass admitted several of the alleged improprieties including the fraudulent billing of its advertisers for

approximately $34,000 worth of advertising which was never broadcast. It asserted, however, that there were mitigating circumstances which warranted a grant of its renewal application. Bluegrass argued that the wrongdoing resulted from the acts of one man, an employee of long standing upon whom it reasonably felt it could rely, and that it had always taken reasonable precautions and utilized accepted business practices to avoid improprieties. It concluded that in light of its past broadcast record it should be accorded a "second chance." Although Bluegrass did not waive its right to a hearing, it stated that it would accede to a short-term renewal of its license and the assessment of a monetary forfeiture.

4. We shall first consider Bluegrass' petition for reconsideration and grant without hearing, which, if granted, would render moot the prior petition for reconsideration. In the request for a grant without hearing, Bluegrass admitted many of the charges made by the Broadcast Bureau. Our review of the pleadings convinces us that although the parties have resolved many of the questions raised in this proceeding, the pleadings clearly indicate that there remain substantial differences between them, particularly with respect to Bluegrass' denial of responsibility for the wrongdoing, its assertion that it took adequate precautions, its alleged lack of candor, and its alleged misrepresentations. These questions can only be resolved in a full evidentiary hearing. Norman W. Hennig, 7 FCC 968 (1967).

5. In its first petition for reconsideration, Bluegrass expresses its willingness to waive the 1-year statute of limitations contained in section 503(b)(3) of the Communications Act.[1] Bluegrass envisages that such a waiver would enable us to consider the imposition of a monetary forfeiture as an alternative lesser sanction than outright denial of its renewal application.

6. We do not reach the question of whether we are precluded by the express provisions of section 503 of the Communications Act from adding the forfeiture issue and from accepting the waiver offered by Bluegrass. Assuming, arguendo, that we could add the forfeiture issue, we have decided that the addition of the issue is not warranted in this case. In our designation order, we chose not to include a forfeiture issue because of the seriousness of the misconduct with which Bluegrass was charged. Bluegrass's latest pleadings do not persuade us to change that determination at this juncture. We emphasize, however, that our refusal to designate a forfeiture issue is not a prejudgment of the merits of this case. In the designation order, we intimated no judgment as to whether Bluegrass had in fact engaged in the misconduct charged against it. We simply held that if the evidentiary hearing substantiates the allegations against Bluegrass, a monetary forfeiture would not be an appropriate sanction.

7. In reviewing the issues designated for hearing, sua sponte, we have concluded that some confusion may result from the wording of Issue "7".

8. *Accordingly, it is ordered,* That issues "7" and "8" are revised to read:

(7) To determine whether the applicant herein has exercised reasonable licensee responsibility in the management of the station.

(8) To determine whether the applicant herein possesses the requisite qualifications to continue to be a licensee of the Commission.

(9) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application for renewal of the license of Station WVLK would serve the public interest, convenience and necessity.

9. *It is further ordered,* That the petition for reconsideration, filed September 4, 1968, and the petition for reconsideration and grant without hearing, filed September 15, 1969, by Bluegrass Broadcasting Co., Inc., are denied.

Adopted: May 20, 1970.

Released: June 2, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-7058; Filed, June 5, 1970; 8:48 a.m.]

[Docket No. 18869; FCC 70-567]

NORTHWESTERN COMMUNICATIONS CORP.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of Northwestern Communications Corp., Bentonville, Ark., requests: 1140 kc., 500 w., Day, for construction permit; File No. BP-17860.

1. The Commission has before it for consideration (a) the above application; (b) petition to deny the application by KAMO, Inc. (KAMO), licensee of station KAMO, Rogers, Ark.; and (c) pleadings in opposition and reply thereto.

2. The petitioner bases its claim of standing as a party in interest on the allegation that the proposed new station would be located within its service area and compete with it for advertising revenue. The Commission finds that the petitioner has standing as a party in interest within the purview of section 309(d)(1) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission's rules. FCC v. Sanders Bros. Radio Station, 309 U.S. 470 (1940).

3. KAMO, Inc., in its petition to deny, alleges that 21 of the 45 individuals listed by the applicant as having been consulted with respect to community needs were never actually interviewed. In support of this claim, KAMO submitted 21 affidavits in which contact with the applicant is categorically denied. Five additional affidavits were filed by listed individuals denying the statements attributed to them by the applicant. Thus, KAMO concludes that not only does this situation cast doubt on the adequacy of Northwestern's survey, but also raises an issue with respect to the applicant's character qualifications.

4. In opposition to KAMO's petition, the applicant generally denied petitioner's allegations and asserted that the charges were groundless. A number of counter affidavits were filed, many of which tended to corroborate the applicant's claims. On the other hand, however, there are still approximately a dozen of KAMO's affidavits from persons denying that they were consulted which remain uncontroverted. Thus, it appears that because this matter cannot be resolved on the basis of pleadings, substantial and material questions of fact exist which must be explored in hearing. Accordingly, issues with respect thereto will be specified.

5. In response to a Commission letter advising applicants of the release of our notice of inquiry in re "Primer on Ascertainment of Community Problems by Broadcast Applicants", FCC 69-1402, the applicant, on April 15, 1970, filed an amendment to its application. This amendment sought to bring the proposal into compliance with the primer standards regarding ascertainment of community needs. Since examination of this amendment indicates that the applicant has met these standards, a Suburban[1] issue with respect thereto will not be included. This action, of course, is independent of our inquiry into the questions raised as to the applicant's original survey.

6. Examination of Northwestern's financial showing indicates that it is not current and for that reason it will be necessary for the applicant to establish its financial qualifications in hearing.

7. Except as indicated by the issues specified below, the applicant is qualified. However, in view of the foregoing, the Commission is unable to find that a grant of the application would serve the public interest, convenience and necessity, and is of the opinion that it must be designated for hearing on the issues set forth below.

8. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

[1] Section 503(b) provides:

No forfeiture liability * * * shall attach for any violation occurring more than 1 year to the date of issuance of the notice of apparent liability and in no event shall the forfeiture imposed for the acts or omissions set forth in any notice of apparent liability exceed $10,000.

[2] Chairman Burch abstaining from voting; Commissioner Robert E. Lee absent. Commissioner Wells dissenting in part and concurring in part and issuing a statement which is filed as part of the original document.

[1] Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961).

(1) To determine whether the applicant made intentional misrepresentations of fact with respect to its ascertainment of community needs.

(2) To determine, in light of the evidence adduced pursuant to issue 1, above, whether the applicant has the qualifications to be a licensee of the Commission.

(3) To determine whether the applicant is financially qualified to construct and operate its proposed station.

(4) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

9. *It is further ordered*, That, the petition to deny by KAMO, Inc., is granted to the extent indicated above and is denied in all other respects.

10. *It is further ordered*, That, KAMO, Inc., licensee of station KAMO, Rogers, Ark., is made a party to the proceeding.

11. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 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.

12. *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: May 27, 1970.

Released: June 2, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]

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

[F.R. Doc. 70-7059; Filed, June 5, 1970; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RP70-30]

ALGONQUIN GAS TRANSMISSION CO.

Order Providing for Hearing, Suspending Proposed Revised Tariff Sheets and Providing Hearing Procedures

MAY 28, 1970.

Algonquin Gas Transmission Co. (Algonquin) on April 16, 1970, tendered for filing proposed changes in its FPC Gas Tariff, Volumes Nos. 1[3] and 2.[4] The proposed changes would result in estimated increased jurisdictional revenues of $12.3 million annually, based upon operations and sales for the year ending December 31, 1969, as adjusted. The changes are proposed to become effective June 1, 1970, or such date as the Commission may fix for the proposed rate increase of Texas Eastern Gas Transmission Co. in Docket No. RP70-29.

Algonquin states that the proposed increase is necessary to compensate it for the increases in its cost of purchased gas, the cost of capital and other cost increases. Algonquin claims that its overall rate of return should be 8.5 percent in order to attract capital and to afford a prospective return to already invested capital. In addition to the proposed rate changes, Algonquin proposes changes in the unauthorized overrun provisions in Rate Schedules F-1, WS-1, T-1; changes in the general terms and conditions of its tariff related to delayed payment of bills and disputed bills and lateral line policy.

By filing of April 20, 1970, Algonquin requested that the proposed tariff sheets related to delayed payment of bills be accepted without suspension or, if suspended, the suspension should be limited to 1 day only. Boston Gas Co. et al.,[5] by answer filed May 13, 1970, opposes eliminating or shortening the suspension period without a hearing. We are of the view that good cause has not been shown for the limited suspension requested by Algonquin.

A review of the filing indicates that certain issues are raised therein which require development in an evidentiary proceeding. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

At the prehearing conference hereinafter ordered, we contemplate that all parties will be fully prepared to discuss the stipulation of noncontroverted facts, the definition of issues to be tried, as well as any other substantive and procedural problems involved in this proceeding. The parties are expected to fully effectuate the intent of § 2.59 of the Commission's rules of practice and procedure. In the exercise of the authority delegated to him under § 1.27 of the rules, the Presiding Examiner, in the exercise of his discretion, may determine, which issues, if any, shall be heard in an initial phase of the hearing; and set dates for service of testimony and exhibits by staff and intervenors, the rebuttal evidence of the applicant and commencement of cross-examination, which will serve to proceed with such hearing as expeditiously as feasible.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Algonquin's FPC Gas Tariff, Original Volume No. 1 and Original Volume No. 2, as proposed to be amended, and that the proposed tariff sheets listed above be suspended and use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of this proceeding be expedited in accordance with the procedures set forth below.

(3) The request for elimination of suspension period only as to late payment provision amendment filed on April 20, 1970, by Algonquin be denied.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing at 10 a.m. on July 22, 1970, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Algonquin's FPC Gas Tariff, Original Volume No. 1 and Original Volume No. 2, as proposed to be amended.

(B) Pending such hearing and decision thereon, Algonquin's proposed revised tariff sheets listed above are hereby suspended and the use thereof is deferred until November 1, 1970, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Presiding Examiner Arthur H. Fribourg or any other designated by the Chief Examiner for the purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

(D) At the hearing on July 22, 1970, Algonquin's prepared testimony (Statement P) filed and served on April 30, 1970, together with its entire rate filing as submitted and served on April 16, 1970, shall be submitted to the record as Algonquin's complete case-in-chief as provided in the Commission's regulations, § 154.63(e)(1), and Order No. 254, 28 FPC 495, 496, without prejudice to the motions by other parties to exclude or strike this or other evidence.

(E) Following admission of Algonquin's complete case-in-chief, the parties shall proceed to effectuate the intent and purposes of § 2.59 of the Commission's

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[2] Commissioners Burch, Chairman, and Johnson absent.

[3] Volume No. 1: 11th Revised Sheet No. 5, Fifth Revised Sheet No. 6, Sixth Revised Sheet No. 7, 11th Revised Sheet No. 10, 12th Revised Sheet No. 11-A and No. 12, 11th Revised Sheet No. 14, Eighth Revised Sheet No. 15-J, Third Revised Sheet No. 15-M and No. 15-O.

[4] Volume No. 2: 12th Revised Sheet No. 4 and Ninth Revised Sheet No. 57.

[5] Boston Gas Co., et al. represents 15 customers of Algonquin.

rules of practice and procedure and of this order as set forth above.

(F) The request for elimination of suspension period only as to late payment provision amendment filed on April 20, 1970, by Algonquin is denied.

By the Commission.

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

[F.R. Doc. 70-7013; Filed, June 5, 1970; 8:45 a.m.]

[Docket No. RP64-9, etc.]

CITIES SERVICE GAS CO.

Notice of Filing of Stipulation and Agreement

MAY 28, 1970.

Take notice that on May 25, 1970, Cities Service Gas Co. (Gas Company) filed a request for approval of a stipulation and agreement in Dockets Nos. RP64-9, RP68-16, RP69-39, and RP70-22. The stipulation and agreement is a result of discussions among Gas Company, the Commission's staff, and interested parties in the above entitled proceedings. The stipulation and agreement which, among other things, provides for refunds in the amount of $30 million, represents a settlement of all issues relating to Gas Company's purchases of gas produced from the producing properties in the Texas-Panhandle and Oklahoma-Hugoton fields as were involved in Opinion No. 542 (39 F.P.C. 1034 at 1036) and covers Gas Company's purchases of such gas for all periods of time from April 23, 1964, including such volumes of purchases as are involved in Dockets Nos. RP64-9, RP68-16, and RP69-39, and which may be involved in any other pending or future proceedings before the Commission concerning Gas Company.

Copies of the stipulation and agreement were served on all of the parties to the proceedings in Dockets Nos. RP64-9, RP68-16, RP69-39, RP70-22, all of Cities Service Gas Co.'s jurisdictional customers, and all interested State commissions.

Comments with respect to the proposed stipulation and agreement may be filed with the Commission on or before June 18, 1970.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-7010; Filed, June 5, 1970; 8:45 a.m.]

[Docket No. E-7490]

CONSUMERS POWER CO.

Notice of Supplemental Application

MAY 28, 1970.

Take notice that on May 25, 1970, Consumers Power Co. (applicant) filed a supplemental application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance and sale from time to time on or before December 31, 1971, of promissory notes to banks and commercial paper to commercial paper dealers up to but not exceeding $120 million in aggregate principal amount. By order of September 2, 1969, the Commission authorized applicant to issue and sell from time to time prior to December 31, 1970, promissory notes to evidence bank borrowings and commercial paper up to but not exceeding $90 million in aggregate principal amount.

Applicant is incorporated under the laws of the State of Michigan, with its principal place of business in Jackson, Mich., and is engaged in the electric and natural gas utility business in the State of Michigan.

The bank notes will mature not later than 9 months from the date of issue and will carry an interest rate of not more than the prime rate in effect at the banks at the time of issuance. The commercial paper will mature not later than 270 days from date of issue and will carry an interest rate which will be dependent on the terms of the note and the money market conditions at the time of issuance.

Applicant proposes to use the proceeds from the issuance of the securities to provide a portion of the funds necessary for the construction, completion, extension and improvement of facilities, the cost of which is expected to total $261,399,000 in 1970 and $282,326,000 in 1971.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 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. 70-7011; Filed, June 5, 1970; 8:45 a.m.]

[Docket No. RP70-31]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Proposed Changes in Rates and Charges; Correction

MAY 27, 1970.

In the notice of proposed changes in rates and charges, issued May 8, 1970 and published in the FEDERAL REGISTER May 15, 1970 (35 F.R. 7622), in the first paragraph, the last sentence, "November 1, 1970" should read "November 1, 1971".

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-7008; Filed, June 5, 1970; 8:45 a.m.]

[Docket No. CP70-283]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

MAY 27, 1970.

Take notice that on May 19, 1970, Panhandle Eastern Pipe Line Co. (Applicant), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP70-283 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing upon the issuance of the Commission's order, and operation of facilities to enable applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally coextensive with said system.

The application states that the total cost of all facilities will not exceed $7 million, and that the total cost of facilities for any single project will not exceed $1 million. The proposed facilities are to be financed by funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 19, 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. 70-7012; Filed, June 5, 1970; 8:45 a.m.]

[Docket No. RP70-34]

PLAQUEMINES OIL & GAS CO.

Notice of Proposed Changes in Rates and Charges; Correction

MAY 27, 1970.

In the notice of proposed changes in rates and charges, issued May 12, 1970 and published in the FEDERAL REGISTER May 14, 1970 (35 F.R. 7524), the third paragraph should read "served on Tennessee Gas Pipeline Co., a division of Tenneco Inc." instead of "served on customers and interested State regulatory agencies."

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-7009; Filed, June 5, 1970; 8:45 a.m.]

[Docket No. RP70-29]

TEXAS EASTERN TRANSMISSION CORP.

Order Providing for Hearing, Suspending Proposed Revised Tariff Sheets and Providing Hearing Procedures

MAY 28, 1970.

Texas Eastern Transmission Corp. (Texas Eastern) on April 16, 1970, tendered for filing proposed changes in its FPC Tariff, Second Revised Volume No. 1[1] and Original Volume No. 2.[2] The proposed changes would result in an estimated increase in jurisdictional revenues of $60,150,000 annually. The changes are proposed to become effective June 1, 1970.

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

A review of the filing indicates that certain issues are raised therein which require development in an evidentiary proceeding. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

At the prehearing conference hereinafter ordered, we contemplate that all parties will be fully prepared to discuss the stipulation of noncontroverted facts, the definition of issues to be tried, as well as any other substantive and procedural problems involved in this proceeding. The parties are expected to fully effectuate the intent of § 2.59 of the Commission's rules of practice and procedure. In the exercise of the authority delegated to him under § 1.27 of the rules, the Presiding Examiner, in the exercise of his discretion, may determine, which issues, if any, shall be heard in an initial phase of the hearing; and set dates for service of testimony and exhibits by staff and intervenors, the rebuttal evidence of the applicant and commencement of cross-examination, which will serve to proceed with such hearing as expeditiously as feasible.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Texas Eastern's FPC Gas Tariff, as proposed to be amended, and that the proposed tariff sheets listed above be suspended and use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of this proceeding be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing at 10 a.m. on July 22, 1970, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Texas Eastern's FPC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Texas Eastern's proposed revised tariff sheets listed above are hereby suspended and the use thereof is deferred until November 1, 1970, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Presiding Examiner Ewing G. Simpson or any other designated by the Chief Examiner for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

(D) At the hearing on July 22, 1970, Texas Eastern's prepared testimony (Statement P) filed and served on April 30, 1970, together with its entire rate filing as submitted and served on April 16, 1970, shall be submitted to the record as Texas Eastern's complete case-in-chief as provided in the Commission's regulations, § 154.63(e)(1), and Order No. 254, 28 FPC 495, 496, without prejudice to the motions by other parties to exclude or strike this or other evidence.

(E) Following admission of Texas Eastern's complete case-in-chief, the parties shall proceed to effectuate the intent and purposes of § 2.59 of the Commission's rules of practice and procedure and of this order as set forth above.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-7015; Filed, June 5, 1970; 8:45 a.m.]

[Docket No. RP70-33]

TEXAS GAS TRANSMISSION CORP.

Order Permitting Tracking of Purchased Gas Increase, and Suspending Proposed Revised Tariff Sheets Pending Effectiveness of Supplier Rate Increase

MAY 28, 1970.

Texas Gas Transmission Corp. (Texas Gas), on May 4, 1970, tendered for filing in Docket No. RP70-33 proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1,[1] designed solely to track the rate increase filed by its supplier, Texas Eastern Transmission Corp. (Texas Eastern) on April 16, 1970, in Docket No. RP70-29 and to become effective on June 1, 1970, or such other day as the increased rates proposed by Texas Eastern become effective, subject to refund, or otherwise.[2] The proposed rate changes would increase charges for Texas Gas' jurisdictional sales by $3,100,776 annually, based upon volumes for the 12-month period ended March 31, 1969, as adjusted. Rates would be increased under all sales rate schedules.

Texas Gas requests waiver of § 154.66 (b) of the Commission's regulations to

[1] Proposed Revised Tariff Sheets: First Revised Sheet No. 10B; Fourth Revised Sheets Nos. 25, 57, 65K; Seventh Revised Sheet No. 10A; Eighth Revised Sheets Nos. 12A, 65L; Ninth Revised Sheet No. 8; 11th Revised Sheets Nos. 15, 21, 22, 28A, 31, 37, 38, 44B, 47, 53, 54; 12th Revised Sheets Nos. 7, 9, 10, 11; 14th Revised Sheets Nos. 65G, 65H; 15th Revised Sheets Nos. 14, 16, 17, 19, 23, 30, 32, 33, 35, 39, 41, 44, 46, 48, 49, 51, 55, 65B, 65F; 16th Revised Sheets Nos. 27, 56, 59; Seventh Revised Sheet No. 24; 18th Revised Sheet No. 61.

[2] Proposed Revised Tariff Sheet: Second Revised Sheet No. 241; Sixth Revised Sheets Nos. 232, 235; Seventh Revised Sheet No. 322.

[1] The proposed revised tariff sheets are as follows: 11th Revised Sheet No. 68-I; 12th Revised Sheets Nos. 60-A, 68-BB, and 70-A; 13th Revised Sheets Nos. 13, 15, and 68-C; 14th Revised Sheets Nos. 7, 9, 19, 21, 25, 27, and 71; 17th Revised Sheets Nos. 68-G, 68-H, 68-K, and 68-L; 20th Revised Sheets Nos. 68-A, 68-B, 68-E, and 68-F; 21st Revised Sheets Nos. 45, 47, 51, 79-I, and 79-J; 22d Revised Sheets Nos. 5, 11, 23, 29, 33, 41, 49, 53, 55, 59, 61, 63, 67, 69, 70, 73, and 74; 23d Revised Sheets Nos. 17, 31, 35, 37, 43, 57, and 65; and 24th Revised Sheet No. 39.

[2] Texas Eastern, in its filing, requested that its proposed rates become effective on June 1, 1970. As hereinafter indicated, those rates were suspended for 5 months to Nov. 1, 1970.

permit its filing of the proposed increased rates during the suspension period of the increased rates in Docket No. RP70–14 [3] in order that the proposed increased rates may become effective coincidentally with those of Texas Eastern.

Texas Gas submitted with its filing schedules showing adjustments to the costs and revenues shown in its filing in Docket No. RP70–14, reflecting the additional increase in purchased gas costs resulting from Texas Eastern's filing in Docket No. RP70–29.

We will accept Texas Gas' filing as being in accord with our intention, as expressed in our order issued August 11, 1969, in Docket No. RP69–41, to permit Texas Gas to track supplier rate increases which increase the purchased gas costs claimed by Texas Gas in that docket. However, as the increased rates proposed herein are directly and entirely based upon the proposed rate increase of Texas Eastern in Docket No. RP70–29, which was suspended to November 1, 1970, by order issued May 1970, Texas Gas' proposed rate filing should be suspended to that same date.

The proposed rate increases have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the proposed tariff sheets listed in Footnote 1 above be suspended and the use thereof be deferred as herein provided.

The Commission orders:

(A) The provisions of § 154.66(b) of the Commission's regulations under the Natural Gas Act are waived in order to permit the filing of the proposed rate increase by Texas Gas.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held concerning the lawfulness of the rates, charges, classifications, and services contained in Texas Gas' FPC Gas Tariff, as proposed to be amended herein.

(C) Pending such hearing and decision thereon, Texas Gas' revised tariff sheets, listed in Footnote 1 above, are suspended and the use thereof is deferred until November 1, 1970, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act: *Provided, however,* That Texas Gas shall not make the increase proposed herein effective prior to the date that the increased rates proposed by Texas Eastern in Docket No. RP70–29 are made effective.

[3] Docket No. RP70–14 involves a rate increase filed by Texas Gas on Nov. 7, 1969, to track the increase filed by United Gas Pipeline Co. in Docket No. RP70–13. Texas Gas' filing was suspended to May 16, 1970, by order issued Dec. 15, 1969.

By the Commission.

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

[F.R. Doc. 70–7014; Filed, June 5, 1970; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30–F (Region I)]

REGIONAL DIVISION CHIEFS ET AL., REGION I

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30–F, 35 F.R. 6886 published in the FEDERAL REGISTER on April 30, 1970, the following authority is hereby redelegated to the positions as indicated herein:

I. *Regional Division Chiefs, Regional Counsel, and Staffs*—A. *Chief and Assistant Chief, Financing Division.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. a. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or 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 for physical loss or damage 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 (2) $350,000 on disaster business loans (excluding displaced business loans), except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $500,000 and to decline them in any amount.

b. To approve displaced business loans up to $350,000 (SBA share) and to decline them in any amount.

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office and regional approved loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By ----------
(Name)
Title of person signing.

5. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

**8. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

9. Size determinations for financing only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further to make product classification decisions for financing purposes only. Product classification decisions for procurement purposes are made by contracting officers.

10. Eligibility determinations for financing only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and community economic development programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Supervisory Loan Officers (Financing Division).* 1. To approve or decline business, disaster, and displaced business loans not exceeding $50,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

3. To execute loan authorizations for Central Office and regional approved loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By ----------
(Name)
Title of person signing.

4. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

5. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

6. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

C. *Loan Officer (Financing Division).* 1. To approve minor modifications in the authorization.

2. To extend the disbursement period.

D. *Chief, Community Economic Development Division.* 1. To approve or decline section 501 State development company loans and section 502 local development company loans up to $350,000

(SBA share) when project cost does not exceed $1 million, provided the chief concurs in at least one prior recommendation.

2. To extend the disbursement period on sections 501 and 502 loan authorizations or fully undisbursed sections 501 and 502 loans.

3. To execute sections 501 and 502 loan authorizations for Central Office and regional approved loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By _____
(Name)
Chief, Community Economic Development Division.

4. To cancel, reinstate, modify, and amend authorizations for fully undisbursed sections 501 and 502 loans.

5. To enter into section 502 loan participation agreements with banks.

6. To approve or decline applications for the direct guarantee of the payment of rent not to exceed $500,000.

7. To issue and modify commitment letters, said issuance to read as follows:

(Name), Administrator,
By _____
(Name)
Chief, Community Economic Development Division.

8. To disburse approved EDA loans, as authorized.

9. Eligibility determinations for financing only: To determine eligibility of applicants for assistance under the sections 501 and 502 programs of the Agency in accordance with Small Business Administration standards and policies.

10. Size determinations for financing only: To make initial size determinations in all sections 501 and 502 loans within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for sections 501 and 502 loans only. Product classification decisions for procurement purposes are made by contracting officers.

E. *Economic Development Specialists (Community Economic Development).* 1. To extend the disbursement period on fully undisbursed sections 501 and 502 loans.

2. To cancel, reinstate, modify, and amend authorizations for fully undisbursed sections 501 and 502 loans.

3. To enter into section 502 loan participation agreements with banks.

4. To disburse approved EDA loans, as authorized.

F. *Chief and Assistant Chief, Loan Administration Division.* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefore, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the region, approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

G. *Supervisory Loan Officer (Loan Administration Division).* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; and (4) the cancellation of authority to liquidate.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the region, approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

H. *Loan Officer (Loan Administration Division).* 1. To approve the following actions concerning all current direct and participation loans and First Mortgage Plan 502 loans.

a. Use of such portions of the cash surrender value of assigned life insurance as are required to pay premiums due on the policy.

b. Release of dividends on assigned life insurance or consent to application of dividends against premiums due or to become due.

c. Minor modifications in the authorizations.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorsement of such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

I. *Region Claims Review Committee.* To consist of the Chief, Loan Administration Division, acting as chairman; Regional Counsel; and Chief, Financing Division, who will meet and consider reasonable and properly supported compromise proposals of indebtedness owed to the Agency and to take final action on such proposals provided such action represents the majority recommendation of the committee on claims not in excess of $5,000 (including CPC advances but excluding interest), or represents the unanimous recommendations of said committee on claims in excess of $5,000 but not exceeding $100,000 (including CPC advances but excluding interest).

J. *Chief, Procurement and Management Assistance Division.* [Reserved]

K. *Regional Counsel.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

c. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects when and as authorized by EDA.

L. *Regional Attorneys.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, with the exception of the following, which are reserved to the regional counsel:

a. The assignment, endorsement, transfer and delivery of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects, when and as authorized by EDA.

M. *Chief, Administrative Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and; (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

N. *Office Services Manager or Office Services Assistant.* 1. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

2. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

II. *District Directors*—A. *Financing Program.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. a. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or 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 for physical loss or damage 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 (2) $350,000 on disaster business loans (excluding displaced business loans), except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $500,000 and to decline them in any amount.

b. To approve or decline displaced business loans up to $350,000 (SBA share).

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office and regional approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By ----------
(Name)
District Director.
(City)

5. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

**8. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

9. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Community Economic Development Program.* **1. To approve or decline section 501 State development company loans and section 502 local development company loans up to $350,000 (SBA share) when project cost does not exceed $700,000, provided the district director concurs in at least one prior recommendation.

2. To extend the disbursement period on sections 501 and 502 loan authorizations or undisbursed portions of sections 501 and 502 loans.

3. To execute sections 501 and 502 loan authorizations for Central Office and regional approved loans and for loans

approved under delegated authority, said execution to read, as follows:

(Name), Administrator,
By _____
(Name)
District Director.
(City)

4. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

5. To enter into section 502 loan participation agreements with banks.

6. To approve or decline applications for the direct guarantee of the payment of rent not to exceed $500,000.

7. To issue and modify commitment letters, said issuance to read as follows:

(Name), Administrator,
By _____
(Name)
District Director.
(City)

8. To disburse approved EDA loans, as authorized.

C. *Loan Administration Program.* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the district approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

D. *Procurement and Management Assistance Program.* [Reserved]

E. *Administrative.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

(2) To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and; (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

F. *Eligibility determinations.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC program, in accordance with Small Business Administration standards and policies.

G. *Size determinations.* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for financing purposes only. Product classification decisions for procurement purposes are made by contracting officers.

H. *Legal services.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

c. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects, when and as authorized by EDA.

III. *District Division Chiefs, District Counsel and Staffs—A. Chief, Financing Division.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. a. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or 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 for physical loss or damage 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 (2) $350,000 on disaster business loans (excluding displaced business loans), except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $350,000 and to decline them in any amount.

b. To approve or decline displaced business loans up to $350,000 (SBA share).

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office, regional, and district approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By _____
(Name)
Title of person signing.

5. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

8. Size determinations for financing only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further to make product classification decisions for financing purposes only. Product classification decisions for procurement purposes are made by contracting officers.

9. Eligibility determinations for financing only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and community economic development programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Supervisory Loan Officer (Financing Division), if assigned.* 1. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

2. To execute loan authorizations for Central Office, regional, and district approved loans, said execution to read as follows:

(Name), Administrator,
By ----------
(Name)
Title of person signing.

3. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

4. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

5. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

C. *Loan Officer (Financing Division).* 1. To approve minor modifications in the authorization.

2. To extend the disbursement period.

D. *Chief, Community Economic Development Division.* 1. To extend the disbursement period on sections 501 and 502 loan authorizations or fully undisbursed sections 501 and 502 loans.

2. To execute sections 501 and 502 loan authorizations for Central Office, regional, and district approved loans, said execution to read, as follows:

(Name), Administrator,
By ----------
(Name)
Chief, Community Economic Development Division.

3. To cancel, reinstate, modify, and amend authorizations for fully undisbursed sections 501 and 502 loans.

4. To enter into section 502 loan participation agreements with banks.

5. To issue and modify commitment letters, said issuance to read, as follows:

(Name), Administrator,
By ----------
(Name)
Chief, Community Economic Development Division.

6. To disburse approved EDA loans, as authorized.

E. Economic Development Specialist (*Community Economic Development*). 1. To extend the disbursement period on fully undisbursed sections 501 and 502 loans.

2. To cancel, reinstate, modify and amend authorizations for fully undisbursed sections 501 and 502 loans.

3. To enter into section 502 loan participation agreement with banks.

4. To disburse approved EDA loans, as authorized.

F. *Chief, Loan Administration Division.* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; and (4) the cancellation of authority to liquidate.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the district approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

G. *Supervisory Loan Officer (Loan Administration Division), if assigned.* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quit-claim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon: (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; and (4) the cancellation of authority to liquidate.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the district, approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

H. *Loan Officer (Loan Administration Division)*. 1. To approve the following actions concerning all current direct and participation loans and First Mortgage Plan 502 loans:

a. Use of such portions of the cash surrender value of assigned life insurance as are required to pay premiums due on the policy.

b. Release of dividends on assigned life insurance or consent to application of dividends against premiums due or to become due.

c. Minor modifications in the authorization.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorsement of such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

I. *Chief, Procurement and Management Assistance Division.* [Reserved]

J. *District Counsel.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters, loans classified as in litigation; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse or (warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

c. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; and (4) the cancellation of authority to liquidate.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects when and as authorized by EDA.

K. *District Attorneys.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, with the exception of the following, which are reserved to the district counsel:

a. The assignment, endorsement, transfer and delivery of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects when and as authorized by EDA.

L. *Chief, Administrative Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and; (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

M. *Office Services Manager or Office Services Assistant.* 1. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

2. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

IV. *Branch Manager.* [Reserved]

V. The specific authority delegated herein, indicated by double asterisk (**), cannot be redelegated.

VI. The authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: May 4, 1970.

ARTHUR J. GLICK,
Regional Director, Region I.

[F.R. Doc. 70-7044; Filed, June 5, 1970; 8:48 a.m.]

TARIFF COMMISSION

MEN'S, YOUTHS', AND BOYS' FOOTWEAR OF LEATHER

Report to the President

JUNE 1, 1970.

The U.S. Tariff Commission today reported to the President the result of an investigation of a petition for adjustment assistance filed by the United Shoe Workers of America, AFL-CIO, CLC, on behalf of workers of the Eagle Shoe Manufacturing Co., Everett, Mass. The investigation was conducted under section 301(c)(2) of the Trade Expansion Act of 1962.

In this investigation (TEA-W-19), the Commission was to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with the men's, youths', and boys' footwear produced by the Eagle Shoe Manufacturing Co. are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of that firm.

The vote of the Commission was equally divided. Chairman Sutton and Commissioners Leonard and Newsom found in the negative. Commissioners

Thunberg, Clubb, and Moore found in the affirmative.

A part of the material contained in the report may not be made public since it includes information that would disclose the operations of an individual firm. The Commission, therefore, is releasing to the public only those portions of the report that do not contain business confidential information.

Copies of the public report, which contains statements of the reasons for the Commissioners' findings, will be released as soon as possible. They will be available on request as long as the supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, Eighth and E streets NW., Washington, D.C. 20436.

By direction of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[F.R. Doc. 70-7056; Filed, June 5, 1970; 8:48 a.m.]

WOMEN'S AND MISSES' DRESS SHOES WITH LEATHER, VINYL, OR FABRIC UPPERS

Report to the President

JUNE 1, 1970.

The U.S. Tariff Commission today reported to the President the result of an investigation of five petitions for adjustment assistance. One petition was filed by a domestic producer of women's and misses' dress shoes with leather, vinyl, or fabric uppers—the Benson Shoe Co. of Lynn, Mass.—for assistance to the firm; the other four petitions were filed by the United Shoe Workers of America, AFL–CIO, CLC, on behalf of workers of the Benson Shoe Co. and the workers of three other producers of women's and misses' dress shoes—Dartmouth Shoe Co., Brockton, Mass., and the Hartman Shoe Manufacturing Co., and Lemar Shoes, Inc., both of Haverhill, Mass.

Pursuant to section 403(a) of the Trade Expansion Act of 1962 (the TEA), the Commission conducted a consolidated investigation of the five petitions under sections 301(c)(1) and 301(c)(2) of the TEA.

The vote of the Commission was equally divided with respect to each of the five petitions. Chairman Sutton and Commissioners Leonard and Newsom found in the negative. Commissioners Thunberg, Clubb, and Moore found in the affirmative.

In this investigation, the Commission was to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with the women's and misses' dress shoes produced by the four aforementioned firms are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the Benson Shoe Co. (TEA–F–10) and the unemployment or underemployment of a significant number or proportion of the workers of that firm and of the three other firms (TEA–W–15, TEA–W–16, TEA–W–17, and TEA–W–18).

The Commission prepared a single report on the five petitions. A part of the material contained in the report may not be made public since it includes information that would disclose the operations of individual firms. The Commission, therefore, is releasing to the public only those portions of the report that do not contain business confidential information.

Copies of the public report, which contains statements of the reasons for the Commissioners' findings, will be released as soon as possible. They will be available on request as long as the supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C. 20436.

By direction of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[F.R. Doc. 70-7057; Filed, June 5, 1970; 8:48 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

WORKER REQUEST FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigation

A petition requesting certification of eligibility to apply for adjustment assistance has been filed, on May 28, 1970, with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the United Glass and Ceramic Workers, AFL–CIO, and the Window Glass Cutters League of America, AFL–CIO, on behalf of workers of the Jeannette, Pa., sheet glass plant of the American St. Gobain Corp. The petition points out that the request for certification is made under Proclamation 3967 ("Adjustment of duties on certain Sheet Glass") of February 27, 1970. In that Proclamation, the President, among other things, acted to provide under section 302(a)(3) with respect to the sheet glass industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance under Chapter 3, Title III, of the Trade Expansion Act of 1962.

The Trade Expansion Act, section 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under Chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof.

In view of the petition and the responsibilities of the Secretary of Labor, the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.11. The investigation relates, as above indicated, to the determination of whether any of the group of workers covered by the request should be certified as eligible to apply for adjustment assistance, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart C of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C., on or before June 19, 1970.

Signed at Washington, D.C., this first day of June 1970.

EDGAR I. EATON, *Director, Office of Foreign Economic Policy.*

[F.R. Doc. 70-7029; Filed, June 5, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 265]

INCREASED FREIGHT RATES, 1970

At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 28th day of May A.D. 1970.

Upon consideration of the record in the above-entitled proceeding, and good cause appearing therefor:

It is ordered, That subparagraph (3) of the third ordering paragraph of the order of the Commission in the above-entitled proceeding, entered May 27, 1970, be, and it is hereby, revised to read as set forth below:

(3) *Coal and coke.* On anthracite and bituminous coal (except lignite), coke, coal briquets, and petroleum coke briquets, domestic and export, the rate increase shall not exceed 18 cents per net ton. The 18-cent maximum shall apply in connection with so-called tidewater rates to the North Atlantic ports, Hampton Roads-New York, inclusive for export or for movement to inside-the-harbor or inside-the capes' destinations, and to rates on rail-water cargo coal which does not move beyond the switching limits of the port at which it is discharged from the vessel. Otherwise, on coal and coke moving by rail-water which moves beyond the switching limits of the port at which it is discharged from the vessel, to destinations in the United States or Canada, the increase in the rail factor subject to our jurisdiction shall not exceed 9 cents per net ton to the first port when transshipped as cargo beyond such port; and when moving by rail-water-rail routes, the increase in the rail factors subject to our jurisdiction shall not exceed 9

cents per net ton from the mine origin to the first port and 9 cents per net ton from the second port to destination.

By the Commission.

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

[F.R. Doc. 70-7071; Filed, June 5, 1970; 8:49 a.m.]

[Notice 91]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 3, 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 63838 (Sub-No. 4 TA), filed May 26, 1970. Applicant: FRANK BOLUS, doing business as BOLUS MOTOR LINES, 700 North Keyser Avenue, Scranton, Pa. 18508. Applicant's representative: George Bolus (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, insulating board and ceiling tile;* from the plantsite of the Celotex Corp. in Harding, Pa., to points in New York. *Insulation and insulating materials;* from the plantsite of Certain-Teed Saint Gobain Insulation Corp. near Mountaintop, Pa., to points in New York. *Structural steel;* from Luzerne, Pa., to points in New York, for 180 days. Supporting shippers: The Celotex Corp., 1500 North Dale Mabry, Tampa, Fla. 33607; Certain-Teed Saint Gobain Insulation Corp., Union Hill Building, West Conshohocken, Pa. 19428; Wilkes-Barre Iron and Wire Works, Inc., Post Office Box 177, Luzerne, Pa. 18709. 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 120098 (Sub-No. 16 TA) (Correction), filed May 19, 1970, published in the FEDERAL REGISTER, issue of May 27, 1970, and republished as corrected this issue. Applicant: UNITAH FREIGHTWAYS, 1030 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment); (1) between Vernal, Utah, and Craig, Colo., serving all intermediate points and the off-route points of Rangely and Meeker, Colo., from Vernal, Utah, over U.S. Highway 40 to Craig, and return over the same route; (2) between Bonanza, Utah, and Craig, Colo., from Bonanza, Utah, over unnumbered Utah and Colorado Highway to Rangely, Colo.; thence over Colorado Highway 64 to Artesia (Dinosaur), Colo.; thence U.S. Highway 40 to Craig, Colo., and return over same route, for 180 days. NOTE: Applicant requests authority to tack the authority here applied for to its present authority under MC 120098 Sub 2 and to interline with other carriers. The purpose of this republication is to show applicant intends to serve all intermediate points in connection with route (1). Supporting shippers: There are approximately 42 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 120800 (Sub-No. 28 TA), filed May 26, 1970. Applicant: CAPITOL TRUCK LINE, INC., 2500 North Alameda, Compton, Calif. 90222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid ethylene*, in tank trailers, from Norco, La., to Deer Park, Tex., for 180 days. Supporting Shipper: Shell Chemical Co., Division of Shell Oil Co., 1114 Texas Avenue, Houston, Tex. 77002. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 124069 (Sub-No. 9 TA), filed May 28, 1970. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, N.Y. 14218. Applicant's representative: William J. Hirsch, 43 Niagara Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Rochester and Rome, N.Y., to points in Pennsylvania, for 150 days. Supporting shipper: Rochester Portland Cement Corp., 361 Boxart Street, Rochester, N.Y. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 129615 (Sub-No. 2 TA) (Correction), filed May 14, 1970, published in the FEDERAL REGISTER issue of May 22, 1970, and republished in part, as corrected, this issue. Applicant: AMERICAN INTERNATIONAL DRIVE-AWAY, Post Office Box 3789, San Francisco, Calif. 94119. Applicant's representative: B. Silver, 140 Montgomery Street, San Francisco, Calif. 94109. NOTE: The purpose of this partial republication is solely to set forth the Commission's field office to which protests may be sent, which office was inadvertently omitted in the previous publication. Send protests to: Claud W. Reeves, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 133194 (Sub-No. 1 TA), filed May 22, 1970. Applicant: WOODLINE, INC., Route 1, Russellville, Ark. 72801. Applicant's representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives); (1) between Little Rock and Fort Smith, Ark., from Little Rock over U.S. Highway 65 to Conway, Ark., thence over U.S. Highway 64 to Fort Smith, and return over the same route; (2) between Russellville and Fort Smith, Ark., from Russellville over Arkansas Highway 7 to Dardanelle, Ark, thence over Arkansas Highway 22 to Fort Smith, and return over the same route; and (3) between Russellville and Hector, Ark., from Russellville, over Arkansas Highway 7 to Dover, Ark., thence over Arkansas Highway 27 to Hector, and return over the same route, serving all intermediate points on the above routes except Conway, Ark., for 180 days. NOTE: Applicant seeks authority to interchange with other carriers. Applicant proposes to serve the commercial zones of Fort Smith, Little Rock, and the intermediate points applied for. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: 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 134145 (Sub-No. 2 TA), filed May 26, 1970. Applicant: NORTH STAR TRANSPORT, INC., Post Office Box 51, Thief River Falls, Minn. 56701. Applicant's representative: Kenneth D. Santo (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down or in sections, and component parts, materials and supplies used in the erection thereof, from Terre Haute, Ind., to points in Beltrami, Clearwater, Kittson, Lake of the Woods, Marshall, Pennington, Red Lake, and Roseau Counties, Minn., and

Cavalier, Grand Forks, Pembina, Steele, Traill, and Walsh Counties, N. Dak., for 180 days. Supporting Shipper: Prichard Brothers, Inc., North Highway 32, Box 297, Thief River Falls, Minn. 56701. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, N. Dak. 58102.

No. MC 134522 (Sub-No. 1 TA), filed May 22, 1970. Applicant: W. L. DAVIS, doing business as W. L. DAVIS TRUCKING CO., 8512 Fishman, Pico Rivera, Calif. 90660. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif. 90027. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas*, from points in Los Angeles County, Calif., to port of entry on the United States-Canada international boundary which is located at Sweetgrass, Mont.; (2) *bananas and commodities described in section 203(b)(6) of the Interstate Commerce Act*, when being simultaneously transported in the same vehicle, from points in Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Tulare, and Ventura Counties, Calif., to port of entry on the United States-Canada international boundary which is located at Sweetgrass, Mont., for 180 days. Supporting shipper: Scott National Co., Ltd., Box 970, Calgary, Alberta, Canada. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 134598 (Sub-No. 1 TA), filed May 22, 1970. Applicant: GREATER MIAMI AIR FREIGHT, INC., Building 2134 MIAD, Post Office Box 1336, Miami, Fla. 33148. Applicant's representative: Bernard C. Pestcoe, Suite 708, City National Bank Building, 25 West Flagler Street, Miami, Fla. 33130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, commodities in bulk, dangerous explosives, commodities requiring special equipment, household goods as defined in "Practices of Motor Common Carriers of Household Goods," 17 MCC 467, and those commodities injurious or contaminating to other lading, between points in Dade, Broward, and Palm Beach Counties, Fla., restricted to traffic having a prior or subsequent movement by air or water, for 180 days. Supporting shippers: There are approximately eight statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, Fla. 33155.

No. MC 134604 (Sub-No. 1 TA), filed May 26, 1970. Applicant: WALLACE C. SCORE, Route 3, Detroit Lakes, Minn. 56501. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and dry animal and poultry feed ingredients*, from LaMoure, N. Dak., to points in Colorado, Florida, Illinois, Iowa, Minnesota, Montana, Nebraska, South Dakota, Texas, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Leo Froelich Feed Co., LaMoure, N. Dak. 58458. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, N. Dak. 58102.

By the Commission.

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

[F.R. Doc. 70-7069; Filed, June 5, 1970; 8:49 a.m.]

[Notice 545]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 6, 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-71701. *Republication.*[1] By corrected order of May 15, 1970, Division 3, acting as an Appellate Division, on further reconsideration, approved the transfer to Kearney's Trucking Service, Inc., Portland, Pa., of the operating rights in certificates Nos. MC-114679 (Sub-No. 10) and MC-114679 (Sub-No. 11) issued May 1, 1967, and August 8, 1968, respectively, to Howard H. Krapf, doing business as Krapf Truck Service, Allentown, Pa., authorizing the transportation, over irregular routes, of slag, in dump vehicles, from Bethlehem, Pa., to New York, N.Y., and points in Nassau, Suffolk, and Westchester Counties, N.Y., and sandblasting sand from Millville, Cape May, and Wildwood, N.J., to Bethlehem, Pa., and points within 25 miles thereof, and that portion of the operating rights in certificate No. MC-114679 issued August 1, 1958, to Howard H. Krapf, doing business as Krapf Truck Service, Allentown, Pa., authorizing the transportation, over irregular routes, of sand and gravel, in dump vehicles, from Kenvil, N.J., to points in Lehigh and Northampton Counties, Pa., and slag, sand, gravel, and stone from Bethlehem and Riegelsville, Pa., to points in New Jersey, subject to certain conditions. Dual operations were authorized. Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517, representative for applicants.

No. MC-FC-72068. By order of May 26, 1970, the Motor Carrier Board approved the transfer to Darryl W. Peterson and Bonnie L. Peterson, a partnership, doing business as Peterson Trucking, 2140 Buena Vista Drive, Greeley, Colo., of that portion of the operating rights in permit No. MC-123075 (Sub-No. 2) issued March 3, 1969, to Harvey D. Shupe, Howard Yost, and Charles Mylander, a partnership, doing business as Shupe & Yost, Greeley, Colo., and transferred to Shupe & Yost, Inc., Post Office Box 1123, Greeley, Colo., pursuant to No. MC-FC-71943, authorizing the transportation, over irregular routes, of animal and poultry feeds, from St. Joseph, Mo., to points in Colorado, Nebraska, Kansas, and Wyoming, for a specified shipper.

No. MC-FC-72086. By order of May 28, 1970, the Motor Carrier Board approved the transfer to Delzeit Van Lines, Inc., Dodge City, Kans., of certificate No. MC-64243, issued June 19, 1941, to C. W. Woolwine, doing business as Woolwine Transfer & Storage Co., 615 West Trail, Dodge City, Kans. 67801, authorizing the transportation of: Household goods, over irregular routes, between points in Ford County, Kans., on the one hand, and, on the other, points in Missouri, Oklahoma, Colorado, and Nebraska. Ken W. Strobel, First National Bank Building, Box 39, Dodge City, Kans. 67801, attorney for transferee.

No. MC-FC-72158. By order of May 27, 1970, the Motor Carrier Board approved the transfer to Mario De Fina, doing business as Empire State Moving & Storage, Brooklyn, N.Y., of certificate No. MC-39823, issued March 9, 1970, to Country Wide Van Lines, Inc., Brooklyn, N.Y., authorizing the transportation of: Household goods, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, New Jersey, New York, Massachusetts, and Pennsylvania. Morris Honig, 150 Broadway, New York, N.Y. 10038, attorney for applicants.

No. MC-FC-72160. By order of May 28, 1970, the Motor Carrier Board approved the transfer to Joseph Sparacino, doing business as Clune Transfer, Scanton, Pa., of the operating rights in certificate No. MC-96266 issued January 25, 1967, in the name of Mary Evelyn Kuprevich, doing business as, Clune Transfer, Wilkes-Barre, Pa., authorizing the transportation of household goods as defined by the Commission between Wilkes-Barre, Pa., and points within 5 miles thereof, on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, and Connecticut. Edwin Utan, Esq., 800 Scranton Life Building, Scranton, Pa. 18503, attorney for applicants.

No. MC-FC-72165. By order of May 27, 1970, the Motor Carrier Board approved the transfer to Dawson Bus Service, Inc., Camden, Del., of the operating rights in certificate No. MC-110177 issued May 26, 1949, to Robert G. James and George S.

[1] The purpose of this republication is to include certificates Nos. MC-114679 (Sub-No. 10) and MC-114679 (Sub-No. 11) which were inadvertently left out of the previous publication.

Wheeler, a partnership, doing business as James & Wheeler Bus Service, Seaford, Del., authorizing the transportation of passengers and their baggage, in the same vehicle with passengers, in charter operations, over irregular routes, beginning and ending at Seaford, Del., and points within 5 miles of Seaford, and extending to points in Maryland, Virginia, Pennsylvania, New Jersey, and the District of Columbia. L. Agnew Myers, Jr., Warner Building, Washington, D.C. 20004, attorney for applicants.

No. MC-FC-72169. By order of May 28, 1970, the Motor Carrier Board approved the transfer to Dymacek Trucking, Inc., Route No. 1, Montpelier, Va. 23192, of permits No. MC-117111 (Sub-No. 1) and MC-117111 (Sub-No. 2), issued November 25, 1958, and May 6, 1965, respectively, to Mildred Virginia Talley, doing business as Talley Hauling, Route No. 1, Montpelier, Va. 23192, authorizing the transportation of: Rutile and ilmenite minerals, for the account of Metal & Thermite Corp., Beaverdam, Va., over irregular routes, from the plantsite of the Metal & Thermite Corp., Beaverdam, Va., to Ashland, Va., and aplite rock, rutile, and ilmenite minerals, and titanium ores, restricted to the account of M & T Chemicals, Inc., of New York, N.Y., and restricted to shipments having a subsequent movement by rail, from the plantsite of M & T Chemicals, Inc., near Beaverdam, Va., to Beaverdam, Va.

No. MC-FC-72181. By order of May 28, 1970, the Motor Carrier Board approved the transfer to Nester Transfer, Inc., Welch-Pineville Road, Welch, W. Va. 24801, of certificates Nos. MC-104652, MC-104652 (Sub-No. 1), MC-104652 (Sub-No. 2), and MC-104652 (Sub-No. 3), issued May 18, 1949, May 27, 1960, June 1, 1953, and April 11, 1966, respectively, to Ruth Jobe Nester, doing business as Nester Transfer, Welch-Pineville Road, Welch, W. Va. 24801, authorizing the transportation of: Household goods, as defined by the Commission, over irregular routes, between points in McDowell County, W. Va., on the one hand, and, on the other, points in Kentucky, Maryland, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia; between points in McDowell County, W. Va., on the one hand, and, on the other, points in Tennessee, South Carolina, Michigan, Georgia, Alabama, and the District of Columbia; between points in McDowell County, W. Va., on the one hand, and, on the other, points in Delaware, Florida, Illinois, Indiana, New Jersey, and New York; between Welch, W. Va., and points in West Virginia within 15 miles of Welch, W. Va., on the one hand, and, on the other, points in Virginia and Kentucky.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-7070; Filed, June 5, 1970; 8:49 a.m.]

[No. 35230]

NEW MEXICO INTRASTATE PASSENGER FIRST-CLASS AND COACH FARES, 1970

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 26th day of May 1970.

Upon consideration of the joint petition filed on February 9, 1970, by The Atchison, Topeka and Santa Fe Railway Co. and Southern Pacific Transportation Co.; and

It appearing, that the petitioners published, effective June 15, 1969, increased passenger first-class and coach fares applicable to interstate traffic; that they attempted to publish corresponding increased fares applicable to the transportation of passengers within the State of New Mexico effective on the same date; and that the State Corporation Commission of New Mexico, after a hearing, by its order of July 30, 1969, declined to allow the increases sought;

It further appearing, that the petitioners allege in their petition that: (1) They are being required to perform passenger transportation service between points in the State of New Mexico at fares which are unjustly and reasonably low; (2) such fares fail to produce their fair share of earnings sufficient to enable the petitioner to provide adequate and efficient transportation services as required by the Interstate Commerce Act and the National Transportation Policy; (3) an undue burden is being cast upon interstate commerce to the extent that the intrastate fares are below those for interstate service; (4) undue, unjust, and unreasonable discrimination exists against interstate passengers; (5) the increases sought will not result in fares exceeding a just and reasonable level; and (6) the increases sought, although insufficient to eliminate them, will reduce petitioners' losses;

And it further appearing, that the matters raised in the petition are sufficient to require an investigation thereof by this Commission.

Wherefore, and for good cause:

It is ordered, That, pursuant to section 13 of the Interstate Commerce Act, under which the instant petition is filed an investigation be, and it is hereby, instituted into matters and things presented in the petition; and that The Atchison, Topeka and Santa Fe Railway Co. and Southern Pacific Transportation Co., common carriers by railroad operating within the State of New Mexico, subject to the jurisdiction of this Commission be, and they are hereby, made respondents to this proceeding.

It is further ordered, That all persons who wish actively to participate in this proceeding and to file and to receive copies of pleadings shall make known that fact by notifying the Commission in writing on or before July 10, 1970. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentation to the greatest extent possible. The Commission desires participation only of those who intend to take an active part in the proceedings.

It is further ordered, That as soon as practicable after the date has passed for persons to indicate a desire to participate in this proceeding, the Secretary will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made.

It is further ordered, That a copy of this order be served upon the petitioner; that the State of New Mexico be notified of this proceeding by sending a copy of this order by certified mail to the Governor of New Mexico, Santa Fe, N. Mex., and a copy to the State Corporation Commission of New Mexico at Santa Fe; and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

And it is further ordered, That this proceeding be assigned for hearing as soon as practicable as the Commission may hereafter designate.

By the Commission, Division 2.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-7072; Filed, June 5, 1970; 8:49 a.m.]

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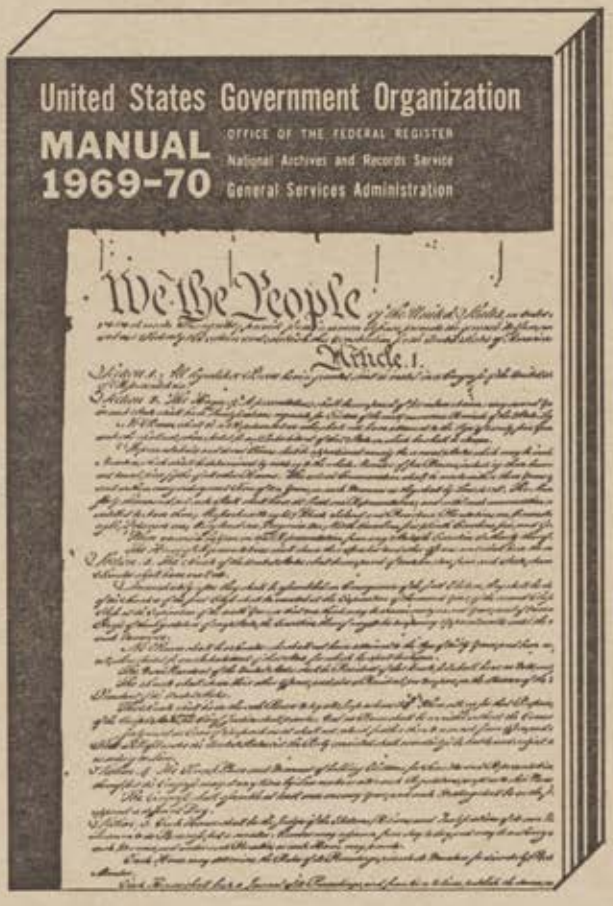

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