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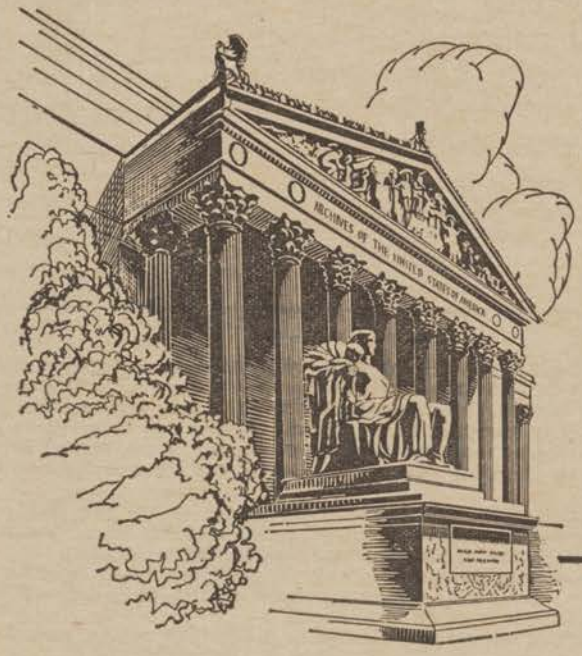

Volume 82

UNITED STATES STATUTES AT LARGE

[90th Cong., 2d Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1968, reorganization plans, and Presidential proclamations. Also included are: a subject index, tables of prior laws affected, a numerical listing of bills enacted into public and private law, and a guide to the legislative history of bills enacted into public law.

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Title 7—AGRICULTURE

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

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—Regulations Governing Inspection and Certification

APPROVED IDENTIFICATION

On June 2, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (7 CFR 52.1–52.87) regarding the manner in which the USDA "Officially Sampled Stamp" may be used.

Interested persons were allowed until July 3, 1970, to submit written comments in connection with the proposal.

Statement of consideration leading to the amendment of the regulations governing the inspection of processed products. Comments were submitted in connection with the proposal of June 2, 1970, from the National Canners Association and the Pineapple Growers Association of Hawaii. Both comments were favorable to the amendment proposal.

No objections have been received and the proposed amendment, § 52.53(d), to the Regulations Governing the Inspection of Processed Products Thereof and Certain other Processed Food Products as proposed on June 2, 1970, is hereby adopted without change and as set forth below. This amendment is issued pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

Effective date. This amendment of the Regulations Governing Inspection of Processed Products (7 CFR 52.1–52.87) shall become effective thirty (30) days after publication hereof in the FEDERAL REGISTER.

(Secs. 202–208, 60 Stat. 1087 as amended; 7 U.S.C. 1621–1627)

Dated: July 17, 1970.

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

§ 52.53 Approved identification.

* * * * *

(d) *Products not eligible for approved identification.* Processed products which have not been packed under continuous inspection as provided for in this part shall not be identified by approved grade or inspection marks (except honey and maple syrup which may bear such grade marks), but such products may be inspected as provided in this part and at the option of the Department may be identified by an authorized representative of the Department by stamping the shipping cases and inspection certificate(s) covering such lot(s) with an officially drawn sample mark similar in form and design to the example in figure 9 of this section: *Provided,* That the stamp will not be placed on shipping cases where any grade marks are on the cases or packages unless the product meets such grades.

* * * * *

[F.R. Doc. 70-9460; Filed, July 22, 1970; 8:46 a.m.]

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

[Valencia Orange Reg. 323]

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

Limitation of Handling

§ 908.623 Valencia Orange Regulation 323.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 21, 1970.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period July 24, 1970, through July 30, 1970, are hereby fixed as follows:

(i) District 1: 253,000 cartons;

(ii) District 2: 297,000 cartons;

(iii) District 3: 27,701 cartons.

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

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

Dated: July 22, 1970.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-9585; Filed, July 22, 1970; 11:12 a.m.]

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Expenses and Rate of Assessment

On July 8, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 10962) regarding proposed expenses and the related rate of assessment for the period April 1, 1970, through March 31, 1971, pursuant to the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including

the proposals set forth in such notice which were submitted by the Washington Apricot Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 922.210 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington Apricot Marketing Committee during the period April 1, 1970, through March 31, 1971, will amount to $3,737.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 922.41, is fixed at $1 per ton of apricots.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of apricots grown in designated counties in Washington are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable apricots handled during the aforesaid period; and (3) such period began on April 1, 1970, and said rate of assessment will automatically apply to all such apricots beginning with such date.

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

Dated: July 20, 1970.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-9521; Filed, July 22, 1970; 8:51 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1970 Crop Flaxseed Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 Crop Flaxseed Loan and Purchase Program

The General Regulations Governing Price Support for the 1970 and Subsequent Crops, published at 35 F.R. 7363 and 7781 and any amendments thereto and the 1970 and Subsequent Crops Flaxseed Loan and Purchase Program Regulations published at 35 F.R. 11456 and any amendments to such regulations, are further supplemented for the 1970 crop of flaxseed by adding §§ 1421.175–1421.178 to read as follows. The material previously appearing in §§ 1421.3065–1421.3068 remains in full force and effect as to the 1969 crop of flaxseed.

Sec.
1421.175 Availability.
1421.176 Warehouse charges.
1421.177 Maturity of loans.
1421.178 Support rates, premiums, and discounts.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1054; 15 U.S.C. 714 b and c, 7 U.S.C. 1447, 1421.

§ 1421.175 Availability.

A producer desiring a price support loan must request a loan on his eligible flaxseed on or before April 30, 1971, on flaxseed stored in Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, and on or before March 31, 1971, on flaxseed stored in all other States. To obtain price support through sales, a producer must execute and deliver to the appropriate county ASCS office a Purchase Agreement (Form CCC–614) indicating the approximate quantity of 1970 crop flaxseed he may sell to CCC. The Purchase Agreement must be delivered to CCC on or before May 31, 1971, for flaxseed stored in the States of Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, and on or before April 30, 1971, for flaxseed stored in all other States.

§ 1421.176 Warehouse charges.

The following schedule of deductions (gross weight basis) for flaxseed stored in an approved warehouse operating under the Uniform Grain Storage Agreement shall apply as provided in § 1421.157 (b):

SCHEDULE OF DEDUCTIONS FOR STORAGE CHARGES BY MATURITY DATES

Maturity date of Apr. 30, 1971	Deduction (cents per bushel)	Maturity date of May 31, 1971
(1)		(1)
Prior to May 16, 1970	13	Prior to June 16, 1970.
May 16–June 12, 1970	12	June 16–July 13, 1970.
June 13–July 10, 1970	11	July 14–Aug. 10, 1970.
July 11–Aug. 7, 1970	10	Aug. 11–Sept. 7, 1970.
Aug. 8–Sept. 4, 1970	9	Sept. 8–Oct. 5, 1970.
Sept. 5–Oct. 2, 1970	8	Oct. 6–Nov. 2, 1970.
Oct. 3–Oct. 30, 1970	7	Nov. 3–Nov. 30, 1970.
Oct. 31–Nov. 27, 1970	6	Dec. 1–Dec. 28, 1970.
Nov. 28–Dec. 25, 1970	5	Dec. 29, 1970–Jan. 25, 1971.
Dec. 26, 1970–Jan. 22, 1971.	4	Jan. 26–Feb. 22, 1971.
Jan. 23–Feb. 19, 1971	3	Feb. 23–Mar. 22, 1971.
Feb. 20–Mar. 19, 1971	2	Mar. 23–Apr. 19, 1971.
Mar. 20–Apr. 30, 1971	1	Apr. 20–May 31, 1971.

[1] Date storage charges start, all dates inclusive.

§ 1421.177 Maturity of loans.

Loans mature on demand but not later than: May 31, 1971, on flaxseed stored in the States of Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, and April 30, 1971, on flaxseed stored in all other States.

§ 1421.178 Support rates, premiums, and discounts.

(a) *Basic support rates (counties).* Basic county support rates per bushel for loan and settlement purposes are established for flaxseed grading No. 1 containing 9.1 to 9.5 percent moisture and are as follows:

ARIZONA

County	Rate per Bushel	County	Rate per Bushel
Maricopa	$2.85	Yuma	$2.87

CALIFORNIA

Fresno	$2.83	San Francisco	$2.88
Imperial	2.94	San Mateo	2.87
Los Angeles	2.94		

IOWA

Audubon	$2.42	Lyon	$2.55
Buena Vista	2.53	Mitchell	2.50
Calhoun	2.46	O'Brien	2.56
Cerro Gordo	2.49	Osceola	2.58
Cherokee	2.54	Palo Alto	2.54
Chickasaw	2.48	Plymouth	2.51
Clay	2.56	Pocahontas	2.47
Dickinson	2.58	Sioux	2.53
Emmet	2.58	Webster	2.47
Franklin	2.48	Winnebago	2.50
Hancock	2.49	Woodbury	2.45
Ida	2.44	Worth	2.50
Kossuth	2.50	Wright	2.48

MINNESOTA

Becker	$2.56	Meeker	$2.60
Beltrami	2.56	Mower	2.61
Big Stone	2.57	Murray	2.57
Blue Earth	2.61	Nicollet	2.61
Brown	2.61	Nobles	2.57
Carlton	2.63	Norman	2.53
Carver	2.60	Olmsted	2.61
Chippewa	2.60	Otter Tail	2.58
Clay	2.54	Pennington	2.53
Clearwater	2.57	Pipestone	2.55
Cottonwood	2.59	Polk	2.54
Dodge	2.61	Pope	2.60
Douglas	2.59	Ramsey	2.60
Faribault	2.60	Red Lake	2.54
Fillmore	2.58	Redwood	2.61
Freeborn	2.61	Renville	2.60
Goodhue	2.61	Rice	2.61
Grant	2.58	Rock	2.54
Hennepin	2.60	Roseau	2.50
Hubbard	2.55	St. Louis	2.64
Itasca	2.60	Scott	2.60
Jackson	2.58	Sibley	2.60
Kandiyohi	2.60	Stearns	2.60
Kittson	2.49	Steele	2.61
Koochiching	2.53	Stevens	2.59
Lac Qui Parle	2.59	Swift	2.60
Lake of the Woods	2.50	Todd	2.59
LeSueur	2.61	Traverse	2.56
Lincoln	2.57	Wabasha	2.61
Lyon	2.59	Waseca	2.61
McLeod	2.60	Watonwan	2.61
Mahnonmen	2.54	Wilkin	2.56
Marshall	2.52	Winona	2.61
Martin	2.60	Wright	2.60
		Yellow Medicine	2.60

MONTANA

Blaine	$2.13	Liberty	$2.13
Broadwater	2.13	McCone	2.25
Carbon	2.13	Madison	1.97
Carter	2.28	Pondera	2.13
Cascade	2.13	Powder River	2.22
Chouteau	2.13	Prairie	2.25
Custer	2.24	Richland	2.26
Daniels	2.21	Roosevelt	2.25
Dawson	2.28	Rosebud	2.19
Fallon	2.28	Sheridan	2.24
Fergus	2.13	Teton	2.13
Flathead	2.13	Toole	2.13
Glacier	2.13	Valley	2.19
Hill	2.13	Wibaux	2.29
Lewis and Clark	2.13	Yellowstone	2.13

NORTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Adams	$2.38	McKenzie	$2.27
Barnes	2.49	McLean	2.38
Benson	2.42	Mercer	2.38
Billings	2.36	Morton	2.40
Bottineau	2.36	Mountrail	2.35
Bowman	2.37	Nelson	2.46
Burke	2.35	Oliver	2.39
Burleigh	2.41	Pembina	2.47
Cass	2.51	Pierce	2.40
Cavalier	2.42	Ramsey	2.43
Dickey	2.49	Ransom	2.50
Divide	2.34	Renville	2.35
Dunn	2.37	Richland	2.53
Eddy	2.45	Rolette	2.39
Emmons	2.42	Sargent	2.52
Foster	2.46	Sheridan	2.41
Golden Valley	2.33	Sioux	2.40
Grand Forks	2.49	Slope	2.38
Grant	2.39	Stark	2.38
Griggs	2.48	Steele	2.49
Hettinger	2.38	Stutsman	2.47
Kidder	2.44	Traill	2.39
La Moure	2.47	Walsh	2.50
Logan	2.44	Ward	2.48
McHenry	2.39	Wells	2.36
McIntosh	2.45	Williams	2.44

SOUTH DAKOTA

Aurora	$2.48	Jackson	$2.43
Beadle	2.51	Jerauld	2.49
Bennett	2.32	Jones	2.46
Bon Homme	2.49	Kingsbury	2.54
Brookings	2.55	Lake	2.53
Brown	2.50	Lawrence	2.38
Brule	2.49	Lincoln	2.51
Buffalo	2.49	Lyman	2.47
Butte	2.38	McCook	2.50
Campbell	2.45	McPherson	2.47
Charles Mix	2.47	Marshall	2.52
Clark	2.53	Meade	2.38
Clay	2.50	Mellette	2.38
Coddington	2.54	Miner	2.52
Corson	2.41	Minnehaha	2.52
Custer	2.30	Moody	2.54
Davison	2.50	Pennington	2.41
Day	2.53	Perkins	2.39
Deuel	2.56	Potter	2.48
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Edmunds	2.48	Shannon	2.31
Fall River	2.24	Spink	2.51
Faulk	2.49	Stanley	2.47
Grant	2.56	Sully	2.49
Gregory	2.39	Todd	2.38
Haakon	2.44	Tripp	2.38
Hamlin	2.54	Turner	2.50
Hand	2.50	Union	2.50
Hanson	2.50	Walworth	2.46
Harding	2.37	Washabaugh	2.43
Hughes	2.49	Yankton	2.50
Hutchinson	2.49	Ziebach	2.40
Hyde	2.49		

WASHINGTON

Lincoln	$2.27

WISCONSIN

Ashland	$2.53	Milwaukee	$2.38
Bayfield	2.53	Outagamie	2.42
Brown	2.40	Ozaukee	2.38
Calumet	2.39	Pierce	2.55
Clark	2.48	Portage	2.46
Douglas	2.64	Sauk	2.43
Fond du Lac	2.40	Sheboygan	2.39
Jefferson	2.40	Washington	2.39
Marathon	2.47	Waukesha	2.39
Menominee	2.42	Winnebago	2.40

(b) *Premiums and discounts.* The basic support rate shall be adjusted, as applicable, by premiums and discounts as follows:

	Cents per bushel
(1) *Premium for low moisture.* (Applicable to Grades No. 1 and No. 2.):	
Moisture content (percent): 9 or less	+1
(2) *Discounts:*	
(i) Grade No. 2	−6
(ii) Weed Control Law (where required by § 1421.25)	−15
(iii) Other factors: Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of flaxseed, such as (but not limited to) heat damage, musty, and sour. Such discounts will be established not later than the time delivery of flaxseed to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.	

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 16, 1970.

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

[F.R. Doc. 70-9520; Filed, July 22, 1970; 8:51 a.m.]

PART 1434—HONEY

Subpart—Honey Price Support Regulations for 1970 and Subsequent Crops

These regulations supersede the Honey Price Support Regulations for 1968 and Subsequent Crops (34 F.R. 6966 and 9675) with respect to price support programs for the 1970 and any subsequent crops of honey.

Sec.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 201, 401, 63 Stat. 1052, 1054; 15 U.S.C. 714c; 7 U.S.C. 1446, 1421.

§ 1434.1 General statement.

This subpart contains the regulations which set forth the requirements with respect to price support for the 1970 and each subsequent crop of extracted honey for which a price support program is authorized. Price support will be made available through loans on and purchases of eligible honey. Farm storage loans will be evidenced by notes and secured by chattel mortgages. Warehouse storage loans will be evidenced by notes and security agreements and secured by the pledge of warehouse receipts representing eligible honey in approved warehouse storage. The producer may also sell to CCC any or all of his eligible honey which is not security for a price support loan by delivering the honey to CCC. As used in this subpart "CCC" means the Commodity Credit Corporation and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

§ 1434.2 Administration.

(a) *Responsibility.* The Commodity Programs Division, ASCS, will administer this subpart under the general direction and supervision of the Deputy Administrator, State and County Operations, in accordance with program provisions and policy determined by the CCC Board of Directors and the Executive Vice President, CCC. In the field, this subpart will be administered by the various Agricultural Stabilization and Conservation State and County Committees (hereinafter severally called State Committee and county committee), ASCS Commodity Office and the ASCS Data Processing Center.

(b) *Documents.* Any member of the county committee, the county executive director, or other employee of the ASCS county office designated by the county executive director to act in his behalf is authorized to approve documents in accordance with the provisions of this program except where otherwise specified in this subpart. Any such designation shall be in writing and a copy thereof shall be on file in the county office.

(c) *Limitation of authority.* The authority conferred by this subpart to administer the honey price support program does not include authority to modify or waive any of the provisions of this subpart.

(d) *State committee.* The State committee may take any action which is authorized or required by this subpart to be taken by the county committee but which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any action which was taken by such county committee but which is not in accordance with this subpart or (2) require a county committee to withhold taking any action which is not in accordance with this subpart.

(e) *Executive Vice President, CCC.* No delegation of authority herein shall preclude the Executive Vice President, CCC, or his designee, from determining any question arising under this subpart or from reversing or modifying any determination made pursuant to a delegation of authority in this subpart.

§ 1434.3 Eligible producers.

(a) *Producer.* An eligible producer shall be a person (i.e., an individual, partnership, association, corporation, estate, trust, or other legal entity) who extracts honey produced by bees owned by him.

(b) *Estates and trusts.* A receiver of of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustee of a trust estate will be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiary of a trust respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person he represents. Loan or purchase documents executed by such legal representative will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or statute; (2) a guardian has been appointed to manage his property and the applicable price support documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had he been an adult.

(d) *Approved cooperative.* A cooperative marketing association which is approved by the Executive Vice President, CCC, pursuant to Part 1425 of this chapter, to obtain price support on a crop of extracted honey, may obtain price support on the eligible production of such crop of the honey on behalf of its members. A cooperative is not eligible to obtain price support on any quantity of honey produced by a member (1) whose name is entered on a claim control record (indicating the indebtedness of such member) maintained by an ASCS county office, or (2) who owes an installment on a storage facility or drying equipment loan which is due and payable, until the debt then due is paid or the cooperative receives information from the applicable State or county office showing that such debt has been paid. Before tendering any quantity of honey to CCC for price support, the cooperative shall obtain from ASCS State or county offices lists containing the names and the identifying numbers of the persons so indebted. For the information of the cooperative, these lists will also contain names of persons having storage facility and drying equipment loan installments which will become due and payable during the period of loan availability and the dates such installments will become due and payable. The term "producer" as used in this subpart and on applicable price support forms shall refer both to an eligible producer as defined in paragraphs (a), (b), and (c) of this section and to such an approved cooperative marketing association.

(e) *Approval by county committee.* If a producer has been convicted of a criminal act or has made a misrepresentation in connection with any price support program or has unlawfully disposed of any loan collateral or if the county committee has had difficulty in settling a loan with the producer because of his failure to protect properly the mortgaged honey or for other reasons, the producer may be denied price support until the county committee is satisfied that CCC will be fully protected against any possible loss other than loss assumed by CCC under the regulations in this subpart.

(f) *Joint loans.* Two or more eligible producers may obtain a joint loan on eligible honey produced and extracted by them if stored in the same farm storage facility or, in the case of a warehouse storage loan, if the warehouse receipt is issued jointly to such producers. Each producer who is a party to a joint loan will be jointly and severally responsible and liable for the breach of the obligations set forth in the loan documents and in the applicable regulations in this subpart.

(g) *Warehouse storage loans to warehousemen.* Except as provided in §1434.10, warehouse storage loans may be made to a warehouseman who in his capacity as a producer tenders to CCC warehouse receipts issued by him on honey produced and extracted by him only in those States where the issuance and pledge of such warehouse receipts is valid under State law.

§ 1434.4 Eligibility requirements.

(a) *Requesting price support.* To obtain price support on eligible honey, a producer must request a loan on, or notify the ASCS county office of his intention to sell his eligible commodity by completing a Purchase Agreement (Form CCC–614), no later than the date specified in the crop year supplement.

(b) *Beneficial interest.* To be eligible for price support, the beneficial interest in the honey must be in the producer tendering it as security for a loan or for purchase and must have always been in him or in him and a former producer whom he succeeded as owner of the bees before the honey was extracted, except that heirs who (1) succeed to the beneficial interest of a deceased producer, (2) assume the decedent's obligation under a loan if a loan has already been obtained, and (3) assure continued safe storage of the honey, if under farm storage loan, shall be eligible for price support as producers whether such succession occurs before or after extraction of the honey. A producer shall be considered to have transferred the beneficial interest to a quantity of honey when the producer enters into a contract or otherwise becomes obligated to deliver such quantity of honey to a person who does not meet the requirements for succession of interest. A simple option to purchase the honey for a reasonable consideration shall not be considered a transfer of a beneficial interest unless the option holder also exercises some control over the production, handling or disposition of the honey. If price support is made available through an approved cooperative marketing association, the beneficial interest in the honey must always have been in the producer members who delivered the honey to the approved cooperative or its member cooperatives or must always have been in them and former producers whom they succeeded before the honey was extracted, except as provided in the case of heirs of a deceased producer Honey acquired by a cooperative marketing association shall not be eligible for price support if the producer members who delivered the honey to the cooperative or its member cooperatives do not retain the right to share in the proceeds from the marketing of the honey as provided in Part 1425 of this chapter.

(c) *Succession of interest.* To meet the requirements of succession to a former producer, the rights, responsibilities and interest of the former producer with respect to ownership of the bees which produced the honey shall have been substantially assumed by the person claiming succession. Mere purchase of the honey prior to extraction or its inheritance without acquisition of any additional interest in the production unit shall not constitute succession.

(d) *Doubtful cases.* Any producer or cooperative in doubt as to whether his interest in the honey complies with the requirements of this section should, before requesting price support, make available to the county committee all pertinent information which will permit a determination to be made by CCC.

§ 1434.5 Miscellaneous requirements.

(a) *Security.* The county office shall file or record as required by State law all chattel mortgages which cover honey under loan and stored on leased premises, or in leased bulk tanks, described in § 1434.9(a)(1). The cost of filing and recording shall be for the account of CCC.

(b) *Revenue stamps.* Farm Storage Note, Chattel Mortgage and Security Agreements, and Warehouse Storage Note and Security Agreements, must have State and documentary revenue stamps affixed thereto where required by law.

(c) *Restrictions in use of agents.* A producer shall not delegate to any person (or his representative) who has any interest in storing, processing, or merchandising honey authority to exercise on behalf of the producer any of the producer's rights or privileges under this program or any note, chattel mortgage and security agreement, or other instrument executed in obtaining price support under this program, unless the person (or his representative) to whom authority is delegated is serving in the capacity of a farm manager for the producer. Any delegation of authority given in violation of this paragraph shall be without force and effect and shall not be recognized by CCC.

§ 1434.6 Availability, disbursement, and maturity of loans.

(a) *Where to request price support.* A producer shall request price support at the local ASCS county office of the county in which the honey is stored. An approved cooperative marketing association must request price support at the ASCS county office for the county in which the principal office of the cooperative is located unless the State committee designates some other ASCS county office. In the case of an approved cooperative marketing association having operations in two or more States, requests may be made at the county office for the county in which its principal office for each such State is located.

(b) *Availability and maturity date.* The availability and maturity date applicable to loans and purchases will be specified in the annual crop year supplement to the regulations in this subpart, except that whenever the final date of availability or the maturity date falls on a nonworkday for ASCS county offices, the applicable final date shall be extended to include the next work day.

(c) *Disbursements of loans.* Disbursement of loans will be made to producers by means of drafts drawn on CCC or by credit to the producers account. The producer shall not present the loan document for disbursement unless the honey covered by the mortgage or pledge has been extracted and is in approved storage. If the honey was not either in existence or extracted at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly by the producer.

§ 1434.7 Eligible honey.

Honey must meet the requirements of this section in addition to other applicable eligibility requirements of this subpart and the applicable annual supplement thereto in order to be eligible for a loan or for delivery under a loan or purchase. Honey described in § 1434.8 is not eligible.

(a) *Production.* The honey must have been produced and extracted in the United States by an eligible producer during the calendar year for which price support is requested.

(b) *Floral source.* Honey from the floral sources listed below and honey having similar flavor shall be eligible for price support and shall be classed as follows:

(1) *Table honey.* Table honey means honey having a good flavor of the predominant floral source which can be readily marketed for table use in all parts of the country. Such sources include alfalfa, bird's-foot trefoil, blackberry, brazil brush, catsclaw, clover, cotton, firewood, gallberry, huajillo, lima bean, mesquite, orange, raspberry, sage, saw palmetto, soybean, sourwood, star thistle, sweetclover, tupelo, vetch, western wild buckwheat, wild alfalfa, and similar mild flavors, or blends of mild flavored honeys, as determined by the Director, Commodity Programs Division, ASCS.

(2) *Nontable honey.* Nontable honey means honey having a predominant flavor of limited acceptability for table use but which may be considered suitable for table use in areas in which it is produced. Such honeys include those with a predominant flavor of aster, athel, avocado, buckwheat (except western wild buckwheat), cabbage palmetto, dandelion, eucalyptus, goldenrod, heartsease (smartweed), horsemint, mangrove, manzanita, mint, partridge pea, rattan vine, safflower, salt cedar (Tamarix Gallica), spanish needle, spikeweed, titi-toyon (Christmas berry), tulip-poplar, wild cherry, and similarly flavored honey or blends of such honeys, as determined by the Director, Commodity Programs Division, ASCS.

(c) *Containers.* The honey must be packed in metal containers of a capacity of not less than 5 gallons or greater than 70 gallons and of a style used in normal commercial practice in the honey industry or stored in bulk tanks described in subparagraph (3) of this paragraph. All containers and tanks shall meet the requirements of the Food, Drug, and Cosmetic Act and regulations issued thereunder.

(1) *Five-gallon.* The 5-gallon containers must contain approximately 60 pounds of honey and shall be new, clean, sound, uncased, and free from appreciable dents and rust. The handle of each container must be firm and strong enough to permit carrying the filled can. The cover and can opening must not be damaged in any way that will prevent a tight seal. Cans which are punctured or have been punctured and resealed by soldering will not be acceptable.

(2) *Steel drums.* Steel drums must be open-end type, filled to their rated capacities and be new, or used drums which have been reconditioned inside and outside. They must be clean, treated to prevent rusting and fitted with gaskets which provide a tight seal.

(3) *Tanks.* Tanks used for bulk storage shall be stainless steel or aluminum or steel tanks coated on the inside with a material which, (i) complies with the Food, Drug, and Cosmetic Act and regulations issued thereunder, (ii) is suitable for use in contact with honey, and (iii) shall not adulterate the honey, impart any off color, odor, taste, or any other characteristics which would otherwise change the value of the honey stored therein. Bulk tanks shall have equipment available for liquifying crystallized honey.

(d) *Moisture requirements for loan.* To be eligible for a warehouse storage loan, honey must not contain in excess of 18.5 percent moisture.

§ 1434.8 Ineligible honey.

(a) *Floral source.* Honey from the following floral sources is not eligible for price support regardless of whether it meets other eligibility requirements: Andromeda, bitterweed, broomweed, cajeput, chinquapin, dog fennel, desert hollyhock, gumweed, mescal, onion, prickly pear, prune, queen's delight, rabbit brush, snowbrush (Ceanothus), snow-on-the-mountain, tarweed, and similar objectionably flavored honey or blends of honey as determined by the Director, Commodity Programs Division, ASCS. If any blends of honey contain such ineligible honey, the lot as a whole shall be considered ineligible for loan or delivery for purchase.

(b) *Contamination or poisonous substances.* Honey which is contaminated or which contains chemicals or other substances poisonous to man or animals is not eligible for price support.

(c) *Containers.* Honey packed in steel drums which have removable liners of polyethylene, or other materials is not eligible for price support regardless of whether it meets other eligibility requirements.

§ 1434.9 Approved storage.

(a) *Loans.* Loans will be made only on honey in approved storage as defined in this section.

(1) *Farm storage.* Approved farm storage shall consist of a storage structure located on or off the farm (excluding public or commercial warehouses) which is determined by the county committee to be under the control of the producer and to afford safe storage for honey. Producers may also obtain loans on honey packaged in eligible containers and stored on leased space in facilities owned by third parties in which the honey of more than one person is stored if the honey on such leased space to be placed under loan is segregated from all other honey, is identified by markings on each container of honey, and if the segregated quantity of honey is identified by a lot number and the name of the producer as owner thereof. In addition, producers may obtain loans on honey stored in bulk tanks owned by others if use of the bulk tank is obtained by a lease between the person using the bulk tank and the owner thereof. A copy of the lease shall be obtained by the county office before a loan is made. The lease shall authorize the producer and any person having an interest in the honey to enter on the premises to inspect and examine the honey and shall permit a reasonable time to such persons to remove the honey from the premises on its termination. Except as provided in § 1434.3(f) in the case of joint loans, only the producer lessee may obtain price support on such bulk stored honey and only eligible honey belonging to the producer lessee may be stored in the bulk tanks. The chattel mortgage and security agreement shall cover all the honey stored in the bulk tank.

(2) *Warehouse storage.* Approved warehouse storage or an approved warehouse shall consist of a public warehouse for which a CCC Honey Storage Contract is in effect and which is approved for price support purposes or a warehouse operated by an approved cooperative as defined in § 1434.3(d) and licensed to store honey under the United States Warehouse Act.

(b) *Segregation of loan collateral.* If the honey in a storage structure is packaged in containers and secures more than one loan, the honey must be segregated so as to preserve the identity of the honey securing each loan. Honey in containers securing a loan must also be segregated from any non-loan honey in the same structure.

(c) *Purchases.* Purchases will be made by CCC without regard to whether the honey is in approved storage.

§ 1434.10 Warehouse receipts.

(a) *General.* Warehouse receipts representing honey to be placed under a warehouse storage loan, delivered in satisfaction of a farm storage loan or delivered for purchase, must meet the requirements of this section and any other requirements contained in the regulations in this subpart and in any supplement thereto. A separate warehouse receipt must be submitted for each class, color, floral source, quality, and grade of honey.

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of the eligible producer or CCC. If issued in the name of the eligible producer, the receipts must be properly endorsed in blank so as to vest title in the holder. Receipts must be issued by an approved warehouse and indicate whether the honey is stored identity preserved in eligible containers or commingled in bulk tanks. The receipts must be negotiable, must cover eligible honey actually in storage in the warehouse and must be registered or recorded with appropriate State or local officials when required by State law.

(c) *Entries.* Each warehouse receipt or extracted honey inspection and weight certificate properly identified with the warehouse receipt must be issued in accordance with the Honey Storage Contract or U.S. Warehouse Act, if applicable, and must show:

(1) Whether the honey is stored in bulk commingled or identity preserved in containers;

(2) Number of containers if stored in containers;

(3) Size of containers if stored in containers;

(4) Gross weight for container storage;

(5) Net weight for container and bulk storage;

(6) Lot number for container storage;

(7) Average moisture for quantity represented by the receipt;

(8) Class, color, floral source, quality, and grade.

(d) *Extracted honey inspection and weight certificate.* When an extracted honey inspection and weight certificate is issued it must show the following additional information:

(1) Warehouse receipt number;

(2) Lot number (if applicable);

(3) Number and size of containers (if applicable);

(4) Class, color, floral source, quality, and grade; and

(5) Net weight.

(e) *Where warehouseman is also owner.* If the receipt is issued for honey which is owned by the warehouseman, either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. In States where the pledge of warehouse receipts issued by a warehouseman on his own honey is not valid under State law, if the warehouseman elects to deliver the commodity to CCC for purchase, the warehouse receipt shall be issued in the name of CCC, except that a warehouse receipt may be pledged in the name of the warehouseman for loan purposes when his warehouse is licensed and operating under the U.S. Warehouse Act.

(f) *Insurance.* Each warehouse receipt representing honey stored in an approved warehouse which has a honey storage contract with CCC shall indicate that the honey is insured in accordance with such contract.

§ 1434.11 Warehouse charges.

Prior to the time that the honey is placed under warehouse storage loan, or acquired by CCC, the producer shall arrange for payment of storage, inspection, and all other charges (except receiving and loading out charges in the warehouse in which the honey is acquired by CCC) accruing through the loan maturity date for the honey. Such charges shall include charges incident to weight and grade determinations on identity preserved honey. CCC will assume warehouse storage charges accruing after the maturity date for loans for honey acquired by CCC.

§ 1434.12 Applicable forms.

The forms for use in connection with this program shall be as follows: Form CCC–614, Purchase Agreement; Form CCC–677, Farm Storage Note, Chattel Mortgage, and Security Agreement; Form CCC–678, Warehouse Storage Note and Security Agreement; Form CCC–679, Lien Waiver; Form CCC–681, Authorization for Removal of Farm Stored Collateral; Form CCC–687–1, Approval to Move Loan Collateral; Form CCC–691, Commodity Delivery Notice; Form CCC–692, Settlement Statement; Form CCC–693, Price Support Settlement Intention (Farm Storage); Form CCC–694, Price Support Settlement Intention (Warehouse Storage); and Form CCC–828, List Furnished to Cooperative Associations; and such other forms as may be prescribed by CCC. These forms may be obtained in ASCS State and county offices.

§ 1434.13 Liens.

If there are any liens or encumbrances on the honey, waivers that will fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the loan or purchase proceeds. Notwithstanding the foregoing provisions, in lieu of waiving his prior lien on honey tendered as security for a loan, a lienholder may execute a Lienholder's Subordination Agreement (Form CCC–864) with CCC in which he subordinates his security interest to the rights of CCC in the honey subject to the loan or such other quantity of honey as is delivered in satisfaction of a loan under the provisions of this subpart. No additional liens or encumbrances shall be placed on the honey after the loan is approved.

§ 1434.14 Fees and charges.

(a) *Loan service fee.* A producer shall pay a loan service fee of $8 for each farm storage loan disbursed and $4 for each warehouse storage loan disbursed. The loan service fee is not refundable.

(b) *Delivery charge.* A delivery charge of 1 cent per hundredweight in addition to the service charge shall be paid by producers on the quantity of honey delivered to CCC. In the case of farm storage loans, identity preserved warehouse storage loans, and purchases, such delivery charge shall be paid at time of settlement. In the case of commingled warehouse storage loans, such delivery charge shall be deducted from loan proceeds and will be credited to the producer's account on any quantity redeemed.

§ 1434.15 Setoffs.

(a) *Facility and drying equipment loans.* If any installments on any loan made by CCC on farm storage facilities or drying equipment are due and payable under the provisions of the note evidencing such loan out of any amount due the producer under these regulations, the amount due the producer, after deduction of applicable fees and charges and amounts due prior lienholders, shall be applied to such installment(s).

(b) *Producers listed on claims control record.* If a producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the ASCS county claims control record, amounts due the producer under the program provided in this subpart, after deduction of amounts payable on farm storage facilities or drying equipment and other amounts provided in paragraph (a) of this section, shall be applied as provided in the Secretary's Setoff Regulations, Part 13 of this title, to such indebtedness.

(c) *Producer's right.* Compliance with the provisions of this section shall not deprive the producer of any right he might otherwise have to contest the justness of the indebtedness involved in the setoff action either by administrative appeal or by legal action.

§ 1434.16 Determination of quantity.

(a) *For loan purposes.* The estimated quantity of farm stored honey and the quantity of warehouse stored honey placed under loan shall be determined as provided in §§ 1434.23 and 1434.24. Estimates of quantity of farm stored honey shall be made on the basis of 12 pounds for each gallon of rated capacity of the container or bulk storage tank.

(b) *At time of acquisition*—(1) *Farm storage.* The quantity of honey acquired by CCC on delivery in liquidation of a loan or delivery for purchase shall be determined by weighing the honey delivered under the direction of the State committee. The quantity of honey acquired in 5-gallon cans shall be determined by using a tare weight of 2.5 pounds for each can. The quantity of honey acquired in 55-gallon drums shall be determined by using a tare weight of 53 pounds for each drum unless the producer can furnish evidence of a lesser tare weight.

(2) *Warehouse storage.* In the case of honey packaged in eligible containers, the quantity of honey acquired by CCC in approved warehouse storage in liquidation of a loan or delivery for purchase shall be the net weight shown on the warehouse receipt or on the weight certificate accompanying and identified to the warehouse receipt pledged to CCC or representing honey offered to CCC for purchase. In the case of honey acquired from bulk storage in an approved warehouse, the quantity shall be determined on the basis of the net weight shown on the warehouse receipt.

§ 1434.17 Determination of quality.

(a) *Quality for loan*—(1) *Farm storage.* Loans on farm stored honey will be made on the basis of the floral source, color, and class (table or nontable) of the honey as declared and certified by the producer on the Farm Storage Worksheet at the time the honey is placed under loan.

(2) *Warehouse storage.* Loans on warehouse stored honey will be made on the basis of the class and the floral source, quality, grade, and color of the honey as shown on the warehouse receipt or on the extracted honey inspection and weight certificate accompanying the warehouse receipt representing such honey.

(b) *Quality for settlement*—(1) *Farm storage in eligible containers.* When honey is delivered to CCC in eligible containers from farm storage, its quality and color shall be determined by the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, C&MS, in accordance with U.S. Standards for Grades of Extracted Honey on the basis of samples drawn by ASCS representatives supervising delivery. Samples shall not be drawn until the producer has designated all lots. Single containers shall not be considered as lots unless necessitated by color or floral source. The cost of quality and color determination for a maximum of four lots shall be for the account of CCC.

(2) *Identity preserved warehouse stored.* When honey stored identity preserved in containers in an approved warehouse is delivered to CCC, its class, floral source, quality, grade, and color shall be determined by the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, C&MS, in accordance with U.S. Standards for Grades of Extracted Honey on the basis of samples drawn by ASCS representatives supervising delivery. The cost of such determination shall be for the account of CCC.

(3) *Commingled warehouse bulk stored.* Settlement for eligible honey stored bulk commingled in an approved warehouse and acquired by CCC under a loan or by purchase shall be made on the basis of the class, color, floral source, quality, and grade shown on the warehouse receipt. Settlement shall also be made on such a basis where an approved warehouse issues a commingled warehouse receipt for loan honey delivered into the warehouse from bulk farm storage pursuant instructions of the county office.

(c) *Segregation by color.* Table honey in eligible containers shall, insofar as is practicable, be segregated into lots by color to conform with the color categories stated in the crop year supplement. If a lot of honey is not segregated so that it can be certified as one color in accordance with the U.S. Standards for Grades of Extracted Honey, the rate of settlement under a loan or purchase shall be based on the darkest color shown on the inspection certificate: *Provided,* That if the inspection certificate at time of delivery to CCC shows that a farm stored or identity preserved warehouse stored lot of honey contains more than two colors and if the number of samples of the darkest color shown on such certificate is not more than one-sixth of the total number of samples, the color for the purpose of settlement shall be the next lighter color than the darkest color.

(d) *Segregation by classes.* If the honey in eligible containers is not segregated so that it can be classified as table honey, the rate for settlement under a loan or purchase shall be based on the support rate for nontable honey.

(e) *Blends.* In the case of blends of table and nontable honeys, the rate for settlement under a loan or purchase shall be based on the support rate for nontable honey.

§ 1434.18 Interest rate.

Loans shall bear interest at the rate announced in a separate notice published in the FEDERAL REGISTER.

§ 1434.19 Transfer of producer's interest prohibited.

(a) *Warehouse storage loans.* The producer shall not transfer either his remaining interest in or his right to redeem honey pledged as security for a warehouse storage loan, nor shall anyone acquire such interest or right. The producer's interest or right of redemption will not be deemed to have been transferred in violation of this paragraph if, under § 1434.25(c), he or his properly authorized agent has filed a statement with the ASCS county office authorizing the release of such warehouse receipts to others, and the loan is repaid within 15 days following the date of such authorization.

(b) *Farm storage loans.* The producer shall not transfer either his remaining interest in or his right to redeem honey mortgaged as security for a farm storage loan, nor shall anyone acquire such interest or right. Subject to the provisions of § 1434.25, a producer who wishes to liquidate all or part of his loan by contracting for the sale of the honey must obtain written prior approval of the county office on a form prescribed by CCC to remove a specified quantity of the honey from storage. Any such approval shall be subject to the terms and conditions set out in the applicable form, copies of which may be obtained by producers or prospective purchasers at the ASCS county office.

§ 1434.20 Insurance.

CCC will not require the producer to insure the honey placed under a farm stored loan; however, if the producer insures such honey and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest, after first satisfying the producer's equity in the honey involved in the loss.

§ 1434.21 Loss or damage.

The producer is responsible for any loss in quantity or quality of the honey placed under a farm storage loan or identity preserved warehouse storage loan. Notwithstanding the foregoing, any such loss occurring and reported to the county office after disbursement of the loan funds and prior to redemption or delivery to CCC will be assumed by CCC to the extent of the settlement value at the time of destruction of the quantity of the honey destroyed up to a quantity not in excess of that required to secure the outstanding loan (or if the honey is not destroyed, in an amount equivalent to the extent of the loss or damage as determined by CCC), less any insurance proceeds to which CCC may be entitled and the salvage value of the honey, if the producer establishes to the satisfaction of CCC each of the following conditions: (a) The physical loss or damage occurred without fault or negligence on the part of the producer or any other person having control of the storage structure; (b) the loss resulted solely from an external cause (other than insect infestation, vermin or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (c) the producer gave the county office immediate notice of such loss or damage; and (d) the producer made no fraudulent representation in the loan documents or in obtaining the loan.

§ 1434.22 Personal liability of the producer.

(a) *Fraud relating to loans and unlawful disposition.* The making of any fraudulent representation by a producer in the loan documents in obtaining a loan, or in connection with settlement or delivery under a loan, or the unlawful disposition of any portion of the honey by him will render the producer subject to criminal prosecution under Federal law. If a producer has made any such fraudulent representation or unlawful disposition, the loan shall become payable upon demand and the producer shall be personally liable, aside from any additional liability under criminal and civil frauds statutes, for the

amount of the loan, for any additional amount paid to the producer in connection with the honey, and for all costs which CCC would not have incurred had it not been for the producer's fraudulent representation or unlawful disposition, together with interest on such amounts. Notwithstanding the provisions of section 6(b) of the Farm Storage Note, Chattel Mortgage and Security Agreement (Form CCC–677) and section 6(b) of the Warehouse Storage Note and Security Agreement (Form CCC–678), if a producer has made any such fraudulent representation or any unlawful disposition, the amount with which he shall be credited for any honey delivered to or removed by CCC will be, whichever is applicable, (1) the market value of the honey as determined by CCC as of date of delivery to or removal by CCC, or the loan settlement value, whichever is the lower, in the case of farm storage loans, (2) the market value of the commodity at the close of the market on the final date for repayment or the loan settlement value, whichever is the lower, in the case of warehouse storage loans, or (3) the sales price less any costs sustained by CCC, the honey is sold by CCC in order to determine its market value, or the loan settlement value, whichever is the lower. If the unlawful disposition of loan collateral is determined by CCC not to have been willful conversion, the value of the honey or part thereof delivered to CCC or removed by CCC shall be the same as the settlement value for eligible honey acquired by CCC as provided in this subpart.

(b) *Fraud relating to purchases.* If the producer has made a fraudulent representation in a price support purchase by CCC or in price support purchase documents, he shall be personally liable, aside from any additional liability under criminal or civil fraud statutes, for any loss which CCC sustains upon the honey delivered under the purchase. For the purpose of this program, such loss shall be deemed to be the price paid to the producer on the honey delivered under the purchase plus all costs sustained by CCC in connection with the honey together with interest on such amounts, less the lowest of the following: The market value, as determined by CCC, as of the close of the market on the date of delivery; the sales price of the honey, if the honey is sold in order to determine its market value; or CCC's purchase price.

(c) *Overdisbursement.* If the amount disbursed under a loan or purchase exceeds the price support value of the honey upon settlement determined as authorized under this subpart, the producer shall be personally liable for the repayment of the amount of such excess.

(d) *Contamination or poisonous substances.* A producer shall be personally liable for any damages resulting from delivery to CCC of contaminated honey, or honey containing chemicals, or other substances poisonous to man or animals.

(e) *Joint loans.* In the case of joint loans, the personal liability for the amounts specified in this section shall be joint and several one the part of each producer signing the note.

§ 1434.23 Quantity for warehouse storage loan.

(a) *Commingled bulk storage.* The amount of a loan on the quantity of eligible honey stored commingled in bulk in an approved warehouse shall be based on the net weight specified on the warehouse receipt representing such honey which is pledged as security for the loan. The support rate shall be adjusted as provided in § 1434.43.

(b) *Identity preserved in eligible containers.* The amount of a loan on the quantity of eligible honey packaged in eligible containers and stored identity preserved in an approved warehouse shall be based on a percentage of the net weight specified on the warehouse receipt representing such honey which is pledged as security for the loan. Such percentage shall not exceed 95 percent of the weight so specified.

§ 1434.24 Quantity for farm storage loan.

(a) *General.* Farm storage loans shall be made on a percentage of the estimated quantity of eligible honey stored in approved farm storage to be covered by the chattel mortgage. The State committee may establish a lower loan percentage on a statewide basis or for specified areas within the State. In establishing a loan percentage lower than the maximum loan percentage, the State committee shall consider the following factors: (1) General crop conditions, (2) factors affecting quality peculiar to an area or State, and (3) climatic conditions affecting storability. A new loan percentage shall apply only to new loans and not to loans already made. The loan percentage established by the State committee may be lowered by the county committee on an individual producer basis when determined to be necessary in order to provide CCC with adequate protection. Factors to be considered by the county committee are: (i) Condition or suitability of the storage structure, (ii) condition of the honey, (iii) hazardous location of the storage structure, such as a location which exposes the structure to danger of hazards of flood, fire, and theft (when the percentage is lowered for one of these hazards, the producer shall be notified in writing that CCC will not assume any loss or damage to the loan collateral resulting from the particular hazards to which the structure was exposed), (iv) disagreement on the estimated quantity, (v) producers who have been approved under § 1434.3(e), and (vi) factors peculiar to individual farms or producers as reported by the commodity loan inspector or as known to the county office which relate to the preservation or safety of the loan collateral. Farm storage loans may be made on less than the maximum quantity eligible for loan at the request of the producer. In any event, the chattel mortgage shall cover all the honey in the lot in which the honey on which the loan is made is stored.

(b) *Bulk storage.* The amount of a loan on the quantity of eligible honey stored in bulk in approved farm storage shall be based on a percentage of the estimated quantity. Such percentage shall not exceed 85 percent. In the event delivery cannot be accepted in bulk, the producer must arrange for the honey to be packaged in eligible containers prior to its delivery to CCC. Such containers shall be marked to show net weight of the honey and name and address of the producer. Title to the containers shall vest in CCC.

(c) *Packaged in eligible containers.* Loans shall be made on not more than 90 percent of the estimated quantity of eligible honey packaged in eligible containers in approved farm storage.

§ 1434.25 Release of the honey under loan.

(a) *Obtaining release—farm storage.* A producer shall not remove any honey covered by a chattel mortgage until he has received prior written approval for such removal from the county committee on one of the applicable forms listed in § 1434.13. A producer may at any time obtain release of all or part of the honey remaining under loan by paying to CCC the amount of the loan made with respect to the quantity of the honey released plus interest. When the proceeds of a sale of honey are needed to repay all or part of the loan, see § 1434.19.

(b) *Release of chattel mortgage.* The chattel mortgage shall not be released until the loan has been satisfied in full. After satisfaction of a loan, the county executive director shall release CCC's security interest in the honey.

(c) *Obtaining release—warehouse storage loans.* The producer may arrange with the county office for release of all or part of the honey under warehouse storage loan on or prior to maturity by repayment of the amount of the loan with respect to the quantity of the honey to be released plus interest. Each partial release must cover all of the honey represented by one warehouse receipt. Subject to provisions of § 1434.5 (c), warehouse receipts redeemed by repayment shall be released only to the producer or his authorized agent, except that redeemed warehouse receipts may be released to persons designated in a written authorization filed with the county office by the producer or his properly authorized agent and dated within 15 days prior to the date of repayment.

§ 1434.26 Liquidation of farm storage loans.

(a) *General.* In the case of farm storage loans, the producer is required to pay off his loan or deliver the honey under loan to CCC. Deliveries shall be made in accordance with written instructions issued by the county office which shall set forth the time and place of delivery. In making delivery in liquidation of the loan, any quantity of eligible honey delivered in excess of the quantity necessary to settle the amount due on the loan may be delivered to CCC notwithstanding the provisions of § 1434.28 and settlement shall be made under § 1434.29. Delivery points shall be limited to those approved by the Minneapolis ASCS Commodity Office.

(b) *Notice to county committee.* If the producer desires to deliver the honey to CCC, he must give the county committee notice in writing of his intention

to do so within a reasonable time prior to the applicable maturity date.

(c) *Honey going out of condition.* If, prior to delivery to CCC, the honey in approved farm storage is going out of condition, the producer shall so notify the county office and confirm such notice in writing. If the county committee determines that the honey is going out of condition or is in danger of going out of condition and that the honey cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county committee shall arrange for an inspection and grade and quality determination. When delivery is completed, settlement shall be made subject to the provisions of §§ 1434.21 and 1434.22 on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, for the quantity actually delivered.

(d) *Delivery before maturity date.* When considered necessary to protect the interest of CCC or when requested by the producer, the county committee may call the loan and accept delivery of the honey prior to the loan maturity date.

(e) *Storage deduction for early delivery.* If the loan maturity date is accelerated upon request of the producer and the acceleration is approved by CCC, the settlement value of the honey shall be reduced by one-twelfth of a cent per pound per month or fraction thereof, from the date delivery is accomplished, or from the final date for delivery shown in the delivery instructions, whichever is earlier, to and including the original loan maturity date.

§ 1434.27 Liquidation of warehouse storage loans.

If a producer does not repay the loan indebtedness upon maturity of the loan, CCC shall have the right to sell or acquire title to the honey pledged as security for the loan indebtedness.

§ 1434.28 Purchases from producers.

(a) *Quantity eligible for purchase.* An eligible producer may sell to CCC any or all of his eligible honey which is not mortgaged to CCC under a farm storage loan or pledged to CCC under a warehouse storage loan: *Provided,* That he executes and delivers to the county office prior to the maturity date a Purchase Agreement (Form CCC–614) indicating the approximate quantity of honey he will sell to CCC. The producer is not obligated, however, to complete the sale by delivery of any quantity of his honey to CCC. Delivery points for purchases from other than approved warehouse storage shall be limited to those approved by the Minneapolis ASCS Commodity Office.

(b) *Delivery period.* In the case of honey not in an approved warehouse, the producer must make delivery of the honey he desires to sell to CCC within the period of time after the loan maturity date shown in the applicable crop supplement, specified in delivery instructions issued by the county office. Delivery shall be made to the location specified in such instructions. Notwithstanding any other provisions of this § 1434.28, in the case of eligible honey not under loan, the county committee may, on request of a producer, purchase and accept delivery of such eligible honey prior to loan maturity date. In the event of such purchase and delivery, the settlement value of the honey shall be reduced as provided in paragraph (e) of § 1434.26.

§ 1434.29 Settlement.

(a) *General.* Except as provided in §§ 1434.21 and 1434.22 and paragraph (b) of this section, settlement with the producer for eligible honey acquired by CCC under loan or purchase will be made on the basis of the quantity, floral source, class, quality, grade, and color of such honey as provided in this section and other applicable provisions of this subpart. The settlement value of honey shall be the product of the support rate for the class, floral source, quality, grade, and color times the quantity acquired at the time of settlement adjusted by the discounts contained in the annual crop supplement. The support rate per pound of honey at which settlement will be made shall be the rate for the State where the producer obtained price support.

(b) *Warehouse storage*—(1) *Identity preserved.* Settlement for eligible honey stored identity preserved in an approved warehouse and acquired by CCC shall be made on the basis of the net weight shown on the extracted honey inspection and weight certificate and the class, floral source, quality, color, and grade shown on the inspection certificate.

(2) *Commingled bulk storage.* Settlement for eligible honey stored commingled bulk in an approved warehouse and acquired by CCC shall be made on the basis of the net weight, class, floral source, quality, grade, and color shown on the warehouse receipt.

(c) *Ineligible honey inadvertently accepted by CCC.* If ineligible honey is inadvertently accepted by CCC, the settlement value shall be the market value as of the date of delivery as determined by CCC. The provisions of § 1434.22 shall be applicable to settlement on ineligible honey where there has been a fraudulent representation on the part of the producer.

(d) *Payment of deficiency by producers.* If the settlement value of the honey is less than the amount due on the loan (excluding interest), the amount of any deficiency plus interest thereon shall be paid to CCC. If it is not promptly paid, CCC may, in addition to any of its other rights, satisfy the amount of such deficiency plus interest out of any payment which would otherwise be due the producer under any agricultural program administered by the Secretary of Agriculture or any other payments which are due or may become due the producer from CCC or any other agency of the United States.

(e) *Payments of amount due producer.* If the settlement value of the honey delivered exceeds the amount due on the loan (excluding interest), such excess amount shall be paid to the producer. Any payment due the producer on either a loan or purchase will be made by draft drawn on CCC by the county office.

(f) *Storage where CCC is unable to take delivery.* A producer may be required to retain the honey stored in other than an approved warehouse under loan or for sale to CCC for a period of 60 days after the maturity date without any cost to CCC. If CCC is unable to take delivery of the honey within the 60-day period after the loan maturity date, the producer shall be paid a storage payment upon delivery of the honey to CCC. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after such maturity date and extend through the earlier of: (1) The final date of delivery, or (2) the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment shall be computed at the storage rate stated in the applicable CCC storage agreement for honey in effect at the delivery point where he delivers.

§ 1434.30 Foreclosure.

(a) *Removal from storage.* If the loan indebtedness (i.e., the unpaid amount of the note, interest and charges) is not satisfied upon maturity of the note, CCC may remove the honey from storage, and assign, transfer, and deliver the honey or documents evidencing title thereto at such time, in such manner, and upon such terms as CCC may determine, at public or private sale. Any such disposition may similarly be effected without the prior removal of the honey from storage. The honey may be processed before sale. CCC may become the purchaser of the whole or any part of the honey hereunder at either a public or private sale.

(b) *When CCC takes title to honey.* Upon maturity and nonpayment of the producer's note, at CCC's election, title to all or any part of the unredeemed honey securing the note as CCC may designate shall, without a sale thereof, immediately vest in CCC. Whenever CCC acquires title to the unredeemed honey, CCC shall have no obligation to pay for any market value which such honey may have in excess of the loan indebtedness, i.e., the unpaid amount of the note plus interest and charges.

(c) *Payments to producer.* Nothing herein shall preclude the making of the following payments to the producer or to his personal representative or heirs who meet the conditions set forth in § 1434.4, without right of assignment to or substitution of any other party: (1) Any amount by which the settlement value of the collateral honey exceeds the principal amount of the loan, or (2) the amount by which the proceeds of sale exceed the loan indebtedness including interest and charges if the collateral honey is sold to third persons as provided in paragraph (a) of this section instead of full title to such collateral honey being acquired by CCC as provided in paragraph (b) of this section.

(d) *Honey sold at less than amount due on loan.* If honey is removed from

storage by CCC and is sold pursuant to paragraph (a) of this section at less than the amount due on the loan (excluding interest), the producer shall pay CCC the amount by which the settlement value (or, if higher, the sales proceeds) of the honey removed by CCC is less than the amount of the loan, plus interest on the amount of such deficiency. The amount of the deficiency may be setoff against any payment which would otherwise be due the producer under any agricultural program administered by the Secretary of Agriculture, or any other payments which are due or may become due the producer from CCC or any other agency of the United States.

§ 1434.31 Charges not to be assumed by CCC.

CCC will not assume any charges for insurance, storage, packaging, or processing.

§ 1434.32 Handling payments and collections not exceeding $3.

In order to avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the producer will be paid only upon his request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

§ 1434.33 Death, incompetency, or disappearance.

In case of the death, incompetency, or disappearance of any producer who is entitled to the payment of any sum in settlement of a loan or a purchase, payment shall, upon proper application to the county office which made the loan or purchase, be made to the persons who would be entitled to such producer's payment under the regulations contained in Part 707 of this title—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1434.34 Definitions.

As used in the regulations in this subpart, and in all instructions, forms, and documents in connection therewith, the words and phrases listed in this section shall have the meaning assigned to them herein unless the context or subject matter otherwise requires.

(a) *General.* The following words or phrases: "Person", "State committee", "State Executive Director", "County committee", "county executive director", and "farm", respectively, shall each have the same meaning as the definitions of such term in the Regulations Governing Reconstitution of Farms, Allotments, and Bases, Part 719 of this title and any amendments thereto.

(b) *Settlement value.* The term "settlement value" means the value at which settlement is made with the producer on the mortgaged or pledged honey or the honey offered for purchase, as determined under the provisions of the regulations in this part.

(c) *Charges.* The term "charges" means all fees, costs, and expenses incident to insuring, carrying, handling, storing, conditioning, and marketing the honey and otherwise protecting the interest in the loan collateral of CCC or the producer, including foreclosure costs.

(d) *County committee.* The term "county committee" means only the committee and not its representative.

(e) *Representative of the county committee and county committee representative.* The terms "representative of the county committee" and "county committee representative" means a member of the county committee, the county executive director or a person designated by the county executive director to act in his behalf.

(f) *The regulations in this subpart.* The term "the regulations in this subpart" means the regulations in Subpart—Honey Price Support Regulations for 1970 and Subsequent Crops together with any supplements and amendments thereto.

(g) *Request for price support.* The term "request for price support" means a request for loan or execution of Purchase Agreement (Form CCC–614) as applicable.

(h) *Chattel mortgage.* The term "chattel mortgage" means any security instrument which secures a farm storage loan.

§ 1434.35 ASCS Commodity Office and Data Processing Center.

The Minneapolis ASCS Commodity Office serves all States for honey. Accounting, recording, and reporting for all States will be handled through the Data Processing Center, Post Office Box 205, Kansas City, Mo. 64141.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 16, 1970.

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

[F.R. Doc. 70–9459; Filed, July 22, 1970; 8:45 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q]

PART 217—INTEREST ON DEPOSITS

Maximum Rate Payable

§ 217.150 Rate payable when higher rate is payable only on short-term deposits.

The Board of Governors considers that the change in the Supplement to Regulation Q, effective June 24, 1970, which permits the payment of interest at any rate on single maturity time deposits of $100,000 or more with maturities of 30 to 89 days (while retaining the existing limitations on interest rates for such deposits maturing in 90 days or more), should be applied as follows:

(a) A member bank may amend the rate paid on a $100,000 certificate with an original maturity of 30 to 89 days issued before June 24, 1970, to pay any interest rate for the period subsequent to that date.

(b) A member bank may not amend the rate paid on a $100,000 certificate with an original maturity of 90 days or more to pay interest thereon for any period at a rate in excess of that specified in the Supplement for such a deposit with the particular maturity. Since such a deposit is not a 30- to 89-day deposit—the only kind of deposit free from interest rate control—it is not affected by the change in the regulation.

(c) A member bank may extend the maturity of a $100,000 certificate which originally provided for a maturity of 30 to 89 days, and pay interest at any rate during the extended term, if the new maturity is (1) later than the original maturity and (2) 30 to 89 days from the date of the extension.

(d) A member bank may not extend the term of a certificate originally issued for 90 days or more and pay interest on the deposit at a rate in excess of that applicable to the original deposit, even if the new maturity meets the conditions in the preceding paragraph. This does not apply, of course, to extension or renewal at maturity.

(e) A member bank may pay interest at any rate on a certificate originally issued in an amount less than $100,000 to which the depositor adds sufficient funds to increase the deposit to $100,000 or more, if and only if (1) the original maturity of the certificate is 30 to 89 days, and (2) the maturity date is 30 to 89 days after the date of the addition of such funds.

(f) Member banks may not make use of contracts for future deposits to permit a depositor to commit his funds for more than 89 days and obtain interest at a rate in excess of that applicable to a deposit with a longer maturity. For example, a bank and its depositor might agree on August 1, 1970, that the depositor will deposit, on that date and again on October 20 (80 days later), $100,000 for 80 days, on which the bank will pay interest at the rate of 10 percent. Such an arrangement would be an effort to evade the purposes of the regulation, which permits payment of rates of interest without legal restriction only on deposits of 30 to 89 days. The Board considers that the substance of such a transaction would be a deposit for 160 days. (If the depositor has an option, by contract or understanding, to withdraw funds at the end of the first 80 days or to leave them on deposit for the second 80 days, the deposit would be subject to the limitations of the Supplement to Regulation Q applicable to multiple maturity deposits payable at intervals of less than 90 days.) The Board's view would be the same even though the agreements—formal or informal—were entered into at different times, if they were so related as to be, in reality, a single arrangement that commits the bank and its depositor for 90 days or longer.

(12 U.S.C. 248(i). Interprets and applies 12 U.S.C. 371b)

By order of the Board of Governors, July 14, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-9475; Filed, July 22, 1970; 8:47 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 3, Amdt. 3]

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Guaranteed Loans; Correction

In F.R. Doc. 70-7578 appearing in the FEDERAL REGISTER of June 17, 1970, on page 9920 (35 F.R. 9920):

(1) The second sentence of § 108.502-1(g)(3)(i) inadvertently set forth SBA's charges on guaranteed loans made by financial institutions to local development companies as "* * * one-half of 1 percent per annum on the portion of the loan which SBA has guaranteed." This percentage rate is hereby corrected to read "* * * one-quarter of 1 percent per annum on the portion of the loan which SBA has guaranteed."

(2) The second sentence of § 108.502-1(g)(3)(ii) inadvertently set forth the service fee which may be deducted by a financial institution in an immediate participation loan to a local development company where SBA's share of the loan is 75 percent or less as "* * * one-half of 1 percent per annum on the unpaid principal balance of SBA's share of the loan." This percentage rate is hereby corrected to read "* * * three-eighths of 1 percent per annum on the unpaid principal balance of SBA's share of the loan."

Dated: July 13, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-9487; Filed, July 22, 1970; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-631; Amdt. 30]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Persons Holding Certain Capital Stock or Capital

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of July 1970.

In a notice of proposed rule making, EDR-178, April 1, 1970 (35 F.R. 5628), Docket 22068, the Board proposed, inter alia, to revise Schedule G-41 to require the identification of all persons holding more than 5 percent of an air carrier's capital stock or capital during the year as well as at the year end, along with maximum amounts of stock held by these persons during the year.

For the reasons set forth in ER-630, published simultaneously herewith, the Board has decided to modify the proposal and Schedule G-41 will require reports of more than 5 percent of a carrier's capital as of the end of any month during the year.

Accordingly, the Civil Aeronautics Board hereby amends Part 241 of the economic regulations (14 CFR Part 241) effective August 1, 1970, as follows:

1. Amend Section 26—General Corporate Elements by revising paragraph (b) and by adding a new paragraph (d) to read as follows:

Section 26—General Corporate Elements

Schedule G-41—Persons Holding More Than 5 Per Centum of Respondent's Capital Stock or Capital

* * * * *

(b) Columns 1 and 2 shall reflect the names and addresses of all persons who hold, as of the end of any month of the year, more than five (5) per centum of the issued and outstanding capital stock or, in the case of an unincorporated business enterprise, more than five (5) per centum of the total invested capital of the reporting carriers.

* * * * *

(d) Columns 4 through 7 shall pertain to the capital stock or the invested capital (exceeding 5 percent) held by the persons named in column 1. Column 4 shall reflect the class(es) of those shares held; column 5 shall reflect the maximum number of shares of each class of stock or the maximum amount of invested capital held as of the end of any month of the year; column 6 shall reflect the percent of total outstanding capital which such maximum shares or maximum invested capital represent; and column 7 shall reflect the number of such shares or amount of invested capital held at year end.

* * * * *

2. Amend Section 36—General Corporate Elements by revising paragraph (b) and adding a new paragraph (d) to reads as follows:

Section 36—General Corporate Elements

Schedule G-41—Persons Holding More Than 5 Per Centum of Respondent's Capital Stock or Capital

* * * * *

(b) Columns 1 and 2 shall reflect the names and addresses of all persons who hold, as of the end of any month of the year, more than five (5) per centum of the issued and outstanding capital stock or, in the case of an unincorporated business enterprise, more than five (5) per centum of the total invested capital of the reporting carrier.

* * * * *

(d) Columns 4 through 7 shall pertain to the capital stock or the invested capital (exceeding 5 percent) held by the persons named in column 1. Column 4 shall reflect the class(es) of those shares held; column 5 shall reflect the maximum number of shares of each class of stock or the maximum amount of invested capital held as of the end of any month of the year; column 6 shall reflect the percent of total outstanding capital which such maximum shares or maximum invested capital represent; and column 7 shall reflect the number of such shares or amount of invested capital held at year end.

* * * * *

3. Amend Schedule G-41 of CAB Form 41 by changing the title, the headings of columns (4) and (5) and by adding new columns (6) and (7) as shown in Exhibit A attached,[1] which is incorporated herein by reference.

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended (72 Stat. 743, 766; 49 U.S.C. 1324, 1377))

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-9504; Filed, July 22, 1970; 8:49 a.m.]

[Reg. ER-630; Amdt. 2]

PART 245—REPORTS OF OWNERSHIP OF STOCK AND OTHER INTERESTS

Additional Report of Stock Ownership

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of July 1970.

In a notice of proposed rule making, EDR-178, April 1, 1970 (35 F.R. 5628), Docket 22068, the Board proposed to implement the new shareholding reporting obligations imposed by recent amendment of section 407(b) of the Act,[2] by amending Part 245 of the economic regulations. The existing provisions of Part 245 would be placed in a Subpart A, and the new reporting requirements would be set forth in a Subpart B. Subpart B would apply to the shareholders of all air carriers as that term is defined in section 101(3) of the Act, with the exception of those air carriers exempted

[1] Exhibit A filed as part of the original document.

[2] By Public Law 91-62, approved Aug. 20, 1969 (83 Stat. 103), Congress inter alia, added the following sentence to section 407(b): "Any person owning, beneficially or as trustee, more than 5 per centum of any class of capital stock or capital, as the case may be, of an air carrier shall submit annually and at such other times as the Board may require, a description of the shares of stock or other interest owned by such person and the amount thereof."

by the Board from section 407(b). Other significant proposals will be discussed subsequently.

In addition, it was proposed to amend Part 241 (Uniform System of Accounts and Reports for Certificated Air Carriers) to require the identification in Schedule G–41 of all persons holding more than 5 percent of the carrier's capital stock or capital during the year as well as at year end along with the maximum amounts of stock held by these persons during the year.

Comments on the proposed amendments were received from a number of air carriers.[2] The Board finds that certain suggestions in these comments have merit and the proposals will be modified accordingly. Otherwise the Board will make final the amendments as proposed, and adopts by reference the tentative findings made in EDR–178.

Turning first to the proposed amendment to Part 241, as noted it would require the carriers to list, on Schedule G–41, any person who held more than 5 percent of their capital stock or capital on any single day during the year. Eastern objects to this proposal on the grounds that its transfer agent only submits a list of its larger stockholders as of the end of the month. Eastern alleges that daily reports would cost at least $80,000 per year and that it would be impractical for a large stockholder to divest himself of his holdings right before the end of each month. Therefore, Eastern proposes that Schedule G–41 be modified to require reports of holders of more than 5 percent of a carrier's capital stock or capital as of the end of any month during the year.

Although no other carrier has objected to reporting on a daily basis, the Board believes that accommodation to the problems raised by Eastern are appropriate. Therefore, Schedule G–41 will be altered to conform to Eastern's suggestion.

Proposed § 245.14 provided that it shall be the responsibility of air carriers subject to the part: (1) To notify each of its stockholders of record and each person owning any other interest in such carrier (without regard to the amount of such holdings) of the requirements of this part; (2) by mailing such persons a copy of this subpart; (3) on or before June 1, 1970, and on or before March 1, of each subsequent year.

With respect to proposal (1), Pan American suggests that persons owning "any other interest" be deleted from the regulation. Pan American states that it has 6,500 registered holders of convertible debentures and notifying them would add to the expense of compliance with the regulation. Continental argues that receipt of a copy of the regulations would be irrelevant to virtually all of the recipients and proposes that the Board only require direct notification to the few shareholders affected by the proposed new regulation. TWA argues that the vast majority of its stockholders own relatively few shares of stock and proposes that the notice requirement be limited to owners of 3 percent or more of a carrier's stock. Northeast objects to the expense of notifying all of its stockholders in order to reach the handful of persons who might have acquired a 5 percent interest. Further, Northeast argues that the sophistication and small size of the group likely to acquire more than 5 percent of a carrier's stock makes any notice unnecessary.

The requirement of mailing a copy of the subpart to stockholders is opposed by Eastern, Northeast, and United. United suggests that the Board only require language in the carrier's annual proxy statements to the effect that if the reader owns or becomes an owner of more than 5 perecnt of the stock, there are certain Board reporting requirements which he must meet. Northeast proposes that "a sentence or two in their annual reports referring to the reporting requirements * * *" would be sufficient. In support of this, it argues that this would considerably reduce the expense of compliance with the amended regulations and that any person contemplating acquisition of more than 5 percent of the stock of a carrier will examine its annual report. Eastern proposes a notice incorporated with the proxy materials stating that "any person who acquires at any time more than 5 percent of the issued and outstanding capital stock of the carrier is required to file a report with the Civil Aeronautics Board and that forms for such report may be obtained from the Civil Aeronautics Board at its offices in Washington, D.C." In support of this, Eastern argues that the addition of even a single item will result in a substantial increase in the costs of its mailing to stockholders and that many stockholders will either not read the copy of the regulation or will not understand its import.

The proposed mailing dates were considered unsatisfactory by a number of the carriers.[3] Pan American argued that it had no reason to have a stockholder mailing prior to June 1, 1970, nor would it have any occasion to have such a mailing in future years—other than its mailing of its annual report and proxy statement at the end of March. Since Pan American alleged that the cost of a special mailing would be in excess of $20,000, it proposed the elimination of the need for notification this year and changing the date for future notification to April 15. Allegheny also proposed April 15 as the date for annual mailings (for the same reasons offered by Pan American). Delta proposed making the date for annual mailing "during the month of March." This would permit it to include the notice with its dividend checks. Northeast proposed permitting the notice to be mailed with the carriers' annual reports and/or proxy soliciting material. Eastern proposed changing § 245.14 so that a carrier could give notice "in connection with its next periodic mailing to stockholders" (but not later than 4 months after the effective date of the rule) rather than June 1 and the annual notice could be given with the mailing of proxy materials for the annual meeting.

As indicated, the proposed rule provides that notice must be given to each stockholder of record "and each person owning any other interest" in such carrier, and Pan American objects to the quoted phrase. The amendment to section 407(b) refers to an annual report "of the shares of stock or other interest owned by such person." However, "such person" must refer back to: "Any person owning, beneficially or as trustee, more than 5 per centum of any class of capital stock or capital, as the case may be." Accordingly, we shall modify § 245.14 so that notice need be given to persons owning the quantum hereafter specified, "of any class of capital stock or capital" of an air carrier.

We have also determined that notice need be given only to stockholders of record owning more than 1 per centum of capital stock or capital. This notice would include a copy of the subpart and the dates for mailing will be on or before August 10, 1970[4] and on or before March 1 of each succeeding year. By drastically reducing the number of persons who must be notified, we have substantially eliminated the problems of the form of notification and the expense of special mailings. Since the carriers will only have to notify a relatively small number of their shareholders, the economic burden of furnishing those notified with copies of the regulation and of mailing such notification separately will not be onerous.

Northeast has called attention to an omission in the notice requirements proposed. While the proposed rule requires an individual to report his acquisition of more than 5 per centum of the capital stock or capital of a carrier within 30 days of such acquisition, it does not provide any notice to such individuals. Northeast has noted that this would frustrate, to some degree, the objectives of amended section 407(b). The carrier suggests that notice in the annual report (which it states is read throughout the year and would be studied by anyone contemplating the acquisition of a significant amount of stock in a carrier) would eliminate the problem. We shall adopt the substance of Northeast's suggestion, and § 245.14 will provide for inclusion of such notice in each carrier's annual report.[5]

The proposed rule makes no provision for copies of reports being sent to the carriers (which, of course, would have access to them in the Board's files). Delta and United have proposed that such provision be incorporated into the rule. Delta argues that the information

[2] Comments were also received from the National Air Transportation Conferences, Inc., which supports the exclusion of shareholders of air taxi operators from the reporting requirements.

[3] Obviously the proposed June 30 date for a special mailing cannot be met.

[4] This change requires a corresponding change in § 245.12(c) as to the date of filing the special report, which will be revised to Sept. 1, 1970.

[5] The annual report will also include notice of the report due on or before April 1 of each year.

is of obvious interest to the carriers and thus direct service would eliminate the need for a carrier to continuously monitor the Board's files. However, we are reluctant to add to the burdens on the individual shareholder, and believe it is preferable to have the carriers monitor the Board's files if they desire.

Section 245.12(b) of the proposed rule provides that within 30 days after acquiring ownership of more than 5 percent in the aggregate, of any class of capital stock or capital, a report shall be filed with the Board. Delta—citing the SEC practice of requiring a report within 10 days of the acquisition of 10 percent of a company's stock—has proposed this be modified to require reports within 10 days. In view of the importance of this information to the Board and the lack of significant burden in the few cases that may arise, we have accepted this proposal.

The proposed rule does not contain a definition of "person" and TWA has proposed that one be included which makes clear that the "person" required to report under Subpart B includes not only individuals, corporations and partnerships, but also any two or more persons acting in concert or under common control or direction. We believe the suggested modification would be consistent with the legislative intent of section 407(b), and it will be incorporated into a defintion of "person" in the proposed rule.

The proposed rule would permit access by the general public to the reports of both individuals and carriers. TWA argues that it is typical to treat an individual's stockholdings with the utmost confidence and that making the airline industry an exception to this practice might discourage investment in airline stock. TWA sees no necessity for public disclosure of the contents of the reports and would limit access to the air carrier involved (at least until such time as the Board or the affected carrier initiates formal action under the Act).

We do not find TWA's argument persuasive. Given the public policy in favor of disclosure, except where there are strong contrary considerations, we see no reason to deny access to these reports to the public.

No comment opposed the requirement that reports include the name and address of the beneficial owner or other person in whose account shares or other interest is held, if other than person reporting (§ 245.13). However, it appears that where, for example, a broker holds shares for the account of a large number of beneficial owners, this requirement may prove onerous. In such case the Board will waive the requirement upon application and proper showing by the trustee, subject to adequate provision being made for notice to shareholders of the requirements of Subpart B of Part 245.

The new rule provides for mailing of notice by air carriers to shareholders on or before August 10, 1970 and the rule will be made effective on August 1, 1970. The proposed rule EDR–178, supra, was issued on April 1, 1970, and it would have required the carriers to notify their stockholders on or before June 1, 1970, with the stockholders' filing reports with the Board on or before July 1, 1970. The Board now finds that it is necessary for it to have these data by September 1, 1970, and that the stockholders will require a 20-day period within which to prepare and file the reports. This necessitates the carriers' mailing such notice by August 10, 1970. For the above reasons, the Board finds that good cause exists for making the rule effective on less than 30 days' notice.

Accordingly, the Civil Aeronautics Board hereby amends Part 245 of the economic regulations (14 CFR Part 245), effective August 1, 1970, as follows:

1. Amend the table of contents to read as follows:

Subpart A—Reports of Officers and Directors

Sec.
245.1 Reports required.
245.2 Time for reporting.
245.3 Schedule of data.

Subpart B—Reports of Owners of More Than 5 Per Centum of Any Class of Capital Stock or Capital of an Air Carrier

245.11 Reports required.
245.12 Time for reporting.
245.13 Contents of reports.
245.14 Responsibility of carriers.

2. Amend § 245.1 to read as follows:

Subpart A—Reports of Officers and Directors

§ 245.1 Reports required.

At the times and in the manner provided in this subpart, each officer and each director of each air carrier shall transmit to the Board a report describing the shares of stock or other interest held by him in any air carrier, any person engaged in any phase of aeronautics, or any common carrier, and in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, air carriers, other persons engaged in any phase of aeronautics, or common carriers. For the purposes of this subpart, "air carrier" means air carrier as defined in section 101(3) of the Act, except air carriers relieved or exempted from section 407(b) of the Act.[6] "Person" means any individual, firm, partnership, corporation, company, association, or any two or more persons acting in concert or under common control or direction.

3. Adopt a new Subpart B to read as follows:

Subpart B—Reports of Owners of More Than 5 Per Centum of Any Class of Capital Stock or Capital of an Air Carrier

§ 245.11 Reports required.

At the times and in the manner provided in this subpart every person owning, either beneficially or as trustee, more than 5 per centum of any class of the capital stock or capital, as the case may be, of an air carrier shall transmit to the Board a report describing the shares of stock or other interest owned by such person, and the amount thereof. For the purposes of this subpart, "air carrier" means "air carrier" as defined in section 101(3) of the Act, except air carriers relieved or exempted from section 407(b) of the Act.[7] "Person" means an individual, firm, partnership, corporation, company, association or any two or more persons acting in concert or under common control or direction.

§ 245.12 Time for reporting.

(a) *Annual report.* On or before April 1 of each year commencing with the year 1971, a report shall be filed covering shares of stock or other interest owned, either beneficially or as trustee, as of December 31 of the preceding year. An officer or director who has complied with Subpart A of this part need not file the report required by this paragraph (a).

(b) *Report of acquisition.* Within 10 days after acquiring ownership, either beneficially or as trustee, of more than 5 per centum, in the aggregate, of any class of capital stock or capital, a report shall be filed covering the shares of stock or other interest acquired. A person who owns, either beneficially or as trustee, more than 5 per centum of any class of capital stock or capital and has filed a report covering such acquisition or ownership, as provided in this section, need not file a report under this paragraph (b) with respect to an additional acquisition of stock.

(c) *Special report.* On or before September 1, 1970, a report shall be filed covering shares of stock or other interest owned, either beneficially or as trustee, as of April 30, 1970. An officer or director who has complied with Subpart A of this part need not file the report required under this paragraph (c).

§ 245.13 Contents of reports.

The reports required by § 245.11 shall include the following:

(a) Name and address of person reporting.

(b) If the person reporting is not the beneficial owner, the name and address for whose account the shares or other interest is held.

(c) If the person reporting is the beneficial owner, but not the owner of record, the name and address of the record owner.

(d) Number and class of shares held and percentage of such shares to total outstanding capital, or a description of any other interest held as of April 1, 1970, December 31 of each succeeding year, or the date of acquisition, whichever is applicable.

(e) Maximum number and class of shares held and percentage of such shares to total outstanding capital during the year preceding April 1, 1970, or December 31 of each succeeding year, whichever is applicable.

[6] See § 298.11(f) of Part 298, § 378.3 of Part 378, and § 378a.3 of Part 378a of this chapter exempting air taxi operators, inclusive tour operators, and bulk inclusive tour operators, respectively.

[7] See footnote 6.

§ 245.14 Responsibility of carriers.

It shall be the responsibility of every air carrier, as defined in § 245.11—

(a) To notify each stockholder of record owning more than 1 percent of any class of its capital stock or capital of the requirements of this part by mailing to such persons a copy of this subpart on or before August 10, 1970, and on or before March 1 of each subsequent year; and

(b) To include in its annual report to shareholders a notice that any person who owns as of December 31 of any year or acquires ownership, either beneficially or as trustee, of more than 5 per centum, in the aggregate, of any class of capital stock or capital of the air carrier shall file with the Board a report containing the information required by § 245.13 on or before April 1 as to capital stock or capital owned as of December 31 of the preceding year and within 10 days of the acquisition, unless such person has otherwise filed with the Board a report covering such acquisition or ownership. The notice shall also state that any shareholder who believes that he may be required to file such a report may obtain further information by writing to the Director, Bureau of Operating Rights, Civil Aeronautics Board, Washington, D.C. 20428.

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended (72 Stat. 743, 766; 49 U.S.C. 1324, 1377))

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-9503; Filed, July 22, 1970; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER D—TRADE REGULATION RULES

PART 409—INCANDESCENT LAMP (LIGHT BULB) INDUSTRY

The Federal Trade Commission, pursuant to the Federal Trade Commission Act, 15 U.S.C. 41, et seq., and the provisions of Part 1, Subpart F of the Commission's procedures and rules of practice, 28 F.R. 7083 (July 11, 1963) [amended July 1, 1967, as Part 1, Subpart B, 16 CFR 1.11, et seq.], has conducted proceedings for the promulgation of a trade regulation rule relating to the failure to disclose lumens, life, cost, and other data in the Incandescent Lamp (Light Bulb) Industry (hereinafter referred to as "Lamp Industry"). Notices for these proceedings were published in the FEDERAL REGISTER on May 29, 1964 (29 F.R. 7131), which concerned the feasibility of establishing a trade regulation rule and on July 31, 1969 (34 F.R. 12528), which included two alternative proposed rules. Interested parties were, pursuant to each notice, furnished an opportunity to participate in the proceedings through the submission of written data, views and arguments and to appear and orally express their views as to the proposed subjects, issues and rules and to suggest amendments, revisions, and additions thereto.

The Commission has now considered all matters of fact, law, policy and discretion including the data, views, and arguments presented on the record by interested parties in response to the notices as prescribed by law and has determined that the adoption of the trade regulation rule and statement of its basis and purpose as set forth herein is in the public interest.

§ 409.1 The Rule.

The Commission, on the basis of its findings in this proceeding, as set forth in the accompanying statement of basis and purpose, hereby promulgates as a trade regulation rule its determination that in connection with the sale of general service incandescent electric lamps (light bulbs) in commerce, as "commerce" is defined in the Federal Trade Commission Act, it constitutes an unfair method of competition and an unfair and deceptive act or practice to:

(a) Fail to disclose clearly and conspicuously the following information for such lamps on the sleeves or paper containers in which they are packaged:

(1) The electrical power consumed expressed in average initial wattage;

(2) The light output expressed in average initial lumens;

(3) The average laboratory life expressed in hours;

Provided, however, Whenever lamps are sold in universal or interchangeable sleeves where no wattage, lumen, life, or voltage ratings are shown thereon, the disclosures required by paragraphs (a) and (b) of this section must be clearly and conspicuously made on the lamps themselves in a manner visible at point of sale in lieu of the disclosures on the sleeves.

(b) Fail to disclose clearly and conspicuously on the lamps themselves the average initial wattage and the design voltage for such lamps: *Provided, however,* Whenever lamps are sold out of the sleeves or paper containers the lumen and life disclosures required by paragraph (a) above shall in addition be clearly and conspicuously made on the lamps themselves.

(c) Represent or imply in any manner that savings either in lamp cost or cost of light will result from the use of certain lamps because of the lamps' life or light output (e.g., "Same light for less money", "Outlasts _____ ordinary bulbs", "Save _____ dollars for more light") unless in computing such savings the following factors are taken into account and clearly and conspicuously disclosed for the lamps with which comparison is being made and the lamps being offered for sale: Lamp cost, electrical power cost (wattage and electric rate), labor cost for lamp replacement (if any), actual light output in terms of average initial lumens, and average laboratory life: *Provided, however,* That when two lamps of identical average initial wattage, average initial lumens, and average laboratory life are being compared, and cost savings represented or implied apply only to initial purchase price, then the disclosures described in this paragraph for the lamp which is used for comparison need not be made.

(d) Represent or imply in any manner that certain lamps will give more light, maintain brightness longer or furnish longer life by the use of terms such as "long life", "extended life", "medium life", "brighter light", "better light", "stays brighter longer", or any other words or terms of similar meaning or import without clearly and conspicuously disclosing the light output in average initial lumens, the laboratory life in average hours and the average initial wattage of the lamps with which the comparison is being made and the lamps being offered for sale. In the case of claims that lamps "maintain brightness longer", there shall be, in addition to the lumen, life, and wattage disclosures required above, a clear and conspicuous disclosure of the light output after an interval equal to 70 percent of rated life (maintained average lumens) for the lamps being compared and those being offered for sale.

NOTE 1: The average initial wattage, average initial lumen and average laboratory life disclosures required by this section shall be in accordance with the requirements of interim Federal Specification, Lamp, Incandescent (Electric, Large, Tungsten-Filament), W-L-00101G and shall be based upon generally accepted and approved test methods and procedures. The lumen and life disclosures shall be expressed as averages, i.e., "average" lumens and "average" life. Lamps in shapes which are generally comparable to the "A" bulb shapes listed in this Federal specification should be measured by the criteria which are applicable to lamps in the nearest comparable shape of the same wattage and voltage even though such lamps may not be covered precisely by the specification. The calculation of average initial wattage, average initial lumen and average laboratory life ratings shall be determined on the basis of operation of the lamp at the stated design voltage. This, however, shall not preclude lumen disclosures for various voltage ratings of any specific lamp type of the same wattage and life from being represented as 120-volt rated information, thereby recognizing a slight variation which, of necessity, must exist from one voltage rating to another if life and wattage are to remain constant.

Since multiple filament lamps (three-way bulbs) are not covered by the Federal specification; wattage, lumen and life ratings based on tests conducted by each industry member will be sufficient: *Provided,* Such tests are based upon generally accepted and approved test methods and procedures: *And provided further,* That the life rating is based on the life of the first filament which fails and that the specific method used to determine the life rating is disclosed, i.e., lamp being burned on all three positions equally; based on life of major filament (medium light level) of lamp, etc.

NOTE 2: For a period of one (1) year from the effective date of this section, except on the bulb itself, wherever the term "lumens" is used, there shall be a brief explanation of the term such as "light output".

NOTE 3: The term "general service incandescent electric lamps" as used in this section includes all medium screw base, incandescent electric lamps, 15-watt through 150-watt, 115-volt through 130-volt. The term includes not only such lamps in the customary "A" type and other bulb shapes included in Interim Federal Specification W-L-00101G, but also such lamps which are produced in generally comparable bulb shapes for sale in competition with other general service incandescent lamps. Specifically excluded, however, are lamps designed and promoted primarily for decorative applications, appliances, traffic signals, showcases, projectors, airport equipment, trains, and lamps such as color, flood, reflector, rough service, and vibration service.

NOTE 4: For purposes of paragraph (a) of this section, the requirement of clear and conspicuous disclosure means that the required disclosures shall appear on at least two panels of the outer sleeve or container in which bulbs are displayed and additionally on all panels of the inner and the outer sleeve which contain any reference to wattage, lumens, life, or voltage. In addition, in order to be considered clear and conspicuous, the lumen and life disclosures shall be in immediate conjunction with the wattage rating on each panel in bold or medium faced type which is at least two-fifths (⅖) the height of the wattage rating figures (on the same panel) or three-sixteenths of an inch (3/16") in height, whichever is larger.

In the case of multiple filament lamps (three-way bulbs); the lumen and life disclosures shall meet the above criteria except for the type size which shall, in this case, be medium faced type which is at least two-fifths (⅖) the height of the wattage rating figures or one-eighth of an inch (⅛") in height, whichever is larger.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Effective: January 25, 1971.

Promulgated: July 23, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

STATEMENT OF BASIS AND PURPOSE

The Commission conducted a preliminary investigation into lamp industry practices early in 1964. In June 1964 the House Government Activities Subcommittee (hereinafter referred to as "Subcommittee") issued its preliminary study "The Short Lives of Household Variety Incandescent Light Bulbs". In December 1965 the Subcommittee requested the comments of light bulb manufacturers concerning the above study. As a result of the earlier study and after further communication with the lamp industry the Subcommittee issued its report entitled "The Short Life of the Electric Light Bulb" (hereinafter referred to as "Subcommittee Report") in October 1966. In the Subcommittee Report it was concluded that the lives of standard bulbs are too short and that lumen and life information should be placed on the bulb or the bulb package. Westinghouse Electric Corp. had agreed with the Subcommittee to place lumen and life disclosures on the sleeves for its "standard" light bulbs. The Subcommittee Report further stated that if General Eletcric Co. and Sylvania Electric Products, Inc., do not follow the lead Westinghouse has taken, it would be appropriate for the Federal Trade Commission to extend the investigations it began in 1964 to encompass the sale of all light bulbs without information as to life and lumen value (Subcommittee Report, p. 18).

On the basis of information obtained pursuant to the Commission's notice published July 11, 1963, the Subcommittee Report, and further studies, the Commission on July 30, 1969, initiated a trade regulation rule proceeding concerning the lamp industry and the failure to disclose lumens, life, cost, and other data. The notice of the proceeding contained two proposed alternative trade regulation rules. The first and the second alternative rules were similar except that the first rule provided for the disclosure of mandatory "general classifications", while the second alternative rule provided for certain prescribed rated lives when terms such as "standard life", "medium life" and "long life" are used. In this statement of basis and purpose wherever "Rule", "Rule 1" or "Rule 2" is used the Commission is referring to the proposed alternative rules in the July 30, 1969 notice. The term "Final Rule" will be used to refer to the Rule being promulgated herein. As used herein, "Record" refers to the written comments by interested parties on file at the Commission, and the transcripts of public hearings of this proceeding.

A. *Practices involved.* Lamp manufacturers normally mark light bulbs or their containers with only the voltage and wattage ratings. A substantial portion of the consuming public believes that all light bulbs of the same wattage last approximately the same length of time and/or emit approximately the same amount of light. In truth and in fact, however, light bulbs of the same wattage are marketed with different rated lives and varying amounts of lumen output (light output). There is a scientific principle to the effect that for any given wattage as the design life of a bulb is increased that bulb's light output is decreased. A substantial portion of the consuming public would prefer to purchase light bulbs for specific purposes such as reading, working, or for convenience. Unless lumen and life ratings are given, consumers are not in a position to exercise their preference to buy bulbs for specific purposes.

Cost savings representations are made such as "Save _____ Dollars" or "Outlasts _____ Bulbs" which do not include all of the data essential to making valid cost comparisons and which result in half truths. Claims are made concerning "more or brighter light" and "longer life" without disclosing the specific comparisons being drawn.

B. *Bulb life.* Several allegations were made to the effect that there have been no improvements in bulb life for several years and that major industry manufacturers have not produced longer life bulbs in order to maintain sales. The question of whether manufacturers should produce longer life bulbs is not relevant to this rulemaking proceeding and the Commission expresses no conclusions concerning this aspect of the matter.

General Electric had announced in September 1967 and in March 1968, that it intended to market longer life bulbs. The Commission is of the opinion that these announcements, if fully implemented by making such bulbs readily available, will do much toward giving the consumers the choice to which they would seem to be entitled.

C. *Classifications and categories.* Most lamp industry members disapproved of the classifications in Rule 1 and the categories set out in Rule 2 and stated this is a major area of disagreement. They contended that there is no data supporting the categories which were set up. It was argued the categories [Rule 1, paragraph (a)(2), Rule 2, paragraph (b)] were not in accord with current industry practice where bulbs which are "regularly and widely used" and considered "standard" do not fit within the ranges listed in the Rules. The industry suggested that in the higher wattages (50- to 150-watt) there are life ranges of 750 to 1,000 hours. The category for "standard", which is up to 1,500 hours, they also argued, is not in accord with the Federal Specification W-L101f which calls for rated lives of 750 to 1,000 hours in the higher wattages. The argument is also presented that in the case of lower wattage bulbs (15- to 40-watt) the balance of life and lumen output results in longer life bulbs, e.g., one manufacturer's 15-watt "standard" bulbs are rated 2,500 hours, most other manufacturers' 15-watt "standard" bulbs are rated 1,500 hours or above, and the Federal Specification lists such bulbs between 1,000 and 2,500 hours. The industry contended that the proposed categories would be in error unless we set up different categories for higher and lower wattages, i.e., life ranges between 750 to 1,000 hours for 50- to 150-watt bulbs and between 1,000 to 2,500 hours for 15- to 40-watt bulbs. A close review of specifications and other data presented would indicate that most of the above contentions are correct.

The argument was also advanced that wherever reference is made to life it should be accompanied by the level of light output since reference to life tells only half of the story, i.e., longer life—less light. Furthermore, it is argued, this would require a determination of a range of lumens necessary to qualify for each light output category thereby causing the rating system to be very complex. This contention would appear to be valid.

Another argument was advanced that there is no indication of life ratings (in Rule 2) which would apply to terms such as "extra life" and "plus life", etc., and that it is not possible to have neat rigid definitions for each category. It was suggested that all such comparable statements be handled under the comparative paragraph of the Rule. The Commission agrees that this is a better solution to the problem since that paragraph would require lumen and life disclosures for the bulbs being offered for sale and those with which the comparison is being made. This would place the consumer in a far better position to make valid comparisons.

The industry also expressed concern that the terms "standard" or "long life" would have a greater influence and more lasting impact on the consumer than the technical numerical lumen and life disclosures. They also suggested such categories would dilute the effect of the figures thereby causing more unwarranted reliance on the categories.

One industry member stated the categories would do irreparable damage to the good will the company had established with the term "long life" since they pioneered "long life" bulbs for a number of years, and expended considerable funds, effort, time and research in establishing the term. Other manufacturers, apparently using the term "long life", stated that the term required by the Rule "medium life" (into which they would fall), classified them as mediocre, had the stigma of half as good, and was as unfair as classifying 750- to 1,000-hour "standard" bulbs as short life.

One statement from an electric power company indicated the categories may discourage further improvement since a 5,000-hour bulb has the same rating as a 10,000-hour bulb. The National Retail Merchants Association stated the terms are confusing. The Department of Commerce objected that it would be impossible to evaluate the longest or shortest life unless the categories are used in relation to each other. The argument was also advanced that the word "standard" may be understood by consumers to mean that the product meets an established standard or specification.

In addition, other arguments were advanced in opposition to this paragraph of the Rule such as: Specific lumen and life information would be on packages therefore categories are not needed; the Commission recognizes lumens and life as average figures but categories have no connotation of being

averages; the large range of hours involved could cause an influx of 1,501-hour bulbs if, for example, the category "medium life" became commercially popular; and 5,000-hour long life bulbs, which are not recommended for general lighting purposes, could use the term long life, but bona fide long life manufacturers (those in approximately the 1,500–2,500-hour area) would be prevented from advertising as long life. Without attempting to discusss the above contentions in detail, the Commission feels, after giving careful consideration to each contention, that some have merit.

The numerous industry and other general suggestions with regard to setting up various life categories tend to show the complete disagreement involved in establishing meaningful and valid classifications or categories. The Commission realizes it would at this time be extremely diffcult to set up a classification system which would be meaningful to the consumer and which would be fair to the industry. In view of the arguments which have been presented, the Commission concludes that the classifications in Rule 1 and the categories set up in Rule 2 should not be adopted.

D. *Technical suggestions.* Numerous suggestions of a technical nature were made by the industry, i.e., use the term "lamp" instead of "bulbs", use the term "rated laboratory life", change "energy" to "power" consumed, represent wattage as "initial", rate lumens for different voltage bulbs of the same wattage and life as 120 volt rated information, require disclosures of design voltage since this is the determining factor with respect to lumen, life, and wattage ratings, and make it mandatory to disclose "average" life and lumens. The Commission has carefully considered these proposals and feels that some are valid. Therefore, the proposals considered appropriate and applicable have been adopted as a part of the Commission's Final Rule.

Some industry members suggested that mean or maintained lumens (lumens measured at 70 percent of rated life) are an important measure of lamp quality and that this should be used instead of or in addition to initial lumens. These proposals have been carefully considered and the Commission concludes that while maintained lumens may be an important measure of lamp quality, the disclosure of which may be desirable, the other disclosures required by the Final Rule would in its opinion adequately protect the public interest. Furthermore, the addition of maintained lumens at this time would, the Commission feels, serve to clutter labeling and to confuse consumers with respect to the initial lumen and life disclosures.

E. *Disclosure on sleeves.* Most of the industry members opposed the requirement of the Rule calling for disclosure of lumen and life ratings on the bulbs and recommended that such disclosures be placed on the sleeve only. They stated that the curved surface of the bulb is the main problem which limits the size of the imprint. In addition, they argued that if the etch were larger this would cause a slow down in manufacturing equipment in order to keep the imprint legible, thereby resulting in increased costs to the manufacturer and the possibility of increased costs to consumers. Industry members further suggested that since the information will be on the sleeve it would not be necessary to place the same information on the bulb. It was also contended by industry members that an increase in the size of the etch will reduce light output. The above contentions were supported in part, by electric power companies. The industry also stressed the need to maintain a prominent wattage disclosure on bulbs since it is a safety factor to avoid the use of excess wattage in fixtures and since consumers are accustomed to buying on the basis of wattage. The National Retail Merchants Association suggested that lumen and life ratings should be disclosed on the sleeves only since all bulbs are sold in the sleeve and since the area in the etch is too small to make meaningful disclosures.

Since bulbs are almost invariably sold in packages, the bulb disclosures are not ordinarily seen by the consumer at the point of sale and would therefore be useful to consumers basically as an end-of-life reminder and even then the etches are often obscured by the accumulation of dark burned off filament material on the top of the bulb.

The Commission has carefully considered the lamp industry arguments and has concluded that lumen and life disclosures will not be required on bulbs unless bulbs are sold loose. It should be stated, however, in view of this conclusion, that proper and adequate lumen and life disclosures on the sleeve become of extreme importance if the public interest is to be adequately protected. Furthermore, the Commission intends to re-evaluate the effect of disclosures on the sleeves at a later date to determine whether the public interest is fully protected and, in the event serious questions arise, will again consider the disclosure of lumen and life ratings on the bulbs.

Industry members have stated that the sale of bare bulbs is de minimis, i.e., less then 2 percent of total sales, seldom sold loose, etc. The Commission feels it must be concerned about 2 percent of the total sales since many millions of bulbs are involved and two percent of this total results in a substantial number of bulbs. One industry member suggested that a sign setting forth the lumen and life ratings for all bulbs displayed should be required on every counter displaying bare bulbs. Another industry member states it is the responsibility of the retailer to make such disclosures. The Commission feels that in order to protect the public interest, lumen and life disclosures must appear on the bulb in addition to the wattage and voltage ratings wherever such bulbs are sold out of the sleeves by the manufacturers and the final rule so provides.

Industry members also took the position that while lumen and life disclosures should be made clearly and conspicuously, the Commission should not specify the exact manner of making the disclosures. They argued that clear and conspicuous disclosures could be achieved without unreasonable expense or disruption and would allow the manufacturer maximum freedom in formulating the design of his packaging. It was further contended that if the Commission desired to specify the exact manner of disclosure, it should have set forth the specific details in the proposed Rule.

In the opinion of the Commission, more precise requirements for disclosures are clearly within the scope of the notice of this proceeding and are necessary to prevent deception. Furthermore, the right of the Commission to determine the deceptive nature of representations or the lack of them without consumer or other testimony has been firmly established and the Commission may study the labeling in question, consider the relevant evidence in the Record and decide for itself whether disclosures are adequate to remove deception.

The staff desired to discuss the size and placement of disclosures at the hearing on September 30, 1969, but no discussion on the part of industry members was forthcoming at the hearing since the major manufacturers declined to participate. The date for submitting statements was extended to November 21, 1969, to enable industry members to comment on this and other points. Since lumen and life disclosures are not being required on bulbs, it is far more important for the disclosures on the sleeves to be adequate.

The Commission feels it should not, under the circumstances, merely require clear and conspicuous disclosures. This would appear to be a case where definitive guidance concerning proper disclosures would be far better at the outset than handling the same problems later, on a piecemeal basis, during enforcement of the final rule which is likely to leave areas for disagreement and delay in effective enforcement.

It was recommended by industry members that the Final Rule should require lumen, life and wattage disclosures on only one outside back panel of the container in bold print. They also suggested that is should allow wattage to remain prominent for the sake of safety and to prevent the further confusion of consumers who are accustomed to purchasing on the basis of wattage. It may be acceptable to give the wattage disclosure greater prominence but the Commission is of the opinion that the present lumen and life disclosures currently in use on one industry member's standard lamps are wholly inadequate. The Commission does feel, however, that this member's action in taking the lead and disclosing lumen and life ratings on bulb sleeves is commendable.

The industry strongly opposed the staff's informal proposal that lumen and life disclosures be made on each panel in letters and numerals the same size as wattage. After thoroughly reviewing the problems involved, the Commission believes that the public interest will be adequately protected if the lumen and life disclosures are made on at least two panels of the outer sleeves which are customarily displayed to the consumer on the racks, and also wherever the wattage rating appears on the inner and outer sleeve, provided the type size used is bold or medium faced and at least two-fifths of the height of the wattage disclosure on that panel of the sleeve, or 3/16" in height whichever is larger (or minimum of 1/8" medium faced type in case of three-way bulbs). The following paragraph concerning inner sleeves or wrappers applies only when no wattage or other ratings appear thereon.

One industry member (Sylvania Electric) stressed the fact that there is an inner wrapper and an outer sleeve (which ordinarily contains the wattage disclosures) and that the lumen and life disclosures should appear only on the outer sleeve. In the Commission's opinion the argument concerning inner wrappers is valid and the Final Rule so provides.

In this matter it is imperative to have disclosures which are sufficiently adequate to remove deception, to inform consumers and to insure fair and equitable treatment among industry members. The consuming public is so accustomed to purchasing bulbs on the basis of wattage that the deception caused thereby can only be removed by large disclosures which are in immediate conjunction with the wattage rating. The Commission concludes that the only effective method to accomplish this and to insure equitable treatment of industry members is by setting forth more detailed requirements for appropriate disclosures; and, accordingly, this has been done in the Final Rule with due consideration for the views of the industry.

F. *Are disclosures meaningful?* Several industry members expressed doubts that lumen and life information would be useful and meaningful to the consuming public. Power companies took similar positions; one argued that the consumer does not know what lumens are. In the Commission's opinion Note 2 in the Final Rule requiring a brief explanation of the word "lumens", such as light output, for a period of 1 year after the effective date of the Final Rule will advise the public as to the general meaning

of the term. Many consumers will not know the precise nature of lumens, however, they will understand that the larger figure means more light is given off, much as they understand the higher horsepower in an automobile engine means more power.

Industry members argued that disclosure of average life may mislead consumers due to the varying conditions of use which have a definite effect on lumens and life performance, i.e., a consumer expecting a bulb to last 1,000 hours may feel deceived if the bulb lasts only 300 hours. The Commission is aware that conditions of use have a substantial effect on bulb life and lumen output and also that bulbs by their nature are variable products, i.e., some bulbs burn out before their rated lives, The Final Rule, however, provides for the disclosure of average life and average lumens and this will adequately inform consumers that the figure is intended as an over-all average and that not all bulbs will last that long. It should be pointed out, however, that where an excessively large number of complaints are received that bulbs of a particular manufacturer burn out prior to their rated lives, the Commission would consider this an area for investigation.

It is significant to note that several impartial parties felt that lumen and life information would be useful and of value to consumers. Furthermore, the consumer survey conducted by the staff of the Commission tended to support the conclusion that such information would be helpful to consumers.

It was also argued that larger numbers (longer life) may be taken as a better value and the National Bureau of Standards concurred that a consumer cannot determine specifically what is a better lamp from a technical standpoint. The National Bureau of Standards did, however, state that with the lumen and life disclosures consumers would be informed that longer life bulbs give less light which, they stated, is better than no information at all. The Commission has carefully and thoroughly considered this aspect of the problem and the fact that life increases at a proportionally higher rate than light output decreases does cause some concern, i.e., a 2,500-hour bulb lasts over three times as long as a standard 750-hour bulb but emits approximately 25 percent less light. There is a possibility that some consumers may feel that such a longer life bulb is a better bargain under all circumstances and may upgrade wattage to obtain more light without realizing this will increase electricity costs. Consumer decisions will generally be based on broader considerations, e.g., preference for either more light or longer life where adjustments with respect to life or light output are made after consumers have used various bulbs. At any rate consumers will be aware that they are sacrificing light output for long life or sacrificing life for more light. The specific cost factors involved, it is felt are more difficult. However, most consumers will eventually be aware that by upgrading wattage they are incurring increased electricity costs. The Commission feels that as a net result of the disclosures consumers will be better informed, and better able to exercise their preferences for different types of bulbs.

The suggestion by one industry member to require a general statement such as: "A longer life bulb gives less light than ordinary bulbs of the same wattage," has been considered, but the Commission feels it would be confronting problems similar to those involved with the classifications in the proposed Rules (see heading Classifications and Categories), and in addition, the general statement is not sufficiently informative to meet the needs of consumers.

In view of the previous discussion; the Commission concludes that lumen and life disclosures, as provided in the Final Rule, will be meaningful to consumers.

G. *Bulbs covered by rule.* Industry members made several suggestions concerning the types of bulbs which should be covered by the Rule with respect to wattage, base type, voltage, "A" line, "A" line and comparable bulb shapes, and intended use, i.e., decorative, appliance, reflector, etc. The Commission has considered the various suggestions and has incorporated what it considers to be the most appropriate into the definition which is included in the Final Rule.

The Commission was particularly interested in the subject of three-way bulbs since many complaints were received from consumers on such bulbs. Therefore, this subject is covered in greater detail. Industry members suggested that furnishing ratings which are clearly understood by consumers on packages for three-way lamps would be very difficult. Members of the industry also stressed the difficulty in determining the basis for arriving at suitable life ratings. Westinghouse suggested three-way bulbs should be covered under the Rule but that no standard procedures are available for determining lamp life. General Electric and Sylvania suggested that three-way bulbs should be excluded from the Rule.

The difficulty in determining rated life is apparent since the bulb is operated on three light levels, i.e., low level (minor filament lighted), intermediate level (major filament lighted), and high level (both filaments lighted). This is further complicated by the different burning patterns of various consumers, i.e., bulb burned entirely on low, intermediate, or high position; burning cycles balanced equally on three positions; one-half of the time on low and one-half on high, etc. For example, in the case of one manufacturer if a person burns the bulb all on the intermediate level he should get the life of the major filament which is approximately 1,200 hours. If on the other hand the consumer burns the bulb all on the low level he will obtain the life of the minor filament which is approximately 1,500 hours. In the event a bulb is burned all on high, the life rating would result from a statistical combination between the 1,200-hour and the 1,500-hour filament resulting in something less than 1,200 hours.

Westinghouse tests its three-way bulbs utilizing average usage criteria, i.e., one-third of the life on low, one-third on intermediate and one-third on high. General Electric and Sylvania presently list in their catalogs a life rating for three-way bulbs based on the life of the major filament which they feel is a conservative value. All three apparently consider a three-way bulb as burned out when one of the two filaments fails. It also has been argued that even if consumers had comparable life ratings for the major and minor filaments of different brands, it would be difficult for them to determine what is a better value.

The Commission has considered the above arguments carefully, but feels that it is important to make lumen and life information for three-way bulbs available to consumers. The Commission appreciates the difficulties involved in communicating such ratings to consumers but these difficulties are not insurmountable. Disclosing the rated life of the major filament has been considered by the Commission; and although this may not furnish a full comparison with other brands having a different major filament to minor filament ratio, it does furnish some needed information. The disclosure of rated lives of both the major and the minor filaments has been evaluated; this would at least permit consumers to decide approximately how long they would use each light level and would be helpful in making a choice. Disclosure of life ratings based on burning the lamp equally on all three positions would be helpful. The Commission concludes, therefore, that three-way bulbs should be covered, and that disclosure of life ratings with the method used to determine the life ratings will substantially inform the consuming public. This may not be an ideal solution to the problem, but it does furnish needed information which will be helpful to consumers in making a rational choice. The Commission is aware that such disclosures allow considerable latitude; therefore, the effect of the disclosures will be scrutinized and, if necessary, more stringent over-all requirements for three-way bulbs will be considered.

The Commission would encourage the industry to develop standards covering three-way bulbs, possibly as part of proceedings before the American National Standards Institute. The Commission would also encourage the industry to consider, on a voluntary basis, a disclosure on packages to the effect that three-way bulb users should be certain the bulbs are tightly seated in their sockets to insure proper contact. Improper socket contact has apparently been one of the more frequent causes of fast burn-out complaints on three-way bulbs and some companies are already including such a statement.

Some lamp industry members suggested that sales to commercial, industrial and institutional purchasers should be exempt from the Rule. They argued that lumen and life information is communicated to such purchasers by company representatives and through technical data bulletins. It was also contended that a large number of bulbs ordinarily sold to commercial and industrial accounts might be covered by the Rule since insignificant sales of these lamps may be made to household consumers. The Commission has, in the Final Rule, defined out specific types of bulbs. Some industry members argued that the Fair Packaging Act exempts commercial and industrial sales. However, this proceeding brought under section 5 of the FTC Act involves possible deception of any purchasers.

An industry member stated it presently discloses lumen and life information on bulbs sold to industrial and commercial accounts since they are knowledgeable and would be best served with the information. The House Government Activities Subcommittee Report stated that there would be more effective utilization of bulbs marked with proper disclosures. A power company stated that the Rule would reduce deception which has caused endless trouble to lighting engineers. It has also been observed that the major manufacturers disclose life and lumen information on their 2,500-hour extended service bulbs which are designed primarily for sale to commercial and industrial accounts.

The Commission is aware that many industrial and commercial accounts receive detailed cost data from lamp industry manufacturers. However, the Commission must conclude that there are significant sales to numerous industrial and commercial accounts which do not receive detailed information and that sales to these accounts should be covered by the Rule. The Commission is cognizant of the practical problems involved, but feels that the only way to adequately protect the public interest is to cover all bulbs (as defined in the Final Rule), including sales to industrial, institutional, and commercial accounts.

H. *Cost savings claims.* General Electric supported the cost savings paragraphs of the Rules stating that this would keep before the public the inverse relationship existing between life and lumens. The suggestions of General Electric to include either bulb costs and because of the bulb's life or light output, appear to be meritorious and have been incorporated into the Final Rule.

Consumers Union stated this paragraph of the Rule is an important step forward, but offered the view that deception results if the bulbs involved differ in light output. They suggested that comparison can only be made on the basis of bulbs with the same light output, and that bulbs should be standardized according to light output rather than wattage. The Commission recognizes that cost comparisons are difficult for consumers to make where light output differs. While the standardizing of bulbs by light output may be desirable, the Commission feels it does not have over-all authority, except possibly for extremely compelling reasons, to standardize a product line or to dictate to industry the precise ratings products should meet. Such compelling reasons are not involved in this particular matter. The Commission, based on other material submitted, determined that this paragraph of the Rule should be modified to require that "* * * the following factors are taken into account * * *" rather than "* * * all factors * * * are taken into account * * *." The Record would indicate all listed factors should be taken into account.

The Commission after considering the Record concludes that deception is inherent in cases where cost savings claims are made without telling the complete story. Therefore, as modified, the cost savings paragraphs [Rule 1, par. (b), Rule 2, par. (c)] are incorporated in the Final Rule. (See heading Cost Factors for a general discussion of cost data.)

I. *More light—longer life comparisons.* General Electric generally supported the comparison paragraphs [Rule 1, par. (c), Rule 2, par. (d)] of the Rules and suggested that we include terms such as "Medium Life". Consumers Union suggested extending the Rule to forbid representations that certain bulbs will "maintain brightness better" without disclosing light output after 70 percent of rated life (maintained lumens), since deception possibly exists in the case of these representations.

The Commission feels that it is inherently deceptive to make claims such as "long life" or "more light" since the consumer is not informed of the specific comparison being made and such claims fail to tell the whole story, i.e., longer life—less light and more light—shorter life. The deception is further enhanced because terms such as "long life" and "more light" are used in such a way as to stress only the characteristics most favorable to the product being represented. Therefore, the Commission concludes that such unqualified claims are inherently deceptive and that such deception can be remedied only by listing the lumen and life ratings of the products being advertised and the products being compared. In the case of "maintain brightness better" claims there must, in order to remove deception, be a disclosure of maintained lumens for both the advertised and compared product.

J. *Procedures and tests.* Industry members argued that the long-range usefulness of the Rule would be dependent upon all manufacturers determining lumen and life ratings pursuant to uniform methods and procedures. General Electric and Sylvania stated that Federal Specification W-L-101f may be sufficient as an interim measure. They also suggested that compliance with the Federal Specification and the showing of average lumen and life ratings should be mandatory. Westinghouse suggested that the Federal specification should not be made mandatory as an interim measure because it is not adequate in certain respects. General Electric suggested that without more precise specifications than the Federal specification's long range enforcement of the Rule would be difficult if not impossible and could lead to greater rather than less deception.

Industry members in general argued that because the Federal specification was written as a purchase specification, it is addressed to only a small portion of the needed instructions, i.e., specifies tolerances rather than testing procedures, life and lumen values only apply to inside frosted bulbs, does not establish universal photometric standards and procedures, does not establish specific detail for testing procedures to insure uniform evaluation of data, and does not contain statistical procedures for determining average life of a manufacturer's total production.

During the course of the proceeding, however, industry members referred to approved photometric methods and stated the science of photometry is quite well established. (Also General Electric's booklet described photometric procedures in detail.) Guides have been issued by the Illuminating Engineering Society and other guides are apparently in the process of being prepared by the Society which would be helpful in establishing meaningful industry-wide photometric procedures. It is also interesting to note that impartial, well-informed parties stated that the technical facts concerning bulb performance are not controversial. The National Bureau of Standards felt that the Federal specification could be used as a basis for a Rule. They further stated, in effect, that no problem exists in the measurement by industry and commercial laboratories of lumen, life and wattage ratings of incandescent lamps at a specified voltage to well within the tolerances allowable. Consumers Union also urged the Commission to make it mandatory for the industry to meet the Federal specification.

General Electric expressed the opinion that standards could be established through U.S.A.S.I. (now A.N.S.I.) with the full cooperation of all affected parties within a year to a year and a half. They also expressed the hope that reliance on the Federal specification as an interim measure would be necessary for only a short period of time. General Electric suggested that the Commission obtain commitments from the industry to sponsor and cooperate in developing such standards. Sylvania also suggested that the Commission encourage the establishment of such standard by providing for a mandatory test standard in the Rule, by providing the Federal specification as that standard for an interim period, not in excess of 1 year, and by providing that during the interim a task force constituted by the Commission should, in conjunction with recognized experts such as A.N.S.I. or I.E.S., prepare recommended uniform testing standards for presentation to the Commission for adoption. Westinghouse made similar suggestions. General Electric, Westinghouse, Sylvania, and Duro-Test expressed their willingness to cooperate in establishing standards and test methods through U.S.A.S.I. (now known as American National Standards Institute).

General Electric, Westinghouse, and Sylvania agreed that the tests actually conducted by the National Bureau of Standards to assure compliance under the Federal Specification W-L-101f were adequate in assuring meaningful life and lumen ratings. General Electric stated it had no doubt of the National Bureau of Standards' competence to reduce the procedures to writing and welcomed the opportunity to review such written procedures. They further stated the sampling and interpretation used by the Bureau was to assure compliance with the Federal specification and therefore adjustments would have to be made to orient them toward rating a manufacturer's average product.

The Commission agrees that uniform methods and procedures applicable to the entire industry would be desirable. The Record, however, contains several instances where independent tests of light bulbs using independent procedures resulted in ratings close to those published by industry members. Industry members and others have stated that approved photometric methods exist and that the tests actually conducted by the National Bureau of Standards, to assure compliance with the Federal specification, were adequate. The Commission has been informed that the Federal specification and the test methods used by the National Bureau of Standards to assure compliance with such specification could furnish an adequate basis for enforcing the Rule and that industry members are familiar with the methods used.

The Commission considers as valid the industry argument that the Rule should not be tied in with future revisions of the Federal specification and that in the event any revisions in the Final Rule are necessary, they should be handled through the Commission's regular rulemaking revision procedures.

In view of the above, the Commission concludes that Federal Specification W-L-101G, the latest revision of the specification, is adequate as a basis for determining average initial lumen, average life, and average initial wattage ratings as provided in the Final Rule, when such ratings are determined in accordance with the test methods and procedures actually used by the National Bureau of Standards or other generally recognized and approved test methods and procedures utilized by industry members or private electrical testing laboratories. The Commission would, however, encourage the industry to develop methods and procedures which are applicable to the entire industry through A.N.S.I., I.E.S., or any other appropriate agency. It is quite probable that the National Bureau of Standards and the General Services Administration would actively participate in such a proceeding. When recommended methods and procedures are developed the Commission will, upon the petition of any industry member in line with its regular procedure for revising Rules, consider the recommendations. In view of the expressed willingness to cooperate in the establishment of industry standards on the part of some of the major producers in the industry, it would appear that adequate test methods and procedures could be developed promptly.

K. *Long life—less light.* Several articles in the Record support the scientific principle to the effect that as a bulb's design life for any given wattage is increased, that bulb's light output is decreased. Several industry members also recognized this principle, as well as other interested parties. The Commission concludes that as to "regular" incandescent lamps, the long life—less light principle is valid (however, see heading Krypton Bulbs).

L. *Deception in general.* Consumer News, Inc., stated "On the basis of my numerous and continuing contacts with consumers, I can say that there are few products where there has been more deception than in the sale of light bulbs." A Consumer Reports' article states that few "extra life" marketers disclose product brightness compared with standard bulbs and "* * * the makers of 'standard' lamps are just as silent. By failing generally to put rated lamp life on labels, they are, if anything, even less informative, by giving only the voltage and wattage ratings."

One power company stated that regulations have been long needed because "* * * of the ease with which certain lamp manufacturers have been able to misrepresent facts to lay people regarding lamp life" and that "The regulation will reduce the deception that has caused endless trouble to lighting engineers throughout the country." Another power company expressed disfavor with guaranteed life bulbs where the customer is not informed of the light output or the light output in

relation to electrical power consumed. Another power company opposed the Rule and stated until purchasers understand the meaning of the terms involved the disclosures may be misleading. The Michigan Technical Institute stated that purchasers of long life bulbs are deceived. As examples of consumer confusion, one consumer stated that a better quality of material is used by long life bulb manufacturers thereby equating quality with long life which is not factual and another consumer stated, in effect, he did not notice long life bulbs emitted less light. Margaret Dana, a consumer counsel, advised there is considerable confusion, criticism and complaint about the description of bulbs and consumers would like terms such as "long life" and "extended service" defined. She also stated that consumers purchase long life bulbs thinking that they are better but later realize they obtain less light from them.

M. *Wattage—consumer understanding.* Changing Times magazine referred to the less informative rating of watts and Consumers Union stated that bulbs are sold according to wattage not according to light produced and that this could be a source of possible confusion. Several consumers' statements indicated that they were not aware of the meaning of wattage. Two power companies stated that the Commission's conclusion that consumers believe all bulbs of the same wattage emit the same amount of light and last approximately the same length of time is valid. The consumer survey conducted by the Commission's staff also indicated support of this particular conclusion.

Throughout the Record there are indications by industry members and by consumer articles that consumers purchase light bulbs on the basis of wattage. Several booklets furnished by electric power companies, some of which are prepared by lamp industry members, use the term wattage when, in effect, referring to light output. It is also significant to note that none of these booklets, when referring to types of light bulbs available, even mention longer life bulbs. The Record also indicates very clearly that consumers buy light bulbs for the purpose of producing light. In the opinion of the Commission consumers purchasing light bulbs are actually buying light for certain periods of time. This, in the opinion of the Commission, is the crux of the problem, i.e., consumers are buying light output for certain periods of time and present labeling does not advise consumers of either.

General Electric and Westinghouse stated that consumers use wattage ratings to select general or relative levels of light output and as a relative measurement of power consumed. Sylvania took the position that consumers believe wattage to mean both light output and power consumed. While technically the light output belief is an incorrect impression, Sylvania also stated, wattage does have a general correlative relationship to light output. The Commission agrees that consumers believe wattage refers to relative light output with respect to a bulb of 100 watts and one of 75 watts, i.e., the consumer expects a 100-watt bulb to give off more light than a 75-watt bulb. Even though this may be true as to different wattage bulbs having the same rated lives, it is not true as to bulbs having different rated lives, i.e., a 75-watt "standard" bulb (750-hour) can emit as much light as a 100-watt long life bulb.

The Commission, in view of the above, concludes that consumers buy bulbs on the basis of wattage and believe contrary to fact that bulbs of the same wattage last approximately the same length of time and/or emit approximately the same amount of light.

N. *Consumer preference.* The Record contains substantial support for the premise that generally speaking consumers are at times interested in brighter light and at times in the convenience of longer life bulbs for certain uses. In addition, the Record indicates that "standard" bulbs are a nuisance to some consumers due to the annoyance of frequent bulb changes. The Subcommittee Report, electric power companies and even industry members stated that frequent bulb changes sometimes constitute a hazard. A power company recommends the use of extended service 2,500-hour bulbs where long life is more important than reduced light output and 15 percent less light is acceptable. The Record also amply indicates that there are cases where fixtures are located in hard-to-get-at locations such as ceiling fixtures, globes which need to be removed and sometimes washed, recessed equipment, stairwells, closets, attics, etc., where long life bulbs may be desirable. Two consumers stated in effect that there is considerable time, effort, and difficulty involved in replacing blubs, and that at times hazards are involved.

Consumer Reports stated that a consumer given a choice might want a different compromise between efficiency (more light) and life. The Subcommittee Report, consumer articles and the National Retail Merchants Association stated, in effect, that consumers desire to have a choice between different types of bulbs. The comments from electric power companies range anywhere from consumers having a preference for different types of bulbs to consumers not being concerned with specific bulbs or even understanding the ratings. While some consumers would not be concerned with lumen and life ratings, the Commission feels a substantial portion of the purchasing public would be both concerned with and benefited by such ratings.

When General Electric announced their longer life bulbs they recognized applications where the consumer may prefer longer life to higher light output and stated that longer life bulbs give users the opportunity to choose between the convenience of making replacements less frequently and the lighting economy offered by "more efficient standard" bulbs. The same announcement stressed the use of "standard" bulbs for reading, sewing, study, and where an optimum amount of light is needed. This, in the opinion of the Commission, constitutes recognition by the major producer in the industry of the fact that consumers have preferences for different types of bulbs, and that basically the difference is greater convenience with longer life bulbs or more light with the "more efficient standard" bulbs. It is important to note that this comparison is being made between "standard" 750-hour bulbs and 1,500-hour bulbs.

In addition several booklets distributed by electric power companies state that there are basically two different types of lighting arrangements, one being general or fill in lighting where there is a low amount of light throughout an area, and the second being local or functional lighting for visual tasks such as reading, studying, working, sewing, etc. There would appear to be two types of lighting (general and local) where consumers may prefer to buy light bulbs for either close work (where more light is needed) or for general lighting (where often general convenience or inaccessible fixtures are the main consideration and a specific amount of light output is not too important). This is best summed up by the statement appearing in the Washington Daily News by Margaret Dana to the effect that costs enter into the situation but if consumers' choosing is boiled down to basic elements they are "* * * chiefly interested in getting either good light for reading or working, or in getting some light for a long time continuously without having to change the bulb." The consumer survey conducted by the Commission's staff also tends to support the Commission's premise that consumers would prefer to select light bulbs for particular purposes such as reading, working or convenience in changing.

In view of the above the Commission concludes that a substantial portion of the consuming public prefers to purchase light bulbs for specific purposes and that the failure to make proper lumen and life disclosures denies consumers the benefit of exercising this preference.

O. *Short life complaints.* The record contains several consumer complaints to the effect that bulbs do not last as long as they should. The Consumer Survey conducted by the Commission's staff indicated that considerable dissatisfaction exists with respect to bulb life since 70 consumers answered they were satisfied with bulb life, but 84 answered they were not satisfied with bulb life. It is also interesting to note that 122 consumers answered they were satisfied with the amount of light output for bulbs and only 33 answered they were not satisfied.

The Commission had received some indication that the coiled—coil filaments may have one of the causes of short life complaints. After thoroughly considering the Record, however, the Commission feels that while coiled—coil filaments are apparently somewhat more fraglie than straight filaments or coiled filaments, in normal household usage this should not cause fast burn-outs in the case of such lamps.

Electric power companies stated they have not received a large number of short life complaints. It is also important to note that several impartial laboratory tests conducted using independent procedures resulted in ratings not significantly different from those published by the manufacturers. It was also indicated in the Record that some "long life" bulbs and some imported bulbs did not meet their claimed ratings and that some bulbs are inferior in quality.

The Subcommittee Report stated consumers have been dissatisfied with the life of light bulbs. The Commission feels the Subcommittee's criticism applies to the lives set by manufacturers for "standard" bulbs and is not intended as a complaint that such bulbs are burning out before their rated lives.

The Commission is not in a position to make firm conclusions concerning the short life complaints except to the extent that there appears to be considerable consumer dissatisfaction with bulb life and that this is probably due to several factors. Among these factors are consumers desiring bulbs with longer design lives, conditions of use which can shorten bulb life, and the inferior quality of a very small portion of bulbs. Lumen and life disclosures will enable consumers to decide which type of bulbs they prefer, and to determine also which bulbs consistently burn out too fast. If the demand for long life bulbs increases, the Commission is hopeful the industry will be responsive to such demands. Short life complaints involving what appear to be conditions of use have been made fairly consistently and perhaps a voluntary educational program, on the part of industry members, coupled with specific lumen and life ratings will go a long way toward reducing the number of such complaints. The quality problems where bulbs have built in inferior quality can be ferreted out through complaints from consumers and industry members. Suspected bulbs can also be tested in accordance with the provisions of the Final Rule.

The Commission is concerned with the effect of overvoltage on bulb life, i.e., when the supply voltage is higher than the rated voltage of the bulb, the life of the bulb is susbtantially decreased. Voltage supplied in different areas varies somewhat, sometimes

going under and sometimes going over the designated supply voltage and this variance becomes an important factor with respect to short bulb life since a 5 percent increase in supply voltage over the design voltage of a bulb decreases bulb life to approximately 58 percent of its design life.

While the Commission is aware of the practical limitations and the various other problems involved, it considers it imperative for bulb marketers to assure that proper voltage bulbs are furnished in every market. Where the average voltage supplied in any particular area regularly exceeds the designated supply voltage, industry members should, to the extent possible, furnish increased voltage bulbs which make due allowance for the excess voltage.

P. *Efficiency v. convenience.* The major companies, manufacturers of the "standard" bulbs (range of 750 hours in the higher wattages), contended that such bulbs are the most efficient consistent with an acceptable level of convenience for consumers, i.e., "standard" bulbs give the lowest cost of light taking the convenience of the consumer into consideration. These major companies stated the bulb lives, in order to be even more efficient, should have shorter lives than the present "standard" value; that the longer life is built in for the convenience of consumers. Electrical Construction and Maintenance and the National Bureau of Standards also took the same position and two electric power companies defended the lives of the present "standard" bulbs. The Subcommittee Report, however, questioned the major manufacturers' reasons for defending their "standard" bulb life and suggested that "standard" bulb lives should be doubled. General Electric, in response to the Subcommittee's position, stated that a standard line is needed to achieve economy of scale upon which low prices of bulbs are dependent. G.E. quoted from Bright's book "Electric Lamp Industry" to the effect that the unqualified condemnation of the present average life of "standard" bulbs does not seem justified.

Articles appearing in Consumer Reports and Consumers Bulletin apparently recognize that: (1) Good scientific motives can be advanced for the present "standard" bulb life (Consumer Reports), and (2) there is an element of truth in the manufacturers' claim that, all things considered, they are supplying bulbs which represent the best compromise between life and light output (Consumers Bulletin). Considering the record as a whole, it would tend to indicate that, generally speaking, many parties feel "standard" bulbs should be used for reading and close work, etc., and that longer life bulbs should be used where convenience is an overriding factor. However, convincing arguments are presented that the reduced light output of 8–10 percent in the case of double life (1,500-hour higher wattage bulbs) would not be noticeable or important to many consumers. It is also argued in the Subcommittee Report that double life bulbs with the same light output as "standard" bulbs but with slightly increased wattage would be advantageous to consumers.

The Commission feels it should not enter into the argument as to whether the present "standard" bulbs are the most efficient or whether their lives should be increased. Under the circumstances presented in the Record, the Commission would not appear, at this time, to have authority to provide an appropriate remedy, even if it did decide bulb lives should be increased. The Commission concludes therefore, that it cannot nor should it attempt to decide what are the most efficient light bulbs. In the final analysis the consumer must decide this for himself and that is the precise reason for the Rule—to enable consumers to decide for themselves based upon lumen and life disclosures.

In effect the consumer must decide whether he wants greater efficiency or more convenience, e.g., for reading purposes he may desire a brighter light—shorter life bulb, and for an inaccessible ceiling fixture he may desire a longer life—less light bulb. The Commission fully realizes that there will probably be varying degrees of consumer interest in lumen and life disclosures with some consumers being interested in the most detailed analysis of the figures, and others merely interested in the generalization that there are two types of bulbs, i.e., longer life or brighter light. Some consumers may be completely indifferent to the disclosures.

The Commission feels that, in general, some consumers prefer more light—shorter life—more efficiency with the consequential lower cost of light ("standard" bulbs), while other consumers will prefer longer life—less light—convenience and the consequential higher cost of light if equal or greater light output is desired (longer life bulbs). The question of higher or lower cost is one of degree where some consumers would consider the cost factor significant while others would not, e.g., using electricity rate of 2 cents per kw.-hr. (kilowatt-hour), an increase of 50 watts would cost $1 extra for 1,000 hours or approximately 1 year of use. Some other consumers may use "standard"—brighter light bulbs under all circumstances since they are primarily concerned with large amounts of light, while others may use "standard" lamps for reading and working purposes, but select longer life bulbs, in varying degrees, for convenience. Still other consumers may use "double life" bulbs and, in some cases, save in the cost of light because they are willing to accept the reduced light output. It must be stressed that the Commission is in no way attempting to point out which type of bulb is best for each consumer; the primary concern is to furnish the information to enable consumers to make an informed choice.

Q. *Acceptable range of light.* Booklets issued by various electric power companies list a range of footcandles for various specific tasks. This, in the opinion of the Commission, tends to indicate that there are ranges of light which may be acceptable for certain purposes and that a specific and precise amount of light is not always necessary. The U.S. Consumer News stated that a 6 to 10 percent reduction in light output which would result from doubling the lives of the present "standard" bulbs is an amount which would scarcely be noticeable. Congressman Jack Brooks, Chairman of the Subcommittee, stated when referring to General Electric's announcement concerning longer life bulbs that a 6 to 10 percent reduction in light output would not be noticeable to most consumers. Duro Test stated that the difference in light output between a 1,500-hour and a 750-hour bulb of the same wattage would be minor, but that there would be some noticeable difference.

General Electric when announcing its longer life bulbs stated in effect that in order for consumers to enjoy the convenience of less frequent bulb changes they would have to pay more for the cost of light in order for them to obtain a given amount of light. There appears to be a serious question whether the reduction of up to 10 percent in the case of the 1,500-hour bulb as compared to a 750-hour "standard" bulb would be noticeable or actually consequential to a large number of consumers. In the case of the 2,500-hour, 1,500-hour, and other bulbs the larger decrease in light output would probably be noticeable to some consumers. The Commission feels the question of whether reduced light output would be acceptable to some consumers is a question only consumers can decide based on lumen and life ratings and based on their experience with different types of bulbs. For example, one consumer may find a 6 to 10 percent reduction in light output acceptable for use in a reading lamp, others will not. Some consumers would accept the reduction of 15 percent–25 percent with a 2,500-hour bulb for use in a high ceiling fixture, but would use "standard" bulbs for reading and other lamps. The important point, the Commission feels, is that with lumen and life ratings disclosed consumers will be able to choose which lamp is more appropriate for their intended purpose whether it be long life or brighter light.

R. *Cost factors.* The producers of "standard" bulbs argue that "long life" bulbs are lower in efficiency and result in higher lighting costs for equal light. This position is supported by several impartial parties. Other segments of the industry, basically the manufacturers of longer life bulbs, argue that the "longer life" bulbs (in the general area under 5,000 hours) result in the best buy when all factors are considered or at least furnish more convenience. In part, this position is also supported by other impartial statements in the Record. Furthermore, the Subcommittee Report stated that double life bulbs (double the "standard" bulb life), with a slight increase in wattage to obtain light equal to "standard" bulbs, would cost the consumer approximately 2.5 percent per bulb more or approximately 5-cent higher cost for light per year per bulb.

A cost analysis, presented by G.E. compared a 10,000-hour bulb to a 750-hour "standard" bulb, both 100 watts, and is as follows: 10,000-hour bulb furnished 65 percent of the light output of "standard" bulb; in order to obtain same amount of light as "standard", you would need a 155-watt (hypothetical wattage) 10,000-hour bulb which would result in a lighting cost of $30.97 over the 10,000-hour rated life—"standard" bulb would result in total lighting costs of $28.03 over the same period (using industry estimates this would be more than 10 years), or $10.94 less than the longer life bulb. It should be pointed out that a comparison between the 750-hour bulb and the 10,000-hour bulb presents an extreme example, and as pointed out by the Subcommittee, a more realistic comparison is made when 750-hour bulbs are compared with 1,500-hour bulbs.

An interesting comparison results between one industry member's "standard" 100-watt, 750-hour bulb and their longer life, 100-watt and 150-watt, 1,500-hour bulbs.

Bulb type	Bulb cost	Lumens-light output	Cost of light for 1,000 hrs. 2¢ kw.-hr.	Cost of light for 1,000 hrs. 3¢ kw.-hr.
750 hr. 100 w	$0.25	1700	$2.33	$3.33
1500 hr. 100 w	.32	[1] 1530	2.21	3.21
1500 hr. 150 w	.43	[2] 2457	3.29	4.79
1500 hr. 109.6 w (Subcommittee bulb)	[3] .35	1700	2.43	3.53

[1] Estimated 10% less than "standard" 100 watt.
[2] Estimated 10% less than "standard" 150 watt which is 2730 lumens.
[3] Estimated high—data would tend to indicate lower price. (The figures in the above chart have been rounded out.)

The first three items are based on bulbs actually available and as can readily be seen upgrading the wattage to 150-watts increases both the light output and the cost of light. As suggested by the Subcommittee Report 1,500-hour or "double life" bulbs can be made with light output equal to "standard" bulbs with a slight increase in wattage, i.e., 109.6 watts to get lumen output equal to 100-watt "standard". The fourth item above gives data for the hypothetical 109.6-watt bulb.

It should be pointed out that serious disagreements do exist, as indicated in the

Record with respect to the factors which should or should not be included in the computation of lighting costs for setting design life and whether the "incremental" or the "average" rate should be used. These factors would all have an effect on the computations and the total lighting costs. The above comparisons included bulb cost and the 2 cents and 3 cents per kw.-hr. rates for electricity to give a general indication of what is involved. Rates vary throughout the country; however, recently in the United States the average incremental rate was 2 cents per kw.-hr. and the average rate was 2.4 cents per kw.-hr.

Lustra Corp. argued that bulbs with rated lives over 5,000 hours are not acceptable for household use because of the substantial reduction in light output. The Commission feels that the substantial reduction in light output with 5,000-hour and over bulbs would be observed either when the consumer makes a comparison of the ratings on the different bulbs, or detected when the bulb is placed in the socket. The Commission is concerned, however, with the potential problem where consumers may notice the reduced light output and upgrade the wattage substantially thereby incurring increased electricity costs. The problem may be somewhat aggravated because a 5,000-hour bulb will last longer than six "standard" bulbs and yet there is only a reduction in light output of approximately 25–35 percent, i.e., life increases at a far greater rate than light output decreases and this may appear to be a bargain to some consumers who may not realize they incur increased electricity costs to obtain more light.

The Commission has considered requiring a disclosure for bulbs with rated lives 5,000 hours and over to the effect that such bulbs result in higher power costs; however, it was concluded that under the circumstances, such bulbs should not be singled out by requiring such a drastic remedy. Furthermore, the proposed lumen and life ratings will make consumers more fully aware of wattage and the types of bulbs available. Consumers will, in the opinion of the Commission, become aware of the substantial reduction in light output, the increased cost for electricity because of upgrading wattage, and will evaluate these factors when purchasing the 5,000-hour and over bulbs.

It is apparent that some consumers will be interested in the more efficient standard bulbs which present the lowest cost of light. Other consumers will use "long life" bulbs and be willing to pay the increased costs involved to obtain light output which is near that of "standard" bulbs. The Subcommittee Report suggested that the cost increase involved with some longer life bulbs is not as great as industry and other comparisons would indicate since comparisons are often made on the basis of very long life bulbs rather than double life bulbs. Under such circumstances, they stated, the comparison is not equitable. The Commission feels this argument has merit and that the lighting cost increases in the case of some of the medium range long life bulbs may be acceptable to some consumers. The Commission would, however, stress that it is not attempting to indicate to consumers the types of bulbs which would be most acceptable for their own particular purposes.

S. *Economic effect.* The Record would indicate that wide acceptance of double life bulbs would reduce bulb sales by 50 percent. There is also some indication that one result of the Commission's rulemaking proceeding might be to increase the demand for longer life bulbs. It is quite possible that increased sales of longer life bulbs, in various different life ratings, may result from the Rule; however, the extent of any changes will be entirely dependent upon consumer demand and the industry response to such demand.

Some lamp industry members contended that the requirement of lumen and life ratings on sleeves would increase packaging costs to small manufacturers since the same containers are used for more than one type and size of lamps. They contended that universal or interchangeable containers cannot be used if lumen and life disclosures must be made thereon. It is also suggested that such additional cost could cause the elimination of small manufacturers from the industry.

The Commission is aware of the problem involved where manufacturers use interchangeable or universal sleeves. Such marketers apparently sell bulbs on the basis of the wattage and voltage ratings on the bulbs themselves and the packages contain no ratings. It is understood that bulb disclosure may present less of a problem to such manufacturers than the sleeve disclosure. The Commission has carefully considered this problem and concludes that in the case of such interchangeable sleeves, the public interest will be fully protected if lumen and life disclosures are given on the bulbs only, provided such disclosures are clearly visible at the point of sale. (See proviso (a) of Final Rule.)

T. *Bulb availability.* Consumer News, Inc., suggested in effect that the disclosures required by the Rule will not be a guarantee that consumers will have an adequate choice of bulbs but the disclosures will, at least, make possible some pressure from the public for products not now generally available. The Record also suggested that longer life bulbs are not readily available and that some major manufacturers would appear to be discouraging the use of their longer life bulbs by claiming that their "standard" bulbs are more efficient. The Commission is aware of the arguments concerning more efficient standard vs. convenient long life bulbs as discussed throughout the Record, and it is not the intention of the Commission to question such claims of manufacturers or others as long as they are presented in an honest forthright manner. The Commission is concerned, however, with the problem of bulb availability, and it is hoped that consumers will have an adequate choice of bulbs. If the demand for longer life bulbs increases, and industry members do not respond thereto, industry practices will be closely scrutinized on an individual basis to determine whether any statutes administered by the Commission are being violated.

U. *Krypton bulbs.* Bulbs have been introduced in the last few years which are filled with krypton gas instead of the usual argon-nitrogen gas. This type bulb, when wattage remains the same, results in an increase in bulb life of 50 percent with no loss in light output; or an increase in light output of 7 percent if life remains the same. Such bulbs are generally more expensive than standard lamps and would appear at present to be an extension to the regular product line. Krypton bulbs are not, to the extent indicated, in accord with the scientific principle, longer life—less light; but the Commission feels that the introduction of krypton bulbs can result in even greater deception unless lumen and life disclosures are furnished for all bulbs, i.e., in addition to the regular bulbs krypton bulbs are now available where longer life is obtainable to some extent without a reduction in light output.

V. *Guarantees.* Consumers have stated that certain guarantees are mentioned on sleeves and in advertisements where there is no disclosure of the manufacturer's name and that consumers cannot remember where they purchased the bulbs. Obviously purchasers would need this to seek performance under the guarantee. A review of industry guarantees indicates other failures to disclose adequate information.

It should be called to the attention of industry members that the Guides Against Deceptive Advertising of Guarantees issued by the Commission would apply to advertisements or labeling for light bulbs and that the provisions of these guides should be followed wherever "guaranteed" or similar words are used. Copies of these guides may be obtained by sending a request to the Commission.

W. *The Commission's authority.* The Association of National Advertisers, Inc., expressed its disapproval of this rulemaking proceeding and contended that the proceeding is beyond the authority of the Commission and contrary to the public interest. The Association further contended that the Commission lacks authority when it seeks to mandate expressed recital of information in cases where the advertiser has not made an affirmative representation which would be false or misleading absent such further explanation.

The Commission's authority for issuing trade regulation rules was discussed at length in the Cigarette Rule (Trade Regulation Rule for the Prevention of Unfair or Deceptive Advertising and Labeling of Cigarettes in Relation to the Health Hazards of Smoking and Accompanying Statement of Basis and Purpose of the Rule, pp. 127–150.), and the Commission concluded that a Trade Regulation Rule is "* * * within the scope of the general grant of rulemaking authority in Section 6(g) [of the Federal Trade Commission Act], and authority to promulgate it is, in any event, implicit in section 5(a)(6) [of the Act] and in the purpose and design of the Trade Commission Act as a whole" (Cigarette Rule, p. 150). The Commission sees no reason to change the position it has taken previously.

With respect to affirmative representations and the failure to disclose material facts, this subject was also fully discussed in the Cigarette Rule, pages 87 through 93; and as indicated therein the Commission's authority to require affirmative disclosures in cases of deception has been firmly established. With respect to light bulbs specifically the subject of deception has been discussed elsewhere in this statement of basis and purpose.

X. *Conclusions.* On the basis of the Record of the Trade Regulation Rule proceeding, including those portions referred to in paragraphs A to W of this Statement, the Commission concludes that the failure to disclose lumens, life, cost and other data has the capacity to mislead and deceive purchasers and prospective purchasers, and that such practice is violative of section 5 of the Federal Trade Commission Act. Therefore, the Commission concludes that the issuance of the Trade Regulation Rule herein requiring the diclosure of lumen, life, wattage, voltage, cost and other data by the lamp industry is required as shown by that Record, and is in the public interest.

Y. *Effective date of final rule.* The Commission has given careful consideration to requests, by affected parties, that a reasonable length of time be allowed to afford them opportunity to bring their labeling into conformity with the provisions of the Rule. In view of the problems than are apparently involved, and to allow the smooth transition of packaging and advertising materials the Commission feels that some extension of time for the effective date of the Rule is reasonable. Accordingly, with respect to all forms of labeling and packaging for lamps leaving the manufacturing plant the Rule will become effective 6 months from date of promulgation. Likewise, for all forms of advertising, and sales promotional material including radio and television advertisements, the Rule will become effective 6 months from date of promulgation.

[F.R. Doc. 70-9349; Filed, July 22, 1970; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER G—PROCUREMENT

PART 591—GENERAL PROVISIONS

Corrections

1. F.R. Doc. 70–2661, appearing at 35 F.R. 4123 through 4131, March 5, 1970, is corrected by inserting a title for Subpart I immediately preceding § 591.908, as follows:

Subpart I—Responsible Prospective Contractors

2. F.R. Doc. 70–6806, appearing at 35 F.R. 8554 through 8567, June 3, 1970, is corrected by revising §§ 591.650 and 591.1004, as follows:

§ 591.650 Fraud or criminal conduct.

(a) Prompt reporting of allegations of fraud or criminal conduct in connection with procurement activities, and of all other irregularities which could lead to debarment or suspension of a contractor or to judicial or administrative action against military personnel or civilian employees of the Department of the Army is of extreme importance to the proper supervision of procurement activities. When the report pertains to military personnel or civilian employees, the content of the report set forth in § 1.608–2 of this title shall be amended as appropriate. Notification to the Federal Bureau of Investigation pursuant to AR 27–10, submission of a "Blue Bell" report pursuant to AR 1–55, or submission of a litigation report pursuant to AR 27–40 does not eliminate the reporting requirement in § 1.608 of this title.

(b) Within the Department of the Army the requirement for reporting under § 1.608–1 (a), (b), (d), (e), and (f) of this title is based upon the existence of reason to suspect that one or more of the enumerated offenses or acts has been committed. This is a lesser standard than, and not necessarily related to, the standard used by the Secretary or his authorized representative under § 1.605–1 of this title in determining whether to suspend. For example, if there is sufficient information to warrant an inquiry of such matters by a contracting officer, auditor, inspector, Military Police criminal investigator, or if the matter has been referred to the Federal Bureau of Investigation, there exists sufficient suspicion to make an initial report.

(c) When a contractor has been added to the consolidated list in § 1.601 of this title, or allegations of fraud or criminal conduct in connection with procurement activities are reported, the reporting agency shall make a determination as to whether a review also shall be made of contractual relationships with the contractor and its affiliates. The review, if made, shall cover a period of 2 years, or longer if considered necessary to determine whether there is procurement fraud or other criminal conduct and whether the Government may have any basis for recovery of damages, or payments from the contractor in connections with such other procurement activities. Results of the review shall be reported through procurement channels to the addressee in § 591.150(b)(2) (exempt report, paragraph 7–2t, AR 335–15).

(d) Appropriate legal personnel who have cognizance of the legal aspects of contracts in the field (see § 591.403–15) and the Advisor on Fraud Matters to the Assistant Secretary of the Army (Installations and Logistics) shall review each pending fraud matter to determine the adequacy of the scope of the investigation made or being requested.

§ 591.1004 Disclosure of information prior to award.

(a) For proposed unclassified negotiated procurements estimated to exceed $100,000 and which involve competition, the marking "For Official Use Only" shall be applied in accordance with AR 340–16 to—

(1) Quotations for proposals and related working papers, and

(2) Requests for approvals of awards of negotiated contracts.

This protective marking shall remain in effect until negotiations have been completed and the resultant contract awarded.

(b) Contracting officers shall consider using the protective marking for other sensitive types of information associated with unclassified procurement actions, giving due consideration to the magnitude of workload involved. The marking of certain information received in confidence from private industry, regardless of the monetary value of the procurement involved, is governed by AR 340–16.

For the Adjutant General.

RICHARD B. BELNAP,
Special Advisor to TAG.

[F.R. Doc. 70–9464; Filed, July 22, 1970; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 5A of Title 41 is amended as follows:

PART 5A–1—GENERAL

Subpart 5A–1.7—Small Business Concerns

1. Section 5A–1.703–2(b) is revised and § 5A–1.703–2(e) is amended as follows:

§ 5A–1.703–2 Protest regarding small business status.

* * * * *

(b) When the solicitation provides for a total or partial small business set-aside, or a labor surplus area set-aside, it is essential that the applicable small business size standard be set forth clearly in the schedule (see §§ 1–1.706–5(c) and 1–1.706–6(c) of this title). In addition, the following notice shall be included in all solicitations:

NOTICE CONCERNING SIZE STATUS

Any bidder who has a question as to whether he is or is not a small business concern shall contact the nearest office of the Small Business Administration for guidance and assistance.

The Small Business Representation appearing on page 2 of the solicitation is a material representation of fact upon which the Government relies when making award. If it is later determined that the Small Business Representation was erroneous, and the contractor was not a small business concern on the date of award of this contract, the contract may be canceled by the Government and the contractor charged with any damages sustained by the Government as a result of such cancellation.

* * * * *

(e) If a protest regarding small business size status is received after expiration of the 5-day period specified in § 1–1.703 of this title, or if the protest is received after contract award, the matter shall be presented to SBA (unless there is obviously no validity to the protest as in the case where SBA has recently determined the size status of the firm in question) on the basis that the contracting officer questions the size status of the firm involved. The contracting officer's reasons for raising the questions should be stated and copies of the pertinent available documents should be furnished to SBA. If SBA determines that the concern in question is not a small business concern, the following action shall be taken.

* * * * *

PART 5A–2—PROCUREMENT BY FORMAL ADVERTISING

The table of contents for Part 5A–2 is amended to add the following:

Sec.
5A–2.303–70 No bid response.

Subpart 5A–2.2—Solicitation of Bids

1. Section 5A–2.201–70 is amended as follows:

§ 5A–2.201–70 Forms to be used.

* * * * *

(a) Standard Form 33, Solicitation, Offer, and Award, November 1969 edition.

* * * * *

(c) Standard Form 32, General provisions (Supply Contract), November 1969 edition.

* * * * *

(e) GSA forms containing standardized supplemental provisions.

(1) GSA Form 1424, GSA Supplemental Provisions, June 1970 edition, shall be incorporated by reference in each solicitation for offers, except solicitations for offers under the AID buying program, by using the following provision:

GSA Form 1424, GSA Supplemental Provisions, June 1970 edition, receipt of which is

acknowledged by the bidder, is hereby incorporated by reference. A copy of GSA Form 1424, if not enclosed, is available upon request.

* * * * *

2. Section 5A–2.201–78 is revised to read as follows:

§ 5A–2.201–78 Inspection at source.

(a) The following provision shall be included in solicitations for offers when it is determined that inspection is to be performed at source. This provision is included in GSA Form 1424 as Article 5(a) and becomes applicable where the solicitation so provides.

(b) When source inspection is specified in the solicitation, space must be provided for entering the information called for by paragraph (2) of the provision.

(c) The second sentence of paragraph (2), concerning inspection of supplies of foreign origin, may be waived (1) where inspection services are available from another Federal agency on the basis of its primary inspection cognizance in a geographic area (2) where an inspection interchange agreement exists with another agency concerning inspection at a contractor's plant (3) where procurements are to be made for AID which specify the area of source, or (4) where other considerations will assure more economical and effective inspection consistent with the best interests of the Government. When this portion of the provision is to be waived, an express statement to that effect shall be made in the Schedule. Any such decision should be fully coordinated with the appropriate quality control representative.

SOURCE INSPECTION

(1) Supplies to be furnished under this contract will be inspected at source by the Government prior to shipment from the manufacturing plant or other facility designated by the Contractor, unless (a) the Contractor is notified otherwise in writing by the Contracting Officer or his designated representative, or (b) the Contractor or his subcontractor, pursuant to a Quality Assurance or Quality Approved Manufacturer Agreement with the General Services Administration, is authorized to issue a certificate covering such supplies at the time of shipment.

(2) Offerors will be required to specify the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies. A contract will be awarded only to the responsible offeror (i) who agrees to deliver the item(s) specified by the contract from a plant or warehouse within the United States (including Puerto Rico and the Virgin Islands) that is equipped to perform all tests required by the contract and specifications, to evidence conformance therewith, or (ii) who will arrange with a testing laboratory in the United States, acceptable to the Government, to perform the required tests.

(3) Inspection responsibility will be assigned to the Quality Control Division of the GSA regional office having jurisdiction over the State in which the Contractor's or subcontractor's plant or other designated point for source inspection is located (addresses and States covered for each Quality Control Division are shown on GSA Form 2022, copy of which, if not previously furnished, is obtainable upon request). The Contractor shall notify, or arrange for his subcontractor to notify, that office at least 10 days prior to the date when supplies will be ready for inspection. Shipments shall not be made until released by the Quality Control Division unless release is otherwise authorized under terms of a currently applicable Quality Assurance or Quality Approved Manufacturer Agreement.

Subpart 5A–2.3—Submission of Bids

Section 5A–2.303–70 is added to read as follows:

§ 5A–2.303–70 No bid response.

Contracting Officers are not authorized to remove names of prospective bidders from the FSS computerized national bidders mailing list for lack of response to solicitations for offers. To reduce processing of unnecessary mail, the following statement shall be included in solicitations for offers.

"NO BID" RESPONSE NOT REQUIRED

(Due to introduction of computerized mailing lists, Federal Supply Service practice with respect to paragraph 6, SF 33A, is clarified as follows:) If Not Bidding, Do Not Send Any Response. You Will Be Kept on the FSS Bidders List Until the Next Circularization of All Addressees on the List. If You Wish Earlier Removal Send Letter to General Services Administration, Federal Supply Service, National Maintenance Center, Denver, Colorado 80225.

PART 5A–7—CONTRACT CLAUSES

Subpart 5A–7.1—Fixed-Price Supply Contracts

1. Section 5A–7.101–5 is revised to read as follows:

§ 5A–7.101–5 Inspection.

In addition to Article 5 of Standard Form 32, the following clauses shall be used:

INSPECTION

(a) *Source inspection* (Use provision prescribed in § 5A–2.201–78).

(b) *Additional costs of inspection and testing.* The contractor will be charged for any additional costs of Government inspection and test when (1) supplies are not ready at the time such inspection and test is requested by the Contractor, or (2) when reinspection or retest is necessitated by prior rejection. See Article 5(c) of Standard Form 32. When such inspection and test is performed by or under the direction of the General Services Administration, charges will be at the rate of $8 per man-hour if the inspection is at a GSA depot, $11 per man-hour, plus travel costs incurred, if the inspection is at any other location, and $10 per man-hour for laboratory testing; except that when a testing facility other than a Federal Supply Service laboratory performs all or part of the required tests, the Contractor shall be assessed the actual amount of the costs incurred by the Government as a result of testing in such a facility. When inspection is performed by or under the direction of any agency other than the General Services Administration, the same charges may be used or such agency may assess their costs for performing the inspection and testing.

(c) *Contractor inspection responsibility.* The inspection system required to be maintained by the Contractor under Article 5(e) of Standard Form 32 may be the Contractor's own facilities or any other inspection facilities or services acceptable to the Government. It shall be utilized to perform all inspections and tests of materials and components prior to incorporation into end articles and for such end articles prior to offering the end articles for delivery under the contract. The Contractor is responsible for controlling product quality and for offering to the Government for acceptance only those supplies and services that conform to contract requirements and for maintaining objective evidence of this conformance. Records shall be available for review by the Government representative and copies of individual records shall be furnished him upon request. The right is reserved to the Government to evaluate the acceptability and effectiveness of the Contractor's inspection system prior to award and periodically during the contract period. In no event shall the Government's right to inspect and test completely any and all lots offered for delivery under the contract be waived. Failure of the Contractor to maintain an acceptable inspection system as provided in Article 5(e) and in this clause may result in termination of the contract under Article 11 of the General Provisions.

(d) *Quality assurance or quality approved manufacturer agreement.* All of the terms and conditions of any existing Quality Assurance or Quality Approved Manufacturer Agreement entered into by the Contractor and/or his supplier and the Government are hereby incorporated in this contract and made a part hereof.

(e) *Inspection and receiving reports.* When supplies will be inspected on the premises of the Contractor or a subcontractor, the Contractor shall be responsible for preparation and distribution of inspection documents as follows: (i) DD Form 250, Material Inspection and Receiving Report, for deliveries to military agencies, or (ii) GSA Form 308, Notice of Inspection, for deliveries to GSA or other civilian agencies. When required, the Contractor will be furnished a supply of GSA Form 308 and/or DD Form 250, and complete instructions for their accomplishment and distribution.

(f) *Point of acceptance.* (Use provision prescribed in § 5A–14.203.)

(g) *Availability of records.* In addition to any other requirement of the contract, the contractor shall maintain and make available to the contracting officer or his authorized representative, for the duration of the contract and 6 months (180 days) thereafter, records showing the following information for each purchase order received under the contract: (1) Order number; (2) date order received; (3) quantity ordered; (4) date scheduled into production; (5) batch or lot number, if applicable; (6) date inspected and/or tested; (7) date available for shipment; and (8) date shipped or date service completed.

2. Section 5A–7.101–8(b) is amended as follows:

§ 5A–7.101–8 Assignment of claims.

* * * * *

(b) * * *

ASSIGNMENT OF CLAIMS

If this is a requirement or indefinite quantity contract, under which more than one agency may place orders, Article 8(a) of Standard Form 32 is inapplicable and the following is substituted therefor:

* * * * *

3. Section 5A–7.101–10 is revised to read as follows:

§ 5A–7.101–10 Examination of records.

In addition to the Examination of Records clause in Standard Form 32, the

clause, Examination of Records by GSA, shall be used as prescribed in § 5–53.303 of this title.

4. Section 5A–7.101–11 is revised to read as follows:

§ 5A–7.101–11 Default.

(a) In addition to Article 11 of Standard Form 32, the following clause shall be included in Federal Supply Schedule contracts:

DEFAULT (ORDERS UNDER FEDERAL SUPPLY SCHEDULE)

In addition to Article 11 of Standard Form 32, the following shall apply with respect to Federal Supply Schedule contracts only:

When the Contracting Officer has terminated the right of a Contractor to proceed with all further deliveries, thereafter Government agencies and activities required to use the contract as a primary source of supply, may purchase in accordance with prescribed procedures the articles or services covered by the termination without furnishing the defaulting Contractor orders therefor, and any excess cost over the original contract price shall be charged to the defaulting Contractor and his sureties (if any): *Provided*, That the default resulting in the termination was not excusable under subparagraph (c) of Article 11 of the General Provisions. This subparagraph shall also apply to each order accepted by the Contractor from an activity not required to use the contracts as a primary source of supply but permitted under the contract to place orders subject to acceptance by the Contractor.

Any ordering office may, in respect to any one or more purchase orders placed by it under the contract, exercise the same right of termination, acceptance of inferior articles or services, and assessment of excess cost as might the Contracting Officer, except that when failure to deliver articles or services is alleged by the Contractor to be excusable, the determination of whether the failure is excusable shall be made only by the Contracting Officer of the General Services Administration, to whom such allegation shall be referred by the ordering office and from whose determination appeal may be taken as provided in the clause of this contract entitled "Disputes".

(b) In some recent decisions where the Government had terminated contracts for default, the actions were upset on the finding that the Government had waived its right to require performance as stated in the contract. To protect the Government's interest in this regard, the following provision shall be included in all solicitations.

WAIVER OF DELIVERY SCHEDULE

None of the following shall be regarded as an extension, waiver, or abandonment of the delivery schedule or a waiver of the Government's right to terminate for default: (i) Delay by the Government in terminating for default; (ii) Acceptance of delinquent deliveries; and (iii) Acceptance or approval of samples submitted either after default in delivery or in insufficient time for the Contractor to meet the delivery schedule.

Any assistance rendered to the Contractor on this contract or acceptance by the Government of delinquent goods or services hereunder, will be solely for the purpose of mitigating damages, and is not to be construed as an intention on the part of the Government to condone any delinquency, or as a waiver of any rights the Government may have under subject contract.

5. Section 5A–7.101–82 is revised to read as follows:

§ 5A–7.101–82 Guaranteed shipping weight and cube.

A clause substantially as follows shall be included in solicitations where guaranteed shipping weights and/or dimensions are required for realistic evaluation of freight costs (see § 1–19.202–3 of this title). Where guaranteed shipping weight and/or cube information is to be furnished by offerors, space for entering such information must be provided in the Schedule.

GUARANTEED MAXIMUM SHIPPING WEIGHTS

* * * * *

PART 5A–12—LABOR

The table of contents for Part 5A–12 is deleted and §§ 5A–12.203, 5A–12.303–1, and 5A–12.604 are deleted.

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

Effective date. This regulation is effective 60 days after publication in the FEDERAL REGISTER, but may be observed earlier upon availability of revised GSA Form 1424.

Dated: July 15, 1970.

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

[F.R. Doc. 70–9523; Filed, July 22, 1970; 8:51 a.m.]

Chapter 5B—Public Buildings Service, General Services Administration

PART 5B–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5B–2.2—Solicitation of Bids

UNIT PRICES

This amendment provides for a minor editorial change in § 5B–2.202–71, authorizes the use of unit prices on work initially included in construction contracts, and specifies provisions and modifications that must be included in the bidding and contract documents when unit prices are required.

Section 5B–2.202–71 is amended by revising paragraph (a) as follows:

§ 5B–2.202–71 Base bid and alternate prices.

(a) Normally, invitations should not require bids on alternates. The base bid should include all the features that are considered essential to a minimum, sound, and adequate building design. Alternate prices are permitted only when clearly justified and must be held to a minimum. Alternates to be included in specifications should involve significant amounts of work in relation to the base bid. In general, only "add" alternates will be permitted.

* * * * *

Section 5B–2.202–72 is revised to read as follows:

§ 5B–2.202–72 Unit prices.

(a) *Unit prices for change orders only.* Unit prices may be required when deemed necessary to provide a basis for possible later change orders involving additional work. The unit should be a well-defined unit of measurement such as "per square foot," "per sack," or "per linear foot." Such unit prices shall be disregarded in determining the low bidder and shall be rejected at the time of award if considered excessive.

(b) *Unit prices for work initially included.* On work initially included in a contract, where guide specifications appropriate for bidding and contracting on a unit price basis have been issued for a particular requirement (such as pilings, foundation piers or structural steel, for example), unit prices may be required if the contract is estimated to exceed $10,000 and should be required if the contract is estimated to exceed $100,000 unless it is determined that unit price bidding would be inappropriate or would not be advantageous. When unit prices are required pursuant to this § 5B–2.202–72 (b), the following provisions and modifications must be included in the bidding and contract documents:

(1) Provision shall be made on the bid form for the bidder to enter each required unit price bid.

(2) The number of units of any work for which a unit price will be required shall be ascertained from the applicable requirements shown and specified in the contract documents; each such number of units shall be shown on the bid form, beside the space provided for the bidder to enter each such unit price bid.

(3) Bidders shall be advised, by any appropriate means, that failure to submit unit price bid(s) will render the bid nonresponsive.

(4) The Invitation for Bids, Standard Form 20 (GSA Overprint of February 1967) shall be modified to delete the printed bid guarantee requirements and to substitute in lieu thereof a requirement that bid guarantee, in the amount of 20 percent of the amount of the bid or $3 million, whichever is less, will be required and that for the purposes of such bid guarantee requirement, the term "amount of the bid" shall be deemed to mean the aggregate of the lump sum bid, all add alternates (if any), and the product(s) of each unit price multiplied by the applicable number of units shown on the bid form. In special cases (such as, for example, an alternate for adding an entire separate building which will entail such a significant increase in the number of units as to justify requiring an alternate unit price bid on the additional units) the bid guarantee provision should be further modified as necessary to make it clear that the bid guarantee must cover the maximum amount of work that might be included in an award.

(5) The Notice to Bidders, GSA Form 1903, shall be modified to delete the bid guarantee item and to substitute in lieu thereof language which conforms to the bid guarantee requirements in the Invitation for Bids.

(6) The Special Conditions shall include information to bidders that the lump sum bid shall not include the cost of any work for which a unit price bid is required, to require bidders to submit a unit price bid on each category of work (specifying the categories), and to identify the applicable unit(s) (e.g., linear foot or cubic yard).

(7) Inform bidders that, for purposes of determining the low bidder only, each bidder's unit price(s) will be multiplied by the applicable number of units shown on the bid form and the product(s) thereof will be added to the lump sum bid and such alternate bids as may be accepted. Where unusual or special bidding requirements are involved (such as alternate unit price bids), the foregoing shall be modified as appropriate to the circumstances.

(8) The clause "Bid Guarantee and Bonds," as set out in the guide specifications for Special Conditions shall be edited and revised so as to provide that:

(i) Performance bond will be required in an amount equal to 100 percent of the aggregate of the lump sum bid, the product(s) of each unit price bid accepted by the Government multiplied by the applicable number of units specified in the bid form, plus or minus such alternate bids as were accepted by the Government; and

(ii) Payment bond will be required in an amount as follows (the "contract" being deemed to mean the aggregate of the lump sum bid, the product(s) of each unit price bid accepted by the Government multiplied by the applicable number of units specified in the bid form, plus or minus such alternate bids as were accepted by the Government):

(*a*) Contracts over $2,000 and not over $1 million—50 percent of contract.

(*b*) Contracts over $1 million and not over $5 million—40 percent of contract.

(*c*) Contracts over $5 million—$2,500,000.

(9) In each guide specification which provides for unit price contracting, the provisions covering the basis of contracting and paying on a unit price basis have been carefully drafted. Before any invitation to bid which requires unit price bidding is issued, the applicable section(s) of the specification should be reviewed to ensure that no change has been made in the wording prescribed in the applicable guide specification(s).

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

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

Dated: July 15, 1970.

A. F. SAMPSON,
Commissioner,
Public Buildings Service.

[F.R. Doc. 70-9452; Filed, July 22, 1970; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18838; FCC 70-755]

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

Community Antennd Relay Stations

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

Report and order. 1. In response to a petition filed by the Laser Link Corp. on December 15, 1969, the Commission, on April 15, 1970, adopted a notice of proposed rule making in the above-entitled matter, FCC 70-405 (35 F.R. 6442; April 22, 1970). The notice proposed the adoption of rules which would provide for the use of frequency-division-multiplexed frequency modulated emissions in the Community Antenna Relay Service (CARS). Specific amendments to existing technical standards were proposed.

2. Comments and reply comments in response to this notice of proposed rule making have been reviewed by the Commission. Comments were received from the Laser Link Corp., Mid-Hudson Cablevision, Inc., and the National Cable Television Association, all of which supported the proposed rule amendments. Comments also were received from Microwave Associates, Inc., which supported the proposal in part, but also proposed that certain substantial changes be made in the rules. Comments in opposition to the proposal were received from the TelePrompTer Corp.

3. The comments of Microwave Associates, Inc., suggest that the Commission not adopt the LDS channel allocations proposed in the new rule, § 74.1003. Instead, they would divide the CARS band, 12,700-12,950 MHz, into three suballocations 83, 84, and 83 MHz in width, permitting the use of any type of modulation within these subbands. The benefits which might flow from such an arrangement are not made clear. Supporting technical standards regarding such matters as permissible power, frequency tolerances, and out-of-band emissions were not proposed. We are thus not persuaded to adopt the course of action suggested by Microwave Associates.

4. The TelePrompTer Corp. takes the view that the Commission's proposed rule making has been "initiated prematurely since actual technical feasibility of the proposed Laser Link system has neither been demonstrated nor otherwise evidenced by actual implementation of the proposed technique." TelePrompTer also is concerned over the proprietary aspect of the Laser Link proposal, apparently fearing that the Commission is sanctioning, for promotion and sale, an "untried and unproven communications system." TelePrompTer, after examining the engineering information and performance claims which Laser Link has submitted concerning its "Filtered Pulse Width Modulation" system (FPWM), challenges portions of it, raising questions of validity, practicability, and proprietary rights. We note, however, that TelePrompTer also states "If, and when, Laser is able satisfactorily to demonstrate the feasibility of its proposal, TelePrompTer would join with Laser in supporting the accomodation of a Frequency Division Multiplexed/Frequency Modulation system (FDM/FM) under Commission Rules."

5. With respect to these objections, we consider that, to the extent to which TelePrompTer's comments deal only with FPWM, they fall wide of the target. The rule amendments which we have proposed are not confined to authorizing the use of Laser Link's FPWM exclusively, but are aimed at permitting the use of frequency modulation to transmit a baseband of several television signals. The FPWM system (which Laser Link considers proprietary) is simply one of several methods of accomplishing the frequency modulation, and its use is not required or endorsed above others by our proposed rules.

6. We established the Local Distribution Service in November 1969 as an outcome of proceedings in Docket No. 18452. Our primary aim in authorizing the LDS was to permit CATV operators to use microwave relay links to span short distances where the use of cable was infeasible or uneconomical. Although almost no engineering measurements, performance data, or circuitry details were submitted in connection with the original proceedings, the benefits to be gained from LDS appeared so attractive that we were moved to provide for the service expeditiously. Similarly, we are impressed with the possible utility of FDM/FM relay equipment for certain limited-distance spans. We consider it beneficial to encourage development of LDS now by making frequency space available and by providing technical standards for both AM VSB and FDM/FM systems of transmission, even though engineering designs and system testing are not yet completed.

7. In the notice of proposed rule making which instituted this proceeding, we set forth a possible baseband channeling arrangement suitable for FDM/FM multiplex operations and requested comments regarding the advisability of requiring such an arrangement. Only TelePrompTer and Laser Link responded on this point. TelePrompTer urged that a uniform baseband channeling scheme be adopted. Laser Link, on the other hand, indicated a belief that baseband arrangements should be left open at this time, or, alternatively, a slightly modified arrangement was proposed. The benefits of prescribing a baseband allocation at this time would be to secure interchangeability of equipment of different manufacturers, and to insure optimum use of the radio channel. Only a few equipment manufacturers are involved in this

area presently so that interchangeability considerations are not of primary concern. We believe that, under the bandwidth restrictions we have proposed, systems designers will find it mandatory to use the most efficient baseband channeling arrangement in order to secure good signal/noise ratios in the individual FDM channels. Accordingly, at this time there seems to be no compelling reason to adopt a baseband channel allocation for FDM/FM systems.

8. We conclude, therefore, that the public interest would be served by adopting rules to permit LDS stations to use either vestigial sidebands amplitude modulated emissions or frequency-division-multiplex frequency modulated emissions. Depending upon individual circumstances, either system may provide economic advantages or spectrum-conserving features which may help CATV operators supply a service which otherwise might be infeasible. The rule amendments which we proposed in this proceeding are considered appropriate. Authority for adopting them is contained in Sections 2, 3 (a) and (b), 4 (i) and (j), 301, 303, 307(b), 308, 309, and 403 of the Communications Act.

9. *Accordingly, It is ordered,* That the rules set forth below are adopted, effective August 24, 1970.

It is further ordered, That this proceeding is terminated.

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

Adopted: July 15, 1970.

Released: July 20, 1970.

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

Part 74, Subpart J, is amended as follows:

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

§ 74.1003 Frequency assignments.

(a) * * *

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

(i) When the baseband comprises three or four standard television signals:

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

(ii) When the baseband comprises five to eight standard television signals:

Group G MHz
12700–12825
12825–12950

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

Group H MHz
12700–12950

* * * * *

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

* * * * *

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

* * * * *

2. Section 74.1039 is amended to read as follows:

§ 74.1039 Power limitations.

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

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

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

§ 74.1041 Emissions and bandwidth.

* * * * *

(b) * * *

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

* * * * *

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

§ 74.1061 Frequency tolerance.

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

* * * * *

[F.R. Doc. 70-9516; Filed, July 22, 1970; 8:50 a.m.]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-44; Amdt. 173-28]

PART 173—SHIPPERS

Parathion and Methyl Parathion in Tank Cars

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to authorize shipments of parathion and methyl parathion in Specification 105A300W tank cars.

On April 9, 1970, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-44; Notice No. 70-5 (35 F.R. 5821), which proposed the addition of paragraph (a)(11) to 49 CFR 173.358 to prescribe the use of Specification 105A300W tank cars for these two class B poisonous liquids.

Interested persons were invited to give their views on the proposal. No comments were received. Accordingly, 49 CFR Part 173 is amended as follows:

In § 173.358 paragraph (a)(11) is added thereto to read as follows:

§ 173.358 Hexaethyl tetraphosphate, methyl parathion, organic phosphate compound, n.o.s., parathion, tetraethyl dithio pyrophosphate, and tetraethyl pyrophosphate, liquid.

(a) * * *

(11) Specification 105A300W (§§ 179.100, 179.101 of this chapter). Tank cars. Authorized for parathion and methyl parathion only. The nominal water capacity of a tank car must not exceed 12,000 gallons.

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

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

Issued in Washington, D.C., on July 17, 1970.

CARL V. LYON,
Acting Administrator,
Federal Railroad Administration.

[F.R. Doc. 70-9502; Filed, July 22, 1970; 8:49 a.m.]

Chapter V—National Highway Safety Bureau, Department of Transportation

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Safety Standard No. 118; Power-Operated Window Systems for Passenger Cars and Multipurpose Passenger Vehicles

In May 1968 the Director of the National Highway Safety Bureau issued a public advisory, stating that numerous cases of injury and death from accidental operation of power windows had been reported to the Bureau. He warned that many of those injuries and deaths had occurred because power windows could be closed when the ignition switch was off. In the advisory, the Director cautioned owners of vehicles with power-operated windows to have the wiring adjusted to prevent closure of the windows when the ignition switch is off.

It has been determined that the interests of motor vehicle safety require the imposition of a safety standard which will reduce, if not eliminate, the toll of deaths and injuries resulting from accidents involving power-operated windows.

A notice of proposed rule making relating to power-operated window systems in passenger cars and multipurpose passenger vehicles was published in the FEDERAL REGISTER on August 23, 1969 (34 F.R. 13608). Comments were requested concerning two objectives of the proposal: (1) To minimize the likelihood of personal injury or death occurring when a person is caught between a closing window and the frame, channel or seal, and (2) to insure that vehicle occupants can make emergency exists from vehicles equipped with power-operated windows in the event of a severe accident.

The comments received have been given careful consideration in the formulation of the safety standard issued today. To achieve the first major objective it was proposed that a power-operated window, once opened, not close when the ignition key of the vehicle is not in the "on" or "start" position. This proposal would have prohibited operation of windows when the key was in the "accessory" position, a position provided to avoid battery discharge and possible damage to the electrical system. The proposal would also have prohibited activation of power tailgate windows from the exterior of the vehicle. Several commenters objected that the proposal would in these respects prohibit widely accepted convenience features without corresponding safety benefits. These comments have been determined to have merit, and the standard as presently issued has been modified to require that a power-operated window system not be operative, except by muscular force or by operating an outside lock, when the key is removed from the ignition lock or is in an off position. This permits operation of windows with the key in the "accessory" position, as well as by a key-locking system on the exterior of the vehicle.

To achieve the second objective, it was proposed that a control be required that would open power-operated windows from inside the passenger compartment of the vehicle, regardless of the key position. Allowance of such a control, however, might tend to defeat the first major objective, and also make it easier for thieves to enter a locked vehicle. Further, an accident severe enough to jam a vehicle door very likely would be severe enough to jam the window in its channel or to interfere with the power source for emergency operation of the window. For these reasons this proposal has not been adopted in Standard No. 118. The standard does, however, permit installation of master control switches for overriding control of power-operated windows when the ignition key is in a position other than off.

Comments indicated an assumption that power-operated interior partitions were covered, as they were intended to be, though not specifically mentioned in the preamble of the proposal. To insure that there is no ambiguity on the point, Standard No. 118 includes partitions in the requirements.

The subject matter covered by this rulemaking action is being adopted at this time because it has been determined that it is feasible and that it can be implemented at an early date. The notice of proposed rule making upon which this rulemaking action is based was issued in conjunction with an advance notice of proposed rule making (34 F.R. 13609, Aug. 23, 1969) on power-operated window systems that dealt with the subject of mechanisms that would interrupt, stop, or reverse the direction of the window when a predetermined force is exerted on an object between the glazing and the frame, channel, or seal upon which it closes, and other fail-safe considerations. The advance notice involved engineering and economic problems of a substantial magnitude. Those problems and their solutions are undergoing further study and will be given consideration for rulemaking based on the results thereof.

In consideration of the foregoing, 49 CFR 571.21, Federal Motor Vehicle Safety Standards, is amended by adding Standard No. 118, Power-Operated Window Systems, as set forth below.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407); delegation of authority from Secretary of Transportation to Director of National Highway Safety Bureau (49 CFR 1.151))

Effective date: February 1, 1971.

Issued on July 17, 1970.

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

§ 571.21 Federal Motor Vehicle Safety Standards.

* * * * *

MOTOR VEHICLE SAFETY STANDARD NO. 118

POWER-OPERATED WINDOW SYSTEMS

S1. *Purpose and scope.* This standard specifies requirements for power-operated window and partition systems to minimize the likelihood of death or injury from their accidental operation.

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

S3. *Requirements.* When the key that controls activation of the vehicle's engine is in an off position or is removed from the lock, no power-operated window or partition shall be movable except—

(a) By muscular force, unassisted by a power source within the vehicle; or

(b) Upon activation by a key-locking system on the exterior of the vehicle.

[F.R. Doc. 70-9456; Filed, July 22, 1970; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Mingo National Wildlife Refuge, Mo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MISSOURI

MINGO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Mingo National Wildlife Refuge, Puxico, Mo., is permitted only on the area designated by signs as open to hunting. This open area, comprising 6,000 acres, is delineated on maps available at refuge headquarters, Puxico, Mo., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions.

(1) Hunting with bows and arrows only is permitted.

(2) The open season for hunting deer on the refuge is from October 1, through December 15, 1970, inclusive.

(3) A Federal permit is required to enter the public hunting area. It may be obtained by mail by writing the Refuge Manager, Mingo National Wildlife Refuge, Puxico, Mo., or by applying in person at refuge headquarters, Puxico, Mo., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday between August 1, through September 25, inclusive. No permits will be issued after September 25. The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 15, 1970.

JOHN E. TOLL,
Refuge Manager, Mingo National Wildlife Refuge, Puxico, Mo.

JULY 15, 1970.

[F.R. Doc. 70-9485; Filed, July 22, 1970; 8:48 a.m.]

Proposed Rule Making

POST OFFICE DEPARTMENT

[39 CFR Part 126]

DISPATCHING SECOND-CLASS MAIL MATTER IN BUNDLES OUTSIDE OF SACKS

Notice of Proposed Rule Making

Section 126.3(b)(6) of Title 39, Code of Federal Regulations, authorizes the development of a program whereby publishers of newspapers or periodicals may prepare banded bundles of such matter, or use pallets, or place copies in various kinds of containers, in lieu of making up such publications for shipment in mail sacks. The Department intends to delegate authority to its Regional Directors to approve or disapprove such dispatching arrangements. In connection with this delegation, the Department proposes to issue regulations outlined below establishing procedures for requesting the stated methods of handling and the basic requirements for same.

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

Accordingly, the following procedures and requirements relating to the subject matter are proposed:

I. *Bundling restrictions.* To promote efficient processing of bundled mail through post office facilities, publishers will be required to observe the following procedures if they wish to bundle their publications:

A. Mailers will be required to presort publications for post offices, stations, and branches, using 3- and 5-digit ZIP Code separations as required by existing regulations on the makeup of second-class mail.

B. Bundles may be developed on the same basis as sacks, and individual separations within a bundle must be appropriately wrapped or tied to maintain the identity of the separation.

C. The weight of the bundle should not exceed 40 pounds and the minimum number of copies in a bundle should be no less than it takes to fill one-third of a sack. Lesser quantities are to be included in residue sacks using ZIP Code or States separations.

D. All bundles must be appropriately labeled on top to show destination and contents as is currently done with sacks. Similarly, each separation within a bundle must be identified.

E. Bundles must be securely bound to withstand handling without breakage or damage in transit and in such a manner to prevent injury to postal personnel or damage to mechanized sorting systems. If wire is used, it must have rounded edges and flat ends. Binding material is to be applied once around the girth and once around the length.

II. *Initiating request.* Publishers who wish to dispatch their mailings in bundles outside of mail sacks must submit application to the postmaster at the office where it is to be entered. The following information must be furnished with the application.

a. Name of publication and frequency of mailing.

b. Identity of post offices to which direct or combination load shipments will be made (additional entry or exceptional dispatch offices).

c. Approximate quantity of publications and number of bundles.

d. Whether the mailer proposes to use pallets in the shipments.

e. Mode of transportation to be used.

Postmasters will forward applications to their Regional Directors for review and approval.

(5 U.S.C. 301, 39 U.S.C. 501, 4351–4370)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 70-9486; Filed, July 22, 1970; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 75]

COAL MINE HEALTH AND SAFETY

Dual Element Fuses; Short Circuit Protection

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior under section 101 of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173), it is proposed to amend § 75.601 of Part 75, Subchapter O, Chapter I of Title 30, Code of Federal Regulations, published in the FEDERAL REGISTER on March 28, 1970 (35 F.R. 5240), as set forth below, which permits the use of dual element fuses in providing short circuit protection for trailing cables used in underground coal mines, and prescribes the maximum fuse ratings which cannot be exceeded when such devices are employed.

Interested persons may submit written comments, suggestions, or objections with respect to this proposed amendment to Part 75 to the Director, Bureau of Mines, Washington, D.C. 20240, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

WALTER J. HICKEL,
Secretary of the Interior.

JULY 15, 1970.

Section 75.601 of Part 75, Subchapter O, Chapter I of Title 30, Code of Federal Regulations will be amended by adding the following:

§ 75.601–3 Short circuit protection; dual element fuses; current ratings; maximum values.

Dual element fuses having adequate current-interrupting capacity shall meet the requirements for short-circuit protection of trailing cables as provided in § 75.601, however, the current ratings of such devices shall not exceed the maximum values specified in this section:

Conductor size, AWG or MCM	Single conductor cable		Two conductor cable	
	Ampacity	Maximum fuse rating	Ampacity	Maximum fuse rating
14			15	15
12			20	20
10			25	25
8	60	60	50	50
6	85	90	65	70
4	110	110	90	90
3	130	150	105	110
2	150	150	120	125
1	170	175	140	150
1/0	200	200	170	175
2/0	235	250	195	200
3/0	275	300	225	225
4/0	315	350	260	300
250	360	350	285	300
300	395	400	310	350
350	445	450	335	350
400	480	500	360	400
450	515	600	385	400
500	545	600	415	450

[F.R. Doc. 70-9481; Filed, July 22, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

BURLEY AND CERTAIN OTHER TYPES OF TOBACCO

Allotment and Marketing Quota Regulations, 1968–69 and Subsequent Marketing Years; and Establishment of 1971 Preliminary Allotments for Maryland Tobacco

Correction

In F.R. Doc. 70-9212 appearing on page 11494 of the issue of Friday, July 17, 1970, the first sentence of the second paragraph should be corrected by deleting the phrase "(not to exceed the allotment for the farm for 1968)."

Consumer and Marketing Service

[7 CFR Part 1036]

[Docket No. AO-179-A32-RO2]

MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

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

A public hearing was held at Cleveland, Ohio, on September 9–12 and 15, 1969, pursuant to notice thereof issued August 14, 1969 (34 F.R. 13419) with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

Notice is hereby given, pursuant to the rules of practice and procedure applicable to these proceedings (7 CFR Part 900), that the said hearing will be reopened at the office of the Market Administrator, 7503 Brookpark Road, Parma, Ohio, beginning at 10 a.m., local time, on July 29, 1970, for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the fluid milk product definition and to the Class II and Class III milk definitions of a proposed order, as amended, contained in a recommended decision issued June 9, 1970 (35 F.R. 9888).

Consideration of these proposals raises the issue of whether the changes proposed herein would tend to effectuate the provisions of the Act if they are applied to any handler who would become regulated by an expanded marketing area as previously proposed to be redefined, and if not, what modifications to the provisions of the proposed order would be appropriate. The evidence adduced at this reopened hearing will be considered in conjunction with the evidence already presented at the September 9–12 and 15, 1969, hearing session.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under rules of practice and procedure (7 CFR 900.12(d)) with respect to the proposals contained herein.

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

Proposed by Sealtest Foods, Division of Kraftco Corp:

Proposal No. 1. Amend § 1036.7 to read as follows:

"Fluid milk product" means the following products or mixtures in either fluid or frozen form, including such products or mixtures that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. The term "fluid milk product" shall not include those products and mixtures listed in § 1036.41 (b) and (c) (1).

Proposal No. 2. Amend § 1036.41(b) to read as follows:

(b) Except as provided in paragraph (c) of this section, Class II milk shall be all skim milk and butterfat:

(1) Disposed of as fluid cream or as mixtures of cream and milk or skim milk containing 10.5 percent or more butterfat; and

(2) Used to produce cottage cheese, cottage cheese curd, sour cream, sour cream products (e.g., dips), and yogurt.

Proposal No. 3. Amend § 1036.41(c) (2) to read:

(2) Skim milk and butterfat in fluid milk products and products listed in paragraph (b) (1) of this section delivered in bulk.

Proposal No. 4. Amend § 1036.41(c) (3) to read:

(3) Skim milk and butterfat in fluid milk products and products listed in paragraphs (b) (1) and (2) of this section disposed of by a handler for livestock feed;

Proposal No. 5. Amend § 1036.41(c) (4) to read:

(4) Skim milk and butterfat in fluid milk products and products listed in paragraphs (b) (1) and (2) of this section dumped by a handler after notification to, and opportunity for verification by, the market administrator;

Proposal No. 6. Amend § 1036.41(c) (5) to read:

(5) Skim milk and butterfat in inventory of fluid milk products and products listed in paragraph (b) (1) of this section at the end of the month;

Proposed by the Dairy Division, Consumer and Marketing Service:

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

Copies of this notice of reopened hearing and the order may be procured from the Market Administrator, W. W. Hurwitz, 7503 Brookpark Road, Parma, Ohio 44129, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on July 20, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-9522; Filed, July 22, 1970; 8:51 a.m.]

DEPARTMENT OF TRANSPORTATION

National Highway Safety Bureau

[49 CFR Part 574]

[Docket No. 70-12; Notice 1]

TIRE IDENTIFICATION AND RECORDKEEPING

Notice of Proposed Rule Making

On May 22, 1970, the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1381 et seq. (hereafter the Act) was amended to require manufacturers and brand name owners of new and retreaded motor vehicle tires to maintain records of the names and addresses of the first purchaser in order to facilitate notification to that purchaser in the case of defective tires or tires that do not comply with an applicable Federal motor vehicle safety standard. The amendment to the Act (section 113(f)) also authorized the Secretary to establish procedures to be used by manufacturers, distributors and dealers of new and retreaded tires for achieving this purpose.

An essential element of an effective tire defect notification system is a suitable method of identifying the tires involved. The proposed regulation establishes requirements for a tire identification system which provides a means of identifying the date of manufacture of the tire, the name of the tire manufacturer, the size of the tire and, at the option of the manufacturer, additional information to further describe the type or other significant characteristics of the tire.

An identification number, consisting of four groups of symbols is proposed. The first group of symbols would contain the manufacturer's identification mark, which will be assigned by the National Highway Safety Bureau. For ease of identification, different coding systems are proposed for manufacturers of new tires and manufacturers of retreaded tires. A two-symbol code mark is proposed for new tire manufacturers, and a three-symbol code mark is proposed for manufacturers of retreaded tires. Individual plants of a multiplant manufacturer will be assigned different identification marks.

The second group of symbols would identify the size of the tire. A two-symbol code, applicable to both new and retreaded tires, is proposed.

The third group would consist of four symbols and would identify the date of manufacture of the tire. In the interest of reducing the lot size to the smallest practicable number, it is proposed that the manufacturing date be indicated by week and year. The first two symbols would designate the week of the year, and the third and fourth would designate the year of manufacture. For example, the numbers 3171 would mean that the tire was made in the 31st week of 1971 (Aug. 1–7, 1971). In addition to providing a means of identifying defective tires for notification purposes, the date code should also provide a convenient means of identifying for retreaders which tire casings may be retreaded.

A fourth group of symbols would be available for use, at the option of the manufacturer, to describe the tire more precisely. This fourth grouping would be used by the manufacturer as a code for such things as the brand or product name of the tire, load range, number of plies, ply cord material, tube type or tubeless, tread pattern, type of sidewall, and whether bias, belted bias, or radial ply construction. It is intended that only significant differences in design features which directly influence the safety performance or structural integrity of the

tire would be reflected in this grouping. Variations in width or color of sidewall stripes, for instance, should not be a reason for differentiation in this fourth grouping. Retreaders could use this fourth grouping to indicate such things as different materials used, tread patterns, methods of tread rubber application, molds or matrices used, brands and other significant identifying characteristics.

Manufacturers would not be required to run the separate groupings together but the identification number would be required to read from left to right with no more than one-half inch between each grouping.

It is recognized that a certain degree of duplication exists between the information contained in the proposed tire identification number and the tire labeling requirements in the passenger car tire standard (No. 109) (49 CFR 371.21) and the proposed retreaded tire standard (No. 117) (35 F.R. 4136, Mar. 5, 1970), particularly with respect to the manufacturer's approved code marks assigned under Standard No. 109 and the retreader's code number and retreading date in the label specified in proposed Standard No. 117. The identification system proposed by this regulation would replace the code marks assigned under Standard No. 109 and there would be no need for including a provision for approved code marks in Standard No. 117.

The Rubber Manufacturers Association (RMA) by petition for rulemaking filed May 8, 1970, requested the Bureau to adopt its recommended identification system. Much of the substance of the identification system proposed herein is similar to that recommended by the RMA.

In addition to establishing a tire identification system, the proposed rule would require each tire manufacturer, brand name owner, and retreader to provide a means by which distributors and dealers would be able to record the name and address of the first purchaser and the identification number of the tire he purchased. The tire distributor or dealer would be required to send this information either to the manufacturer or to the manufacturer's designee, who would maintain the information. Therefore, in the event a notification under section 113 of the Act is necessary, the tire manufacturer would have the names and addresses of the first purchasers of the tires involved. Recognizing the concern of some independent tire distributors and dealers over their providing tire manufacturers with customer names, the proposed rule would prohibit the tire manufacturers from using the information provided by distributors and dealers for any purpose other than a section 113 notification.

It is proposed that this regulation become effective November 18, 1970. This date is proposed since the record keeping and notification obligations imposed by the May 22, 1970 amendment is to take effect, under the terms of that amendment, "on the one hundred and eightieth day after the date of enactment of this Act unless the Secretary of Transportation finds, for good cause shown, that a later effective date is in the public interest * * *".

Interested persons are invited to participate in the making of this proposed regulation by submitting written data, views, or arguments. Comments should be submitted to the National Highway Safety Bureau, Attention: Rules Docket, Room 4223, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20591. Ten copies are requested but not required. All comments received before September 4, 1970, will be considered before action is taken on the proposed regulation. All comments submitted, both before and after the closing date, will be available in the docket room for examination by interested persons.

In consideration of the foregoing, it is proposed that Title 49—Transportation, Chapter V, Department of Transportation, National Highway Safety Bureau, Subchapter A—Motor Vehicle Safety Regulations be amended by adding Part 574, Tire Identification and Recordkeeping as set forth below.

This notice is issued under the authority of sections 103, 112, 113, 119, 201, and 206 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1401, 1402, 1407, 1421, and 1426) and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on July 17, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

SUBCHAPTER A—MOTOR VEHICLE SAFETY REGULATIONS

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

Sec.

AUTHORITY: The provisions of this Part 574 issued under secs. 103, 112, 113, 119, 201, 206, National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1401, 1402, 1407, 1421, 1426); delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

§ 574.1 Purpose and scope.

This part sets forth the method by which manufacturers, brand name owners and retreaders shall identify tires for use on motor vehicles and the method by which manufacturers, brand name owners, retreaders and distributors and dealers of new and retreaded tires shall maintain records of tire purchasers to facilitate notification to tire purchasers pursuant to section 113 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1402) (hereafter "the Act").

§ 574.2 Definitions.

(a) *Statutory definitions.* All terms used in this part that are defined in section 102 of the Act are used as defined therein.

(b) *Motor Vehicle Safety Standard definitions.* Unless otherwise indicated, all terms used in this part that are defined in the Motor Vehicle Safety Standards, Part 571 of this subchapter (hereinafter "the Standards"), are used as defined therein.

(c) *Definitions used in this part.* "Tire brand name owner" means a person who purchases tires from a tire manufacturer bearing the purchaser's brand name.

"Tire purchaser" means a person who buys or leases a new or newly retreaded tire, or who buys or leases for 60 days or more a motor vehicle containing a new tire or a newly retreaded tire, for purposes other than resale.

§ 574.3 Applicability.

This part applies to manufacturers, brand name owners, retreaders and distributors and dealers of new and retreaded tires for use on motor vehicles.

§ 574.4 Tire identification requirements.

Each tire manufacturer shall conspicuously label both sidewalls of each tire it manufactures by permanently molding into or onto each of those sidewalls, in the manner and location specified in Figure 1, the information set forth in paragraphs (a) through (d) of this section. Each tire retreader shall conspicuously label both sidewalls of each tire it retreads, by permanently molding or branding into or onto each of those sidewalls, in the manner and location specified in Figure 2, the information set forth in paragraphs (a) through (d) of this section:

(a) *First grouping.* The first group, of two or three symbols, depending on whether the tire is new or retreaded, shall represent the manufacturer's assigned identification mark (see § 574.5).

(b) *Second grouping.* The second group, of two symbols, shall identify the tire size in accordance with the size code designations listed in Table 1.

(c) *Third grouping.* The third group, of four symbols, shall identify the week and year of manufacture. The first two symbols shall identify the week of the year, using "01" for the first full calendar week in each year. The final week of each year may include not more than 6 days of the following year. The third and fourth symbols shall identify the year. (Example: 3171 means the 31st week of 1971, or Aug. 1 through 7, 1971; 0172 means the first of 1972, or Jan. 2 through 8, 1972).

(d) *Fourth grouping.* At the option of the manufacturer or retreader, an additional descriptive code may be used to further identify the type and significant characteristics of the tire. Each manufacturer or retreader who adopts this optional descriptive code shall submit, in writing, a detailed explanation of the code when applying for a manufacturer's identification mark (see § 574.5). Each time an addition, deletion or other

change in this grouping is made, the manufacturer or retreader shall notify the Bureau and submit an explanation.

§ 574.5 Identification mark.

To obtain an identification mark required by § 574.4(a), each manufacturer of new or retreaded motor vehicle tires shall apply in writing to the Associate Director for Motor Vehicle Programs, National Highway Safety Bureau, Department of Transportation, Washington, D.C. 20591, and furnish the following information:

(a) The name or other designation identifying the manufacturer and stating the address of the main office of the manufacturer.

(b) The name or other designation identifying each individual plant operated by the manufacturer, and stating the address of each plant.

(c) The kind of tires manufactured at each plant, i.e., new tires, retreaded tires, or both new tires and retreaded tires.

(d) If the manufacturer or retreader uses the fourth grouping of symbols provided for by paragraph (d) of § 574.4, he shall submit an explanation of the coding system used with the application for identification mark.

§ 574.6 Tire manufacturers, brand name owners and retreaders.

(a) Each tire manufacturer, brand name owner and retreader (hereinafter referred to in this section and § 574.7 as "tire manufacturer" unless specified otherwise) shall provide every distributor and dealer of his product who offers his product for sale or lease to tire purchasers a means by which the distributor or dealer shall record the following information:

(1) Name, address, and zip code number of the tire purchaser;

(2) Date of purchase by tire purchaser;

(3) Tire identification number;

(4) Name, address, and zip code number of the tire seller.

(b) Each tire manufacturer shall maintain, or have maintained for him, the information specified in paragraph (a) of this section submitted to him by the tire distributor or dealer and shall only use this information in connection with a section 113 notification.

(c) Wherever a contractual relationship exists between a tire manufacturer and a distributor or dealer offering the manufacturer's product for sale to tire purchasers, the contract shall contain a provision obligating the distributor or dealer to record the information required in this part.

(d) Each tire manufacturer shall maintain a record of the name and address of each distributor or dealer who purchases tires directly from the manufacturer based on the identification number of the tire.

(e) Information required by paragraph (a) of this section shall be maintained for a period of no less than 3 years from the date of sale to the tire purchaser.

§ 574.7 Tire distributors and dealers.

(a) Each tire distributor and each dealer selling tires to tire purchasers shall submit the information specified in § 574.6(a) to the manufacturer of the tire sold, or to the manufacturer's designee.

(b) Each tire distributor and each dealer shall forward the recorded information to the tire manufacturer, or person maintaining the information, at least once a month.

(c) Each distributor and each dealer who receives a notification pursuant to section 113 of the Act shall immediately stop selling the tires covered by the notification.

§ 574.8 Motor vehicle dealers.

(a) Each person who sells a used motor vehicle, or who leases a motor vehicle for more than 60 days, equipped with new tires or newly retreaded tires at the time of sale or lease, is considered, for purposes of this part, to be a tire dealer and shall meet the requirements specified in § 574.7.

(b) Each person selling a new motor vehicle, to first purchasers for purposes other than resale, that is equipped with tires that were not on the motor vehicle when shipped by the vehicle manufacturer, is considered a tire dealer for purposes of this part and shall meet the requirements of § 574.7.

§ 574.9 Motor vehicle manufacturers.

Each motor vehicle manufacturer shall maintain a record, by identification number, of tires on or in each vehicle manufactured by it, and shall maintain a record of the name and address of the first purchaser for purposes other than resale of each such vehicle.

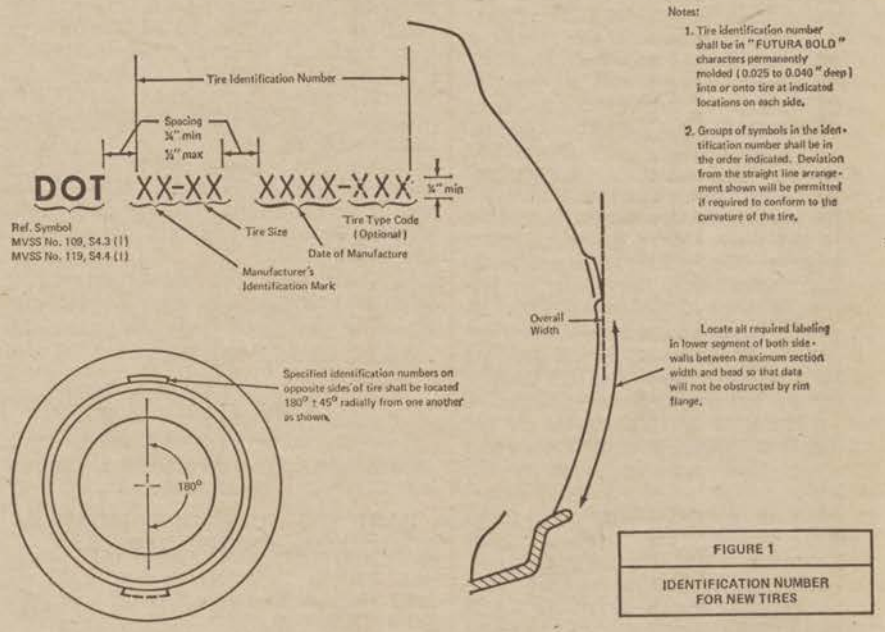

FIGURE 1

IDENTIFICATION NUMBER FOR NEW TIRES

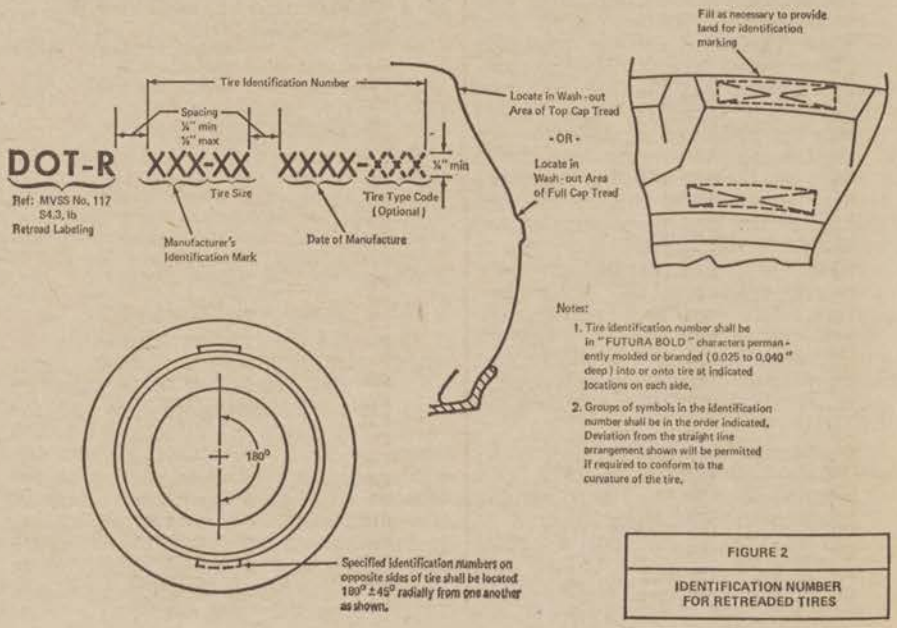

FIGURE 2

IDENTIFICATION NUMBER FOR RETREADED TIRES

TABLE I

SIZE CODE FOR MOTOR VEHICLE TIRES

Tire size code	Tire size designation
AA	Not assigned.
AB	3.50–4.
AC	Not assigned.
AD	Not assigned.
AE	3.50–5.
AF	Not assigned.
AH	Not assigned.
AJ	3.50–6.
AK	4.10–6.
AL	4.50–6.
AM	5.30–6.
AN	6.00–6.
AP	Not assigned.
AS	Not assigned.
AT	3.00–7.
AU	4.00–7.
AV	4.80–7.
AW	5.30–7.
AX	Not assigned.
AY	Not assigned.
A0	4.00–8.
A1	4.80–8.
A2	5.70–8.
A3	16.5 x 6.5–8.
A4	18.5 x 8.5–8.
A5	Not assigned.
A6	Not assigned.
A7	4.80–9.
A8	6.00–9.
A9	6.90–9.
BA	Not assigned.
BB	Not assigned.
BC	3.00–10.
BD	3.50–10.
BE	5.20–10.
BF	5.20 R 10.
BH	5.9–10.
BJ	5.90–10.
BK	6.50–10.
BL	7.00–10.
BM	7.50–10.
BN	9.00–10.
BP	20.5 x 8.0–10.
BS	145–10.
BT	145 R 10.
BU	145–10/5.95–10.
BV	Not assigned.
BW	Not assigned.
BX	3.00–12.
BY	4.00–12.
B0	4.50–12.
B1	4.80–12.
B2	5.00–12.
B3	5.00 R 12.
B4	5.20–12.
B5	5.20–12 L.T.
B6	5.20 R 12.
B7	5.30–12.
B8	5.50–12.
B9	5.50–12 L.T.
CA	5.50 R 12.
CB	5.60–12.
CC	5.60–12 L.T.
CD	5.60 R 12.
CE	5.9–12.
CF	5.90–12.
CH	6.00–12.
CJ	6.00–12 L.T.
CK	6.2–12.
CL	6.20–12.
CM	6.90–12.
CN	23.5 x 8.5–12.
CP	125–12.
CS	125 R 12.
CT	125–12/5.35–12.
CU	135–12.
CV	135 R 12.
CW	135–12/5.65–12.
CX	145–12.
CY	145 R 12.
C0	145–12/5.95–12.
C1	155–12.
C2	155 R 12.
C3	155–12/6.15–12.

TABLE I—Continued

Tire size code	Tire size designation
C4	Not assigned.
C5	Not assigned.
C6	Not assigned.
C7	Not assigned.
C8	Not assigned.
C9	Not assigned.
DA	5.00–13.
DB	5.00–13 L.T.
DC	5.00 R 13.
DD	5.20–13.
DE	5.20 R 13.
DF	5.50–13.
DH	5.50–13 L.T.
DJ	5.50 R 13.
DK	5.60–13.
DL	5.60–13 L.T.
DM	5.60 R 13.
DN	5.90–13.
DP	5.90–13 L.T.
DS	5.90 R 13.
DT	6.00–13.
DU	6.00–13 L.T.
DV	6.00 R 13.
DW	6.2–13.
DX	6.20–13.
DY	6.40–13.
D0	6.40–13 L.T.
D1	6.40 R 13.
D2	6.50–13.
D3	6.50–13 L.T.
D4	6.50–13 S.T.
D5	6.50 R 13.
D6	6.70–13.
D7	6.70–13 L.T.
D8	6.70 R 13.
D9	6.9–13.
EA	6.90–13.
EB	7.00–13.
EC	7.00–13 L.T.
ED	7.00 R 13.
EE	7.25–13.
EF	7.25 R 13.
EH	7.50–13.
EJ	135–13.
EK	135 R 13.
EL	135–13/5.65–13.
EM	145–13.
EN	145 R 13.
EP	145–13/5.95–13.
ES	150 R 13.
ET	155–13.
EU	155 R 13.
EV	155–13/6.15–13.
EW	160 R 13.
EX	165–13.
EY	165 R 13.
E0	165–13/6.45–13.
E1	165/70 R 13.
E2	170 R 13.
E3	175–13.
E4	175 R 13.
E5	175–13/6.95–13.
E6	175/70 R 13.
E7	185–13.
E8	185 R 13.
E9	185–13/7.35–13.
FA	185/70 R 13.
FB	195–13.
FC	195 R 13.
FD	195/70 R 13.
FE	D70–13.
FF	B78–13.
FH	BR78–13.
FJ	C78–13.
FK	Not assigned.
FL	Not assigned.
FM	Not assigned.
FN	Not assigned.
FP	Not assigned.
FS	Not assigned.
FT	Not assigned.
FU	Not assigned.
FV	Not assigned.
FW	Not assigned.
FX	Not assigned.
FY	Not assigned.

TABLE I—Continued

Tire size code	Tire size designation
F0	2.50–14.
F1	5.00–14 L.T.
F2	5.20–14.
F3	5.20 R 14.
F4	5.50–14 L.T.
F5	5.60–14.
F6	5.90–14.
F7	5.90–14 L.T.
F8	5.90 R 14.
F9	6.00–14.
HA	6.00–14 L.T.
HB	6.40–14.
HC	6.40–14 L.T.
HD	6.45–14.
HE	6.50–14.
HF	6.50–14 L.T.
HH	6.70–14.
HJ	6.95–14.
HK	7.00–14.
HL	7.00–14 L.T.
HM	7.00 R 14.
HN	7.35–14.
HP	7.50–14.
HS	7.50–14 L.T.
HT	7.50 R 14.
HU	7.75–14.
HV	7.75–14 S.T.
HW	8.00–14.
HX	8.25–14.
HY	8.50–14.
H0	8.55–14.
H1	8.85–14.
H2	9.00–14.
H3	9.50–14.
H4	135–14.
H5	135 R 14.
H6	135–14/5.65–14.
H7	145–14.
H8	145 R 14.
H9	145–14/5.95–14.
JA	155–14.
JB	155 R 14.
JC	155–14/6.15–14.
JD	155/70 R 14.
JE	165–14.
JF	165 R 14.
JH	175–14.
JJ	175 R 14.
JK	185–14.
JL	185 R 14.
JM	185/70 R 14.
JN	195–14.
JP	195 R 14.
JS	195/70 R 14.
JT	205–14.
JU	205 R 14.
JV	215–14.
JW	215 R 14.
JX	225–14.
JY	225 R 14.
J0	Not assigned.
J1	Not assigned.
J2	Not assigned.
J3	Not assigned.
J4	Not assigned.
J5	Not assigned.
J6	Not assigned.
J7	Not assigned.
J8	Not assigned.
J9	Not assigned.
KA	F60–14.
KB	G60–14.
KC	J60–14.
KD	L60–14.
KE	Not assigned.
KF	Not assigned.
KH	Not assigned.
KJ	Not assigned.
KK	Not assigned.
KL	Not assigned.
KM	Not assigned.
KN	D70–14.
KP	DR70–14.
KS	E70–14.
KT	ER70–14.
KU	F70–14.

TABLE I—Continued

Tire size code	Tire size designation
KV	FR70–14.
KW	G70–14.
KX	GR70–14.
KY	H70–14.
K0	HR70–14.
K1	J70–14.
K2	JR70–14.
K3	L70–14.
K4	LR70–14
K5	Not assigned.
K6	Not assigned.
K7	Not assigned.
K8	Not assigned.
K9	G77–14.
LA	B78–14.
LB	C78–14.
LC	CR78–14.
LD	D78–14.
LE	DR78–14.
LF	E78–14.
LH	ER78–14.
LJ	F78–14.
LK	FR78–14.
LL	G78–14.
LM	GR78–14.
LN	H78–14.
LP	HR78–14.
LS	J78–14.
LT	JR78–14.
LU	Not assigned.
LV	Not assigned.
LW	Not assigned.
LX	7–14.5.
LY	8–14.5.
L0	Not assigned.
L1	Not assigned.
L2	Not assigned.
L3	2.25–15.
L4	2.50–15.
L5	3.00–15.
L6	3.25–15.
L7	5.0–15.
L8	5.20–15.
L9	5.5–15.
MA	5.50–15 L.
MB	5.50–15 L.T.
MC	5.60–15.
MD	5.60 R 15.
ME	5.90–15.
MF	5.90–15 L.T.
MH	6.00–15.
MJ	6.00–15 L.
MK	6.00–15 L.T.
ML	6.2–15.
MM	6.40–15.
MN	6.40–15 L.T.
MP	6.40 R 15.
MS	6.50–15.
MT	6.50–15 L.
MU	6.50–15 L.T.
MV	6.70–15.
MW	6.70–15 L.T.
MX	6.70 R 15.
MY	6.85–15.
M0	6.9–15.
M1	7.00–15.
M2	7.00–15 L.
M3	7.00–15 L.T.
M4	7.10–15.
M5	7.10–15 L.T.
M6	7.35–15.
M7	7.50–15.
M8	7.60–15.
M9	7.60 R 15.
NA	7.75–15.
NB	7.75–15 S.T.
NC	8.00–15.
ND	8.15–15.
NE	8.20–15.
NF	8.25–15.
NH	8.25–15 L.T.
NJ	8.45–15.
NK	8.55–15.
NL	8.85–15.
NM	8.90–15.
NN	9.00–15.

TABLE I—Continued

Tire size code	Tire size designation
NP	9.00–15 L.T.
NS	9.15–15.
NT	10–15.
NU	10.00–15.
NV	Not assigned.
NW	Not assigned.
NX	Not assigned.
NY	Not assigned.
N0	Not assigned.
N1	125–15.
N2	125 R 15.
N3	125–15/5.35–15.
N4	135–15.
N5	135 R 15.
N6	135–15/5.65–15.
N7	145–15.
N8	145 R 15.
N9	145–15/5.95–15.
PA	155–15.
PB	155 R 15.
PC	155–15/6.35–15.
PD	165–15.
PE	165–15 L.T.
PF	165 R 15.
PH	175–15.
PJ	175 R 15.
PK	175–15/7.15–15.
PL	175/70 R 15.
PM	180–15.
PN	185–15.
PP	185 R 15.
PS	185/70 R 15.
PT	195–15.
PU	195 R 15.
PV	205–15.
PW	205 R 15.
PX	215–15.
PY	215 R 15.
P0	225–15.
P1	225 R 15.
P2	235–15.
P3	235 R 15.
P4	Not assigned.
P5	Not assigned.
P6	Not assigned.
P7	Not assigned.
P8	Not assigned.
P9	Not assigned.
SA	Not assigned.
SB	Not assigned.
SC	Not assigned.
SD	Not assigned.
SE	E60–15.
SF	F60–15.
SH	FR60–15.
SJ	G60–15.
SK	GR60–15.
SL	J60–15.
SM	L60–15.
SN	Not assigned.
SP	Not assigned.
SS	Not assigned.
ST	Not assigned.
SU	Not assigned.
SV	Not assigned.
SW	C70–15.
SX	D70–15.
SY	DR70–15.
S0	E70–15.
S1	ER70–15.
S2	F70–15.
S3	FR70–15.
S4	G70–15.
S5	GR70–15.
S6	H70–15.
S7	HR70–15.
S8	J70–15.
S9	JR70–15.
TA	K70–15.
TB	KR70–15.
TC	L70–15.
TD	LR70–15.
TE	Not assigned.
TF	Not assigned.
TH	Not assigned.
TJ	Not assigned.

TABLE I—Continued

Tire size code	Tire size designation
TK	BR78–15.
TL	C78–15.
TM	D78–15.
TN	E78–15.
TP	ER78–15.
TS	F78–15.
TT	FR78–15.
TU	G78–15.
TV	GR78–15.
TW	H78–15.
TX	HR78–15.
TY	J78–15.
T0	JR78–15.
T1	L78–15.
T2	LR78–15.
T3	N78–15.
T4	Not assigned.
T5	Not assigned.
T6	Not assigned.
T7	Not assigned.
T8	L84–15.
T9	Not assigned.
UA	2.25–16.
UB	2.50–16.
UC	3.00–16.
UD	3.25–16.
UE	3.50–16.
UF	5.00–16.
UH	5.10–16.
UJ	5.50–16 L.T.
UK	6.00–16.
UL	6.00–16 L.T.
UM	6.50–16.
UN	6.50–16 L.T.
UP	6.70–16.
US	7.00–16.
UT	7.00–16 L.T.
UU	7.50–16.
UV	7.50–16 L.T.
UW	8.25–16.
UX	9.00–16.
UY	10–16.
U0	Not assigned.
U1	Not assigned.
U2	Not assigned.
U3	19–400c.
U4	165–400.
U5	235–16.
U6	Not assigned.
U7	Not assigned.
U8	G45C–16.
U9	E50C–16.
VA	F50C–16.
VB	Not assigned.
VC	Not assigned.
VD	8.00–16.5.
VE	8.75–16.5.
VF	9.50–16.5.
VH	10–16.5.
VJ	12–16.5.
VK	Not assigned.
VL	Not assigned.
VM	2.00–17.
VN	2.25–17.
VP	2.50–17.
VS	2.75–17.
VT	3.00–17.
VU	3.25–17.
VV	3.50–17.
VW	6.50–17.
VX	6.50–17 L.T.
VY	7.00–17.
V0	7.50–17.
V1	8.25–17.
V2	Not assigned.
V3	Not assigned.
V4	G50C–17.
V5	H50C–17.
V6	Not assigned.
V7	Not assigned.
V8	Not assigned.
V9	Not assigned.
WA	7–17.5.
WB	8–17.5.
WC	8.5–17.5.
WD	9.5–17.5.

TABLE I—Continued

Tire size code	Tire size designation
WE	10–17.5.
WF	14–17.5.
WH	Not assigned.
WJ	Not assigned.
WK	Not assigned.
WL	2.50–18.
WM	2.75–18.
WN	3.00–18.
WP	3.25–18.
WS	3.50–18.
WT	4.00–18.
WU	4.50–18.
WV	6.00–18.
WW	7.00–18.
WX	7.50–18.
WY	8.25–18.
W0	9.00–18.
W1	10.00–18.
W2	11.00–18.
W3	Not assigned.
W4	Not assigned.
W5	L50C–18.
W6	Not assigned.
W7	Not assigned.
W8	2.00–19.
W9	2.25–19.
XA	2.50–19.
XB	2.75–19.
XC	3.00–19.
XD	3.25–19.
XE	3.50–19.
XF	4.00–19.
XH	11.00–19.
XJ	Not assigned.
XK	Not assigned.
XL	Not assigned.
XM	7–19.5.
XN	7.5–19.5.
XP	8–19.5.
XS	9–19.5.
XT	14–19.5.
XU	15–19.5.
XV	16.5–19.5.
XW	18–19.5.
XX	19.5–19.5.
XY	6.00–20.
X0	6.50–20.
X1	7.00–20.
X2	7.50–20.
X3	8.25–20.
X4	8.5–20.
X5	9.00–20.
X6	9.4–20.
X7	10.00–20.
X8	10.3–20.
X9	11.00–20.
YA	11.1–20.
YB	11.50–20.
YC	11.9–20.
YD	12.00–20.
YE	12.5–20.
YF	13.00–20.
YH	14.00–20.
YJ	Not assigned.
YK	Not assigned.
YL	Not assigned.
YM	Not assigned.
YN	2.75–21.
YP	3.00–21.
YS	Not assigned.
YT	Not assigned.
YU	10.00–22.
YV	11.00–22.
YW	11.1–22.
YX	11.9–22.
YY	12.00–22.
Y0	14.00–22.
Y1	Not assigned.
Y2	Not assigned.
Y3	Not assigned.
Y4	7–22.5.
Y5	8–22.5.
Y6	8.5–22.5.
Y7	9–22.5.

TABLE I—Continued

Tire size code	Tire size designation
Y8	9.4–22.5.
Y9	10–22.5.
OA	10.3–22.5.
OB	11–22.5.
OC	11.1–22.5.
OD	11.5–22.5.
OE	11.9–22.5.
OF	12–22.5.
OH	12.5–22.5.
OJ	15–22.5.
OK	16.5–22.5.
OL	18–22.5.
OM	Not assigned.
ON	Not assigned.
OP	Not assigned.
OS	9.00–24.
OT	10.00–24.
OU	11.00–24.
OV	12.00–24.
OW	14.00–24.
OX	Not assigned.
OY	Not assigned.
O0	Not assigned.
O1	11–24.5.
O2	12–24.5.
O3	13.5–24.5.

[F.R. Doc. 70–9379; Filed, July 22, 1970; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 91]

[Docket No. 18916; FCC 70–754]

CATV MICROWAVE RELAY SYSTEMS

Extension of Date for Vacation of Certain Frequency Band

In the matter of amendment of § 91.522 (e) and Part 2, § 2.106 of the rules to extend the date by which CATV microwave relay systems must vacate the 12200–12700 MHz band from February 1, 1971, to February 1, 1976.

1. Notice is hereby given in the above entitled matter.

2. By the way of background, the Commission in its first report and order in Docket No. 15586, adopted on October 13, 1965 (1 FCC 2d 897), established the Community Antenna Relay Service (CARS) to accommodate private (noncommon carrier) microwave relay systems used by CATV operators to carry broadcast program material to CATV systems. At the same time, the Commission concluded that such relay systems would no longer be authorized in the Business Radio Service but systems then authorized in that Service, and those authorized subsequently on applications pending when the decision became effective, were permitted to continue to operate on frequencies in the 12200–12700 MHz band until February 1, 1971. See § 91.552(e) of the Commission's rules. One of the bases for the Commission's decision was that the regulatory problems involved in CATV operations were different from those involved in the Business Radio Service and, therefore, it would be in the public interest to accommodate CATV microwave relay systems in a separate band (the 12700–12950 MHz band).

3. Thirty seven CATV microwave relay systems are now operating in the 12200–12700 MHz band. Four licensees of such systems have filed petitions requesting waiver of § 91.552(e) of our rules to permit them to continue to operate in that band beyond the February 1, 1971, cut-off date. Three of the petitioners, Cox Cablevision Corp., Globe-Miami Cable TV, Inc., and Garden State Television Cable Corp., have asked for an additional 5-year period. The fourth, Florida Antennavision, Inc., requested an extension pending action by the Commission on certain applications in the common carrier services proposing to provide this petitioner a substitute mircrowave relay service. The petitioners, except for Florida Antennavision, base their requests on essentially the same grounds. They argued that compliance with the February 1, 1971, cut-off date would cause them substantial financial injury in that they will have to change their equipment at a substantial cost before its useful life has run out; and, secondly, they argued that there is no congestion in the 12200–12700 MHz band at this time and that it is not likely that this band will become congested in the next 5 years. Florida Antennavision also raised these arguments in addition to others, unique to its situation, in support of its petition.

4. We have considered the petitions carefully and it appears to us that the considerations urged therein would apply to most, if not all, of the licensees of the CATV microwave relay systems now operating in the 12200–12700 MHz band. Therefore, we believe that this matter should be explored generally in a rule making proceeding rather than in connection with the pending or any future requests for waiver of the rules.

5. CATV microwave relay station licensees have been on notice since before 1965 of the necessity of vacating the frequencies they occupy in the 12200–12700 MHz band. In addition, specific notice of this has been given to them since then in connection with applications for renewal or modification of their authorizations. Nevertheless, we recognize that changing their systems over to the CARS band at this time might impose a substantial burden and that it may be in the public interest to defer the change-over date if it can be done without impairing seriously the development of safety and special radio systems in the 12200–12700 MHz band. As the petitioners have pointed out, this band is not now heavily used by safety and special radio systems, although there has been considerable growth since 1965. Further, although we believe the rate of growth of such systems will increase during the next 5 years, we cannot predict the degree of acceleration.

6. Accordingly, we request comments on our proposal to amend § 91.552(e) of our rules to permit all existing CATV microwave relay systems to continue to operate in the 12200–12700 MHz band, as

they are now authorized, without expansion, until February 1, 1976.[1] If the proposal is adopted, the extension would be subject to a continuing surveillance of growth of safety and special microwave systems (and of any expressed demand for such systems) and, depending on the results, an earlier cut-off date may be prescribed generally, or in specific situations. Any comments filed should supply information as to the specific problems and costs involved in converting existing CATV microwave relay systems to the CARS band as well as information about the potential growth of safety and special radio systems in the 12200–12700 MHz band during the next 5 years.

7. Consistent with the above, action on the above-mentioned petitions for waiver, as well as any others that may be filed, will be deferred until the conclusion of this proceeding.

8. Authority for the rule amendments as proposed below is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 24, 1970, and reply comments on or before September 3, 1970. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the rules, an original and fourteen (14) copies of all comments, replies, pleadings, briefs, or other documents shall be furnished the Commission.

Adopted: July 15, 1970.

Released: July 20, 1970.

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

§ 2.106 [Amended]

1. In § 2.106, The Table of Frequency Allocations, footnote NG52 is amended to read as follows:

NG52 Stations used to relay television signals to community antenna television systems, which are authorized to operate in the band 12.2–12.7 GHz on November 22, 1965, may continue to be authorized to so operate until February 1, 1976, under the conditions specified in that license.

2. In § 91.552, paragraph (e) is amended to read as follows:

§ 91.552 Availability and use of service.

* * * * *

(e) Commencing November 22, 1965, applications for authorizations to construct new microwave point-to-point radio stations for relaying television, standard, or FM broadcast signals to community antenna television (CATV) systems, will not be accepted for filing in the Business Radio Service. Existing systems may be continued to be authorized until not later than February 1, 1976, or until an earlier date if the Commission determines that the frequencies in the 12200–12700 MHz band are needed for operational fixed stations in the Safety and Special Radio Services, subject to the following:

(1) No additional stations or frequencies will be authorized in this service;

(2) Replacement of equipment may be authorized only if the new equipment can be modified easily for operation in the 12700–12950 MHz band;

(3) Authorizations and renewals thereof may be granted for a term not exceeding 1 year.

[F.R. Doc. 70-9517; Filed, July 22, 1970; 8:50 a.m.]

[1] If a licensee replaces his equipment during this period, we anticipate, and we will require, that the new equipment can be modified easily for operation in the CARS band.

[47 CFR Parts 21, 43, 61]

[Docket No. 18920; FCC 70-768]

DOMESTIC PUBLIC POINT-TO-POINT MICROWAVE RADIO SERVICE

Specialized Common Carrier Services

In the matter of establishment of policies and procedures for consideration of applications to provide specialized common carrier services in the domestic public point-to-point microwave radio service and proposed amendments to Parts 21, 43, and 61 of the Commission's rules; Docket No. 18920.

1. Notice is hereby given of this inquiry looking towards the formulation of appropriate policies in the above entitled matter and of proposed rule making designed to implement such policies.

2. The Commission has pending before it a large number of applications, including those from companies associated with Microwave Communications of America, Inc. (MCI Associated Companies), and Data Transmission Corp. (Datran), for authorization to construct and operate microwave and other facilities to provide specialized common carrier services, particularly for the transmission of data, in various parts of the country. The applications pending as of June 25, 1970, are listed below. These applications have already occasioned, or are expected to give rise to, petitions to deny and/or requests for comparative hearings. It is also anticipated that numerous additional applications for facilities of a similar nature will be forthcoming, and that these will likewise be subject to petitions to deny and/or requests for comparative hearings.

3. A review of the pending applications and the pleadings filed in response to them indicates that the Commission is confronted with a series of broad policy issues which are common to all of them, as well as specific issues which may be pertinent to particular applications or groups of applications. For the reasons set forth below the Commission is of the view that the basic policy issues should be resolved in an overall proceeding directed toward these policies, appropriate procedures and necessary modifications in existing rules. Such action would be conducive to prompt, orderly and efficient disposition of these matters and, in the opinion of the Commission, is by far preferable to decisions on them arrived at in the context of individual proceedings, and/or evidentiary hearings on each set of applications, or even a single consolidated hearing. As noted above, even after the adoption of appropriate procedures, general policies and/or additional rules, there may remain specific, factual questions to be resolved. Once the procedures, basic policies and/or rule changes have been adopted, the Commission will further review this matter and determine both the nature and extent of those remaining questions, as well as the appropriate proceedings necessary and proper to resolve them.

4. The Commission has also, on the basis of the applications pending before it, the pleadings filed with respect to them, and our staff's analyses of certain of the basic legal and economic considerations involved, reached certain tentative conclusions which are set forth below with respect to the appropriate procedures which we should follow—assuming that we adopt the analyses and recommendation of our staff (see paragraph 22). Respondents herein should address themselves to each of these tentative conclusions and staff analyses on their respective merits and should give in detail and with specificity the reasons, supported where appropriate by factual data, why in their opinion such tentative conclusions and analyses should be adopted, modified or reversed. In each case the procedure and policy advocated by the Respondent should be clearly identified and properly supported. Finally, there are set forth hereinbelow specific proposals for amendments to Parts 21, 43, and 61 of the Commission's rules, all designed to facilitate the processing and disposition of the applications before us, as well as applications of a similar type, and to minimize the need for time consuming evidentiary hearings. Respondents should address themselves to each of the proposed amendments and set forth in detail and with specificity the reasons, supported where applicable by factual data, why the proposed amendment should be adopted, modified or rejected, as well as the exact text of any proposed modifications, additions or substitutions.

I. THE APPLICATIONS AND OPPOSITION PLEADINGS

5. Before discussing our proposed procedure and rules, we will indicate the nature of a few representative applications and opposition pleadings. We do not undertake to describe each of the many systems that have been proposed, or to summarize in detail each of the opposing arguments and counterarguments. The following major or typical proposals and arguments will sufficiently exemplify the kinds of applications and oppositions to serve as a basis for discussion.

A. DATRAN

6. Datran has proposed a switched, all digital, nationwide communications network specifically designed and engineered for data transmission. The initial system would have 244 microwave stations in a high channel density microwave backbone trunk which would follow a route between San Francisco, Los Angeles, Dallas, Minneapolis-St. Paul, Atlanta, and Boston. Spur routes from the backbone trunk would provide service to additional cities to accommodate growth in demand for service. The system would utilize time division multiplexing (TDM), and be modular in design to facilitate easy and economical extension of terminal capacity. Datran intends to file applications to construct the necessary local distribution facilities, which it regards as essential to its concept of end-to-end service, in time for completion with construction of the trunking and switching elements of the system. It is proposing to use a combination of 11 GHz frequencies and multipair cable for local loop service. Datran also stands ready at all stages of system development to "interconnect with other carriers or authorized communications entities on a realistic basis in order to provide service to all locations, as well as to offer flexibility to meet individual customer requirements," and is pursuing possibilities for interconnection arrangements. The system is designed to provide interconnection capability with either TDM or analog modes of transmission. Space diversity and hot standby transmitters are proposed for increased system reliability.

7. According to Datran, major economic sectors, individual consumers, and providers of information systems and services in the aggregate have a rapidly expanding need for rapid, accurate, low-cost data transmission services which is largely unmet by present common carrier offerings. Specifically, Datran claims that the costs of existing communications services have not declined in proportion to data processing costs; that existing analog transmission systems require costly modulator-demodulator equipment to convert digital signals to analog and back again; that current switched services often take significant time to establish connections, which detracts from the productivity of the data terminal and operator; that transmission systems originally engineered for voice and record transmission do not meet the more demanding reliability standards of digital data transmission; that existing switched services generally cannot handle full-duplex transmission, which leads to reduced throughput and wasteful line reversal time; that the basic switched services, originally intended only for voice and record, provide only two major speed selections whereas many new data applications require faster and more varied choices; that attempts to establish a switched connection for data transmission can be impeded by the high incidence of busy signals currently being experienced in points and times of heavy user concentration; that communication between terminal devices utilizing different line speeds is not possible in most existing major networks; that many data transmissions can be completed in far less than the minimum charge periods now in force; and that while common carriers have recently begun to drop barriers against sharing and interconnection, much confusion and difficulty continues to exist in user attempts to apply this flexibility.

8. Datran attributes many of the asserted unmet needs of data transmission users to the circumstance that the existing switched facilities of common carriers were originally engineered only for voice and record analog transmission services, a constraint which does not exist in its proposed digital system. The three basic integrated components of Datran's proposed end-to-end system (trunking system, switching system, and local distribution system) are engineered specifically for, and dedicated to, digital data transmission. Thus, a subscriber need not convert his digital signals to a different (analog) transmission mode, since the system transmits the subscriber's signal in its original form. Moreover, as the signal is transmitted through the system, it is continuously regenerated into a new, clean and conditioned signal without the amplified system noise present in analog systems. Datran states that the following features of its proposed systems will meet current and projected data transmission needs which are largely unmet by the existing carrier offerings (see paragraph 7 above):

Low cost. As indicated by samples of proposed charges in Exhibit No. 8 to Datran's application.

End-to-end compatibility. No analog/digital conversion required.

Rapid connection. Connection to be made within 3 seconds after receipt of last destination address indicator.

High reliability. No more than one bit error in 10 million transmitted bits.

Simultaneous two-way transmission (full duplex). The proposed system would operate entirely in full duplex mode.

Wide selection of switched speed offerings. The initial system would provide 150, 4,800, 9,600, and 14,400 bits per second switched service.

Low incidence of network busy conditions. A service goal of P.01 providing on an average more than one busy signal in 100 attempts.

Flexibility to interconnect with and share facilities. Datran proposes to permit ample flexibility for potential users to interconnect user-provided facilities and to share the proposed system among more than one user.

Asymmetry. The system will provide capability for communication between all terminals on the network, regardless of their varying transmission needs.

9. Datran further asserts that there is "a need for competition in communications to motivate technological innovations, cost reductions, and efficient allocation of facilities as well as to encourage efforts by common carriers beyond the simple expansion of current networks to meet growing demand." It supports its position with the following contentions: Full realization of the public interest in computer technology requires achievement of appropriate specialized communications services. The users of computer technology are not obtaining adequate service from communications facilities contructed for, and dedicated to, meeting voice and record transmission needs. Effective utilization of existing data processing technology is constrained by present common carrier communications services and facilities, and the design and development of new computer applications requiring data transmission is constrained by high cost as well as unreliable and inflexible service. The public will not realize the full benefits of existing and potential data processing technology until this situation is remedied. The best remedy would be to authorize a versatile, low-cost communications network uniquely structured for digital data communications. Moreover, authorization of its proposed system is likely to stimulate innovations and to encourage economies by all carriers. A major price paid for monopoly is reduced incentive for innovation. The introduction of competition into the provision of data transmission services to all users will spark further technical developments and spur all common carriers to measure and control costs more effectively in the public interest. If innovation can lower the cost of a service, or provide a better service at the same cost, that service will attract a larger market or create new markets. In addition, the benefits of the regulatory process are most readily obtained when the regulated system's structure, customers, services and costs are easily identified and quantified. Authorization of its proposed system would allegedly encourage economies by all carriers through simplified application of new standards and measures for costs of services.

B. MCI ASSOCIATED COMPANIES

10. There are also pending a number of applications by MCI associated companies for portions of a proposed nationwide network to provide specialized private line communications services, e.g., the following:

MCI-New York West, Inc.	Chicago and New Yorks City and intermediate points (65 microwave stations).
MCI Pacific Coast, Inc.	San Diego, Calif., and Everett, Wash., and intermediate points (56 microwave stations).
MCI North Central States, Inc.	Minneapolis and Chicago and intermediate points (16 microwave stations).
MCI New England, Inc.	Boston to New York City and Boston to New Bedford, Mass. (17 microwave stations).
MCI Michigan, Inc.	Grand Rapids, Pontiac, Saginaw, and Detroit, Mich.; South Bend, Ind.; Toledo, Ohio; and intermediate points (26 microwave stations).
MCI St. Louis–Texas, Inc.	St. Louis-Dallas and intermediate points (42 microwave stations).
MCI Texas East Microwave, Inc.	Texas-Louisiana (34 stations).
MCI Mid-Atlantic Communications, Inc.	Washington, D.C.–Atlanta, Ga. (37 stations).
MCI Kentucky Central, Inc.	Kentucky, Ohio, Indiana, Illinois, Tennessee, Georgia, and Alabama (34 stations).
MCI Texas-Pacific, Inc.	Dallas-Los Angeles (64 stations).

The various MCI applications propose to provide "customized" communications channels, tailored to the exact requirements of subscribers needing interoffice and intracompany communications, to meet newly developing data and specialized communications needs of the public at significantly low cost. The channels would accommodate transmission of data, facsimile, control, remote metering, voice and other forms of communication. MCI does not now propose to provide end-to-end service. Local loop interconnection may be accomplished by the subscriber's private facilities or, for subscribers requiring only voice grade channels, by use of local land-lines of existing telephone companies.[1]

11. MCI-New York West's applications will serve as a typical example, since it is stated that this "is one of a series of independent MCI-type carriers made up of local ownership interests which will interconnect and cooperate with one another in order to provide a unified, nationwide, customized communications network through arrangements with Microwave Communications of America, Inc." MCI-New York West claims that its proposal offers the following features which are not now available to communications users on existing common carrier facilities:

Communciations channels designed especially for data transmission;
Specified data error rate (1 error in 10^7);
Analog or digital input;
Data channels starting as low as 0.05 cents per mile per month;
Data channels priced on data speed rather than bandwidth;
One way transmission;
Two-way transmission of different bandwidths;
138 communications channels ranging in bandwidths from 200 hertz to 960,000 hertz;
Termination of channels in 93 different types, with bandwidth ranging from 200 hertz to 960,000 hertz;
Channels can be determined into the full single bandwidth of the channel or into a number of subchannels;
Thousands of channel and termination combinations are possible and feasible;
Communication channels start as low as 0.05 cents per mile per month;
Half-time use;
Sharing of channels;
Use of carrier's facilities for installation of subscriber's private equipment.

12. According to MCI, the "real distinction which delineates MCI service from anything provided today by existing common carriers is not the facility itself but the manner in which a customer may utilize it in order to provide a customized intra-company point-to-point communications system of his own design and capability." For example, the customer may purchase the exact bandwidth required on a point-to-point basis (including one-way channels), utilize it in whatever transmission mode he chooses (voice or data, alternately or singly), mix different bandwidths on the same channel, use his own terminal equipment and install his own equipment on MCI towers and shelters, provide either analog or digital input signals, and avail himself of MCI's offering of channels designed especially for data use with rates based on transmission speed rather than bandwidth.

13. MCI asserts that a grant of its applications would serve the public interest primarily by affording a flexibility in service needed by, but not now available to, an important communications submarket, and also by causing existing carriers to revise their service offerings and tariff provisions to the benefit of other communications users. Specifically, it claims that a strong need exists now for the type of services proposed by MCI-New York West. It reasons along the following lines: The computer industry "desperately" needs a communications network designed especially for data transmission. MCI would provide this network (accepting both analog and digital data signals) and meet many of the communications needs of the computer industry forecast over the next 5 years in a study by Arthur D. Little, Inc. Moreover, the economic feasibility of, and market for, the proposed operation are demonstrated in a study conducted by Spindletop Research. Industry, business, government and educational entities also require additional communications channels other than those adapted to a communication network designed primarily for voice telephone service. It is essential that these entities have available flexible, low cost communications channels which they can customize to their own particular needs and requirements. The existing carriers serving the proposed routes allegedly do not and cannot readily provide the same type of offering. MCI claims its proposal would provide the benefits of competition in the specialized communications field, stimulate the development of new lines of equipment, introduce new ownership interests in the communications industry, and pioneer new types of communications. It would do so without having an adverse economic impact on the existing carriers or affecting their telephone or private line ratemaking principles. There is, MCI says, "a distinct difference between a public telephone service which is a natural monopoly and a customized communications service offered on a private point-to-point basis."

C. OTHER APPLICATIONS

14. There are also a number of applicants proposing to provide specialized common carrier services along or near some of the same routes proposed by Datran and/or MCI associated companies, and other routes. For example, New York-Penn Microwave Corp. proposes a 67 station system between Chicago, New York City and intermediate points, to interconnect with its proposed 22 station system between Washington, D.C., and Boston, Mass. In its New York-Chicago applications, New York-Penn Microwave states that it "proposes to provide similar service to that specified by MCI-New York West, and in large part along the same paths." Asserting that the two sets of applications are mutually exclusive, New York-Penn Microwave plans to use sites for which MCI-New York West now holds or is negotiating options. Interdata Communications, Inc. has applied for 11 microwave stations to provide specialized, private line services between New York City and Washington, D.C.[2] Five applicants have applied for Pacific Coast systems, generally between San Diego, Calif., and the Seattle-Everett, Wash., and intermediate points. Applications have been filed for such routes as: Dallas-Houston-Los Angeles; Minneapolis-St. Paul-Omaha-Oklahoma City-Dallas; Atlanta-Washington, D.C.; Atlanta-New Orleans; and Minneapolis-Chicago-Dallas. Three applicants have applied for systems serving cities solely within the State of Texas. Other applications are pending and more are anticipated.

15. While varying in detail, in general these applicants all propose to provide specialized private line services tailored

[1] MCI states that it is working with manufacturers to develop new low-cost short haul microwave systems in the 50 GHz band, and infrared transmission not requiring radio frequencies. When such equipment becomes available and is operational, MCI proposes to offer this type of interconnection under tariff filings with the FCC.

[2] By letter dated Apr. 8, 1970, the Chief of the Common Carrier Bureau ruled that the New York-Penn Microwave applications for the Washington-Boston route, filed on Feb. 13, 1970, were not entitled to comparative consideration with Interdata's applications filed on Dec. 4, 1968, since they were filed after the cut-off date. An application for review of that action has been filed by New York-Penn Microwave.

to the requirements of the subscriber. Some are already engaged in common carrier or private miscrowave operations, and propose to make use of such facilities, personnel and experience to the extent practicable. Some propose to provide "end-to-end" service, either by constructing their own loop facilities or by negotiating on behalf of subscribers for interconnection with existing local carriers or by some combination of both.[3] Interconnection with facilities of the subscribers and other microwave systems would be permitted. All claim that they will provide low-cost, flexible services which are needed and not now provided in the same manner by existing carriers.

D. OPPOSITION PLEADINGS

16. While the time for filing pleadings with respect to these applications has not yet expired in some instances, oppositions have been filed against the earlier applications and it appears likely that all of the applications will be opposed on similar grounds.

17. A.T. & T. states that applications of the type filed by MCI associated companies and others cannot be regarded as an isolated experiment, but rather necessitate a Commission determination of "basic and important policy questions regarding future development of common carrier communications services throughout the United States." In connection with MCI–New York West's applications, A.T. & T. summarizes its position as follows:

> MCI–N.Y. West's proposal and others like it confront the Commission with basic policy questions regarding the future development of common carrier communications services. They would offer to serve only limited segments of business users in certain selected cities, without concern for the deleterious impact this might have on the other business and residential users who are subscribers of the existing common carriers. Such proposals, if granted, would seriously undermine the policy of uniform interstate rates and dilute or delay the benefits that economies of scale would otherwise make available to the general telephone-using public. Moreover, the authorization of such proposals would result in harmful electrical interference to existing common carrier routes, inefficient and under-utilization of scarce common carrier facilities, to the detriment of the general public. As shown above, there is no demonstrated unfilled public need for MCI–N.Y. West's incomplete and inadequate proposal or for the network of which it would be a part. Existing common carrier facilities are more than adequate to meet the public need and the existing carriers stand ready to serve any additional need which may be found to exist in the future.

[3] For example, New York-Penn Microwave proposes to install an entrance link (using frequencies at 18 GHz) from the terminating microwave relay point near Chicago to a general distribution center immediately adjacent to the premises of a number of customers in Chicago. Local loops would then be negotiated by the applicant on behalf of the customer with local carriers. At intermediate relay points the 18 GHz entrance link would be omitted, and the applicant would arrange with local carriers for interconnection between the microwave relay station and the customer's premises.

18. With respect to Datran's proposed nationwide switched digital network for data transmission, A.T. & T. raises a number of questions which it asserts require hearing. These concern alleged uneconomic duplication of common carrier facilities, impact on nationwide uniform rates, social costs (such as a less efficient total communications network, a requirement for additional Bell System standby capacity, intensified congestion of the radio spectrum), the basis for regulating or controlling competition between Datran and established carriers, the extent of public demand for services which is not, or will not be, met by existing carriers, comparative costs and frequency usages, and the technical and economic feasibility of Datran's proposal. A.T. & T. also asserts that Datran's proposal would cause harmful interference to some stations of the Bell System companies, as well as additional cases of potential interference to full development of already established Bell System routes. A.T. & T. takes the position that construction of Datran's proposed system would be more costly than expansion of existing Bell System routes by an equivalent number of circuits, that a grant might lead to the adoption of route pricing by the established carriers and cause an increase in rates to the general public, and that the need alleged by Datran would be better met within its time frame by the Bell System's "evolutionary approach." It is further asserted that Datran's proposal will depend on intrastate, as well as interstate, service and require appropriate local or state authorization. In addition, A.T. & T. claims that a proliferation of 11 GHz local distribution systems in and around major cities would cause serious frequency congestion problems. Finally, it states that Datran's applications appear to be mutually exclusive with those filed by other specialized common carriers for technical or economic reasons, or both.

19. Western Union urges that consideration of MCI's new application is premature before its Chicago-St. Louis system has been demonstrated.[4] It requests the Commission to postpone any kind of action of the applications of Datran and other applicants pending a determination of the underlying policy questions, since the proposals "threaten the common carrier communications industry with significant change, if not upheaval." Western Union claims that a grant of these proposals will divert revenues from its prime industrial areas, jeopardize the cost averaging approach, and threaten its efforts to gain a broader economic base and more financial stability. It also claims that the applicants have failed to demonstrate a public need for their proposed services, or to establish their technical and financial qualifications, and that their proposed systems will cause harmful interference to some of its existing stations and prejudice its ability to expand to full band usage on present routes.

[4] See Microwave Communications, Inc., 18 FCC 2d 953 (1969); reconsideration denied, 21 FCC 2d 190; pending on review in the U.S. court of Appeals for the District of Columbia Circuit in American Telephone & Telegraph Co. et al. v. Federal Communications Commission (Case Nos. 23959 and 23962).

20. The applications are also opposed by the General System Telehone companies (General), other independent telephone companies, and various existing miscellaneous common carriers. In general, they claim that grants would result in wasteful duplication of facilities within their operating territories and/or electrical interference to existing systems. In addition, some of the applicants have filed petitions to deny the applications of others on grounds of mutual exclusivity. The National Association of Regulatory Utility Commissioners (NARUC) has petitioned for a public hearing on the Datran applications. Moreover, the Washington Utilities and Transportation Commission opposes the MCI Pacific Coast applications on the ground that any diversion of interstate usage from established carriers to other communications media would have the effect of placing a heavier relative burden on intrastate users of jointly provided facilities.

21. As indicated, the foregoing is not a complete listing of the applications and opposition pleadings on file, or a comprehensive summary of the individual contentions. However, it sufficiently indicates the kind of proposals and objections that have been made to serve as a basis for discussion.

II. DISCUSSION

22. Based upon the applications and related pleadings before us, it appears that the questions requiring resolution in this proceeding may be stated as follows:

A. Whether as a general policy the public interest would be served by permitting the entry of new carriers in the specialized communications field; and, if so,

B. Whether comparative hearing on the various claims of economic mutual exclusivity among the applicants are necessary or desirable in the circumstances;

C. What standards, procedures and/or rules should be adopted with respect to such technical matters as the avoidance of interference to domestic communications satellites in the 6 GHz band, the avoidance or resolution of terrestrial frequency conflicts and route blockages both vis-a-vis the facilities of established carriers and among the applicants, and the use of frequency diversity;

D. Whether some measure of protection to the applicants' subscribers is called for in the area of quality and reliability of service; and

E. What is the appropriate means for local distribution of the proposed services?

The resolution of Question A is obviously of threshold policy significance and, in large measure, will constitute the predicate for decisional treatment of the remaining questions. Hence, we are of the view that effective and informed participation by the public in this proceeding

will be facilitated by a presentation herein of our staff's analysis and recommended disposition of Question A. At the same time, the Commission is deferring any determination of its own on Question A until we have the benefit of the comments by interested parties on the staff's position. In this context, our indicated resolutions herein of Questions B–E are to be regarded as tentative and subject to appropriate modification as may be required by our ultimate determination of Question A.

23. We are hopeful that this proceeding will facilitate resolution of the difficult policy and procedural questions presented by this multiplicity of applications and oppositions in the shortest possible time. The situation calls for expedition in the public interest, since it is claimed that the proposed services are needed by the public now. In addition, the applications are tying up frequencies which may in some instances block action on applications by established carriers for expansion on existing microwave routes and affect the location of earth station sites for domestic communications satellite systems.

24. Accordingly, we propose to use this proceeding as a vehicle for the prompt resolution of the broad policy questions listed above and amplified below. Once these issues have been determined, we will consider each proposal on its individual merits and follow such procedures as may be necessary to resolve any remaining questions pertinent to the particular set of applications. Each applicant will, of course, be required to make a satisfactory showing that it is qualified and that the service it seeks to offer is technically and economically sound and would otherwise serve the public interest. We have reached no final conclusions on any of the matters discussed below. However, we will set forth tentative proposals and the position of the staff to stimulate comments, counterproposals and suggestions as to what course would best serve the public interest. Material already submitted in the applications and pleadings on file may be incorporated by reference and should not be resubmitted.

A. WHETHER AS A GENERAL POLICY THE PUBLIC INTEREST WOULD BE SERVED BY THE ENTRY OF NEW CARRIERS IN THE SPECIALIZED COMMUNICATIONS FIELD

Staff analysis. 25. In considering whether the public interest would be served by permitting new carriers to provide specialized communications services, the basic touchstone for decision is, of course, the Commission's mandate to regulate "interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communications service with adequate facilities at reasonable charges * * *" (section 1 of the Communications Act). Although this is the first time that the Commission has been presented with a large number of applications for authority to provide competitive common carrier services via microwave in the field of domestic communications, the issue of competition is not new. The Commission has had numerous occasions to consider and establish policy with respect to the provision of communications services in the common carrier field on a competitive basis.

26. As long ago as 1948 applications were filed in Docket No. 8777 by Mackay Radio and Telegraph Co., a predecessor company to ITT World Communications, Inc. (ITT) for authoriy to operate circuits to Finland, the Netherlands, Portugal, and Surinam in competition with preexisting circuits to thost points operated by RCA Communications, the predecessor to RCA Global Communications, Inc. (RCAC). Upon review of the Commission's decision [5] to grant the applications for Portugal and the Netherlands and deny the Surinam application (Finland was withdrawn), the Supreme Court held: [6]

(a) The Commission may not grant applications to provide a competitive service merely because it assumes "that competition is bound to be of advantage in an industry so regulated and so largely closed as this one * * *".

(b) The Commission may grant applications for competitive circuits after an analysis of the trends and needs of the industry [7] and in the exercise of "the discretion given it by the Congress." [8]

(c) "In reaching a conclusion that duplicating authorizations are in the public interest wherever competition is reasonably feasible the Commission is not required to make specific findings of tangible benefit." [9]

(d) In order to grant a competing application, "the Commission must at least warrant, as it were, that competition will serve some beneficial purpose such as maintaining good service or improving it." An applicant is not required to demonstrate tangible benefits. There must, however, "be grounds or reasonable expectations that competition may have some beneficial effect." [10]

26a. Since the Supreme Court's decision in the RCA case, the Commission has granted authority for numerous competing direct radio telegraph circuits,[11] in certain instances without holding hearings. The Commission has also followed a similar policy with respect to the grant of competing applications to miscellaneous common carriers in the domestic communications field. In each instance the test was whether the competition was reasonably feasible and could be expected to have some beneficial effect.[12] In addition, the Commission has authorized the use of private microwave systems,[13] by entities to satisfy their own needs. This also introduces an element of competition in the sense that a potential user now has the alternative of leasing facilities from a common carrier or providing his own facilities.

27. We note that there are not numerous precedents in the general domestic common carrier service field for the authorization of competing circuits. This is due primarily to the fact that until the filing of the applications considered in Microwave Communications, Inc., 18 FCC 2d 953 (1969),[14] reconsideration denied 21 FCC 2d 190 (1970), the Commission had no occasion to consider applications for competitive service in this area. In its MCI decision, the Commission granted applications of MCI to provide specialized interstate common carrier services between Chicago and St. Louis upon a finding that competition was reasonably feasible and could be expected to provide some public benefits. While not determinative of issues posed by the instant applications, the MCI decision indicated a disposition to foster in the specialized communications field a competitive environment within which users may have a wider range of choices as to the means of satisfying their special communications needs.

28. The public interest would be best served by allowing the entry of new communications common carriers to serve the markets for special communications services, to the extent that such entry can be accommodated within the limitations of radio frequency availability. For the reasons set forth below, competition in this area meets the long-established test, i.e., that it is reasonably feasible and can be expected to have some beneficial effect. Indeed, the advantages of such a policy appear to be manifold and to outweigh any risk that the public interest would be adversely affected.

29. The demand for all types of communications service is growing very rapidly. The use of standard voice communications services is expanding at very high rates and it is expected that this

[5] FCC 51–197; see also FCC 55–698.

[6] FCC v. RCA Communications, Inc., 346 U.S. 86 (1953).

[7] Id. page 97.

[8] Id. page 95.

[9] Id. page 96.

[10] Id. page 97.

[11] See, e.g., 26th Annual Report of the FCC, page 107. The Commission has also authorized competing international carriers to lease, or obtain indefeasible rights of use of, channels in international cables of A.T. & T. See, e.g., 28th Annual Report of the FCC, pages 124–125.

[12] The Commission in Mackay Radio and Telegraph, Inc., 15 FCC 690, at page 737, defined "reasonably feasible" as encompassing the concept that the applicant seeking to compete must demonstrate: That a grant of its application would enhance or induce competition; and that a grant of its application would not endanger the ability of the existing carrier to continue to provide competitive service to the points at issue or to other points of its services. Specifically, the Commission was concerned as to whether there was a sufficient volume of traffic available to support both services. The presence of such a volume of traffic was taken as an indication that competition was reasonably feasible.

[13] In the Matter of Allocation of Frequencies in the Bands Above 890 Mc., 27 FCC 359 (1959), 29 FCC 825 (1960).

[14] See footnote 4.

rapid growth will continue, if not increase.[15] In addition, data communication, which has been in an embryonic stage of development, will probably exhibit very substantial growth over the next decade.[16] In proposing a policy favoring the entry of new specialized common carriers, we look toward a degree of competition oriented toward the development of new communications services and markets and the application of improvements in technology to changing and diverse demands. Thus, we are not faced with the question of whether we should increase the number of carriers which are to serve a fixed market with the same services, as is implied by many of the arguments raised by the established carriers. Rather we anticipate that the new carriers would be developing new services and would thereby expand the size of the total communications market. There may well be realinements of customers for specific services in accord with the types and degrees of specialization provided by different carriers. But any loss to the established carriers can be expected to occur only in terms of their relative share of the total communications market which would be served and not in terms of the volume of communications provided. Since the total communications market being served is likely to be increased, the existing carriers' volumes of traffic may increase at the same time that there is entry by the new carriers.[17] Moreover, the filings before us indicate that the special service markets are quite different from the standard toll telephone service. The existing communications network was established to meet the requirements of voice transmission in a market where consumer demands were generally similar. However, data users require not only a different application of communications technology, but also have requirements for services that are heterogeneous in character. For example, Datran proposes to construct digital technology transmission systems especially to meet data requirements. Other applicants, while proposing to use analog transmission techniques, propose to offer services with systems more closely designed to the requirements of transmitting digital and other nonvoice traffic. The applicants would be able to use systems that have not been engineered around the specialized requirements of voice traffic (such as sensitivity to steady line noise but relative insensitivity to impulse noise and phase distortion). Some may even offer systems totally optimized to the requirements of data transmission or other specialized traffic. In summary, the diversity that characterizes both the demand and the technology supports our conclusion that new entry in this field is reasonably feasible.

30. There appears to be an increasing public need and demand for the availability of diverse and flexible means for meeting heterogeneous communications requirements. Furthermore, the means for satisfying such needs are becoming available through rapid developments in communication, computer and related technologies. The information before us affords grounds for a reasonable belief that there is a substantial public need for the proposed services which is not now being adequately met by the established carriers. The computer inquiry showed that there was dissatisfaction on the part of the computer industry and by many data users who had been attempting to adapt their requirements to existing services.[18] Datran has persuasively stated the public need for rapid, accurate and low-cost data transmission, the drawbacks in using existing facilities engineered for voice and record transmission, and the advantages of a switched, all-digital network with end-to-end compatibility (see paragraphs 7–9 above). Moreover, the showings in the MCI applications (e.g., the Arthur D. Little and Spindletop studies) support the view that there is widespread interest in the types of specialized, private line services proposed by it and other applicants. The circumstance that so many applicants apparently believe that there are markets to be developed is also of some significance. By permitting the entry of specialized carriers, we would provide users with flexibility and a wider range of choices as to how they may best satisfy their expanding and changing requirements for specialized communication service.

31. We note in this connection that the applicants are in a disadvantageous competitive position vis-a-vis A.T. & T. insofar as prompt inauguration of the proposed services is concerned. Action on their applications may be delayed for some time by the necessity of resolving claims in petitions to deny, inter alia, that the showing of need is inadequate. Since A.T. & T. has numerous long line facilities, both cable and radio, and many diverse routes, it generally has enough flexibility and spare capacity to institute new services (at least on a limited scale) without having the immediate necessity of obtaining authorization for new or modified facilities. Therefore, A.T. & T. need only file a tariff in order to commence providing service on its authorized facilities. A.T. & T. is thus in a position to offer at any time services with many of the features proposed by the applicants, while challenging the showings of need made by would-be new entrants and claiming that hearings are required on their proposals.

32. There is also a question as to whether the existing carriers can meet the requirements in the specialized markets promptly, efficiently and effectively without prejudice to full and timely satisfaction of the increasing requirements of the public monopoly services. The responsibility for meeting the Nation's growing and changing communications requirements is now largely concentrated in the Bell System. This responsibility is becoming more and more difficult to discharge in a manner which enables the Bell System to satisfy timely and effectively all existing and anticipated communications requirements. This is partly because of the diversity of such requirements, the obvious problems of designing and engineering facilities capable of meeting all such requirements with equal efficiency, economy and expedition, and the huge and increasing amounts of new capital that the Bell System must raise for construction purposes. The entry of new carriers would have the effect of dispersing somewhat the burdens, risks and initiatives involved in supplying the rapidly growing markets for new and specialized services among a multiplicity of entrepreneurs who appear ready, willing and able to assume these undertakings. It would also expand the capability of the communications industry to respond to the challenge of meeting the rapidly growing and varied demands of communications users.

33. A.T. & T. claims that the entry of specialized carriers will result in the sacrifice of economies of scale and the incurrence of social costs. However, the achievement of any economies of large scale supply in particular facilities may be at the expense of potential economies in other directions. In order to realize large scale economies, a single supplier must conglomerate diverse functions and provide general standardized services, thereby foregoing potential economies of specialization that could be derived from serving a specialized portion of the market. During an era of relative stability in technology, characterized by markets with homogeneous demands, the efficiency of large scale, single supply is necessarily considerably greater than it is during an era of rapidly changing applications of improved technology and growing potential markets made up of diverse consumer demands. Any attempt to adapt facilities designed primarily to meet voice requirements to the quite

[15] About 87 percent of the Bell System's interstate revenue is from message toll telephone and wide area telephone service, and these services have an annual growth rate of 15 percent. It has been estimated that the existing plant of the Bell System will quadruple by 1980. See Statement of R. R. Hough, Vice-president, A.T. & T., before the FCC during continuing surveillance meetings, week of Sept. 8, 1969.

[16] In its report to the Commission in the computer inquiry (Docket No. 16979) Stanford Research Institute estimated that by 1980 10–50 percent of the Bell System plant may well be serving data users (as measured in terminal hours). However, A.T. & T. estimated that by 1980 data use will amount to only 5–10 percent of the peak network load.

[17] We note that despite the claims of potential adverse effects upon the established carriers that were made in the Carterfone case (13 FCC 2d 420), A.T. & T. Chairman Romnes stated in the 1968 Annual Report (page 4):

"Since customers now have more options in using the network, this should further increase usage and enhance the growth of our business. Competition in providing communications equipment that may be connected to the network will no doubt accelerate, but we are confident of our ability to meet the tests of the market. In the expanding structure of communications there is opportunity for all."

[18] For a summary of the responses of the computer industry and data users, see Report No. 2 of the Stanford Research Institute study in the computer inquiry (Docket No. 16979).

different requirements of data communications may entail such compromises in service as to leave both types of users dissatisfied,[19] and may vitiate the economies of scale the carriers postulate.

34. Further, while economies of scale may result when large general purpose transmission facilities can be used to meet relatively homogeneous communications requirements, there may be other drawbacks. The sheer size of the A.T. & T. organizational structure, its enormous financing requirements, its vertical integration, and near monopoly position in the provision of communications services may make it slower to perceive and respond to individual, specialized requirements and to initiate market and technical innovations.[20] Competition in the specialized communications field would enlarge the equipment market for manufacturers other than Western Electric, and may stimulate technical innovation and the introduction of new techniques. Moreover, new carriers with smaller scale operations could devote their undivided attention to the particular needs to be served and, lacking a captive market, would be under pressure to innovate to produce those types of services which would attract and retain customers.

35. In an industry of the size and growing complexity of the communications common carrier industry, the entry of new carriers could provide a useful regulatory tool which would assist in achieving the statutory objective of adequate and efficient services at reasonable charges. Competition could afford some standard for comparing the performance of one carrier with another. Moreover, competitive pressure may encourage beneficial changes in A.T. & T.'s services and charges in the specialized field, and stimulate counter innovation or the more rapid introduction of new technology. The Commission noted in its MCI decision the apparent response of A.T. & T. to MCI's proposal in modifying certain of its sharing provisions of its private line tariff offerings (18 FCC 2d 953, 961–2).

36. We are not persuaded that the allegation of "creamskimming" is well-founded or would justify a bar against new entry of the type proposed here. The concept of creamskimming assumes that the total potential market that could be served is actually being served by the established carriers and that they are responding to all changes in demand and technology at an optimum rate. It postulates that there is no room for a potential entrant without giving him part of the existing market and the only attraction to the potential entrant is the existence of the cream on the low-cost routes. But it appears that the principal attraction for the new applicants here is not the cream of the existing markets, but rather special service markets that have not been developed. As earlier mentioned, the entrants seek to expand the size of the total communications market in a manner that may benefit all communications users.

37. Further, the development of new markets must always take place gradually and begin in those particular submarket areas where maximum demand can be stimulated at minimum cost. This is the manner in which all new products and services are introduced, and it is practiced by the established carriers. When A.T. & T. developed its audio and video services during the 1948–58 period, it chose to serve only the larger population centers and not outlying areas. As a result the Commission authorized intercity relay facilities to broadcasters and to miscellaneous common carriers. More recently, A.T. & T. claims that the costs of high capacity microwave and cable facilities used between major cities justify its experimental Series 11,000 tariff which is applicable only between large cities. Further, A.T. & T. originally proposed plans to introduce interstate Picturephone service initially only between Pittsburgh's Golden Triangle area and lower Manhattan.[21]

38. Though claiming that the geographical scope of the applicants' proposals is too small,[22] the established carriers have not elected to specify any additional locations needing the proposed services at this time. The proposals now before us cover large sectors of the country, much larger than one might expect in initial proposals. Datran's proposed initial network is limited to 35 markets where the level of maturity of digital technology has created the greatest initial requirement for data transmission. However, it states that it plans ultimately to expand the system to serve all significant interstate as well as intrastate data transmission markets, "including residential subscribers as digital technology is extended to the home." As Datran points out, business and other institutions, rather than individuals, presently constitute the overwhelming majority of potential data transmission users and they are heavily concentrated in major metropolitan areas. We would not expect a system such as that proposed by Datran to be constructed on a total nationwide basis at one time, though we would anticipate orderly expansion and development of communications plant to meet evolving market demands.[23] Moreover, the combined routes of the applicants proposing specialized, private line services appear to cover the bulk of the major cities where customers for such services are apt to be concentrated, and they are proposing interconnection. We can reasonably expect applicants to propose extensions of their systems as their markets develop, and there is no indication of a cessation in the filing of new applications for special services in additional areas. Competition in the response to these new demands may result in mucht faster geographical extension of the services than would be the case if all markets were preserved for the established carriers. Finally, other customers could be reached by spur routes from these networks as demand develops, pursuant to Commission action under sections 201(a) and 214(d) if necessary in the public interest.

39. Assuming that the questions of interference and frequency blockage are satisfactorily resolved (see paragraphs 54–58 below), we see no real basis for the asserted fears that the authorization of specialized systems would affect rates for existing common carrier services or delay the planned construction of high-capacity systems in this decade. Preliminarily, we note that there appears to be a basic inconsistency between the claim of adverse impact and the contention that there is no public need for the proposed services. Clearly, if the applicants are unable to attract subscribers because their needs are being fully and satisfactorily met by established carriers, there can be no adverse impact. On the more reasonable premise that unmet public need exists, some diversion of existing and potential traffic may occur. On the

[19] A.T. & T., in effect, recognizes some shortcomings in the use of voice oriented facilities for data transmission in that it is gradually working toward digital transmission with the "evolutionary approach" necessitated by its existing plant. As Datran points out, it apparently recognized this need some time ago. An article entitled "Transmission Aspects of Data Transmission Service by Using Private Line Voice Telephone Channels" in the Bell System Technical Journal, November 1957, states that:

"The telephone network was developed for speech transmission, and its characteristics were designed to fit that objective. Hence, it is recognized that the use of it for a distinctly different purpose, such as data transmission, may impose compromises both in the medium and in the special service contemplated."

See also, "Transmission Across Town or Across the Country," Bell Laboratories Record (May/June 1969), pages 162, 167, to the effect that the use of digital transmission for voice may be more costly than analog transmission.

[20] In its report and order relating to the establishment of domestic communication-satellite facilities by nongovernmental entities, Docket No. 16495, March 24, 1970 (22 FCC 2d 86), the Commission took note that "A.T. & T. has stated that it views satellite transmission as another form of transmission similar in function to terrestrial microwave systems and coaxial cables, and that there are no communications services which could be offered by satellites which cannot now be offered by terrestrial facilities." (Paragraph 26, foot 7.) However, the Commission observed that:

"The most important value of domestic satellites at the present time appears to lie in their potential for opening new communications markets, for expanding the beneficial role of competition in the existing markets for specialized communication services, and for developing new and differentiated services that reflect the special characteristics of the satellite technology." (Paragraph 25.)

[21] A.T. & T. has since requested dismissal of its applications for authority to provide such service. However, it is offering Picturephone service in Pittsburgh.

[22] We note that the carriers cannot consistently claim both that there is no need for these specialized services and that the geographical scope of applicants' proposals is too small.

[23] Indeed, the Bell System and Western Union began on a modest basis and gradually evolved to their existing positions. Moreover, while the Bell System serves the bulk of the nation's population, it does not serve most small towns and rural areas.

other hand, the stimulative effect of the specialized services may actually increase the amount of traffic being carried by the established carriers (see paragraph 29). Moreover, to the extent that they provide local distribution service as proposed by some of the applicants, established carriers would also realize an increase in business. Established carriers would, of course, be free to compete on equal terms with the new entrants and might obtain a very substantial portion of the specialized communications market.[24] Indeed, their established position and the fact that they already provide various communications services to potential customers for the specialized services could very well afford them a competitive advantage over newcomers to the field (see also paragraph 31 above).

40. It is important to recognize that we are concerned with only a relatively small percentage of established common carrier service to the public.[25] For example, A.T. & T.'s present interstate business constitutes only about 30 percent of the Bell System's total business; about 87 percent of the interstate revenue is from message toll telephone and wide area telephone service (WATS), and these latter services have an annual growth rate of about 15 percent.[26] None of the applicants proposes to provide this type of service and we see no reason to expect any undesirable effects upon these services. An examination of A.T. & T.'s private line, program transmission and other more specialized services indicates that an estimate of the proportion of A.T. & T. services that is vulnerable to competitive in-roads would be on the order of 2–4 percent of its existing total business. Moreover, it has been estimated that the existing plant of the Bell System will quadruple by 1980.[27] Thus, it is difficult to see how a diversion (if, indeed, there is any diversion) of some portion of that comparatively small percentage of total business represented by interstate specialized services would have any substantial effect on telephone rates and service or delay or preclude whatever expansion of facilities is needed to accommodate the rapid growth in telephone traffic. In light of this and the estimate of A.T. & T. that by 1980 data will amount to only 5–10 percent of its peak network load, we cannot find merit in the argument that the high-capacity facilities which A.T & T. plans for the next decade are in any substantial or relative measure dependent upon a very substantial growth in data and specialized private line services of A.T. & T., far exceeding existing percentages, and would be made possible only by a denial of the applications before us.[28] Similarly, nothing before us warrants a conclusion that the uniform tariff policies of the established carriers would be endangered. It has not been shown that the rates of the new entrants would in fact be lower than Bell could justify with its uniform charging approach or that there is any real threat to the rates of the established carriers. In the event that adverse consequences to the public should develop, the Commission can take such action on the relevant tariff filings as may be necessary to protect the public. We think that in the context of the matters now before the Commission involving proposed new and different services, a question of this nature is more appropriately considered in connection with the tariffs rather than upon authorization of the facilities.

41. In addressing the question of pricing practices we must not overlook the possibility that the converse situation may arise. We refer to the possibility that the established carriers may file unduly low or discriminatory tariff schedules and thereby subject the new entrants who increase the competitive character of the market to unfair competition. In this connection we note that A.T. & T. could file tariffs which price its potentially competitive services below cost to prevent or limit entry and seek to recover the losses through cross-subsidy from its monopoly message toll telephone and WATS market. The Commission has already addressed itself to this problem by undertaking an examination of rate-making principles in Dockets Nos. 16258 and 18128. See also the Commission's report and order in the domestic satellite proceeding (Docket No. 16495), 22 FCC 2d 86, 96. The notice of proposed rule making in Docket No. 18703 (FCC 69–1140) looks toward an expansion of the scope of information available to the Commission at the time of proposed rate changes or new services by any major carrier. In addition, the Commission is expected to address itself further in the near future to this problem and to explore the feasibility of establishing rate-making standards which would identify cross-subsidization as well as policies directed to their prevention or elimination.

42. We turn now to a consideration of the other established carriers. First, there are the independent telephone companies. These are not engaged to any substantial degree in providing either interstate data or specialized private line services. Instead, for the most part, they are engaged in the provision of local exchange and other local services. They participate in interstate service primarily for the provision of the local distribution facilities. Under these circumstances it is difficult to visualize how they would be affected adversely by a grant of the pending applications. In fact, to the extent that these applicants rely upon or use existing local distribution facilities, their entry would increase the business of the independents.

43. The situation in the case of Western Union is different. Its revenues from leased systems and Telex account for about 30 and 15 percent, respectively, of its total revenues, with the remaining 55 percent coming from message telegraph service and other services. The potential impact upon Western Union is therefore greater than upon either the Bell System or the independents. Such potential impact must, however, be evaluated in the context of the overall public interest. First of all, as already set forth in detail, we are here concerned with the sharing of a new, relatively untouched market in a field where even the present demand is growing at a very rapid rate. Secondly, the proposed services are designed to meet demands not being satisfied by the current services of the established carriers. Moreover, we believe that this market will best be served by a competitive service of supply. Thirdly, we are primarily concerned with the provision of interstate facilities. In this connection, we note that Western Union for the most part does not use its own facilities, but instead acquires them largely by lease or rental from A.T. & T. In fact, there is no established pattern for the installation of new facilities by Western Union other than its recently filed applications for facilities over a route from Cincinnati to Atlanta. Finally, the Commission has just announced that it has instructed its staff to prepare a decision approving Western Union's application to purchase the Bell System TWX system with estimated annual revenues of $86 million for 1971. This in itself should, if the transaction is given final Commission approval, increase Western Union's annual revenues materially. In view of all of these factors, it is our conclusion that additional competition is reasonably feasible and that the foreseeable public benefits from the new services set forth above (see paragraphs 30–35) far outweigh the potential dangers to Western Union. In any event, there is no substantial showing that a grant of the applications would deprive the public of any services provided by Western Union which it is now enjoying and there are very substantial grounds for finding that numerous benefits in the way of new, different and less expensive services would result from a grant of the pending applications.

44. The most important safeguard, however, is the fact that the Commission

[24] A representative of Datran has stated that it expects to obtain only about 10 percent of the data market by 1980 (see Telecommunications Reports, Vol. 36, No. 20 (May 18, 1970), page 5).

[25] All of the applicants propose interstate facilities and services except three applicants in Texas, which, we understand, does not require State certification for intrastate service. Applicants proposing to operate where State or local authorization is required for intrastate service must, of course, obtain the necessary authorization prior to engaging in such service, and where proposed facilities are justified on the basis of intrastate service, local or state authorization must be obtained prior to the filing of microwave applications (see § 21.15(c)(4) of the rules).

[26] However, the telephone facilities may be used for the transmission of data (e.g., Dataphone). It has been estimated that about 200,000 of the present approximately 96 million telephones are Dataphones. The use of Dataphones is expected to increase.

[27] See Statement of R. R. Hough, vice president, A.T. & T., before the FCC during continuing surveillance meetings, week of Sept. 8, 1969.

[28] As earlier indicated (footnote 16 above), A.T. & T. has estimated that by 1980 data will amount to only 5–10 percent of its peak network load.

has ample power under the Communications Act to take such regulatory action as may be necessary in the public interest to avoid adverse impact on the achievement of statutory goals and, particularly, the basic purpose stated in section 1 of the Act. The Commission would, of course, not permit any degradation in overall services to the public or any impediment to the realization of their development. The results of any authorizations would be the object of close and continuous scrutiny by the Commission. Should adverse consequences develop or appear imminent, the Commission can take such remedial action or precautionary measures as may be necessary to protect the public. As indicated, appropriate action can be taken in connection with the tariffs. In addition, any renewal of license for the proposed facilities would require a public interest finding, and could be subject to any needed conditions. Moreover, the Commission's broad rule making powers are always available. Finally, we do not contemplate any protective umbrella to shield the competitors, except from predatory pricing and other unfair anticompetitive practices, or any artificial bolstering of operations that cannot succeed on their own merits.

45. In short, we have an opportunity now to see if the benefits that may reasonably be anticipated from entry of new carriers in this narrow field will in fact materialize. We can do so at what appears to be minimal risk. If we fail to explore this opportunity, the present situation in which one carrier dominates the entire domestic communications scene will continue indefinitely, and we are unlikely to know what the public may be missing. On balance, we think that the better course in the public interest is to apply longstanding precedent to the area of domestic microwave services and to open the door to realization of the possible advantages while keeping a watchful eye to avoid any adverse effect.

45a. Accordingly, inasmuch as it appears that additional competition is reasonably feasible in this burgeoning market and that the entry of new carriers may be expected to benefit the public by providing new and differentiated services, there is no need to designate the pending and anticipated applications for hearing on the broad issue of whether the public interest would be served by competition to the established carriers in the provision of specialized services or on the related contentions with respect to alleged duplication of facilities, the general question of the need for the new services and impact on uniform tariff policies and existing services. Interested persons may make as full a showing as they desire on this aspect in their comments in this proceeding, and the Commission will, of course, carefully consider all material submitted in arriving at policy determinations. However, we do recommend that the policy decisions made in the proceeding should be dispositive of such questions for purposes of these applications, in the absence of unusual and distinguishing circumstances.

45b. The foregoing paragraphs (25–45a) constitute the staff analysis of Question A, on which we request comment. The following proposals of the Commission on the remaining issues are premised on that analysis of Question A, and are accordingly subject to modification depending upon the resolution of that Question by the Commission.

B. CLAIMS OF MUTUAL EXCLUSIVITY ON ECONOMIC GROUNDS

46. In the event that the staff position on Question A is adopted by the Commission, another major question concerns the best procedures for dealing with the claims of mutual exclusivity among the applicants on economic grounds. The problem may be exemplified by the Pacific Coast applications. Both Datran and MCI have proposed Pacific Coast routes as part of their respective nationwide networks. In addition, at least five other applicants have proposed Pacific Coast routes to provide specialized private line services similar to those proposed by MCI. Leaving aside for the moment the alleged conflicts in frequency usage and assuming that most, if not all, of these problems can be resolved by other means, we question whether comparative hearings on issues of economic exclusivity are necessary or desirable in the public interest.

47. We think that Datran's proposed system should be considered separately. It alone has proposed a switched, occasional use, all digital, end-to-end network dedicated exclusively to data transmission. The other applicants have proposed to provide a variety of private line, point-to-point, specialized services, which may include data transmission but are primarily aimed at offering subscribers flexible, low cost communications channels adaptable to their own particular needs and requirements. While there may be mutual impact insofar as data transmission is concerned, we see enough difference between the two types of proposals to warrant a conclusion that the public would benefit by having both kinds of services available. Moreover, it does not presently appear that a grant of Datran's applications would preclude an opportunity for entry by MCI and others proposing private line services.

48. We are not confronted here with applications which seek to duplicate all or even a major portion of the services provided by the existing carriers or to enter a static market. Instead, the applicants seek to develop a relatively new and potentially very large market. The forecasts of the potential data transmission market indicate that competition among several competing carriers would be reasonably feasible. For example, Datran, which is proposing to invest some $349 million in its initial system, estimates that it will serve only about 10 percent of the data market by 1980. If this percentage of the potential data transmission market will support successful operations by Datran, there should be ample opportunity for other new entrants even assuming that the established carriers succeed in obtaining a substantial share of the remaining 90 percent of the data transmission market.

49. Moreover, as indicated, MCI and other applicants are proposing to provide other private line services besides data transmission. Their proposals are basically similar in that each is proposing to provide "customized" services tailored to the requirements of individual subscribers, i.e., to provide whatever the particular subscriber desires. The proposed services represent a significant departure from any service offered by the established carriers in that virtually all of the restrictions placed on use of the facilities are eliminated.[29] Various systems may develop along different lines, each offering something of value to the public which would attract sufficient customers for viable operations. The number of successful operations may well depend on the ingenuity, enterprise and initiative of applicants and equipment manufacturers over a period of years in taking advantage of changing circumstances and in coming up with the types of services and equipment that will attract sufficient business to support the particular system.

50. Under these circumstances where competition is reasonably feasible and affords great promise of substantial public benefits, we cannot conclude that the public interest would be served by selecting only one of the several applicants as a "chosen instrument" for new entry in a particular geographic area. We think that users should be provided with flexibility and a wide range of choices as to how they may best satisfy their expanding and changing specialized requirements. Since some of the applications may have been filed in anticipation that the applicant would obtain a monopoly position in any given geographic area (except from the established carriers), some of the applicants may combine or decide not to proceed as a matter of business judgment in view of our proposal to authorize multiple entry. As there is a potential demand sufficient to support several entrants, the failure of any one authorized applicant would not result from lack of potential customers but rather from its inability to anticipate and met public requirements. Accordingly, it does not appear that there would be a substantial loss or deterioration of service from the failure of such entrants. Instead, the demand for this type of communications service will undoubtedly be met by another entrant or an established carrier. In fact, if none of the new entrants is sufficiently effective and efficient to out-do his competitors and achieve successful operations, it will probably be because users can obtain either better service or lower charges from the established carriers.

50a. In the circumstances, it does not appear to us that comparative hearings would be either appropriate or effective

[29] Computers and Telecommunications: Issues in Public Policy, Mathison and Walker (Prentiss-Hall, Inc., 1970), pp. 184, 186–187.

at this stage. This is not to say, however, that it may not become necessary to take some future action (e.g., rule making or comparative hearings at license renewal time), if it should develop that the market is spread so thin among the new entrants as to jeopardize the availability and continuity of specialized service to the public, or otherwise adversely affect service to the public. By that point, we will have some basis in experience to assist in appraising the market potential, the number of systems that might be expected to be viable, the comparative abilities and performances of the new entrants, and the extent to which user requirements are being satisfied by the particular "customized" services that develop. Predictions now as to these dynamic factors would not, in our opinion, be substantially assisted by the evidentiary hearing process. In addition, the avoidance of lengthy comparative hearings at this stage will make available to the public at a much earlier date services which all the applicants claim, and we believe, are needed now.

50b. While we have used the Pacific Coast applications as an example, the same considerations are pertinent to other instances where more than one applicant has applied for routes in the same or nearby areas.[30] We are therefore proposing generally to consider each set of applications on its individual merits in determining whether a grant would serve the public interest. We do not propose to hold comparative hearings on claims of economic exclusivity unless there is a much stronger showing of exclusivity than those presently before us and we are persuaded that the public interest requires such action in the particular situation.

C. FREQUENCY AND ROUTE COORDINATION; SPECTRUM CONSERVATION

1. *Terrestrial versus satellite systems.* 51. The Commission is considering on its own motion one question which has not been raised in the applications or pleadings. Except for some stations, the applicants are generally proposing to use frequencies in the 6 GHz common carrier band (5,925–6,425 MHz), which is shared with the communications satellite service. In its report and order (22 FCC 2d 86) issued on March 24, 1970, in the domestic satellite proceeding (Docket No. 16495), the Commission stated that "there may be considerable difficulty in coordinating satellite earth stations with terrestrial systems in the 4 and 6 GHz bands without some readjustments by certain stations in the terrestrial networks." The technical criteria in Appendix D to that report require satellite system applicants to make interference calculations for each terrestrial station within the coordination distance contours including those proposed stations for which an application has been accepted for filing by the Commission. Moreover, for purposes of such coordination it is to be assumed that both the satellite and the terrestrial system will occupy continuously all frequencies allocated to the particular service band to which they are assigned. There is also the possibility of interference to terrestrial systems in the 6 GHz band resulting from scatter propagation.

52. We have considerable concern as to whether the 6 GHz band can fully accommodate all the existing, proposed and anticipated to be proposed uses by terrestrial and domestic satellite systems. However, we do not presently intend to decline to consider the instant applications for terrestrial use of the 6 GHz band on this ground. While these applications will complicate the earth station situation, the magnitude of the existing terrestrial use in some areas may pose a problem for satellite applicants in any event. We will not know how serious this problem may be until the applications for satellite systems have been filed and the earth station coordination studies have been considered. It is anticipated that some additional spectrum allocations for communications satellite service will result from the 1971 international space conference. As indicated in the report in Docket No. 16495 (footnote 3), if it appears from the domestic satellite applications that the use of the 4 and 6 GHz bands would be uneconomic because of the length of the terrestrial interconnection links for earth stations, consideration may have to be given to the use of such other bands as may be allocated for this service. Unless impossible or precluded by other compelling considerations, we think that established and new carriers competing in the provision of the proposed terrestrial services should not be placed in unequal positions insofar as access to frequency bands is concerned.

53. However, it appears desirable to incorporate in the rules at this time standards for protecting the satellites against interference from new terrestrial microwave facilities in the 6 GHz band. We are proposing to impose restrictions on the antenna orientation of microwave point-to-point stations operating in the 6 GHz band under Part 21 of the rules, which would be similar to recommendations of the CCIR to prevent interference to synchronous satellites. Such limitations would not permit transmitting antennas to be pointed within two degrees of the synchronous satellite orbit except under unusual circumstances and then with restrictions on the amount of power that could be radiated.

2. *Terrestrial frequency conflicts and route blockages.* 54. Aside from the question of terrestrial versus satellite system coordination, the applications and opposition pleadings raise issues as to conflicts in terrestrial frequency usage and spectrum conservation. The established carriers assert that the proposals of the applicants will cause interference to their existing systems and block or impede future expansion on existing microwave routes. There are also instances of frequency conflicts and potential interference among the applicants themselves.

55. We are not persuaded that the claimed frequency conflicts are irreconcilable. It has been our experience in processing microwave applications in the 6 GHz band, that frequency conflicts and routes blockages can be avoided in most, if not all, instances through coordination. It does not appear that most of the applicants have followed such a coordination procedure prior to filing their applications. While conflicts in the 6 GHz band may be unavoidable in some heavily congested areas even with careful frequency coordination and route planning, the 10.7–11.7 GHz band is also available now and frequencies above 17.7 GHz will probably be available for short hops once the allocations for the communications satellite service have been determined. If no frequencies can be found for some segments, there is always the alternative of wire or cable. In other words, while the present conflicts must be eliminated, we see no absolute technical bar to the effectuation of the applicants' proposed systems, though the economics may vary with the technique utilized.

56. While § 21.100 of the rules presently states that licensees and applicants shall cooperate in the selection and use of frequencies to minimize interference, there is no requirement for coordination to avoid interference or blockage of expansion on existing routes. We are proposing to amend our rules to require that prior to the filing of an application, the applicant shall coordinate with all existing (operating or authorized) common carrier microwave stations, and with the proposed microwave stations in all previously filed applications, in the proposed service area. Of course, applications which involve harmful interference to existing or authorized stations will not be considered until the frequency conflicts are removed. Applications which involve interference to proposed stations in previously filed applications would not be designated for comparative hearings unless: (1) The application is filed within the cut-off period for consideration with the earlier filed application, and (2) the Commission is satisfied that the frequency conflict cannot be resolved by reasonable measures by the later filing applicant. Comparative hearings on applications filed on the same date would be subject to requirement (2) above, except that the burden of resolving conflicts would lie equally on all the applicants. In the event that this rule making proposal is adopted, we would accord applicants with pending applications an opportunity to modify their applications to achieve compliance.[31] The original filing and cut-off dates would still be determinative of priority under the rules.

57. In this connection, we note with disapproval the practice of applying for the same sites and frequencies specified by a prior applicant without the consent of such applicant. Voluntary arrangements for sharing sites and equipment

[30] We note, however, that there may be even less basis for a claim of economic exclusivity where the applicants have proposed different intermediate service points.

[31] Applicants are encouraged to make efforts to remove conflicts and route blockages without awaiting the outcome of the rule making.

may offer advantages and are to be encouraged. However, it is manifestly unfair to the applicant who has undertaken the burden of engineering a system and obtaining options for sites, for another applicant simply to copy his proposal, in whole or in large part, and then claim mutual exclusivity. Applications of this nature will not be processed unless and until they are modified to reflect the applicant's own independent proposal which, insofar as possible, does not conflict with that of a prior applicant.

58. We are also of the view that an applicant should coordinate with established carriers so as to avoid blocking planned future expansion of existing microwave routes, to the extent practicable. Comments are requested as to whether standards for such protection should be prescribed and, if so, parties are invited to suggest appropriate standards. It would appear that the measure of protection might vary from carrier to carrier and depending on whether a particular route has high or low growth potential. There is also a question as to whether it is necessary or desirable to protect the potential for full development in the pertinent frequency band on all existing Bell System routes. We note that A.T. & T. makes the following statements in its petition to deny Datran's applications:

> * * * as the capacity of the existing Bell System routes is exhausted planned construction of high-capacity systems will furnish Bell companies with large numbers of additional circuits at a cost per channel well below those proposed to be incurred by Datran. * * * With normal growth, by the mid-1970's it will be economically justifiable to install L5 coaxial cable carrier systems (providing 150 master groups, equivalent to 90,000 voice channels) which will augment microwave and cable routes currently used at far less cost per voice channel mile. Systems of still greater capacity are expected to be available by 1980, which systems could again dramatically reduce the cost per voice channel mile.

If nonspectrum using systems will shortly be required on high density routes in any event, does this reduce the importance of preserving the opportunity for full development of such microwave routes in the interim?

3. *Frequency diversity and miscellaneous technical requirements.* 59. The contention that the proposed use of frequency diversity by most of the applicants is an inefficient and wasteful use of scarce spectrum, raises a further question as to whether or to what extent, if any, frequency diversity[32] should be permitted. Section 21.100 presently provides that "[f]requency diversity transmission will not be authorized in these services in the absence of a factual showing, in each case, that the required communications cannot practicably be achieved by other means." It has been our practice to authorize frequency diversity upon a showing that it is necessary to achieve the required reliability standards. We have accepted such showings on a system basis rather than requiring case-by-case justification. Such authorizations typically have been conditioned to permit withdrawal of frequency diversity without a hearing if the frequencies are later needed. However, it is obvious that once a route is designed and built utilizing frequency diversity, conversion to other methods of achieving reliability would be quite expensive. In view of the growing demand on the frequency spectrum along routes between major cities, it does not appear that we should continue the present policy with respect to frequency diversity, especially when there are other recognized methods, e.g. space diversity, for achieving high reliability where it is needed.

60. Datran and Interdata propose space diversity,[33] but most of the other applicants propose a 1 for 1 frequency diversity operation. The Bell System generally utilizes frequency diversity on a spare channel protection basis; in the 4 GHz band it uses a channel ratio of 1 (protection) for 5 (working), and in the 6 GHz band 1 for 3. Bell contends that a 1 for 1 frequency diversity as proposed by MCI and others would make wasteful and inefficient use of spectrum. We are inclined to agree. But further than that, we question the need for the continued wholesale use by all carriers of frequency diversity in the heavily used 4 and 6 GHz common carrier bands. As a method for reducing the impact of frequency diversity on these bands we are considering several approaches. The most effective remedy would be to eliminate frequency diversity altogether on new microwave routes.[34] Other approaches, admittedly less effective, involve the reduced use of diversity channels. On an across the board basis the ratio of protection channels to operating channels could be limited (e.g. 1 for 11 in the 4 GHz band, 1 for 6 in the 6 GHz band, and 1 for 3 in the 11 GHz band). Or we could restrict the use of frequency diversity only to those new routes where it has been demonstrated to our satisfaction that there are no reasonable alternate methods of obtaining the necessary reliability (primarily in terms of cost) and that the spectrum in the areas considered is not particularly crowded.[35] A further possibility would be to restrict frequency diversity to those new facilities that are shown likely to become part of a high density route (e.g. become a four channel route within 5 years). Carriers are requested to comment on these various approaches (or combination thereof) in a positive manner, recognizing that frequency congestion is likely to become severe in many areas and that we do not have the luxury of continuing to use frequency diversity without substantial limitations.

61. There are other, less important technical aspects of microwave transmission that may require regulatory action in order to promote more efficient use of spectrum and to improve the quality of service. We are proposing two changes which we believe will tighten transmission paths and reduce the chances for interference in areas where frequency assignments are congested. First, we propose to ban new passive reflectors where used in connection with "periscope" antennas. Systems utilizing periscope antennas are more susceptible to interference because of poor rejection of unwanted sidelobe radiation from other facilities located nearby. This makes it more difficult for additional facilities to be engineered on an interference free basis in an area where periscope antennas are being used. For similar reasons we are also proposing that the nominal diameter of parabolic antennas should not be less than 6 feet because it is more difficult to secure suppression of side lobes with smaller antennas.

D. QUALITY AND RELIABILITY OF SERVICE

62. In the event that we adopt the staff position on new common carrier entry in the specialized communications field, we believe that some measure of protection to the subscribers would be called for. Primarily, we are concerned that the prospective subscriber be accurately informed about the nature of the proposed service. The major components of the service the carrier is attempting to sell are: (1) Rates, (2) regulations and terms of service, and (3) quality and reliability. The first two items are usually clearly specified in the tariffs and are generally well understood by the prospective customer. However, quality and reliability of service may be poorly defined in the tariff and subject to misinterpretation, especially by the prospective subscriber.

63. We have considered, and tentatively decided against, proposing specific minimum standards of technical performance. We recognize that there may be a wide diversity of public needs, ranging from low-cost low-reliability service to a higher-cost higher-reliability service, and that a minimum performance floor might fail to satisfy the needs of many communications users. Therefore, we have tentatively concluded that the carriers should be free to design facilities and offer services to meet the varying market needs, but that the services should be fairly advertised as to quality and reliability. In an attempt to insure that the customer receives such service as is promised, we propose to require:

(a) That the applicant specify in standard terminology in his microwave application the proposed reliability of

[32] Frequency diversity may be defined as to two separate transmitters working on different radio frequencies by carrying the same modulation and using a single antenna system. For purposes here, we also include the use of a spare channel which may be switched into the path in lieu of the faded channel.

[33] Space diversity involves the use of separate receiving antennas which are spaced sufficiently far apart so that the signals from both have a low or negative correlation. In effect separate transmission paths are established, but no extra frequencies are used. Standby transmitters are often used to protect against equipment failures.

[34] As noted previously, the conversion of existing facilities employing frequency diversity to other diversity techniques (particularly space diversity) is not likely to be easily accomplished. Therefore, we are not at this time proposing the elimination of frequency diversity on existing systems.

[35] This case-by-case approach is somewhat similar to our earlier proposal in the microwave reliability proceeding in Docket No. 15130 (FCC 67-1072, Sept. 27, 1967).

service to the customer, to the extent that the nature of the proposed service is known;

(b) That the carrier be required to specify in his tariff, and notify the customer of, the precise reliability factors applicable to the particular service;

(c) That the carrier make refunds on a reasonable proportionate basis where the service rendered fails to meet the specified reliability standards; and

(d) That the carrier make periodic reports to the Commission concerning the reliability actually achieved, service complaints and refunds.

It is contemplated that these requirements would apply at this time to the provision of private line or other specialized services by all carriers.

64. We recognize that reliability may have different characteristics for various services, such as dedicated versus switched service or voice as compared to data. However, to the user reliability is generally stated in terms of the channel's availability for use when required and its ability to meet the requirements applicable to his specific use of the communications system. Service interruption or failure of reliability may reflect any of the following conditions:

(a) The complete loss of a channel occasioned by a failure in the microwave facilities.

(b) A degradation of signal level to a point below the level established for satisfactory operation of the customer's equipment.

(c) Circuit noise which would interfere with voice communication.

(d) Any condition that would adversely affect the error rate in data transmission.

65. We request comments on the development of standard statements of reliability quality factors for the various types of service. The statements should contain all pertinent data applicable to the particular use of the communication channel provided by the carrier and provide a base for measurement of the quality of service provided. We propose that the prospective customer should be supplied, at the time his business is solicited, a written statement or a copy of the applicable tariff terms which specifies the proposed quality and reliability of service, including the requirement for credits for below par service. To the extent possible, these factors should be expressed in terms which are easily understood by a nonexpert. We further propose that the carrier file quarterly reports with the Commission, based on records that log individual customer trouble conditions reported to the carrier, the time and date of such reports and remedial action taken, including the time when service was fully restored and the amount of credit to the customer, if any. The report should show the number of service complaints received during the 3-month period, the average clearing time and the total amount of customer refunds. It should also indicate the number of customers served by the carrier as of the last day of the quarterly reporting period.

E. LOCAL DISTRIBUTION FACILITIES

66. The final area of concern is the means for local distribution of the proposed services. Datran plans to construct its own facilities, using low-powered microwave equipment in the 11 GHz band and multipair cable to reach other subscriber locations in the vicinity of the microwave terminals. Other applicants proposing "end-to-end" service plan to negotiate with local carriers for complete loop service on behalf of their subscribers. Some applicants propose to offer subscribers the option of obtaining service from local carriers, furnishing their own loop facilities, or using loop facilities provided by the applicant. New York-Penn Microwave proposes to use 18 GHz frequencies for an entrance link to the center of Chicago and to negotiate with local carriers for the remaining loop to the subscriber's premises. While MCI plans initially to have its subscribers take care of loop service, it states that it may ultimately offer local loop facilities using 50 GHz frequencies or infrared transmission.

67. In the MCI case, the Commission retained jurisdiction over the interconnection issue, stating that an order requiring the established carriers to provide loop service would be issued unless it is shown that interconnection is not technically feasible (18 FCC 2d at 965; 21 FCC 2d at 193). The local exchange facilities of the Bell System and independent telephone companies presently constitute almost the sole means for local distribution of interstate common carrier services (apart from CATV and broadcast facilities). Western Union is almost entirely dependent on the Bell System for its local distribution. If access to local facilities is requested and needed by the applicants, we would expect the local carrier—Bell or other carrier—to permit interconnection or leased channel arrangements on reasonable terms and conditions to be negotiated with the new carriers. In other words, where a carrier has monopoly control over essential facilities we will not condone any policy or practice whereby such carrier would discriminate in favor of an affiliated carrier or show favoratism among competitors.[36] Customers of any new carrier should also be afforded the option by the local carrier to obtain local distribution facilities under reasonable terms set forth in the tariff schedules of the latter.

68. However, there appears to be some question as to the desirability of using the existing local exchange facilities for local distribution of some of the proposed services. The local exchange facilities of the telephone company are presently overburdened in a number of the largest cities. In challenging MCI's assertion that its proposal would alleviate present telephone service problems, A.T. & T. points out:

> Such problems as do exist are in switching and some local facilities. There is no scarcity of interstate transmission facilities. Significantly, MCI–N.Y. West proposes to duplicate trunk facilities, where no problem exists, and to depend upon the existing common carriers to provide the local facilities which its customers would require for end-to-end service.

Moreover, Datran claims that the use of local voice switching and circuit facilities for data transmission service places a burden on such facilities and that voice subscribers have, in effect, been paying a penalty for the sharing of these facilities with data transmission. In support of its contention that "the unusual hold times, peaking, and usage patterns accompanying data transmission impose a crippling burden on voice switching and circuit facilities," Datran cites a statement by a Bell System representative that:

> These lines are in use about eight times as much as the average business line. This increases the cost of central office switching equipment (Page 32, Exhibit 32, Direct Testimony of Mr. L. R. Stang, in Docket No. 55426, Application of Illinois Bell Telephone Rates Applicable to all Exchanges of the Company, before the Illinois Commerce Commission).

We note that a number of Bell System companies are before various State commissions seeking substantial increases in charges for information system access line (to provide direct access to the customer information system through local exchange facilities) on the ground that these are high usage lines. Datran claims further that the construction of new local distribution facilities is essential to its proposal, both to maintain the continuity of digital transmission and also since "existing data transmission service often provides subtantially reduced capability and reliability in total (or end-to-end) communications services because of the reduced transmission quality in local distribution circuits." [37]

69. In light of the foregoing and since some of the applicants are proposing new construction of local facilities by themselves and/or their customers, comments are requested on what would be the appropriate means for achieving local distribution of the proposed services. If new construction is necessary, the use of wire or cable is certainly one desirable avenue to be explored. We recognize that the use of radio may offer economies over wire or cable and save time, particularly in cities where underground construction would be required. A.T. & T. contends that Datran's proposed use of the 11 GHz band would be inappropriate for this purpose. While we are tentatively of the view that the 11 GHz band should be reserved for intercity use, comments are requested on the compatibility of using 11 GHz frequencies for intercity and

[36] See, e.g., report and order in Docket No. 16778, 12 FCC 2d 841; Final Report and Order in Docket No. 18509, 21 FCC 2d 307, 324–325; The Western Union Telegraph Co. v. United States, 217 F. 2d 579 (C.A. 2, 1954).

[37] The Commission has received a complaint from a Boston company to the effect that the operation of its computer is being adversely affected by line noise in the local exchange lines. We note that A.T. & T. states that in all major metropolitan areas most of the local central offices and toll switching offices have digital T–1 carrier facilities which are used for the provision of both voice and data services.

intracity transmission and what, if any, technical standards would be required to facilitate the accommodation of both. Comments are also requested on the feasibility of using 18 or 50 GHz frequencies for intracity distribution, or some other portion of the spectrum above 11 GHz.[38] There is a further question as to whether there should be more than one local system to distribute interstate signals within a particular metropolitan area. In the event that new construction is necessary, would it be preferable for this to be undertaken by the local telephone company or by another entity? To the extent that the telephone company may not perform this function, is it technically and economically feasible for each of the applicants and/or his customers to construct his own local loop facilities or would the public interest be better served by encouraging a sharing of facilities to the extent practicable? [39]

70. In short, while it may be comparatively easy to accommodate new intercity facilities, the matter of intracity distribution may prove to be more troublesome. None of the applicants has actually applied for local distribution facilities or submitted concrete proposals as to interconnection or the leasing of facilities. Applicants and other interested persons are requested to address this aspect fully in their comments, with particular attention to the technical feasibility and comparative costs of the various alternatives and the effect on charges to subscribers for end-to-end service.

III. Miscellaneous

71. The foregoing constitute the areas in which we are proposing to prescribe procedures and regulations. The parties may suggest other areas where the establishment of guidelines might assist in the case-by-case consideration of these applications, and are requested to address in their reply comments any suggestions submitted by others.

72. There is one further matter which warrants action at this time. As previously noted, the specialized common carrier applications have occasioned a tremendous number of opposition and reply pleadings and many more pleadings are expected to be filed in the future. In view of this proceeding it is obvious that the continuation of further pleadings in substantial numbers will not be helpful at this time. Moreover, a resolution of the issues in this proceeding would remove the necessity for addressing some of these questions in pleadings filed with respect to a particular set of applications. Therefore, we will order a moratorium on the filing of further pleadings. When we have resolved the policy and rule making issues in this proceeding or when we are prepared to consider any set of applications which is subject to further pleadings, an order specifying a schedule for filing such pleadings will be issued. We will continue to place new specialized common carrier applications and major amendments thereto on public notice for purposes of frequency coordination.[40] All applicants and existing carriers should continue to resolve frequency conflicts so that future pleadings can be eliminated or simplified.

73. Authority for the proposed procedures and rule making instituted herein and for the policies recommended by the staff is contained in sections 4 (i) and (j), 201, 202, 203(a), 214, 218, 219, 220, 301, 303, 307–309, and 403 of the Communications Act.

74. Interested persons may file comments on the foregoing matters on or before October 1, 1970, and reply comments on or before November 2, 1970. In reaching its decision in this matter, the Commission may also take into account any other relevant information before it, in addition to the comments invited by this notice. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, shall be furnished to the Commission. Parties should address themselves to the question of whether oral argument before the Commission en banc would assist in a resolution of this matter.

IV. Order

75. *It is ordered*, That the time for filing petitions to deny and other pleadings involving applications listed below or new applications by specialized carriers to provide services of this nature, which pleadings are not due as of the release date of this order, is hereby extended to a date to be specified by further order.

Adopted: July 15, 1970.

Released: July 17, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[41]

[SEAL] BEN F. WAPLE,
Secretary.

The following point to point microwave proposals from entities proposing to establish themselves as "specialized" common carriers are on file in the Domestic Radio Division of the Common Carrier Bureau as of June 25, 1970.

Interdata Communications, Inc.
File Nos. 3386/3396–C1–P–69.
Filed December 4, 1968.
Proposes 11 microwave stations for specialized, private line service between New York City and Washington, D.C. and intermediate points.

MCI-New York West, Inc.
File Nos. 1366/1430–C1–P–70.
Filed September 7, 1969.
Proposes 11 microwave stations for specialized, private line service between Chicago and New York City and intermediate points.

MCI Pacific Coast, Inc.
File Nos. 2445/2500–C1–P–70.
Filed November 3, 1969.
Proposes 56 microwave stations for specialized private line service between San Diego, California and Everett, Washington and intermediate points.

MCI North Central States, Inc.
File Nos. 2868/2883–C1–P–70.
Filed November 24, 1969.
Proposes 16 microwave stations for specialized private line service between Minneapolis and Chicago and intermediate points.

Data Transmission Co. (Datran).
File Nos. 2926/3169–C1–P–70.
Filed November 25, 1969.
Proposes 244 microwave stations in a major switched network for data transmission between 35 major cities from Boston to San Francisco.

New York-Penn Microwave Corp.
File Nos. 3216/3282–C1–P–70.
Filed November 28, 1969.
Proposes 67 microwave stations for specialized private line service between Chicago, Detroit, and New York City and intermediate points (competitive with MCI-New York West) to interconnect with New York-Penn Microwave Corp. filing of February 13, 1970.

MCI New England, Inc.
File Nos. 3392/3408–C1–P–70.
Filed December 11, 1969.
Proposes 17 microwave stations for specialized private line service Boston to New York and Boston to New Bedford, Mass.

MCI Michigan, Inc.
File Nos. 4320/4345–C1–P–70.
Filed February 6, 1970.
Proposes 26 microwave stations to provide customized communications service between Grand Rapids, Pontiac, Saginaw, and Detroit, Mich.; South Bend, Ind.; Toledo, Ohio; and intermediate points.

Western Tele-Communication, Inc.
File Nos. 4265/4290–C1–P–70.
Filed February 6, 1970.
Proposes 26 microwave stations for specialized communications service between San Diego, Calif., and Seattle, Wash., and intermediate points, to interconnect with Microwave Transmission Corp. for Los Angeles-San Francisco, Calif., portion of service.

Microwave Service Company, Inc.
File Nos. 4437/4501–C1–P–70.
Filed February 9, 1970.
Proposes 65 microwave stations for specialized communications service between San Diego, Calif., and Seattle-Everett, Wash., and intermediate points.

Southern Pacific Communications Co.
File Nos. 4502/4558–C1–P–70.
Filed February 9, 1970.
Proposes 57 microwave stations to provide specialized communications service between San Diego, Calif. and Seattle, Wash., and intermediate points.

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[38] In 1968, the Commission denied (12 FCC 2d 936) a petition by TelePrompTer Corp. for rule making to allocate 18 GHz frequencies for a high capacity, local distribution service for use in conjunction with CATV systems on the ground that piecemeal allocation of the higher spectrum would run counter to the public interest prior to a determination of communications satellite requirements and other potential uses, and would be inadvisable prior to the outcome of the 1971 international space conference on spectrum allocations. As preparation for the space conference progresses, it may prove possible to lift this freeze prior to that time.

[39] To some extent, similar questions were raised by Part V of the Commission's notice of proposed rule making and notice of inquiry in Docket No. 18397 (15 FCC 2d 417, 441–443). Pertinent material in comments filed in that proceeding will be considered here and need not be resubmitted.

[40] Carriers should notify applicants of claimed frequency conflicts and route blockages as soon as possible.

[41] Concurring statements of Commissioners Robert E. Lee and Johnson filed as part of original document; Commissioner Cox absent; Commissioner Wells concurring in the result.

Astron Corp.
File Nos. 4347/4402–C1–P–70.
Filed February 9, 1970.
Proposes 56 microwave stations for specialized communications service between San Diego, Calif. and Everett/Seattle, Wash.

Microwave Transmission Corp.
File Nos. 4422/4436–C1–P–70.
Filed February 9, 1970.
Proposes 15 microwave stations for specialized communications service on an interstate basis to interconnect at Los Angeles, Calif., and San Francisco, Calif., and proposed facilities of Western Tele-Communications, Inc.

New York-Penn Microwave Corp.
File Nos. 4616/4637–C1–P–70.
Filed February 13, 1970.
Proposes 22 microwave stations for specialized service between Washington, D.C., and Boston, Mass., and interconnection with previously filed (Dec. 28, 1969) New York-Penn Microwave Corp. applications for service between Chicago, Detroit, and New York City.

Mitran, Inc.
File Nos. 5703/5724–C1–P–70.
Filed March 31, 1970.
Proposes 22 microwave stations for specialized service between Minneapolis-St. Paul and Chicago, together with intermediate points.

United Video, Inc.
File Nos. 5726/5819–C1–P–70.
Filed March 31, 1970.
Proposes 94 microwave stations for data transmission service between Chicago/Minneapolis and Dallas and intermediate points.

CPI Microwave, Inc.
File Nos. 5881/5906–C1–P–70.
Filed April 2, 1970.
Proposes 26 microwave stations for data communications between Fort Worth-Dallas and Houston and intermediate points, all in the State of Texas.

MCI St. Louis-Texas, Inc.
File Nos. 5922/5963–C1–P–70.
Filed April 3, 1970.
Proposes 42 microwave stations for customized communications between St. Louis and Dallas and intermediate points.

MCI Texas East Microwave, Inc.
File Nos. 6066/6099–C1–P–70.
Filed April 10, 1970.
Proposes 34 microwave stations for specialized communications between the States of Texas and Louisiana.

West Texas Microwave Co.
File Nos. 6133/6163–C1–P–70.
Filed April 13, 1970.
Proposes 31 microwave stations for specialized communications between Fort Worth, Amarillo, and El Paso, Tex.

KHC Microwave Corp., doing business as United Video/Louisiana.
File Nos. 6496/6519–C1–P–70.
Filed April 14, 1970.
Proposes 24 microwave stations for data transmission system between Looneyville/Houston and New Orleans.

East Texas Transmission Co., doing business as United Video/Texas.
File Nos. 6869/6873–C1–P–70.
Filed April 14, 1970.
Proposes 5 microwave stations for data transmission system between Dallas and Jacksonville, Tex.

United Video, Inc.
File Nos. 6583/6651–C1–P–70.
Filed April 14, 1970.
Proposes 69 microwave stations for data transmission system between Chicago and New Orleans.

MCI Mid-Atlantic Communications, Inc.
File Nos. 6652/6688–C1–P–70.
Filed April 14, 1970.
Proposes 37 microwave stations for customized communications between Washington, D.C., and Atlanta, Ga.

Nebraska Consolidated Communications Corp.
File Nos. 6185/6314–C1–P–70.
Filed April 14, 1970.
Proposes 130 microwave stations for specialized communications between Minneapolis-St. Paul to Houston and Atlanta, includes major interim points. (14 states.)

Southern Pacific Communications Co.
File Nos. 6401/6495–C1–P–70.
Filed April 14, 1970.
Proposes 95 microwave stations for specialized communications between St. Louis and Los Angeles and intermediate cities.

MCI Kentucky Central, Inc.
File Nos. 6704/6737–C1–P–70.
Filed April 14, 1970.
Proposes 34 microwave stations for specialized communications between the States of Kentucky, Ohio, Indiana, Illinois, Tennessee, Georgia, and Alabama.

MCI Texas-Pacific, Inc.
File Nos. 6336/6399–C1–P–70.
Filed April 14, 1970.
Proposes 64 microwave stations for customized communications between Dallas, Tex., and Los Angeles, Calif.

Western Tele-Communications, Inc.
File Nos. 6776/6793–C1–P–70.
Filed April 14, 1970.
Proposes 18 microwave stations for customized communications between Los Angeles, Calif., and El Paso, Tex., and Hobbs, N. Mex.

MCI Mid-Continent Communications, Inc.
File Nos. 8235/8291–C1–P–70.
Filed June 12, 1970.
Proposes 57 microwave stations for customized communications in the States of Minnesota, South Dakota, Iowa, Nebraska, Colorado, Kansas, Missouri, and intermediate points.

Western Tele-communications, Inc.
File Nos. 8300/8326–C1–P–70.
Filed June 12, 1970.
Proposes 27 microwave stations for "Low cost customized" interstate communications between Denver, Colo.; Hastings, Lincoln, and Omaha, Nebr.; Sioux City, Iowa; and Sioux Falls, S. Dak.

Western Tele-communications, Inc.
File Nos. 8327/8358–C1–P–70.
Filed June 12, 1970.
Proposes 32 microwave stations for "Low cost customized" interstate communications between the cities of Denver, Dodge City, Wichita, Topeka, Tulsa, Oklahoma City, and Kansas City.

Western Tele-communications, Inc.
File Nos. 8292/8299–C1–P–70.
Filed June 12, 1970.
Proposes 8 microwave stations for "Low cost customized" interstate communications between Sioux Falls, S. Dak., and Minneapolis-St. Paul, Minn.

Associated Independent Telephone Microwave, Inc.
File Nos. 8379/8395–C1–P–70.
Filed June 12, 1970.
Proposes 17 microwave stations for data and private line communications between New Orleans and Houston and intermediate points, all within Louisiana and Texas.

Telephone Utilities Service Corp.
File Nos. 8296/8431–C1–P–70.
Filed June 12, 1970.
Proposes 36 microwave stations for private line data communications in the central Texas region.

Microwave Communications, Inc.
File Nos. 8359/8378–C1–P–70.
Filed June 12, 1970.
Proposes 20 microwave stations to expand their present route in customized communications to include Dubuque and Davenport, Iowa.

MCI Mid-South, Inc.
File Nos. 8691/8738–C1–P–70.
Filed June 19, 1970.
Proposes 48 microwave stations to provide specialized service between Atlanta, Birmingham, Memphis, Little Rock, Jackson, New Orleans, Mobile, and intermediate points.

As of June 25, 1970, total 1,713 stations.

[F.R. Doc. 70–9428; Filed, July 22, 1970; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DONALD GEORGE ANDERSON

Notice of Granting of Relief

Notice is hereby given that Donald George Anderson, Star Route, Box 298A, Merrifield, Minn., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by the reason of his conviction on February 9, 1938, in the District Court for the Fourth Judicial District, Hennepin County, Minn., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Donald G. Anderson because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Donald G. Anderson to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Donald G. Anderson's application and:

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

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

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

Signed at Washington, D.C., this 17th day of July 1970.

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

[F.R. Doc. 70-9513; Filed, July 22, 1970; 8:50 a.m.]

JESSIE LEE BOYETT

Notice of Granting of Relief

Notice is hereby given that Jessie Lee Boyett, Route 8, Box 865, Pensacola, Fla., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on November 4, 1965, in the U.S. District Court for the Northern District of Florida of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Jessie Lee Boyett because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Jessie Lee Boyett to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Jessie Lee Boyett's application and:

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

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

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

Signed at Washington, D.C., this 10th day of July 1970.

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

[F.R. Doc. 70-9515; Filed, July 22, 1970; 8:50 a.m.]

HENRY CAMPBELL, SR.

Notice of Granting of Relief

Notice is hereby given that Henry Campbell, Sr., 6213 Stanton St., Detroit, Mich. 48208, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 21, 1939, U.S. District Court, Birmingham, Ala., of a crime punishable by imprisonment for a term exceeding one year. Unless relief is granted, it will be unlawful for Henry Campbell, Sr. because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Campbell, Sr. to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Henry Campbell, Sr.'s application and:

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

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

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

Signed at Washington, D.C., this 10th day of July 1970.

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

[F.R. Doc. 70-9514; Filed, July 22, 1970; 8:50 a.m.]

JOHN ESTERS, JR.

Notice of Granting of Relief

Notice is hereby given that John Esters, Jr., Route 1, Box 118, Lewisville, Ark. 71845, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms

incurred by reason of his conviction on May 10, 1950, in the U.S. District Court, Texarkana, Western District of Ark., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for John Esters, Jr., because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Esters, Jr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered John Esters, Jr.'s application and:

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

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

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

Signed at Washington, D.C., this 15th day of July 1970.

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

[F.R. Doc. 70-9510; Filed, July 22, 1970; 8:50 a.m.]

LOWELL ELDON GIBSON

Notice of Granting of Relief

Notice is hereby given that Lowell Eldon Gibson, 922 Pleasant Hill Boulevard, Des Moines, Iowa, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 28, 1952, in the Polk County District Court, Des Moines, Iowa, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Lowell E. Gibson because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Lowell E. Gibson to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Lowell E. Gibson's application and:

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

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

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

Signed at Washington, D.C., this 15th day of July 1970.

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

[F.R. Doc. 70-9512; Filed, July 22, 1970; 8:50 a.m.]

FLOYD LEON JONES

Notice of Granting of Relief

Notice is hereby given that Floyd Leon Jones, Post Office Box 489, Waldron, Ark. 72958, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on May 13, 1957 in the U.S. District Court for the Western District of Arkansas, Fort Smith, Ark., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Floyd Leon Jones because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Jones to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Floyd Leon Jones' application and:

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

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

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

Signed at Washington, D.C., this 15th day of July 1970.

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

[F.R. Doc. 70-9509; Filed, July 22, 1970; 8:50 a.m.]

BENJAMIN FRANKLIN LOVELACE

Notice of Granting of Relief

Notice is hereby given that Benjamin Franklin Lovelace, 13852 Sandhurst Place, Santa Ana, Calif., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on October 6, 1942, in the District Court, Oklahoma County, Okla., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Benjamin Franklin Lovelace because of such convictions to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Benjamin Franklin Lovelace to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Benjamin Franklin Lovelace's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title

18, United States Code, or of the National Firearms Act; and

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

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

Signed at Washington, D.C., this 15th day of July 1970.

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

[F.R. Doc. 70-9508; Filed, July 22, 1970; 8:50 a.m.]

JAMES KENT SWICEGOOD

Notice of Granting of Relief

Notice is hereby given that James Kent Swicegood, 1112 Deborah Street, Dothan, Ala. 36301, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 24, 1962, in Houston County Circuit Court, Twentieth Judicial District of Alabama, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for James Kent Swicegood because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Swicegood to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered James Kent Swicegood's application and:

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

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

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

Signed at Washington, D.C., this 15th day of July 1970.

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

[F.R. Doc. 70-9511; Filed, July 22, 1970; 8:50 a.m.]

Office of the Secretary

STYRENE-BUTADIENE TYPE SYNTHETIC RUBBER FROM ITALY

Determination of Sales at Not Less Than Fair Value

JULY 16, 1970.

On May 28, 1970, there was published in the FEDERAL REGISTER a "Notice of Tentative Negative Determination" that styrene-butadiene type synthetic rubber manufactured by Anic, S.p.A., Milan, Italy, is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as the "Act").

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and requests to present oral views in connection with the tentative determination.

No written submissions or requests having been received, I hereby determine that, for the reasons stated in the tentative determination, styrene-butadiene type synthetic rubber manufactured by Anic, S.p.A., Milan, Italy, is not being, nor likely to be, sold at less than fair value (section 201(a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)) and § 153.33(c), Customs Regulations (19 CFR 153.33(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-9507; Filed, July 22, 1970; 8:49 a.m.]

DEPARTMENT OF DEFENSE

Department of the Army

INTERAGENCY CIVIL DEFENSE COMMITTEE

Boards and Committees

References: (a) Section 401 of the Federal Civil Defense Act of 1950, as amended, as affected by Reorganization Plan No. 1 of 1958, as amended; (b) Executive Order 10952, "Assigning Civil Defense Responsibilities to the Secretary of Defense and Others," dated July 20, 1961, as amended; (c) Executive Order 10958, "Delegating Functions Respecting Civil Defense Stockpiles of Medical Supplies and Equipment and Food," dated August 14, 1961; (d) Executive Order 11490, "Assigning Emergency Preparedness Functions to Federal Departments and Agencies," dated October 28, 1969; (e) BoB Circular A-63, "Management of Interagency Committees," dated March 2, 1964.

1. *Establishment.* There is hereby established, pursuant to references (a) and (b), the Interagency Civil Defense Committee (hereinafter referred to as the Committee) to aid in assuring that civil defense planning and operations, pursuant to references (c) and (d), within the executive branch will be in consonance with the civil defense plans, programs, and operations of the Secretary of Defense.

2. *Composition of the Committee.* a. The Chairman of the Committee shall be the Director of Civil Defense or his named representative.

b. All departments and agencies of the Federal Government having civil defense responsibilities under references (c) and (d) are invited to be represented on the Committee.

c. The Office of Emergency Preparedness is being invited to participate by designating observers.

3. *Responsibilities and functions*—a. *Responsibilities.* (1) The Committee shall advise the Director of Civil Defense in carrying out his responsibilities (reference (b)) in the field of civil defense.

(2) The Chairman shall be responsible for the conduct of Committee activities, shall provide secretariat services, and shall coordinate the work of the Committee with the activities of other Government agencies and interagency groups having responsibilities in the field of emergency preparedness.

b. *Functions.* Committee functions include, but are not limited to:

(1) Promoting cooperation among Federal agencies in the prosecution of civil defense objectives.

(2) Reporting on civil defense developments at national, State, and local levels.

(3) Coordinating and correlating civil defense planning and program implementation at the Federal level.

(4) Recommending measures to assure maximum utilization of the capabilities and technical competence of the Federal establishment to provide for a more effective civil defense system at Federal, State, and local levels.

(5) Advising on policy guidance governing implementation of civil defense plans and operational procedures and on such other matters as the Chairman may request.

4. *Committee management and reports*—a. *Management.* (1) The Chairman, or his named representative, shall administer activities of the Committee in accordance with BoB Circular A-63, "Management of Interagency Committees," and applicable DoD directives.

(2) The Management Division, under the Assistant Director of Civil Defense (Management), shall be responsible for maintaining committee management files as prescribed in attachment to BoB Circular A–63.

b. *Reports.* Information on the Committee shall be included in annual reports on interagency committees, as required by BoB Circular A–63 and applicable DoD directives.

5. *Duration of Committee.* The Committee shall continue in existence until June 30, 1972, or whenever the mission is completed, whichever is earlier.

6. *Cancellation.* Notice of establishment of Interagency Civil Defense Committee published July 19, 1967 (29 F.R. 10671), and notice of continuance of the Committee published September 6, 1968 (33 F.R. 12680), are hereby canceled.

JOHN E. DAVIS,
Director of Civil Defense.

[F.R. Doc. 70–9463; Filed, July 22, 1970; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands; Correction

JULY 15, 1970.

In F.R. Doc. 70–8722 filed July 8, 1970, appearing on page 11062 of the issue for July 9, 1970, the following correction should be made:

In column 2, paragraph 7, "San Bernardino National Forest" should read: "Los Padres National Forest."

WALTER F. HOLMES,
Assistant Land Office Manager.

[F.R. Doc. 70–9482; Filed, July 22, 1970; 8:47 a.m.]

[S–965]

CALIFORNIA

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

JULY 16, 1970.

The notice appearing in F.R. Doc. 68–664, pages 704 and 705, of the issue of January 19, 1968, is changed as follows:

Paragraph 4: Add the following described lands to provide for their segregation from the mining laws but not the mineral leasing laws, totaling approximately 995 acres of public lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

SAN BENITO COUNTY

All public lands in:
T. 18 S., R. 11 E.,
Sec. 1, S½S½SW¼;
Sec. 10, S½SE¼SE¼;
Sec. 11, lots 3 and 4, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 12, lots 1, 2, and 3;
Sec. 14, N½NW¼NW¼;
Sec. 15, N½NE¼ and E½NE¼NW¼.
T. 18 S., R. 12 E.,
Sec. 7, lot 2, S½SW¼NE¼, SE¼NE¼, SE¼NW¼, N½NE¼SW¼, and N½N½SE¼;
Sec. 8, lots 5, 7, and 9, and N½NW¼SW¼;
Sec. 9, lots 14, 15, 16, and 17.

All the above-described lands are found to have high recreational values and require the protection of the above segregations. Public comments and the record of public discussion on the additional segregations are of record in the Folsom District Office.

For a period of 30 days from the date of publication of this notice of amendment in the FEDERAL REGISTER, the classification amendment shall be subject to the exercise of administrative review and modification by the Secretary of the Interior.

J. R. PENNY,
State Director.

[F.R. Doc. 70–9483; Filed, July 22, 1970; 8:48 a.m.]

[Serial No. I–2836]

IDAHO

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

Correction

In F.R. Doc. 70–8247 appearing at page 10599 in the issue of Tuesday, June 30, 1970, in the first column on page 10600 the third line under "T. 13 S., R. 21 E." should read as follows:

Sec. 4, lot 4, S½N½, E½SE¼;

[OR 4877]

OREGON

Notice of Classification of Public Lands for Multiple-Use Management

JULY 17, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Part 2461, all of the public lands within the areas described in paragraph 3 are classified for multiple-use management. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating (a) all public lands described in paragraph 3 from appropriation under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. Sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171), and (b) the lands described in paragraph 4 are further segregated from appropriation under the mining laws (30 U.S.C., Ch. 2). The lands shall remain open to all other applicable forms of appropriation.

3. The public lands affected by this classfication are located within Jackson, Josephine, Douglas, and Curry Counties and are shown on maps on file in the Medford District Office, Bureau of Land Management, Medford, Oreg. 97501, and the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg. 97208. The maps are desgnated OR 4877, 2411.2, 36–110, April 1969.

The description of the areas is as follows:

WILLAMETTE MERIDIAN

T. 32 S., R. 1 E.,
Sec. 30.
T. 33 S., R. 1 E.,
Secs. 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 28, 30, and 32.
T. 34 S., R. 1 E.,
Secs. 2, 4, 6, 8, 10, 14, and 18.
T. 35 S., R. 1 E.,
Secs. 3, 6, 8, 10, 18, 20, 22, 26, 28, and 34.
T. 36 S., R. 1 E.,
Secs. 4, 6, 12, 14, 20, 22, 26, 28, 32, and 34.
T. 37 S., R. 1 E.,
Secs. 2, 4, 10, 12, 14, 24, and 26.
T. 38 S., R. 1 E.,
Secs. 12 and 24.
T. 39 S., R. 1 E.,
Sec. 17.
T. 40 S., R. 1 E.,
Sec. 12, NW¼;
Sec. 28, SW¼;
Sec. 30, lot 3, E½SW¼, and NW¼SE¼;
Sec. 32, NW¼NW¼.
T. 41 S., R. 1 E.,
Sec. 2, SE¼SW¼;
Sec. 10, NW¼NW¼;
Sec. 12, S½SE¼;
Sec. 14, lots 3 and 4;
Sec. 18, lot 6.
T. 32 S., R. 2 E.,
Secs. 20 and 32.
T. 33 S., R. 2 E.,
Secs. 1, 4, 6, 8, 12, 18, 24, 26, and 30.
T. 35 S., R. 2 E.,
Secs. 17, 20, 30, and 32.
T. 36 S., R. 2 E.,
Secs. 2, 4, 6, 8, 12, 14, 22, 26, and 34.
T. 37 S., R. 2 E.,
Secs. 2, 10, 12, 14, 18, 20, 22, 27, and 32.
T. 38 S., R. 2 E.,
Secs. 6, 8, 18, 26, and 34.
T. 39 S., R. 2 E.,
Secs. 2, 4, 10, 12, 22, 24, 26, and 28.
T. 40 S., R. 2 E.,
Secs. 10, 12, 14, 20, 24, 26, and 32.
T. 41 S., R. 2 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, and 18.
T. 32 S., R. 3 E.,
Sec. 18, lot 9;
Sec. 19, lots 8, 9, 10, and 16.
T. 36 S., R. 3 E.,
Secs. 20 and 32.
T. 40 S., R. 3 E.,
Secs. 6, 10, 18, 20, 26, 28, 30, 32, and 34.
T. 41 S., R. 3 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, and 18.
T. 39 S., R. 4 E.,
Secs. 6, 22, and 32.
T. 40 S., R. 4 E.,
Secs. 4, 20, 22, 30, and 32.
T. 41 S., R. 4 E.,
Secs. 2, 4, 6, 8, 10, 12, 14 and 18.
T. 39 S., R. 1 W.,
Sec. 20, portion of SW¼.
T. 34 S., R. 1 W.,
Secs. 2, 10, 12, 14, 18, 24, 26, and 34.
T. 35 S., R. 1 W.,
Sec. 24.
T. 37 S., R. 1 W.,
Sec. 10.
T. 38 S., R. 1 W.,
Sec. 30.

T. 39 S., R. 1 W.,
Secs. 1, 3, 4, 8, 12, 13, 14, 23, and 24.
T. 33 S., R. 2 W.,
Sec. 12.
T. 34 S., R. 2 W.,
Secs. 4, 10, 12, 20, 22, 24, 26, and 34.
T. 35 S., R. 2 W.,
Secs. 6, 8, 9, 18, and 34.
T. 36 S., R. 2 W.,
Secs. 18 and 19.
T. 37 S., R. 2 W.,
Secs. 6, 8, and 31.
T. 38 S., R. 2 W.,
Secs. 10, 28, 30, and 32.
T. 39 S., R. 2 W.,
Secs. 4, 6, 8, and 18.
T. 31 S., R. 3 W.,
Sec. 26, N½SW¼;
Sec. 31, E½NE¼.
T. 33 S., R. 3 W.,
Secs. 30 and 32.
T. 34 S., R. 3 W.,
Secs. 22, 24, 26, 32, and 34.
T. 35 S., R. 3 W.,
Secs. 4, 6, 8, 10, 11, 12, 17, 18, 20, 22, 26, 29, 30, 34, and 35.
T. 36 S., R. 3 W.,
Secs. 2, 4, 6, 10, 11, 12, 14, 18, 20, 24, 28, 30, 33, 34, and 35.
T. 37 S., R. 3 W.,
Secs. 1, 2, 4, 5, 6, 8, 10, 12, 18, 20, 22, 25, 26, 27, 32, 34, and 35.
T. 38 S., R. 3 W.,
Secs. 1 to 4, inclusive, secs. 12, 29, 32, and 34.
T. 39 S., R. 3 W.,
Sec. 1.
T. 40 S., R. 3 W.,
Sec. 12, SE¼NW¼, N½SW¼, and NW¼SE¼.
T. 41 S., R. 3 W.,
Sec. 2, W½NW¼;
Sec. 4, NW¼;
Sec. 6, N½NE¼, SE¼NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 8, N½;
Sec. 18, lots 6, 7, 8, and 9.
T. 32 S., R. 4 W.,
Sec. 8.
T. 33 S., R. 4 W.,
Secs. 6, 22, 28, and 30.
T. 34 S., R. 4 W.,
Secs. 8, 10, 14, 15, 22, 30, and 32.
T. 35 S., R. 4 W.,
Secs. 24, 26, 28, 33, and 34.
T. 36 S., R. 4 W.,
Secs. 2, 4, 8, 10, 12, 17, 18, 20, 22, 24, 26, 28, 32, and 34.
T. 37 S., R. 4 W.,
Secs. 1, 2, 4, 6, 10, 12, 13, 14, 18, 19, 20, 22, 30, 31, 32, and 34.
T. 38 S., R. 4 W.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 25, 26, 28, 30, 32, and 34.
T. 41 S., R. 4 W.,
Sec. 2, SE¼NE¼ and NW¼NW¼;
Sec. 4, NE¼NE¼;
Sec. 6, lots 1 and 2, NW¼NE¼, and NE¼NW¼;
Sec. 12, NW¼, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 14, lots 5, 6, 7, and 8;
Sec. 18, lot 5 and NE¼NE¼.
T. 32 S., R. 5 W.,
Secs. 2, 10, 25, 34, and 35.
T. 33 S., R. 5 W.,
Secs. 6, 8, 9, 11, and 15.
T. 34 S., R. 5 W.,
Secs. 2, 4, 5, 6, 8, 13, 14, 18, 20, 22, 24, 28, 29, 30, and 32.
T. 35 S., R. 5 W.,
Secs. 2, 3, 4, 8, 10, 18, 20, 22, 26, 28, 32, and 34.
T. 36 S., R. 5 W.,
Secs. 2, 4, 10, 11, 12, 14, 15, 26, 27, and 34.
T. 37 S., R. 5 W.,
Secs. 8, 9, 10, 12, 14, 15, 18, 20, 22, 24, 25, 26, 28, 30, and 34.
T. 38 S., R. 5 W.,
Secs. 6, 8, 10, 15, 17, 18, 20, 21, 22, 24, 25, and 30.
T. 39 S., R. 5 W.,
Secs. 2, 6, 12, and 14.
T. 32 S., R. 6 W.,
Secs. 10, 14, 18, 20, 22, 24, and 34.
T. 33 S., R. 6 W.,
Secs. 2, 6, 10, 18, 20, 24, 26, 32, and 34.
T. 34 S., R. 6 W.,
Secs. 20, 22, 24, and 26.
T. 35 S., R. 6 W.,
Secs. 12, 14, and 30.
T. 36 S., R. 6 W.,
Secs. 4, 8, and 30.
T. 37 S., R. 6 W.,
Secs. 8, 24, 26, 28, 30, 32, and 34.
T. 38 S., R. 6 W.,
Secs. 12 and 18.
T. 32 S., R. 7 W.,
Secs. 18, 19, 20, 24, 27, 28, 30, and 33.
T. 33 S., R. 7 W.,
Secs. 10, 14, 18, 19, 24, 26, 30, 32, and 34.
T. 34 S., R. 7 W.,
Secs. 1, 2, 4, 6, 10, 12, 14, 18, 20, 22, 30, and 32.
T. 35 S., R. 7 W.,
Secs. 4, 5, 6, 8, 10, 12, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 36 S., R. 7 W.,
Secs. 2, 3, 10, and 12.
T. 37 S., R. 7 W.,
Secs. 4, 12, 20, 22, 25, and 34.
T. 38 S., R. 7 W.,
Secs. 2, 6, 7, 14, 20, 22, and 26.
T. 39 S., R. 7 W.,
Secs. 2, 4, 7, 8, 10, 12, 14, 18, 20, 26, 34, and 35.
T. 40 S., R. 7 W.,
Secs. 1, 3, 4, 8, 9, 10, secs. 12 to 15, inclusive, and secs. 17 and 18.
T. 31 S., R. 8 W.,
Secs. 20, 30, and 32.
T. 32 S., R. 8 W.
Secs. 8, 12, and 14.
T. 35 S., R. 8 W.,
Sec. 1.
T. 37 S., R. 8 W.
Sec. 34.
T 38 S., R. 8 W.,
Secs. 4, 21, 26, 28, and 34.
T. 39 S., R. 8 W.,
Secs. 6, 14, 18, 24 30, and 34.
T. 40 S., R. 8 W.
Secs. 10, 15, secs. 18 to 24, inclusive, secs. 26, 27, 28, and secs. 32 to 35, inclusive.
T. 41 S., R. 8 W.,
Secs. 3 and 10.
T. 31 S., R. 9 W.,
Sec. 31.
T. 41 S., R. 9 W.,
Secs. 2, 3, 9, 10, and secs. 12 to 15, inclusive.
T. 33 S., R. 10 W.,
Sec. 3, lot 4;
Sec. 9, part of lot 4.

The areas described aggregate approximately 97,968.31 acres of public lands.

4. As provided in paragraph 2, the following described public lands, which are a part of the lands described in paragraph 3, are further segregated from location or appropriation under the general mining laws:

WILLAMETTE MERIDIAN

T. 35 S., R. 7 W.,
Sec. 26, SW¼SE¼.

The area described contains approximately 40 acres.

This land is adjacent to the Rogue River which is included in the Wild and Scenic Rivers Act of October 2, 1968 (Public Law 90–542, 82 Stat. 906).

5. No adverse comments were received following publication of the notice of proposed classification (35 F.R. 5632–5633) or at the public hearings held at Medford May 7, 1970, and Grants Pass May 8, 1970. The record showing the comments received and other information is on file and can be examined in the Medford District Office, Medford, Oreg.

6. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2462.3. Interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240, for a period of 30 days following publication of this notice.

ARTHUR W. ZIMMERMAN,
Acting State Director.

[F.R. Doc. 70-9484; Filed, July 22, 1970; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 406]

HANS BORKMANN ET AL.

Order Denying Export Privileges

In the matter of Hans Borkmann doing business as Hans Borkmann Import-Export and Hans Borkmann Elektronik, Postfach 548, 2 Hamburg 52, Federal Republic of Germany; respondent.

By charging letter dated April 27, 1970, the above respondent was charged by the Director, Investigations Division, Office of Export Control with a violation of the Export Control Act of 1949[1] and regulations thereunder. The charging letter was duly served and the respondent failed to answer, and pursuant to § 388.4(a) of the Export Control Regulations he was held to be in default.

The charging letter in substance alleges that respondent, in violation of an order denying export privileges for an indefinite period issued against him on October 21, 1969, participated in negotiations with a U.S. supplier to obtain electronic equipment; that he evaded the prohibitions of the denial order by soliciting and procuring the assistance of an intermediary to obtain the equipment, and that he ordered other commodities from a second U.S. supplier.

Prior to the issuance of the charging letter an order temporarily denying export privileges for 45 days was issued on March 24, 1970, against respondent (35 F.R. 5594). This order was extended on

[1] This Act has been succeeded by the Export Administration Act of 1969, Public Law 91–184, approved Dec. 30, 1969. 50 U.S.C. App. sec. 2401–2413. Section 13(b) of the new Act provides, "All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 * * * shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act."

May 5, 1970, until the completion of administrative compliance proceedings (35 F.R. 7316).

The case was referred to the Compliance Commissioner and evidence in support of the charges was presented to him. The Compliance Commissioner considered the evidence and has reported the findings of fact and findings that violations occurred, and he recommended that a sanction denying export privileges as hereinafter set forth be imposed.

After considering the record I confirm and adopt the findings of fact of the Compliance Commissioner which are as follows:

Findings of fact. 1. The respondent, Hans Brokmann, is engaged in the import-export business in Hamburg, Federal Republic of Germany, and has at times done business as Hans Borkmann Import-Export and Hans Borkmann Elektronik.

2. On October 21, 1969, the Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, issued an order against respondent, effective October 28, 1969, denying all U.S. export privileges for an indefinite period because of respondent's failure to furnish responsive answers to interrogatories served upon him in connection with an investigation conducted under the Export Control Act of 1949. This order was published in the FEDERAL REGISTER on October 28, 1969 (34 F.R. 17395), and a copy thereof was served on respondent early in November 1969.

3. The said denial order, among other things, prohibited respondent from participating, directly or indirectly, in any transaction involving commodities exported or to be exported from the United States. More particularly said order, among other things, prohibited respondent from participating, directly or indirectly, in carrying on negotiations with respect to, or in receiving, ordering and buying commodities exported or to be exported from the United States or in participating in the financing or other servicing of such commodities.

4. In August and September 1969 respondent ordered from a U.S. supplier 10 items of electronic equipment having an aggregate value of approximately $6500.

5. After respondent was served with a copy of the indefinite denial order of October 21, 1969 (referred to in Finding of Fact 2), and notwithstanding the prohibitions thereof he carried on negotiations with the U.S. supplier from November 21, 1969, until February 6, 1970, for the purpose of obtaining delivery of the commodities in question. He also urged the U.S. supplier to export the commodities to him in West Germany.

6. The respondent sought to evade the prohibitions of the indefinite denial order of October 21, 1969, by having a third party in West Germany act as intermediary to receive the commodities on his (respondent's) behalf.

7. The respondent in violation of the probibitions of the indefinite denial order of October 21, 1969, participated in the financing of the purchase of the above mentioned commodities in that on or about January 13, 1970, through a bank in Hamburg, West Germany, he opened a letter of credit in favor of the U.S. supplier to pay for the said commodities.

8. The respondent in violation of the prohibitions of the denial order of October 21, 1969, on November 20, 1969, ordered from a second U.S. supplier 12 antennas valued at $84.

Based on the foregoing I have concluded that respondent violated § 387.4 of the Export Control Regulations and the denial order of the Bureau of International Commerce dated October 21, 1969, in that he carried on negotiations with respect to the ordering and receiving of commodities to be exported from the United States with knowledge that such conduct was prohibited by the terms of said denial order; §§ 387.2 and 387.3 of said regulations in that he knowingly solicited and procured the assistance of an individual in West Germany to order and attempt to buy U.S.-origin commodities in violation of said denial order.

Now, after considering the record in the case and the report and recommendation of the Compliance Commissioner and being of the opinion that his recommendation as to the sanction that should be imposed is fair and just and designed to achieve effective enforcement of the law: *It is hereby ordered:*

I. This order is effective forthwith and supersedes the temporary denial order issued against the above respondent on March 24, 1970 (35 F.R. 5594), and extended on May 5, 1970 (35 F.R. 7316), but the terms and restrictions of said temporary order are continued in full force and effect.

II. Except as qualified in paragraph IV hereof, the respondent for the period of 5 years is hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent and to the firm names under which he does business, but also to his representatives, agents, and employees, and also to any person, firm, corporation, or other business organization with which he now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. One year after the date of this order the respondent may apply to have the effective denial of his export privileges held in abeyance while he remains on probation. Such application as may be filed shall be supported by evidence showing respondent's compliance with the terms of this order and such disclosure of his import and export transactions as may be necessary to determine his compliance with this order. Such application will be considered on its merits and in the light of conditions and policies existing at that time. The respondent's export privileges may be restored under such terms and conditions as appear to be appropriate.

V. During the time when the respondent is prohibited from engaging in any activity within the scope of Part II hereof, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with the respondent, or whereby the respondent may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

Dated: July 16, 1970.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 70-9462; Filed, July 22, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 0184NV]

PENICILLIN, STREPTOMYCIN, VITAMIN PREPARATIONS

Drugs for Veterinary Use; Drug Efficacy Study Implementation

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

1. Vistrepcin; each lb. contains 1,750,000 units procaine penicillin G, 4 grams streptomycin base (as streptomycin sulfate), 400 milligrams riboflavin; 600 milligrams calcium pantothenate, 1.4 grams niacin; 1 milligram vitamin B_{12} activity, 100,000 I.U. vitamin A (palmitate oil), and 100,000 I.U. vitamin D_3; by Diamond Laboratories Inc., Box 863, Des Moines, Iowa 50304.

2. Vistrepcin 5X; each lb. contains 5 million units procaine penicillin G; 15.0 grams streptomycin base (as streptomycin sulfate); 2 grams riboflavin, 3 grams calcium pantothenate, 7 grams niacin, 5 milligrams vitamin B_{12} activity, 500,000 U.S.P. units vitamin A (palmitate oil), and 500,000 I.C. units vitamin D_3; by Diamond Laboratories Inc.

The Academy evaluated these drugs as probably not effective as a water dispersible antibiotic-vitamin powder for anteric infections in calves and swine and for complicated chronic respiratory disease and blue comb in turkeys and chickens.

The Academy's evaluation was based on the following:

1. Substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination.

2. Information is needed to document the value of vitamins in the preparations.

3. The disease claims for streptomycin must be restricted to diseases involving the gastrointestinal tract because of its chemical and pharmacological properties.

4. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)." If the disease cannot be so qualified the claim must be dropped.

5. The manufacturer's label should warn that treated animals must actually consume enough medicated water to provide a therapeutic dose under the conditions that prevail. As a precaution, the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparations in drinking water.

The Food and Drug Administration concurs in the Academy's findings.

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

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

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

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturer of the listed drugs has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 14, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9478; Filed, July 22, 1970; 8:47 a.m.]

[DESI 11437NV]

PREDNISOLONE SODIUM PHOSPHATE—NEOMYCIN SULFATE OPHTHALMIC OINTMENT

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Hydeltrone; each gram contains prednisolone sodium phosphate equivalent to 2.5 milligrams prednisolone 21 phosphate, and 5 milligrams of neomycin sulfate (equivalent to 3.5 milligrams neomycin base); Merck Chemical Division, Merck & Co., Inc., Rahway, N.J. 07065.

The Academy evaluated this product as effective for use in superficial ocular inflammations or infections limited to the conjunctiva or the anterior segment of the eye of cats and dogs, such as those associated with allergic reactions or gross irritants. The Food and Drug Administration concurs with the Academy's findings.

Supplemental new animal drug applications are invited to revise the labeling provided in new animal drug applications for this drug to limit the claims and present the conditions of use substantially as follows:

INDICATIONS FOR USE

For use in superficial ocular inflammations or infections limited to the conjunctiva or the anterior segment of the eye of cats and dogs, such as those associated with allergic reactions or gross irritants.

DOSAGE AND ADMINISTRATION

The recommended dose is one application four times a day. Insert the tip of the tube beneath the lower lid and express a small quantity of the ointment into the conjunctivial sac.

PRECAUTION

When infection is suspected as being the cause of the disease process, particularly in purulent or catarrhal conjunctivitis, attempts should be made to determine what effective antibiotics should be used by sensitivity tests prior to applying ophthalmic preparations containing a corticosteroid.

WARNING: All topical ophthalmic preparations containing corticosteroids with or without an antimicrobial agent, are contraindicated in the initial treatment of corneal ulcers. They should not be used until the infection is under control and corneal regeneration is well underway.

CAUTION: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

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

Holders of new animal drug applications for which labeling is not adequate in that it differs from the labeling presented above are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit revised labeling or adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 14, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9479; Filed, July 22, 1970; 8:47 a.m.]

[Docket No. FDC-D-204; NDA 6363]

LAKESIDE LABORATORIES

Menacyl Tablets Containing Aspirin, Menadione, and Ascorbic Acid; Notice of Withdrawal of Approval of New Drug Application

In the FEDERAL REGISTER of February 11, 1970 (35 F.R. 2836) (DESI 6363), the Commissioner of Food and Drugs announced his conclusions, pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council concerning Menacyl Tablets for human use, and stated his intention to initiate proceedings to withdraw approval of new-drug application No. 6363. Menacyl Tablets contain aspirin 0.33 gram, menadione 0.33 milligram, and ascorbic acid 33.3 milligrams per tablet. The announcement stated that there is a lack of substantial evidence that this drug is effective as a fixed-combination and that each component contributes to the total effects claimed.

Lakeside Laboratories, Division of Colgate-Palmolive Co., Milwaukee, Wis. 53201, holder of the new-drug application, has waived opportunity for a hearing by letter of April 16, 1970, on the proposed withdrawal of approval of the application. No data or objections were filed by other interested persons.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505 (e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds on the basis of new information evaluated together with the evidence available when the application was approved that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of the listed new-drug application, and all amendments and supplements applying thereto, is withdrawn effective on the date of signature of this document. Outstanding stocks of the affected drug should be recalled.

Promulgation of this order will cause any drug containing the same components and offered for the same conditions of use to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

Dated: July 7, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-9480; Filed, July 22, 1970; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Order Providing for Prehearing Conference, Reopened Hearing, and Related Announcement

In the matter of Northern States Power Co. (Monticello Nuclear Generating Plant, Unit 1); Docket No. 50-263.

In behalf of the board, the chairman orders:

A. That a prehearing conference shall be held in the U.S. Federal Courthouse, 316 North Robert Street, St. Paul, Minn., at Courtroom 4 (7th floor) on Tuesday, August 4, 1970, at 10 a.m.

B. That the hearing shall reopen at the same place beginning Wednesday, August 5, 1970, at 9 a.m.

C. That this order reopening the hearing and providing for a prehearing conference shall be published promptly in the FEDERAL REGISTER and shall be the subject of a public announcement by the Commission's Division of Public Information.

Dated: July 17, 1970, Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,
VALENTINE B. DEALE,
Chairman.

[F.R. Doc. 70-9446; Filed, July 22, 1970; 8:45 a.m.]

[Dockets Nos. 50-338, 50-339]

VIRGINIA ELECTRIC & POWER CO.

Notice of Availability of Environmental Information and Request for Comments From State and Local Agencies

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in appendix D to 10 CFR Part 50, notice is hereby given that the Virginia Electric & Power Co. has submitted by letter (with enclosure) dated April 17, 1970, information for preparation of an environmental statement. A copy of the letter (with enclosure) is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and in the Office of the Executive Secretary of the Board of Supervisors in the Louisa County Courthouse, Louisa, Va. This proceeding involves the application by Virginia Electric & Power Co. for a construction permit for its proposed North Anna Power Station, Units 1 and 2, to be located on its site in Louisa County, Va. A notice of the receipt of the application by the Commission was published in the FEDERAL REGISTER on April 17, 1969 (34 F.R. 6626).

The Commission hereby requests, within 60 days of publication of this notice in the FEDERAL REGISTER, from State and local agencies of any affected State (with respect to matters within their jurisdiction) which are authorized to develop and enforce environmental standards, comments on the proposed action and on the information submitted for preparation of an Environmental Statement. If any such State or local agency fails to provide the Commission with comments within 60 days of publication of this notice in the FEDERAL REGISTER, it will be presumed that the agency has no comments to make.

Copies of Virginia Electric & Power Co.'s letter, dated June 17, 1970 (with enclosure), and the comments thereon of Federal agencies (whose comments have been separately requested by the Commission) will be supplied to such State and local agencies upon request addressed to the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 16th day of July 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70-9451; Filed, July 22, 1970; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22162]

SULLIVAN COUNTY, N.Y., ET AL.

Notice of Prehearing Conference

The County of Sullivan, State of New York, and the Sullivan County Airport Commission.

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on July 30, 1970, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., July 20, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-9505; Filed, July 22, 1970; 8:49 a.m.]

FEDERAL TRADE COMMISSION

STATEMENT OF ORGANIZATION

Field Offices

Notice is hereby given that section 18 of the Statement of Organization, published June 30, 1970 (35 F.R. 10627), is amended to reflect a change of address of the Oak Ridge Field Station under the Atlanta Field Office and establish

an additional Field Station under the New Orleans Field Office.

In section 18, paragraphs (b) (1) and (7) are amended to read as follows:

SEC. 18. *The Field Offices.* * * *

(b) * * *

(1) Atlanta Field Office: Federal Trade Commission, Room 720, 730 Peachtree Street NE., Atlanta, Ga. 30308. Field stations: Federal Trade Commission, Federal Office Building, Room G-209, Post Office Box 568, Oak Ridge, Tenn. 37830; Federal Trade Commission, Room 931, New Federal Building, 51 Southwest First Avenue, Miami, Fla. 33130; Federal Trade Commission, Room 206, 623 East Trade Street, Charlotte, N.C. 28202.

* * * * *

(7) New Orleans Field Office: Federal Trade Commission, 1000 Masonic Temple Building, 333 St. Charles Street, New Orleans, La. 70130. Field Stations: Federal Trade Commission, 417 U.S. Post Office and Courthouse, 615 Houston Street, San Antonio, Tex. 78206; Federal Trade Commission, Room 405, Thomas Building, 1314 Wood Street, Dallas, Tex. 75202; Federal Trade Commission, Room 10511, U.S. Courthouse Building, 515 Rusk Avenue, Houston, Tex. 77061.

* * * * *

Issued: July 17, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-9458; Filed, July 22, 1970; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Report 501]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JULY 20, 1970.

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

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

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

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

59-C2-P-71—The Mountain States Telephone & Telegraph Co. (KOA795), C.P. to add fourth channel to operate on 152.72 MHz at its existing site located at Telegraph Pass, 12 miles west of Wellton, Ariz., and add a fourth test frequency of 157.98 MHz located 285 Second Avenue, Yuma, Ariz.

60-C2-P-71—RAM Broadcasting of Massachusetts, Inc. (KCC263), C.P. to add base station 454.125 MHz at existing location No. 1: 91 Parker Hill Avenue, Boston, Mass.

61-C2-P-71—Two-Way Radio of Carolina, Inc. (KIY441), C.P. to add an additional channel to operate on 152.15 MHz at its existing site located at Baugh Building, 112 South Tryon Street, Charlotte, N.C.

62-C2-P-(5)-71—Two-Way Radio of Carolina, Inc. (KIY755), C.P. to replace transmitters operating on 152.18 and 459.05 MHz at location No. 1: Anderson Mountain, 4 miles northwest of Denver, N.C., and 454.05 MHz at location No. 2: East Trad and North Tryon Streets, Charlotte, N.C. Also add new control stations to operate on 454.05 MHz at sites identified as location No. 3: 212 South Washington Street, Shelby, N.C., and location No. 4: 211 South Center Street, Statesville, N.C.

110-C2-P-71—AAA Answering Service, Inc. (KLB703), C.P. to add an additional channel to operate on 152.18 MHz at a new site identified as location No. 2: On Highway 45, 1.8 miles south of Meridian, Miss.

at a new site identified as location No. 2: 1010 Common Street, New Orleans, La.

111-C2-P-(2)-71—James D. and Lawrence D. Garvey, doing business as Radiofone (KKO349), C.P. to add two additional channels to operate on 454.075 and 454.250 MHz

112-C2-P-(2)-71—General Communications Services, Inc. (KIG296), C.P. for additional channels to operate on 454.200 and 454.300 MHz at its existing site located WJRJ-TV Tower, 1018 West Peachtree Street NW., Atlanta, Ga.

133-C2-P-71—Otis J. Stanley, doing business as Quad City Dispatch (New), C.P. for a new 1-way-signaling station. Frequency: 152.24 MHz. Location: 839 Brady Street, Davenport, Iowa.

134-C2-P-71—Edythe L. Kies, doing business as Traverse Answering Service (New), C.P. for a new 2-way station. Base frequency: 152.03 MHz. Location: Cedar Run Road, Traverse City, Mich.

166-C2-P-71—Waldo I. Wilson (New), C.P. for a new 1-way-signaling station. Frequency: 158.70 MHz. Location: Third and Western Avenue, Muskegon Heights, Mich.

Informative

9001-C2-ML-70—Aero Mayflower Transit Co., Inc. (KJ6120), Applicant has filed for a modification of license to add frequencies 158.52, 158.58, and 158.64 MHz to its present authorization using facilities of Wireline Common Carriers throughout the continental United States.

Rural Radio Service

136-C1-P-71—South Georgia Communications Co. (New), C.P. for a new rural subscriber station. Frequency: 158.61 MHz. Subscriber and location: High Point Corp., Cumberland Island, Ga.

137-C1-P/L-71—The Mountain States Telephone & Telegraph Co. (New), C.P. and license for a new rural subscriber station. Frequency: 157.95 MHz. Location: West Plains, 9.8 miles northwest of Padroni, Colo.

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

57-C1-P-71—American Telephone & Telegraph Co. (KAC63), C.P. to add frequencies 11,285 and 11,525 MHz toward Mission, Kans. Station location: 1425 Oak Street, Kansas City, Mo.

58-C1-P-71—American Telephone & Telegraph Co. (New), C.P. for a new station to be located at 5400 Fox Ridge Road, Mission, Kans. Station frequencies: 10,835 and 11,705 MHz toward Kansas City, Mo.

American Telephone & Telegraph Co. Ten applications for construction permits to install Type TD-2 equipment at the radio relay stations between Mount Vernon, Ala., and New Orleans, La.

117-C1-P-71—American Telephone & Telegraph Co. (KIN49), C.P. to add frequency 3970 MHz toward Citronelle, Ala. Station location: 1.2 miles northwest of Mount Vernon, Ala.

118-C1-P-71—American Telephone & Telegraph Co. (KJW70), Add frequency 4010 MHz toward Neely, Miss. Station location: 11.5 miles northwest of Citronelle, Ala.

119-C1-P-71—American Telephone & Telegraph Co. (KLV37), Add frequency 3970 MHz toward Wiggins, Miss. Station location: 1.8 miles southwest of Neely, Miss.

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

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

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

120–C1–P–71—American Telephone & Telegraph Co. (KLV38), Add frequency 4010 MHz toward Lumberton, Miss. Station location: 4 miles northeast of Wiggins, Miss.

121–C1–P–7—American Telephone & Telegraph Co. (KLV39), Add frequency 3970 MHz toward Crossroads, Miss. Station location: 6.5 miles southeast of Lumberton, Miss.

122–C1–P–71—American Telephone & Telegraph Co. (KLV40), Add frequency 3870 MHz toward Talisheek, La. Station location: 2.5 miles northeast of Crossroads, Miss.

123–C1–P–71—American Telephone & Telegraph Co. (KLV41), Add frequency 3910 MHz toward Pearlington, Miss. Station location: 3.7 miles southeast of Talisheek, La.

124–C1–P–71—American Telephone & Telegraph Co. (KLV42), Add frequency 3870 MHz toward Chef Menteur, La. Station location: 1 mile north of Pearlington, Miss.

125–C1–P–71—American Telephone & Telegraph Co. (KLV43), Add frequency 3910 MHz toward Algiers, La. Station location: 2.1 miles west of Chef Menteur, La.

126–C1–P–71—American Telephone & Telegraph Co. (KLV44), Add frequency 3870 MHz toward New Orleans, La. Station location: 5 miles southeast of Algiers, La.

127–C1–MP–71—The Mountain States Telephone & Telegraph Co. (KPR35), Modification of C.P. to replace transmitters. Station location: 107 East First North Street, Price, Utah.

128–C1–MP–71—The Mountain States Telephone & Telegraph Co. (KPR34), Modification of C.P. to replace transmitters. Station location: 8 miles north-northeast of Dragerton, Utah.

129–C1–P–71—The Mountain States Telephone & Telegraph Co. (KPS89), C.P. to replace transmitters. Station location: 4 miles southwest of Vernal, Utah.

7078–C1–ML–70—American Telephone & Telegraph Co. (KGC88), Modification of license to change frequency 3950 MHz toward Randallstown, Md., to 3870 MHz. Station location: Gambrills, 2 miles southeast of Odenton, Md.

7079–C1–ML–70—American Telephone & Telegraph Co. (KIB27), Modification of license to change frequencies from 4170 MHz toward Washington, D.C., to 4010 MHz; and frequency from 4190 MHz toward Catoctin Mountain, Va., to 4090 MHz. Station location: Garden City, 5301 22d Street, North Arlington, Va.

American Telephone & Telegraph Co. Twenty-seven C.P. applications to construct one pair of Type TD–2 radio relay channels between Denver and Cedarwood, Colo., one pair between Manzanola, Colo., and Delta, Utah, and one channel from Cedarwood to Manzanola.

139–C1–P–71—American Telephone & Telegraph Co. (KAB24), Add frequency 3850 MHz toward Critchell, Colo. Station location: 931 14th Street, Denver, Colo.

140–C1–P–71—American Telephone & Telegraph Co. (KAY83), Add frequency 3810 MHz toward Denver and Westcreek, Colo. Station location: 4.1 miles north-northwest of South Platte, Colo.

141–C1–P–71—American Telephone & Telegraph Co. (KAY69), Add frequency 3850 MHz toward Critchell, and 3930 MHz toward Calhan, Colo. Station location: 6.9 miles east-northeast of Westcreek, Colo.

142–C1–P–71—American Telephone & Telegraph Co. (KAV54), Add frequency 3890 MHz toward Westcreek and Truckton, Colo. Station location: 2.5 miles south-southwest of Calhan, Colo.

143–C1–P–71—American Telephone & Telegraph Co. (KAV53), Add frequency 3930 MHz toward Calhan, and 3930 MHz toward Boone, Colo. Station location: 3.3 miles southwest of Truckton (El Paso), Colo.

144–C1–P–71—American Telephone & Telegraph Co. (KAU62), Add frequency 3890 MHz toward Truckton and Cedarwood, Colo. Station location: 10.7 miles northeast of Boone, Colo.

145–C1–P–71—American Telephone & Telegraph Co. (KAS85), Add frequency 3930 MHz toward Boone and 4090 MHz toward Manzanola, Colo. Station location: 8.9 miles northeast of Cedarwood, Colo.

146–C1–P–71—American Telephone & Telegraph Co. (KAZ54), Add frequency 3810 MHz toward Thatcher, Colo. Station location: 15 miles south-southwest of Manzanola, Colo.

147–C1–P–71—American Telephone & Telegraph Co. (KBI30), Add frequency 3850 MHz toward Manzanola and Walsenburg, Colo. Station location: 14.6 miles west of Thatcher, Colo.

148–C1–P–71—American Telephone & Telegraph Co. (KBI31), Add frequency 3810 MHz toward Thatcher and Red Wing, Colo. Station location: 5.5 miles north of Walsenburg, Colo.

149–C1–P–71—American Telephone & Telegraph Co. (KBI32), Add frequency 3850 MHz toward Walsenburg and Monte Vista, Colo. Station location: Red Wing, 16.1 miles west-southwest of Gardner, Colo.

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

150–C1–P–71—American Telephone & Telegraph Co. (KBI33), Add frequency 3810 MHz toward Red Wing and South Fork, Colo. Station location: 5.8 miles east-northeast of Homelake, Colo.

151–C1–P–71—American Telephone & Telegraph Co. (KBI34), Add frequency 3850 MHz toward Monte Vista and Wolf Creek Pass, Colo. Station location: 4.9 miles northeast of South Fork, Colo.

152–C1–P–71—American Telephone & Telegraph Co. (KBI35), Add frequency 3810 MHz toward South Fork and Pagosa Springs, Colo. Station location: 15.5 miles southwest of South Fork, Colo.

153–C1–P–71—American Telephone & Telegraph Co. (KBI36), Add frequency 3850 MHz toward Wolf Creek Pass and Bayfield, Colo. Station location: 8 miles southwest of Pagosa Springs, Colo.

154–C1–P–71—American Telephone & Telegraph Co. (KBI37), Add frequency 3810 MHz toward Pagosa Springs and Hesperus, Colo. Station location: 7.6 miles east-northeast of Bayfield, Colo.

155–C1–P–71—American Telephone & Telegraph Co. (KBI38), Add frequency 3850 MHz toward Bayfield and Yellow Jacket, Colo. Station location: 1.2 miles northeast of Hesperus, Colo.

156–C1–P–71—American Telephone & Telegraph Co. (KBI39), Add frequency 3810 MHz toward Hesperus and Dove Creek, Colo. Station location: 4.9 miles west of Lewis, Colo.

157–C1–P–71—American Telephone & Telegraph Co. (KBI40), Add frequency 3850 MHz toward Yellow Jacket, Colo., and Monticello, Utah. Station location: 2.2 miles east of Dove Creek, Colo.

158–C1–P–71—American Telephone & Telegraph Co. (KPX88), Add frequency 3810 MHz toward Dove Creek, Colo., and Moab, Utah. Station location: 9.4 miles north-northeast of Monticello, Utah.

159–C1–P–71—American Telephone & Telegraph Co. (KPX89), Add frequency 3850 MHz toward Monticello and Crescent Junction, Utah. Station location: 11.5 miles northwest of La Sal, Utah.

160–C1–P–71—American Telephone & Telegraph Co. (KPX90), Add frequency 3810 MHz toward Moab and Green River, Utah. Station location: Crescent Junction, 11.3 miles south-southwest of Thompson, Utah.

161–C1–P–71—American Telephone & Telegraph Co. (KPX91), Add frequency 3850 MHz toward Crescent Junction, and Cleveland, Utah. Station location: 9 miles southwest of Green River, Utah.

162–C1–P–71—American Telephone & Telegraph Co. (KPX92), Add frequency 3810 MHz toward Green River and Ephraim, Utah. Station location: 17.4 miles southeast of Cleveland, Utah.

163–C1–P–71—American Telephone & Telegraph Co. (KPX93), Add frequency 3850 MHz toward Cleveland and Leamington, Utah. Station location: 7 miles east of Ephraim, Utah.

164–C1–P–71—American Telephone & Telegraph Co. (KPX94), Add frequency 3810 MHz toward Ephraim and Delta, Utah. Station location: 3.9 miles east-southeast of Leamington, Utah.

165–C1–P–71—American Telephone & Telegraph Co. (KPW24), Add frequency 3850 MHz toward Leamington, Utah. Station location: 4.4 miles south-southeast of Delta, Utah.

American Telephone & Telegraph Co. Two applications for C.P. to construct an additional pair of Western Electric Co. Type TD–2/TD–3 radio relay channels between Arlington, Va., and Waldorf, Md.

175–C1–P–71—American Telephone & Telegraph Co. (KYO63), Add frequency 3910 MHz toward Waldorf, Md. Station: 900 South Walter Reed Drive, Arlington, Va.

176–C1—P–71—American Telephone & Telegraph Co. (KGH26), Add frequency 3870 MHz toward Arlington, Va. Station location: 1.1 mile south-southeast of Waldorf, Md.

4967–C1–P–71—New Jersey Bell Telephone Co. (KYC84), Renewal of developmental license in any temporary fixed location within the territory of the grantee, expiring Aug. 7, 1970. Term: Aug. 7, 1970 to Aug. 7, 1971.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

130–C1–P–71—Western Tele-Communications, Inc. (KZA87), C.P. to add a new point of communications at Idaho Falls, Idaho. Frequencies: 6271.3, 6301.0, 6360.3, 6330.7 MHz on azimuth 89°13′ are to be intercepted on an existing path. Location: East Butte, 32 miles west of Idaho Falls, Idaho, at latitude 43°30′00″ N., longitude 112°39′48″ W.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—continued

(Informative: Applicant proposes to provide the television signals of stations KUED, KUTV, KCPX-TV, and KSL-TV of Salt Lake City to Upper Valley Telecable in Idaho Falls, Idaho.)

131-C1-MP-71—Mountain Microwave Corp. (KBI22), C.P. to change location of the Colorado Springs receiving site to latitude 38°50'11" N., longitude 104°47'37" W. Frequencies: 6019.3, 6049.0, 6108.3, 6137.9 and 6167.6 MHz on azimuth 67°53'. Location: Almagre Mountain, 8 miles west of Broadmoor, Colo., at latitude 38°46'25" N., longitude 104°59'30" W.

135-C1-P-71—Western Tele-Communications, Inc. (KZA87), C.P. to add a new point of communications at Pocatello, Idaho. Frequency 6301.0 MHz on azimuth 166°57' will be intercepted from an existing path. Location: East Butte, 32 miles west of Idaho Falls, Idaho, at latitude 43°30'00" N., longitude 112°39'48" W.

(Informative: Applicant proposes to provide the television signal of KCPX-TV of Salt Lake City to television station KTLE in Pocatello, Idaho.)

Correction

6006-C1-P-70—American Television Relay, Inc. (KPY73), This entry, appearing on public notice dated Apr. 27, 1970, is corrected to show frequency 5952.6 MHz toward Mormon Mountain, Ariz., instead of frequency 5962.9 MHz. Other particulars are unchanged.

Applications filed pursuant to Section 214 of the Communications Act of 1934.

Telephone Wire Facilities

P-C-7949—The Pacific Telephone & Telegraph Co. and Bell Telephone Co. of Nevada. Informal: (Section 63.03) to supplement facilities between the following locations: Loci, Calif.-Oakland, Calif.; Oakland, Calif.-Reno, Nev.; Oakland, Calif.-Santa Rosa, Calif.; Oakland, Calif.-Stockton, Calif.; Portland, Oreg.-Redwood City, Calif.; Redwood City, Calif.-Seattle, Wash.; Reno, Nev.-Sacramento, Calif.; Reno, Nev.-San Bernardino, Calif.

P-C-7950—The Mountain States Telephone & Telegraph Co. Informal: (Section 63.03) to supplement facilities between Albuquerque, N. Mex. and Denver, Colo.

P-C-7951—The Mountain States Telephone & Telegraph Co. Informal: (Section 63.03) to supplement facilities between the following locations: Billings, Mont.-Helena, Mont.; Billings, Mont.-Miles City, Mont.; Glendive Junction, Mont.-Fortuna AFS, N. Dak.

P-C-7952—The Chesapeake & Potomac Telephone Co. of Virginia. Informal: (Section 63.03) to supplement facilities between Altavista, Va.-Hurt, Va.; Altavista, Va.-Lynchburg, Va.

P-C-7953—The Mountain States Telephone & Telegraph Co. Informal: (Section 63.03) to supplement facilities between Casper, Wyo., and Douglas, Wyo.

[F.R. Doc. 70-9518; Filed, July 22, 1970; 8:51 a.m.]

[FCC 70-778]

EQUAL EMPLOYMENT OPPORTUNITY

Reporting and Application Requirements

JULY 17, 1970.

Numerous inquiries have been received from applicants and licensees, particularly renewal applicants and their attorneys, requesting information concerning the effective date of the annual employment reporting requirements called for in new § 1.612 of the rules and section VI of FCC Forms 301, 303, 309, 311, 314, 315, 340, and 342, adopted by the Commission in its report and order in Docket No. 18244, released June 3, 1970.

As noted in the above report and order, the annual employment report form and new section VI are subject to clearance by the Bureau of Budget and will be utilized only in their final version following clearance by the Bureau under the Federal Reports Act. To date, the Commission has not received such clearance and, therefore, the employment reporting requirements called for in new § 1.612 and section VI of FCC Forms 301, 303, 309, 311, 314, 315, 340, and 342 presently are not applicable. Upon receipt of Bureau of Budget clearance, the Commission will issue another public notice advising all interested parties as to when they will be required to file the annual employment reporting form and new section VI. In the meantime, however, all licensees are now expected to institute policies designed to implement amended Part 73 of the Commission's rules concerning nondiscrimination in employment.

Action by the Commission July 15, 1970.[1]

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

[F.R. Doc. 70-9519; Filed, July 22, 1970; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. IT-5331]

ARIZONA PUBLIC SERVICE CO.

Notice of Application

JULY 16, 1970.

Take notice that Arizona Public Service Co. (applicant), incorporated under the laws of the State of Arizona, with its principal place of business at Phoenix, Ariz., filed an application on May 20, 1970, for a supplemental order, pursuant to section 202(e) of the Federal Power Act, modifying applicant's current authorization to transmit electric energy from the United States to Mexico.

By Commission order issued April 7, 1969, in Docket No. IT-5331 (41 FPC 459), applicant was authorized to transmit electric energy from the United States to Mexico in an amount not in excess of 11,000,000 kw.-hr. per year at a transmission rate not to exceed 2,500 kw. for sale and delivery to Compania de Servicios Publicos de Agua Prieta, S.A. (Mexican Company), incorporated under the laws of the Republic of Mexico, over certain 2.4-kv. facilities of applicant located at the international border between the United States and Mexico and covered by applicant's Presidential permit signed by the President of the United States on July 30, 1941, which was released to Arizona Edison Co., Inc., applicant's corporate predecessor, and subsequently transferred to applicant by an amendatory Presidential permit signed by the President of the United States on August 28, 1952, all in Docket No. IT-5331.

Applicant now requests that the authorization granted by Commission order issued April 7, 1969, referred to above, be modified so as to authorize applicant to export electric energy in an amount not in excess of 14 million kw.-hr. per year to Mexican Company at a transmission rate not to exceed 3,200 kw. over the above-mentioned facilities for the purpose of meeting the electric load growth in the area served by Mexican Company's electric system.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 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. 70-9495; Filed, July 22, 1970; 8:49 a.m.]

[Docket No. CP71-12]

COLORADO INTERSTATE GAS CO.

Notice of Application

JULY 17, 1970.

Take notice that on July 13, 1970, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (applicant), Post Office Box 1087, Colorado Springs, Colo. 80901, filed in Docket No. CP71-12 an application pursuant to subsections (b) and (c) of section 7 of the Natural Gas Act for an order of the Commission granting permission and approval to abandon certain natural gas facilities, and a certificate of public convenience and necessity authorizing the construction and operation of certain other facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 10 miles of 8-inch pipeline, which will loop part of its existing Canon City Lateral and to construct

[1] Commissioners Burch (Chairman), Bartley, Robert E. Lee, Johnson, H. Rex Lee, and Wells.

and operate a new sales meter station to Greeley Gas Co. (Greeley) at the downstream end of the new pipeline. Applicant further proposes to abandon the last 2.1 miles of the existing Canon City Lateral and to retire a meter station on each end of the abandoned line, both of which now serve Greeley, who will receive the transfer of title and operation of the line.

The total estimated cost of the proposed facilities is $341,715, which will be financed by funds on hand, funds from operations, or short-term borrowings. The net book value of the facilities proposed to be abandoned is $6,100.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-9497; Filed, July 22, 1970; 8:49 a.m.]

[Docket No. CP71-5]

FLORIDA GAS TRANSMISSION CO.

Notice of Application

JULY 15, 1970.

Take notice that on July 8, 1970, Florida Gas Transmission Co. (applicant), Post Office Box 44, Winter Park, Fla. 32789, filed in Docket No. CP71-5 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install and operate a skid-mounted field compressor unit of 1,000 horsepower, in the East Mustang Island Field, Nueces County, Tex., to enable it to continue to receive natural gas from Gulf Oil Co. (Gulf) when Gulf exercises its contractual rights to reduce delivery pressure of gas delivered to applicant not in excess of 500 p.s.i.g. during the last 10 years of the contract term. Applicant states that Gulf is invoking its right to reduce delivery pressure, in which event it will become necessary to install the proposed compressor facilities to maintain continuity of deliveries of gas by Gulf to applicant.

The total estimated cost of the proposed facilities is $373,000, which will be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-9473; Filed, July 22, 1970; 8:47 a.m.]

[Docket No. RI70-905]

HUMBLE OIL & REFINING CO. AND BURK GAS CORP.

Order Making Successor Co-Respondent, Redesignating Proceeding and Making Rate Change Effective Subject to Refund

JULY 14, 1970.

By order issued April 17, 1970, in Docket No. G-3566, et al., the Commission granted a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in Docket No. CI70-630 to Burk Gas Corp. authorizing Burk to continue in part the sale of natural gas to Northern Natural Gas Co. from the Kansas Hugoton Field, Finney County, Kans., theretofore authorized in Docket No. G-13278 to be made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 208. Burk was made co-respondent in Docket No. RI68-2 in which proceeding Humble was collecting an increased rate subject to refund. Prior to the issuance of the certificate in Docket No. CI70-630, Humble filed another increased rate under its FPC Gas Rate Schedule No. 208. The proposed increase was suspended in Docket No. RI70-905 until May 25, 1970, and thereafter until made effective. In accordance with an appropriate filing by Humble, the rate was made effective subject to refund on May 25, 1970. Burk should have been made co-respondent with Humble in Docket No. RI70-905 so that Burk would have had an opportunity to have made the increased rate effective subject to refund on May 25, 1970. By letter filed June 19, 1970, Burk calls this matter to the attention of the Commission and requests that it be permitted to collect the increased rate subject to refund in Docket No. RI70-905 as of May 25, 1970. Under these circumstances it is appropriate that Burk should be made a co-respondent in the proceeding pending in Docket No. RI70-905 and that it should be permitted to collect the increased rate as requested. Burk has heretofore filed a general undertaking to assure the refund of any amounts collected by it in excess of amounts determined to be just and reasonable in proceedings under section 4(e) of the Natural Gas Act.

The Commission orders:

(A) Burk Gas Corp. is made co-respondent in the proceeding pending in Docket No. RI70-905 and said proceeding is redesignated accordingly.

(B) The rates, charges, and classifications set forth in Supplement No. 13 to Humble Oil and Refining Co. FPC Gas Rate Schedule No. 208 shall be effective subject to refund in Docket No. RI70-905 as of May 25, 1970, with respect to sales of natural gas made pursuant to Burk Gas Corp. FPC Gas Rate Schedule No. 14. Burk Gas Corp. shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Burk Gas Corp. shall charge and collect for sales made pursuant to its FPC Gas Rate Schedule No. 14 the rate of 13.5 cents per Mcf at 14.65 p.s.i.a. for sales made from November 1, 1969, through May 24, 1970, and the rate of 17 cents per Mcf at 14.65 p.s.i.a. for sales made from May 25, 1970.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 70-9467; Filed, July 22, 1970; 8:46 a.m.]

[Docket No. CP71-9]

LOWELL GAS CO.

Notice of Application

JULY 15, 1970.

Take notice that on July 9, 1970, Lowell Gas Co. (applicant), 95 East Merrimack Street, Lowell, Mass. 01853, filed in Docket No. CP71-9, an application pursuant to section 3 of the Natural Gas Act for an order of the Commission granting authority to import liquefied natural gas (LNG) from Canada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import LNG from Gaz Metropolitain Inc., in Montreal, Province of Quebec, Canada, by over-the-road, cryogenic, semitrailer tankers which will deliver approximately 5,800,000 U.S. gallons of LNG [1] by April 1, 1971, to applicant's LNG storage facility near Tewksbury, Mass. The application states the LNG is to be purchased at the summer rate of 6.283 cents (U.S.) per U.S. gallon before October 7, 1970, and thereafter at the winter rate of 12 cents (U.S.) per U.S. gallon before April 1, 1971. The application further states that the proposed importation of LNG is necessary to augment applicant's low reserves and maintain continuity of natural gas service to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 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). 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.

KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 70-9472; Filed, July 22, 1970; 8:47 a.m.]

[1] Equivalent to approximately 480,000 Mcf of natural gas.

[Docket No. CP71-11]

NORTHERN NATURAL GAS CO.

Notice of Application

JULY 17, 1970.

Take notice that on July 10, 1970, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP71-11 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of minor meter station piping facilities and the transportation of natural gas for Minneapolis Gas Co. (Minnegasco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Minnegasco is presently preparing to test its Waterville, Minn., Gas Storage Field by withdrawing volumes of gas therefrom and, during the course of such withdrawal testing, use the volumes withdrawn from storage in its gas distribution system in and around Minneapolis, Minn. Applicant proposes to transport up to 10,000 Mcf per day for Minnegasco from the Waterville Storage Field to the Minneapolis area, and to construct and operate minor dual piping facilities necessary therefor at an already existing meter station utilized to deliver volumes of natural gas to Minnegasco for injection into the Waterville Storage Field. Redelivery of volumes transported by Applicant will be made to Minnegasco at existing points of delivery, and no separate charge will be paid to Applicant for the transportation service.

The total estimated cost of the proposed facilities is $1,430, which will be financed by cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 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. 70-9496; Filed, July 22, 1970; 8:49 a.m.]

[Docket No. CP71-2]

PACIFIC GAS TRANSMISSION CO.

Notice of Application

JULY 15, 1970.

Take notice that on July 1, 1970, Pacific Gas Transmission Co. (applicant), 245 Market Street, San Francisco, Calif. 94106, filed in Docket No. CP71-2 an application pursuant to section 7(b) of the Natural Gas Act for an order of the Commission granting permission and approval to abandon natural gas service to El Paso Natural Gas Co. (El Paso) at Mowich, Oreg., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized to deliver natural gas to El Paso at Mowich for resale to Cascade Natural Gas Corp. (Cascade) by the certificate issued in Dockets Nos. G-17350 et al., as amended, but that El Paso has applied in Docket No. CP70-238 for authority to abandon its Mowich service to Cascade since the industrial facilities of Cascade's customers were destroyed by fire in 1966 and no service has been rendered since that time. It is for these reasons, Applicant states, that it requests permission and approval to abandon its service to El Paso at Mowich.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 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 permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-9474; Filed, July 22, 1970; 8:47 a.m.]

[Docket No. CP71-3]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

JULY 14, 1970.

Take notice that on July 6, 1970, Panhandle Eastern Pipe Line Co. (applicant), 3444 Broadway, Kansas City, Mo. 64141, filed in Docket No. CP71-3 an application requesting Commission authorization pursuant to section 7(b) of the Natural Gas Act to abandon and retire its Carmel, Ind., lateral line and associated measuring and regulating facilities located in Hamilton County, Ind., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By letter dated March 14, 1969, Indiana Gas Co., Inc., the customer served through the facilities for which abandonment is sought, informed applicant that it would no longer require that deliveries be made by applicant at the Carmel measuring and regulating station and that Indiana Gas Co., Inc., would serve this same market area through another connection to applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 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 permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-9466; Filed, July 22, 1970; 8:46 a.m.]

[Docket No. CP70-184]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Petition To Amend

JULY 15, 1970.

Take notice that on July 2, 1970, Panhandle Eastern Pipe Line Co. (petitioner), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP70-184 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act on June 16, 1970, to authorize a revision in the winter contract demands of certain of its existing resale customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner proposes to adjust the authorized winter contract demands of certain of its existing resale customers without increasing or decreasing the aggregate winter contract demand authorized by the aforementioned order. Petitioner states that after it had filed its application, one of its existing resale customers which had not been included in the 1970 program, Central Illinois Light Co., advised petitioner that it required an increase in its contract demand for the 1970-71 heating season by 5,000 Mcf from 250,000 Mcf to 255,000 Mcf. In order to permit compliance with this request, certain of petitioner's customers expressed their willingness to relinquish portions of the recently certificated winter contract demands. Petitioner requests authorization for the inclusion of Central Illinois Light Co. in the increased 1970 program and an upward revision of 100 Mcf from 25,900 Mcf to 26,000 Mcf for Missouri Public Service Co., both from the aggregate winter contract demand as authorized.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 10, 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-9470; Filed, July 22, 1970; 8:46 a.m.]

[Docket No. CP69-328]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Petition To Amend

JULY 15, 1970.

Take notice that on July 2, 1970, Panhandle Eastern Pipe Line Co. (Applicant), 3444 Broadway, Kansas City, Mo. 64141, filed in Docket No. CP69-328 a petition to amend the Commission's order of August 27, 1969, issued pursuant to section 7(c) of the Natural Gas Act, to adjust the summer contract demands for 13 of its existing utility customers, all as more fully set forth in its petition to amend which is on file with the Commission and open to public inspection.

Applicant states that 13 of its utility customers have recently advised it that they require revision in certain of their summer contract demands in order to match their supplies with their requirements.

Applicant has also made a survey of its existing authorization covering transportation for its direct industrial sales and finds that some of these maximum day authorizations also require adjustment, and, therefore, requests authority to bring these deliveries and authorizations into balance at the same time the summer contract demands for the resale customer are balanced.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 10, 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-9471; Filed, July 22, 1970; 8:46 a.m.]

[Docket No. CP68-245]

TENNESSEE GAS PIPELINE CO.

Notice of Petition To Amend

JULY 17, 1970.

Take notice that on July 10, 1970, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Petitioner), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. CP68-245 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act on May 24, 1968, to authorize an increase in daily transportation demand to 500,000 Mcf effective as of November 1, 1970, for Trunkline Gas Co. (Trunkline) and to authorize construction and operation of additional natural gas facilities necessary therefor, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized by the aforementioned order, inter alia, to construct and operate a 5,500 horsepower addition power at its Compressor Station No. 823 and to transport natural gas for Trunkline from a delivery point near Centerville, La., to a redelivery point near Petitioner's Compressor Station No. 823 in Jefferson Davis Parish, La. Said transportation service is pursuant to a mutual contract providing for daily transportation quantities effective November 1, 1969, of not less than 290,000 Mcf nor more than 370,000 Mcf; and effective November 1, 1970, of not less than 355,000 Mcf nor more than 500,000 Mcf. The petition to amend states that Trunkline has advised Petitioner of its desire to have a daily transportation quantity of 500,000 Mcf effective November 1, 1970. To render adequate service and to provide adequate supply flexibility, Petitioner further proposes to construct and operate a new 9,100 horsepower compressor station near its Muskrat line in Acadia Parish, La.

The estimated total cost of the proposed facilities is $2,881,300, which will be financed by general funds and revolving credit.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 10, 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.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-9498; Filed, July 22, 1970; 8:49 a.m.]

[Docket No. CP71-4]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JULY 15, 1970.

Take notice that on July 7, 1970, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP71-4 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7 of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction during the 1-year period commencing August 12, 1970, 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 the cost of any single onshore project will not exceed $1 million, nor will the cost of any single offshore project exceed $1,750,000. The proposed facilities will be financed initially by temporary bank loans and company funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 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 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-9468; Filed, July 22, 1970; 8:46 a.m.]

[Docket No. G-16788]

WHEELER GAS CO.

Notice of Petition To Amend

JULY 17, 1970.

Take notice that on July 9, 1970, Wheeler Gas Co. (petitioner), Post Office Box 278, Wheeler, Tex. 79096, filed in Docket No. G-16788 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act on February 24, 1959, to authorize the construction and operation of certain facilities necessary to purchase up to 100,000 Mcf of natural gas annually from Gulf Oil Co. (Gulf), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner proposes to augment its declining reserves by purchasing up to 100,000 Mcf of natural gas per year from Gulf in the West Reydon Field in Oklahoma. Petitioner further proposes to construct and operate 2 miles of 2-inch pipeline extending south from a point in the West Reydon Field to a point of interconnection with petitioner's existing 4-inch line near Reydon. A portion of said gas will be delivered to Reydon through existing facilities and the remainder will be transported into Texas for distribution in Allison, Briscoe, and Wheeler, also through existing facilities. Gas purchases previously authorized from Natural Gas Pipeline Company of America will continue to be made.

The estimated total cost of the proposed facilities is $17,000, which will be financed by funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 10, 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.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-9499; Filed, July 22, 1970; 8:49 a.m.]

[Project 2581]

WISCONSIN PUBLIC SERVICE CORP.

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

JULY 15, 1970.

Public notice is hereby given that application for approval of Exhibit R has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a–825r) by Wisconsin Public Service Corp. (Correspondence to: C. A. McKenna, Secretary, Wisconsin Public Service Corp., 1029 North Marshall St., Milwaukee, Wis. 53201) as part of the license for the Peshtigo Project No. 2581, located on the Peshtigo River in the city of Peshtigo, Marinette County, Wis.

According to the Exhibit R, the land owned in fee by the licensee consists of approximately 1 acre at the dam site. This area is currently used for fishing, and there are no plans for further recreational development at the site. Recreation facilities at Badger Park, developed on the reservoir by the city of Peshtigo, consist of a swimming beach, bathhouse, two concrete plank boat landings, 30 camping units with electric outlets, and approximately 75 picnic tables. Although there are no plans for further recreational development, licensee indicates it will continue its policy of cooperating with authorized agencies in developing recreational use of the project.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with 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 the 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-9469; Filed, July 22, 1970; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

AMERICAN BANKSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of American Bankshares Corp., Milwaukee, Wis., for approval of acquisition of 80 percent or more of the voting shares of Kettle Moraine Bank, Genesee Depot, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of American Bankshares Corporation, Milwaukee, Wis. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Kettle Moraine Bank, Genesee Depot, Wis. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Wisconsin Commissioner of Banking and requested his views and recommendation. The Commissioner offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER, on May 23, 1970 (35 F.R. 7998), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

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

Applicant has two subsidiary banks with aggregate deposits of $125 million, which represent 1.4 percent of total bank deposits in the State. It is the sixth largest banking organization and sixth largest bank holding company in Wisconsin. (All banking data are as of Dec. 31, 1969, adjusted to reflect bank holding company formations and acquisitions approved by the Board to date.) Bank, headquartered in Genesee Depot, has five offices with total deposits of $11 million, representing 8 percent of deposits in a market which is centered in the city of Waukesha, and includes the central portion of Waukesha County (population 228,000), which has one of the highest rates of population growth of any county in the United States. Bank's three competitors, the largest and smallest of which are affiliated with bank holding companies, are all located in Waukesha, and control, respectively, 59, 26, and 7 percent of market deposits. Upon acquisition of Bank, Applicant would increase only slightly its present share of State deposits and would become the State's fifth largest banking organization. Applicant's two Milwaukee subsidiaries are located about 25 miles east of Genesee Depot. Because of the distance involved and the presence of banks in the intervening area, Applicant's subsidiaries and Bank are not regarded as significant present or potential competitors.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area, and could stimulate competition in the aforementioned market. The banking factors are consistent with approval of the application, as they relate to Applicant and its subsidiaries, and, as they relate to Bank, weigh slightly in favor of approval. The Genesee Depot community would benefit from the acquisition because Bank would be able to offer specialized services, such as trust services, now available only in adjoining communities. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such time be extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] July 16, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-9477; Filed, July 22, 1970; 8:47 a.m.]

NORTHWEST OHIO BANKSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Northwest Ohio Bankshares, Inc., Toledo, Ohio, for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of The Toledo Trust Co., Toledo, and The First National Bank of Findlay, Findlay, both in Ohio.

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

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

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

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

meeting the convenience and needs of the community to be served.

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

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

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

[SEAL] KENNETH A. KENYON, *Deputy Secretary.*

[F.R. Doc. 70-9476; Filed, July 22, 1970; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-1740]

HEALTH INDUSTRIES, INC.

Notice of Application To Withdraw From Listing and Registration

JULY 17, 1970.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Salt Lake Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The nature of the company's business has substantially changed from that of a mining company to that of a company engaged in the operation of health clubs, making continued listing on the Salt Lake Stock Exchange inadvisable since that Exchange affords a trading market primarily for mining securities. The proposed delisting was approved by stockholders on June 5, 1970, in accordance with the rules of the Exchange.

Any interested person may, on or before August 3, 1970, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission (pursuant to delegated authority).

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 70-9489; Filed, July 22, 1970; 8:48 a.m.]

[811-1413]

INVESTORS CONTRACTS, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JULY 17, 1970.

Notice is hereby given that Investors Contracts, Inc. (Applicant), 2605 South Hanley Road, St. Louis, Mo. 63144, a Missouri corporation registered as an open-end diversified investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant states that its total assets as of April 24, 1970, were approximately $112,000; that its outstanding securities (other than short-term paper) are beneficially owned by 22 persons, none of whom is a company; and that it is not making and it does not presently propose to make a public offering of its securities. Applicant has filed for deregistration because it has determined that it is not possible for Applicant to operate as originally intended.

Section 3(c)(1) of the Act states, among other things, that any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act states, among other things, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

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

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 70-9488; Filed, July 22, 1970; 8:48 a.m.]

[812-1693]

INVESTORS SYNDICATE OF AMERICA, INC.

Notice of Filing of Application for Modification of Order Authorizing Uninsured Property Loans as Qualified Investments

JULY 14, 1970.

Notice is hereby given that Investors Syndicate of America, Inc. (Applicant), 800 Investors Building, Minneapolis, Minn. 55402, a face-amount certificate company registered under the Investment Company Act of 1940 (Act) has filed an application for an order amending an order (1965 Order) issued on March 4, 1965 (Investment Company Act Release No. 4178), pursuant to section 28(b) of the Act, authorizing uninsured property improvement loans as qualified investments for Applicant subject to certain specified conditions and commitments. Applicant seeks modification of certain of these conditions and commitments. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant is required to invest its assets in amounts equal to its face-amount certificate reserves and capital stock in "qualified investments" which are defined under section 28(b) of the Act as investments of a kind which life-insurance companies are permitted to invest in or hold under the provisions of the Code of the District of Columbia and such other investments as the Commission shall by rule, regulation, or order authorize as qualified investments. Pursuant to the authority granted by section 28(b), the Commission on February 9, 1960, issued an order (Investment Company Act Release 2973), subject to certain conditions, which authorized as

qualified investments for Applicant property improvement loans insured by the Commissioner of the Federal Housing Administration (FHA) under the provisions of title I of the National Housing Act.

In 1965, the Commission issued an order (referred to above as the 1965 Order) authorizing uninsured property improvement loans as "qualified investments" for Applicant subject to certain conditions and commitments including the following:

(1) The maximum finance charge for uninsured property improvement loans purchased by Applicant will be 7 percent discount per annum;

(2) The maximum maturity of loans purchased by Applicant will be 7 years subject to the condition that Applicant will not purchase uninsured property improvement loans having a maturity of more than 5 years in an amount exceeding 20 percent of the dollar amount of all such loans purchased in any 1 year; and

(3) The maximum principal amount of loans purchased by Applicant will be $5,000 per property.

Applicant states its belief that the existing limitations on rate, term, and amount are not realistic in today's market, that loans purchased pursuant to such limitations provide a relatively and unnecessarily low return and that an amendment is essential to permit the continued availability to Applicant of a convenient and desirable investment medium. Accordingly, Applicant requests that the 1965 Order be amended in the following respects:

(1) To increase the authorized maximum financial charge on uninsured loans from 7 percent discount added, or approximately 12½ percent on an annual percentage rate basis, to 10½ percent discount added, or approximately 18 percent on an annual percentage rate basis;

(2) To increase the authorized maximum maturity of uninsured loans from 7 years to 10 years, subject to the condition that Applicant will not purchase loans having a maturity of more than 7 years in an amount exceeding 20 percent of the dollar amount of all such loans purchased in any 1 year; and

(3) To increase the authorized maximum principal amount of any uninsured property improvement loan purchased by Applicant as a "qualified investment" from $5,000 per property to $7,500 per property.

Applicant represents that the foregoing amendments are necessary because of an increase in the cost of money and because of inflation which has necessitated larger property improvement loans and consequently longer terms so that monthly payments may be kept within the borrower's ability to pay. To support its representations Applicant states that on August 1, 1968, the Federal Housing Authority (FHA) increased the discount rate permitted for home improvement loans eligible for insurance under title I of the National Housing Act from 5 percent discount added (approximately 9 percent on an annual percentage rate basis) to 5½ percent discount added (approximately 10 percent on an annual percentage rate basis); the prime rate of interest charged by banks increased from 4½ percent in April 1965, to 8½ percent in November 1969; the rate of interest on U.S. Government 3-month Treasury Bills increased from 3.95 percent in 1965 to 7.49 percent in November 1969; the yield on FHA mortgage loans increased from 5.47 percent in 1965 to 8.48 percent in November 1969; the yield on corporate bonds rated Aaa increased from an average rate of 4.49 percent in April 1965 to 7.50 percent in November 1969; the maximum term for loans eligible for insurance under title I of the National Housing Act was extended from 5 to 7 years and the maximum loan amount was increased from $3,500 to $5,000 effective August 1, 1968; the Department of Commerce Composite Index of Construction Costs for 1965 was 115 and was 143 in November 1969; the average insured property improvement note purchased by IDS Credit Corp. (from whom Applicant purchases all of its uninsured property improvement loans) in 1965 was $1,204 and in 1969 was $1,627; and the cost of major property improvements such as kitchen remodeling or additions to a home on the basis of Applicant's experience now exceeds $5,000.

Applicant further represents that these amendments will not affect the quality of the loans to be purchased and that the quality will be as high at the increased maximum financial charge as it is at the present charge.

Applicant has agreed that any exemption issued pursuant to its present Application will expire after 1 year at which time Applicant may reapply to the Commission for any necessary exemption.

Notice is further given that any interested person may, not later than August 10, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 70–9490; Filed, July 22, 1970; 8:48 a.m.]

[811–1762]

LINCOLN NATIONAL CORP.

Notice of Filing of Application for Order Declaring Company Has Ceased To Be an Investment Company

JULY 17, 1970.

Notice is hereby given that Lincoln National Corp. (Applicant), 633 Maine Avenue, Passaic, N.J., a New Jersey corporation registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant registered under the Act on November 15, 1968. At the Annual Meeting of Shareholders of Applicant held on June 5, 1969, the holders of more than two-thirds (⅔) of Applicant's outstanding shares voted in favor of and adopted a Plan of Complete Liquidation and Dissolution, pursuant to which Applicant was to cease conducting its business, wind up its affairs, completely liquidate and distribute all of its assets, within some one calendar month, to its shareholders, in complete cancellation of all of Applicant's outstanding stock, and dissolve. Pursuant to the Plan and after June 5, 1969, the Applicant ceased to do business and did, during October 1969, distribute its net assets, in kind, proportionately to all shareholders of Applicant according to their respective interests in Applicant. On November 6, 1969, a Certificate of Dissolution of Applicant was filed with the Secretary of the State of New Jersey, whereupon Applicant was dissolved according to law.

Applicant represents that all its ascertained debts and obligations have been paid and that for any other claims, a reserve, in the amount of $277,428.35, is being held by Fidelity Union Trust Company of Newark, N.J. All remaining assets of Applicant have been distributed to shareholders, and any balance remaining in the aforementioned reserve will be likewise distributed.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

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

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 70-9491; Filed, July 22, 1970; 8:48 a.m.]

[Release No. 34-8896]

AMEX PLAN

Action Declaring Plan Effective

The Securities and Exchange Commission has announced that it has declared effective a plan filed by the American Stock Exchange (Amex) pursuant to the provisions of Rule 17a-10(b) (17 CFR 240.17a-10(b)) under the Securities Exchange Act of 1934 (the Act).

Rule 17a-10 requires that every member of a national securities exchange and every broker or dealer registered pursuant to section 15 of the Act file, not later than 120 days after the close of each calendar year, a report of his income and expenses and related financial and other information for such calendar year on Form X-17A-10 (17 CFR 249.618). Paragraph (b) of the rule provides that a national securities exchange or a registered national securities association may submit to the Commission a plan providing for reports from its members on forms consistent with Form X-17A-10, and for the transmission to the Commission of copies of such reports. Such a plan may also provide that, in transmitting copies of such records to the Commission, the names and addresses of members whose information is transmitted may be omitted. The Commission, in declaring any such plan effective, may impose such terms and conditions relating to the provisions of the plan and the period of its effectiveness as may be deemed necessary or appropriate in the public interest, for the protection of investors, or to carry out the Commission's duties under the Act. Upon Commission approval of such a plan, the members of the exchange or association which submitted the plan are to file their reports directly with the association or exchange in accordance with the plan and not with the Commission.

The Amex plan covers members of that exchange who are not also members of the National Association of Securities Dealers, Inc. (i.e., primarily certain floor personnel). In summary, the plan provides that the Amex (1) will adopt and implement appropriate internal procedures for review of the information submitted by members, (2) will review all reports filed for reasonableness and accuracy, (3) will submit edited data to the SEC, (4) will maintain and preserve a copy of all information furnished it by any member and of related correspondence, memoranda, etc. for a period of 6 years, and (5) will undertake certain other obligations. A copy of the Amex plan is available for inspection at the Commission, Washington, D.C.

Commission action. The text of the Commission action declaring effective the Amex plan filed pursuant to § 240.17 a-10(b) of Chapter II of Title 17 of the Code of Federal Regulations is as follows:

The Securities and Exchange Commission acting pursuant to the Securities Exchange Act of 1934, particularly sections 17(a) and 23(a) thereof and § 240.17a-10(b) thereunder, deeming it necessary for the exercise of the functions vested in it, and having due regard for the public interest and for the protection of investors, hereby declares effective May 28, 1970, the plan filed by the American Stock Exchange (Amex) with the Commission pursuant to § 240.17a-10(b) on May 18, 1970, and amended on May 26, 1970, on the condition that if at any time it appears to the Commission to be necessary or appropriate in the public interest or for the protection of investors so to do, the Commission may suspend or terminate the effectiveness of such plan by sending at least 60 days written notice to the Amex. The Commission finds that notice and subsequent procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553) are unnecessary with respect to this action.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

MAY 28, 1970.

[F.R. Doc. 70-9492; Filed, July 22, 1970; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 779]

NEW YORK

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of July 1970, because of the effects of certain disasters, damage resulted to residences and business property located in Broome and Delaware Counties, N.Y.;

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

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

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

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the aforesaid counties, and areas adjacent thereto, suffered damage or destruction resulting from floods occurring on July 3, 1970.

OFFICE

Small Business Administration District Office, Fayette and Salina Streets, Syracuse, N.Y. 13202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to January 31, 1971.

Dated: July 14, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-9455; Filed, July 22, 1970; 8:45 a.m.]

[Declaration of Disaster Loan Area 778]

VIRGINIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of July 1970, because of the effects of certain disasters, damage resulted to residences and business property located in the city of Alexandria, Va.;

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

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

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

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the aforesaid city, and areas adjacent thereto, suffered damage or destruction resulting from floods occurring on July 9, 1970.

OFFICE

Small Business Administration District Office, 1405 I Street NW., Washington, D.C. 20417.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to January 31, 1971.

Dated: July 10, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-9454; Filed, July 22, 1970; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 68]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

JULY 17, 1970.

The following applications are governed by Special Rule 247[1] of the Commission's general rules of practice (49 CFR 1100.247, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing: (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 1872 (Sub-No. 74), filed July 6, 1970. Applicant: ASHWORTH TRANSFER, INC., 1526 South 600 West, Salt Lake City, Utah 84104. Applicant's representative: Gordon L. Roberts, 520 Kearns Building, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Montana and Idaho, to points in Colorado, Utah, Wyoming, South Dakota, Nebraska, Kansas, Missouri, and Iowa. NOTE: Applicant states that it can tack with its base certificate at Salt Lake City, Utah, to serve points in Nevada. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, Boise, Idaho, Billings, Mont., or Denver, Colo.

No. MC 1872 (Sub-No. 75), filed July 6, 1970. Applicant: ASHWORTH TRANSFER, INC., 1526 South 600 West, Salt Lake City, Utah 84104. Applicant's representative: Keith E. Taylor, 520 Kearns Building, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles* less than 15,000 pounds together with *parts, attachments, and supplies relating thereto*, from Logan, Utah, to points in Colorado, New Mexico, Arizona, and Nevada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 2860 (Sub-No. 80), filed June 26, 1970. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Alvin Altman, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preserved fruit or fruit peel*, from Plant City, Fla., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, New Jersey, Pennsylvania, Rhode Island, North Carolina, South Carolina, Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 3252 (Sub-No. 68), filed July 6, 1970. Applicant: MERRILL TRANSPORT CO., a corporation, 1037 Forest Avenue, Portland, Maine 04104. Applicant's representative: Francis E. Barrett, Jr., 536 Granite Street, Braintree, Mass. 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sodium silicate*, in bulk, in tank vehicles from Portland, Maine, to points in Maine, north of a line beginning at a point on the New Hampshire-Maine State line near Upton, N.H., and extending through Upton, N.H., and Livermore Falls, Maine to Rockport, Maine; (2) *waste products* of lumber from Portland and Fryeburg, Maine, to points in New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, Virginia, Indiana, Kentucky, Ohio, and Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Boston, Mass.

No. MC 9789 (Sub-No. 13), filed June 29, 1970. Applicant: THOMAS C. DYER, INC., North 322 Eastern Road, Spokane, Wash. 99206. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which by reason of size or weight require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; and (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts*, and *supplies* moving in connection therewith between points in Washington, Oregon, Idaho, Utah, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 19227 (Sub-No. 140), filed June 29, 1970. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representative: J. Fred Dewhurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Architectural aluminum*

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

products, and related parts and supplies, from Irving, Tex., to points in the United States (except Alaska, Hawaii, Idaho, Montana, North Dakota, Oregon, South Dakota, Washington, and Wyoming). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Miami, Fla.

No. MC 19227 (Sub-No. 141), filed June 29, 1970. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representative: J. Fred Dewhurst (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Asbestos, cement pipe and related supplies and materials,* from the port of entry on the United States-Mexico boundary line located at El Paso County, Tex., to points in Arizona, New Mexico, Texas, Colorado, Utah, and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Miami, Fla.

No. MC 19227 (Sub-No. 142), filed June 29, 1970. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representative: J. Fred Dewhurst (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron or steel, industrial grating,* from Santa Fe Springs, Calif., to points in Texas. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Miami, Fla.

No. MC 22195 (Sub-No. 141), filed June 29, 1970. Applicant: DAN DUGAN TRANSPORT COMPANY, a corporation, 41st and Grange Avenue, Post Office Box 946, Sioux Falls, S. Dak. 57101. Applicant's representative: J. P. Everist (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products,* in bulk, from terminals, storage facilities, and loading facilities utilized or operated by the American Oil Co. and the Mobil Oil Corp. in Sioux Falls, S. Dak., to points in Iowa, Minnesota, and North Dakota. NOTE: Applicant states that portion of existing authority could be tacked with requested authority at Sioux Falls, S. Dak., to provide service to destinations sought by instant application which would only duplicate tacking now possible. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Sioux Falls, S. Dak.

No. MC 26825 (Sub.-No. 11), filed July 6, 1970. Applicant: ANDREWS VAN LINES, INC., Seventh and Park Avenue, Norfolk, Nebr. 68701. Applicant's representative: Earl H. Scudder, Jr., 605 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission; (1) between points in the United States (except those in Alaska and Hawaii); and (2) between points in the United States (except Alaska and Hawaii), on the one hand, and, on the other, points in Alaska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. All duplicating authority to be eliminated. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 29392 (Sub-No. 14) (Amendment), filed May 18, 1970, published FEDERAL REGISTER issue of June 11, 1970, amended and republished as amended, this issue. Applicant: LES JOHNSON CARTAGE CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Precast, prestressed, and preformed concrete slabs, columns, beams, purlins, channels and panels;* (2) *buildings,* complete, knocked down, or in sections; and (3) *parts, accessories, materials, supplies, and equipment* used in the construction, erection and completion of the commodities specified in (1) and (2) above (except commodities in bulk), from points in Wisconsin, to points in Illinois, Indiana, Iowa, Michigan, Missouri, Minnesota, and Ohio. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority under its lead certificate MC 29392 wherein it conducts operations in Wisconsin and the Upper Peninsula of Michigan. This could enable it to provide service to all of the States involved in the instant application. The purpose of this republication is to reflect the hearing information. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 29833 (Sub-No. 2), filed July 2, 1970. Applicant: PRUNTY MOTOR EXPRESS, INC., Box 1724, Parkersburg, W. Va. 26101. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, Ohio. 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (a) *General commodities* (except livestock, classes A and B explosives, household goods as defined by the Commission and commodities requiring special equipment), between Blaine, Ohio, on the one hand, and, on the other, points in Pennsylvania, Ohio, Maryland, and the District of Columbia; and (b) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between Blaine, Ohio, on the one hand, and, on the other, points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified. NOTE: Applicant states that it intends to tack (a) and (b) at Blaine, Ohio, to serve the destinations above. Applicant further states that it presently is authorized to provide all of the service sought herein under its certificate in MC 29833 via gateway at Wood County, W. Va. The purpose of this application is to obtain an alternate gateway at Blaine, Ohio. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 31389 (Sub-No. 130), filed July 1, 1970. Applicant: McLEAN TRUCKING COMPANY, a corporation, 617 Waughtown Street, Post Office Box 213, Winston-Salem, N.C. 27102. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, and commodities in bulk, and Government-owned compressed gas trailers, empty or loaded with compressed gases other than liquefied petroleum gas), serving the plant and storage facilities of Boise-Southern Co. as an off-route point in connection with McLean's regular route between Lake Charles, La., and Shreveport, La., at Sheet No. 7 of Herrin Transportation Co. certificate No. MC-1124. NOTE: Herrin Transportation Co. was merged into McLean Trucking on October 1, 1969, pursuant to Commission order in No. MC-C-10121, reissuance of the Herrin authority in the name of McLean is in the process of being completed. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 42556 (Sub-No. 4), filed July 2, 1970. Applicant: JOSEPH C. BOCKIN, JR., doing business as J. BOCKIN, Edgewood Road, Yardley, Pa. Applicant's representative: Alan Kahn, 1920-Two Penn Center Plaza, Philadelphia, Pa. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials,* from Baltimore, Md., to points in New Jersey. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 50493 (Sub-No. 43), filed July 2, 1970. Applicant: P.C.M. TRUCKING, INC., 1063 Main Street, Orefield, Pa. 18609. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Animal feed, animal feed ingredients and constituents,* from Allentown, Pa., to points in Florida, Georgia, and Alabama; and (2) *frozen meats, meat products, and meat byproducts unfit for human consumption,* in vehicles equipped with mechanical refrigeration and *materials and supplies,* on return. NOTE: Applicant

holds contract carrier authorities under MC 115859 Sub 1 and Subs 3 and 4, therefore dual operations may be involved. Applicant states that if the above sought authority is granted, it desires to have the authority in MC 115859 Sub 1 revoked. Applicant further states that if the authority is granted, it can be tacked on return movements at Allentown, Pa., for service to points in Connecticut, Massachusetts, New York, and New Jersey. However, it does not intend to do this at present. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 51146 (Sub-No 163), filed June 4, 1970. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representatives: D. F. Martin (same address as applicant) and Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and products produced or distributed by manufacturers and converters of paper products;* (1) from Williamsburg, Pa.; Springfield, Mass.; Enfield, and Rockville, Conn.; to points in Kentucky, Minnesota, and Missouri; (2) from Worcester, Mass., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin; (3) from New Milford, Conn., to points in Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and Wisconsin; and (4) between Balfour, N.C.; New Milford, Conn.; Niagara Falls, N.Y.; Appleton, Wis.; Neenah, Wis.; Conway, Ark.; and Memphis, Tenn. NOTE: Applicant states that the authority sought could be tacked with various subs of MC 51146 and it will tack with its MC 51146 where feasible. Applicant further states that it has various duplicative items of authority under various subs but does not seek duplicative authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 51146 (Sub-No. 165), filed July 7, 1970. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 53406. Applicant's representative: D. F. Martin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* produced or distributed by manufacturers and converters of paper and paper products, and *materials, equipment and supplies* used in the manufacture and distribution of the named commodities, between Marshall, Mich., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, Massachusetts, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Washington, and Wyoming. NOTE: Applicant states that the requested authority could be tacked with various subs of MC 51146 and applicant will tack with its MC 51146 where feasible. No duplicate authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 166), filed July 6, 1970. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald, Green Bay, Wis. 54306. Applicant's representatives: D. F. Martin (same address as applicant) and Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Welders and welding equipment, and parts, accessories, hand trucks and trailers*, used for, or in connection with welders and welding equipment, from Appleton, Wis., to points in the United States (except Alaska and Hawaii); (2) *rejected and returned shipments, and equipment, materials and supplies* used in the manufacture and distribution of those commodities described in (1) above, from the above described destination States to Appleton, Wis. NOTE: Applicant states that the requested authority could be tacked with various subs of MC 51146 and applicant will tack with its MC 51146 where feasible. Applicant further states that he has various duplicative items of authority under various subs, but does not seek duplicative authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Chicago, Ill.

No. MC 59488 (Sub-No. 34), filed June 15, 1970. Applicant: SOUTHWESTERN TRANSPORTATION COMPANY (SWT), 7600 South Central Expressway, Dallas, Tex. 75216. Applicant's representative: Lloyd M. Roach, 1517 West Front Street, Tyler, Tex. 75701. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities requiring special equipment and those injurious or contaminating to other lading), between Dallas, Tex., and Shreveport, La., from Dallas, Tex., over Interstate Highway 20 and return serving the intermediate points of Longview and Marshall, Tex., and the off-route points of Kilgore, Tex., over Texas Highway 31 via Tyler, Tex., and U.S. Highway 259 as an access highway to Interstate Highway 20. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Little Rock, Ark.

No. MC 60087 (Sub-No. 14) (Correction), filed April 27, 1970, published in the FEDERAL REGISTER issue of June 25, 1970, and republished in part, as corrected this issue. Applicant: CURRY MOTOR FREIGHT LINES, INC., 700 Northeast Third Street, Amarillo, Tex. 79105. Applicant's representative: Grady L. Fox, 222 Amarillo Building, Amarillo, Tex. 79101. NOTE: The purpose of this partial republication is to correct, as follows, certain errors which were inadvertently made in the previous publication: (a) Omit that part of the second numbered route referred to as "(2) between Canyon and Friona, Tex.;" (b) In Route (3) the word "Riona", Tex. should read "Friona", Tex., and (c) add an additional route which was previously omitted reading "(14) between Lubbock, Tex., and Morton, Tex., over Texas Highway 116, serving all intermediate points." The rest of the application remains as previously published on June 25, 1970.

No. MC 60887 (Sub-No. 3), filed July 6, 1970. Applicant: MRS. HARRY H. LONG, doing business as HARRY H. LONG MOVING & STORAGE, 1001 South Douglas Street, Appleton, Wis. 54911. Applicant's representative: E. J. Gerrity, Post Office Box 914, Appleton, Wis. 54911. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in containers, having prior or subsequent movement by rail, water, or air, between points within an area bounded on the north by a line beginning at Milwaukee, Wis., and extending west along U.S. Highway 18 to Madison, Wis.; on the west by a line beginning at Madison, Wis., and extending along combined U.S. Highways 18 and 151 to junction Wisconsin Highway 69, thence along Wisconsin Highway 69 to the Wisconsin-Illinois State line; on the south by a line at the junction of Wisconsin Highway 69 and the Wisconsin-Illinois State line and extending east along the Illinois-Wisconsin State line to Lake Michigan; and on the east by a line beginning at the Illinois-Wisconsin State line and extending along the west shore of Lake Michigan to the point of beginning; including points on the indicated portions of the highways and State line specified. NOTE: Applicant states that it can tack at Milwaukee, Wis., with its presently held authority wherein it is authorized to conduct operations in the States of Wisconsin, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, New York, North Dakota, Ohio, and Pennsylvania. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 61592 (Sub-No. 180), filed June 25, 1970. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52722. Applicant's representative: Thomas F. Kilroy, 2111 Jefferson Davis Highway, Arlington, Va. 22202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from Washington, Evansville, and Indianapolis, Ind., and Louisville, Ky., to points in Wisconsin, Pennsylvania, New York, Vermont, New Hampshire, Maine, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, Virginia, District of Columbia, West Virginia, Kentucky, Tennessee,

North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 64100 (Sub-No. 7), filed June 29, 1970. Applicant: GEORGE B. UTTER, Rural Delivery No. 3, Oneonta, N.Y. 14871. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, N.Y. 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, in bulk, in specially built dump trailers, from Oneonta (Otsego County), N.Y., to Andes (Delaware County), N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 66886 (Sub-No. 19), filed June 29, 1970. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64108. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Towers, parts and accessories for towers*, and (2) *shelters*, from Kansas City, Mo., to points in the United States (including Alaska but excluding Hawaii). NOTE: Applicant states it does not intend to tack, although tacking possibilities exist with applicant's base certificate No. MC 66886 and Sub-No. 8, wherein it holds size and weight authority between points in Kansas and Missouri. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas, Tex.

No. MC 66886 (Sub-No. 20), filed June 29, 1970. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64108. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors and hydraulic hammers*, from Denver, Colo., to points in the United States, including Alaska (except points in Colorado and Hawaii). NOTE: Applicant states that he does not intend to tack, however, it is possible to tack authority sought with applicant's "size and weight" authority at Denver, Colo., to reach Kansas City, Mo. MC 66886, and thence points in Kansas and Missouri MC 66886 (Sub-No. 8). If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 66886 (Sub-No. 21), filed June 29, 1970. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64108. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Incinerators and refuse treatment equipment;* and (2) *parts, attachments, and accessories* for commodities in (1) above, from Springfield, Mo., to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 66886 (Sub-No. 22), filed July 1, 1970. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo., 64105. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Sprinkler systems and parts* thereof; and *pipe, pipe fittings, and couplings;* (1) from points in Cherokee County, Kans., to points in the United States (except Hawaii); and (2) from Houston, Tex., to points in Cherokee County, Kans. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 71642 (Sub-No. 10) (Amendment), filed April 22, 1970, published FEDERAL REGISTER issue of June 4, 1970, amended July 7, 1970, and republished as amended this issue: Applicant: N. S. DE SHONG, 3201 Mill Creek Road, Wilmington, Del. 19808. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiber, plastics, and insulating materials* (except commodities in bulk), *and fiber and plastic containers*; (a) between Newark, Wilmington, and Yorklyn, Del.; Kenneth Square and Willow Grove, Pa., on the one hand, and, on the other, Baltimore, Md., restricted to traffic having a prior or subsequent movement by water in foreign commerce; and (b) from Yorklyn, Del., to Hazelwood, N.C., and Nichols, S.C., under contract with NVF Co., in connection with (a) and (b) above. NOTE: The purpose of this republication is to more clearly set forth the proposed operation. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 75212 (Sub-No. 4), filed June 22, 1970. Applicant: SHANAHAN TRUCKING, INC., Main Road, Gill, Mass. 01376. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline, kerosene, fuel oil, distillates, and residual fuels*, in bulk, in tank vehicles, from Boston and Springfield, Mass., to points in Rockingham, Hillsboro, Cheshire, and Merrimack Counties, N.H., and points in Bennington and Windham Counties, Vt., under contract with Pioneer Petroleum Products, Inc., M. J. Reynolds Oil Co., Inc., and Allen Oil Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 76032 (Sub-No. 257), filed July 1, 1970. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: David J. Inwood (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Albuquerque, N. Mex., and El Paso, Tex., from Albuquerque over Interstate Highway 25 to junction Interstate Highway 10, thence over Interstate Highway 10 to El Paso, Tex., and return over the same route, in connection with carrier's presently authorized regular route operations, serving no intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 78228 (Sub-No. 29), filed July 1, 1970. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between the plantsites and other facilities of Jones & Laughlin Steel Corp., at Pittsburgh and Aliquippa, Pa., on the one hand, and, on the other, points in Illinois, Indiana, and the Lower Peninsula of Michigan. Common control may be involved. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 82079 (Sub-No. 19), filed July 6, 1970. Applicant: KELLER TRANSFER LINE, INC., 1239 Randolph Avenue SW., Grand Rapids, Mich. 49507. Applicant's representative: J. M. Neath, Jr., 900 One Vandenberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Hillsdale, Mich., to Richmond, Ind. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., or Indianapolis, Ind.

No. MC 83539 (Sub-No. 284), filed July 1, 1970. Applicant: C & H TRANSPORTATION CO., INC., 1926–2010 West Commerce Street, Post Office Box 5976, Dallas, Tex. 75222. Applicant's representatives: Rex W. Hall (same address as applicant) and Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Material handling equipment, accessories, attachments and parts* therefor, from Sparks, Nev., to points in the United States (except Nevada, Hawaii, and Alaska). NOTE: Applicant states that the requested authority

cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Reno, Nev., or Washington, D.C.

No. MC 83835 (Sub-No. 72), filed July 6, 1970. Applicant: WALES TRANSPORTATION, INC., Post Office Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire brick and other refractory products*, from points in Audrain, Callaway, and Montgomery Counties, Mo., to points in the United States, including Alaska (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Kansas City, Mo.

No. MC 87546 (Sub-No. 3), filed April 6, 1970. Applicant: KRAMER'S MOTOR SERVICE AND STORAGE, INC., 402 North Queen Street, York, Pa. 17401. Applicant's representative: Donn I. Cohen, 15 South Duke Street, York, Pa. 17401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, naphtha or gasoline in containers, feathers, commodities requiring refrigeration, and those requiring special equipment), from points in York, Pa., and from points in Pennsylvania within 35 miles of York, Pa., to points in York, Pa., for delivery in York, Pa., to motor carriers, freight forwarders and railroads for shipment by such motor carriers, freight forwarders, and railroads to points outside Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at York, Pa.; Harrisburg, Pa.; Baltimore, Md., or Washington, D.C.

No. MC 87720 (Sub-No. 100), filed June 26, 1970. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers* (except glass containers), *packaging materials, pulpboard products, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of containers, packing materials, and pulpboard products, between points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, under contract with Packaging Corporation of America, Corco, Inc., and Bemis Co., Inc. NOTE: Applicant states that the instant application duplicates in part the authority presently held as a contract motor carrier. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 94350 (Sub-No. 268), filed June 25, 1970. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, Haywood Road, Greenville, S.C. 29602. Applicant's representatives: Mitchell King, Jr. (same address as applicant) and Ames, Hill & Ames, 666 11th Street NW., Suite 705, McLachlen Building, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, mounted on wheeled undercarriages, from points of manufacture, from Virginia Beach, Va., to points east of the Mississippi River, including Louisiana and Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Virginia Beach, Va.

No. MC 94350 (Sub-No. 269), filed June 22, 1970. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, Greenville, S.C. 29602. Applicant's representatives: Mitchell King, Jr. (same address as applicant) and Ames, Hill & Ames, 666 11th Street NW., McLachlen Building, Suite 705, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, and *buildings*, in sections, mounted on wheeled undercarriages, from points of manufacture, from points in Lee and Gaston Counties, N.C., to points east of the Mississippi River, including Louisiana and Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C.

No. MC 94350 (Sub-No. 270), filed June 29, 1970. Applicant: TRANSIT HOMES, INC., Post Office Box 1628 Haywood Road, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as above). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from Bennettsville, S.C., to points in the United States on and east of the Mississippi River including Louisiana and Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C., or by modified procedure.

No. MC 99780 (Sub-No. 15), filed June 29, 1970. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 Northeast Bond Street, Peoria, Ill. 61604. Applicant's representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packinghouse products* (except in bulk, in tank vehicles), from the plantsite of The Rath Packing Co. at Columbus Junction, Iowa, to points in Illinois and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107002 (Sub-No. 394), filed June 29, 1970. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, Post Office Box 1123, Jackson, Miss. 39205, and H. D. Miller, Jr., Post Office Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Louisville, Miss., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Tennessee, and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 107295 (Sub-No. 399), filed June 20, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood, and accessories* incidental to their application, from Chicago, Ill., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. *Rejected material* for return from points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico to Chicago, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Chicago, Ill.

No. MC 107295 (Sub-No. 400), filed June 26, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile, slate, marble, and accessories; and bathroom accessories*, (1) from points in Maryland, New York, Ohio, and Illinois, to points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin (2) from points in Texas to points in Oklahoma; and (3) from points in Louisiana and Alabama to points in Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 403), filed June 29, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumber's goods; kitchen, bathroom or lavatory fixtures; and accessories*, from Salem and Springfield, Ohio; Ford City and Scranton, Pa., to points in the United States, except Alaska and Hawaii. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 404), filed July 1, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood, and accessories* thereof, from Alpena, Mich., to points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and *rejected material* on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 107295 (Sub-No. 405), filed July 1, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile and slab*, building or roofing, *reinforced concrete and wood fiber and cement combined and accessories*, from North Arlington, N.J., to points in the United States (except Washington, Oregon, California, Arizona, New Mexico, Utah, Idaho, Alaska, and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-406), filed July 2, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating and cooling systems, parts, and accessories*, from Elyria, Ohio, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 407), filed July 2, 1970. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representatives: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbers goods, bathroom and lavatory fixtures and accessories*, from Abingdon, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary applicant requests it be held at Chicago, Ill.

No. MC 107496 (Sub-No. 785), filed June 22, 1970. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid feed supplement and mineral oil*, from Fort Lupton, Colo., to points in New Mexico, Texas, Missouri, and Oklahoma; (2) *ammonium nitrate*, in bulk, in tank vehicles, from Laramie, Wyo., to points in Colorado, Utah, Idaho, South Dakota, Nebraska, and Kansas; (3) *liquid sugar*, in bulk, from the Tri-City Regional Port District, Madison County, Ill., to points in Missouri; (4) *fly ash*, in bulk, from Chicago, Waukegan, and Romeoville, Ill., and Hammond, Ind., to points in Iowa; and (5) *fertilizer and fertilizer ingredients*, from Webster City, Iowa, to points in Minnesota and Nebraska. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, Chicago, Ill., or Denver, Colo.

No. MC 107515 (Sub-No. 698), filed June 28, 1970. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Post Office Box 308, Forrest Park, Ga. 30050. Applicant's representative: B. L. Gundlach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix 1, *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers Inc., at or near Plainview, Tex., to points in Kentucky, Tennessee, Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Amarillo or Dallas, Tex.

No. MC 108207 (Sub-No. 304), filed June 30, 1970. Applicant: FROZEN FOOD EXPRESS, a corporation, 318 Cadiz Street, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Confectionery icings*, between Little Rock, Ark., and Rockford, Ill.; and (2) *prepared dough*, other than frozen, from Little Rock, Ark., to points in Indiana and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 108633 (Sub-No. 6), filed July 6, 1970. Applicant: BARNES FREIGHT LINES, INC., Post Office Box 369, Carrollton, Ga. 30117. Applicant's representative: Guy H. Postell, Suit 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Carrollton, Ga., and Bremen, Ga., from Carrollton over U.S. Highway 27 to Bremen, serving all intermediate points and the off-route point of Mount Zion, Ga., in connection with applicant's presently authorized regular route authority between Carrollton and Bremen, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 109501 (Sub-No. 13), filed July 6, 1970. Applicant: CALHOUN TRUCKING CORP., 319 Jacet Road, Kearny, N.J. 07032. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wire mesh;* (a) from Kearny, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, and Maryland; (b) from Baltimore, Md., to points in Ohio, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, Indiana, Michigan, Pennsylvania, New York, New Jersey, Connecticut, Virginia, North Carolina, West Virginia, Delaware, Maryland, District of Columbia, and Kentucky; (c) from Atlanta, Ga., to points in Tennessee, Alabama, Virginia, Georgia, Maryland, District of Columbia, Kentucky, South Carolina, and North Carolina; (d) from Savannah, Ga., to points in Tennessee, Alabama, Florida, Kentucky, South Carolina, North Carolina, Georgia, District of Columbia, Maryland, and Virginia; and (e) from Tampa, Fla., to points in Florida and Georgia; and (2) *wire*, plain or galvanized, from Jacksonville, Fla., and Atlanta, Ga., to Baltimore, Md.; Atlanta and Savannah,

Ga.; Tampa, Fla.; and Kearny, N.J.; under contract with National Wire Products Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 110098 (Sub-No. 109), filed June 29, 1970. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, Post Office Box 20380, San Antonio, Tex. 78220. Applicant's representatives: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102, and T. W. Cothren, Post Office Box 20380, San Antonio, Tex. 78220. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides) from points in Texas on and north of U.S. Highway 70 to points in Colorado, Kansas, Missouri, Illinois, Indiana, Nebraska, Iowa, Wisconsin, Minnesota, and Ohio, restricted to traffic originating at the above-named origin point and destined to the above-named destinations. NOTE: Applicant states that no duplicating authority is sought. If a hearing is deemed necessary, applicant, requests it be held at Fort Worth, Tex., or Omaha, Nebr.

No. MC 110884 (Sub-No. 13), filed June 30, 1970. Applicant: AUBREY FREIGHT LINES, INC., Post Office Box 527, Elizabeth, N.J. 07030. Applicant's representative: George A. Olsen, 9 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and products and supplies* used in the manufacturing of cheese and cheese products: (1) between Monroe, Wis., on the one hand, and, on the other, New York, N.Y., Neptune City, N.J., and points in Nassau County, N.Y.; (2) from Monroe, Wis., to points in Washington, D.C., and Maryland, under contract with N. Dorman & Co., New York, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washintgon, D.C.

No. MC 111170 (Sub-No. 145), filed July 6, 1970. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, El Dorado, Ark. 71730. Applicant's representative: Don Smith, Post Office Box 43, Fort Smith, Ark. 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, in bulk;* (1) from Crossett, Ark., to points in Georgia, Louisiana, Mississippi, North Carolina, and South Carolina; (2) from Louisville, Miss., to points in Arkansas and Louisiana; (3) from Lufkin, Tex., to points in Arkansas and Louisiana; and (4) from the plantsite of Georgia Pacific Corp. near Plaquemine, La., to points in Arkansas, Mississippi, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 111397 (Sub-No. 89), filed July 1, 1970. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth Street, Paducah, Ky. 42001. Applicant's representative: H. S. Melton, Jr., Post Office Box 1407, 234 Katterjohn Building, Paducah, Ky. 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid synthetic latex*, in stainless steel trailers, in bulk, from the plantsite of General Tire and Rubber Co. at or near Mayfield, Ky., to plantsite of Owens-Corning Fiberglas at or near Jackson, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Louisville, Ky.

No. MC 111401 (Sub-No. 306), filed June 29, 1970. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, Okla. 73701. Applicant's representative: Alvin L. Hamilton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Wichita, Kans., to points in Arkansas, Iowa, Missouri, Nebraska, and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 111545 (Sub-No. 140), filed June 24, 1970. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., Marietta, Ga. 30060. Applicant's representative: Robert E. Born, Post Office Box 6426, Station A, Marietta, Ga. 30060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum mill products*, between points in Morgan County, Ala., on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Applicant states that tacking is not specifically intended and therefore, does not describe any territory. It further states it is not willing to accept a restriction against tacking unless shown to be warranted. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112520 (Sub-No. 219), filed July 6, 1970. Applicant: McKENZIE TANK LINES, INC., Post Office Box 1200; also New Quincy Road, Tallahassee, Fla. 32302. Applicant's representative: W. Guy McKenzie, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, from the plantsite of Occidental Chemical Co. in Hamilton County, Fla., to points in Alabama, Florida, Georgia, South Carolina, Virginia, North Carolina, Delaware, Maryland, Mississippi, Tennessee, Kentucky, Louisiana, Pennsylvania, and New Jersey. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 113362 (Sub-No. 189), filed July 7, 1970. Applicant: ELLSWORTH FREIGHT LINES, INC., 220 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: H. Ray Pope, Jr., Ten Grant Street, Clarion, Pa. 16214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood furniture squares, hardwood furniture parts and mill work*, from points in Huntingdon County, Pa., to points in Michigan, Indiana, Illinois, Tennessee, Kentucky, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 113459 (Sub-No. 59), filed June 26, 1970. Applicant: H. J. JEFFRIES TRUCK LINES, INC., Post Office Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tubing*, other than oilfield tubing, from Houston, Tex., to points in the United States (except Arkansas, Louisiana, New Mexico, Texas, and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 113535 (Sub-No. 16), filed July 2, 1970. Applicant: A & W TRUCKING CO., INC., Rural Route 2, Box 370, Mosinee, Wis. 54455. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from Postville, Iowa, to points in Wisconsin, restricted to traffic originating at the plantsite and storage facilities utilized by Hygrade Food Products Corp., at or near Postville and destined to points in Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 11366 (Sub-No. 46), filed July 1, 1970. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay*, from Hutchins, Pa., to points in New York; (2) *refractory products*, from New Castle, Pa., to points in Ohio, Indiana, Illinois, Michigan, and New Jersey; (3)

refractory products from Canonsburg, Pa., to points in Ohio, Illinois, and Indiana; and (4) *refractory products*, from Greenville, Pa., to ports of entry on the international boundary line between the United States and Canada located at Buffalo and Niagara Falls, N.Y., for furtherance to the Province of Ontario, Canada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 115162 (Sub-No. 197), filed June 29, 1970. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain products, and cereal products* (except in bulk), from Topeka, Kans.; Blackwell, Okla.; Detroit, Mich.; Davenport, Iowa; Minneapolis, Minn.; Chester, Ill.; Mount Vernon, Ind.; Belleville, Ill.; and Evansville, Ind., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Mobile, Ala.

No. MC 115826 (Sub-No. 207), filed June 30, 1970. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088 T.A., Denver, Colo. 80217. Applicant's representative: Robert R. Digby, 217 Luhrs Tower, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite of Missouri Beef Packers, Inc., at or near Plainview, Tex., to points in Arizona, Alabama, California, Colorado, Georgia, Illinois, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, Oregon, South Carolina, Tennessee, Utah, Washington, Wisconsin, and Wyoming. NOTE: Applicant states that it could tack with its Sub 190 to allow service from California, Arizona, New Mexico, and Texas to the destinations sought. If a hearing is deemed necesssary, applicant requests it be held at Dallas, Tex.

No. MC 115841 (Sub-No. 382), filed June 29, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as applicant), and E. Stephen Heisely, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and warehouse facilities of Seabrook Farms Co., Inc., at or near Seabrook, N.J., to points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Iowa, Nebraska, Ohio, Pennsylvania, and Wisconsin. NOTE: Applicant states it does not intend to tack, although tacking possibilities exist with presently held authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115841 (Sub-No. 383), filed July 6, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as applicant), and E. Stephen Heisely, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk); and (2) *animal feedstuffs* (except in bulk), from points in Wilkes County, N.C., to points in Nebraska, Iowa, Illinois, Indiana, Kansas, Missouri, Michigan, Wisconsin, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 115841 (Sub-No. 385), filed July 6, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesly (same address as applicant), and E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and frozen bakery goods*, from Chicago and Deerfield, Ill., to points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Maryland, Delaware, Rhode Island, and Washington, D.C., restricted to traffic originating at the plantsite and warehouse facilities of Kitchens of Sara Lee at Chicago and Deerfield, Ill., and destined to States indicated. NOTE: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Chicago, Ill.

No. MC 116073 (Sub-No. 122), filed June 29, 1970. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Post Office Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes, campers, and camp coaches*, between points in the United States (including Alaska but excepting Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Los Angeles, Calif., Fort Worth, Tex., Atlanta, Ga., or Washington, D.C.

No. MC 116763 (Sub-No. 172), filed July 2, 1970. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Food and foodstuffs*, from Hannibal, Mo., to points in the United States (except Alaska, Hawaii, and Missouri); and (2) *food and foodstuffs; and ingredients, materials, equipment, and supplies* used in the manufacturing, packaging, and distribution of food and foodstuffs, from points in the United States (except Alaska, Hawaii, and Missouri) to Hannibal, Mo. NOTE: Applicant states that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states that no duplicating authority is held or sought. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine.

No. MC 116886 (Sub-No. 39), filed June 25, 1970. Applicant: HOWELL'S MOTOR FREIGHT INCORPORATED, 2210 Winston Avenue SW., Roanoke, Va. 24007. Applicant's representative: R. Roy Rush, 301 First Street SW., Post Office Box 614, Roanoke, Va. 24004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C 209 and 766 in refrigerated equipment, between Goodlettsville, Tenn., and points in Kentucky, West Virginia, Virginia, North Carolina, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 117031 (Sub-No. 8), filed June 21, 1970. Applicant: BROWN YANCEY, New Bloomfield, Mo. 65063. Applicant's representative: Herman W. Huber, 101 East High Street, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, in bulk, and in bags, between points in Montgomery County, Mo., and East St. Louis, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis or Jefferson City, Mo.

No. MC 117119 (Sub-No. 425), filed July 6, 1970. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, Ark. 72728. Applicant's representative: Bobby G. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, such as butter and cheese*, from Standford and Springfield, Ky., to points in California, Washington, and Oregon. NOTE: Com-

mon control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 117344 (Sub-No. 206), filed July 6, 1970. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representatives: James R. Stiverson, and Edward H. Van Deusen, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lacquers, paints, resins, stains, varnishes, and plastics*, in bulk, in tank vehicle, from Dayton, Ohio, to points in Indiana and Kentucky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 117574 (Sub-No. 186) (correction), filed June 18, 1970, published in the FEDERAL REGISTER issue of July 9, 1970, corrected in part, and republished as corrected, this issue. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). NOTE: The purpose of this partial republication is to redescribe the territorial description in part (1) of the application, a portion of which was inadvertently omitted in the previous publication: (1) * * * from Detroit, Mich., commercial zone and Romeo, Mich., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York on and east of U.S. Highway 219 from the New York-Pennsylvania State line to its junction with U.S. Highway 62 *at Hamburg, N.Y., and on and east of U.S. Highway 62* from said junction to and including Niagara Falls, N.Y., North Carolina, Pennsylvania on and east of U.S. Highway 219, Rhode Island, South Carolina, Vermont, Virginia, West Virginia on and east of U.S. Highway 219 and the District of Columbia * * *. The rest of the application remains as previously published.

No. MC 117574 (Sub-No. 188), filed July 6, 1970. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bituminous fiber pipe and conduit, parts, attachments, and fittings*, between West Bend, Wis., and points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Louisiana, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Ohio, Kentucky, Tennessee, Alabama, Mississippi, North Carolina, South Carolina, Florida, Georgia, and Michigan. NOTE: Applicant states it intends to tack the requested authority with its existing authority, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 117673 (Sub-No. 3), filed June 25, 1970. Applicant: THE BIG E CORP., 505 North Myrtle Avenue, Jacksonville, Fla. 32203. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, vehicle body sealer, and sound deadener*, in containers, from St. Marys, W. Va., to points in Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118989 (Sub-No. 49), filed June 25, 1970. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, Wis. 53211. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers; fiber or steel drums and pails; and plastic articles, and parts related thereto*, from Laporte, Ind., to points in Illinois, Wisconsin, Kentucky, and Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 118989 (Sub-No. 50), filed June 29, 1970. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, Wis. 53211. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages* (nonalcoholic), *syrups, containers, raw materials, supplies, and equipment* used or useful in the production, manufacture vending, sale or distribution of beverages (nonalcoholic) and syrups, and return of rejected shipments and pallets, from Watertown, Wis., to points in Michigan, Minnesota, Illinois, and Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 119493 (Sub-No. 59), filed July 6, 1970. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, Mo. 64801. Applicant's representative: Ray F. Kempt, Post Office Box 1196, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper*, between Mobile, Ala., and Crossett, Ark., and (2) *paper and paper bags*, between Mobile, Ala., and points in Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Mobile, Ala.

No. MC 119619 (Sub-No. 32), filed July 2, 1970. Applicant: DISTRIBUTORS SERVICE CO., a corporation, 2000 West 43d Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or cold storage facilities utilized by Wilson-Sinclair Co., at Albert Lea, Minn., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, restricted to the transportation of traffic originating at the above-specified plantsite and/or cold storage facilities and destined to the above-specified destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119632 (Sub-No. 39), filed July 1, 1970. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, Ohio 43512. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio, 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mineral wool, rock wool, slag wool, glass wool, and products thereof;* (2) *wall boards, composition boards, insulating boards;* (3) *insulating materials;* and (4) *materials and accessories* used in the installation of the commodities described in (1), (2), and (3) above, between the plantsites and storage facilities of Keene Corp. in Chester, Delaware, and Montgomery Counties, Pa., on the one hand, and, on the other, points in Ohio, Indiana, Illinois, Kentucky, West Virginia, the Lower Peninsula of Michigan and those in New York on and west of U.S. Highway 15. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Columbus, Ohio.

No. MC 119641 (Sub-No. 89), filed June 29, 1970. Applicant: RINGLE EXPRESS, INC., 450 South Ninth Street, Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, 711 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition or mineral wood boards, blocks or sheets, and materials, supplies, and accessories* used or useful in the installation thereof, from Greenville, Miss., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: Applicant presently holds authority to

transport composition building boards, from Greenville, Miss., to points in Michigan, Ohio, and Indiana (except points in Indiana within the Chicago, Ill. commercial zone). Applicant states that it does not intend to tack this authority with any presently existing authority. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119777 (Sub-No. 183), filed June 24, 1970. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, 213 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood and/or plastic and/or metal pallets, skids, wood packaging items, including bins, boxes, containers, spacers, and bases*, from points in Johnson County, Ind., to points in the United States; and (2) *materials and supplies* used in the manufacture of the items in (1) above, from points in the United States, to points in Johnson County, Ind. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. It further states that it holds contract carrier authority under MC 126970 and subs, therefore, common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Frankfort, Ky., Louisville, Ky., or Nashville, Tenn.

No. MC 123048 (Sub-No. 176), filed June 29, 1970. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703, and Paul L. Martinson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors, snowmobiles, mowers, rotary tillers, and snow throwers;* (2) *attachments* for (1) above; (3) *parts* for (1) and (2) above, from Port Washington, Wis., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123061 (Sub-No. 55), filed June 29, 1970. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, Utah 84104. Applicant's representative Harry D. Pugsley, 400 Elpaso Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed automobile bodies, scrap automobile engines, and transmission and scrap metals*, from points in Idaho to Portland, Oreg. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Boise, Idaho.

No. MC 123067 (Sub-No. 106), filed June 25, 1970. Applicant: M & M TANK LINES, INC., Post Office Box 612, Winston-Salem, N.C. 27102. Applicant's representative: B. M. Shirley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, from Charlotte, Fayetteville, and Wilmington, N.C., to points in Virginia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 124078 (Sub-No. 444), filed June 29, 1970. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in bulk, in tank vehicles, from Savannah, Ga., to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 124151 (Sub-No. 1), filed June 24, 1970. Applicant: VANGUARD TRANSPORTATION, INCORPORATED, Post Office Box 157, Avenel, N.J. 07001. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petro-chemicals) in bulk, in New York City Fire Department Specification tank vehicles; (1) from New York, N.Y., to points in Massachusetts, Rhode Island, Connecticut, New York, Philadelphia, Pa., and Baltimore, Md.; (2) from the site of Mobil Oil Corp. Refinery at or near Paulsboro, N.J., to New York, N.Y.; and (3) from Boston, Mass., to points in New York, N.Y. Restriction: Restricted to the movement of traffic from plants or refineries of Mobil Oil Corp. at the named origin points to named destinations only. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124154 (Sub-No. 37), filed June 29, 1970. Applicant: WINGATE TRUCKING COMPANY, INC., Post Office Box 645, Albany, Ga. 31702. Applicant's representative: W. Guy McKenzie, Jr., Post Office Box 1200, Tallahassee, Fla. 32302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailer axles, running gear assemblies and component parts and materials* used in the manufacture of trailer axles and running gear assemblies (excluding commodities which because of size or weight require the use of special equipment), between the plantsite of Foreman Manufacturing Co., in Turner County, Ga., on the one hand, and, on the other, points in Pennsylvania, Louisiana, Indiana, Michigan, Ohio, and Illinois. NOTE: Applicant states that tacking with its Sub 31 authority authorizes the transportation of the above sought commodities between Foreman Manufacturing Co's. Turner County, Ga., plantsite and the States of Florida, Georgia, North Carolina, South Carolina, Alabama, and Tennessee is theoretically possible, however tacking would be impracticable and is not contemplated by applicant. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 124211 (Sub-No. 149), filed July 8, 1970. Applicant: HILT TRUCK LINE, INC., 1415 South 35th Street, Post Office Drawer H, Council Bluffs, Iowa 51501. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Advertising matter and advertising paraphernalia, beverage flavoring compounds, beverage concentrates, and beverage preparations*, when moving in mixed loads with beverages (presently authorized); and, *beverage flavoring compounds, beverage concentrates, and beverage preparations;* (1) from Oakland, Calif., to points in the United States east of U.S. Highway 83 (except points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and Washington, D.C.); (2) from Lenexa, Kans., to points in the United States (except points in Alaska, Connecticut, Delaware, Hawaii, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and Washington, D.C.); and, (3) from Omaha, Nebr., to points in the United States (except points in Alaska, Connecticut, Delaware, Hawaii, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and Washington, D.C.). NOTE: Applicant states that it does not seek any duplicating authority. Applicant further states that its present authority may be tacked with that sought at all origin points; however, territory sought in instant application negates necessity to tack, and applicant is willing to restrict application against tacking if deemed necessary by the Commission. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 124505 (Sub-No. 8), filed June 24, 1970. Applicant: EUGENE TRIPP, 4624 South Avenue West, Missoula, Mont. 59801. Applicant's representative: Jeremy G. Thane, Savings Center Building, Missoula, Mont. 59801.

Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Tacoma, Wash., to points in Montana, Idaho, and Wyoming, under contract with Carling Brewing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Missoula, Mont.

No. MC 124692 (Sub-No. 67), filed June 30, 1970. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 933, Missoula, Mont. 59801. 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: *Liquid rubber coating compounds, fireproofing compounds*, and *surface curing compounds*, in containers, from Spokane, Wash., to points in California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Spokane, Wash.

No. MC 124692 (Sub-No. 68), filed July 2, 1970. Applicant: SAMMONS TRUCKING, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Galvanized and aluminum roofing and siding*, in sheets; *accessories* used in the installation thereof; *aluminum and plastic pipe*, from Grand Island, Nebr., and Spokane, Wash., to points in Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Spokane, Wash.

No. MC 124692 (Sub-No. 69), filed July 1, 1970. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Richard Bebel, 2814 Cleveland Avenue North, St. Paul, Minn. 55113. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from points in California to points in Oregon, Washington, Utah, Idaho, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., or Spokane, Wash.

No. MC 124708 (Sub-No. 25), filed June 25, 1970. Applicant: MEAT PACKERS EXPRESS, INC., 222 South 72d Street, Omaha, Nebr. Applicant's representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from the plantsites of Iowa Beef Processors, Inc., located at Emporia, Kans., and Dakota City, Nebr., to points in Arizona, California, New Mexico, Nevada, Oregon, Washington and Utah, under contract with Iowa Beef Processors, Inc. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Minneapolis, Minn.

No. MC 124796 (Sub-No. 65), filed July 2, 1970. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 1505 East Salt Lake Avenue, Post Office Box 1257, City of Industry, Calif. 91747. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpet tacking rims or strips; materials, supplies, and equipment* utilized in the installation and maintenance of floor covering, *carpet and carpet tacking rims or strips; tools; adhesives, and sealants; doors and door frames, and hardware* therefor; *steel shelving; floor mats and runners*, from points in Los Angeles, Orange and Riverside Counties, Calif., Clark Counties, Wash., Multnomah County, Oreg., and Montgomery County, Ohio, to points in the United States (except Alaska and Hawaii); (2) *Returned, refused, or rejected shipments of carpet, tacking rims, or strips; materials, supplies, and equipment* utilized in the installation and maintenance of floor covering, carpet and carpet tacking rims or strips; *tools; adhesives and sealants; doors and door frames*, and *hardware* therefor; *steel shelving; floor mats and runners* from points in the United States (except Alaska and Hawaii) to points in Los Angeles, Orange, and Riverside Counties, Calif., Clark County, Wash., Multnomah County, Oreg., and Montgomery County, Ohio; (3) Materials, supplies, and equipment utilized in the manufacture, sale, and distribution of carpet tacking rims or strips, doors and door frames, adhesives and sealants, steel shelving, and; *materials, supplies, and equipment* utilized in the installation and maintenance of floor covering, carpet and carpet tacking rims or strips from points in the United States (except Alaska and Hawaii), to points in Los Angeles, Orange, and Riverside Counties, Calif., Clark County, Wash., Multnomah County, Oreg., and Montgomery County, Ohio;

(4) *Wood forming and laminating machinery* from Fort Lauderdale, Fla., to points in the United States (except Alaska and Hawaii); (5) *Returned, rejected, or refused shipments of wood forming and laminating machinery, and; materials, supplies and equipment* utilized in the manufacture, sale and distribution of wood forming or laminating machinery from points in the United States (except Alaska and Hawaii), to Fort Lauderdale, Fla.; (6) *Carpet handling equipment and parts and accessories* therefor from San Bernardino, Calif., to points in the United States (except Alaska and Hawaii); (7) *Returned, rejected, or refused shipments of carpet handling equipment and parts and accessories* therefor, from points in the United States (except Alaska and Hawaii), to San Bernardino, Calif., (8) *Carpet maintenance hardware* from Fresno, Calif., to points in the United States (except Alaska and Hawaii); (9) *Returned, rejected, or refused shipments of carpet maintenance hardware*, from points in the United States (except Alaska and Hawaii), to Fresno, Calif. Restrictions: All restricted against the transportation of commodities in bulk or those which by reason of size or weight require the use of special equipment. All shipments to originate or terminate at the plantsites or warehouse facilities utilized by Roberts Consolidated Industries, Inc., or its dealers. Limited to a transportation service to be performed under continuing contract with Roberts Consolidated Industries, Inc. Applicant states that he already holds a substantial amount of the authority here requested and if this applicantion is granted applicant will surrender for cancellation all of its existing contract authority for Roberts Consolidated Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 124854 (Sub-No. 10), filed July 6, 1970. Applicant: GRIM BROS. TRUCKING CO., a corporation, 977 Laucks Mill Road, York, Pa. 17402. Applicant's representative: John M. Musselman, Post Office Box 1146, 400 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick* (except refractory brick), requiring mechanical unloading by carrier, from Somerset, Va., Muirkirk, Md., and points in Washington, D.C., commercial zone, to points in Delaware, New Jersey, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 125433 (Sub-No. 16), filed July 2, 1970. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1891 West 2100 South, Salt Lake City, Utah 84119. Applicant's representatives: Martin J. Rosen, 140 Montgomery Street, San Francisco, Calif. 94104, and David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight require special handling or use of special equipment, and other commodities when shipped therewith; and *self-propelled articles each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies* moving therewith, between points in California north of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties on the one

hand, and, on the other, points in Oregon and Washington with stop in transit privileges at Boise, Idaho. NOTE: Applicant presently has a pending contract carrier application under its No. MC 133128 Sub-No. 2, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., Portland, Oreg., or Seattle, Wash.

No. MC 126149 (Sub-No. 7), filed June 25, 1970. Applicant: DENNY MOTOR FREIGHT, INC., 617 Indiana Avenue, New Albany, Ind. 47150. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets, cabinet parts and accessories thereto, and counter tops*, from Louisville, Ky., and Jeffersonville, Ind., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hamsphire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 126402 (Sub-No. 9), filed June 24, 1970. Applicant: JACK WALKER TRUCKING SERVICE, INC., 844 Louden Avenue, Lexington, Ky. 40408. Applicant's representative: Herbert D. Liebman, 403 West Main Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers; (1) from St. Joseph, Mo., to points in Fayette County, Ky.; (2) from St. Louis, Mo. to points in Nelson County, Ky.; (3) from Cincinnati, Ohio, to points in Nelson and Franklin County, Ky.; (4) from Detroit, Mich., to points in Nelson, Perry, Harrison, and Franklin County, Ky.; and (5) from St. Louis, Mo., Milwaukee, Wis., Detroit, Mich., and Fort Wayne, Ind., to points in Warren County, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lexington or Frankfort, Ky.

No. MC 126514 (Sub-No. 25), filed June 30, 1970. Applicant: HELEN H. SCHAEFFER AND EDWARD P. SCHAEFFER, a partnership, 5200 West Bethany Home Road, Glendale, Ariz. 85301. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Envelopes*, (1) from New York, N.Y., to Knoxville, Tenn.; and (2) from Knoxville, Tenn., to Portland, Oreg.; Detroit, Mich.; Indianapolis, Ind.; Minneapolis, Minn.; St. Louis and Kansas City, Mo.; Dallas, Tex.; Seattle, Wash.; Los Angeles, San Francisco, Pasadena, and Livermore, Calif., restricted to shipments which originate at New York, N.Y., and are stopped for partial unloading and completion of loading at Knoxville, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 126514 (Sub-No. 26), filed July 1, 1970. Applicant: HELEN H. SCHAEFFER AND EDWARD P. SCHAEFFER, 5200 West Bethany Home Road, Glendale, Ariz. 85301. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Greeting cards, envelopes, sample albums, wrappings and related trappings;* from (1) points in Connecticut, Massachusetts, Rhode Island, New York, N.Y., and Williamsburg (Blair County), Pa., to Kansas City, St. Louis, Mo., El Paso, Dallas, Forth Worth, Wichita Falls, Abilene, San Angelo, Del Reo, Tex., Reno, Sparks, Nev., Portland, Oreg., Seattle, Wash., and points in New Mexico, Arizona, and California; (2) from Dallas, Fort Worth, Wichita Falls, Abilene, San Angelo and Del Reo, Tex., to Kansas City, St. Louis, Mo., Reno, and Sparks, Nev., Portland, Oreg., Seattle, Wash., and points in New Mexico, Arizona, and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Las Vegas, Nev.

No. MC 127525 (Sub-No. 3), filed July 7, 1970. Applicant: ERNEST ROSENBAUM AND ELSIE ROSENBAUM, a partnership doing business as COMET CARRIERS, 315 West 36th Street, New York, N.Y. 10018. Applicant's representative: William J. Hanlon, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials and supplies* used in the manufacture of ladies coats and suits, and *clothing hangers*, from the plantsite of Greenlea Modes, Inc., at Hackensack, N.J., to New York, N.Y.; and (2) *ladies coats and suits*, on hangers, from New York, N.Y., to the plantsite of Greenlea Modes, Inc., Hackensack, N.J. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 128233 (Sub-No. 2), filed June 19, 1970. Applicant: OLIE M. ERICKSEN, Post Office Box 107, Transfer, Pa. 16154. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stainless steel tubing, stainless steel strip, and machinery and equipment* used in the production, manufacture, or distribution of the above-named commodities, between points in Pymatuning Township (Mercer County), Pa., on the one hand, and, on the other, points in Alabama, California, Colorado, Connecticut, Delaware, Indiana, Illinois, Louisiana, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract or contracts with Greenville Tubes Division, Emerson Electric Co., and Damascus Tube Division, Bishop Tube Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 128642 (Sub-No. 6), filed July 1, 1970. Applicant: SKYLINE TRANSPORT, INC., 6120 Eastbourne Avenue, Baltimore, Md. 21224. Applicant's representative: J. Meredith Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* used in the manufacture of piece goods, chemicals, textiles, and greige materials, between Nanuet and New York, N.Y., Paterson, Passaic, and Newark, N.J., Philadelphia, Pa., Wilmington, Del., Baltimore, Md., Washington, D.C., Waynesboro, and Richmond, Va., and Rocky Mount, N.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The application is accompanied by a motion to dismiss. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128988 (Sub-No. 8), filed July 6, 1970. Applicant: JO/KEL, INC., Post Office Box 22265, Los Angeles, Calif. 90022. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products*, except in bulk, from Wilmington, Calif., to Denver, Colo., and to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (2) *returned, rejected or refused shipments* of plastic products and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of plastic products from the destination area in (1) above to Wilmington, Calif., under contract with L. W. Carroll & Sons, Division of U.S. Industries. All shipments to either originate or terminate at the plantsite or warehouse facilities of the J. W. Carroll & Sons, Division of U.S. Industries at Wilmington, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 129309 (Sub-No. 1), filed June 22, 1970. Applicant: N & K LEASING COMPANY, a corporation, 2501 Henry Street, Muskegon, Mich. 49441. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Cement*, from Alpena, Mich., to points in Wisconsin, Minnesota, North Dakota, Illinois, Ohio, Pennsylvania, New York, and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 129358 (Sub-No. 2), filed June 19, 1970. Applicant: OVERNITE FOOD EXPRESS, INC., 6835 Northwest 37th Avenue, Miami, Fla. 33147. Applicant's representative: John P. Bond, 30 Giralda Avenue, Coral Gables, Fla. 33134. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, requiring refrigeration (except commodities in bulk, in tank vehicles), between points in Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Orlando or Miami, Fla.

No. MC 133026 (Sub-No. 2), filed June 25, 1970. Applicant: W. T. MARSHALL TRUCKING, INC., Rural Route No. 5, Box 161–D, Springfield, Ill. 62707. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newport, Ky., to Champaign, Decatur, and Springfield, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Springfield, Ill., or St. Louis, Mo.

No. MC 133233 (Sub-No. 14), filed June 22, 1970. Applicant: CLARENCE L. WERNER, 805 South 32d Avenue, Post Office Box 831, Council Bluffs, Iowa 51501. Applicant's representative: Charles J. Kimball, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the plantsite and storage facilities of Midwest Walnut Co. at or near Council Bluffs, Iowa, to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin, under contract with Midwest Walnut Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 134174 (Sub-No. 1), filed June 29, 1970. Applicant: CARL EDWIN CLOUD, JR., doing business as, DAISY TRANSPORT, 2488 Ridgeway Drive, Doraville, Ga. 30040. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, in tank vehicles), and *empty trailers*, between Atlanta, Ga., on the one hand, and, on the other, points in Fulton, De Kalb, Gwinnett, Cobb, Clayton, Rockdale, Henry, Fayette, and Douglas Counties, Ga., restricted to traffic having a prior or subsequent movement by rail in trailer-on-flatcar service. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 134264 (Sub-No. 4), filed June 29, 1970. Applicant: OCKENFEL'S TRANSFER, INC., 732 Rundell Street, Post Office Box 3, Iowa City, Iowa 52240. Applicant's representative: Kenneth F. Dudley, 901 South Madison Avenue, Post Office Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated plastic drainage tubing, parts and accessories*, from Iowa City, Iowa, to points in Indiana and Ohio; and (2) *materials, equipment, and supplies* used in the manufacture, processing, sale, distribution, and installation of corrugated plastic drainage tubing, between Iowa City, Iowa, on the one hand, and, on the other, points in Illinois, Indiana, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin under contract with Advance Drainage Systems, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 134392 (amendment), filed March 3, 1970, published in FEDERAL REGISTER issue of April 16, 1970, amended June 30, 1970, and republished as amended this issue. Applicant: LEO PETRILLO, 557 Seville Street, Philadelphia, Pa. 19128. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mahogany and teak woods*, from the plantsite of Thompson Mahogany Co. at Philadelphia, Pa., to Egg Harbor, Lower Bank, Marlboro, and Millville, N.J., Boyertown, Hanover, Kinzer, and Reading, Pa., Buffalo, Ilion, Penn Yan and Syracuse, N.Y., Winchester, Va., and Springfield, Mass., under contract with Thompson Mahogany Co., Philadelphia, Pa. NOTE: The purpose of this republication is to broaden the territorial description. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or New York, N.Y.

No. MC 134537 (Sub-No. 2), filed June 29, 1970. Applicant: L & A TRANSPORT, INC., Route 4, Box 242C, Greeley, Colo. 80631. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed and dry feed ingredients*, between points in Weld, Logan, Sedgwick, Phillips, Yuma, Washington, Morgan, Adams, Boulder, and Larimer (except Fort Collins) Counties, Colo., on the one hand, and, on the other, points in Goshen and Sheridan Counties, Wyo., points in that part of Kansas on and west of U.S. 183 and on and north of U.S. 50, and points in that part of Nebraska on and west of U.S. 183. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 134563, filed April 27, 1970. Applicant: WELLCO CARPET CORP., Post Office Box 281, South 41 Highway, Calhoun, Ga. 30701. Applicant's representative: B. R. Weddle, Post Office Box 281, Calhoun, Ga. 30701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Linoleum, felt and vinyl, rolls and tile* in cartons, from Salem, N.J., to Charlotte, N.C., Columbia and Charleston, S.C., Savannah and Atlanta, Ga., Chattanooga and Knoxville, Tenn., Birmingham, Ala., Macon, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Chattanooga, Tenn.

No. MC 134626 (Sub-No. 1), filed June 15, 1970. Applicant: F. W. MAC CO., a corporation, Municipal Airport, Des Moines, Iowa 50317. Applicant's representative: Russell H. Wilson, Suite 200, 3839 Merle Hay Road, Des Moines, Iowa 50310. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* having a prior movement by air; (1) between Des Moines Municipal Airport, Des Moines, Iowa, on the one hand, and, on the other, Ames, Nevada, Boone, Jefferson, Webster City, Fort Dodge, and Creston, Iowa; (2) between Cedar Rapids Municipal Airport, Cedar Rapids, Iowa, and Monticello, Iowa; and (3) between Quad Cities Airport, Moline, Ill., on the one hand, and, on the other, Clinton, and Muscatine, Iowa; and Kewanee and Galesburg, Ill.; (4) between Galva, Ill., and Quad City Airport in Moline, Ill.; and (5) between Neponset, Ill., and Quad City Airport in Moline, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 134689, filed June 10, 1970. Applicant: HIRAM RODRIQUEZ, doing business as LAFLOR DE MONTE EXPRESS, 559 East 180th Street, Bronx, N.Y. 10457. Applicant's representative: Blanton P. Bergen, 137 East 36th Street, New York, N.Y. 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and personal effects* (including used automobiles when shipped as personal effects) in containers, having a prior or subsequent movement by water, between points in that part of New York, N.Y., commercial zone as defined by the Commission in the Fifth Supplemental Report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted under the exempt provisions provided by section 203(b)(8) of the Act (exempt zone). NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134731, filed June 19, 1970. Applicant: RHODE ISLAND MOVING SERVICE, INC., 1500 South County Trail, East Greenwich, R.I. 02818. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, R.I. 02905. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, in containers, between points in New London County, Conn., Barnstable, Bristol, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester Counties, Mass., and points in Rhode Island, restricted to the transportation of traffic having a prior or subsequent movement beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating and/or decontainerization of such traffic. NOTE: Applicant states that it does not intend to tack. If a hearing is deemed necessary, applicant requests it be held at Providence, R.I., or Boston, Mass.

No. MC 134732, filed June 22, 1970. Applicant: EARL HAFER and ROBERT HAFER, a partnership, doing business as EARL HAFER & SON, Route No. 5, Mount Pleasant, Mich. 48858. Applicant's representative: Archie C. Fraser, Suite 1018, Michigan National Tower, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from Detroit, Mich., and points in its commercial zone to Chicago and Waukegon, Ill., Dover-Foxcroft and Howland, Maine; Walnut Hills Station (Middlesex County), Mass.; Baltimore and Williamsport, Md.; St. Joseph, Mo.; Penacook, Lebanon, and Winchester, N.H.; Newark, N.J.; Gowanda and Gloversville, N.Y.; Girard, Ohio; Philadelphia, Pa.; Tullahoma, Tenn.; North Pownal, Vt.; and Fond Du Lac and Milwaukee, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 134734, filed June 24, 1970. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 31, Norfolk, Nebr. 68201. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I in the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Norfolk, Nebr., on the one hand, and, on the other, points in Iowa, Kansas, Michigan, Wisconsin, Illinois, Ohio, Kentucky, Colorado, Indiana, Missouri, South Dakota, and Minnesota, under continuing contract with National Foods, Inc., and its subsidiaries. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 134738 (Sub-No. 1), filed July 1, 1970. Applicant: LAWRENCE D. WILLOUGHBY AND ROBERT FRITZ, a partnership, doing business as SOLON EQUIPMENT, 3495 Pettibone Road, Solon, Ohio 44139. Applicant's representative: Anthony C. Vance, Suite 501, 1111 E Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road construction machinery and equipment* as contained in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766, between points in Ohio and Indiana, on the one hand, and, on the other, points in Alaska, via Montana and North Dakota gateways into and from Canada. NOTE: Applicant states that it does not intend to tack. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 134747, filed July 1, 1970. Applicant: GRESHAM CARTAGE CO., a corporation, Rural Route No. 2, Box 231, Winamac, Ind. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Illinois and Indiana within 75 miles of Chicago, Ill., including Chicago. NOTE: Applicant states that no duplicating rights are sought. Applicant holds contract carrier authority under MC 64942, therefore dual operations may be involved. The purpose of this instant application is to convert from a contract carrier to a common carrier. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 134749, filed July 1, 1970. Applicant: DAWSON TRUCKING, INC., Route 3, Weiser, Idaho 83672. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients* (except in bulk, in tank vehicles), from points in California to points in Malheur and Harney Counties, Oreg., and Ada, Adams, Canyon, Gem, Idaho, Owyhee, Payette, Valley, and Washington Counties, Idaho. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

APPLICATIONS FOR BROKERAGE LICENSE

No. MC 130062 (Sub-No. 2), filed June 25, 1970. Applicant: TRAILS WEST, INC., 92 Middle Neck Road, Great Neck, N.Y. Applicant's representative: Samuel B. Zinder, Station Plaza East, Great Neck, N.Y. 11021. For a license (BMC 5) to engage in operations as a *broker* at Great Neck, N.Y., in arranging for the transportation in interstate or foreign commerce of *passengers and their baggage* restricted to students accompanied by tour directors or chaperones, in all expense tours, beginning and ending at New York, N.Y., and Nassau County, N.Y., and extending to points in the States of Alaska and Hawaii. NOTE: The purpose of this application is to extend the existing license authority issued to the applicant which embraces all points west of the Mississippi to the States of Alaska and Hawaii.

No. MC 130119, filed June 22, 1970. Applicant: GWEN HORLACHER, doing business as SCENIC DELUXE TOURS, 108 Main Street SW., Warren, Ohio 44481. Applicant's representative: Bernard S. Goldfarb, 1625 The Illuminating Building, 55 Public Square, Cleveland, Ohio 44113. For a license (BMC 5) to engage in operations as a *broker* at Warren, Ohio, and Niles, Ohio, in arranging for transportation of *passengers and their baggage*, in round trip, special all expense sightseeing and pleasure tours, beginning and ending at points in Trumbull and Mahoning Counties, Ohio, and Mercer County, Pa., and extending to points in the United States including Alaska and Hawaii.

No. MC 130120, filed July 2, 1970. Applicant: HAGERSTOWN TRAVEL MOTORCOACH TOURS, 1317 Dual Highway, Hagerstown, Md. 21740. For a license (BMC 5) to engage in operations as a *broker* at Hagerstown, Md., in arranging for transportation in interstate or foreign commerce of *passengers and their baggage*, both as individuals and in groups, in charter operations, beginning and ending at Hagerstown, Cumberland, and Frederick, Md.; Winchester, Va.; and Martinsburg, W. Va.; and extending to points in the United States.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 114290 (Sub-No. 48), filed June 19, 1970. Applicant: EXLEY EXPRESS, INC., 2610 Southeast Eighth, Portland, Oreg. 97202. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and frozen foods*, when moving in the same vehicle, from Gresham, Portland, Salem, Stayton, Silverton, Springbrook, and Weston, Oreg., to points in Nevada.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-9418; Filed, July 22, 1970; 8:45 a.m.]

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