

# FEDERAL REGISTER

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## Agencies in this issue—

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Civil Service Commission  
Coast Guard  
Commerce Department  
Commodity Credit Corporation  
Consumer and Marketing Service  
Customs Bureau  
Defense Department  
Equal Employment Opportunity  
Commission  
Federal Aviation Administration  
Federal Communications Commission  
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Securities and Exchange Commission  
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Social Security Administration  
Social and Rehabilitation Service  
Transportation Department  
Treasury Department  
Veterans Administration

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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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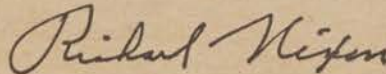
## Title 3—THE PRESIDENT

### Executive Order 11550

#### AMENDING EXECUTIVE ORDER NO. 11248, PLACING CERTAIN POSITIONS IN LEVELS IV AND V OF THE FEDERAL EXECUTIVE SALARY SCHEDULE

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code, as amended, section 2 of Executive Order No. 11248<sup>1</sup> of October 10, 1965, as amended, placing certain positions in level V of the Federal Executive Salary Schedule, is further amended by deleting "(16) Chief, Children's Bureau, Social and Rehabilitation Service, Department of Health, Education, and Welfare", and inserting in lieu thereof the following:

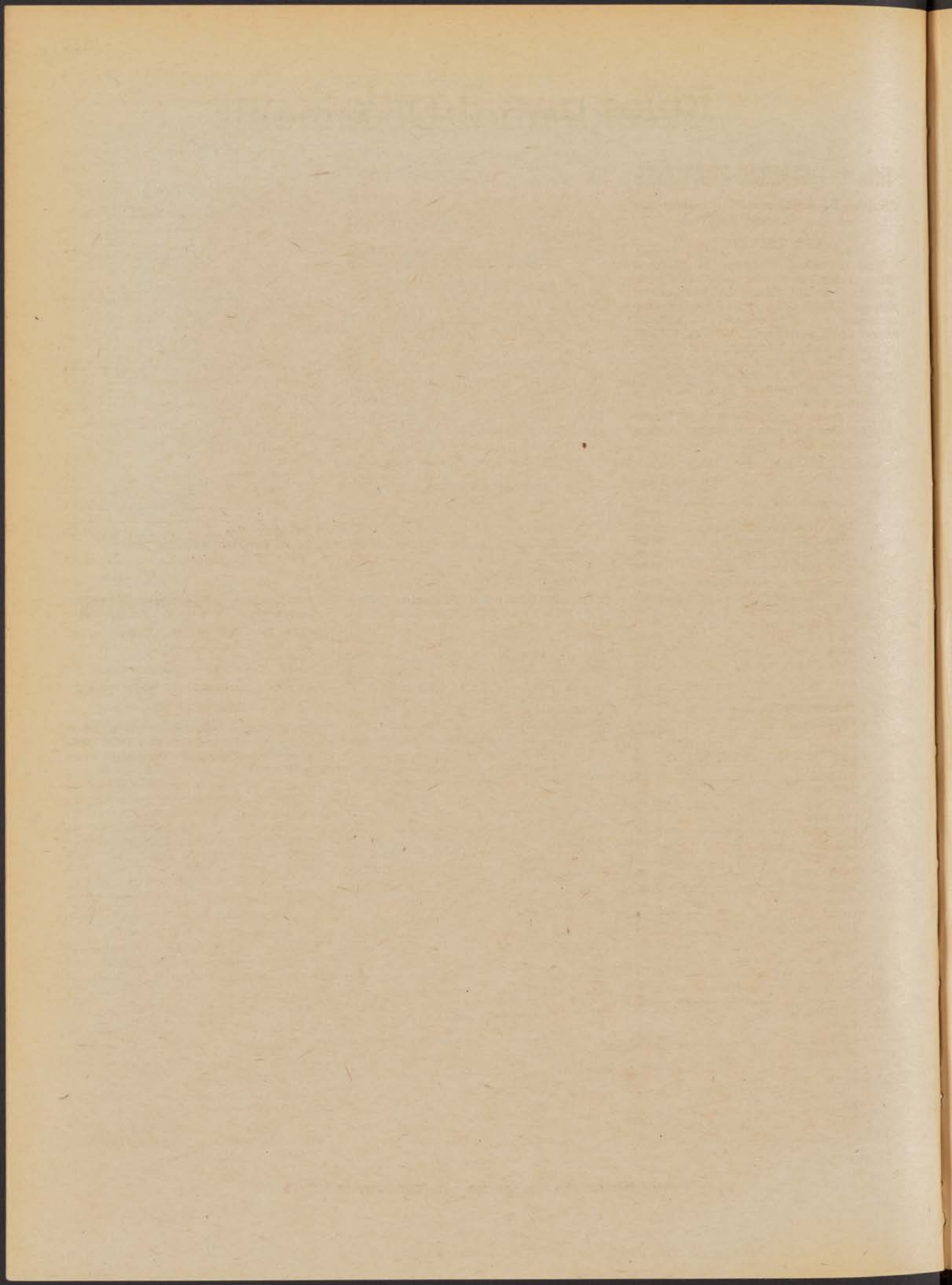
(16) Counselor to the Department of Health, Education, and Welfare.



THE WHITE HOUSE,  
July 30, 1970.

[F.R. Doc. 70-10109; Filed, July 30, 1970; 5:05 p.m.]

<sup>1</sup> 30 F.R. 12999; 3 CFR, 1964-1965 Comp., p. 3.



# Rules and Regulations

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### Chapter I—Administrative Committee of the Federal Register

#### CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current bound volumes of the Code of Federal Regulations. The rate for subscription service to all revised volumes issued as of January 1, 1970, is \$175.00 domestic, \$50.00 additional for foreign mailing. The subscription price for revised volumes to be issued as of January 1, 1971, will be \$175 domestic, \$45.00 additional for foreign mailing.

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17 -----	2.75
18 Parts: -----	
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150-end -----	2.00
19 -----	2.50
20 -----	3.75
21 Parts: -----	
1-119 -----	\$1.75
120-129 -----	1.75
130-146 -----	2.75
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23 -----	.35
24 -----	2.50
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26 Parts: -----	
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40-169 -----	2.50
170-299 -----	3.50
300-499 -----	1.50
500-599 -----	1.75
600-end -----	.65
27 -----	.45
28 -----	.75
29 Parts: -----	
0-499 -----	1.50
500-899 -----	3.00
900-end -----	1.25
30 -----	1.50
31 -----	1.75
32 Parts: -----	
1-8 -----	3.25
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590-699 -----	.75
700-799 -----	3.50
800-1199 -----	2.00
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1600-end -----	1.00
32A -----	1.25
33 Parts: -----	
1-199 -----	2.50
200-end -----	1.75
34 [Reserved] -----	
35 -----	1.75
36 -----	1.25
37 -----	.70
38 -----	3.50
39 -----	3.50
40 [Reserved] -----	
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18 -----	3.25
19-100 -----	.75
101-end -----	1.75

	Price
42 -----	1.75
43 Parts: -----	
1-999 -----	1.50
1000-end -----	3.00
44 -----	.45
45 -----	4.00
46 Parts: -----	
1-65 -----	\$2.75
66-145 -----	2.75
146-149 -----	3.75
150-199 -----	2.50
200-end -----	3.00
47 Parts: -----	
0-19 -----	1.75
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## Title 49—TRANSPORTATION

### Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 27; Amdt. 71-11]

#### PART 71—STANDARD TIME ZONE BOUNDARIES

The purpose of this amendment is to recodify Part 71 of Title 49 of the Code of Federal Regulations—Standard Time Zone Boundaries.

Because of the cumulative effect of past time zone boundary relocations, each published as a separate amendment by the Department of Transportation or its predecessor in this function, the Interstate Commerce Commission, Part 71 is recodified and republished as set forth below. This recodification contains several editorial corrections and some additional explanatory language, but no substantive changes have been made.

Since this is a recodification and does not involve any substantive change, notice and public procedure thereon are not required and the revised part may be made effective in less than 30 days.

In consideration of the foregoing, this recodification of Part 71 of Title 49 of the Code of Federal Regulations is effective on July 31, 1970.

Issued in Washington, D.C., on July 24, 1970.

JOHN A. VOLPE,  
Secretary of Transportation.

- Sec.  
 71.1 Limits defined; exceptions authorized for certain rail operating purposes only.  
 71.2 Annual advancement of standard time.  
 71.3 Atlantic zone.  
 71.4 Eastern zone.  
 71.5 Boundary line between eastern and central zones.  
 71.6 Central zone.  
 71.7 Boundary line between central and mountain zones.  
 71.8 Mountain zone.  
 71.9 Boundary line between mountain and Pacific zones.  
 71.10 Pacific zone.  
 71.11 Yukon zone.  
 71.12 Alaska-Hawaii zone.  
 71.13 Bering zone.

**AUTHORITY:** The provisions of this Part 71 issued under secs. 1-4, 40 Stat. 450, as amended, sec. 1, 41 Stat. 1446, as amended, secs. 2-7, 80 Stat. 107-109, sec. 6(e) (5), 80 Stat. 937, sec. 1, 84 Stat. 119; 15 U.S.C. 260-267, 49 U.S.C. 1655(e) (5).

**§ 71.1 Limits defined; exceptions authorized for certain rail operating purposes only.**

(a) This part prescribes the geographic limits of each of the eight standard time zones established by section 1 of the Standard Time Act, as amended by section 4 of the Uniform Time Act of 1966 (15 U.S.C. 261). It also contains lists of operating exceptions granted for specified rail carriers, whose operations cross the time zone boundaries prescribed by this part, authorizing them to carry the standard of time on which the major portion of a particular operation is conducted into an adjoining time zone.

(b) Any rail carrier whose operations cross a time zone boundary prescribed by this part may apply for an operating exception to the General Counsel, Department of Transportation, Washington, D.C. 20590. However, each rail carrier for which an operating exception is granted shall, in its advertisements, time cards, station bulletin boards, and other publications, show arrival and departure times in terms of the standard time for the place concerned.

(c) The time zones established by the Standard Time Act, as amended by the Uniform Time Act of 1966, are Atlantic, eastern, central, mountain, Pacific, Yukon, Alaska-Hawaii, and Bering.

**§ 71.2 Annual advancement of standard time.**

(a) Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) requires that "the standard time of each zone \* \* \* shall be advanced 1 hour [during the period beginning at 2:00 a.m. on the last Sunday in April of each year and ending at 2:00 a.m. on the last Sunday in October] \* \* \* and such time as so advanced shall be the standard time of such zone during such period." The section further authorizes any State to exempt itself from this

requirement. For these reasons, all times (including the period of advanced time) in the United States, whether in an exempted State or not, shall be cited as "standard time" during the entire year.

(b) Section 3(b) of the Uniform Time Act of 1966 (15 U.S.C. 260a(b)) provides that "it is the express intent of Congress \* \* \* to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for advances in time or changeover dates different from those specified in [section 3(a) of that Act]", which are those specified in paragraph (a) of this section.

**§ 71.3 Atlantic zone.**

The first zone, the Atlantic standard time zone, includes that part of the United States that is between 52°30' W. longitude and 67°30' W. longitude and that part of the Commonwealth of Puerto Rico that is west of 67°30' W. longitude, but does not include any part of the State of Maine.

**§ 71.4 Eastern zone.**

The second zone, the eastern standard time zone, includes that part of the United States that is west of 67°30' W. longitude and east of the boundary line described in § 71.5, and includes all of the State of Maine, but does not include any part of the Commonwealth of Puerto Rico.

**§ 71.5 Boundary line between eastern and central zones.**

(a) *Minnesota - Michigan - Wisconsin.* From the junction of the western boundary of the State of Michigan with the boundary between the United States and Canada southerly and easterly along the western boundary of the State of Michigan to a point in the middle of Lake Michigan opposite the main channel of Green Bay; thence southerly along the western boundary of the State of Michigan to its junction with the southern boundary thereof and the northern boundary of the State of Indiana.

(b) *Indiana - Illinois.* From the junction of the western boundary of the State of Michigan with the northern boundary of the State of Indiana easterly along the northern boundary of the State of Indiana to the east line of La Porte County; thence southerly along the east line of La Porte County to the north line of Starke County; thence east along the north line of Starke County to the east line of Starke County; thence south along the east line of Starke County to the south line of Starke County; thence west along the south line of Starke County to the east line of Jasper County; thence south along the east line of Jasper County to the south line of Jasper County; thence west along the south lines of Jasper and Newton Counties to the western boundary of the State of Indiana; thence south along the

western boundary of Indiana to the north line of Gibson County; thence east along the north lines of Gibson and Pike Counties to the east line of Pike County; thence south along the east lines of Pike and Warrick Counties to the north line of Warrick County; thence east along the north lines of Warrick and Spencer Counties to the east line of Spencer County; thence south along the east line of Spencer County to the Indiana-Kentucky boundary.

(c) *Kentucky.* From the junction of the east line of Spencer County, Ind., with the Indiana-Kentucky boundary easterly along that boundary to the west line of Meade County, Ky.; thence south-easterly and southwesterly along the west lines of Meade and Hardin Counties to the southwest corner of Hardin County; thence along the south lines of Hardin and Larue Counties to the northwest corner of Taylor County; thence south-easterly along the west (southwest) line of Taylor County and northeasterly along the east (southeast) line of Taylor County to the west line of Casey County; and thence southerly along the west and south lines of Casey, Pulaski, and McCreary Counties to the Kentucky-Tennessee boundary.

(d) *Tennessee.* From the junction of the west line of McCreary County, Ky., with the Kentucky-Tennessee boundary westerly along that boundary to the west line of Scott County, Tenn.; thence southerly along the west line of Scott County, the north and west lines of Morgan County, and the north line of Roane County to the north line of Rhea County; thence northwesterly along the north line of Rhea County; and thence southwesterly along the west lines of Rhea and Hamilton Counties to the Tennessee-Georgia boundary.

(e) *Georgia-Alabama.* From the junction of the west line of Hamilton County, Tenn., with the Tennessee-Georgia boundary westerly along that boundary to its junction with the Alabama-Georgia boundary; thence southerly along that boundary and the Florida-Georgia boundary to the southwest corner of the State of Georgia.

(f) *Florida.* From the southwest corner of the State of Georgia to the midpoint of the Apalachicola River on the downstream side of Jim Woodruff Dam; thence southerly along the middle of the main channel of the Apalachicola River and Apalachicola Bay to the Gulf of Mexico.

(g) *Operating exceptions.*—(1) *Lines east of boundary excepted from eastern zone.* Those parts of the following lines of railroad located east of the zone boundary described in this section, are, for operating purposes only, excepted from the eastern standard time zone and included within the central standard time zone:

Railroad	From—	To—
Baltimore & Ohio.	East line of La Porte County, Ind. (west of Walkerton, Ind.).	West yard limits of Garrett, Ind.
Do.....	Illinois-Indiana State line (west of Dana, Ind.).	West yard limits of Indianapolis, Ind.
Do.....	Illinois-Indiana State line (west of Vincennes, Ind.).	Washington, Ind.
Chicago, Milwaukee, St. Paul & Pacific.	Illinois-Indiana State line (northwest of Dana, Ind.).	Seymour, Ind.
Do.....	Michigan-Wisconsin State line (south of Iron Mountain, Mich.).	Champion, Ontonagon, and Iron River, Mich. <sup>1</sup>
Chicago & Northwestern.	Michigan-Wisconsin State line.	East lines of Marquette and Delta Counties, Mich. <sup>1</sup>
Erie-Lackawanna.	South line of Starke County, Ind. (near Ora, Ind.).	Marion, Ohio.
Grand Trunk Western.	East line of La Porte County, Ind. (east of Mill Creek).	Michigan-Indiana State line (near Granger, Ind.).
Do.....	Michigan-Indiana State line (near Granger, Ind.).	Battle Creek, Mich. <sup>1</sup>
Illinois Central.	Illinois-Indiana State line (west of Riverton, Ind.).	South yard limits of Indianapolis, Ind.
Do.....	West line of Hardin County, Ky. (west of Summit, Ky.).	Hodgenville, Ky., and south yard limits of Louisville, Ky.
Louisville & Nashville.	West line of Meade County, Ky. (west of Guston, Ky.).	Strawberry, Ky.
Do.....	South line of Hardin County, Ky. (south of Dombey, Ky.).	Lebanon Junction, Ky.
Do.....	West line of Hamilton County, Tenn. (west of Hooker, Ga.).	Western limits of Chattanooga, Tenn.
Do.....	Apalachicola River.	River Junction, Fla.
Norfolk & Western.	East line of Starke County, Ind. (west of Burr Oak, Ind.).	East yard limits of Fort Wayne, Ind.
Do.....	East line of La Porte County, Ind. (east of Dillon, Ind.).	Toledo, Ohio.
Do.....	Illinois-Indiana State line (west of State line, Ind.).	Toledo, Ohio, and Ohio-Michigan State line (near Munson, Mich.).
Do.....	Ohio-Michigan State line (near Munson, Mich.).	Oak Junction, Mich. <sup>1</sup>
Do.....	East line of La Porte County, Ind. (west of Walkerton, Ind.).	South yard limits of Peru, Ind.
Do.....	Illinois-Indiana State line (west of Ambia, Ind.).	East yard limits of Frankfort, Ind.
Do.....	Illinois-Indiana State line (west of Cayuga, Ind.).	Frankfort, Ind.
Penn Central.	Michigan-Indiana State line (south of Grand Beach, Mich.).	Niles, Mich. <sup>1</sup>
Do.....	East line of La Porte County, Ind. (west of Elkhart, Ind.).	Tower B (4.9 miles) east of the west line of Elkhart County, Ind.
Do.....	East line of Starke County, Ind. (west of Donaldson, Ind.).	Fort Wayne, Ind.
Do.....	South line of Starke County, Ind. (north of Denham, Ind.).	Logansport, Ind.

See footnotes at end of table.

Railroad	From—	To—
Do.....	East line of Jasper County, Ind. (east of Remington, Ind.).	Logansport, Ind.
Do.....	The intersection of the north line of Benton County, Ind., and Illinois-Indiana State line (northwest of Sheff, Ind.).	Sheff, Ind.
Do.....	South line of Newton County, Ind. (north of Sheff, Ind.).	Illinois-Indiana State line (northeast of Danville, Ill.).
Do.....	Illinois-Indiana State line (west of St. Marys of the Woods, Ind.).	Ringo Tower, Ind. (Terre Haute).
Do.....	Illinois-Indiana State line (east of Farrington, Ill.).	Ringo Tower, Ind. (Terre Haute).
Peoria & Eastern.	Illinois-Indiana State line (east of Danville, Ill.).	West yard limits of Indianapolis, Ind.
Soo Line.	Michigan-Wisconsin State line.	United States-Canada Boundary (near Sault Ste. Marie, Mich.) <sup>1</sup>
Southern.	East line of Pike County, Ind. (west of Stapleton, Ind.).	Junction with Baltimore & Ohio near Vincennes Street, New Albany, Ind.

<sup>1</sup> Effective only from 2 a.m. on the last Sunday in October to 2 a.m. on the last Sunday in April; exception unnecessary during the remainder of year because during that period Michigan time is not advanced and therefore is the same as central standard time (advanced).

(2) *Lines west of boundary included in eastern zone.* Those parts of the following lines of railroad located west of the zone boundary line described in this section, are, for operating purposes only, excepted from the central time zone and included within the eastern standard time zone:

Railroad	From—	To—
Apalachicola Northern.	Apalachicola, Fla., and Apalachicola River.	Port St. Joe, Fla.
Central of Georgia.	Georgia-Alabama State line (west of Hilton, Ga.).	Dothan, Ala.
Chesapeake & Ohio.	South line of Starke County, Ind. (north of Beardstown, Ind.).	Griffith, Ind.
Do.....	Michigan-Indiana State line (south of New Buffalo, Mich.).	Porter and La Crosse, Ind. <sup>1</sup>
Louisville & Nashville.	West line of Taylor County, Ky. (east of Whitewood, Ky.).	Greensburg, Ky.
Monon.	North line of Pulaski County, Ind. (south of San Pierre).	Michigan City, Ind. and Hammond, Ind.
Do.....	West line of White County, Ind. (west of Lee, Ind.).	Hammond, Ind. and Michigan City, Ind.
Penn Central.	South line of Daviess County, Ind. (north of Petersburg, Ind.).	Ashby, Ind.

See footnotes at end of table.

Railroad	From—	To—
Seaboard Coast Line.	Georgia-Alabama State line (west of Esom, Ga.).	Birmingham, Ala.
Do.....	Georgia-Alabama State line (west of Omaha, Ga.).	Montgomery, Ala.
Do.....	Georgia-Alabama State line (near Pyne, Ga.).	Parkwood, Ala.
Do.....	Georgia-Alabama State line (west of Saffold, Ga.).	Abbeville, Elba, and Montgomery, Ala.
Tennessee, Alabama & Georgia.	Georgia-Alabama State line (southwest of Menlo, Ga.).	Gadsden, Ala.

<sup>1</sup> Effective only from 2 a.m. on the last Sunday in October to 2 a.m. on the last Sunday in April; exception unnecessary during the remainder of the year because during that period Michigan time is not advanced and therefore is the same as central standard time (advanced).

(3) *Indiana and Ohio operations included in Michigan nonadvanced time.* Those parts of the following lines of railroad located east of the zone boundary described in this section, are, for operating purposes only, excepted from the eastern standard time zone to permit operations in accordance with Michigan nonadvanced eastern standard time during the period from 2 a.m. on the last Sunday in April to 2 a.m. on the last Sunday in October:

Railroad	From—	To—
Chesapeake & Ohio.	Michigan-Ohio State line (north of Alexis, Ohio).	Alexis, Ohio.
Detroit & Toledo Shore Line.	Michigan-Ohio State line (north of Toledo, Ohio).	Toledo, Ohio.
Penn Central.	Michigan-Indiana State line (north of Vistula, Ind.).	Tower B, Elkhart, Ind.
Do.....	Michigan-Ohio State line (north of Alexis, Ohio).	Alexis, Ohio.
Do.....	Michigan-Indiana State line (south of Niles, Mich.).	South Bend, Ind.
Do.....	Michigan-Indiana State line (south of Sturgis, Mich.).	Fort Wayne, Ind.

(4) *Michigan operations excepted from Michigan nonadvanced eastern standard time.* Those parts of the following lines of railroad located within the State of Michigan and east of the zone boundary described in this section, are, for operating purposes only, excepted from the requirement to operate in accordance with Michigan's nonadvanced eastern standard time and are authorized to operate on eastern standard time (advanced) during the period from 2 a.m. on the last Sunday in April to 2 a.m. on the last Sunday in October.

Railroad	From—	To—
Ann Arbor.	Ohio-Michigan State line (north of Alexis, Ohio).	Owosso, Mich.
Detroit, Toledo & Ironton.	Ohio-Michigan State line (north of Metamora, Ohio).	Detroit and Dearborn, Mich.
Do.....	Ohio-Michigan State line (north of Denson, Ohio).	Tecumseh, Mich.

Railroad	From—	To—
Do.....	Ohio-Michigan State line (north of Alexis, Ohio) (over the tracks of the Ann Arbor Railroad).	Diann, Mich.
Penn Central.....	Indiana-Michigan State line (north of Ray, Ind.).	Jackson, Mich.
Do.....	White Pigeon Junction, Mich.	Jonesville, Mich.
Do.....	Litchfield, Mich.	Osseo, Mich.
Do.....	Bankers, Mich.	North Adams, Mich.
Do.....	Morenci, Mich.	Palmyra, Mich.
Do.....	Clayton, Mich.	Ida, Mich.
Do.....	Ohio-Michigan State line (south of Ottawa Lake, Mich.).	Clinton, Mich.
Do.....	Ohio-Michigan State line (north of Alvordton, Ohio).	Jackson, Mich.
Do.....	Cement City, Mich.	Brooklyn, Mich.

(h) *Municipalities on boundary line.* All municipalities located upon the zone boundary line described in this section are in the central standard time zone, except Apalachicola, Fla., which is in the eastern standard time zone.

#### § 71.6 Central zone.

The third zone, the central standard time zone, includes that part of the United States that is west of the boundary line between the eastern and central standard time zones described in § 71.5 and east of the boundary line between the central and mountain standard time zones described in § 71.7.

#### § 71.7 Boundary line between central and mountain zones.

(a) *Montana-North Dakota.* Beginning at the junction of the Montana-North Dakota boundary with the boundary of the United States and Canada southerly along the Montana-North Dakota boundary to the Missouri River; thence southerly and easterly along the middle of that river to the midpoint of the confluence of the Missouri and Yellowstone Rivers; thence southerly and easterly along the middle of the Yellowstone River to the north boundary of T. 150 N., R. 104 W.; thence east to the northwest corner of T. 150 N., R. 102 W.; thence south to the southwest corner of T. 149 N., R. 102 W.; thence east to the northwest corner of T. 148 N., R. 102 W.; thence south to the northwest corner of T. 147 N., R. 102 W.; thence east to the southwest corner of T. 148 N., R. 101 W.; thence south to the middle of the Little Missouri; thence easterly and northerly along the middle of that river to the midpoint of its confluence with the Missouri River; thence southerly and easterly along the middle of the Missouri River to the north line of Morton County; thence west along the north line of Morton County to the northwest cor-

ner of T. 140 N., R. 83 W.; thence south to the southwest corner of T. 140 N., R. 83 W.; thence east to the southeast corner of T. 140 N., R. 83 W.; thence south to the middle of the Heart River; thence easterly and northerly along the middle of that river to the southern boundary of T. 139 N., R. 82 W.; thence east to the middle of the Heart River; thence southerly and easterly along the middle of that river to the midpoint of the confluence of the Heart and Missouri Rivers; thence southerly and easterly along the middle of the Missouri River to the northern boundary of T. 130 N., R. 80 W.; thence west to the northwest corner of T. 130 N., R. 80 W.; thence south to the North Dakota-South Dakota boundary; thence easterly along that boundary to the middle of the Missouri River.

(b) *South Dakota.* From the junction of the North Dakota-South Dakota boundary with the Missouri River southerly along the main channel of that river to the crossing of the Chicago & North Western Railway near Pierre; thence southwesterly to the northeast corner of T. 1 S., R. 28 E. in Jones County; thence south along the range line between Rs. 28 and 29 E. to the north line of Mellette County; thence easterly along the north line of Mellette County to the west line of Tripp County; thence south along the west line of Tripp County to the North Dakota-Nebraska boundary.

(c) *Nebraska.* From the junction of the west line of Tripp County, South Dakota with the South Dakota-Nebraska boundary west along that boundary to the west line of R. 30 W.; thence south along the range line between Rs. 30 and 31 W. to the southwest corner of sec. 19, T. 33 N., R. 30 W.; thence easterly along section lines to the northeast corner of sec. 29, T. 33 N., R. 30 W.; thence southerly along section lines with their offsets to the northeast corner of sec. 17, T. 32 N., R. 30 W.; thence westerly along section lines to the northwest corner of sec. 18, T. 32 N., R. 30 W.; thence southerly along the range line to the southwest corner of T. 31 N., R. 30 W.; thence easterly along the township line to the northeast corner of T. 30 N., R. 30 W.; thence southerly along the range line to the southwest corner of T. 29 N., R. 29 W.; thence westerly along the township line to the northwest corner of sec. 4, T. 28 N., R. 30 W.; thence southerly along section lines to the southwest corner of sec. 33, T. 28 N., R. 30 W.; thence easterly along the township line to the northeast corner of sec. 4, T. 27 N., R. 30 W.; thence southerly along section lines to the southwest corner of sec. 22, T. 26 N., R. 30 W.; thence easterly along section lines to the southeast corner of sec. 24, T. 26 N., R. 30 W.; thence southerly along the range line to the north line of Thomas County; thence westerly along the north line of Thomas County to the west line of Thomas County; thence south along the west line of Thomas

County to the north line of McPherson County; thence west along the north line of McPherson County to the west line of McPherson County; thence south along the west line of McPherson County to the north line of Keith County; thence east along the north line of Keith County to the west line of Lincoln County; thence south along the west line of Lincoln County to the north line of Hayes County; thence west along the north line of Hayes County to the west line of Hayes County; thence south along the west line of Hayes and Hitchcock Counties to the Nebraska-Kansas boundary.

(d) *Kansas-Colorado.* From the junction of the west line of Hitchcock County, Nebr., with the Nebraska-Kansas boundary westerly along that boundary to the northwest corner of the State of Kansas; thence southerly along the Kansas-Colorado boundary to the north line of Sherman County, Kans.; thence easterly along the north line of Sherman County to the east line of Sherman County; thence southerly along the east line of Sherman County to the north line of Logan County; thence westerly along the north line of Logan County to the east line of Wallace County; thence southerly along the east line of Wallace County to the north line of Wichita County; thence westerly along the north line of Wichita County to the east line of Greeley County; thence southerly along the east line of Greeley County to the north line of Hamilton County; thence easterly along the north line of Hamilton and Kearny Counties to the junction of the east line of R. 36 W.; thence southerly along the range line between Rs. 35 and 36 W. with its offset to the south line of Kearny County; thence westerly along the south line of Kearny and Hamilton Counties to the Kansas-Colorado boundary; thence southerly along the Kansas-Colorado boundary to the junction of that boundary with the north boundary of the State of Oklahoma.

(e) *Oklahoma-Texas-New Mexico.* From the junction of the Kansas-Colorado boundary with the northern boundary of the State of Oklahoma westerly along the Colorado-Oklahoma boundary to the northwest corner of the State of Oklahoma; thence southerly along the west boundary of the State of Oklahoma and the west boundary of the State of Texas to the southeast corner of the State of New Mexico; thence westerly along the Texas-New Mexico boundary to the east line of Hudspeth County, Tex.; thence southerly along the east line of Hudspeth County, Tex., to the boundary between the United States and Mexico.

(f) *Operating exceptions.*—(1) *Lines east of boundary excepted from central zone.* Those parts of the following lines of railroad, located east of the zone boundary line described in this section, are, for operating purposes only, excepted from the central standard time zone and are included within the mountain standard time zone:

Railroad	From—	To—
Atchison, Topeka, & Santa Fe.	East line of T. 24 S., R. 36 W., Kearny County, Kans.	Scott City and Dodge City, Kans.
Do.....	Kansas-Colorado State line.	Satanta, Kans.
Do.....	Colorado-Oklahoma State line.	Dodge City, Kans., via Boise City, Okla.
Chicago, Burlington, & Quincy.	East line of Hooker County, Nebr.	Ravenna, Nebr.
Do.....	East line of Perkins County, Nebr.	Holdrege, Nebr.
Do.....	East line of Chase County, Nebr.	McCook, Nebr.
Do.....	East line of Dundey County, Nebr.	Do.
Chicago, Milwaukee, St. Paul & Pacific.	Missouri River, S. Dak.	Mobridge, S. Dak.
Chicago & Northwestern.	West line of T. 34 N., R. 30 W., Cherry County, Nebr.	Long Pine, Nebr.
Great Northern.	Montana-North Dakota State line.	Williston, N. Dak.
Do.....	Yellowstone River, N. Dak.	Waterford City, N. Dak.
Northern Pacific.	East line of T. 138 N., R. 83 W., Morton County, N. Dak.	Mandan, N. Dak.
Do.....	North line of T. 140 N., R. 81 W., Morton County, N. Dak.	Do.
Do.....	South line of T. 139 N., R. 81 W., Morton County, N. Dak.	Do.
Union Pacific.	East line of Keith County, Nebr.	North Platte, Nebr.
Do.....	East line of Wallace County, Kans.	Ellis, Kans.

(2) *Lines west of boundary included in central zone.* Those parts of the following lines of railroad located west of the zone boundary line described in this section are, for operating purposes only, excepted from the mountain standard time zone and are included within the central standard time zone:

Railroad	From—	To—
Atchison, Topeka, & Santa Fe.	Texas-New Mexico State line (near Texico, N. Mex.).	Clovis, N. Mex.
Chicago, Rock Island & Pacific.	Texas-New Mexico State line.	Tueumearl, N. Mex.
Do.....	West line of Thomas County, Kans.	Goodland, Kans.
Missouri.....	West line of Wichita County, Kans.	Pueblo, Colo.
Soo Line.....	Montana-North Dakota State line.	Whitetail, Mont.
Southern Pacific.	East line of Hudspeth County, Tex.	El Paso, Tex.
Texas & Pacific.	Do.....	Do.
Texas-New Mexico.	Texas-New Mexico State line.	Lovington, N. Mex.

(g) *Points on boundary line.* All municipalities located upon the zone boundary line described in this section are in the mountain standard time zone,

except Murdo, S. Dak., which is in the central standard time zone.

### § 71.8 Mountain zone.

The fourth zone, the mountain standard time zone, includes that part of the United States that is west of the boundary line between the central and mountain standard time zones described in § 71.7 and east of the boundary line between the mountain and Pacific standard time zones described in § 71.9.

### § 71.9 Boundary line between mountain and Pacific zones.

(a) *Montana-Idaho-Oregon.* From the junction of the Idaho-Montana boundary with the boundary between the United States and Canada southerly along the Idaho-Montana boundary to the boundary line between Idaho County, Idaho, and Lemhi County, Idaho; thence southwesterly along the boundary line between those two counties to the main channel of the Salmon River; thence westerly along the main channel of the Salmon River to the Idaho-Oregon boundary; thence southerly along that boundary to the boundary line between Baker County, Oreg., and Malheur County, Oreg.; thence westerly along the north line of Malheur County to the northwest corner of Malheur County; thence southerly along the west line of Malheur County to the southwest corner of T. 35 S., R. 37 E.; thence east to the Idaho-Oregon boundary; thence south along that boundary to the southwest corner of the State of Idaho; thence easterly along the Idaho-Nevada boundary to the northeast corner of the State of Nevada.

(b) *Utah-Nevada-Arizona-California.* From the northeast corner of the State of Nevada southerly along the Utah-Nevada boundary, the Nevada-Arizona boundary, and the Arizona-California boundary to the boundary between the United States and Mexico.

(c) *Operating exceptions—(1) Lines east of boundary excepted from mountain zone.* Those parts of the following lines of railroad located east of the zone boundary line described in this section, are, for operating purposes only, excepted from the mountain standard time zone and are included within the Pacific standard time zone:

Railroad	From—	To—
Great Northern.	Troy, Mont.	Montana-Idaho State line.
Northern Pacific.	Paradise, Mont.	Do.
Southern Pacific.	Ogden, Utah.	Utah-Nevada State line.
Western Pacific.	Salt Lake City, Utah.	Do.
Do.....	Burmeister, Utah.	Warner, Utah.

(2) *Lines west of boundary included in mountain zone.* Those parts of the following lines of railroad located west of the zone boundary line described in this section, are, for operating purposes only, excepted from the Pacific standard time zone and are included in the mountain standard time zone:

Railroad	From—	To—
Atchison, Topeka, & Santa Fe.	Colorado River...	Southern limits of Needles, Calif.
Chicago, Milwaukee, St. Paul & Pacific.	Montana-Idaho State line.	Avery, Idaho.
Union Pacific.	Idaho-Nevada State line near Idavada, Idaho.	Wells, Nevada.
Do.....	West line of Malheur County, Oreg.	Burns, Oreg.

(d) *Points on boundary line.* All municipalities located upon the zone boundary line described in this section are in the mountain standard time zone.

### § 71.10 Pacific zone.

The fifth zone, the Pacific standard time zone, includes that part of the United States that is west of the boundary line between the mountain and Pacific standard time zones described in § 71.9 and east of 137° W. longitude.

### § 71.11 Yukon zone.

The sixth zone, the Yukon standard time zone, includes that part of the United States that is between 137° W. longitude and 141° W. longitude.

### § 71.12 Alaska-Hawaii zone.

The seventh zone, the Alaska-Hawaii standard time zone, includes that part of the United States that is between 141° W. longitude and 162° W. longitude and including all of the State of Hawaii.

### § 71.13 Bering zone.

The eighth zone, the Bering standard time zone, includes that part of the United States that is between 162° W. longitude and 172°30' W. longitude and that part of the Aleutian Islands that is west of 172°30' W. longitude, but does not include any part of the State of Hawaii.

[F.R. Doc. 70-9895; Filed, July 31, 1970; 8:45 a.m.]

## Title 7—AGRICULTURE

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

#### PART 26—GRAIN STANDARDS

##### Subpart A—Regulations

#### GENERAL REQUIREMENTS FOR OFFICIAL CERTIFICATES

*Statement of considerations.* On May 20, 1970, there was published in the FEDERAL REGISTER (35 F.R. 7739) a notice of proposed rule making to amend certain provisions of § 26.59 of the regulations (7 CFR 26.59) under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.).

Interested parties were afforded 45 days in which to submit written data, views, or arguments with respect to the proposed amendments of the regulations. One comment was received supporting

the proposed amendment. No adverse comments were received.

Therefore, pursuant to the authority contained in section 16 of the U.S. Grain Standards Act, as amended (7 U.S.C. 87(e)) subparagraph (12) of paragraph (b) of § 26.59 is amended to read as follows:

**§ 26.59 Official certificates (general requirements).**

(b) \* \* \*

(12) The date or dates the grain was sampled and the method of sampling the grain.<sup>1</sup> (This subparagraph is not applicable to export certificates for cargo shipments.)

(Sec. 16, 82 Stat. 768, 7 U.S.C. 87e; 29 F.R. 16210, as amended; 33 F.R. 10750)

**Effective date.** This amendment shall become effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of July 1970.

G. R. GRANGE,  
Acting Administrator.

[F.R. Doc. 70-10019; Filed, July 31, 1970; 8:50 a.m.]

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

[Lemon Reg. 438]

**PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA**

**Limitation of Handling**

**§ 910.738 Lemon Regulation 438.**

(a) **Findings.** (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, 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 Lemon 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 lemons, 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, un-

der 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 lemons 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 lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation 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 28, 1970.

(b) **Order.** (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period August 2, 1970, through August 8, 1970, are hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 270,000 cartons;
- (iii) District 3: Unlimited movement.

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

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

Dated: July 30, 1970.

FLOYD F. HEDLUND,  
Director, Fruit and Vegetable  
Division, Consumer and Mar-  
keting Service.

[F.R. Doc. 70-10052; Filed, July 31, 1970; 8:51 a.m.]

**PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA**

**Miscellaneous Amendments**

On July 9, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 11030) that consideration was being given to a proposed amendment of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100 et seq.) currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. This 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 pro-

posal set forth in the aforesaid notice, the recommendation and information submitted by the Lemon Administrative Committee (established pursuant to the amended marketing agreement and order as the agency to administer the provisions thereof), and other available information, it is hereby found and determined that the amendment as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this amendment, with an effective date of August 2, 1970, was published in the FEDERAL REGISTER on July 9, 1970 (35 F.R. 11030), and no objection to this amendment or such effective date was received; (2) the recommendation and supporting information for this amendment were submitted to the Department after an open meeting of the Lemon Administrative Committee on June 16, 1970, which was held to consider recommendations for such amendment, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (3) the provisions of this amendment, including the effective time hereof, are identical with the aforesaid recommendation of the committee; (4) information concerning such provisions and effective time has been disseminated among handlers of lemons in California and Arizona; (5) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; (6) shipments of the new crop of lemons grown in California and Arizona are expected to begin on or about the effective date hereof, and this amendment should be effective at such time.

This amendment will change the definition of "carload" to mean a quantity of lemons equivalent to 1,000 cartons of lemons, rather than 930 cartons of lemons as is currently specified in this order under § 910.8 Carload. Section 910.100 General will be amended and a new § 910.104 Carload, will be added under definitions of (Subpart—Rules and Regulations; 7 CFR 910.100 et seq.). Such amendment is hereby approved and said rules and regulations are amended as follows:

**DEFINITIONS**

**§ 910.100 General.**

Terms used in this subpart, except as otherwise provided, shall have the same meaning as when used in the marketing agreement and order (§§ 910.1 to 910.92).

**§ 910.104 Carload.**

Pursuant to § 910.8, the quantity of lemons comprising a "carload", as such term is therein defined, is hereby increased, effective August 2, 1970, from a

quantity of lemons equivalent to 930 cartons of lemons to a quantity of lemons equivalent to 1,000 cartons of lemons.

Dated: July 29, 1970, to become effective August 2, 1970.

FLOYD F. HEDLUND,  
Director, Fruit and Vegetable  
Division, Consumer and Mar-  
keting Service.

[F.R. Doc. 70-10017; Filed, July 31, 1970;  
8:50 a.m.]

## PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

### Rules and Procedures Governing Diversion of Prune Plums

Pursuant to the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California (hereinafter collectively referred to as the "order"), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the Prune Administrative Committee has recommended establishment of rules and procedures governing diversion of prune plums, and that diversion operations be authorized pursuant to § 993.62 with respect to the 1970-71 crop year beginning August 1, 1970.

In accordance with § 993.62 of the order, producers may, when diversion operations are authorized, divert prune plums (i.e., plums of a variety used in the production of prunes) and receive diversion certificates from the Committee. Such diversion operations are to be subject to applicable rules and procedures. As contemplated by § 993.62, such rules and procedures should deal with such matters as applications for diversion certificates, eligible diversions, supervision of diversion, methods and criteria for issuing diversion certificates to producers, extent of transferability of diversion certificates among producers and handlers, and the extent to which the handler would be entitled to satisfy his reserve obligation.

At its meeting of June 18, 1970, at which growers and handlers were afforded opportunity to present their views, the Committee estimated California's 1970 dried prune production at 180,000 tons<sup>1</sup> and the August 1, 1970, salable carryin at about 43,700 tons. Thus, the total supply of such prunes in the 1970-71 crop year would approximate 223,700 tons. Such estimate of the supply for the 1970-71 crop year does not include any 1969-70 reserve prunes that may be carried over into the 1970-71 crop year. The Committee also estimated domestic and foreign trade demand during the 1970-71 crop year at about 141,000 tons, and carryout on July 31, 1971, at 30,000 tons. Thus, the Committee estimated that the total available supply of prunes during the 1970-71 crop year will exceed trade

demand and carryover requirements by about 53,000 tons. The Committee indicated a need to establish a reserve control regulation for the 1970-71 crop year providing for a reserve of 26,000 tons, and recommended that diversion operations be permitted in order to implement that regulation. The Committee indicated, as its objective, diversion of 27,000 tons, dried weight equivalent, of prune plums from California's 1970 production.

After consideration of all relevant matter, including the Committee's recommendation for diversion operations, and other available information:

A. It is found that the rules and procedures governing diversion operations, as hereinafter set forth, are in accordance with this part, and will tend to effectuate the declared policy of the act.

B. The Committee's recommendation that diversion operations with respect to the 1970-71 crop year be permitted is concurred in, and such operations are hereby authorized pursuant to § 993.62.

Therefore, it is ordered, That the Subpart—Administrative Rules and Regulations (7 CFR 993.101-993.174; 35 F.R. 5108) is hereby amended by the addition thereto of a new § 993.162 reading as follows:

#### VOLUNTARY DIVERSION

#### § 993.162 Voluntary prune plum diversion.

(a) *Quantity to be diverted.* The Committee shall indicate the quantity of prune plums that producers may divert pursuant to § 993.62 whenever it recommends to the Secretary that diversion operations for a crop year be permitted. The Committee shall compute the dried weight equivalent of such quantity on a dryaway basis of 1 pound of dried prunes for each 2¾ pounds of prune plums. Whenever diversion operations for a crop year have been authorized by the Secretary, the Committee shall notify producers, and handlers, known to it of such authorization and of such dried weight equivalent for which certificates of diversion may be issued.

(b) *Eligible diversions.* Eligible diversions shall preclude prune plums from becoming prunes and shall be limited to the following methods: (1) Disposing of harvested prune plums under Committee supervision for nonhuman use at a location and in a manner satisfactory to the Committee; and (2) leaving unharvested the entire production of prune plums from a solid block of bearing trees designated by the producer applying for the diversion. In accordance with § 993.62(c), eligible diversion shall not apply to prune plums which would not, under normal producer practices, be dried and delivered to a handler.

(c) *Application for diversion.*—(1) *By producers.* Each producer desiring to divert prune plums of his own production shall, prior to diversion, file with the Committee a certified application on Form PAC 10.1 "Application for Prune Plum Diversion" containing at least the following information: (i) The name and address of the producer; whether the producer is an owner-operator, share-

landlord, share-tenant, or cash tenant; and the name and address of any other person or persons sharing a proprietary interest in such prune plums; (ii) the proposed method of diversion and the location where diversion is to take place, and, if diversion is to be by disposition of harvested prune plums which requires prior approval by a Public Health authority, the name and address of the Public Health authority that approved the proposed disposition; (iii) the dried weight equivalent (computed on a dry-away basis of 1 pound of dried prunes for each 2¾ pounds of prune plums) of the quantity of prune plums proposed to be diverted; and (iv) the approximate period of diversion and the approximate date on which proof of diversion can be furnished. A deposit fee shall accompany each application and shall be the greater of either \$100 or the amount obtained by multiplying the dried weight equivalent, in tons, of the quantity of prune plums proposed to be diverted by \$10.

(2) *By dehydrator as agent.* Any producer, or group of producers, may authorize any dehydrator to act as agent to divert harvested prune plums. Prior to diversion, such dehydrator shall submit to the Committee with respect to each producer the certified application on Form PAC 10.1 "Application for Prune Plum Diversion" required by subparagraph (1) of this paragraph. A deposit fee shall accompany each application and shall be the greater of either \$100 per producer who authorized the dehydrator to act as agent or the amount obtained by multiplying the dried weight equivalent, in tons, of the quantity of prune plums proposed to be diverted by \$10: *Provided*, That with respect to any group of four or more producers that authorized the dehydrator to act as agent for the group and the dehydrator so informs the Committee, the deposit fee shall be the greater of either \$200 or the amount obtained by multiplying the dried weight equivalent, in tons, of the aggregate quantity of prune plums proposed to be diverted by the group by \$10.

(3) *Receipt of applications.* The Committee shall establish, and give prompt notice of, a final date for receipt of applications for diversion: *Provided*, That if the Committee determines that the total quantity of prune plums covered by applications received by such date is substantially less than the quantity which the Committee has determined pursuant to paragraph (a), the Committee may provide such additional time for such receipt of applications as it deems appropriate and establish and give prompt notice of such additional time.

(d) *Approval of applications.* No certificate of diversion shall be issued by the Committee unless it had approved the application covering such diversion.

(1) The Committee's approval of an application shall be in writing, and include at least the following: (i) The details as to the method of diversion to be followed; (ii) the method of appraisal to be used by the Committee to determine

<sup>1</sup> The same tonnage estimated by the USDA Crop Reporting Board in its 1970 crop estimate report. Tons are stated on the basis of natural condition weight.

the quantity of prune plums diverted; (iii) the lesser of either the quantity specified in the application for diversion as proposed to be diverted, or any modification of that quantity as a result of any Committee proration of the total quantity proposed to be diverted by all producers; and (iv) such other information as may be necessary to assist the applicant in meeting the requirements of this section, including the conditions of proof of diversion under which diverted prune plums shall receive credit for certification.

(2) If the Committee determines that it cannot approve an application it shall notify the applicant promptly. The Committee shall state the reason for failing to approve the application, and request the applicant to submit, if practicable, an amended application correcting the deficiencies in the original application.

(3) Whenever an applicant cancels his approved diversion application prior to diversion, no part of the deposit fee covering actual costs incurred in connection with the application shall be refunded except upon approval by the Committee following review of all circumstances in the matter.

(e) *Nontransferable certificate of diversion.* When diversion of prune plums has been completed, the diverter (whether producer or dehydrator as agent of a producer) shall submit the required proof of such diversion to the Committee. When the Committee concludes that diversion has been completed pursuant to the requirements of this section, it shall issue a nontransferable certificate of diversion (containing the total quantity of credit for the diversion) to the producer whose prune plums were diverted for the total quantity diverted: *Provided*, That a producer shall be given credit for any quantity of his prune plums diverted in excess of the quantity approved by the Committee pursuant to paragraph (d) but not in excess of 120 percent of such approved quantity and then only to the extent that such creditable excess is already covered by his applicable deposit fee or such fee is increased by an additional deposit to cover such excess.

(f) *Transferable certificate of diversion—(1) General.* As hereinafter set forth, transferable certificates of diversion shall be issued by the Committee. Any transferable certificate of diversion issued to a handler that is a cooperative marketing association, or submitted to a handler and accepted by him, shall be returned to the Committee by the handler for credit against the handler's reserve obligation of the crop year in accordance with § 993.57. Such credit shall be based on the amount shown on the certificate, and shall be applied to reduce the handler's holding requirement for such crop year. With respect to such creditable certificate of a handler with a holding requirement prior to issuance or acceptance, as applicable, of the transferable certificate of diversion, such credit shall result in an adjustment downward in the handler's then appli-

cable holding requirement in an amount equal to that computed by applying the applicable salable percentage to the total quantity on such certificate. Any adjustment in a handler's holding requirement shall not affect his obligation, if any, to continue to hold reserve prunes that are undersized prunes. The term "undersized prunes" shall have the same meaning as prescribed by the Secretary for the then current crop year. If the Committee determines that effective administration of diversion operations requires establishment of a final date for submission of transferable certificates of diversion by producers to handlers, or a final date for return of such certificates by handlers to the Committee for crediting against their reserve obligations, or both, it shall establish such dates with the approval of the Secretary.

(2) *Issuance to producers.* Except as provided in subparagraph (3) of this paragraph, the Committee shall issue transferable certificates of diversion to each producer diverting prune plums and to whom a nontransferable certificate of diversion was issued. Prior to issuance of any such transferable certificate of diversion, the producer shall advise the Committee, in writing: (i) Of the name of the handler to whom the transferable certificate of diversion is to be submitted and who is holding reserve prunes referable to prunes received from such producer; and (ii) how much of the quantity shown on his nontransferable certificate of diversion he desires to use in lieu of reserve prunes but not in excess of the quantity of reserve prunes referable to prunes received by the handler from such producer. The Committee shall enter on the transferable certificate of diversion the name of the handler and the quantity covered by the certificate. The transferable certificate of diversion shall be endorsed by the producer and the handler prior to its return to the Committee in order to be credited by the Committee against such handler's reserve obligation. If any portion of the quantity shown on the producer's nontransferable certificate of diversion remains unused and he desires to transfer a transferable certificate of diversion covering all or any part of such unused portion to another producer, he shall advise the Committee, in writing, of the name and address of such producer, together with the applicable quantity desired to be covered by the transfer, and, if known, the name of the handler to whom such a transferable certificate is to be submitted. However, the quantity to be covered by the transfer shall not exceed the quantity of reserve prunes referable to prunes received by the handler from the transferee-producer. The Committee shall enter on the transferable certificate of diversion the names of the transferee-producer and the handler, and the quantity covered by the certificate. Prior to submission of any such transferred diversion certificate to a handler, the transferee-producer shall advise the Committee, in writing, of the name and address of the handler to whom the transferable certificate is to be submitted and who is holding reserve prunes referable to prunes received from

such producer. Such transferred diversion certificate shall be endorsed by both producers and the handler in order to be credited by the Committee against such handler's reserve obligation.

(3) *Issuance to a cooperative marketing association.* In connection with prune plums diverted by producers who are members of a cooperative marketing association, the Committee shall, when so requested by the association, issue the applicable transferable certificates of diversion to it. The quantity entered on the nontransferable certificate of diversion of a cooperative producer shall be entered on the applicable transferable certificate of diversion issued to the association. Such transferable certificates of diversion shall be returned to the Committee by the association endorsed by an authorized officer of the association in order to be credited by the Committee against the association's reserve obligation.

(4) *Applicability of certain payments.* The provisions of §§ 993.59 and 993.159 governing payments to a handler for necessary services rendered by the handler in connection with reserve prunes shall not be applicable to prunes no longer required to be held as reserve prunes due to a downward adjustment by the Committee in the handler's holding requirement on the basis of applicable transferable certificates of diversion returned to the Committee.

(g) *Costs.* Pursuant to § 993.62(g), the costs pertaining to diversion are to be defrayed by payment of fees by the producer or cooperative marketing association to whom a diversion certificate is issued. After authorized diversion operations for a crop year are completed, the Committee shall ascertain the costs of diversion operations during such crop year. If the total amount represented by the deposit fees which accompanied the applications for diversion exceeds such costs, each producer, and each cooperative marketing association, entitled thereto shall receive a refund of a portion of the applicable deposit fee on such basis as may be prescribed by the Committee with the approval of the Secretary.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for making the provisions hereof effective upon publication in the FEDERAL REGISTER and not postponing the effective time until 30 days after such publication (5 U.S.C. 553) in that: (1) This action prescribes rules and procedures governing producer diversion operations, including the issuance of diversion certificates, as contemplated by § 993.62; (2) the Prune Administrative Committee has recommended that diversion operations be authorized with respect to the 1970-71 crop year; (3) this action concurs in the Committee's recommendation that such operations should be permitted; (4) harvest of California's prune plums will begin soon, at which time diversion could begin; (5) the Committee must make

necessary preparations before such diversion operations commence in accordance with the rules and procedures contained herein; (6) producers should be afforded the maximum advance notice that is practicable of the particular rules and procedures that will govern diversion operations and issuance of diversion certificates so as to conduct their operations accordingly; and (7) such diversion operations will tend to effectuate the declared policy of the act and tend to maximize returns to producers.

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

Dated July 28, 1970, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,  
Director,

Fruit and Vegetable Division.

[F.R. Doc. 70-9972; Filed, July 31, 1970;  
8:47 a.m.]

## Title 14—AERONAUTICS AND SPACE

### Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70-EA-55; Amdt. 39-1049]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Hartzell Propellers

The Federal Aviation Administration is amending section 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Hartzell type propeller blades.

There have been reports of fatigue type fractures in Hartzell type propellers which have been attributed to corrosion within the pilot tube holes of the blades. Since this condition is likely to exist or develop in other propeller blades of the same type design, an airworthiness directive is being issued to require an inspection and replacement where necessary of similar blades.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

**HARTZELL PROPELLERS.** Applies to Model 7663-4 blades, including all serial numbers prefixed with letter "A" and up to Serial No. B35571 with letter "B" prefix, installed on but not limited to the Hartzell HC-E2YL-2B, HC-C2YL-1B, and

HC-C2YL-2B type propellers. Compliance required as indicated, unless already accomplished.

To prevent propeller blade shank failures, accomplish the following:

(a) Propellers with 600 or more total hours in service, inspect in accordance with para-

graphs (d) or (e) within the next 100 hours in service after the effective date of this AD.

(b) Propellers with less than 600 total hours in service, inspect in accordance with paragraph (d) or (e), prior to the accumulation of 700 hours in service.

(c) Propellers whose total hours in service are unknown, inspect in accordance with paragraphs (d) or (e) within the next 100 hours in service after the effective date of this AD.

(d) Accomplish X-ray inspection of the blades for cracks in accordance with "Required Action: Option I" in Hartzell Bulletin No. 96 dated June 1, 1970, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region. Replace before further flight any cracked blades with blades not affected by this AD. Repeat X-ray inspection at 300-hour intervals unless X-ray shows no lead in the hole. Or,

(e) Remove the blades from the propeller, inspect for corrosion in accordance with "Required Action: Option II" in Hartzell Bulletin No. 96. Replace before further flight any corroded or cracked blades with blades not affected by this AD.

(f) Upon submission of substantiating data through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region may adjust repetitive inspection intervals specified in this AD.

[Hartzell Bulletin No. 96 dated June 1, 1970, and Manuals 115 and 117 cover this subject]

This amendment is effective August 6, 1970.

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

Issued in Jamaica, N.Y., on July 15, 1970.

WAYNE HENDERSHOT,  
Acting Director, Eastern Region.

[F.R. Doc. 70-9998; Filed, July 31, 1970;  
8:49 a.m.]

[Docket No. 70-CE-15-AD; Amdt. 39-1054]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Woodward Turbo Propeller Governors

There have been reports of Woodward propeller governor solenoid valve coil retaining screws installed on United Aircraft of Canada PT6A series engines becoming disengaged resulting in loss of propeller oil with subsequent abrupt and uncontrollable feathering. Such feathering can induce stresses which result in severe engine damage. Since this condition is likely to exist or develop in other such propeller governors, an airworthiness directive is being issued requiring within the next 50 hours' time in service after the effective date of this AD, inspection and replacement where necessary of the solenoid valve coil retaining screws installed in Woodward primary propeller governors and Woodward overspeed propeller governors.

Since immediate adoption is required in the interest of safety, it is found that notice and public procedure hereon are impractical and good cause exists for making this rule effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), section 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

**WOODWARD.** Applies to Woodward Governor Co. primary turbo propeller governors mounted on United Aircraft of Canada PT6A series engines installed in airplanes incorporating propeller reversing provisions and Woodward Governor Co. overspeed turbo propeller governors mounted on United Aircraft of Canada PT6A series engines installed in airplanes having autofeathering provisions.

Compliance: Required within the next 50 hours' time in service after the effective date of this AD, unless previously accomplished.

To prevent uncontrolled feathering accomplish the following or an equivalent procedure approved by the Chief, Engineering & Manufacturing Branch, FAA, Central Region.

(a) On primary propeller governors inspect for safety wire security the three coil retaining screws on the lock pitch solenoid valve, Woodward P/N 1310-506 or 1310-511.

(b) On overspeed propeller governors inspect for safety wire security the three coil retaining screws on the autofeathering solenoid valve, Woodward P/N 1310-110 or 1310-115.

(c) If screws inspected in accordance with paragraphs A and B are not secured by safety wire, prior to return to service, replace said screws with socket head screws, Woodward P/N 1039-240, torque 18 to 22 lb.-in., and secure by AMS 5685 0.024 to 0.026 in. dia. safety wire. Screws must be removed, replaced and torqued one at a time to avoid valve disassembly.

NOTE: It may be necessary to remove two solenoid valve base retaining screws, Woodward P/N 33048-201 to gain access to the coil retaining screws. Removal and replacement of these two screws should be accomplished in the manner prescribed for the coil retaining screws.

Woodward Service Bulletin 33532B, Supplement 1 and United Aircraft of Canada, Ltd., Engine Service Bulletin No. 198 pertain to this subject.

The inspections and modifications prescribed in this AD may be accomplished by a certified mechanic with a powerplant rating.

NOTE: Governors to which this AD applies are known to be installed on the following airplanes, but this listing is not necessarily all inclusive:

Primary propeller governors—Beech Models 65-90, 65-A90, 65-A90-1, 65-A90-2, 65-A90-3, B90, 99, 99A, 100; DeHavilland Models 1, 100, 200, 300; Helio Models HST-550, HST-550A; Swearingen Model SA26-5; Pilatus Model PC-6/B-H2, PC-6/B1-H2; McKinnon Models G21C, G21D, G21E, G21G; Grumman Model G21A (Serial Number B52 only); and Beech 18 series airplanes modified per STC SA 1016 WE.

Overspeed propeller governors—Beech Model 65-A90-1, 68-A90-2, 65-A90-3, B90, 99, 99A and 100 airplanes.

This amendment shall become effective August 4, 1970.

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

Issued in Kansas City, Mo., on July 23, 1970.

EDWARD C. MARSH,  
Director, Central Region.

[F.R. Doc. 70-9999; Filed, July 31, 1970;  
8:49 a.m.]

[Docket No. 9939; Amdt. 39-1058]

**PART 39—AIRWORTHINESS  
DIRECTIVES****British Aircraft Corp. Viscount Models  
744, 745D, and 810 Series Airplanes**

Amendment 39-915, 35 F.R. 144, AD 70-2-5, requires adjustment of the nose landing gear downlock microswitch mechanism on British Aircraft Corp. Viscount Models 744, 745D, and 810 Series Airplanes. After issuing Amendment 39-915, the FAA has received further reports of nose landing gear collapse on these airplanes which was attributed to brinelling and wear of the downlock socket fitting and accumulation of foreign matter in the downlock socket fitting. Therefore, Amendment 39-915 is being superseded by a new AD that requires adjustment of the nose landing gear downlock microswitch mechanism, repetitive inspections of the downlock socket fitting and locking plunger for excessive wear, repetitive inspections to ensure cleanliness of the socket fitting, and the correction of unsafe conditions found during these inspections.

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

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

**BRITISH AIRCRAFT CORP.** Applies to Viscount Models 744, 745D, and 810 Series airplanes.

Compliance is required as indicated.

To prevent collapse of the nose landing gear into a retracted position, accomplish the following:

(a) Within the next 100 landings after the effective date of this AD, unless already accomplished, adjust the nose landing gear downlock microswitch mechanism in accordance with British Aircraft Corp. Preliminary Technical Leaflet No. 262, Issue 3, for Models 744 and 745D airplanes; or Preliminary Technical Leaflet No. 125, Issue 3, for Model 810 airplanes; or later ARB-approved issue or an FAA-approved equivalent.

(b) Within the next 6 months' time in service after the effective date of this amendment, unless already accomplished within the last 6 months, and thereafter at intervals not to exceed 6 months from the last inspection, visually inspect the nose gear downlock socket fitting and locking plunger for excessive wear and to ensure cleanliness in accordance with British Aircraft Corp. Preliminary Technical Leaflet No. 262, Issue 3, for Models 744 and 745D airplanes; or Preliminary Technical Leaflet No. 125, Issue 3, for Model 810 airplanes; or later ARB-approved issue or an FAA-approved equivalent.

(c) If, during the inspection required by paragraph (b), the wear of the downlock socket fitting is found to exceed the limits set forth by Preliminary Technical Leaflet No. 262, for Models 744 and 745D airplanes; or No. 125, Issue 3, for Model 810 airplanes; or later ARB-approved issue or an FAA-approved equivalent, before further flight accomplish the following:

(1) Replace the worn fitting with a serviceable fitting of the same part number.

(2) Ensure satisfactory operation of the locking plunger in accordance with British Aircraft Corp. Preliminary Technical Leaflet No. 262, Issue 3, for Models 744 and 745D airplanes; or Preliminary Technical Leaflet No. 125, Issue 3, for Model 810 airplanes; or an ARB-approved issue or an FAA-approved equivalent.

This supersedes Amendment 39-915, 35 F.R. 144, AD 70-2-5.

This amendment becomes effective August 6, 1970.

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

Issued in Washington, D.C., on July 28, 1970.

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

[F.R. Doc. 70-10000; Filed, July 31, 1970;  
8:49 a.m.]

[Docket No. 10193; Amdt. 65-15]

**PART 65—CERTIFICATION: AIRMEN  
OTHER THAN FLIGHT CREWMEMBERS****Establishment of Facility Rating**

The purpose of these amendments to Part 65 of the Federal Aviation Regulations is to: (1) Establish a "facility rating" that may be obtained by a certificated air traffic control tower operator who qualifies at all operating positions at a particular control tower; (2) provide that a certificated operator without that rating may control traffic at those operating positions for which he has qualified at a particular control tower, under the supervision of an operator holding a facility rating for that tower; and (3) drop the present junior and senior ratings.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rule making (Notice 70-12) issued on March 13, 1970, and published in the FEDERAL REGISTER on March 20, 1970 (35 F.R. 4862). Three public comments were received on the notice. All of these comments concurred with, or had no objection to, the proposal. One commentator suggested minor changes to facilitate the exchange, and clarify the application of the practical test to operations in a VFR tower. These suggestions involve procedural matters which will be handled administratively.

Two minor changes are made from the proposal. First, the notice proposed that an applicant for a facility rating who bases his eligibility on having previously held a facility rating at a different tower would be required to have held that rating for at least 6 months of the 2 years before the date he applies for the rating. The 2-year limitation has not been required previously, and upon further consideration it appears to be an unnecessary restriction that may prevent an otherwise competent controller from holding a facility rating. Therefore, the 2-year limitation has been omitted in these amendments. Second, the notice proposed that an operator could not is-

sue air traffic clearances for IFR flight without authorization from the appropriate air route traffic control center. Since a tower may be under the jurisdiction of some facility other than an air route traffic control center, the general term of reference "facility exercising IFR control" has been substituted.

As proposed, these amendments replace the system of qualifying a controller on the basis of his competence to control traffic in VFR or IFR weather conditions with a system of qualification by operating position, under which a controller who has qualified at an operating position may control air traffic under the supervision of another controller holding a facility rating without regard to the weather conditions, or type of air traffic controlled by that person. The amendments are now issued for the reasons stated in the notice, with the two minor changes discussed herein.

In consideration of the foregoing, Subpart B of Part 65 of the Federal Aviation Regulations is amended, effective August 31, 1970, to read as follows:

**Subpart B—Air Traffic Control Tower  
Operators****§ 65.31 Required certificate, and rating  
or qualification.**

No person may act as an air traffic control tower operator at an air traffic control tower in connection with civil aircraft unless he—

(a) Holds an air traffic control tower operator certificate issued to him under this subpart; and

(b) Holds a facility rating for that control tower issued to him under this subpart, or has qualified for the operating position at which he acts and is under the supervision of the holder of a facility rating for that control tower.

For the purpose of this subpart, "operating position" means an air traffic control function performed within or directly associated with the control tower.

**§ 65.33 Eligibility requirements: general.**

To be eligible for an air traffic control tower operator certificate a person must—

(a) Be at least 18 years of age;

(b) Be of good moral character;

(c) Be able to read, write, and understand the English language and speak it without accent or impediment of speech that would interfere with two-way radio conversation;

(d) Hold at least a second-class medical certificate issued under Part 67 of this chapter within the 12 months before the date he applies; and

(e) Comply with § 65.35.

**§ 65.35 Knowledge requirements.**

Each applicant for an air traffic control tower operator certificate must pass a written test on—

(a) The flight rules in Part 91 of this chapter;

(b) Airport traffic control procedures, and this subpart;

- (c) En route traffic control procedures;
- (d) Communications operating procedures;
- (e) Flight assistance service;
- (f) Air navigation, and aids to air navigation; and
- (g) Aviation weather.

**§ 65.37 Skill requirements: operating positions.**

No person may act as an air traffic control tower operator at any operating position unless he has passed a practical test on—

- (a) Control tower equipment and its use;
- (b) Weather reporting procedures and use of reports;
- (c) Notices to Airmen, and use of the Airman's Information Manual;
- (d) Use of operational forms;
- (e) Performance of noncontrol operational duties; and
- (f) Each of the following procedures that is applicable to that operating position and is required by the person examining him:

- (1) The airport, including rules equipment, runways, taxiways, and obstructions.
- (2) The control zone, including terrain features, visual checkpoints, and obstructions.
- (3) Traffic patterns and associated procedures for use of preferential runways and noise abatement.
- (4) Operational agreements.
- (5) The center, alternate airports, and those airways, routes, reporting points, and air navigation aids used for terminal air traffic control.
- (6) Search and rescue procedures.
- (7) Terminal air traffic control procedures and phraseology.
- (8) Holding procedures, prescribed instrument approach, and departure procedures.
- (9) Radar alignment and technical operation.
- (10) The application of the prescribed radar and nonradar separation standard, as appropriate.

**§ 65.39 Practical experience requirements: facility rating.**

Each applicant for a facility rating at any air traffic control tower must have satisfactorily served—

- (a) As an air traffic control tower operator at that control tower without a facility rating for at least 6 months; or
- (b) As an air traffic control tower operator with a facility rating at a different control tower for at least 6 months before the date he applies for the rating.

**§ 65.41 Skill requirements: facility ratings.**

Each applicant for a facility rating at an air traffic control tower must have passed a practical test on each item listed in § 65.37 of this part that is applicable to each operating position at the control tower at which the rating is sought.

**§ 65.43 Rating privileges and exchange.**

- (a) The holder of a senior rating on August 31, 1970, may at any time after that date exchange his rating for a facility rating at the same air traffic control tower. However, if he does not do so before August 31, 1971, he may not thereafter exercise the privileges of his senior rating at the control tower concerned until he makes the exchange.

(b) The holder of a junior rating on August 31, 1970, may not control air traffic, at any operating position at the control tower concerned, until he has met the applicable requirements of § 65.37 of this part. However, before meeting those requirements he may control air traffic under the supervision, where required, of an operator with a senior rating (or facility rating) in accordance with § 65.41 of this part in effect before August 31, 1970.

**§ 65.45 Performance of duties.**

- (a) An air traffic control tower operator shall perform his duties in accordance with the limitations on his certificate and the procedures and practices prescribed in air traffic control manuals of the FAA, to provide for the safe, orderly, and expeditious flow of air traffic.
- (b) An operator with a facility rating may control traffic at any operating position at the control tower at which he holds a facility rating. However, he may not issue air traffic clearance for IFR flight without authorization from the appropriate facility exercising air traffic control at that location.

(c) An operator who does not hold a facility rating for a particular control tower may act at each operating position for which he has qualified, under the supervision of an operator holding a facility rating for that control tower.

**§ 65.47 Maximum hours.**

Except in an emergency, a certificated air traffic control tower operator must be relieved of all duties for at least 24 consecutive hours at least once during each 7 consecutive days. Such an operator may not serve or be required to serve—

- (a) For more than 10 consecutive hours; or
- (b) For more than 10 hours during a period of 24 consecutive hours, unless he has had a rest period of at least 8 hours at or before the end of the 10 hours of duty.

**§ 65.49 General operating rules.**

- (a) No person may act as an air traffic control tower operator under a certificate issued to him under this part unless he has in his personal possession an appropriate current medical certificate issued under Part 67 of this chapter.
- (b) Each person holding an air traffic control tower operator certificate shall keep it readily available when performing duties in an air traffic control tower, and shall present that certificate or his medical certificate or both for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

(c) A certificated air traffic control tower operator who does not hold a facility rating for a particular control tower may not act at any operating position at the control tower concerned unless there is maintained at that control tower, readily available to persons named in paragraph (b), a current record of the operating positions at which he has qualified.

(d) An air traffic control tower operator may not perform duties under his certificate during any period of known physical deficiency that would make him unable to meet the physical requirements for his current medical certificate. However, if the deficiency is temporary, he may perform duties that are not affected by it whenever another certificated and qualified operator is present and on duty.

- (e) A certificated air traffic control tower operator may not control air traffic with equipment that the Administrator has found to be inadequate.
- (f) The holder of an air traffic control tower operator certificate, or an applicant for one, shall, upon the reasonable request of the Administrator, cooperate fully in any test that is made of him.

**§ 65.50 Currency requirements.**

The holder of an air traffic control tower operator certificate may not perform any duties under that certificate unless—

- (a) He has served for at least three of the preceding 6 months as an air traffic control tower operator at the control tower to which his facility rating applies, or at the operating positions for which he has qualified; or
- (b) He has shown that he meets the requirements for his certificate and facility rating at the control tower concerned, or for operating at positions for which he has previously qualified.

(Secs. 313(a), 601, 602, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1422; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on July 27, 1970.

J. H. SHAFFER,  
Administrator.

[F.R. Doc. 70-10001; Filed, July 31, 1970; 8:49 a.m.]

[Airspace Docket No. 70-CE-29]

**PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

**Alteration of Federal Airway Segments**

On May 22, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 7902) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter segments of V-216, V-337, and V-450.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 15, 1970, as hereinafter set forth.

Section 71.123 (35 F.R. 335, 2009, 7051) is amended as follows:

1. In V-216 the phrase "Peck, Mich.;" is deleted and the phrase "Peck, Mich., including a southern alternate via INT Saginaw 131° and Peck 270° radials;" is substituted therefor.

2. In V-337 all after the phrase "Saginaw, Mich., 131° radials;" is deleted and the phrase "Saginaw; Mount Pleasant, Mich.; White Cloud, Mich., excluding the portion within Canada." is substituted therefor.

3. V-450 is amended to read as follows:

V-450 From Green Bay, Wis.; Muskegon, Mich.; INT Muskegon 094° and Flint, Mich., 280° radials; Flint; INT Flint 088° and Peck, Mich., 237° radials.

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

Issued in Washington, D.C., on July 27, 1970.

T. McCORMACK,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[F.R. Doc. 70-10003; Filed, July 31, 1970;  
8:49 a.m.]

[Airspace Docket No. 70-EA-52]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Rockland, Maine, transition area (35 F.R. 2255). A change in name of the Knox County Airport requires a change in the description of the transition area to reflect the change.

Since this amendment is editorial in nature and imposes no burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Rockland, Maine, the amendment is herewith made effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Rockland, Maine, transition area the name "Knox County Airport" wherever it appears and insert the following in lieu thereof "Knox County Regional Airport".

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on July 13, 1970.

WAYNE HENDERSHOT,  
Acting Director, Eastern Region.

[F.R. Doc. 70-10004; Filed, July 31, 1970;  
8:49 a.m.]

[Airspace Docket No. 70-SO-40]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Transition Area

On June 19, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 10114), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Jasper, Tenn., transition area.

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

Subsequent to publication of the notice, the geographic coordinate (lat. 35°03'35" N., long. 85°35'05" W.) for Marion County-Brown Field was obtained from Coast and Geodetic Survey. It is necessary to alter the description by inserting the geographic coordinate for the airport. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to amend the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 15, 1970, as hereinafter set forth.

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

JASPER, TENN.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of Marion County-Brown Field (lat. 35°03'35" N., long. 85°35'05" W.); excluding the portion that coincides with the Chattanooga, Tenn., transition area.

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

Issued in East Point, Ga., on July 24, 1970.

JAMES G. ROGERS,  
Director, Southern Region.

[F.R. Doc. 70-10005; Filed, July 31, 1970;  
8:49 a.m.]

[Airspace Docket No. 70-WE-30]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### PART 73—SPECIAL USE AIRSPACE

#### Alteration of Restricted Area

On June 27, 1970, F.R. Doc. No. 70-8219 was published in the FEDERAL REG-

ISTER (35 F.R. 10506) which amends Part 71 of the Federal Aviation Regulations (FAR), effective 0901 G.m.t., August 20, 1970, by subdividing the Bullion Mountains, Calif., Restricted Area R-2501. Subsequent to the publication of the document, it was noted that the restricted area alteration was not reflected in the continental control area, the Twentynine Palms transition area and VOR Federal Airway No. 538, and corrective action is taken herein.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, F.R. Doc. No. 70-8219 is amended, effective 0901 G.m.t., August 20, 1970, as follows:

In § 71.151 Restricted Areas included, "R-2501 Bullion Mountains, Calif.," is deleted and "R-2501N Bullion Mountains, Calif.," "R-2501C Bullion Mountains, Calif.," "R-2501S Bullion Mountains, Calif.," and "R-2501E Bullion Mountains, Calif.," are added.

In § 71.123 Domestic VOR Federal Airways, V-538 is amended by deleting "R-2501" and substituting "R-2501E" therefor.

In § 71.181 Designation of transition areas, Twentynine Palms, Calif., is amended by deleting "R-2501" and substituting "R-2501S, R-2501E" therefor.

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

Issued in Washington, D.C., on July 27, 1970.

T. McCORMACK,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[F.R. Doc. 70-10002; Filed, July 31, 1970;  
8:49 a.m.]

[Docket No. 10469; Amdt. No. 714]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and make a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20590. Copies of SIAPs adopted in a particular region are

also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, D.C. 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.11 is amended by establishing, revising, or canceling the following L/MF-ADF(NDB)-VOR SIAPs, effective August 27, 1970.

Reno, Nev.—Reno Municipal Airport; NDB (ADF)-2, Amdt. 5; Canceled.  
Laramie, Wyo.—Brees Field; VOR 1, Amdt. 6; Canceled.  
Reno, Nev.—Reno Municipal Airport; VOR-1, Amdt. 15; Canceled.

2. Section 97.17 is amended by establishing, revising, or canceling the following ILS SIAPs, effective August 27, 1970.

Reno, Nev.—Reno Municipal Airport; LOC (BC) Runway 34, Amdt. 1; Canceled.  
Reno, Nev.—Reno Municipal; ILS Runway 18, Amdt. 5; Canceled.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective August 27, 1970.

Baker, Oreg.—Baker Municipal Airport; VOR Runway 12, Amdt. 5; Revised.  
Kahului, Hawaii—Kahului; VOR-A, Amdt. 1; Revised.  
Kahului, Hawaii—Kahului; VOR Runway 20, Amdt. 3; Revised.  
Laramie, Wyo.—General Brees Field; VOR Runway 12, Orig.; Established.  
Lawton, Okla.—Lawton Municipal Airport; VOR Runway 35, Amdt. 11; Revised.  
Newcastle, Wyo.—Mondell Field; VOR Runway 31, Orig.; Established.  
Reno, Nev.—Reno International Airport; VOR-A, Orig.; Established.  
Rogers, Ark.—Rogers Municipal Airport; VOR Runway 1, Amdt. 3e; Revised.  
San Francisco, Calif.—San Francisco Int. Airport; VOR Runway 28L/R, Amdt. 12; Revised.  
Southbridge, Mass.—Southbridge Municipal Airport; VOR-1, Orig.; Established.  
Sulphur Springs, Tex.—Sulphur Springs Municipal Airport; VOR-1, Orig.; Established.  
Baker, Oreg.—Baker Municipal Airport; VOR/DME Runway 12, Amdt. 5; Revised.  
Kahului, Hawaii—Kahului Airport; VOR TAC-A, Amdt. 1; Revised.  
Kahului, Hawaii—Kahului Airport; VOR TAC Runway 20, Amdt. 1; Revised.

Southbridge, Mass.—Southbridge Municipal Airport; VOR/DME-1, Amdt. 2; Revised.  
Sulphur Springs, Tex.—Sulphur Springs Municipal Airport; VOR/DME-1, Amdt. 1; Revised.  
Waterville, Maine—Waterville Robert La Flour Airport; VOR/DME Runway 5, Amdt. 1; Revised.

4. Section 97.25 is amended by establishing, revising or canceling the following LOC-LDA SIAPs, effective August 27, 1970.

Kahului, Hawaii—Kahului Airport; LOC (BC)/DME Runway 20, Amdt. 1; Revised.  
Reno, Nev.—Reno International Airport; LOC-A, Orig.; Established.  
Reno, Nev.—Reno International Airport; LOC/DME (BC)-B, Orig.; Established.

5. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAPs, effective August 27, 1970.

Burnet, Tex.—Burnet Municipal Airport; NDB (ADF)-1, Orig.; Established.  
Camden, Ark.—Harrell Field; NDB (ADF) Runway 18, Amdt. 2; Revised.  
Dallas, Tex.—Redbird Airport; NDB (ADF) Runway 35, Amdt. 5; Canceled.  
Jasper, Tex.—Jasper County Airport; NDB (ADF) Runway 17, Orig.; Established.  
Kahului, Hawaii—Kahului Airport; NDB (ADF) Runway 20, Amdt. 4; Revised.  
Pendleton, Oreg.—Pendleton Municipal Airport; NDB (ADF) Runway 25R, Amdt. 8; Revised.  
Rogers, Ark.—Rogers Municipal Airport; NDB (ADF) Runway 19, Amdt. 19; Revised.  
Watertown, N.Y.—Municipal Airport; NDB (ADF) Runway 6, Orig.; Established.  
Waterville, Maine—Waterville Robert La Fleur Airport; NDB (ADF) Runway 5, Amdt. 6; Revised.

6. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective August 27, 1970.

Kahului, Hawaii—Kahului Airport; ILS Runway 2, Amdt. 6; Revised.  
Panama City, Fla.—Panama City-Bay County Airport; ILS Runway 14, Amdt. 1; Revised.  
Pendleton, Oreg.—Pendleton Municipal Airport; ILS Runway 25R, Amdt. 13; Revised.  
Reno, Nev.—Reno International Airport; ILS-A, Orig.; Established.  
San Francisco, Calif.—San Francisco International Airport, ILS Runway 28L, Amdt. 5; Revised.

7. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective August 27, 1970.

Kansas City, Mo.—Municipal Airport; Radar-1, Orig.; Canceled.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on July 23, 1970.

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

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969 (35 F.R. 5610).

[F.R. Doc. 70-9894; Filed, July 31, 1970; 8:45 a.m.]

# Title 18—CONSERVATION OF POWER AND WATER RESOURCES

## Chapter I—Federal Power Commission

### SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. R-369; Order 405-A]

## PART 154—RATE SCHEDULES AND TARIFFS

### Suspended Rate Changes; Interest on Refunds

JULY 27, 1970.

In Order No. 405, issued May 27, 1970 (35 F.R. 8633, June 4, 1970) in the above-captioned proceeding, the Commission, inter alia, found that it would not be in the public interest to require the compounding of interest on refunds by natural gas companies under section 4(e) of the Natural Gas Act (15 U.S.C. 717c (e)) and that, accordingly, the regulations under the Natural Gas Act should not be amended to provide such requirement, as proposed in the notice of proposed rulemaking issued in this proceeding on October 10, 1969 (34 F.R. 16628, Oct. 17, 1969) subsequent to the Court of Appeals decision in *Texaco Inc. v. Federal Power Commission*, 412 F. 2d 740 (CA3), setting aside Order No. 362 in Docket No. R-340 (39 FPC 412, 33 F.R. 5517). We also indicated in Order No. 405 that, in light of our disposition of this issue the compounding of interest as provided for in orders in individual pipeline cases specifically made subject to the outcome of this proceeding is moot.

Florida Gas Transmission Co. (Florida Gas) and El Paso Natural Gas Co. (El Paso), on June 26, 1970, and June 29, 1970, respectively, filed motions for reconsideration and clarification of Order No. 405 in which they claim that the order does not clearly indicate whether the Commission's conclusion also eliminates the compounding of interest requirements contained in those pipeline orders which were issued between the time of the issuance of Order No. 362, April 2, 1968, and the court's decision in *Texaco*, June 12, 1969,<sup>1</sup> and which were not made subject to the outcome of this proceeding. They request that Order No. 405 be amended or clarified to make clear that those requirements are no longer effective.

While we did not indicate that Order No. 405 is applicable to the compounding of interest requirements contained in pipeline rate orders issued during the period between the issuance of Order No. 362 and the court's decision in *Texaco*, which were not contingent upon

<sup>1</sup> As pointed out in the respective motions, such provision is included in the orders issued in *Florida Gas Transmission Company*, Docket No. RP69-2 on Mar. 19, 1969, and *El Paso Natural Gas Company*, Docket No. RP69-6 on Apr. 2, 1969.

the outcome of this proceeding, our conclusion that the compounding of interest would not be in the public interest also applies to those requirements. It was our intention in Order No. 405 to treat all natural gas companies alike, both independent producers and pipelines, with respect to our decision not to impose a compound interest requirement. Accordingly, we shall clarify Order No. 405 herein to indicate that the provisions for the compounding of interest on refunds contained in orders relating to pipeline companies issued between April 2, 1968, and June 12, 1969, should be deleted from those orders.

**The Commission finds:**

(1) It is necessary and appropriate and in the public interest under the Natural Gas Act that Order No. 405, issued in this proceeding on May 27, 1970, and published in the FEDERAL REGISTER June 4, 1970, at 35 F.R. 8633 (F.R. Doc. 70-6907) be clarified as hereinafter provided.

(2) Order No. 405-A herein adopted constitutes a clarification and interpretation of an existing order in this proceeding which was adopted in compliance with the requirements of 5 U.S.C. 553 after notice and opportunity to submit written comments which were received and considered by the Commission. Accordingly, further compliance with the notice, hearing and effective date requirements of 5 U.S.C. 553 is unnecessary.

The Commission acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 5, 7, and 16 thereof (52 Stat. 822, 823, 824, 825 and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, and 717o) orders:

(A) All orders with respect to natural gas pipeline companies issued during the period April 2, 1968, through June 12, 1969, containing a provision for the compounding of interest on refunds are hereby modified to delete such provision.

(B) This order shall be effective as of May 27, 1970, the date of issuance of Order No. 405.

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

By the Commission.

[SEAL] GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9939; Filed, July 31, 1970;  
8:45 a.m.]

## Title 20—EMPLOYEES' BENEFITS

### Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 5, further amended]

#### PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965—)

On February 5, 1970, there was published in the FEDERAL REGISTER (35 F.R.

2593) a notice of proposed rule making with proposed amendments to the Hospital Insurance Benefits regulations designed to (a) eliminate the use of accelerated methods of depreciation except with respect to assets currently being depreciated on that basis; (b) limit the cost basis of depreciable property to the lowest of price paid, fair market value, or depreciated current reproduction cost at the time of purchase; (c) exclude from equity capital and the base on which interest may be allowed amounts paid for facilities in excess of the lower of the fair market value or the depreciated current reproduction costs of tangible assets; (d) expand the conditions under which gains or losses on sales of depreciable assets are taken into account in determining provider cost; and (e) provide for the recovery of amounts paid toward depreciation in excess of what would have been paid on a straight-line basis when a provider that has used accelerated methods terminates or substantially reduces participation.

Interested persons were given the opportunity to submit data, views, or arguments with regard to the proposed regulations. After consideration of all such relevant matter as was presented by interested persons, the amendments as so proposed are hereby adopted with the following substantive changes:

Section 405.415(a)(3) was modified to allow accelerated depreciation where construction was initiated or written financial commitments were made before publication of the proposed regulations or where acquisitions were made under existing depreciation regulations. Also, this section has been modified to provide that where cash flow from depreciation on the total assets of an institution, including straight-line depreciation on the newly acquired assets in question, is insufficient to supply the funds required to meet reasonable principal amortization schedules of capital debts related to depreciable assets of the provider, Medicare would allow accelerated depreciation under a declining balance method not to exceed 150 percent of the straight-line rate.

In addition, the amendments include technical changes in § 405.402 to conform that section to the amendment to § 405.428 which was published in the FEDERAL REGISTER on June 27, 1969, 34 F.R. 9927.

**Effective date.** These amendments shall be effective upon publication in the FEDERAL REGISTER.

Dated: June 16, 1970.

ROBERT M. BALL,  
Commissioner of Social Security.

Approved: July 27, 1970.

ELLIOT L. RICHARDSON,  
Secretary of Health,  
Education, and Welfare.

#### Subpart D—Hospital Insurance Benefits

Subpart D of Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below.

1. The introductory text of paragraph (c) of § 405.402 preceding subparagraph (1) is revised to read as follows:

#### § 405.402 Cost reimbursement; general.

(c) As formulated herein, the principles give recognition to such factors as depreciation, interest, bad debts, educational costs, compensation of owners, and an allowance for a reasonable return on equity capital of proprietary facilities. With respect to allowable costs some items of inclusion and exclusion are:

2. Paragraph (d) of § 405.402 is revised to read as follows:

#### § 405.402 Cost reimbursement; general.

(d) In developing these principles of reimbursement for the health insurance program, all of the considerations inherent in allowances for depreciation were studied. The principles, as presented, provide options to meet varied situations. Depreciation will essentially be on an historical cost basis but since many institutions do not have adequate records of old assets, the principles provide an optional allowance in lieu of such depreciation for assets acquired before 1966. For assets acquired after 1965, the historical cost basis must be used. All assets actually in use for production of services for title XVIII beneficiaries will be recognized even though they may have been fully or partially depreciated for other purposes. Assets financed with public funds may be depreciated. Although funding of depreciation is not required, there is an incentive for it since income from funded depreciation is not considered as an offset which must be taken to reduce the interest expense that is allowable as a program cost.

3. Paragraph (e) of § 405.402 is hereby revoked.

4. Section 405.415 is revised to read as follows:

#### § 405.415 Depreciation: Allowance for depreciation based on asset costs.

(a) **Principle.** An appropriate allowance for depreciation on buildings and equipment is an allowable cost. The depreciation must be:

(1) Identifiable and recorded in the provider's accounting records;

(2) Based on the historical cost of the asset or fair market value at the time of donation in the case of donated assets; and

(3) Prorated over the estimated useful life of the asset using:

(i) The straight-line method; or

(ii) Accelerated depreciation, under a declining balance method (not to exceed double the straight-line rate) or the sum-of-the-years digits method in the following situations:

(a) Depreciable assets for which accelerated depreciation was used for health insurance purposes before the date specified in paragraph (h), including those assets for which a timely request to change from straight-line depreciation to accelerated depreciation was received by an intermediary before the date specified in paragraph (h);

(b) Depreciable assets acquired before the date specified in paragraph (h) where no election to use straight-line or accelerated depreciation was in effect on such date and the provider was participating in the program on such date;

(c) Depreciable assets of a provider where construction of such depreciable asset began before February 5, 1970, and the provider was participating in the program on February 5, 1970; or

(d) Depreciable assets of a provider where a valid written contract was entered into by a provider participating in the program before February 5, 1970, for construction, acquisition, or for the permanent financing thereof and such contract was binding on a provider on February 5, 1970, and at all times thereafter; or

(iii) A declining balance method, not to exceed 150 percent of the straight-line rate, for a depreciable asset acquired after the date specified in paragraph (h); however, this declining balance method may be used only where the cash flow from depreciation on the total assets of the institution during the reporting period, including straight-line depreciation on the assets in question, is insufficient (assuming funding of available capital not required currently for amortization and assuming reasonable interest income on such funds) to supply the funds required to meet the reasonable principal amortization schedules on the capital debts related to the provider's total depreciable assets. For each depreciable asset for which a provider requests authorization to use a declining balance method for health insurance reimbursement purposes, but not to exceed 150 percent of the straight-line rate, the provider must demonstrate to the intermediary's satisfaction that the required cash flow need exists. For each depreciable asset where a provider justifies the use of accelerated depreciation, the intermediary must give written approval for the use of a depreciation method other than straight-line before basing any interim payment on this accelerated depreciation or making its reasonable cost determination which includes an allowance for such depreciation.

(b) *Definition.* (1) *Historical costs.* Historical cost is the cost incurred by the present owner in acquiring the asset. For depreciable assets acquired after the date specified in paragraph (h) of this section, the historical cost shall not exceed the lower of current reproduction cost adjusted for straight-line depreciation over the life of the asset to the time of the purchase or fair market value at the time of the purchase.

(2) *Fair market value.* Fair market value is the price that the asset would bring by bona fide bargaining between well-informed buyers and sellers at the date of acquisition. Usually the fair market price will be the price at which bona fide sales have been consummated for assets of like type, quality, and quantity in a particular market at the time of acquisition.

(3) *The straight-line method.* Under the straight-line method of depreciation,

the cost or other basis (e.g., fair market value in the case of donated assets) of the asset, less its estimated salvage value, if any, is determined first. Then this amount is distributed in equal amounts over the period of the estimated useful life of the asset.

(4) *Declining balance method.* Under the declining balance method, the annual depreciation allowance is computed by multiplying the undepreciated cost of the asset each year by a uniform rate up to double the straight-line rate or 150 percent, as the case may be (see paragraph (a) (3) for limitations on use of accelerated methods of depreciation).

(5) *Sum-of-the-years' digits method.* Under the sum-of-the-years' digits method, the annual depreciation allowance is computed by multiplying the depreciable cost basis (cost less salvage value) by a constantly decreasing fraction. The numerator of the fraction is represented by the remaining years of useful life of the asset at the beginning of each year, and the denominator is always represented by the sum of the years' digits of useful life at the time of acquisition.

(6) *Current reproduction cost.* Current reproduction cost is the cost at current prices, in a particular locality or market area, of reproducing an item of property or a group of assets. Where depreciable assets are concerned, this means the reasonable cost to have built, reproduce in kind, or, in the case of equipment or similar assets, to purchase in the competitive market.

(c) *Recording of depreciation.* Appropriate recording of depreciation encompasses the identification of the depreciable assets in use, the assets' historical costs, the method of depreciation, estimated useful life, and the assets' accumulated depreciation. The Chart of Accounts published by the American Hospital Association and publications of the Internal Revenue Service are to be used as guides for the estimation of the useful life of assets.

(d) *Depreciation methods.* (1) Proration of the cost of an asset over its useful life is allowed on the straight-line method, or, where permitted under § 405.415(a) (3), the declining balance or the sum-of-the-years' digits methods. One method may be used on a single asset or group of assets and another method on others. In applying the declining balance or sum-of-the-years' digits method to an asset that is not new, the undepreciated cost of the asset is treated as the cost of a new asset in computing depreciation.

(2) Prior to the effective date specified in paragraph (h), a provider may change from the straight-line method to an accelerated method, or vice versa, upon advance approval from the intermediary on a prospective basis with the request being made before the end of the first month of the prospective reporting period. Only one such change with respect to a particular asset may be made by a provider. Effective with the date specified in paragraph (h), a provider may only change from an accelerated method or optional method (see § 405.

416) to the straight-line method. Such a change may be made without intermediary approval and the basis for depreciation is the undepreciated cost reduced by the salvage value. Thereafter, once straight-line depreciation is selected for a particular asset, an accelerated method may not be established for that asset.

(3) When a provider who has used an accelerated method of depreciation with respect to any of its assets terminates participation in the program, or where the health insurance proportion of its allowable costs decreases so that cumulatively substantially more depreciation was paid than would have been paid using the straight-line method of depreciation, the excess of reimbursable cost, determined by using accelerated depreciation methods and paid under the program over the reimbursable cost which would have been determined and paid under the program by using the straight-line method of depreciation will be recovered as an offset to current reimbursement due or, if the provider has terminated participation in the program, as an overpayment. In this determination of excess payment, recognition will be given to the effects the adjustment to straight-line depreciation would have on the return on equity capital and on the allowance in lieu of specific recognition of other costs in the respective years.

(e) *Funding of depreciation.* Although funding of depreciation is not required, it is strongly recommended that providers use this mechanism as a means of conserving funds for replacement of depreciable assets, and coordinate their planning of capital expenditures with areawide planning activities of community and State agencies. As an incentive for funding, investment income on funded depreciation will not be treated as a reduction of allowable interest expense.

(f) *Gains and losses on disposal of assets.* Gains and losses realized from the disposal of depreciable assets while a provider is participating in the program, or within 1 year after the provider terminates participation in the program, are to be included in the determination of allowable cost. The extent to which such gains and losses are includable is calculated on a proration basis recognizing the amount of depreciation charged under the program in relation to the amount of depreciation, if any, charged or assumed in a period prior to the provider's participation in the program, and in the period after the provider's participation in the program when the sale takes place within 1 year after termination.

(g) *Establishment of cost basis on purchase of facility as an ongoing operation.* In establishing the cost basis for a facility purchased as an ongoing operation after July 1, 1966, the price paid by the purchaser shall be the cost basis where the purchaser can demonstrate that the sale was a bona fide sale and the price did not exceed the fair market value of the facility at the time of the sale. The cost basis for depreciable assets shall not exceed the fair market value of those assets at the time of sale. If the

purchaser cannot demonstrate that the sale was bona fide, the purchaser's cost basis shall not exceed the seller's cost basis, less accumulated depreciation. Further, for depreciable assets acquired on or after the date specified in paragraph (h) of this section, the cost basis of the depreciable assets shall not exceed the current reproduction cost depreciated on a straight-line basis over the life of the assets to the time of the sale. Also, where a facility is purchased as an ongoing operation on or after the date specified in paragraph (h) of this section, the cost basis shall not exceed the fair market value of the tangible assets purchased, subject to the above limitations applicable to the depreciable assets.

(h) *Effective date.* The date referred to in paragraphs (a) (3), (b) (1), (d) (2), and (g) of this section shall be August 1, 1970.

5. Section 405.419 is amended by adding new paragraph (d) to read as follows:

**§ 405.419 Interest expense.**

(d) *Loans not reasonably related to patient care.* Loans made to finance that portion of the cost of acquisition of a facility that exceeds historical cost as determined under § 405.415(b) or the cost basis as determined under § 405.415(g) are not considered to be for a purpose reasonably related to patient care. In determining whether a loan was made for this purpose, it should be assumed that any owner's investment or funds are applied first to the tangible assets, then to the intangible assets other than goodwill and lastly to the goodwill. Where the owner's investment or funds are not sufficient to cover the cost allowed for tangible assets, funds borrowed to finance the acquisition are applied to the portion of the allowed cost of the tangible assets not covered by the owner's investment, then to the intangible assets other than goodwill and lastly to the goodwill.

6. Paragraph (b) of § 405.429 is revised to read as follows:

**§ 405.429 Return on equity capital of proprietary providers.**

(b) *Application.* Proprietary providers generally do not receive public contributions and assistance of Federal and other governmental programs such as Hill-Burton in financing capital expenditures. Proprietary institutions historically have financed capital expenditures through funds invested by owners in the expectation of earning a return. A return on investment, therefore, is needed to avoid withdrawal of capital and to attract additional capital needed for expansion. For purposes of computing the allowable return, the provider's equity capital means:

(1) The provider's investment in plant, property, and equipment related to patient care (net of depreciation) and funds deposited by a provider who leases plant, property, or equipment related to patient care and is required by the terms of the lease to deposit such funds (net of noncurrent debt related to such in-

vestment or deposited funds), and (2) net working capital maintained for necessary and proper operation of patient care activities (excluding the amount of any current payment made pursuant to § 405.454(g) (1)). However, debt representing loans from partners, stockholders, or related organizations on which interest payments would be allowable as costs but for the provisions of § 405.419(b) (3) (ii), is not subtracted in computing the amount of (1) and (2), in order that the proceeds from such loans be treated as a part of the provider's equity capital. In computing the amount of equity capital upon which a return is allowable, investment in facilities is recognized on the basis of the historical cost, or other basis, used for depreciation and other purposes under the health insurance program. The excess of the price paid for a facility or for tangible net assets over the historical cost, as determined under § 405.415(b) or the cost basis as determined under § 405.415(g), is not includable in equity capital and loans made to finance that portion of the cost of acquisition are excluded in computing equity capital. For purposes of computing the allowable return the amount of equity capital is the average investment during the reporting period. The rate of return allowed, as derived from time to time based upon interest rates in accordance with this principle, is determined by the Social Security Administration and communicated through intermediaries. Return on investment as an element of allowable costs is subject to apportionment in the same manner as other elements of allowable costs. For the purposes of this regulation, the term "proprietary providers" is intended to distinguish providers, whether sole proprietorships, partnerships, or corporations, that are organized and operated with the expectation of earning profit for the owners, from other providers that are organized and operated on a nonprofit basis.

(Secs. 1102, 1814(b), 1861(v), and 1871, 49 Stat. 647, as amended, 79 Stat. 299, as amended, 79 Stat. 322, 79 Stat. 326; 42 U.S.C. 1302, 1395 et seq.)

[F.R. Doc. 70-9974; Filed, July 31, 1970; 8:47 a.m.]

## Title 21—FOOD AND DRUGS

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

#### PART 121—FOOD ADDITIVES

#### PART 135d—NEW ANIMAL DRUGS FOR INTRAMAMMARY USE

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

##### Lincomycin, Neomycin, Methylprednisolone

The Commissioner of Food and Drugs has evaluated a new animal drug application (38-293V) filed by The Upjohn

Co., Kalamazoo, Mich. 49001, proposing the safe and effective use of a combination drug containing lincomycin, neomycin, and methylprednisolone in the treatment of bovine mastitis. The application is approved.

Based upon an evaluation of data before him, the Commissioner concludes that tolerance limitations are required to assure that milk from treated cows is safe for human consumption. In accordance with § 3.517 *New animal drugs; transitional provisions re section 512 of the act*, the named existing tolerances are deleted from Part 121 and recodified in Part 135g and the existing zero tolerances are revised to provide for negligible residues of the drug's components.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(d), 82 Stat. 347; 21 U.S.C. 360b(d)), in accordance with § 3.517, and under authority delegated to the Commissioner (21 CFR 2.120):

1. Part 135d is established containing at this time one section, as follows:

#### § 135d.12 Lincomycin-neomycin-methylprednisolone solution.

(a) *Specifications.* The drug contains the following active ingredients in each 10 cubic centimeters of aqueous solution: Lincomycin hydrochloride monohydrate equivalent to 200 milligrams of lincomycin base, neomycin sulfate equivalent to 200 milligrams of neomycin base, and 5 milligrams of methylprednisolone N.F. The lincomycin used conforms to the requirements of § 148x.1(a) (1) (i), (vi), (vii), (viii), (ix), (x), and (xi), and the neomycin sulfate used conforms to the standards prescribed by § 148i.1(a) (1) (i), (vi), and (vii) of this chapter.

(b) *Sponsor.* The Upjohn Co., Kalamazoo, Mich. 49001.

(c) *Conditions of use.* (1) It is used in cattle for the treatment and control of bovine mastitis caused by organisms sensitive to lincomycin or neomycin by udder instillation.

(2) Treat lactating cattle with 10 cubic centimeters of solution in each infected quarter immediately after milking. Allow the drug to remain in the quarter for at least 6 hours after treatment; the quarter should be milked at regular intervals thereafter. Treatment may be repeated at 12-hour intervals up to a total of three doses as indicated by the clinical response.

(3) Treat dry cows with 10 cubic centimeters of solution in each infected quarter as an aid in controlling mastitis at time of freshening.

(4) Milk taken from treated animals within 60 hours (five milkings) after the latest treatment must not be used for food.

(5) Its labeling shall bear an appropriate expiration date.

2. Part 135g is amended by revising § 135g.65 and adding four new sections, as follows:

#### § 135g.65 Lincomycin.

Tolerances are established for residues of lincomycin as follows: 0.15 part per million for negligible residues in milk; and 0.1 part per million for negligible residues in the edible tissues of chickens and swine.

§ 135g.3 Hydrocortisone.

A tolerance is established for negligible residues of hydrocortisone (as hydrocortisone sodium succinate or hydrocortisone acetate) in milk at 10 parts per billion.

§ 135g.25 Neomycin.

Tolerances are established for residues of neomycin in food as follows: 0.25 part per million (negligible residue) in edible tissues of calves; and 0.15 part per million (negligible residue) in milk.

§ 135g.66 Polymyxin B.

A tolerance is established for negligible residues of polymyxin B in milk at 2 units per milliliter.

§ 135g.67 Methylprednisolone.

A tolerance is established for negligible residues of methylprednisolone in milk at 10 parts per billion.

3. Part 121 is amended by deleting § 121.1003 *Neomycin, polymyxin* \* \* \* and § 121.1104 *Neomycin*.

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

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

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

Dated: July 23, 1970.

CHARLES C. EDWARDS,  
Commissioner of Food and Drugs.

[F.R. Doc. 70-9968; Filed, July 31, 1970; 8:47 a.m.]

**PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS**

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

**Dichlorvos**

The Commissioner of Food and Drugs has evaluated a new animal drug application (40-848V) filed by Shell Chemical Co., Agricultural Chemical Division, 110 West 51st Street, New York, N.Y. 10020, proposing the safe and effective use of dichlorvos as an anthelmintic in swine feed. The application is approved. Based

upon an evaluation of the data before him, the Commissioner concludes that a tolerance is required to assure that edible tissues of swine treated with dichlorvos are safe for human consumption.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), a new section is added to Part 135e and another to Part 135g, as follows:

§ 135e.54 Dichlorvos.

(a) **Chemical name.** 2,2-Dichlorovinyl dimethyl phosphate.

(b) **Approvals.** (1) Premix level 9.6 percent granted to Shell Chemical Co.,

Agricultural Chemicals Division, 110 West 51st Street, New York, N.Y. 10020.

(c) **Assay limits.** Finished feed must contain 85-135 percent of the labeled amount of dichlorvos.

(d) **Special considerations.** Do not mix into feeds that are to be pelleted. Do not mix with pelleted feed. Feed must be maintained and fed dry. Do not use any drug, insecticide, pesticide, or chemical having cholinesterase-inhibiting activity either simultaneously or within a few days before or after worming animals with the feed.

(e) **Related tolerances in edible products.** See § 135g.75.

(f) **Conditions of use.** It is used as follows:

Amount	Limitations	Indication for use
1. Dichlorvos.... 0.036%	For swine up to 70 pounds body weight, feed as sole ration for 2 consecutive days. For swine from 70 pounds to market weight, feed as sole ration at the rate of 8.4 pounds of feed per head until the medicated feed has been consumed. For boars, open or bred gilts, and sows, feed as sole ration at the rate of 4.2 pounds per head per day for 2 consecutive days.	For the removal and control of mature, immature, and/or fourth-stage larvae of the whipworm ( <i>Trichuris suis</i> ), nodular worm ( <i>Oesophagostomum sp.</i> ), and the large roundworm ( <i>Ascaris suum</i> ) of the intestinal tract.
2. Dichlorvos.... 0.05%	For boars, open or bred gilts, and sows, feed as sole ration at the rate of 6 pounds per head for one feeding.	Do.

§ 135g.75 Dichlorvos.

A tolerance of 0.1 part per million is established for negligible residues of dichlorvos (2,2-dichlorovinyl dimethyl phosphate) in the edible tissues of swine.

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

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

Dated: July 23, 1970.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[F.R. Doc. 70-9967; Filed, July 31, 1970; 8:46 a.m.]

**Title 29—LABOR**

**Chapter XIV—Equal Employment Opportunity Commission**

**PART 1607—GUIDELINES ON EMPLOYEE SELECTION PROCEDURES**

By virtue of the authority vested in it by section 713 of title VII of the Civil Rights Act of 1964, 42 U.S.C., section 2000e-12, 78 Stat. 265, the Equal Employment Opportunity Commission hereby issues Title 29, Chapter XIV, § 1607 of the Code of Federal Regulations.

These Guidelines on Employee Selection Procedures supersede and enlarge upon the Guidelines on Employment Testing Procedures, issued by the Equal Employment Opportunity Commission on August 24, 1966. Because the material herein is interpretive in nature, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation, and delay in effective date are inapplicable. The Guidelines shall be applicable to charges and cases presently pending or hereafter filed with the Commission.

- Sec.  
1607.1 Statement of purpose.  
1607.2 "Test" defined.  
1607.3 Discrimination defined.

- Sec.  
1607.4 Evidence of validity.  
1607.5 Minimum standards for validation.  
1607.6 Presentation of validity evidence.  
1607.7 Use of other validity studies.  
1607.8 Assumption of validity.  
1607.9 Continued use of tests.  
1607.10 Employment agencies and employment services.  
1607.11 Disparate treatment.  
1607.12 Retesting.  
1607.13 Other selection techniques.  
1607.14 Affirmative action.

**AUTHORITY:** The provisions of this Part 1607 issued under Sec. 713, 78 Stat. 265, 42 U.S.C. sec. 2000e-12.

§ 1607.1 Statement of purpose.

(a) The guidelines in this part are based on the belief that properly validated and standardized employee selection procedures can significantly contribute to the implementation of non-discriminatory personnel policies, as required by title VII. It is also recognized that professionally developed tests, when used in conjunction with other tools of personnel assessment and complemented by sound programs of job design, may significantly aid in the development and maintenance of an efficient work force and, indeed, aid in the utilization and conservation of human resources generally.

(b) An examination of charges of discrimination filed with the Commission and an evaluation of the results of the Commission's compliance activities has revealed a decided increase in total test usage and a marked increase in doubtful testing practices which, based on our experience, tend to have discriminatory effects. In many cases, persons have come to rely almost exclusively on tests as the basis for making the decision to hire, transfer, promote, grant membership, train, refer or retain, with the result that candidates are selected or rejected on the basis of a single test score. Where tests are so used, minority candidates frequently experience disproportionately high rates of rejection by failing to attain score levels that have been established as minimum standards for qualification.

It has also become clear that in many instances persons are using tests as the basis for employment decisions without evidence that they are valid predictors of employee job performance. Where evidence in support of presumed relationships between test performance and job behavior is lacking, the possibility of discrimination in the application of test results must be recognized. A test lacking demonstrated validity (i.e., having no known significant relationship to job behavior) and yielding lower scores for classes protected by title VII may result in the rejection of many who have necessary qualifications for successful work performance.

(c) The guidelines in this part are designed to serve as a workable set of standards for employers, unions and employment agencies in determining whether their selection procedures conform with the obligations contained in title VII of the Civil Rights Act of 1964. Section 703 of title VII places an affirmative obligation upon employers, labor unions, and employment agencies, as defined in section 701 of the Act, not to discriminate because of race, color, religion, sex, or national origin. Subsection (h) of section 703 allows such persons "to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin."

#### § 1607.2 "Test" defined.

For the purpose of the guidelines in this part, the term "test" is defined as any paper-and-pencil or performance measure used as a basis for any employment decision. The guidelines in this part apply, for example, to ability tests which are designed to measure eligibility for hire, transfer, promotion, membership, training, referral or retention. This definition includes, but is not restricted to, measures of general intelligence, mental ability and learning ability; specific intellectual abilities; mechanical, clerical and other aptitudes; dexterity and coordination; knowledge and proficiency; occupational and other interests; and attitudes, personality or temperament. The

term "test" includes all formal, scored, quantified or standardized techniques of assessing job suitability including, in addition to the above, specific qualifying or disqualifying personal history or background requirements, specific educational or work history requirements, scored interviews, biographical information blanks, interviewers' rating scales, scored application forms, etc.

#### § 1607.3 Discrimination defined.

The use of any test which adversely affects hiring, promotion, transfer or any other employment or membership opportunity of classes protected by title VII constitutes discrimination unless: (a) the test has been validated and evidences a high degree of utility as hereinafter described, and (b) the person giving or acting upon the results of the particular test can demonstrate that alternative suitable hiring, transfer or promotion procedures are unavailable for his use.

#### § 1607.4 Evidence of validity.

(a) Each person using tests to select from among candidates for a position or for membership shall have available for inspection evidence that the tests are being used in a manner which does not violate § 1607.3. Such evidence shall be examined for indications of possible discrimination, such as instances of higher rejection rates for minority candidates than nonminority candidates. Furthermore, where technically feasible, a test should be validated for each minority group with which it is used; that is, any differential rejection rates that may exist, based on a test, must be relevant to performance on the jobs in question.

(b) The term "technically feasible" as used in these guidelines means having or obtaining a sufficient number of minority individuals to achieve findings of statistical and practical significance, the opportunity to obtain unbiased job performance criteria, etc. It is the responsibility of the person claiming absence of technical feasibility to positively demonstrate evidence of this absence.

(c) Evidence of a test's validity should consist of empirical data demonstrating that the test is predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job or jobs for which candidates are being evaluated.

(1) If job progression structures and seniority provisions are so established that new employees will probably, within a reasonable period of time and in a great majority of cases, progress to a higher level, it may be considered that candidates are being evaluated for jobs at that higher level. However, where job progression is not so nearly automatic, or the time span is such that higher level jobs or employees' potential may be expected to change in significant ways, it shall be considered that candidates are being evaluated for a job at or near the entry level. This point is made to underscore the principle that attainment of or performance at a higher level job is a relevant criterion

in validating employment tests only when there is a high probability that persons employed will in fact attain that higher level job within a reasonable period of time.

(2) Where a test is to be used in different units of a multiunit organization and no significant differences exist between units, jobs, and applicant populations, evidence obtained in one unit may suffice for the others. Similarly, where the validation process requires the collection of data throughout a multiunit organization, evidence of validity specific to each unit may not be required. There may also be instances where evidence of validity is appropriately obtained from more than one company in the same industry. Both in this instance and in the use of data collected throughout a multiunit organization, evidence of validity specific to each unit may not be required: *Provided*, That no significant differences exist between units, jobs, and applicant populations.

#### § 1607.5 Minimum standards for validation.

(a) For the purpose of satisfying the requirements of this part, empirical evidence in support of a test's validity must be based on studies employing generally accepted procedures for determining criterion-related validity, such as those described in "Standards for Educational and Psychological Tests and Manuals" published by American Psychological Association, 1200 17th Street NW., Washington, D.C. 20036. Evidence of content or construct validity, as defined in that publication, may also be appropriate where criterion-related validity is not feasible. However, evidence for content or construct validity should be accompanied by sufficient information from job analyses to demonstrate the relevance of the content (in the case of job knowledge or proficiency tests) or the construct (in the case of trait measures). Evidence of content validity alone may be acceptable for well-developed tests that consist of suitable samples of the essential knowledge, skills or behaviors composing the job in question. The types of knowledge, skills or behaviors contemplated here do not include those which can be acquired in a brief orientation to the job.

(b) Although any appropriate validation strategy may be used to develop such empirical evidence, the following minimum standards, as applicable, must be met in the research approach and in the presentation of results which constitute evidence of validity:

(1) Where a validity study is conducted in which tests are administered to applicants, with criterion data collected later, the sample of subjects must be representative of the normal or typical candidate group for the job or jobs in question. This further assumes that the applicant sample is representative of the minority population available for the job or jobs in question in the local labor market. Where a validity study is conducted in which tests are administered to present employees, the sample must be representative of the minority groups currently

included in the applicant population. If it is not technically feasible to include minority employees in validation studies conducted on the present work force, the conduct of a validation study without minority candidates does not relieve any person of his subsequent obligation for validation when inclusion of minority candidates becomes technically feasible.

(2) Tests must be administered and scored under controlled and standardized conditions, with proper safeguards to protect the security of test scores and to insure that scores do not enter into any judgments of employee adequacy that are to be used as criterion measures. Copies of tests and test manuals, including instructions for administration, scoring, and interpretation of test results, that are privately developed and/or are not available through normal commercial channels must be included as a part of the validation evidence.

(3) The work behaviors or other criteria of employee adequacy which the test is intended to predict or identify must be fully described; and, additionally, in the case of rating techniques, the appraisal form(s) and instructions to the rater(s) must be included as a part of the validation evidence. Such criteria may include measures other than actual work proficiency, such as training time, supervisory ratings, regularity of attendance and tenure. Whatever criteria are used they must represent major or critical work behaviors as revealed by careful job analyses.

(4) In view of the possibility of bias inherent in subjective evaluations, supervisory rating techniques should be carefully developed, and the ratings should be closely examined for evidence of bias. In addition, minorities might obtain unfairly low performance criterion scores for reasons other than supervisors' prejudice, as, when, as new employees, they have had less opportunity to learn job skills. The general point is that all criteria need to be examined to insure freedom from factors which would unfairly depress the scores of minority groups.

(5) Differential validity. Data must be generated and results separately reported for minority and nonminority groups wherever technically feasible. Where a minority group is sufficiently large to constitute an identifiable factor in the local labor market, but validation data have not been developed and presented separately for that group, evidence of satisfactory validity based on other groups will be regarded as only provisional compliance with these guidelines pending separate validation of the test for the minority group in question. (See § 1607.9). A test which is differentially valid may be used in groups for which it is valid but not for those in which it is not valid. In this regard, where a test is valid for two groups but one group characteristically obtains higher test scores than the other without a corresponding difference in job performance, cutoff scores must be set so as to predict the same probability of job success in both groups.

(c) In assessing the utility of a test the following considerations will be applicable:

(1) The relationship between the test and at least one relevant criterion must be statistically significant. This ordinarily means that the relationship should be sufficiently high as to have a probability of no more than 1 to 20 to have occurred by chance. However, the use of a single test as the sole selection device will be scrutinized closely when that test is valid against only one component of job performance.

(2) In addition to statistical significance, the relationship between the test and criterion should have practical significance. The magnitude of the relationship needed for practical significance or usefulness is affected by several factors, including:

(i) The larger the proportion of applicants who are hired for or placed on the job, the higher the relationship needs to be in order to be practically useful. Conversely, a relatively low relationship may prove useful when proportionately few job vacancies are available;

(ii) The larger the proportion of applicants who become satisfactory employees when not selected on the basis of the test, the higher the relationship needs to be between the test and a criterion of job success for the test to be practically useful. Conversely, a relatively low relationship may prove useful when proportionately few applicants turn out to be satisfactory;

(iii) The smaller the economic and human risks involved in hiring an unqualified applicant relative to the risks entailed in rejecting a qualified applicant, the greater the relationship needs to be in order to be practically useful. Conversely, a relatively low relationship may prove useful when the former risks are relatively high.

#### § 1607.6 Presentation of validity evidence.

The presentation of the results of a validation study must include graphical and statistical representations of the relationships between the test and the criteria, permitting judgments of the test's utility in making predictions of future work behavior. (See § 1607.5(c) concerning assessing utility of a test.) Average scores for all tests and criteria must be reported for all relevant subgroups, including minority and nonminority groups where differential validation is required. Whenever statistical adjustments are made in validity results for less than perfect reliability or for restriction of score range in the test or the criterion, or both, the supporting evidence from the validation study must be presented in detail. Furthermore, for each test that is to be established or continued as an operational employee selection instrument, as a result of the validation study, the minimum acceptable cutoff (passing) score on the test must be reported. It is expected that each operational cutoff score will be reasonable and consistent with normal expectations of proficiency within the work force or group on which the study was conducted.

#### § 1607.7 Use of other validity studies.

In cases where the validity of a test cannot be determined pursuant to § 1607.4 and § 1607.5 (e.g., the number of subjects is less than that required for a technically adequate validation study, or an appropriate criterion measure cannot be developed), evidence from validity studies conducted in other organizations, such as that reported in test manuals and professional literature, may be considered acceptable when: (a) The studies pertain to jobs which are comparable (i.e., have basically the same task elements), and (b) there are no major differences in contextual variables or sample composition which are likely to significantly affect validity. Any person citing evidence from other validity studies as evidence of test validity for his own jobs must substantiate in detail job comparability and must demonstrate the absence of contextual or sample differences cited in paragraphs (a) and (b) of this section.

#### § 1607.8 Assumption of validity.

(a) Under no circumstances will the general reputation of a test, its author or its publisher, or casual reports of test utility be accepted in lieu of evidence of validity. Specifically ruled out are: assumptions of validity based on test names or descriptive labels; all forms of promotional literature; data bearing on the frequency of a test's usage; testimonial statements of sellers, users, or consultants; and other nonempirical or anecdotal accounts of testing practices or testing outcomes.

(b) Although professional supervision of testing activities may help greatly to insure technically sound and nondiscriminatory test usage, such involvement alone shall not be regarded as constituting satisfactory evidence of test validity.

#### § 1607.9 Continued use of tests.

Under certain conditions, a person may be permitted to continue the use of a test which is not at the moment fully supported by the required evidence of validity. If, for example, determination of criterion-related validity in a specific setting is practicable and required but not yet obtained, the use of the test may continue: *Provided:* (a) The person can cite substantial evidence of validity as described in § 1607.7 (a) and (b); and (b) he has in progress validation procedures which are designed to produce, within a reasonable time, the additional data required. It is expected also that the person may have to alter or suspend test cutoff scores so that score ranges broad enough to permit the identification of criterion-related validity will be obtained.

#### § 1607.10 Employment agencies and employment services.

(a) An employment service, including private employment agencies, State employment agencies, and the U.S. Training and Employment Service, as defined in section 701(c), shall not make applicant or employee appraisals or referrals based on the results obtained from any psychological test or other selection standard

not validated in accordance with these guidelines.

(b) An employment agency or service which is requested by an employer or union to devise a testing program is required to follow the standards for test validation as set forth in these guidelines. An employment service is not relieved of its obligation herein because the test user did not request such validation or has requested the use of some lesser standard than is provided in these guidelines.

(c) Where an employment agency or service is requested only to administer a testing program which has been elsewhere devised, the employment agency or service shall request evidence of validation, as described in the guidelines in this part, before it administers the testing program and/or makes referral pursuant to the test results. The employment agency must furnish on request such evidence of validation. An employment agency or service will be expected to refuse to administer a test where the employer or union does not supply satisfactory evidence of validation. Reliance by the test user on the reputation of the test, its author, or the name of the test shall not be deemed sufficient evidence of validity (see § 1607.8(a)). An employment agency or service may administer a testing program where the evidence of validity comports with the standards provided in § 1607.7.

#### § 1607.11 Disparate treatment.

The principle of disparate or unequal treatment must be distinguished from the concepts of test validation. A test or other employee selection standard—even though validated against job performance in accordance with the guidelines in this part—cannot be imposed upon any individual or class protected by title VII where other employees, applicants or members have not been subjected to that standard. Disparate treatment, for example, occurs where members of a minority or sex group have been denied the same employment, promotion, transfer or membership opportunities as have been made available to other employees or applicants. Those employees or applicants who have been denied equal treatment, because of prior discriminatory practices or policies, must at least be afforded the same opportunities as had existed for other employees or applicants during the period of discrimination. Thus, no new test or other employee selection standard can be imposed upon a class of individuals protected by title VII who, but for prior discrimination, would have been granted the opportunity to qualify under less stringent selection standards previously in force.

#### § 1607.12 Retesting.

Employers, unions, and employment agencies should provide an opportunity for retesting and reconsideration to earlier "failure" candidates who have availed themselves of more training or experience. In particular, if any applicant or employee during the course of an interview or other employment pro-

cedure claims more education or experience, that individual should be retested.

#### § 1607.13 Other selection techniques.

Selection techniques other than tests, as defined in § 1607.2, may be improperly used so as to have the effect of discriminating against minority groups. Such techniques include, but are not restricted to, unscored or casual interviews and unscored application forms. Where there are data suggesting employment discrimination, the person may be called upon to present evidence concerning the validity of his unscored procedures as well as of any tests which may be used, the evidence of validity being of the same types referred to in §§ 1607.4 and 1607.5. Data suggesting the possibility of discrimination exist, for example, when there are differential rates of applicant rejection from various minority and nonminority or sex groups for the same job or group of jobs or when there are disproportionate representations of minority and nonminority or sex groups among present employees in different types of jobs. If the person is unable or unwilling to perform such validation studies, he has the option of adjusting employment procedures so as to eliminate the conditions suggestive of employment discrimination.

#### § 1607.14 Affirmative action.

Nothing in these guidelines shall be interpreted as diminishing a person's obligation under both title VII and Executive Order 11246 as amended by Executive Order 11375 to undertake affirmative action to ensure that applicants or employees are treated without regard to race, color, religion, sex, or national origin. Specifically, the use of tests which have been validated pursuant to these guidelines does not relieve employers, unions or employment agencies of their obligations to take positive action in affording employment and training to members of classes protected by title VII.

The guidelines in this part are effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., 21st day of July 1970.

[SEAL] WILLIAM H. BROWN III,  
Chairman.

[F.R. Doc. 70-9962; Filed, July 31, 1970;  
8:46 a.m.]

## Title 30—MINERAL RESOURCES

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

#### MINE HEALTH AND SAFETY; APPEALS

In F.R. Doc. 70-3789 appearing in the issue for Saturday, March 28, 1970, on page 5255, there was established in Title 30, Code of Federal Regulations, a new Chapter III. Part 300 thereof described the organization and jurisdiction of the Board of Mine Operations Appeals to perform the review functions of the Sec-

retary of the Interior under the Federal Coal Mine Health and Safety Act of 1969. This Board shall also be authorized to perform the review functions of the Secretary under the Federal Metal and Nonmetallic Mine Safety Act of 1966. For this reason, Part 300 is hereby amended by substituting therefor a new Part 300, reading as set forth below, to include these functions. Also, a new Part 302, as set forth below, describing the Board's procedures under the Federal Metal and Nonmetallic Mine Safety Act, is hereby added to Chapter III. New Parts 300 and 302 shall become effective upon their publication in the FEDERAL REGISTER.

WALTER J. HICKEL,  
Secretary of the Interior.

JULY 30, 1970.

### PART 300—ORGANIZATION

Sec.

300.1 Jurisdiction.

300.2 Power of Secretary.

300.3 Constituency and Decisions of Board.

AUTHORITY: The provisions of this Part 300 issued pursuant to sec. 508, Public Law 91-173; 83 Stat. 803; and sec. 9, Public Law 89-577; 80 Stat. 777; 30 U.S.C. 728.

#### § 300.1 Jurisdiction.

(a) The Board of Mine Operations Appeals, under the direction of a Board Chairman, is authorized to exercise, pursuant to regulations published in the FEDERAL REGISTER, the authority of the Secretary under the Federal Coal Mine Health and Safety Act of 1969 pertaining to:

(1) Applications for review of withdrawal orders; notices fixing a time for abatement of violations of mandatory health or safety standards; discharge or acts of discrimination for invoking rights under the Act, and entitlement of miners to compensation;

(2) Assessment of civil penalties for violation of mandatory health or safety standards or other provisions of the Act;

(3) Applications for temporary relief in appropriate cases;

(4) Petitions for modification of mandatory safety standards;

(5) Appeals from orders and decisions of hearing examiners; and

(6) All other appeals and review procedures cognizable by the Secretary under the Act.

(b) The Board is authorized to exercise, pursuant to regulations published in the FEDERAL REGISTER, the authority of the Secretary under the Federal Metal and Nonmetallic Mine Safety Act of 1966 to review withdrawal orders.

(c) In the exercise of the foregoing functions the Board is authorized to cause investigations to be made, order hearings, and issue orders and notices as deemed appropriate to secure the just and prompt determination of all proceedings. Decisions of the Board on all matters within its jurisdiction shall be final for the Department.

#### § 300.2 Power of Secretary.

Nothing in this part shall be construed to deprive the Secretary of any power conferred upon him by the aforementioned Acts or by other law.

**§ 300.3 Constituency of Board.**

The Board shall consist of three or more members appointed by the Secretary, one of whom shall be designated Chairman. The Chairman may direct that an appeal be decided by a panel of any two members of the Board, but if they are unable to agree upon a decision, the Chairman may assign one additional member to the panel to consider the appeal. When an appeal is considered by three members of the Board, the concurrence of a majority shall be conclusive. All decisions will be signed by at least two members.

**PART 302—PROCEDURES UNDER FEDERAL METAL AND NONMETALLIC MINE SAFETY ACT OF 1966**

**Subpart A—General**

Sec.	
302.1	Construction of rules.
302.2	Definitions.
302.3	Public information.
302.4	Parties—practice before the Board.
302.5	Documents.
302.6	Disqualification.

**Subpart B—Application for Review of Orders and Notices**

302.10	Who may file.
302.11	Filing.
302.12	Form of application.
302.13	Reviewing inspectors' report.
302.14	Contents of the reviewing inspectors' report.
302.15	Briefs or written argument.
302.16	Failure to present written argument.
302.17	Oral presentation.
302.18	Decisions and Orders of the Board.

**AUTHORITY:** The provisions of this Part 302 issued under sec. 9 of Public Law 89-577, 80 Stat. 777, 30 U.S.C. sec. 728.

**Subpart A—General**

**§ 302.1 Construction of rules.**

The rules in this part shall be construed to secure the just, prompt and inexpensive determination of all proceedings consistent with adequate consideration of the issues involved.

**§ 302.2 Definitions.**

As used in this part:

(a) The term "Act" means the Federal Metal and Nonmetallic Mine Safety Act, Public Law 89-577.

(b) The terms "Secretary," "operator," and "mine" have the meanings set forth in section 2 of the Act.

(c) The term "imminent danger" means the existence of any condition or practice in a mine which could reasonably be expected to cause death or serious physical harm before such condition can be abated.

(d) The term "mandatory safety standard" means the mandatory health and safety standards promulgated by the Secretary pursuant to section 6 of the Act.

(e) The term "issuing office" means that district or subdistrict office of the Bureau of Mines which has issued the order and the initial inspection report.

(f) The term "order" means an order issued under subsection (a) or (b) of section 8 which requires an operator of

a mine or his agent to immediately cause all persons except those referred to in subsections 8(a) (1), (2) and (3) to be withdrawn and to be prohibited from entering the area of the mine through which an imminent danger or an unabated violation of a mandatory health or safety standard exists.

(g) The term "initial inspection report" means the report of a single inspector issued pursuant to section 8 of the Act.

(h) The term "reviewing inspectors' report" means the report of a team of three (3) inspectors designated by the Secretary pursuant to section 9 of the Act.

(i) The term "Board" means the Board of Mine Operations Appeals of the Department of the Interior.

**§ 302.3 Public information.**

(a) The official docket and files of an application to review an order shall be kept in the Office of Hearings and Appeals, Department of the Interior, Washington, D.C. 20240.

(b) As a matter of public information, a copy of the order, the initial inspection report, the application to review, the special inspection report shall be kept available at the issuing office of the Bureau of Mines for inspection by interested persons.

**§ 302.4 Parties—practice before the Board.**

(a) An individual may represent himself in proceedings before the Board or a partnership, corporation, or association may be represented by a member or officer thereof.

(b) A party may be represented by an attorney who is admitted to practice before any Federal court or the highest court of a State or Territory of the United States. Each attorney representing a party shall enter his appearance with the Board.

(c) Any person appearing in a representative capacity may be required to establish his authority to act in such capacity.

(d) Every individual who wishes to practice before the Board must comply with the rules of practice before the Department of the Interior set forth in Part 1, Subtitle A of Title 43, Code of Federal Regulations.

**§ 302.5 Documents.**

A document is filed in the office where the filing is required only when the document is received in that office during the office hours when filing is permitted and the document is received by a person authorized to receive it.

**§ 302.6 Disqualification.**

An inspector or Board member shall withdraw from a case if he deems himself disqualified because of conflict of interest. If prior to the review inspection there is filed in good faith an affidavit of personal bias or disqualification with substantiating facts and the inspector does not withdraw, the Board shall determine the matter.

**Subpart B—Application for Review of Orders and Notices**

**§ 302.10 Who may file.**

The mine operator of the affected mine shall have right to review and appeal an order issued pursuant to the Act.

**§ 302.11 Filing.**

The application for review with five (5) copies shall be filed at the issuing office of the Bureau of Mines.

**§ 302.12 Form of application.**

The application for review shall be in writing and shall contain a short and plain statement of the facts and grounds upon which it is based. The application may recite; that the imminent danger as set out in such order did not occur or does not exist at the time of the filing such application; that violation of mandatory safety standard, as set out in such order has not occurred; that such violation has been totally or partially abated; that the period of time within which the order was based was not reasonable or that the area of the mine described in such order is not so affected at the time of the filing of such application or such other grounds as the applicant deems to present.

**§ 302.13 Reviewing inspectors' report.**

(a) Upon receipt by the issuing office of the Bureau of Mines of an application to review an order, three (3) duly qualified inspectors, none of whom shall have made the order or initial inspection report, shall be appointed to make a special inspection of the affected mine and report to the Board thereon. Notification of appointment of reviewing inspectors is to be made to the Board and the operator of the affected mine.

(b) The reviewing inspectors may, in their discretion, hear and receive reports from the mine operator and the miners or their representatives, and include a summary and evaluation of these in the overall inspection report.

(c) As soon as practicable but no later than five (5) working days after the receipt of the application to review an order, the reviewing inspectors' report shall be completed and forwarded to the issuing office. Upon receipt of the reviewing inspectors' report the issuing office shall immediately forward to the Board the original and two (2) copies of: (1) The reviewing inspectors' report; (2) the application for review; (3) the order and the initial inspection report. A copy of the reviewing inspectors' report shall be served on the party seeking review.

**§ 302.14 Contents of the reviewing inspectors' report.**

The reviewing inspectors' report shall review the findings of the initial inspection report and the objections raised in the application for review and present in detail the findings of the inspectors as to:

- (1) The existence of an imminent danger or of a violation of a mandatory safety standard at the time of the order;
- (2)

the extent the imminent danger or violation of a safety standard continues unabated; (3) the exact area of the mine affected; (4) in the case of a violation of a mandatory safety standard the reasonableness of time given to abate the violation and a recommendation as to whether and for what period an extension of time should be granted and the reasons therefor.

#### § 302.15 Briefs or written argument.

(a) Within five (5) days after service of the reviewing inspectors' report, applicant may file a brief or written argument or a notice of intention to file brief or written argument and request for extension of time to file—not to exceed ten (10) days. When a party who filed a notice of intention to file a brief or written argument fails to file a timely brief or argument the Board may proceed to dispose of the appeal pursuant to 302.16.

(b) Applicant's brief or written argument shall set forth in detail the objections presented in his application, the reasons therefore and the relief requested. The brief may contain tests, reports, evaluations and other matter which applicant deems pertinent.

(c) Three (3) copies of each brief shall be filed with the Board. Copies of briefs shall be legibly typewritten, printed or duplicated.

#### § 302.16 Failure to present written argument.

If a brief or other written argument is not received within the prescribed period, or the expiration of any authorized extension, the Board shall decide the appeal on the basis of the record before it.

#### § 302.17 Oral presentation.

Upon request and good cause shown the Board may permit oral argument.

#### § 302.18 Decisions and orders of the Board.

(a) In view of the urgent need for prompt decision of matters submitted to the Board under this section, all actions and decisions of the Board shall be taken as rapidly as practical, consistent with adequate consideration of the issues involved.

(b) Decision of the Board shall include a statement of findings and conclusions and the reasons or basis therefore on the material issues of fact, law or discretion presented and consistent with these findings an appropriate order affirming, revising or annulling the order reviewed with the effective date. The decision of the Board shall be the final decision of the Department of the Interior.

[F.R. Doc. 70-10058; Filed, July 31, 1970; 8:51 a.m.]

## Title 32—NATIONAL DEFENSE

### Chapter XIV—Renegotiation Board

#### SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

#### PART 1499—RENEGOTIATION RULINGS AND BULLETINS

##### Consolidated Renegotiation

Part 1499 is amended by adding a new § 1499.1-41 to read as follows:

§ 1499.1-41 Renegotiation Ruling No. 41: Consolidated renegotiation; requirement of ownership during fiscal year (interprets act section 105(a); §§ 1464.4(c) and 1464.7(b) of this chapter).

(a) P Corporation and two subsidiaries acquired subsequent to the fiscal year under review file a request for consolidated renegotiation. During the review year P Corporation did not own any stock in either of the other two corporations, nor did either of such corporations own any stock in the other.

(b) The request for consolidated renegotiation must be denied because P Corporation owned no voting stock in any member of the group at any time during the fiscal year under review. The 80 percent stock ownership requirement of § 1464.4(c) relates, as do the comparable Federal income tax regulations, to the fiscal year for which consolidation is requested and not to the fiscal year in which the consolidation request is made. The subsidiary corporations themselves, since they were wholly unrelated prior to their acquisition by P Corporation, do not qualify for consolidated renegotiation with each other for the fiscal year under review.

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. Sec. 1219)

Dated: July 29, 1970.

LAWRENCE E. HARTWIG,  
Chairman.

[F.R. Doc. 70-10011; Filed, July 31, 1970; 8:50 a.m.]

## Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

### Chapter 4—Department of Agriculture

#### PART 4-12—LABOR

##### Procurement

The following amendments are made in the Agriculture Procurement Regulations:

1. The table of contents for Part 4-12—Labor is amended as follows:

#### Subpart 4-12.8—Equal Opportunity in Employment

a. The following entry is deleted:

4-12.801 Policy.

b. The following new entries are added:

4-12.800	Scope of subpart.
4-12.802	Definitions.
4-12.803-1	Government contracts.
4-12.803-2	Equal Opportunity clause.
4-12.803-3	Federally assisted construction contracts.
4-12.803-4	Equal Opportunity (Applicant) clause.
4-12.803-7	Incorporation by reference.
4-12.803-9	Notice to bidders regarding preaward equal opportunity compliance reviews.
4-12.803-10	Elimination of segregated facilities.
4-12.803-50	Applicability to multiplant firms.
4-12.804-1	General.
4-12.804-2	Specific contracts.
4-12.805-1	Duties of agencies.
4-12.805-3	Notices to be posted.
4-12.805-5	Compliance reviews.
4-12.805-7	Processing of matters by agencies.
4-12.805-9	Sanctions and penalties.
4-12.805-11	Preaward notices.
4-12.810	Affirmative action compliance program.

c. The following entries are deleted:

#### Subpart 4-12.51—Equal Opportunity Contract Requirements

4-12.5101	Scope of Subpart.
4-12.5102	Authority.
4-12.5103	Application.
4-12.5104	Contracts Compliance Officers.
4-12.5105	Exemptions.
4-12.5106	Rulings and interpretations.
4-12.5107	Regulations.
4-12.5108	Contract provisions.
4-12.5108-1	General.
4-12.5108-2	Applicability to multi-plant firms.
4-12.5108-3	Applicability to subcontracts.
4-12.5108-4	Applicability to subsidiaries.
4-12.5109	Posters and notices.
4-12.5110	Compliance reports.
4-12.5110-1	Reports from bidders.
4-12.5110-2	Reports from contractors.
4-12.5110-3	Reports to the Committee.
4-12.5110-4	Reports to the Department Compliance Officer.
4-12.5110-5	Forms.
4-12.5111	Predominant interest agency.
4-12.5111-1	Definition.
4-12.5111-2	PIA listings.
4-12.5111-3	Responsibilities.
4-12.5112	Contracting officer responsibilities.
4-12.5112-1	General.
4-12.5112-2	Compliance reports by contracting officers.
4-12.5112-3	Pre-award understanding with contractors.
4-12.5112-4	Pre-award surveys.
4-12.5112-5	Post-award reviews.
4-12.5113	Compliance reviews.
4-12.5113-1	Objectives.
4-12.5113-2	By the Contracting Officer.
4-12.5113-4	By the Division of Contract EEO Administration.
4-12.5114	Notification to contractor.
4-12.5114-1	Complaints.
4-12.5114-2	General.
4-12.5117	"Plans for Progress" complaint processing procedures.
4-12.5117-1	Construction contract compliance program.
4-12.5117-2	Area coordinators.
4-12.5117-3	Contracting officer responsibilities.
4-12.5117-4	Compliance reviews by Department Contracts Compliance Officer.

- 4-12.5118 Federally assisted construction work.
- 4-12.5118-1 Purpose.
- 4-12.5118-2 Scope.
- 4-12.5118-3 Equal opportunity clause.
- 4-12.5118-4 Duties of agencies.
- 4-12.5118-5 Determination of construction contract amount.
- 4-12.5118-6 Reports.
- 4-12.5118-7 Posters and notices.
- 4-12.5119 Plans for progress companies.
- 4-12.5119-1 The Program.
- 4-12.5119-2 Agency responsibilities.
- 4-12.5119-3 Reporting requirements.
- 4-12.5119-4 Complaints.
- 4-12.5120 Field Manual.

2. Subpart 4-12.8 is revised to read as follows:

### Subpart 4-12.8—Equal Opportunity in Employment

#### § 4-12.800 Scope of subpart.

This subpart implements Executive Order 11246 as amended by Executive Order 11375; the rules and regulations of the Secretary of Labor (41 CFR Part 60-1), and the Federal Procurement Regulations (41 CFR Part 1-12). The aforesaid govern equal employment opportunity requirements for Government contracts, subcontracts, and for federally assisted construction contracts.

#### § 4-12.802 Definitions.

As used in this subpart, the following terms have the meanings stated.

(a) "Administering Agency" means the Department of Agriculture.

(b) "Applicant" means any person applying to participate in a program involving a grant or loan administered by a contracting agency which involves a construction contract; e.g., REA loans, FHA improvement loans.

(c) "Compliance Agency" means the Department of Agriculture.

(d) "Contracting Agency" means the organizational unit of the Department of Agriculture responsible for the award of Government contracts, or for the Federal assistance funds made available for construction purposes.

(e) "Federally assisted construction contract" is defined in 1-12.802(k) and includes REA borrowers.

(f) "Department Contract Compliance Officer" (DCCO) means the member of the Secretary of Agriculture's staff who has been designated as the Department Contract Compliance Officer.

#### § 4-12.803-1 Government contracts.

(a) The Contracting Officer shall be responsible for inclusion of the Equal Opportunity clause prescribed in § 1-12.803-2 in all nonexempt contracts (including modifications thereof), except where incorporated by reference in accordance with § 4-12.803-7.

(b) Form AD-369, Equal Opportunity, has been promulgated for use to incorporate the clause where standard or other preprinted contract forms which do not include the clause are used. This form is available from Central Supply Service, Service Operations Division, Office of Plant and Operations.

#### § 4-12.803-2 Equal Opportunity clause.

The requirements of paragraph (c) of the Equal Opportunity clause shall be

satisfied whenever the prime contractor or subcontractor posts copies of the notification prescribed by or pursuant to subsection (a) in conspicuous places available to employees, applicants for employment and representatives of each labor union or other organization representing his employees with which he has a collective bargaining agreement or other contract or understanding. (Department of Labor Regulation 41 CFR 60-1.42(b).)

#### § 4-12.803-3 Federally assisted construction contracts.

The Contracting Agency shall require the inclusion of the Equal Opportunity (Applicant) clause prescribed in § 1-12.803-4 as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the clause.

#### § 4-12.803-4 Equal Opportunity (Applicant) clause.

The requirements of paragraph (c) of the Equal Opportunity clause shall be satisfied whenever the prime contractor or subcontractor posts copies of the notification prescribed by or pursuant to subsection (a) in conspicuous places available to employees, applicants for employment and representatives of each labor union or other organization representing his employees with which he has a collective bargaining agreement or other contract or understanding. (Department of Labor Regulation 41 CFR 60-1.42(b).)

#### § 4-12.803-7 Incorporation by reference.

The Equal Opportunity clause may be incorporated in federally assisted construction contracts and subcontracts where the amount is less than \$50,000, and as otherwise provided in § 1-12.803-7, by inclusion therein of the following statement.

The nondiscrimination clauses contained in section 202, Executive Order 11246, as amended by Executive Order 11375, relating to equal employment opportunity for all persons without regard to race, color, religion, sex, or national origin and the implementing rules and regulations prescribed by the Secretary of Labor (41 CFR Chapter 60) are incorporated herein.

#### § 4-12.803-9 Notice to bidders regarding preaward equal opportunity compliance reviews.

The Contracting Officer shall be responsible for inclusion of the Preaward Equal Opportunity Compliance Reviews clause prescribed in § 1-12.803-9 in the invitation for bids for each formally advertised supply contract which may result in an award of \$1 million or more.

#### § 4-12.803-10 Elimination of segregated facilities.

(a) Form AD-559, Notice of Requirement for Certification of Nonsegregated Facilities, is prescribed for use as the notice to bidders required by § 1-2.201 (a) (29).

(b) Form AD-560, Certification of Nonsegregated Facilities, is prescribed for use as the certification required by § 1-12.803-10.

(c) Both forms are available from Central Supply Section, Service Operations Division, Office of Plant and Operations.

#### § 4-12.803-50 Applicability to multi-plant firms.

All of the facilities of a contractor or a subcontractor are subject to the orders and to the rules and regulation of the Secretary whether or not they are performing work on the contract.

#### § 4-12.804-1 General.

(f) The Equal Opportunity clause prescribed by Executive Order 11246, amended by Executive Order 11375, as set forth in § 1-12.803-2, shall be included in all contracts for the sale of Government timber when the contract exceeds \$10,000.

#### § 4-12.804-2 Specific contracts.

Requests for exemption from requiring the inclusion of any or all of the Equal Opportunity clause in any specific contract, or subcontract, shall be referred to the DCCO for appropriate action.

#### § 4-12.805-1 Duties of agencies.

(a) The head of each Contracting Agency shall designate a Contract Compliance Officer (CCO) who shall be subject to the immediate supervision of the head of the agency. Deputy Contract Compliance Officer and Assistant Contract Compliance Officers may also be designated.

(b) The names of the designated Compliance Officers, their addresses and telephone numbers, and any changes made in the designation shall be promptly furnished to the Department Contract Compliance Officer, § 4-12.805-1(d).

(1) Prior to entering into any contract, or approving an application for Federal financial assistance involving a construction contract, of \$500,000 or more which is subject to the Equal Opportunity clause, the Contracting Officer or application approving officer shall notify the Contract Compliance Officer or appropriate Deputy as soon as practicable of:

(i) The name and address of the prospective prime contractor and each known subcontractor;

(ii) Anticipated date of award;

(iii) Whether the prime contractor and known subcontractors have previously held any Government contracts or federally assisted construction contracts subject to Executive Orders 10925, 11114, or 11246; and

(iv) Whether the prime contractor has previously filed compliance reports required by Executive Orders 10925, 11114, or 11246, or by regulations of the Equal Employment Opportunity Commission (EEOC) issued pursuant to title VII of the Civil Rights Act of 1964.

(2) The CCO concerned shall review available information relative to the prospective prime contractor's and subcontractor's equal opportunity compliance status.

(i) If no deficiencies are found the CCO shall so notify the Contracting Officer or application approving officer

within 10 working days from receipt of the request and with an information copy to the Department Contract Compliance Officer.

(ii) If deficiencies are found in the prospective prime contractor's or subcontractor's equal opportunity compliance status, the CCO shall so notify the Department Contract Compliance Officer who will determine whether a preaward compliance review is to be conducted. The Department Contract Compliance Officer shall furnish his findings respecting the prospective contractor's or subcontractor's compliance status and the need for a preaward compliance review, through the CCO, to the Contracting Officer or application approving officer within 30 days from the receipt of the request.

#### § 4-12.805-3 Notices to be posted.

(a) The notice "Equal Employment Opportunity Is the Law" may be ordered from the nearest Federal supply stores stock or requisitioned from the Central Supply Section, Service Operations Division, Office of Plant and Operations. Form AD-384, Instructions to Contractors, may be ordered from the Central Supply Section.

(b) The notice and instructions should accompany the notification of award of the contract.

#### § 4-12.805-5 Compliance reviews.

Compliance reviews of companies for which the Department is Compliance Agency are conducted by the Compliance Review Staff, Office of the Secretary. These reviews are comprehensive examinations of personnel policies and practices of a contractor or subcontractor, or Applicant in relation to his obligations under the Equal Opportunity clause, and pertinent regulations. Reviews encompass home offices of contractors and all installations. Compliance with the non-discrimination clause in all respects is material to performance of the contract. The compliance review will include an evaluation of hiring and employment practices and a recommendation of corrective actions to be taken when necessary, in accordance with an agreed time schedule.

#### § 4-12.805-7 Processing of matters by agencies.

(a) Complaints. Where complaints are filed directly with the agency or Contracting Officer, they shall be forwarded through the Contract Compliance Officer or the agency to the Department Contract Compliance Officer for necessary action.

(b) Investigations. Where the Department is the Compliance Agency for the contractor or subcontractor against whom a complaint is filed, the DCCO shall institute an investigation which will be made by the Office of the Inspector General (OIG).

(c) Investigation reports and supporting documents shall be referred by OIG exclusively to the DCCO who shall be responsible for determining adequacy of the investigation and for processing the complaint.

#### § 4-12.805-9 Sanctions and penalties.

(a) *Termination.* A copy of the notice of proposed cancellation or termination of a contract shall be furnished to the contracting agency.

(b) *Debarment.* A copy of the notice or proposed debarment of a contractor or subcontractor shall be furnished to the contracting agency.

#### § 4-12.805-11 Preaward notices.

(a) Preaward compliance reviews. After reviewing the information available, the Contracting Officer may find that he needs additional up-to-date facts about the bidder before he can make a finding of responsibility and award a contract. If so, he should ask the Department Contract Compliance Officer to make a special preaward field survey in order to determine the bidder's current employment policies and practices and to develop information on the capability of his facilities to comply with the obligations of the Equal Opportunity clause.

(b) The Office of Federal Contract Compliance, U.S. Department of Labor, or the Department Contract Compliance Officer may also request such a preaward field survey. It is similar in scope, objective, and methods to regular compliance reviews. Fast scheduling and reporting are of course required in cases where contracting officers hold up awards until the evaluations become available.

#### § 4-12.810 Affirmative action compliance program.

(a) Form AD-425, Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and Executive Order 11375, has been promulgated to assist contractors in the development of a satisfactory affirmative action program. The form provides guidelines and specific steps for the prompt achievement of full and equal employment opportunity. It should accompany the notice of award of the contract. Form AD-425 is available from Central Supply Section, Service Operations Division, Office of Plant and Operations.

(b) The Department Contract Compliance Officer or his authorized representative is responsible for determining contractor compliance under this section.

(c) Affirmative action compliance programs for nonconstruction contractors are prescribed in Office of Federal Contract Compliance Order No. 4 (41 CFR 60-2) reproduced at § 4-52.504-1.

3. Subpart 4-12.51—Equal Opportunity Contract Requirements is deleted in its entirety.

Done at Washington, D.C. this 29th day of July 1970.

JOSEPH M. ROBERTSON,  
Assistant Secretary  
for Administration.

[F.R. Doc. 70-10020; Filed, July 31, 1970;  
8:51 a.m.]

## Chapter 8—Veterans Administration

### PART 8-2—PROCUREMENT BY FORMAL ADVERTISING

### PART 8-6—FOREIGN PURCHASES

#### Miscellaneous Amendments

Chapter 8 is amended as follows:

1. Section 8-2.407-8 is revised to read as follows:

#### § 8-2.407-8 Protests against awards.

(a) *General.* When a protest against the award of a contract, or a request from the General Accounting Office for an agency report relative to a protest against an award lodged with that agency, is received in Central Office, the protest or request will be immediately forwarded to the Director, Supply Service. Protests or requests concerning Central Office construction contracts will be forwarded to the Assistant Administrator for Construction. The Assistant Administrator for Construction or Director, Supply Service, whichever is appropriate, will immediately notify the contracting officer, furnish him a copy of the protest, and request him to furnish the information required by FPR 1-2.407-8(a)(2). Should the circumstances warrant, the contracting officer will be advised to notify all parties involved in or affected by the protest and to secure from them their views as provided in FPR 1-2.407-8(a)(3), (b)(2), and (c).

(b) *Protest before award.* When a written protest has been lodged with the contracting officer, and he considers it desirable to do so, he may obtain the views of the Comptroller General. The submission will be made direct to the Comptroller General and will include the material indicated in FPR 1-2.407-8(a)(2). Simultaneous with the submission of a protest to the Comptroller General by a contracting officer under authority of this paragraph, the Director, Supply Service will be furnished a complete copy of the submission. The contracting officer will notify the protesting individual or firm promptly in writing of the decision of the Comptroller General. A copy of the decision and notification will be furnished the Director, Supply Service.

(1) While a case involving a protest before award is pending in the Office of the Comptroller General, no award may be made except when, in the opinion of the contracting officer, the needs of his station will not permit delay in awarding the contract. He will document the specific reasons why the award must be made and submit a request for approval to the Director, Supply Service or the Assistant Administrator for Construction, whichever is appropriate.

(2) The Director, Supply Service or the Assistant Administrator for Construction, whichever is appropriate, will file a notice of intent to make the award with the Comptroller General and request advice as to the status of the case. Upon receipt of this advice, the Director, Supply Service or the Assistant Administrator for Construction will approve

the request or advise the contracting officer as to the action to be taken.

(c) *Protest after award.* When a written protest is lodged with the contracting officer, he will review the basis for award.

(1) If the contracting officer determines that the award was proper, he will furnish the protester a written explanation of the basis for the award, responsive to the allegations of the protest, and advise the protester that he may appeal the determination to the Director, Supply Service (or the Assistant Administrator for Construction in the case of a Central Office construction contract) or the Comptroller General.

(2) If the contracting officer determines that the award is questionable, he will advise the contractor of the protest and invite him to submit his views and relevant information. At the same time, the contracting officer will seek to obtain a mutual agreement with the contractor to suspend performance on a no-cost basis. Whether or not the contractor agrees, the case will be submitted promptly to the Director, Supply Service (or the Assistant Administrator for Construction in the case of a Central Office construction contract) who will either advise the contracting officer of the appropriate action to take, or submit the case to the Comptroller General for his decision.

2. In Part 8-6, Subpart 8-6.52 is added to read as follows:

# **Subpart 8-6.52—Clearance of Veterans Administration Shipments Through Customs**

Sec.  
8-6.5200 Scope of subpart.  
8-6.5201 Procedure.

\* AUTHORITY: The provisions of this Subpart 8-6.52 issued under sec. 205(c), 63 Stat. 390, as amended, 40 Stat. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c).

## **§ 8-6.5200 Scope of subpart.**

This subpart sets forth procedures to be employed by Veterans Administration contracting officers to clear shipments through customs, without employing an outside customs broker.

## **§ 8-6.5201 Procedure.**

(a) When a field station is advised by the Bureau of Customs, Treasury Department that a foreign origin shipment, consigned to the station, has arrived at the customhouse, the contracting officer will request customs Form 3461, Application and Special Permit for Immediate Delivery, from the collector of customs. This form may be completed on an individual basis. If, however, the number of such purchases during the year warrants it, the form will be completed on a yearly basis in compliance with customs requirements.

(b) On receipt of the customs Form 3461, the collector of customs will furnish the contracting officer with necessary instructions to follow to secure the shipment. He will also, in the absence of other objections, clear the shipment for delivery. Should a duty be payable on the merchandise, a bill covering such charges will be forwarded to the station.

(19 CFR 8.28(c), 8.59) This procedure will obviate the need to secure the services of an outside customs broker.

These regulations are effective immediately.

Approved: July 28, 1970.

By direction of the Administrator.

[SEAL]

FRED B. RHODES,  
Deputy Administrator.

[F.R. Doc. 70-9973; Filed, July 31, 1970; 8:47 a.m.]

# **Title 5—ADMINISTRATIVE PERSONNEL**

## **Chapter I—Civil Service Commission PART 213—EXCEPTED SERVICE**

### **Post Office Department**

Section 213.3211 is added to show that positions of Postal Inspector are excepted under Schedule B. Effective on publication in the FEDERAL REGISTER, § 213.3211 is added as set out below.

### **§ 213.3211 Post Office Department.**

(a) *General.* (1) Positions of Post Office Inspector.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL]

JAMES C. SPRY,  
Executive Assistant to  
the Commissioners.

[F.R. Doc. 70-10089; Filed, July 31, 1970; 8:51 a.m.]

# Proposed Rule Making

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[ 26 CFR Part 1 ]

### INTEREST AND PENALTIES IN CASE OF CERTAIN TAXABLE YEARS

#### Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC: LR: T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 946 of the Tax Reform Act of 1969 (83 Stat. 729), such regulations are amended as follows:

PARAGRAPH 1. There are inserted immediately after § 1.9005-5 the following new sections:

#### TAX REFORM ACT OF 1969

##### § 1.9006 Statutory provisions; Tax Reform Act of 1969.

Section 946 of the Tax Reform Act of 1969 (83 Stat. 729) provides as follows:

SEC. 946. *Interest and penalties in case of certain taxable years*—(a) *Interest on underpayment*. Notwithstanding section 6601 of the Internal Revenue Code of 1954, in the case of any taxable year ending before the date of the enactment of this Act, no interest on any underpayment of tax, to the extent such underpayment is attributable to the amendments made by this Act, shall be assessed or collected for any period before the 90th day after such date.

(b) *Declarations of estimated tax*. In the case of a taxable year beginning before the date of the enactment of this Act, if any taxpayer is required to make a declaration or amended declaration of estimated tax, or to pay any amount or additional amount of estimated tax, by reason of the amendments made by this Act, such amount or additional amount shall be paid ratably on or before each of the remaining installment dates for the taxable year beginning with the first installment date on or after the 30th day after such date of enactment. With respect to any declaration or payment of estimated tax before such first installment date, sections 6015, 6154, 6654, and 6655 of the Internal Revenue Code of 1954 shall be applied without regard to the amendments made by this Act. For purposes of this subsection, the term "installment date" means any date on which, under section 6153 or 6154 of such Code (whichever is applicable), an installment payment of estimated tax is required to be made by the taxpayer.

##### § 1.9006-1 Interest and penalties in case of certain taxable years.

(a) *Interest on underpayment*. The Internal Revenue Code of 1954 was amended in many important respects by the Tax Reform Act of 1969. Certain of these amendments affect taxable years ending prior to December 30, 1969 (the date of enactment of the Act) and thereby may cause underpayments of tax by a number of taxpayers for those years. Under section 6601(a) of the Code, interest at the rate of 6 percent per annum is imposed upon the amount of any such underpayment. The effect of section 946(a) of the Act is to prevent the assessment or collection of interest on an underpayment of tax for any taxable year ending before December 30, 1969, if such underpayment is attributable to any amendment made by such Act, for the period from the due date for payment until March 30, 1970. Thus, the taxpayer is afforded an interest-free period of 90 days from the date of enactment of such Act within which to account for the changes in the law affecting him and to remit the amount of such underpayment. If, on or after March 30, 1970, the amount of any underpayment (or portion thereof) attributable to an amendment made by the Act remains unpaid, then, as of such date, such underpayment (or portion thereof) shall be subject to interest as provided by section 6601 of the Code, to be computed from such date. However, if a corporation or farmers' cooperative elects to pay its final tax in two installments under section 6152 of the Code and if the second installment is due after March 30, 1970, then, in order to escape the imposition of interest under section 6601, such corporation or cooperative need pay only one-half of the additional tax arising from an amendment made by the Act before March 30, 1970, with the remaining one-half payable as part of the second installment

on the regular due date for that installment. In the case of an underpayment of tax which is only partly attributable to an amendment made by the Act, section 946(a) of such Act shall apply only to the extent that such underpayment is so attributable.

(b) *Declarations and payments of estimated tax*. (1) In the case of a taxable year beginning before December 30, 1969, section 946(b) of the Tax Reform Act of 1969 provides transitional rules with respect to the payment of estimated tax and, in the case of an individual, the filing of a declaration of estimated tax. Under such section 946(b) in the case of such a year, if any taxpayer is required to make a declaration or amended declaration of estimated tax, or to pay any amount or additional amount of estimated tax, by reason of the amendments made by the Act, such amount or additional amount shall be paid ratably on or before each of the remaining installment dates for the taxable year beginning with the first installment date on or after February 15, 1970. For purposes of section 946(b) of such Act and this section, the term "installment date" means any date on which, under section 6153 or 6154 of the Code (whichever is applicable), an installment payment of estimated tax is required to be made by the taxpayer.

(2) With respect to any declaration or payment of estimated tax before February 15, 1970, sections 6015, 6153, 6154, 6654, and 6655 of the Code shall be applied without regard to the amendments made by such Act. Therefore, any underpayment which occurs solely by reason of the amendments made by such Act shall not be treated as an underpayment in the case of installment dates before February 15, 1970. Similarly, in the case of a taxpayer all of whose installment dates occur prior to February 15, 1970, no payment of estimated tax need be made to reflect the amendments made by such Act.

(3) The following example illustrates the application of the provisions of subparagraphs (1) and (2) of this paragraph:

*Example.* A, a fiscal year taxpayer with a taxable year from July 1, 1969, through June 30, 1970, had, without regard to the enactment of the Tax Reform Act of 1969, a total tax liability, which would have been shown on his return, of \$500. A is not a farmer or fisherman described in section 6037(b). A's tax liability is increased by \$20 to \$520, attributable to an amendment made by such Act. A makes an installment payment of estimated tax of \$90 on each of the following four installment dates: October 15, 1969; December 15, 1969; March 15, 1970; and July 15, 1970. Assume that A is unaffected by the exceptions provided in section 6654(d). Therefore, A is underpaid by \$10 on both October 15 and December 15, and by \$18 on both March 15 and July 15. Such underpayments are computed as follows:

(a) October 15 and December 15 installment dates:	
(1) Tax without regard to Tax Reform Act of 1969	\$500
(2) 80% of item (1)	400
(3) Minimum payment to avoid underpayment, determined without regard to Act:	
October 15, 1969 (25% of item (2))	100
December 15, 1969 (25% of item (2))	100
(4) Actual payment:	
October 15, 1969	90
December 15, 1969	90
(5) Amount of underpayment:	
October 15, 1969 (\$100-\$90)	10
December 15, 1969 (\$100-\$90)	10
(b) March 15 and July 15 installment dates:	
(1) Tax with regard to Act	520
(2) 80% of item (1)	416
(3) Less total of minimum payments to avoid underpayment, determined without regard to Act for October 15, 1969 and December 15, 1969 (\$100+\$100)	200
(4) Difference of items (2) and (3)	216
(5) Minimum payment to avoid underpayment, determined with regard to Act:	
March 15 (50% of \$216)	108
July 15 (50% of \$216)	108
(6) Actual payment:	
March 15	90
July 15	90
(7) Amount of underpayment:	
March 15 (\$108-\$90)	18
July 15 (\$108-\$90)	18

(c) *Cross references.* (1) Taxpayers affected by the following sections, among others, of the Tax Reform Act of 1969 may be subject to the provisions of section 946 (a) or (b) (whichever is applicable) of such Act:

(i) Act section 201(a), which adds section 170(f) (2) to the Code and which applies to gifts made after July 31, 1969.

(ii) Act section 201(c), which repeals section 673(b) of the Code and which applies to transfers in trust made after April 22, 1969.

(iii) Act section 212(c), which amends section 1031 of the Code and which applies to taxable years to which the 1954 Code applies.

(iv) Act section 332, which amends section 677 of the Code and which applies to property transferred in trust after October 9, 1969.

(v) Act section 411(a), which adds section 279 to the Code and which applies to interest paid or incurred on an indebtedness incurred after October 9, 1969.

(vi) Act sections 412 (a) and (b), which adds section 453(b) (3) to the Code and which apply to sales or other dispositions occurring after May 27, 1969, which are not made pursuant to a contract entered into on or before that date.

(vii) Act section 413, which amends sections 1232(a), 1232(b) (2), and 6049 of the Code and which applies to bonds and other evidences of indebtedness issued after May 27, 1969.

(viii) Act section 414, which adds section 249 to the Code and which applies to convertible bonds or other convertible evidences of indebtedness repurchased after April 22, 1969.

(ix) Act section 421(a), which amends section 305 of the Code and which applies to distributions made after January 10, 1969.

(x) Act sections 516 (a) and (d), which add section 1001(e) to the Code and which apply to sales of life estates made after October 9, 1969.

(xi) Act section 601, which amends section 103 of the Code and which applies to obligations issued after October 9, 1969.

(xii) Act section 703 which amends sections 46(b) and 47(a) of the Code and which applies to section 38 property built or acquired after April 18, 1969.

(xiii) Act section 905, which adds section 311(d) to the Code and which applies to distributions made after November 30, 1969.

(2) In addition to the references in subparagraph (1) of this paragraph, section 946(b) of the Tax Reform Act of 1969 may apply to taxpayers affected by the following sections, among others, of such Act:

(i) Act section 201(a), which adds section 170(e) to the Code and which applies to contributions paid after December 31, 1969.

(ii) Act sections 501 (a) and (b), which amend section 613 of the Code and which apply to taxable years beginning after October 9, 1969.

(iii) Act sections 516 (c) and (d) which add section 1253 to the Code and which apply to transfers after December 31, 1969.

(iv) Act section 701(a), which amends section 51 of the Code and which applies to taxable years ending after December 31, 1969, and beginning before July 1, 1970.

[F.R. Doc. 70-10022; Filed, July 31, 1970; 8:51 a.m.]

## [ 26 CFR Parts 1, 31 ]

### EXTENSION OF WITHHOLDING TO SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS

#### Notice of Proposed Rule Making

##### Correction

In F.R. Doc. 70-9704, appearing at page 12064 in the issue for Tuesday, July 28, 1970, the following changes should be made in § 31.3401(a)-1 (b) (14) (iii):

1. In the 24th line, the word "that" should appear only once.

2. The 29th line, now reading "that condition does in fact occur," should read "fact that the employees' collective bar-".

## [ 26 CFR Parts 1, 301 ]

### FILING REQUIREMENTS FOR INDIVIDUALS

#### Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of In-

ternal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL]

WILLIAM H. SMITH,  
Acting Commissioner  
of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) and the regulations on Procedure and Administration (26 CFR Part 301) under section 6012(a) (1) of the Internal Revenue Code of 1954 to section 941 of the Tax Reform Act of 1969 (83 Stat. 726), such regulations are amended as follows:

#### INCOME TAX REGULATIONS (26 CFR PART 1)

PARAGRAPH 1. Section 1.6012 is amended by revising paragraph (1) of section 6012 (a) and the historical note to read as follows:

§ 1.6012 Statutory provisions; persons required to make returns of income.

SEC. 6012. *Persons required to make returns of income—(a) General rule.* Returns with respect to income taxes under subtitle A shall be made by the following:

[Applicable to taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1973]

(1) (A) Every individual having for the taxable year a gross income of \$600 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b)) —

(i) Who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than \$1,700, or

(ii) Who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than \$2,300 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

(B) The \$1,700 amount specified in subparagraph (A) (i) shall be increased to \$2,300

in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the \$2,300 amount specified in subparagraph (A)(ii) shall be increased by \$600 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);

[Applicable to taxable years beginning after Dec. 31, 1972]

(1) (A) Every individual having for the taxable year a gross income of \$750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

(i) Who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than \$1,750, or

(ii) Who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than \$2,500 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

(B) The \$1,750 amount specified in subparagraph (A)(i) shall be increased to \$2,500 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the \$2,500 amount specified in subparagraph (A)(ii) shall be increased by \$750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c).

[Sec. 6012 as amended by sec. 72(a), Technical Amendments Act 1958 (72 Stat. 1660); sec. 206(b)(1), Rev. Act 1964 (78 Stat. 40); sec. 941, Tax Reform Act 1969 (83 Stat. 726)]

PAR. 2. Paragraph (a) of § 1.6012-1 is amended by revising subparagraphs (1), (2), and (4) thereof to read as follows:

**§ 1.6012-1 Individuals required to make returns of income.**

(a) *Individual citizen or resident—*

(1) *In general.* Except as provided in subparagraph (2) of this paragraph, an income tax return must be filed by every individual for each taxable year beginning before January 1, 1973, during which he receives \$600 or more of gross income, and for each taxable year beginning after December 31, 1972, during which he receives \$750 or more of gross income, if such individual is—

(i) A citizen of the United States, whether residing at home or abroad,

(ii) A resident of the United States even though not a citizen thereof, or

(iii) An alien bona fide resident of Puerto Rico during the entire taxable year.

(2) *Special rules.* (i) For taxable years beginning before January 1, 1970, an individual who is described in subparagraph (1) of this paragraph and who has attained the age of 65 before the close of his taxable year must file an income tax return only if he receives \$1,200 or more of gross income during his taxable year.

(ii) For taxable years beginning after December 31, 1969, and before January 1, 1973, an individual described in subparagraph (1) of this paragraph (other than an individual referred to in section 142(b))—

(a) Who is not married (as determined by applying section 143(a) and the regulations thereunder) must file an income tax return only if he receives \$1,700 or more of gross income during his taxable year, except that if such an individual has attained the age of 65 before the close of his taxable year an income tax return must be filed by such individual only if he receives \$2,300 or more of gross income during his taxable year.

(b) Who is entitled to make a joint return under section 6013 and the regulations thereunder must file an income tax return only if his gross income received during his taxable year, when combined with the gross income of his spouse received during his taxable year, is \$2,300 or more. However, if such individual or his spouse has attained the age of 65 before the close of the taxable year an income tax return must be filed by such individual only if their combined gross income is \$2,900 or more. If both the individual and his spouse have attained the age of 65 before the close of the taxable year such return must be filed only if their combined gross income is \$3,500 or more. However, this subdivision (ii)(b) shall not apply if the individual and his spouse did not have the same household as their home at the close of their taxable year, if such spouse files a separate return for a taxable year which includes any part of such individual's taxable year,

or if any other taxpayer is entitled to an exemption for such individual or his spouse under section 151(e) for such other taxpayer's taxable year beginning in the calendar year in which such individual's taxable year begins. For example, a married student more than half of whose support is furnished by his father must file an income tax return if he receives \$600 or more of gross income during his taxable year.

(iii) For taxable years beginning after December 31, 1972, an individual described in subparagraph (1) of this paragraph (other than an individual referred to in section 142(b))—

(a) Who is not married (as determined by applying section 143(a) and the regulations thereunder) must file an income tax return only if he receives \$1,750 or more of gross income during his taxable year, except that if such an individual has attained the age of 65 before the close of his taxable year an income tax return must be filed by such individual only if he receives \$2,500 or more of gross income during his taxable year;

(b) Who is entitled to make a joint return under section 6013 and the regulations thereunder must file an income tax return only if his gross income received during his taxable year, when combined with the gross income of his spouse received during his taxable year, is \$2,500 or more. However, if such individual or his spouse has attained the age of 65 before the close of the taxable year an income tax return must be filed by such individual only if their combined gross income is \$3,250 or more. If both the individual and his spouse attain

the age of 65 before the close of the taxable year such return must be filed only if their combined gross income is \$4,000 or more. However, this subdivision (iii)(b) shall not apply if the individual and his spouse did not have the same household as their home at the close of their taxable year, if such spouse files a separate return for a taxable year which includes any part of such individual's taxable year, or if any other taxpayer;

is entitled to an exemption for the taxpayer or his spouse under section 151(e) for such other taxpayer's taxable year beginning in the calendar year in which such individual's taxable year begins. For example, a married student more than half of whose support is furnished by his father must file an income tax return if he receives \$750 or more of gross income during the taxable year.

(iv) For purposes of section 6012(a)(1)(A)(ii) and subdivisions (ii)(b) and (iii)(b) of this subparagraph, an individual and his spouse are considered to have the same household as their home at the close of a taxable year if the same household constituted the principal place of abode of both the individual and his spouse at the close of such taxable year (or on the date of death, if the individual or his spouse died within the taxable year). The individual and his spouse will be considered to have the same household as their home at the close of the taxable year notwithstanding a temporary absence from the household due to special circumstances, as, for example, in the case of a nonpermanent failure on the part of the individual and his spouse to have a common abode by reason of illness, education, business, vacation, or military service. For example, A, a calendar-year individual under 65 years of age, is married to B, also under 65 years of age, and is a member of the Armed Forces of the United States. During 1970 A is transferred to an overseas base. A and B give up their home, which they had jointly occupied until that time; B moves to the home of her parents for the duration of A's absence. They fully intend to set up a new joint household upon A's return. Neither A nor B must file a return for 1970 if their combined gross income for the year is less than \$2,300 and if no other taxpayer is entitled to a dependency exemption for A or B under section 151(e).

(v) In the case of a short taxable year referred to in section 443(a)(1), an individual described in subparagraph (1) of this paragraph shall file an income tax return if his gross income received during such short taxable year equals or exceeds his own personal exemption allowed by section 151(b) (prorated as provided in section 443(c)) and, when applicable, his additional exemption for age 65 or more allowed by section 151(c)(1) (prorated as provided in section 443(c)).

(4) *Return of income of minor.* A minor is subject to the same requirements and elections for making returns of income as are other individuals. Thus,

for example, for a taxable year beginning after December 31, 1972, a return must be made by or for a minor who has an aggregate of \$1,750 of gross income from funds held in trust for him and from his personal services, regardless of the amount of his taxable income. The return of a minor must be made by the minor himself or must be made for him by his guardian or other person charged with the care of the minor's person or property. See paragraph (b)(3) of § 1.6012-3. See § 1.73-1 for inclusion in the minor's gross income of amounts received for his personal services. For the amount of tax which is considered to have been properly assessed against the parent, if not paid by the child, see section 6201(c) and paragraph (c) of § 301.6201-1 of this chapter (Regulations on Procedure and Administration).

PAR. 3. Section 301.6012 is amended by revising paragraph (1) of section 6012 (a) and the historical note to read as follows:

§ 301.6012 Statutory provisions; persons required to make returns of income.

SEC. 6012. Persons required to make returns of income—(a) General rule. Returns with respect to income taxes under subtitle A shall be made by the following:

[Applicable to taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1973]

(1) (A) Every individual having for the taxable year a gross income of \$600 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

(i) Who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than \$1,700, or

(ii) Who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than \$2,300 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

(B) The \$1,700 amount specified in subparagraph (A) (i) shall be increased to \$2,300 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the \$2,300 amount specified in subparagraph (A) (ii) shall be increased by \$600 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);

[Applicable to taxable years beginning after Dec. 31, 1972]

(1) (A) Every individual having for the taxable year a gross income of \$750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

(i) Who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than \$1,750, or

(ii) Who is entitled to make a joint return under section 6013 and whose gross

income, when combined with the gross income of his spouse, is, for the taxable year, less than \$2,500 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

(B) The \$1,750 amount specified in subparagraph (A) (i) shall be increased to \$2,500 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the \$2,500 amount specified in subparagraph (A) (ii) shall be increased by \$750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);

(Sec. 6012 as amended by sec. 72(a), Technical Amendments Act 1958 (72 Stat. 1660); sec. 206(b)(1), Rev. Act 1964 (78 Stat. 40); sec. 941, Tax Reform Act 1969 (83 Stat. 726))

[F.R. Doc. 70-9960; Filed, July 31, 1970; 8:46 a.m.]

## DEPARTMENT OF AGRICULTURE

### Consumer and Marketing Service

#### [7 CFR Part 932]

### OLIVES GROWN IN CALIFORNIA

#### Notice of Proposed Rule Making

Notice is hereby given that the Department is considering the proposed amendment, as hereinafter set forth, to the rules and regulations (Subpart—Rules and Regulations; 7 CFR 932.108-932.161); currently effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932) regulating the handling of olives grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The amendment to the said rules and regulations was proposed by the Olive Administrative Committee, established under the said marketing agreement and order as the agency to administer the terms and provisions thereof.

The amendment of the language preceding paragraph (a) of § 932.150 would delete a reference to paragraph (e) which is no longer appropriate. Paragraph (e) now concerns only the termination date of said section. At the time the reference was included, such paragraph related to percentage tolerances for the year ending August 31, 1968. Hence, the reference became obsolete on such date. The amendment with respect to § 932.150(e) would continue the provisions of such section until August 31, 1971. Such provisions, which provide liberalized tolerances for canned ripe olives are scheduled to terminate August 31, 1970. The committee reports that efficient canning procedures require that such liberalized tolerances be continued in the light of current crop condi-

tions. The amendment also would prescribe modified grade requirements for specified styles of olives of the ripe type in the interest of improving consumer acceptance.

The proposed amendments would be made effective on September 1, 1970, and are as follows:

A. A new section is added to read as follows:

Section 932.149 modified grade requirements for specified styles of canned olives of the ripe type.

The grade requirements prescribed in § 932.52(a)(1) are modified with respect to specified styles of olives of the ripe type as follows:

(a) Canned whole olives of the ripe type shall grade at least U.S. Grade C, and shall meet the requirements of Grade B with respect to uniformity of size, character, and absence of defects;

(b) Canned pitted olives of the ripe type shall grade at least U.S. Grade C, and shall meet the requirements of Grade B with respect to character;

(c) Canned broken pitted olives of the ripe type shall grade at least U.S. Grade C, and shall meet the requirements of Grade B with respect to character; and

(d) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "U.S. Grade B", "U.S. Grade C", and the terms "uniformity of size", "character", "absence of defects" and "ripe type" shall have the same meaning as when used in the U.S. Standards for Canned Ripe Olives (§§ 52.3751-52.3766 of this title).

B. The provisions of § 932.150 *Changes in percentage tolerances for canned whole ripe olives* are amended as follows:

1. The language preceding paragraph (a) thereof is revised to read as follows: "The percentage tolerances for canned whole ripe olives, set forth in § 932.52(a)(2), are changed as follows";

2. The provisions of paragraph (e) are amended by changing the date "August 31, 1970" to "August 31, 1971".

All persons who desire to submit data, views, or arguments for consideration in connection with the proposal may file the same with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, not later than the 10th day after publication of the notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: July 29, 1970.

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

[F.R. Doc. 70-10018; Filed, July 31, 1970; 8:50 a.m.]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[ 45 CFR Part 250 ]

## REASONABLE CHARGES

### Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations relate to reasonable costs for inpatient hospital services in the medical assistance program under title XIX of the Social Security Act.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed regulations are to be issued under section 1102, 49 Stat. 647, 42 U.S.C. 1302.

Dated: June 15, 1970.

JOHN D. TWINAME,  
Administrator, Social and  
Rehabilitation Service.

Approved: July 27, 1970.

ELLIOT L. RICHARDSON,  
Secretary.

Section 250.30(b) (1) is revised to read as follows:

#### § 250.30 Reasonable charges.

(b) \* \* \*

(1) *Inpatient hospital services.* (i) For each hospital also participating in the Health Insurance for the Aged program under title XVIII of the Social Security Act, apply the same standards, cost reporting period, cost reimbursement principles, and method of cost apportionment currently used in computing reimbursement to such hospital under title XVIII of the Act with the following exception: Effective July 1, 1969, the inpatient routine services costs for medical assistance recipients will be determined after subtracting the title XVIII inpatient routine nursing salary cost differential from total allowable inpatient routine service costs.

(ii) For each hospital not participating in the program under title XVIII of the Act, apply the standards and principles described in 20 CFR 405.402-405.454 excluding, effective July 1, 1969, the inpatient routine nursing salary cost differential and either (a) one of the available alternative cost apportionment methods in 20 CFR 405.404 or (b) the "Gross RCCAC method" of cost apportionment applied as follows: For a reporting period, the total allowable hos-

pital inpatient costs are divided by the total allowable hospital inpatient charges; the resulting percentage is applied to the bill of each inpatient under the medical assistance program.

(iii) As an alternative to subdivisions (i) and (ii) of this subparagraph, for each State for which the Secretary has approved on a demonstration or experimental basis the use of a reimbursement plan for the payment of reasonable costs by methods other than those described in subdivisions (i) and (ii) of this subparagraph, apply the standards and principles as described in said State's approved reimbursement plan. Criteria for approval of such proposed plan will include:

(a) Incentives for efficiency and economy;

(b) Reimbursement on a reasonable cost basis;

(c) Reimbursement not to exceed that produced under available title XVIII methods of apportionment;

(d) Assurance of adequate participation of hospitals and availability of hospital services of high quality to title XIX recipients;

(e) Adequate documentation for evaluation of experience under the State's approved reimbursement plan.

In developing such plans, State title XIX agencies are encouraged to work closely with title V grantees, the Social Security Administration, and other governmental purchasers of hospital care in an attempt to achieve coordination in reimbursement methods within States. Approval by the Secretary of a reimbursement plan developed under this subdivision may be retroactive to January 1, 1970.

(iv) For the purposes of this subparagraph, other than subdivision (iii) of this subparagraph, those States which prohibit retroactive adjustments by State law shall adjust current payments in the light of anticipated reasonable costs. Ordinarily, a State agency will use a percentage adjustment of a hospital's reported costs to bring such costs in line with current levels as nearly as they can be estimated in advance. Such percentage adjustment will then be revised as frequently as circumstances warrant during the course of the year. Where the State agency's payments exceed the actual level of reasonable costs, the hospital shall be required by the State agency to make the necessary adjustments.

[F.R. Doc. 70-9980; Filed, July 31, 1970;  
8:48 a.m.]

### Social Security Administration

[ 20 CFR Part 405 ]

[Regs. No. 5]

## FEDERAL HEALTH INSURANCE FOR THE AGED

### Principles of Reimbursement for Pro- vider Costs and for Services by Hospital-Based Physicians

#### INPATIENT ROUTINE NURSING SALARY COST DIFFERENTIAL

Notice is hereby given, pursuant to the Administrative Procedure Act (5

U.S.C. 552 et seq.) that the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations set forth interim principles for determining the inpatient routine nursing salary cost differential as an element of reimbursable cost under the Hospital Insurance program. Further studies will be conducted to ascertain whether and how such a differential should be applied in the future in the course of reimbursement on the basis of cost.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed regulations are to be issued under the authority contained in sections 1102, 1814(b), 1861(v), 1871, 49 Stat. 647 as amended, 79 Stat. 296, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

Dated: June 8, 1970.

ROBERT M. BALL,  
Commissioner of Social Security.

Approved: July 27, 1970.

ELLIOT L. RICHARDSON,  
Secretary of Health,  
Education, and Welfare.

1. Paragraphs (b) and (c) of § 405.404 are revised to read as follows:

#### § 405.404 Methods of apportionment under title XVIII.

(b) The first alternative is to apply the beneficiaries' share of total charges, on a departmental basis, to total costs for inpatient routine services provided into account, to the extent pertinent, for inpatient routine services provided after June 30, 1969, an inpatient routine nursing salary cost differential. Use of this department-by-department method will involve determination, by cost-finding methods, of the total costs for each of the institution's departments that are revenue-producing; i.e., departments providing services to patients for which charges are made.

(c) The second alternative is a combination method. Under this method, as applied to inpatient care, that part of a provider's total allowable cost which is attributable to routine services (room, board, nursing services) is to be apportioned on the basis of the relative number of patient days for beneficiaries and for other patients; taking into account, to the extent pertinent, for inpatient routine services provided after June 30, 1969, an inpatient routine nursing salary cost differential. The residual part of the provider's allowable cost, attributable to nonroutine or ancillary services, is to be apportioned on the

basis of the beneficiaries' share of the total charges to patients by the provider for nonroutine or ancillary services. The amounts computed to be the program's share of the two parts of the provider's allowable costs are then combined in determining the amount of reimbursement under the program. Use of the combination method will necessitate cost finding to determine the division of the provider's total allowable costs into the two parts, although it would be less involved than for the first alternative, the department-by-department method.

2. A new § 405.430 is added to read as follows:

**§ 405.430 Inpatient routine nursing salary cost differential.**

(a) *Principle.* In recognition of the above average cost of inpatient routine nursing care furnished to aged patients, an inpatient routine nursing salary cost differential is allowable as a reimbursable cost of the provider. The differential applicable to such inpatient routine nursing salary costs of aged patients is, beginning with the effective date of this provision and until a redetermined rate is made effective, at the rate of 8½ percent. The differential shall be redetermined as described in § 405.430(c)(1).

(b) *Definitions.*—(1) *Aged day.* Aged day means a day of care rendered to an inpatient 65 years of age or older.

(2) *Pediatric day.* Pediatric day means a day of care rendered to an inpatient less than age 14 who is not occupying a bassinet for the newborn in the nursery.

(3) *Maternity day.* Maternity day means a day of care rendered to a female inpatient admitted for delivery of a child.

(4) *Nursery day.* Nursery day means a day of care rendered to an inpatient occupying a bassinet for the newborn in the nursery.

(5) *Inpatient day.* Inpatient day means a day of care rendered to any inpatient (except an individual occupying a bassinet for the newborn in the nursery).

(6) *Inpatient routine nursing salary cost.* Inpatient routine nursing salary cost includes gross salaries and wages of nurses and other personnel for nursing activities performed in nursing units not associated with the nursery and not associated with services for which a separate charge is customarily made. This cost includes gross salaries and wages of head nurses, registered nurses, licensed practical and vocational nurses, aides, orderlies, and ward clerks. It does not include salaries and wages of administrative nursing personnel assigned to the departmental office or nursing personnel who perform their work in surgery, central supply, recovery units, emergency units, delivery rooms, nurseries, employee health service, or any other areas not providing general inpatient care, nor does it include the salaries and wages of personnel performing maintenance or other activities that do not consist directly of the care of patients.

(7) *Adjusted inpatient routine nursing salary cost.* The adjusted inpatient routine nursing salary cost attributable to title XVIII beneficiaries is determined on a per diem basis and is arrived at by dividing (A) total inpatient routine nursing service salary costs for all patients

(excluding nursery patients), plus 8½ percent thereof, by (B) total inpatient days (excluding nursery days), plus 8½ percent of aged, pediatric, and maternity days. This quotient is the adjusted average per diem inpatient routine nursing salary cost.

$$\text{Adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost} = \frac{\text{Inpatient routine nursing salary (excluding nursery salary) costs} \times 1.085}{\text{Total inpatient days (excluding nursery days) less aged, pediatric, and maternity days} + \text{Aged, pediatric, and maternity days} \times 1.085}$$

(8) *Inpatient routine nursing salary cost differential.* The inpatient routine nursing salary cost differential is determined on a per diem basis and is the difference between the adjusted per diem inpatient routine nursing salary (exclud-

ing nursery salary) cost for all patients and the average per diem inpatient routine nursing salary (excluding nursery salary) cost for all patients, and is illustrated in paragraph (e) of this section.

$$\text{Per diem differential} = \text{Adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost} - \text{Average per diem inpatient routine nursing salary (excluding nursery salary) cost}$$

(c) *Application.* (1) Studies have indicated that aged patients (both program beneficiaries and nonbeneficiaries), on the average, received inpatient routine nursing care that is more costly on an average per day basis than the average of the remainder of the adult patient population. A similar conclusion is also generally assumed to hold with respect to the inpatient routine nursing services received by pediatric and maternity patients. It is appropriate that such greater costs of providing these services, which are attributable to caring for title XVIII beneficiaries and which are sufficiently supported by such studies, be recognized by the program in its reimbursement. In the determination of health insurance inpatient routine service costs the rate of 8½ percent has been established, until the effective date of a redetermination, as the inpatient routine nursing salary cost differential for aged, pediatric, and maternity patients. However, further studies will be conducted periodically: (i) To determine the amount of an inpatient routine nursing salary cost differential for the aged that is appropriate in the future; (ii) to ascertain what variations in differentials should be established for such classes of providers as may be found appropriate, and (iii) to obtain other pertinent data including data on nursing care costs for maternity, pediatric, geriatric, and general medical and surgical patients.

(2) It should be recognized that although the inpatient routine nursing salary cost differential under the health insurance program is established at a rate of 8½ percent, the effect of the differential on reimbursement to a particular provider will also be a function of the relationship that total aged, pediatric, and maternity patient days of service bears to total patient days of service (excluding nursery days) rendered by that provider.

(d) *Effective dates.*—(1) *Cost reporting period beginning after June 30, 1969.* With respect to any cost reporting period beginning after June 30, 1969, the inpatient routine nursing salary cost dif-

ferential, as defined in paragraph (b) (8) of this section, shall be included in full as an element in the computation of the provider's reimbursable cost.

(2) *Cost reporting period ending before July 1, 1969.* With respect to any cost reporting period ending before July 1, 1969, there shall not be included as an element in the computation of the provider's reimbursable costs any inpatient routine nursing salary cost differential.

(3) *Cost reporting period beginning before July 1, 1969, and ending after June 30, 1969.* With respect to any cost reporting period beginning before July 1, 1969, and ending after June 30, 1969, an inpatient routine nursing salary cost differential shall be computed in accordance with the provisions of paragraph (b) (8) of this section; but only the portion of the inpatient routine nursing salary cost differential equivalent to the part of the cost reporting period falling after June 30, 1969, shall be included as an element of reimbursable cost. The amount of the differential to be included in the provider's reimbursable costs is computed by multiplying the per diem differential cost by the number of covered health insurance days during the reporting period and apportioning this amount by applying a fraction whose numerator is the number of months after June 30, 1969, in the reporting period and whose denominator is the total number of months in the reporting period. (Where a cost reporting period ends on a day other than the last day of the month, the days after June 30, 1969, in the reporting period shall be included in the numerator and the total days in the reporting period shall be included in the denominator.)

(e) *Examples.*—(1) *Illustration of calculation of differential for a cost reporting period beginning after June 30, 1969.*

Routine nursing salary costs (excluding nursery costs) .....	\$160,000
Total inpatient days .....	12,800
Total inpatient days applicable to beneficiaries .....	3,840
Total aged, pediatric, and maternity days .....	5,120

Adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost..... \$13.12  
 $\$160,000 \times 1.085$   
 $(12,800 - 5,120) + (5,120 \times 1.085)$

Average per diem routine nursing salary (excluding nursery salary) cost  $\$160,000 \div 12,800$ ..... -12.50

Per diem differential..... .62  
 Allowable routine nursing salary cost differential applicable to beneficiaries for the reporting period  $\$0.62 \times 3,840$ ..... 2,381

(2) *Illustration of differential for a cost reporting period beginning before July 1, 1969, and ending after June 30, 1969.* Assume the same statistical and financial data in paragraph (e)(1) of this section and that the provider's cost reporting period was for a 12-month period ending March 31, 1970.

Potential routine nursing salary cost differential applicable to beneficiaries for the reporting period..... \$2,381  
 Allowable routine nursing salary cost differential applicable to beneficiaries for the reporting period  
 $9/12 \times \$2,381 = \$1,786$

3. Paragraph (a) of § 405.452 is revised to read as follows:

**§ 405.452 Determination of cost of services to beneficiaries.**

(a) *Principle.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. To accomplish this apportionment, the provider shall have the option of either of the two following methods:

(1) *Departmental method.* The ratio of beneficiary charges to total patient charges for the services of each department, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential. (See § 405.430 for definition and application of this differential.)

(2) *Combination method.* The cost of "routine services" for program beneficiaries is determined on the basis of average cost per diem of these services, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential). To this amount is added the cost of ancillary services used by beneficiaries, determined by apportioning the total cost of ancillary services on the basis of the ratio of beneficiary charges for ancillary services to total patient charges for such services.

4. In § 405.452(c)(2), the last sentence, reading "The total reimbursement for services rendered by the provider to the beneficiaries would be \$235,000," is revised to read: "To the total shown in the

illustration is added, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential as defined and illustrated in § 405.430."

5. Paragraph (c)(3)(i) of § 405.452 is revised to read as follows:

(c) *Application.* \* \* \*

(3) *Combination method.*—(i) *Using cost finding.* A provider may, at its option, elect to be reimbursed for the cost of routine services on the basis of the average cost per diem, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential (as defined and illustrated in § 405.430). To this amount is added the cost of the ancillary services rendered to beneficiaries of the program determined by computing the ratio of total inpatient charges for ancillary services to beneficiaries to the total inpatient ancillary charges to all patients and applying this ratio to the total allowable cost of inpatient ancillary services.

COMBINATION METHOD EMPLOYED BY HOSPITAL B	
Statistical and financial data:	
Total inpatient days for all patients.....	30,000
Inpatient days applicable to beneficiaries.....	7,500
Inpatient routine services—total allowable cost.....	\$600,000
Inpatient ancillary services—total allowable cost.....	\$320,000
Inpatient ancillary services—total charges.....	\$400,000
Inpatient ancillary services—charges for services to beneficiaries.....	\$80,000

Computation of cost applicable to program:  
 Average cost per diem for routine services:

$\$600,000 \div 30,000 \text{ days} = \$20 \text{ per diem.}$   
 Cost of routine services (exclusive of any inpatient routine nursing salary cost differential pertinent for services provided after June 30, 1969) rendered to beneficiaries:  $\$20 \text{ per diem} \times 7,500 \text{ days} = \$150,000$   
 Ratio of beneficiary charges to total charges for all ancillary services:  
 $\$80,000 \div \$400,000 = 20 \text{ percent}$   
 Cost of ancillary services rendered to beneficiaries:  $20 \text{ percent} \times \$320,000 = \$64,000$

Total cost (exclusive of any inpatient routine nursing salary cost differential pertinent for services provided after June 30, 1969) of beneficiary services..... \$214,000

To the cost of routine services and total cost shown in the above illustration are added, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential as defined and illustrated in § 405.430.

[F.R. Doc. 70-9979; Filed, July 31, 1970; 8:48 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-SW-45]

### TRANSITION AREA

#### Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Newport, Ark.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

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

#### NEWPORT, ARK.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Newport Municipal Airport (lat. 35°38'25" N., long. 91°10'55" W.), and within 3.5 miles each side of the 163° bearing from the Newport RBN (lat. 35°38'30" N., long. 91°10'00" W.) extending from the 6.5-mile radius area to 11.5 miles south of the RBN.

This transition area will provide controlled airspace protection for aircraft executing approach/departure procedures proposed to serve the Newport Municipal Airport at Newport, Ark.

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

Issued in Fort Worth, Tex., on July 17, 1970.

GEORGE W. IRELAND,  
Acting Director, Southwest Region.

[F.R. Doc. 70-10006; Filed, July 31, 1970;  
8:49 a.m.]

[ 14 CFR Part 71 ]

[Airspace Docket No. 70-EA-50]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Pittsfield, Maine (35 F.R. 2244) Transition Area.

The U.S. Standard for Terminal Instrument Approach Procedures requires alteration of the 700-foot transition area to provide controlled airspace protection for aircraft executing the NDB (ADF) RWY 1 instrument approach for Pittsfield Municipal Airport.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Pittsfield, Maine proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Pittsfield, Maine transition area and insert the following in lieu thereof: "That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°46'05" N., 69°22'40" W. of Pittsfield Municipal Airport, Pittsfield, Maine and within 3.5 miles each side of the 350° bearing and the 170° bearing from the Burnham, Maine RBN 44°41'50" N., 69°21'30" W., extending from the 5-mile radius area to 10 miles south of the RBN."

This amendment is proposed under section 307(a) of the Federal Aviation

Act of 1958 [72 Stat. 749; 49 U.S.C. 1348], and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on July 13, 1970.

WAYNE HENDERSHOT,  
Acting Director, Eastern Region.

[F.R. Doc. 10007; Filed, July 31, 1970;  
8:49 a.m.]

[ 14 CFR Part 71 ]

[Airspace Docket No. 70-SW-38]

TRANSITION AREAS

Proposed Designation, Alteration and Revocation

On June 20, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 10157) (F.R. Doc. 70-7797) stating that the Federal Aviation Administration proposes to designate the New Mexico transition area.

Subsequent to publication of the notice, it was determined that two additional segments of airspace should be included in the 1,200-foot portion of the proposed New Mexico transition area. One of these is R-5107C which was excluded from the transition area in the description. This is a joint-use restricted area within which there is a need for controlled airspace extending upward from 1,200 feet above the surface. The other segment is a part of the described airspace below 11,500 feet MSL to be excluded from the transition area. There is a need to include the portion of that airspace east of long. 105°27'00" W. within controlled airspace extending upward from 1,200 feet above the surface. This will provide controlled airspace for aircraft executing a new high altitude teardrop jet penetration west of Roswell, N. Mex. Action is taken herein to amend the proposed New Mexico transition area accordingly.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 15 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Ad-

ministration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

In consideration of the foregoing, the proposed New Mexico transition area published in the FEDERAL REGISTER (35 F.R. 10157) (F.R. Doc. 70-7797) is amended as follows:

(1) "excluding R-5101, R-5107B, R-5107C and the portion of R-5107A" is deleted and "excluding R-5101, R-5107B and the portion of R-5107A" is substituted therefor.

(2) "excluding that airspace below 11,500 feet MSL bounded by a line beginning at lat. 33°43'30" N., long. 105°09'00" W., thence to lat. 33°17'10" N., long. 105°09'00" W., to lat. 33°10'20" N., long. 105°38'00" W." is deleted and "excluding that airspace below 11,500 feet MSL bounded by a line beginning at lat. 33°57'00" N., long. 105°27'00" W., thence to lat. 33°12'50" N., long. 105°27'00" W., to lat. 33°10'20" N., long. 105°38'00" W." is substituted therefor.

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

Issued in Fort Worth, Tex., on July 22, 1970.

A. L. COULTER,  
Acting Director, Southwest Region.

[F.R. Doc. 70-10008; Filed, July 31, 1970;  
8:49 a.m.]

[ 14 CFR Part 71 ]

[Airspace Docket No. 70-SW-43]

TRANSITION AREAS AND ADDITIONAL CONTROL AREA

Proposed Designation, Alteration, and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to redesignate, alter, revoke and designate controlled airspace within the State of Oklahoma by designating the Oklahoma transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

## PROPOSED RULE MAKING

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

There are several areas of uncontrolled airspace and five segments of controlled airspace having a floor higher than 1,200 feet above the surface scattered throughout the State of Oklahoma. These areas are surrounded by either Federal airways, additional control area, or transition areas with floors of 1,200 feet above the surface. Because of the increasing traffic volume and the demand for air traffic control services, there is a need to include these areas within the proposed Oklahoma transition area. More efficient air traffic services, including radar in some areas, could be provided without the restrictions imposed by small irregular areas of uncontrolled airspace which cannot be easily discerned on essential aeronautical charts. Inclusion of these areas within the proposed Oklahoma transition area would, in fact, lessen the burden on the public and it would incur no apparent derogation to VFR operations.

To simplify airspace descriptions, provide continuity of the floors of controlled airspace, and to improve chart legibility, the following airspace actions are proposed:

1. Designate the Oklahoma transition area as follows:

## OKLAHOMA

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Oklahoma, excluding the portion within R-5601A.

2. The 1,200-foot portions of the following transition areas would be revoked:

Alva, Okla.	Lawton, Okla.
Bartlesville, Okla.	Oklahoma City, Okla.
Guymon, Okla.	Ponca City, Okla.

3. The 1,200-foot portions of the following transition areas would be amended to exclude the portions within the State of Oklahoma:

Coffeyville, Kans.	Neosho, Mo.
Independence, Kans.	Oswego, Kans.
Liberal, Kans.	

4. The 1,200-foot portions of the following transition areas would be amended to exclude the portions within the State of Oklahoma. There is a separate proposal to designate a Texas transition area which would encompass the remainder of the 1,200-foot portions of these transition areas; therefore, the 1,200-foot portions would be revoked if the Texas proposal is adopted:

Childress, Tex.	Sherman, Tex.
Gage, Okla.	Wichita Falls, Tex.
Perryton, Tex.	

5. The 1,200-foot portions of the following transition areas would be amended to exclude the portions within the State of Oklahoma. There is a separate proposal to designate an Arkansas transition area which would encompass the remainder of the 1,200-foot portions of these transition areas; therefore, the 1,200-foot portions would be revoked if the Arkansas proposal is adopted:

Fort Smith, Ark.	Tulsa, Okla.
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6. Amend the following transition areas as indicated:

## ENID, OKLA.

The 1,200- and 5,000-foot portions would be revoked. The small portion of the 1,200-

foot area lying within the boundary of the State of Kansas would be added to a transition area in that State.

## HOBART, OKLA.

The 1,200- and 8,000-foot portions would be amended to exclude the portions within the State of Oklahoma. The Texas proposal would encompass the remainder of the 1,200- and 8,000-foot portions; therefore, these portions would be revoked if the Texas proposal is adopted.

## TEXARKANA, ARK.

The 1,200-foot portion would be amended to exclude the portion within the State of Oklahoma. The Texas and Arkansas proposals would encompass the remainder of the 1,200-foot portion; therefore, the 1,200-foot portion would be revoked if the Texas and Arkansas proposals are adopted.

## WICHITA, KANS.

The 1,200- and 3,500-foot portions would be amended to exclude the portions within the State of Oklahoma.

7. The Gage, Okla., additional control area, which extends upward from 1,200 feet above the surface, would be redundant and serve no useful purpose; therefore, it would be revoked.

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

Issued in Fort Worth, Tex., on July 22, 1970.

A. L. COULTER,

Acting Director, Southwest Region.

[F.R. Doc. 70-10009; Filed, July 31, 1970; 8:49 a.m.]

# Notices

## DEPARTMENT OF DEFENSE

Office of the Secretary

### ASSISTANT SECRETARY OF DEFENSE

#### Delegation of Authority To Approve Restoration or Replacement of Damaged or Destroyed Facilities

The Deputy Secretary of Defense approved the following delegation of authority May 18, 1970:

By virtue of the authority vested in the Secretary of Defense by section 133 (d) of title 10, United States Code, there is hereby delegated to the Assistant Secretary of Defense (Installations and Logistics), the authority contained in section 2673 of title 10, United States Code, to approve the acquisition, construction, rehabilitation, and installation of temporary or permanent public works to restore or replace facilities which have been damaged or destroyed. This authority may be redelegated to the Deputy Assistant Secretary of Defense (Installations and Housing).

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

[F.R. Doc. 70-9938; Filed, July 31, 1970;  
8:45 a.m.]

## DEPARTMENT OF THE TREASURY

Bureau of Customs

[SP 431.4 P]

### ELECTRON PROBE X-RAY MICROANALYZER

#### Review of Tariff Classification Ruling; Extension of Time for Written Submissions

JULY 28, 1970.

Pursuant to § 16.10a(d), Customs Regulations (19 CFR 16.10a(d)), the Bureau of Customs gave notice on June 10, 1970, by publication in the FEDERAL REGISTER (35 F.R. 8950) that it will undertake to review the established and uniform practice of classifying electron probe X-ray microanalyzers under item 709.63, Tariff Schedules of the United States (TSUS). A period of 30 days from the date of such publication was provided in accordance with section 553, title 5, United States Code, for all interested parties to submit relevant data, views, or arguments to the Commissioner of Customs.

In order to provide additional time in which to submit relevant data, views, or

arguments, as requested by several parties, the time period for such submissions is extended for a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

[SEAL] ROBERT V. MCINTYRE,  
Acting Commissioner of Customs.

[F.R. Doc. 70-10021; Filed, July 31, 1970;  
8:51 a.m.]

### Office of the Secretary

[Department Circular Public Debt Series—  
No. 7-70]

### 7 3/4 PERCENT TREASURY NOTES OF SERIES C-1974

#### Offering of Notes

JULY 30, 1970.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, offers notes of the United States, designated 7 3/4 percent Treasury Notes of Series C-1974, at par, in exchange for the following securities maturing August 15, 1970:

(1) 6 3/8 percent Treasury Notes of Series D-1970; or

(2) 4 percent Treasury Bonds of 1970, in amounts of \$1,000 or multiples thereof. The amount of this offering will be limited to the amount of eligible securities tendered in exchange. The books will be open only on August 3 through August 5, 1970, for the receipt of subscriptions.

2. In addition, holders of the securities enumerated in paragraph 1 of this section are offered the privilege of exchanging all or any part of them for 7 3/4 percent Treasury Notes of Series B-1977, which offering is set forth in Department Circular, Public Debt Series—No. 8-70, issued simultaneously with this circular.

II. *Description of notes.* 1. The notes will be dated August 15, 1970, and will bear interest from that date at the rate of 7 3/4 percent per annum, payable semi-annually on February 15 and August 15 in each year until the principal amount becomes payable. They will mature February 15, 1974, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to prin-

cipal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing U.S. notes.

III. *Subscription and allotment.* 1. Subscriptions accepting the offer made by this circular will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. Under the Second Liberty Bond Act, as amended, the Secretary of the Treasury has the authority to reject or reduce any subscription, and to allot less than the amount of notes applied for when he deems it to be in the public interest; and any action he may take in these respects shall be final. Subject to the exercise of that authority, all subscriptions will be allotted in full.

IV. *Payment.* 1. Payment for the face amount of notes allotted hereunder must be made on or before August 17, 1970, or on later allotment, and may be made only in a like face amount of securities of the issues enumerated in paragraph 1 of section I hereof, which should accompany the subscription. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made with securities in bearer form, coupons dated August 15, 1970, should be detached and cashed when due. When payment is made with registered securities, the final interest due on August 15, 1970, will be paid by issue of interest checks in regular course to holders of record on July 15, 1970, the date the transfer books closed.

V. *Assignment of registered securities.* 1. Registered securities tendered in payment for notes offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered with the subscription to a Federal Reserve

Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C. 20220. The maturing securities must be delivered at the expense and risk of the holder. If the new notes are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for exchange for 7½ percent Treasury Notes of Series C-1974"; if the new notes are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 7½ percent Treasury Notes of Series C-1974 in the name of \_\_\_\_\_"; if new notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 7½ percent Treasury Notes of Series C-1974 in coupon form to be delivered to \_\_\_\_\_".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] DAVID M. KENNEDY,  
Secretary of the Treasury.

[F.R. Doc. 70-10106; Filed, July 31, 1970;  
8:51 a.m.]

[Department Circular Public Debt Series—  
No. 8-70]

## 7½ PERCENT TREASURY NOTES OF SERIES B-1977

### Offering of Notes

JULY 30, 1970.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, offers notes of the United States, designated 7½ percent Treasury Notes of Series B-1977, at 99.75 percent of their face value, in exchange for the following securities maturing August 15, 1970:

(1) 6½ percent Treasury Notes of Series D-1970; or

(2) 4 percent Treasury Bonds of 1970, in amounts of \$1,000 or multiples thereof. Cash payments due subscribers will be made as set forth in section IV hereof. The amount of this offering will be limited to the amount of eligible securities tendered in exchange. The books will be open only on August 3 through August 5, 1970, for the receipt of subscriptions.

2. In addition, holders of the securities enumerated in paragraph 1 of this section are offered the privilege of exchanging

all or any part of them for 7½ percent Treasury Notes of Series C-1974, which offering is set forth in Department Circular, Public Debt Series—No. 7-70, issued simultaneously with this circular.

II. *Description of notes.* 1. The notes will be dated August 15, 1970, and will bear interest from that date at the rate of 7½ percent per annum, payable semi-annually on February 15 and August 15 in each year until the principal amount becomes payable. They will mature August 15, 1977, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Provision will be made for the interchange of notes of different denomination and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing U.S. notes.

III. *Subscription and allotment.* 1. Subscriptions accepting the offer made by this circular will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. Under the Second Liberty Bond Act, as amended, the Secretary of the Treasury has the authority to reject or reduce any subscription, and to allot less than the amount of notes applied for when he deems it to be in the public interest; and any action he may take in these respects shall be final. Subject to the exercise of that authority, all subscriptions will be allotted in full.

IV. *Payment.* 1. Payment for the face amount of notes allotted hereunder must be made on or before August 17, 1970, or on later allotment, and may be made only in a like face amount of securities of the issues enumerated in paragraph 1 of section I hereof, which should accompany the subscription. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue

Service (an individual's social security number or an employer identification number) is not furnished. A cash payment of \$2.50 per \$1,000 will be made to subscribers on account of the issue price of the new notes. The payment will be made by check or by credit in any account maintained by a banking institution with the Federal Reserve Bank of its District, following acceptance of the maturing securities. In the case of registered securities, the payment will be made in accordance with the assignments on the securities surrendered. When payment is made with securities in bearer form, coupons dated August 15, 1970, should be detached and cashed when due. When payment is made with registered securities, the final interest due on August 15, 1970, will be paid by issue of interest checks in regular course to holders of record on July 15, 1970, the date the transfer books closed.

V. *Assignment of registered securities.* 1. Registered securities tendered in payment for notes offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered with the subscription to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C. 20220. The maturing securities must be delivered at the expense and risk of the holder. If the new notes are desired registered in the same name as the securities surrendered, the assignments should be to "The Secretary of the Treasury for exchange for 7½ percent Treasury Notes of Series B-1977"; if the new notes are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 7½ percent Treasury Notes of Series B-1977 in the name of \_\_\_\_\_"; if new notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 7½ percent Treasury Notes of Series B-1977 in coupon form to be delivered to \_\_\_\_\_".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] DAVID M. KENNEDY,  
Secretary of the Treasury.

[F.R. Doc. 70-10107; Filed, July 31, 1970;  
8:51 a.m.]

[Department Circular Public Debt Series—  
No. 9-70]

## 7½ PERCENT TREASURY NOTES OF SERIES C-1972

### Offering of Notes

JULY 30, 1970.

**I. Offering of notes.** 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, offers \$2,750 million, or thereabouts, of notes of the United States, designated 7½ percent Treasury Notes of Series C-1972, at 99.95 percent of their face value and accrued interest, if any. In addition to the amount offered for public subscription, the Secretary of the Treasury may allot these notes to Government accounts and Federal Reserve Banks in exchange for the securities hereinafter enumerated. The following securities, maturing August 15, 1970, will be accepted at par in payment, in whole or in part, to the extent subscriptions are allotted by the Treasury:

- (1) 6½ percent Treasury Notes of Series D-1970; or
- (2) 4 percent Treasury Bonds of 1970.

The books will be open only on August 5, 1970, for the receipt of subscriptions.

**II. Description of notes.** 1. The notes will be dated August 17, 1970, and will bear interest from that date at the rate of 7½ percent per annum, payable on a semiannual basis on February 15 and August 15, 1971, and February 15, 1972. They will mature February 15, 1972, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing U.S. notes.

**III. Subscription and allotment.** 1. Subscriptions accepting the offer made by this circular will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220. Only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies. Commercial banks, which for this purpose are defined

as banks accepting demand deposits, may submit subscriptions for account of customers provided the names of the customers are set forth in such subscriptions. Others than commercial banks will not be permitted to enter subscriptions except for their own account. Subscriptions from commercial banks for their own account will be restricted in each case to an amount not exceeding 50 percent of the combined capital (not including capital notes or debentures), surplus and undivided profits of the subscribing bank. Subscriptions will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions, or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks, and foreign states, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon. Subscriptions from all others must be accompanied by payment (in cash or in securities of the issues enumerated in paragraph 1 of section I hereof, which will be accepted at par) of 10 percent of the amount of notes applied for, not subject to withdrawal until after allotment. Registered securities submitted as deposits should be assigned as provided in section V hereof. Following allotment, any portion of the 10 percent payment in excess of 10 percent of the amount of notes allotted may be released upon the request of the subscribers.

2. All subscribers are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after midnight, August 5, 1970.

3. Commercial banks in submitting subscriptions will be required to certify that they have no beneficial interest in any of the subscriptions they enter for the account of their customers, and that their customers have no beneficial interest in the banks' subscriptions for their own account.

4. Under the Second Liberty Bond Act, as amended, the Secretary of the Treasury has the authority to reject or reduce any subscription, to allot less than the amount of notes applied for, and to make different percentage allotments to various classes of subscribers when he deems it to be in the public interest; and any action he may take in these respects shall be final. Subject to the exercise of that authority, subscriptions will be allotted:

- (1) In full if the subscription is for \$200,000 or less; and
- (2) On a percentage basis to be publicly announced, but not less than \$200,000.

Allotment notices will be sent out promptly upon allotment.

**IV. Payment.** 1. Payment at 99.95 percent of their face value and accrued in-

terest, if any, for notes allotted hereunder must be made or completed on or before August 17, 1970, or on later allotment. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the application up to 10 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Payment may be made for any notes allotted hereunder in cash or in securities of the issues enumerated in paragraph 1 of section I hereof, which will be accepted at par. A cash adjustment will be made for the difference (\$0.50 per \$1,000) between the par value of the maturing securities and the issue price of the new notes. The payment will be made by check or by credit in any account maintained by a banking institution with the Federal Reserve Bank of its District, following acceptance of the securities. In the case of registered securities, the payment will be made in accordance with the assignments on the securities surrendered. Any qualified depository will be permitted to make payment by credit in its Treasury Tax and Loan Account for not more than 50 percent of the amount of notes allotted to it for itself and its customers. When payment is made with securities in bearer form, coupons dated August 15, 1970, should be detached and cashed when due. When payment is made with registered securities, the final interest due on August 15, 1970, will be paid by issue of interest checks in regular course to holders of record on July 15, 1970, the date the transfer books closed.

### V. Assignment of registered securities.

1. Registered securities tendered as deposits and in payment for notes allotted hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department, on one of the forms hereafter set forth. Securities tendered in payment should be surrendered to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C. 20220. The maturing securities must be delivered at the expense and risk of the holder. If the new notes are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for 7½ percent Treasury Notes of Series C-1972"; if the new notes are desired registered in another name, the assignment should be to "The Secretary of the Treasury for 7½ percent Treasury Notes of Series C-1972 in the name of \_\_\_\_\_"; if new notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 7½ percent Treasury Notes of Series C-1972"; if the new notes are delivered to \_\_\_\_\_".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] DAVID M. KENNEDY,  
Secretary of the Treasury.

[F.R. Doc. 70-10108; Filed, July 31, 1970;  
8:51 a.m.]

## DEPARTMENT OF JUSTICE

### VOTING RIGHTS ACT OF 1965

#### Determination Regarding Literacy Tests

JULY 24, 1970.

Determination of the Attorney General pursuant to section 4(b) of the Voting Rights Act of 1965 as amended.

1. Section 4 of the Voting Rights Act of 1965, 79 Stat. 438, 42 U.S.C. 1973b (Supp. IV, 1965-68), suspended the use of literacy tests and similar tests in States and counties which fell within a formula based upon the percentage of the voting-age population which was registered for or voted in the November 1964 election. Now subject to such coverage are the States of Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia; 39 counties in North Carolina; one county in Hawaii; and one county in Arizona.

The Voting Rights Act Amendments of 1970, Public Law 91-285, 84 Stat. 315, amend section 4 of the 1965 Act by adding a coverage formula based upon registration for or participation in the 1968 presidential election in States and counties (not already subject to suspension under section 4(a) of the 1965 Act) which the Attorney General determines maintained a "test or device" on November 1, 1968.

2a. The following States are not, except to the extent specifically indicated, presently subject to suspension of tests and devices pursuant to section 4(a) of the Voting Rights Act of 1965, 42 U.S.C. 1973b(a) (Supp. IV, 1965-68), 79 Stat. 438. In accordance with section 4(b) of the Voting Rights Act of 1965 as amended by the Voting Rights Act Amendments of 1970, Public Law 91-285, 84 Stat. 315, I have determined that each of the following States maintained on November 1, 1968, a test or device as defined in section 4(c) of the Voting Rights Act of 1965, 42 U.S.C. 1973b(c) (Supp. IV, 1965-68), 79 Stat. 438:

Alaska.  
Arizona (except  
Yuma County).  
California.  
Connecticut.  
Delaware.  
Hawaii (except  
Honolulu County).

Idaho.  
Maine.  
Massachusetts.  
New Hampshire.  
New York.  
Oregon.  
Washington.  
Wyoming.

b. The following counties are not presently subject to suspension of tests and devices pursuant to section 4(a) of the Voting Rights Act of 1965. I have determined that each of the following counties of North Carolina maintained on November 1, 1968, a test or device as defined in section 4(c) of the Voting Rights Act of 1965:

Alamance.  
Alexander.  
Alleghany.  
Ashe.  
Avery.  
Brunswick.  
Buncombe.  
Burke.  
Cabarrus.  
Caldwell.  
Carteret.  
Catawba.  
Chatham.  
Cherokee.  
Clay.  
Columbus.  
Currituck.  
Dare.  
Davidson.  
Davie.  
Duplin.  
Durham.  
Forsyth.  
Graham.  
Haywood.  
Henderson.  
Hyde.  
Iredell.  
Jackson.  
Johnston.  
Jones.

Lincoln.  
Macon.  
Madison.  
McDowell.  
Mecklenburg.  
Mitchell.  
Montgomery.  
Moore.  
New Hanover.  
Orange.  
Pamlico.  
Pender.  
Polk.  
Randolph.  
Richmond.  
Rowan.  
Rutherford.  
Sampson.  
Stanly.  
Stokes.  
Surry.  
Swain.  
Transylvania.  
Tyrrell.  
Wake.  
Warren.  
Watauga.  
Wilkes.  
Yadkin.  
Yancey.

JOHN N. MITCHELL,  
Attorney General.

JULY, 1970.

[F.R. Doc. 70-9956; Filed, July 31, 1970;  
8:46 a.m.]

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation BYLAWS OF CORPORATION

The bylaws of the Commodity Credit Corporation, amended July 2, 1970, are as follows:

#### OFFICES

1. The principal office of the Corporation shall be in the city of Washington, District of Columbia, and the Corporation shall also have offices at such other places as it may deem necessary or desirable in the conduct of its business.

#### SEAL

2. There is impressed below the official seal which is hereby adopted for the Corporation. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced.



#### MEETINGS OF THE BOARD

3. Regular meetings of the Board shall be held without notice in the Board meeting room in the U.S. Department of Agriculture in the city of Washington, D.C., on Wednesday of each week, or if that day be a legal holiday, on the next succeeding business day, at 9:30 a.m., unless notice of another hour is given.

4. Special meetings of the Board may be called at any time by the Chairman or by the President or the Executive Vice President and shall be called by the Chairman, the President, or the Executive Vice President at the written request of any four directors. Notice of special meetings shall be given either personally or by mail (including the intra-departmental mail channels of the Department of Agriculture or inter-departmental mail channels of the Federal Government) or by telegram, and notice by telephone shall be personal notice. Any Director may waive in writing such notice as to himself, whether before or after the time of the meeting, and the presence of a Director at any meeting shall constitute a waiver of notice of such meeting. No notice of an adjourned meeting need be given. Any and all business may be transacted at any special meeting unless otherwise indicated in the notice thereof.

5. The Secretary of Agriculture shall serve as Chairman of the Board. In the absence or unavailability of the Chairman, the President of the Corporation shall preside at meetings of the Board. In the absence or unavailability of the Chairman and the President, the Directors present at the meeting shall designate a Presiding Officer.

6. At any meeting of the Board a quorum shall consist of four Directors. The act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board.

7. The General Counsel of the Department of Agriculture, whose office shall perform all legal work of the Corporation, and the Deputy Counsel of the Department of Agriculture shall, as General Counsel of the Department of Agriculture shall, as General Counsel and Deputy General Counsel of the Corporation, respectively, attend meetings of the Board.

8. The Executive Vice President, the Vice President who is the Associate Administrator of the Agriculture Stabilization and Conservation Service, the Vice President who is the General Sales Manager of the Export Marketing Service,

the Secretary and the Controller shall attend meetings of the Board. Each of the other Vice Presidents and Deputy Vice Presidents shall attend meetings of the Board during such times as the meetings are devoted to consideration of matters as to which they have responsibility.

9. Other persons may attend meetings of the Board upon specific authorization by the Chairman or the President.

#### COMPENSATION OF BOARD DIRECTORS

10. The compensation of each Director shall be prescribed by the Secretary of Agriculture. Any director who holds another office or position under the Federal Government, the compensation for which exceeds that prescribed by the Secretary of Agriculture for such Director, may elect to receive compensation at the rate provided for such other office or position in lieu of compensation as a Director.

#### OFFICERS

11. The officers of the Corporation shall be a President, Vice Presidents, and Deputy Vice Presidents as hereinafter provided for, a Secretary, a Controller, a Treasurer, a Chief Accountant, and such additional officers as the Secretary of Agriculture may appoint.

12. The Assistant Secretary of Agriculture for International Affairs and Commodity Programs shall be ex officio President of the Corporation.

13. The following officials of the Agricultural Stabilization and Conservation Service (referred to as ASCS), Export Marketing Service (referred to as EMS), Foreign Agricultural Service (referred to as FAS), Food and Nutrition Service (referred to as FNS), and Consumer and Marketing Service (referred to as C&MS) shall be ex officio officers of the Corporation:

Administrator, ASCS; Executive Vice President.  
General Sales Manager, EMS; Vice President.  
Administrator, FAS; Vice President.  
Administrator, C&MS; Vice President.  
Administrator, FNS; Vice President.  
Associate Administrator, ASCS; Vice President.  
Deputy Administrator, Commodity Operations, ASCS; Deputy Vice President.  
Deputy Administrator, State and County Operations, ASCS; Deputy Vice President.  
Deputy Administrator, Management, ASCS; Deputy Vice President.  
Executive Assistant to the Administrator, ASCS; Secretary.  
Director, Fiscal Division, ASCS; Controller.  
Deputy Director, Fiscal Division, ASCS; Treasurer.  
Chief, Accounting Systems Branch, Fiscal Division, ASCS; Chief Accountant.

The person occupying, in an acting capacity, the office of any person designated ex officio by this paragraph 13 as an officer of the Corporation, shall, during his occupancy of such office, act as such officer.

14. Officers who do not hold office ex officio shall be appointed by the Secretary of Agriculture and shall hold office until their respective appointments shall have been terminated.

#### THE PRESIDENT

15. The President shall be Vice Chairman of the Board and shall have general supervision and direction of the Corporation, its officers and employees.

#### THE VICE PRESIDENTS

16. (a) The Executive Vice President shall be the chief executive officer of the Corporation and shall be responsible for submission of all Corporation policies and programs to the Board. Except as provided in paragraphs (b), (c), (d), and (e) below, the Executive Vice President shall have general supervision and direction of the preparation of policies and programs for submission to the Board, of the administration of the policies and programs approved by the Board, and of the day-to-day conduct of the business of the Corporation and of its officers and employees.

(b) The Vice President who is the Administrator, Foreign Agricultural Service, shall be responsible for preparation for submission by the Executive Vice President to the Board of those policies and programs of the Corporation which are for performance through the facilities and personnel of the Foreign Agricultural Service. He shall also have responsibility for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Foreign Agricultural Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(c) The Vice President who is Administrator, Consumer and Marketing Service, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Consumer and Marketing Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(d) The Vice President who is the General Sales Manager of the Export Marketing Service shall be responsible for preparation for submission by the Executive Vice President to the Board of policies and programs of the Corporation which are for performance through the facilities and personnel of the Export Marketing Service. He shall also have responsibility for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Export Marketing Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(e) The Vice President who is the Administrator, Food and Nutrition Service, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Food and Nutrition Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

17. The Vice President who is the Associate Administrator, Agricultural Stabilization and Conservation Service, and the Deputy Vice Presidents shall assist the Executive Vice President in the performance of his duties and the exercise of his powers to such extent as the President or the Executive Vice President shall prescribe, and shall perform such special duties and exercise such powers as may be prescribed from time to time by the Secretary of Agriculture, the Board, the President of the Corporation, or the Executive Vice President of the Corporation.

#### THE SECRETARY

18. The Secretary shall attend and keep the minutes of all meetings of the Board; shall attend to the giving and serving of all required notices of meetings of the Board; shall sign all papers and instruments to which his signature shall be necessary or appropriate; shall attest the authenticity of and affix the seal of the Corporation upon any instrument requiring such action; and shall perform such other duties and exercise such other powers as are commonly incidental to the office of Secretary as well as such other duties as may be prescribed from time to time by the President or the Executive Vice President.

#### THE CONTROLLER

19. The Controller shall have charge of all fiscal and accounting affairs of the Corporation, including all borrowings and related financial arrangements, claims activities, and formulation of prices in accordance with established policies; and shall perform such other duties as may be prescribed from time to time by the President or the Executive Vice President.

#### THE TREASURER

20. The Treasurer, under the general supervision and direction of the Controller, shall have charge of the custody, safekeeping and disbursement of all funds of the Corporation; shall designate qualified persons to authorize disbursement of corporate funds; shall direct the disbursement of funds by disbursing officers of the Corporation or by the Treasurer of the United States, Federal Reserve Banks and other fiscal agents of the Corporation; and shall issue instructions incidental thereto; shall be responsible for documents relating to the general financing operations of the Corporation, including borrowings from the U.S. Treasury, commercial banks and

others; shall arrange for the payment of interest on and the repayment of such borrowings; shall arrange for the payment of interest on the capital stock of the Corporation; shall coordinate and give general supervision to the claims activities of the Corporation and shall have authority to collect all monies due the Corporation, to receipt therefor and to deposit same for the account of the Corporation; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed from time to time by the Controller.

#### THE CHIEF ACCOUNTANT

21. The Chief Accountant, under the general supervision and direction of the Controller, shall have charge of the general books and accounts of the Corporation and the preparation of financial statements and reports. He shall be responsible for the initiation, preparation and issuance of policies and practices related to accounting matters and procedures, including official inventories, records, accounting and related office procedures where standardized, and adequate subsidiary records of revenues, expenses, assets and liabilities; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed from time to time by the Controller.

#### OTHER OFFICIALS

22. Except as otherwise authorized by the Secretary of Agriculture or the Board, the operations of the Corporation shall be carried out through the facilities and personnel of the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the Export Marketing Service, the Food and Nutrition Service and the Consumer and Marketing Service, in accordance with any assignment of functions and responsibilities made by the Secretary of Agriculture and, within his respective agency, by the Administrators of the Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, Food and Nutrition Service, Consumer and Marketing Service, or the General Sales Manager of the Export Marketing Service.

23. The Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service shall be contracting officers and executives of the Corporation in general charge of the activities of the Corporation carried out through their respective divisions or offices. The responsibilities of such Directors in carrying out activities of the Corporation, which shall include the authority to settle and adjust claims by and against the Corporation arising out of activities under their jurisdiction, shall be discharged in conformity with these bylaws and applicable programs, policies, and procedures.

#### BONDS

24. Such officers and employees of the Corporation, including officers and employees of the Department of Agriculture who perform duties for the Corporation,

as may be specified by the Secretary of Agriculture, shall be bonded in such manner, upon such conditions, and in such amounts as the Secretary of Agriculture may determine. The Corporation shall pay the premium of any bond or bonds.

#### CONTRACTS OF THE CORPORATION

25. Contracts of the Corporation relating to any of its activities may be executed in its name by the Secretary of Agriculture or the President. The Vice Presidents, the Deputy Vice Presidents, the Comptroller, the Treasurer, and the Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service may execute contracts relating to the activities of the Corporation for which they are respectively responsible.

26. The Executive Vice President who is the Administrator of ASCS and, subject to the written approval by such Executive Vice President of each appointment, the Vice Presidents, the Deputy Vice Presidents, the Comptroller, and the Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service may appoint, by written instrument or instruments such Contracting Officers as they deem necessary, who may, to the extent authorized by such instrument or instruments, execute contracts in the name of the Corporation. A copy of each such instrument shall be filed with the Secretary.

27. Appointments of Contracting Officers may be revoked by written instrument or instruments by the Executive Vice President or by the official who made the appointment. A copy of each such instrument shall be filed with the Secretary.

28. In executing a contract in the name of the Corporation, an official shall indicate his title.

#### ANNUAL REPORT

29. The Executive Vice President shall be responsible for the preparation of an annual report of the activities of the Corporation, which shall be filed with the Secretary of Agriculture and with the Board.

#### AMENDMENTS

30. These bylaws may be altered or amended or repealed by the Secretary of Agriculture, or subject to his approval by action of the Board at any regular meeting of the Board or at any special meeting of the Board, if notice of the proposed alteration, amendment, or repeal be contained in the notice of such special meeting.

#### APPROVAL OF BOARD ACTION

31. The actions of the Board shall be subject to the approval of the Secretary of Agriculture and the Assistant Secretary for International Affairs and Commodity Programs.

I, Seeley G. Lodwick, Acting Secretary, Commodity Credit Corporation, do hereby certify that the above is a full, true, and correct copy of the bylaws of

Commodity Credit Corporation, adopted by the Board of Directors, Commodity Credit Corporation, at a meeting held June 30, 1970, and approved by the Secretary of Agriculture, effective close of business July 2, 1970.

In witness whereof I have officially subscribed my name and have caused the corporate seal of the said Corporation to be affixed this second day of July 1970.

[SEAL] SEELEY G. LODWICK,  
Acting Secretary,  
Commodity Credit Corporation.

[F.R. Doc. 70-9852; Filed, July 31, 1970;  
8:45 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[DESI 3158]

[Docket No. FDC-D-183; NDA No. 3-158  
et al.]

### CERTAIN ANDROGEN PREPARATIONS

#### Drugs for Human Use; Drug Efficacy Study Implementation

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

1. Perandren Propionate, for Intramuscular Injection, Vials, containing 25 milligrams, 50 milligrams, or 100 milligrams testosterone propionate per milliliter; Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901 (NDA 7029).

2. Perandren Phenylacetate Intramuscular Repository, Vials, containing 50 milligrams testosterone phenylacetate per milliliter and 1 percent procaine hydrochloride; Ciba Pharmaceutical Company (NDA 9349).

3. Oreton Pellets for Subcutaneous Implantation, containing 75 milligrams testosterone per pellet; Schering Corp., 60 Orange Street, Bloomfield, N.J. 07003 (NDA 4652).

4. Halotestin Tablets, contain 10 milligrams, 5 milligrams, or 2 milligrams fluoxymesterone per tablet; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002 (NDA 10-611).

5. Ultandren Tablets containing 2 milligrams or 5 milligrams fluoxymesterone per tablet, Ciba Pharmaceutical Co. (NDA 11-424).

6. Ora-Testryl Tablets, containing 2 milligrams or 5 milligrams fluoxymesterone per tablet; E. R. Squibb and Sons Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 11-359).

7. Delatestryl, Sterile Solution, for Intramuscular Injection, containing 200 milligrams testosterone enanthate per milliliter, and in disposable syringes containing 200 mg. testosterone enanthate per syringe; E. R. Squibb and Sons Inc. (NDA 9165).

8. Neo-Hombreol (M), Tablets, containing 10 milligrams or 25 milligrams methyltestosterone per tablet; Organon Inc., 375 Mount Pleasant Avenue, West Orange, N.J. 07052 (NDA 3234).

9. Metandren Linguets and Tablets, containing 5 milligrams or 10 milligrams methyltestosterone per linguet, and 10 milligrams or 25 milligrams methyltestosterone per tablet; Ciba Pharmaceutical Co. (NDA 3240).

10. Oreton Methyl Tablets, containing 10 milligrams or 25 milligrams methyltestosterone per tablet; Schering Corp. (NDA 3158).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new-drug applications and supplements to previously approved new-drug applications under conditions described in this announcement.

**I. Testosterone for subcutaneous implantation—A. Effectiveness classification.** The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that:

1. This drug is effective for eunuchism, euchochoidism, and male climacteric.

2. It lacks substantial evidence of effectiveness for advanced breast carcinoma.

**B. Form of drug.** This preparation is in pellet form suitable for subcutaneous implantation.

**C. Labeling conditions.** 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guideline for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling is as follows:

#### INDICATIONS

1. Eunuchoidism and eunuchism.
2. Male climacteric symptoms when these are secondary to testosterone deficiency.

**D. Marketing status.** Marketing of the drug may continue under the conditions described in items VIII and IX of this announcement.

**II. Testosterone enanthate solution for intramuscular injection—A. Effectiveness classification.** The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that:

1. This drug is effective in the therapy of eunuchism, euchochoidism, deficiency after castration, male climacteric symptoms, and oligospermia.

2. The drug is probably effective for postmenopausal or senile osteoporosis.

3. This drug is possibly effective for use in senile pruritis; tissue atrophy in geriatric patients; cryptorchidism with evidence of hypogonadism; and for an anabolic effect in protein depletion and chronic debility, depletion of protein osseous tissue during corticoid therapy, spinal paraplegia, and delayed fracture union.

4. Testosterone enanthate lacks substantial evidence of effectiveness for involuntional melancholia, dysfunctional uterine bleeding, prevention of postpartum breast engorgement and inhibition of lactation, menopausal syndrome, frigidity, and mammary cancer in premenopausal women.

**B. Form of drug.** Testosterone enanthate preparations are solutions suitable for intramuscular administration.

**C. Labeling conditions.** 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "indications" section of the labeling is as follows:

#### INDICATIONS

In the male:

1. Eunuchism, euchochoidism, deficiency after castration.
2. Male climacteric symptoms when these are secondary to androgen deficiency.
3. Oligospermia.

In the female or male:

1. Postmenopausal or senile osteoporosis. Androgens are without value as a primary therapy, but may be of value as adjunctive therapy. Equal or greater consideration should be given to diet, calcium balance, physiotherapy, and good general health-promoting measures.

**D. Marketing status.** Marketing of the drug may continue under the conditions described in items VIII and IX of this announcement except those claims referenced in item VII below may continue to be included in the labeling for the periods stated.

**III. Methyltestosterone for oral or buccal administration—A. Effectiveness classification.** The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. This drug is effective for eunuchism and euchochoidism, male climacteric symptoms when these are secondary to androgen deficiency, impotence due to androgenic deficiency, androgen-responsive breast cancer, prevention of postpartum breast manifestations of pain and engorgement, and postpuberal cryptorchidism with evidence of hypogonadism.

2. This drug is probably effective for postmenopausal osteoporosis.

3. This drug is possibly effective for suppression of lactation, prepuberal cryptorchidism with evidence of hypogonadism, convalescent and cachectic states for anabolic effect.

4. Methyltestosterone lacks substantial evidence of effectiveness for the menopausal syndrome, dysmenorrhea and premenstrual tension, and functional uterine bleeding.

**B. Form of drug.** Methyltestosterone preparations are in tablet form suitable for oral or buccal administration.

**C. Labeling conditions.** 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling is as follows:

#### INDICATIONS

In the male:

1. Eunuchoidism and eunuchism.
2. Male climacteric symptoms when these are secondary to androgen deficiency.
3. Impotence due to androgenic deficiency.
4. Postpuberal cryptorchidism with evidence of hypogonadism.

In the female:

1. Prevention of postpartum breast manifestations of pain and engorgement. There is no satisfactory evidence that this drug prevents or suppresses lactation per se.

2. Postmenopausal osteoporosis. Androgens are without value as a primary therapy, but may be of value as adjunctive therapy. Equal or greater consideration should be given to diet, calcium balance, physiotherapy, and good general health-promoting measures.

3. Palliation of androgen-responsive, advancing, inoperable breast cancer, in women who are more than 1, but less than 5 years postmenopausal or who have been proven to have a hormone-dependent tumor, as shown by previous beneficial response to castration.

**D. Marketing status.** Marketing of the drug may continue under the conditions described in items VIII and IX of this announcement except those claims referenced in item VII below may continue to be included in the labeling for the periods stated.

**IV. Testosterone propionate solution for intramuscular injection—A. Effectiveness classification.** The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that:

1. This drug is effective for postpuberal cryptorchidism with evidence of hypogonadism, eunuchism, and euchochoidism, male climacteric symptoms due to testosterone deficiency; palliation of mammary cancer, impotence due to inadequate androgen production, and for prevention of post-partum pain and engorgement.

2. The drug is probably effective for postmenopausal osteoporosis.

3. The drug is possibly effective for prepuberal cryptorchidism with evidence of hypogonadism, suppression of lactation, convalescence and cachectic states for anabolic effect.

4. Testosterone propionate lacks substantial evidence of effectiveness for

menopause, dysmenorrhea, and premenstrual tension, functional uterine bleeding, menorrhagia, metrorrhagia, endometriosis, and chronic cystic mastitis.

**B. Form of drug.** Testosterone propionate preparations are solutions suitable for intramuscular administration.

**C. Labeling conditions.** 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "indications" section of the labeling is as follows:

#### INDICATIONS

##### In the male:

1. Postpubertal cryptorchidism with evidence of hypogonadism.
2. Eunuchism and eunuchoidism. Treatment is not usually begun until puberty.
3. Impotence (due to inadequate androgen production).
4. Male climacteric symptoms, if these are due to testosterone deficiency.

##### In the female:

1. Prevention of postpartum breast manifestations of pain and engorgement. There is no satisfactory evidence that this preparation prevents or suppresses lactation itself.
2. Postmenopausal osteoporosis. Androgens are without value as a primary therapy, but may be of value as adjunctive therapy. Equal or greater consideration should be given to diet, calcium balance, physiotherapy, and good general health-promoting measures.
3. Palliation of androgen-responsive, advancing, inoperable mammary cancer in women who are more than 1, but less than 5 years postmenopausal or who have been proven to have hormone-dependent tumor, as shown by previous beneficial response to castration.

**D. Marketing status.** Marketing of the drug may continue under the conditions described in items VIII and IX of this announcement except those claims referenced in item VII below may continue to be included in the labeling for the periods stated.

**V. Testosterone phenylacetate suspension for intramuscular repository—A. Effectiveness classification.** The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that:

1. This drug is effective for eunuchoidism, male climacteric symptoms when these are secondary to testosterone deficiency, and palliation of mammary cancer.
2. This drug is probably effective for osteoporosis (postmenopausal).
3. This drug is possibly effective for anabolic effect in fracture after surgery and injury in convalescence to oppose catabolic action of cortisone.
4. Testosterone phenylacetate lacks substantial evidence of effectiveness for prepubertal hypogonadism, menorrhagia and metrorrhagia.

**B. Form of drug.** Testosterone phenylacetate preparations are suspensions suitable for intramuscular repository administration.

**C. Labeling conditions.** 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling is as follows:

#### INDICATIONS

##### In the male:

1. Eunuchoidism and eunuchism.
2. Climacteric symptoms when these are secondary to testosterone deficiency.

##### In the female:

1. Postmenopausal osteoporosis. Androgens are without value as a primary therapy, but may be of value as adjunctive therapy. Equal or greater consideration should be given to diet, calcium balance, physiotherapy, and other good general health-promoting measures.
2. Palliation of androgen-responsive, advancing, inoperable mammary cancer in women who are more than 1 year, or less than 5 years postmenopausal who have been proven to have a hormone-dependent cancer. With the use of this long-acting preparation, it would be impossible to properly nullify the untoward effects of tumor progression, hypercalcemia, or salt and water retention.

**D. Marketing status.** Marketing of the drug may continue under the conditions described in items VIII and IX of this announcement except those claims referenced in item VII below may continue to be included in the labeling for the periods stated.

**VI. Fluoxymesterone for oral administration—A. Effectiveness classification.** The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. This drug is effective for panhypopituitarism, eunuchism and eunuchoidism, delayed puberty, male climacteric symptoms when these are secondary to androgen deficiency, palliation of advanced inoperable mammary cancer, prevention of postpartum breast manifestations and impotence due to androgen deficiency.
2. This drug is probably effective for osteoporosis (postmenopausal).
3. This drug is possibly effective for control of lactation; in the treatment of protein depletion states which occur in geriatric patients, in debilitation disorders, in chronic corticoid therapy; resistant fractures; cryptorchidism; creating a positive nitrogen balance, tissue repair and other anabolic effects.
4. Fluoxymesterone lacks substantial evidence of effectiveness for menorrhagia and metrorrhagia, and treatment of frigidity.

**B. Form of drug.** Fluoxymesterone preparations are in tablet form suitable for oral administration.

**C. Labeling conditions.** 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling is as follows:

#### INDICATIONS

##### In the male:

The primary indication in the male is replacement therapy in conditions associated with a deficiency or absence of endogenous testicular hormone. Androgen therapy prevents the development of atrophic changes in the accessory male sex organs following castration; as long as replacement therapy is continued, these organs can be maintained in a relatively normal state.

1. Primary eunuchoidism and eunuchism.
2. Male climacteric symptoms when these are secondary to androgen deficiency.
3. Those symptoms of panhypopituitarism related to hypogonadism. Appropriate adrenal cortical and thyroid hormone replacement therapy are still necessary, however, and are actually of primary importance.
4. Impotence due to androgen deficiency.
5. Delayed puberty, provided it has been definitely established as such, and it is not just a familial trait.

##### In the female:

1. Prevention of postpartum breast manifestations of pain and engorgement. There is no satisfactory evidence that this drug prevents or suppresses lactation per se.
2. Postmenopausal osteoporosis. Androgens are without value as a primary therapy, but may be of value as adjunctive therapy. Equal or greater consideration should be given to diet, calcium balance, physiotherapy, and good general health-promoting measures.
3. Palliation of androgen-responsive, advanced, inoperable female breast cancer, in women who are more than 1, but less than 5 years postmenopausal or who have been proven to have a hormone-dependent tumor, as shown by previous beneficial response to castration.

**D. Marketing status.** Marketing of the drug may continue under the conditions described in items VII and IX of this announcement except those claims referenced in item VII below may continue to be included in the labeling for the periods stated.

**VII. Indications permitted during the extended period for obtaining substantial evidence.** A. Those indications for which the drugs are described in paragraphs II.A, III.A, IV.A, V.A, and VI.A above as probably effective are included in the labeling conditions and may continue to be used for 12 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drugs without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

B. Those indications for which the drugs are described in paragraphs II.A, III.A, IV.A, V.A, and VI.A above as possibly effective (not included in the labeling conditions) may continue to be used for 6 months following the date of this publication to allow additional time within which such persons may obtain

and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under controlled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

**VIII. Previously approved applications.** 1. Each holder of a "deemed approved" new-drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform to the labeling conditions described here for the drug, and complete current container labeling, unless recently submitted.

b. Adequate data to assure the biologic availability of the drug in the formulation which is marketed. For preparations claiming sustained action, timed release, or other delayed or prolonged effect, these data should show that the drug is available at a rate of release which is safe and effective. If such data are already included in the application, specific reference thereto may be made.

c. Updating information as needed to make the application current in regard to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls), of the new-drug application form 356H to the extent described for abbreviated new-drug applications, § 130.4(f), published in the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6574). (One supplement may contain all the information described in this paragraph.)

2. Such supplements should be submitted within the following periods after the date of publication of this notice in the FEDERAL REGISTER:

a. 60 days for revised labeling—the supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 180 days for biologic availability data.

c. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include

the indications referenced in section VII for the periods stated.)

**IX. New applications.** 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under A above, should submit an abbreviated new drug application meeting the conditions specified in § 130.4(f) (1), (2), and (3), published in the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6574). Such applications should include proposed labeling which is in accord with the labeling conditions described herein and adequate data to assure the biologic availability of the drug in the formulation which is marketed or proposed for marketing. For preparations claiming sustained action, timed release, or other delayed or prolonged effect, these data should show that the drug is available at a rate of release which will be safe and effective.

2. Distribution of any such preparation currently on the market without an approved new drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in item VII for the periods stated.)

b. The manufacturer, packer, or distributor of such drug submits, within 180 days from the date of this publication, a new drug application to the Food and Drug Administration.

c. The applicant submits within a reasonable time, additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

**X. Exemption from periodic reporting.** The periodic reporting requirements of §§ 130.35(e) and 130.13(b)(4) are waived in regard to applications approved for these drugs solely for the conditions of use for which the drugs are regarded as effective as described herein. The reporting requirements of §§ 130.35(f) and 130.13(b)(1), (2), and (3) are not waived by this exemption and are a continuing obligation of the applicant.

**XI. Opportunity for a hearing.** A. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraphs I.A, II.A, III.A, IV.A, V.A, and VI.A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any drug

for human use containing the same components and offered for the indications for which substantial evidence of effectiveness is lacking, to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

B. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

**XII. Unapproved use or form of drug.**

1. If the article is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such recommended use is approved in a new drug application, or is otherwise in accord with this announcement.

2. If the article is proposed for marketing in another form or for use other than the use provided for in this announcement, appropriate additional information as described in § 130.4 or § 130.9 of the regulations (21 CFR 130.4, 130.9) may be required, including results of animal and clinical tests intended to show whether the drug is safe and effective.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number

DESI 3158 and be directed to the attention of the following appropriate office and unless otherwise specified be addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Requests for Hearing (Identify with docket number): Hearing Clerk, Office of General Counsel (GC-1) Room 6-62, Parklawn.  
Supplements (Identify with NDA number): Office of Marketed Drugs (BD-200), Bureau of Drugs.

Original abbreviated new-drug applications (Identify as such): Office of Marketed Drugs (BD-200) Bureau of Drugs.

All other communications regarding this announcement:

Special Assistant for Drug Efficacy Study Implementation (BD-201), Bureau of Drugs.

Requests for NAS-NRC reports: Press Relations Office (CE-200), Food and Drug Administration, 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, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 6, 1970.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[F.R. Doc. 70-9969; Filed, July 31, 1970;  
8:47 a.m.]

## GEIGY CHEMICAL CORP.

### Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 0B2566) has been filed by Geigy Industrial Chemicals, Division of Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer at levels not to exceed 0.25 by weight of polystyrene and rubber-modified polystyrene, complying with § 121.2510, intended for food-contact use.

Dated: July 23, 1970.

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

[F.R. Doc. 70-9966; Filed, July 31, 1970;  
8:46 a.m.]

## o-ISOPROPOXYPHENYL METHYLCARBAMATE

### Notice of Extension of Temporary Tolerance

Chemagro Corp., Post Office Box 4913, Kansas City, Mo. 64120, was granted a temporary tolerance for residues of the

insecticide o-isopropoxyphenyl methylcarbamate in or on the raw agricultural commodities straws of barley, oats, and wheat at 1 part per million and grains of barley, oats, and wheat at 0.5 part per million on April 23, 1969 (notice was published in the FEDERAL REGISTER of May 1, 1969; 34 F.R. 7180) which expired April 23, 1970.

The firm has amended its petition by reducing the tolerance levels to 0.2 part per million for the straws and 0.1 part per million for the grains of barley, oats, and wheat and has requested a 1-year extension to permit additional tests in accordance with temporary permits issued by the U.S. Department of Agriculture.

The Commissioner of Food and Drugs has determined that such extension would protect the public health. Therefore, an extension has been granted and will expire July 24, 1971.

This section is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 512; 21 U.S.C. 346a(j)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,  
Acting Associate Commissioner  
for Compliance.

[F.R. Doc. 70-9955; Filed, July 31, 1970;  
8:46 a.m.]

## DEPARTMENT OF COMMERCE

### Office of the Secretary

[Department Organization Order 10-1;  
Amtd. 1]

### ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

#### Delegation of Authority

The following amendment to the order was issued by the Secretary of Commerce on July 1, 1970. This material supersedes the material appearing at 30 F.R. 15042 of December 4, 1965; and amends the material appearing at 34 F.R. 12840 of August 7, 1969.

The Office of State Technical Services (OSTS) is hereby abolished, and Department Organization Order 10-1 of July 25, 1969, is hereby amended as follows:

1. SEC. 3. *Scope of authority.* Paragraph .01 is amended to delete the reference to the Office of State Technical Services, and a new paragraph .021. is added to read:

"1. To exercise the functions, powers, duties, and authorities of the Secretary of Commerce pursuant to the provisions of the State Technical Services Act of 1965 (Public Law 89-182, 15 U.S.C. 1351-1368), as may be required, including reduction of the Department's activities under the Act in the absence of authorized funds."

2. SEC. 6. *Saving provision.* References in any document or order to OSTs or the Director, OSTs, shall be deemed to re-

late to or refer to the Assistant Secretary for Science and Technology.

Effective date: July 1, 1970.

LARRY A. JOBE,  
Assistant Secretary  
for Administration.

[F.R. Doc. 70-9964; Filed, July 31, 1970;  
8:46 a.m.]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### ACTING FEDERAL INSURANCE ADMINISTRATOR

#### Designation

The following persons are hereby designated to serve as Acting Federal Insurance Administrator during the absence of the Federal Insurance Administrator, with all the powers, functions, and duties delegated or assigned to the Administrator: *Provided*, That no official is authorized to act in the Administrator's capacity, unless all of the officials whose position titles precede his in this designation are unable to act by reason of absence or a vacancy:

1. Charles W. Wiecking, Assistant Administrator for Program Development.
2. Richard W. Krimm, Assistant Administrator for Flood Insurance.

This designation amends the designation effective March 26, 1970 (35 F.R. 5570, Apr. 3, 1970).

(Secretary's delegations of authority effective Feb. 27, 1969 (34 F.R. 2680, Feb. 27, 1969)).

Effective date. This designation shall be effective as of Monday, July 22, 1970.

GEORGE K. BERNSTEIN,  
Federal Insurance Administrator.

[F.R. Doc. 70-9970; Filed, July 31, 1970;  
8:47 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGFR 70-104]

### BOSTON HARBOR

#### Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), sec. 6(b) (1), 80 Stat. 937, 49 U.S.C. 1655(b) (1), 49 CFR 1.46(b) and the redelegation of authority to Chief, Office of Operations, U.S. Coast Guard, as contained in the FEDERAL REGISTER of May 27, 1970 (35 F.R. 8279), I hereby affirm for publication in the FEDERAL REGISTER the order of W. B. Ellis, Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

## BOSTON HARBOR SECURITY ZONE

"Under the present authority of section 1 of title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, and Executive Order 10173, as amended, I declare that from 0900 Eastern Daylight Time on Monday, August 3, 1970, until 1200 Eastern Daylight Time on Monday, August 3, 1970, and from 0900 Eastern Daylight Time on Wednesday, 5 August, 1970 until 1200 Eastern Daylight Time on Wednesday, 5 August 1970, the following area is a security zone and I order it to be closed to any person or vessel due to the transiting of this area by the U.S.S. JOHN F. KENNEDY and the restrictive size of the channels which will not allow any other traffic during the times indicated above:

"The waters of Boston Harbor including the East and West Parts of the Boston North Channel as far north as Finns Ledge (42-22-12N & 70-55-12W), that part of President Roads west of 70-56W and north of 42-19-52N (excluding anchorage 2) and the Boston Main Channel east of 71-02W."

No person or vessel shall remain in or enter this security zone without permission of the Captain of the Port.

The Captain of the Port, Boston, Mass., shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel and facilities of any other Federal agency, or of any state or political subdivision thereof.

For violation of this order, section 2 of title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

"If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years, and may, in the discretion of the court, be fined not more than \$10,000.

"(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than \$10,000."

Dated: July 30, 1970.

R. E. HAMMOND,  
Rear Admiral, U.S. Coast Guard,  
Chief, Office of Operations.

[F.R. Doc. 70-10074; Filed, July 31, 1970;  
8:51 a.m.]

# National Transportation Safety Board

[Docket No. SS-H-10]

## INVESTIGATION OF CHARTERED BUS CRASH NEAR NEW SMITHVILLE, PA.

### Notice of Hearing

In the matter of investigation of the Chartered Bus Crash on U.S. Route 22, (I-78), near New Smithville, Pa., on July 15, 1970.

Notice is hereby given that a Highway Accident Investigation Hearing on the above matter will be held commencing at 9 a.m. e.d.t., on Tuesday, September 22, 1970, in the South Room of the Holiday Inn-West, located on U.S. Route 22 at U.S. Route 309, Allentown, Pa.

Dated this 27th day of July 1970.

For the Board.

[SEAL] FRANCIS H. McADAMS,  
Chairman, Board of Inquiry.

[F.R. Doc. 70-9959; Filed, July 31, 1970;  
8:46 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18737, 18738; FCC 70R-258]

### MEYER BROADCASTING CO. AND HARRISCOPE BROADCASTING CORP. Memorandum Opinion and Order

#### Memorandum Opinion and Order Enlarging Issues

In regard applications of Meyer Broadcasting Co., Glendive, Mont., Docket No. 18737, File No. BPTTV-3723; Harrisclope Broadcasting Corp., Glendive, Mont., Docket No. 18738, File No. BPTTV-3758; for construction permit for new television broadcast translator station.

1. This proceeding involves the mutually exclusive applications of Meyer Broadcasting Co. (Meyer) and Harrisclope Broadcasting Corp. (Harrisclope) for permits to construct a new 100-watt VHF television broadcast translator station on Channel 9 at Glendive, Mont. Meyer proposes to rebroadcast the signals of its Station KUMV-TV, Channel 8, Williston, N. Dak.; and Harrisclope proposes to rebroadcast the signals of its Station KULR-TV, Channel 8, Billings, Mont. By memorandum opinion and order, FCC 69-1226, 20 FCC 2d-532, released November 14, 1969, the Commission designated the applications for hearing on three comparative issues.<sup>1</sup> Presently before the Review Board is a petition to enlarge issues, filed April 21, 1970, by Meyer,<sup>2</sup> requesting the addition

<sup>1</sup> The designated issues are:

1. To determine, on a comparative basis, which of the proposals would better meet the programming tastes, needs, and interests of the community.

2. To determine which of the applicants offers the better prospect for eventual construction and operation of a regular television broadcast station on the channel in Glendive.

3. To determine which of the proposals would better serve the public interest, convenience, and necessity.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

<sup>2</sup> Also before the Review Board are: (a) opposition, filed May 25, 1970, by Harrisclope; (b) Broadcast Bureau's comments, filed May 25, 1970; (c) reply, filed June 1, 1970, by Meyer; and (d) supplemental information to petition to enlarge issues, filed July 6, 1970, by Meyer.

of a comparative issue to determine which of the proposals would provide the most reliable signal from the originating station to the proposed TV translator stations.

2. Meyer concedes that its petition is not timely under § 1.229 of the Commission's rules and requests that the rule be waived. In support of a waiver, Meyer submits the following: In the designation order, the Commission directed that "the issues and conduct of the hearing are to be governed by the principles \* \* \* set out in the Montana Network, 9 FCC 2d 705, 10 RR 2d 1104 [(1967)] and WLUC, Inc., 13 FCC 2d 406, 13 RR 2d 508 [(1968)]." Beyer states that the issues in this proceeding are identical with those specified by the Commission in The Montana Network case. Petitioner further contends that in The Montana Network case evidence was adduced at the hearing and findings of fact and conclusions of law were made by the Hearing Examiner with respect to the technical engineering factors affecting the reception of the signal by the TV translators from the originating stations and to reception conditions over the areas in question.<sup>3</sup> Meyer states that at the March 31, 1970, hearing session in this proceeding, it submitted evidence purporting to show the nature and quality of the signals which would be provided by each of the applicants to the city of Glendive. The Hearing Examiner ruled that such evidence was not within the scope of the existing issues, and that Meyer could request an enlargement of the issues in order to determine which applicant would provide the most reliable service to Glendive. Relying upon its interpretation of the principles in The Montana Network, supra, and the engineering evidence accepted therein, Meyer explains that it did not timely petition the Commission for enlargement of issues as prescribed by § 1.229. As to the merits of its request, Meyer submits that its translator station will receive KUMV-TV's signal on a one-hop basis over a distance of 75.5 miles, while the Harrisclope proposal requires transmission over a path distance of more than 209 miles, necessitating relays of four separate hops. The hearing exhibits originally offered by Meyer and a sworn engineering statement are attached to the petition to support Meyer's contentions. Petitioner contends, with regard to Harrisclope's proposal, that the terrain over which these signals are directed is extremely rugged and mountainous and that line-of-sight transmission does not exist on any hop with the exception of a marginal situation for the path between Miles City and Terry (third leg). Meyer asserts that considering the nature of the terrain, the large distances between transmitters and receivers, and the comparatively low power of the translators for the four-hop system, very low signal strengths can be expected at the relay

<sup>3</sup> The initial decision (FCC 68D-14, released Feb. 21, 1968, 12 FCC 2d 396, 12 RR 2d 1265) became effective Apr. 11, 1968, pursuant to § 1.276.

points, and that the computed signal strength on these four hops are approximately 20, 100(UHF), 44, and 15 microvolts per meters, respectively. In contrast, it claims that the computed signal from KUMV-TV at the Glendive receiving site is in excess of 100  $\mu\text{V}/\text{m}$  (VHF), and that a recommended signal level for a noise-free picture and for a proper fading margin is a minimum of 500  $\mu\text{V}/\text{m}$ , but preferably 1,000  $\mu\text{V}/\text{m}$  for UHF and 500  $\mu\text{V}/\text{m}$  or slightly less for VHF, and that the signals of the lower level expected at the end of four-hop transmission system, even increased by antenna gain at all locations with allowances for the line loss, conceivably could not deliver the recommended signal strength for a noise-free picture.

3. Harriscoppe opposes Meyer's petition on procedural and substantive grounds. Harriscoppe first contends that Meyer's reliance on The Montana Network case is misplaced: although engineering evidence relating to the capability of one of the applicants to achieve its proposal was introduced in that proceeding, there was no authoritative resolution of the admissibility of such evidence under the issues as framed, because the initial decision was not appealed and became effective pursuant to § 1.276. Whatever merit there may have been in Meyer's determination that The Montana Network case warranted its course of action in this case, Harriscoppe asserts, no excuse has been or can be offered for its failure to raise the present issue until some 3 months following the second prehearing conference, held on January 21, 1970, at which counsel for Meyer proposed to inquire into the technical feasibility of the manner in which Harriscoppe proposed to transmit the KULR-TV signal to the proposed translator in Glendive. Counsel for the Broadcast Bureau expressed the view that enlargement of the issues would be required, states Harriscoppe, making known to Meyer at that time that its proffered evidence would be opposed on the grounds of materiality and relevance. Harriscoppe thus urges that no basis exists for waiver of the time requirement set forth in § 1.229 and that the petition must therefore be judged on the basis of the standards enunciated in *Edgefield-Saluda Radio Co.*, 5 FCC 2d 148, 8 RR 2d 611 (1966), which standards, Harriscoppe states, Meyer fails to meet. In the opinion of Harriscoppe's engineer, whose affidavit is attached to the opposition, Meyer's observations regarding the signals are meaningless in evaluating the present performance of the Miles City translator, because they do not provide any quantitative evidence on which the long-term performance of these translators can be judged. The engineer contends that the dipole receiving antenna, mounted 6 feet above ground on an automobile, utilized by Meyer in making observations around Miles City is not a typical receiving installation and does not provide a fair test of the quality of the signal transmitted by the translator. He also observes that no evidence was submitted on the actual performance of the receiving equipment itself. Noting that the photographs supplied by Meyer

indicate that the translator at Terry was subjected to interference which, in his opinion, can be caused by adjacent translator installations, Harriscoppe's engineer asserts that installation of proper filters and attention to good installation practices can virtually eliminate such interference. It is submitted that while Meyer points out that several of the paths involve terrain obstructions, no evidence is offered that the diffraction loss is so severe as to preclude proper operation, assuming antenna systems of reliable gain and low-noise preamplifiers, and that line-of-sight can be attained by merely adding 100 to 250 feet of tower height at each end.

4. The Broadcast Bureau, in its comments, supports Meyer's petition, on the ground that the factual matters raised by Meyer and its supporting exhibits should be the subject of an evidentiary hearing. However, the Bureau feels that the feasibility of both proposals has been brought into question and therefore would frame the issue in terms of the basic, and not comparative, qualifications of the applicants.

5. In reply, Meyer contends that the Commission itself determined that The Montana Network case constituted "ruling case law" when it prescribed that the instant hearing is to be governed by the principles and issues set forth in that case, and that the Broadcast Bureau's favorable comments prove that the additional issue requested is so substantial as to outweigh the public interest benefits inherent in the orderly and fair administration of the Commission's business. In its supplementary pleading (see note 2, supra), Meyer calls the Board's attention to a recent court decision<sup>4</sup> in which the U.S. Court of Appeals for the Ninth Circuit reversed a Commission order and remanded the proceeding to the Commission for an adequate determination of the present and potential quality of a TV signal at the headend of a CATV system. Meyer submits that the question of the quality of the TV signals received at the transmitter sites of the proposed TV translators in this case "raises the identical issue" as that ordered by the court in *Cable TV of Santa Barbara*.

6. The Review Board is not satisfied that good cause for the late filing of Meyer's petition has been shown. The designation order was published on November 21, 1969; therefore, the time for filing a timely enlargement petition has long since passed. Meyer's reliance on The Montana Network case is understandable; however, as pointed out by Harriscoppe, counsel for Meyer was apprised on January 21, 1970, that the engineering evidence in question would be opposed as not within the scope of the existing issues; the Examiner rejected the proffered evidence on March 31, 1970, and the instant petition was not filed until 21 days later. Consequently, viewed either as an appeal from the Examiner's ruling or as a petition to enlarge issues, Meyer's request is untimely (Commission

Rules 1.229 and 1.301) and no adequate explanation for the late filing has been given. Nevertheless, Meyer's petition does raise a public interest question of substantial magnitude and enlargement of the issues will not unduly disrupt the proceedings. Thus, consistent with our practice,<sup>5</sup> we have considered the petition on the merits and have concluded that the issue should be added.<sup>6</sup> In The Montana Network, supra, the Commission stated that in proceedings such as this one, involving mutually exclusive applications for 100-watt TV translators, "it is difficult to frame issues for a hearing which will provide a realistic basis for decision because the Commission's usual comparative criteria have been developed in contests between applicants for stations capable of local program origination. Here, however, there appears to be little basis upon which the proposals may be meaningfully compared." 9 FCC 2d at 706, 10 RR 2d at 1105. In the Montana case, a comparative inquiry into the applicants' engineering proposals was not specified; however, engineering evidence was adduced at the hearing and the Examiner ruled on its weight in his conclusions.<sup>7</sup> The efficient operation of a broadcast facility is often an appropriate matter for inquiry in a comparative broadcast facility is often an appropriate matter for inquiry in a comparative broadcast hearing. Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, 398-399, 5 RR 2d 1901, 1913 (1965). See, e.g., *Minshall Broadcasting Company, Inc.*, 15 FCC 2d 931, 15 RR 2d 394 (1969). Likewise, in comparative TV translator cases, the question of efficiency should be explored where a threshold showing has been made indicating a material difference in signals to be received. See *The Montana Network*, supra, 12 FCC 2d 396, 12 RR 2d 1265.<sup>8</sup> Cf. Report and Order in Docket No. 18858, 1 FCC 2d 15, 22, 5 RR 2d 1702, 1709 (1965). In our opinion, Meyer has made such a threshold showing, raising a public interest question which should be determined in an evidentiary hearing. Therefore, we will specify a comparative issue to determine which of the proposals would provide the most reliable TV signal

<sup>4</sup> *The Edgefield-Saluda Radio Co.*, 5 FCC 2d 148, 8 RR 2d 611 (1966); *Medford Broadcasters, Inc.*, 18 FCC 2d 699, 700, 16 RR 2d 900, 902 (1969), and cases cited therein.

<sup>5</sup> Contrary to Harriscoppe's contentions, the fact that the Commission did not consider or specify the requested issue in the designation order does not preclude our doing so at this time. See *Atlantic Broadcasting Co.*, 5 FCC 2d 717, 8 RR 2d 991 (1966). See also *Day-Nite Radio Message Service Corp.*, 23 FCC 2d —, —, 19 RR 2d 301, 304 (1970).

<sup>6</sup> The Examiner found the evidence to be inconclusive, 12 FCC 2d at 417, 12 RR 2d at 1286.

<sup>7</sup> As Harriscoppe points out, the initial decision in The Montana Network case is not precedent because it has never been reviewed. See *WFGP, Inc.* 33 FCC 673, 677, 24 RR 419, 425 (1962). However, we cannot overlook the sound reasoning of the Examiner in that case in allowing the evidence to be adduced.

<sup>8</sup> *Cable TV of Santa Barbara, Inc. v. FCC*, — F. 2d —, 19 RR 2d 2053 (Case No. 24,827, 9th Cir., June 8, 1970).

from the originating station to the proposed TV translator stations in order to render a program service to Glendive." As Meyer states, "service to the public in Glendive would be meaningless unless the signal of the originating station would be satisfactorily received and retransmitted by the projected translators." In short, Meyer and Harriscope have, in their conflicting allegations, raised a serious question about the quality of television service to be provided by each of the applicants to Glendive. An appropriate issue will therefore be added in this proceeding. Henceforth, however, in proceedings such as this one, i.e., comparative TV translator cases, requests for comparative engineering inquiries should, in the first instance, be addressed to the Hearing Examiner, who will determine whether a threshold showing has been made warranting an evidentiary inquiry. If, in the Examiner's view, an adequate showing is made, relevant evidence may be adduced without the necessity for enlarging the issues. Cf. *Jaco, Inc.*, 18 FCC 2d 677, 16 RR 2d 894 (1969). The right to appeal such rulings to the Review Board is, of course, preserved. See section 1.301 of the rules.

7. Accordingly, it is ordered, That the petition to enlarge issues, filed April 21, 1970, by Meyer Broadcasting Co. is granted; and

8. It is further ordered, That the hearing issues are enlarged by the addition of the following issue:

To determine, on a comparative basis, which of the proposals would provide the most reliable signal to the Glendive translator station for rendering of a program service to the Glendive area.

Adopted: July 23, 1970.

Released: July 27, 1970.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>10</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 70-9975; Filed, July 31, 1970;  
8:47 a.m.]

[Dockets Nos. 18564, 18566; FCC 70R-259]

## RADIO ANTILLES, INC. AND ZABA RADIO CORP.

### Memorandum Opinion and Order Enlarging Issues

In regard applications of Radio Antilles, Inc., Ponce, P.R., Docket No. 18564, File No. BP-17547; Zaba Radio Corp., Ponce, P.R., Docket No. 18566, File No. BP-17862; for construction permits.

1. Before the Review Board for consideration is a motion to enlarge issues, filed April 13, 1970, by Zaba Radio Corp.

<sup>9</sup> The Bureau has failed to show why a basic qualifications, as opposed to a comparative, issue is necessary. In this connection, we note that there are no minimum signal standards for TV translators. See report and order in Docket No. 15858, supra. A comparative issue will more fully comport with the standards set out by the Commission in the Montana Network, supra.

<sup>10</sup> Review Board member Pincock absent.

(Zaba),<sup>1</sup> which requests the addition of issues inquiring into the availability of the proposed transmitter site of Radio Antilles, Inc. (Radio Antilles), and the character qualifications of that applicant.<sup>2</sup>

2. Zaba concedes that the instant motion, which was filed almost 10 months after the hearing issues were first published in the FEDERAL REGISTER, contravenes the time limitation enunciated in § 1.229(b) of the Commission's rules. However, movant asserts that good cause for its untimeliness exists, for only recently has it had reason to suspect the availability of Radio Antilles' proposed transmitter site. In any event, argues Zaba, consideration of the subject motion on its merits is in the public interest, especially in light of the Hearing Examiner's continuation of the proceeding indefinitely. Order, FCC 70M526, released April 7, 1970. With regard to the merits of its requests, Zaba submits an unverified letter, dated April 1, 1970, from the alleged receiver of the property identified as Radio Antilles' proposed transmitter site, Jesus Guzman, who states that no option for the erection of a broadcast station on the property in his custody has been granted. Since no mention of any outstanding lease or agreement to lease was made by Mr. Guzman, Zaba contends that serious doubt exists concerning, not only Radio Antilles' reasonable assurance that its proposed site will be available, but also the honesty and completeness of Radio Antilles' response to paragraph 1, section III, of its application, wherein the existence of a lease for the proposed transmitter site was indicated.<sup>3</sup> Addition of the requested issues would, in Zaba's view, permit the resolution of the serious questions raised in its motion.

3. The Broadcast Bureau and Radio Antilles oppose the instant motion. The Bureau maintains that Zaba has neither supported its bare assertion that good cause exists for the late filing of its motion nor demonstrated that its allegations comport with the standard set forth in The Edgefield-Saluda Radio Co.,

<sup>1</sup> Also before the Board are the following related pleadings: (a) Opposition, filed May 25, 1970, by the Broadcast Bureau; (b) opposition, filed June 10, 1970, by Radio Antilles; and (c) reply, filed June 30, 1970, by Zaba.

<sup>2</sup> The latter issue, as drafted by the movant, questions the completeness and accuracy of the information initially set forth in the Radio Antilles application concerning the acquisition of the property for its proposed transmitter site and the applicant's discharge of its continuing duty to keep the Commission apprised of substantial and significant changes in such information, as required by § 1.65 of the rules.

<sup>3</sup> As indicated more clearly in Zaba's reply pleading, Mr. Guzman is the receiver appointed by the Supreme Court of Puerto Rico, Ponce section, to administer, inter alia, the liquidation of the property owned by Mario Mercado e Hijos, a Puerto Rican partnership, which is in the process of dissolution.

<sup>4</sup> Radio Antilles' initial response to this paragraph, namely "Lease", has remained unchanged since the filing of its application on Dec. 1, 1966.

5 FCC 2d 148, 8 RR 2d 611 (1966). The Bureau notes that Mr. Guzman's unverified letter is not supported by an affidavit; that the movant has not related the Radio Antilles transmitter site to the property in the custody of Mr. Guzman; and that the exact nature or phraseology of the inquiry Zaba addressed to the receiver has not been disclosed.<sup>5</sup> Besides stating its agreement with the arguments of the Broadcast Bureau, Radio Antilles points out that Mr. Guzman has not indicated that the property in his custody is unavailable to the applicant and that the Guzman letter, which reflects that no option has been granted, is not inconsistent with the basis for the applicant's understanding that the property specified as its transmitter site would be available to it for the use intended. Radio Antilles concludes, therefore, that it is in accord with the Broadcast Bureau's recommendation that the requested issues are not warranted.

4. In support of its contention that neither a lease nor an understanding to lease the proposed transmitter site is presently available to Radio Antilles, Zaba submits with its reply pleading a June 9, 1970, affidavit of Mr. Guzman. Identifying the transmitter site specified in Radio Antilles' application as part of the property entrusted to him by the court (see note 3, supra), Mr. Guzman avers that by virtue of his position as receiver he has "personal knowledge of all lease agreements made, and options to purchase given" with respect to the property owned by the Mario Mercado e Hijos partnership and that neither Radio Antilles nor anyone acting on its behalf "has entered into a lease agreement, has made arrangements to lease, or has obtained an option, or oral understanding to purchase or lease any of such property from [the partnership]".<sup>6</sup> Furthermore, it is highly improbable, in Zaba's view, that Radio Antilles will be able to lease or purchase the land proposed as its transmitter site. Zaba contends that the primary duty of Mr. Guzman, the receiver, is to sell, not lease, the partnership's property and that, consonant with this obligation, any lease executed by the receiver would be subject to termination upon sale of the property to a third party. Zaba also suggests that the receiver would not be willing to endanger the marketability of the 2,800-acre tract in which Radio Antilles' proposed site is located, by selling the applicant the several acres needed to accommodate its antenna system.

5. The Review Board is of the opinion that, notwithstanding the inexcusable

<sup>5</sup> In the Bureau's opinion, any doubt stemming from Mr. Guzman's reticence concerning any existing lease or agreement to lease could have been either dispelled or strengthened by the movant's further correspondence with the receiver.

<sup>6</sup> Also, the affiant's statements suggest to Zaba that Radio Antilles' response to paragraph 1, section III of its application may have been a misrepresentation to the Commission.

lateness of Zaba's motion,<sup>1</sup> Zaba does raise a substantial question concerning the availability of Radio Antilles' transmitter site, and petitioner's allegations in this regard meet the test set forth in *The Edgefield-Saluda Radio Co. case*, supra. Mr. Guzman, who as receiver can be expected to be cognizant of all outstanding encumbrances or restrictions on the property in his custody, has represented that no lease agreement or understanding to lease, written or oral, is presently available to Radio Antilles. His statements are apparently incompatible with Radio Antilles' belief that the site proposed can be leased by the applicant and, accordingly, the Board is constrained to add the requested site availability issue. See *Marbro Broadcasting Co., Inc.*, 2 FCC 2d 1030, 7 RR 2d 216 (1966). We decline, however, to add at this time Rule 1.65 or other character qualifications issues. The receiver's affidavit does not contain an allegation that he was aware of all leases or understandings to lease not in full force and effect at the time of his appointment, which date has not been disclosed; nor is there any representation from the owners of the land that Radio Antilles, in filling out its application form, acted without reasonable assurance that it could lease its proposed transmitter site. Absent such allegations, and in view of the unexcused tardiness of the instant motion, we find no adequate basis for adding such issues. In short, we do not believe that the allegations in support of these requests comport with *The Edgefield-Saluda* requirements. Compare *El Camino Broadcasting Corp.*, 12 FCC 2d 25, 12 RR 2d 720 (1968). However, our action herein should not be construed as a bar to any subsequent submission of similar requests if warranted by the facts adduced pursuant to the foregoing site availability issue.

6. Accordingly, it is ordered, That the motion to enlarge issues, filed April 13, 1970, by Zaba Radio Corp. is granted to the extent indicated below, and is denied in all other respects; and

7. It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether Radio Antilles, Inc., has reasonable assurance of the availability of its proposed transmitter site.

8. It is further ordered, That under the above issue, the burden of proceeding with the introduction of evidence and the burden of proof shall be on Radio Antilles, Inc.

Adopted: July 23, 1970.

Released: July 27, 1970.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>2</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 70-9976; Filed, July 31, 1970;  
8:47 a.m.]

[Docket No. 18559, etc.; FCC 70-812]

# UNITED TELEVISION CO., INC. ET AL.

## Memorandum Opinion and Order and Notice of Apparent Liability Adding Forfeiture Issue

In regard applications of United Television Company, Inc. (WFAN-TV), Washington, D.C., for renewal of license, Docket No. 18559, File No. BRCT-585; United Television Co., Inc. (WFAN-TV), Washington, D.C., for construction permit, Docket No. 18561, File No. BPCT-3917; United Broadcasting Co., Inc. (WOOK), Washington, D.C., for renewal of license, Docket No. 18562, File No. BR-1104; Washington Community Broadcasting Co., Washington, D.C., for construction permit for new standard broadcast station, Docket No. 18563, File No. BP-17416.

1. This proceeding involves, inter alia, the application of United Broadcasting Co., Inc. (United), for renewal of its license for Standard Broadcast Station WOOK, Washington, D.C., and the competing application of Washington Community Broadcasting Co. for a construction permit for identical facilities. The applications were designated for a consolidated hearing by a memorandum opinion and order, 18 FCC 2d 363, released June 13, 1969, on issues, which in addition to the standard comparative issues, included specific disqualifying issues concerning allegations of deceptive advertising practices by United. Subsequently, on September 3, 1969, an inspection of WOOK's facilities disclosed 19 separate alleged violations of the Commission's rules and departures from the terms of United's license.<sup>1</sup>

2. In a memorandum opinion and order, FCC 70R-185, released May 19, 1970, the Review Board added the following issues:

(a) To determine all of the facts and circumstances surrounding the operation of Station WOOK at Washington, D.C., under the management of United Broadcasting Co., Inc., with particular respect to the alleged departures from Commission rules and regulations and license authorization as disclosed by the Official Notice of Violation issued to the licensee in October 1969, the responses thereto and related documents.

(b) To determine whether, in light of the evidence adduced pursuant to Issue (a) above, United Broadcasting Co., Inc., in the operation of Station WOOK, engaged in conduct which reflects such negligence, carelessness, ineptness, or disregard of the Commission's processes that the Commission cannot rely upon the licensee to fulfill the duties and responsibilities of a licensee.

<sup>1</sup> United was apprised of the particulars of the alleged violations by an Official Notice of Violation (FCC Form 793) issued Oct. 3, 1969.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether United Broadcasting Co., Inc., possesses the requisite and/or comparative qualifications to remain a Commission licensee.

The Board declined to add a forfeiture issue, asserting that the issues added are relevant to the renewal proceeding, and that it did not have authority to issue a Notice of Apparent Liability to monetary forfeitures. It further noted that United was free to request us to add a forfeiture issue. Now before us for consideration are a petition for Notice of Apparent Liability filed June 9, 1970, by United, the Broadcast Bureau's comments filed June 17, 1970, and United's reply, filed June 29, 1970.

3. In *WPRY Radio Broadcasters, Inc.*, FCC 70-650, released June 24, 1970, we stated that, as a matter of policy, we would include a forfeiture notice in every case designated for hearing involving alleged violations which come within the purview of section 503(b) of the Communications Act. Pursuant to this policy we are granting United's petition and authorizing the Examiner, in the event that he finds that the public interest would be served by the grant of United's application, to determine whether a monetary forfeiture should be assessed against WOOK.<sup>2</sup>

4. Accordingly, it is ordered, That the Petition for Notice of Apparent Liability, filed June 9, 1970, by United Broadcasting Co., Inc., is granted.

5. It is further ordered, That this document constitutes a Notice of Apparent Liability pursuant to section 503(b)(2) of the Communications Act for the violations set forth in an Official Notice of Violation issued to United Broadcasting Co., Inc., on October 3, 1969.

6. It is further ordered, That if the Hearing Examiner should determine that the entire hearing record requires a finding that the public interest would be served by the grant of United Broadcasting Co., Inc.'s application for renewal of its license for Station WOOK, he shall make findings of fact as to whether any

<sup>2</sup> The inclusion of a forfeiture notice is pursuant to Commission policy and is not to be construed as in any way indicating what the final disposition of this proceeding should be. See *WPRY*, supra. Indeed, consideration of monetary forfeitures in this proceeding would first require affirmative findings in favor of United on the disqualifying and comparative issues. Such findings are of course dependent upon the facts as elicited in the hearing. In determining whether or not the imposition of a monetary forfeiture would be appropriate the Hearing Examiner should give consideration to the forfeiture of \$7,500 paid by United at the time of its 1966 license renewal. See *United Broadcasting, Inc.*, 4 FCC 2d 293 (1966).

<sup>1</sup> See *Du Page County Broadcasting, Inc.*, 9 FCC 2d 210, 10 RR 2d 830 (1967).

<sup>2</sup> Review Board Member Nelson not participating and Member Pincock absent.

willful or repeated<sup>2</sup> violations of the Communications Act or the Commission's rules thereunder (as specified in the

<sup>2</sup> For the purpose of determining whether or not repeated violations of the Communications Act or the Commission's rules have occurred, official notice is taken of the Hearing Examiner's findings in United Broadcasting Co., Inc., supra.

Official Notice of Violation issued to United Broadcasting Co., Inc. on Oct. 3, 1969) have taken place within 1 year of the issuance of this memorandum opinion and order, and, if so, shall recommend to the Commission whether or not a forfeiture should be issued against United Broadcasting Co., Inc., in the amount of \$10,000 or some lesser amount pursuant to section 503(b) of the Communications Act.

Adopted: July 22, 1970.

Released: July 24, 1970.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>4</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 70-9977; Filed, July 31, 1970;  
8:47 a.m.]

<sup>4</sup> Chairman Burch absent.

[Canadian List No. 271]

### CANADIAN STANDARD BROADCAST STATIONS Notification List

JULY 14, 1970.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

#### APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
R171-62	NI-Gas Supply, Inc., Post Office Box 190, Aurora, Ill. 60507.	2	2	Natural Gas Pipeline Co. of America, Elk City Area, Beckham Co., Okla., Other area.	\$55,000	6-25-70	7-26-70	11-26-70	12 15.0	12 21.0	
	do.	3	3	do.	92,000	6-25-70	7-26-70	11-26-70	12 15.0	12 21.0	

<sup>1</sup> Pressure base is 14.65 p.s.i.a.

<sup>2</sup> Subject to a downward and upward B.t.u. adjustment.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,  
WALLACE E. JOHNSON,  
Assistant Chief, Broadcast Bureau.

[F.R. Doc. 70-9978; Filed, July 31, 1970; 8:47 a.m.]

## FEDERAL MARITIME COMMISSION

### SOUTH AND EAST AFRICA RATE AGREEMENT AND UNITED STATES SOUTH AND EAST AFRICA CONFERENCE

#### Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1202; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement

of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of application to modify approved form of dual rate contracts filed by:

William L. Hamm, Secretary, South and East Africa Rate Agreement, United States/South and East Africa Conference, 25 Broadway, New York, N.Y. 10004.

There has been filed on behalf of the rate agreement and conference listed below an application to modify their approved form of Dual Rate Contracts.

South and East Africa Rate Agreement (Agreement No. 8054-8, as amended).  
United States/South and East Africa Conference (Agreement No. 9502-4, as amended).

The purpose of these modifications is to delete from the approved forms of contracts the language providing that the contracts shall terminate upon the

withdrawal of any carrier from participation in the membership of the governing rate making or conference agreement, as set forth in Article 12 of each form of contract.

Dated: July 28, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[F.R. Doc. 70-10012; Filed, July 31, 1970;  
8:50 a.m.]

[Independent Ocean Freight Forwarder  
License No. 833]

A. J. DeMAY & CO., INC.

#### Order of Revocation

On July 17, 1970, A. J. DeMay & Co., Inc., advised that it wished to surrender its license effective August 1, 1970.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order 201.1, section 6.03,

It is ordered, That the Independent Ocean Freight Forwarder License No. 833 of A. J. DeMay & Co., Inc., be and is hereby revoked effective August 1, 1970, without prejudice to reapplication for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon A. J. DeMay

& Co., Inc., 26 Broadway, New York, N.Y. 10004.

JOHN F. GILSON,  
Deputy Director,  
Bureau of Domestic Regulation.

[F.R. Doc. 70-10013; Filed, July 31, 1970;  
8:50 a.m.]

## FEDERAL POWER COMMISSION

[Docket No. G-2681 etc.]

### B. M. BRITAIN ET AL.

#### Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates<sup>1</sup>

JULY 23, 1970.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 17, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. All certificates of public convenience and necessity granting applications for sales from the Permian Basin area will be issued at rates not exceed-

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.

ing the applicable area ceiling rates established in Opinions Nos. 468 and 468-A, 34 FPC 159 and 1068, or the contractually authorized rates, whichever are less, unless at the time of filing of such certificate applications or within the time fixed for filing protests and petitions to intervene applicants indi-

cate in writing that they are unwilling to accept such certificates.

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

GORDON M. GRANT,  
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-2681 F 6-29-70 <sup>1</sup>	B. M. Britain et al. (successor to B. M. Britain & C. E. Weymouth), c/o Maston C. Courtney, Attorney, Post Office Box 159, Amarillo, Tex. 79105.	Panhandle Eastern Pipe Line Co., West Panhandle Field, Moore and Potter Counties, Tex.	11.0	14.65
G-4159 E 6-15-70	David A. Wilson (successor to Gulf Oil Corp. (Operator) et al.), Post Office Box 1415, Longview, Tex. 75601.	Arkansas Louisiana Gas Co., North Lansing Field, Harrison County, Tex.	13.9510	14.65
G-4386 6-19-70 <sup>2</sup>	Hunt Oil Co. (Operator) et al., 1401 Elm St., Dallas, Tex. 75202.	United Gas Pipe Line Co., Cotton Valley Field, Webster Parish, La.	14.0763	15.025
G-5515 E 6-19-70	C. Blair Swentzel (successor to G. W. Hill, administrator, estate of Edmond Tate), Route No. 4, West Union, W. Va. 26456.	Consolidated Gas Supply Corp., Grant District, Doddridge County, W. Va.	20.0	15.325
G-8246 B 7-1-55 <sup>4</sup>	Appell Drilling Co.	The Alter Corp., Tom Graham West Field, Jim Wells County, Tex.	Depleted	
G-12005 D 6-18-70	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	United Gas Pipe Line Co., Eugene Island Area, Offshore La.	Assigned	
G-12149 (G-12840) C&F 6-25-70 <sup>3</sup>	Cities Service Oil Co. (Operator) et al. (successor to Mobil Oil Corp.), Post Office Box 300, Tulsa, Okla. 74102.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., acreage in Beaver County, Okla.	17.0	14.65
G-13749 D 6-18-70	Mobil Oil Corp.	Transcontinental Gas Pipe Line Corp., West Cameron Block 110 et al. Field, Offshore Louisiana.	Assigned	
G-15271 <sup>4</sup> (C170-989) E 4-30-70	The Atascosa Petroleum Co. (Operator) et al. (successor to Signal Oil & Gas Co. (Operator) et al.), 3206 Republic Bank Tower, Dallas, Tex. 75201.	El Paso Natural Gas Co., South Andrews Area, Andrews County, Tex.	15.05625 16.06	14.65
G-17083 E 6-30-70	Rimco Royalty Co. (successor to Shiprock Industries, Inc.), Post Office Box 2283, Fort Worth, Tex. 76101.	El Paso Natural Gas Co., Bisti Field, San Juan County, N. Mex.	13.0	15.025
C160-540 <sup>5</sup> E 5-25-70	Beaver Mesa Exploration Co. (successor to Cabeen Exploration Corp.), 500 Midland Savings Bldg., Denver, Colo. 80202.	Cities Service Oil Co., <sup>6</sup> Dipper Gap Field, Logan County, Colo.	11.0	14.65
C161-949 C 6-25-70	Atlantic Richfield Co. (Operator), et al., Post Office Box 2819, Dallas, Tex. 75221.	Lone Star Gas Co., East Durant Field, Bryan County, Okla.	<sup>10</sup> 15.0	14.65
C161-1430 C 6-5-70	Shell Oil Co. (Operator), et al., 50 West 50th St., New York, N.Y. 10020.	El Paso Natural Gas Co., Brown Bassett Field, Terrell County, Tex.	<sup>11</sup> 14.3175	14.65
C162-581 E 6-30-70	Rimco Royalty Co. (successor to Shiprock Industries, Inc. (Operator), et al.).	El Paso Natural Gas Co., Blanco Field, San Juan County, N. Mex.	<sup>12</sup> 12.0495 <sup>13</sup> 14.053625	15.025
C162-1285 E 6-4-70	White Shield Oil & Gas Corp. (successor to Marvin E. Wilhite et al.), c/o Richard M. Reddcliff, Attorney, Post Office Box 306, Buckingham, W. Va. 26201.	Cumberland & Allegheny Gas Co., Union District, Barbour and Upshur Counties, W. Va.	25.0	15.325
C163-234 D 6-23-70	Mobil Oil Corp. (Operator) et al.	Arkansas Louisiana Gas Co., Red Oak Area, Latimer, and other counties, Okla.	( <sup>14</sup> )	
C163-356 D 6-5-70	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Lone Star Gas Co., East Durant Field, Bryan County, Okla.	Assigned	
C163-677 E 6-29-70	PetroDynamics, Inc. (Operator) et al. (successor to Jas. F. Smith (Operator) et al.), Post Office Box 1006, Amarillo, Tex. 79106.	Kansas-Nebraska Natural Gas Co., Inc., Dombey Field, Beaver County, Okla.	<sup>15</sup> 11.0 <sup>16</sup> 16.0	14.65
C163-1533 E 6-30-70	Rimco Royalty Co. (successor to Shiprock Industries, Inc.).	El Paso Natural Gas Co., Gallup Field, San Juan County, N. Mex.	12.0	15.025
C164-402 E 6-18-70	Et Al, Inc. (successor to Bill Ferguson d.b.a. Ferguson Oil Co. et al.), 119 Cameron Bldg., Oklahoma City, Okla. 73106.	Panhandle Eastern Pipe Line Co., Freemyer Field, Kingman County, Kans.	18.0	14.65
C164-822 E 6-29-70	PetroDynamics, Inc. (Operator) et al. (successor James F. Smith).	Kansas-Nebraska Natural Gas Co., Inc., Southeast Dombey Field, Beaver County, Okla.	<sup>17</sup> 11.0 <sup>18</sup> 15.0	14.65
C166-595 E 6-25-70	Daugherty Oil Co. (successor to Sydney Spofforth), 311 Main St., St. Marys, W. Va. 26170.	Equitable Gas Co., acreage in Braxton County, W. Va.	25.0	15.325
C167-480 E 6-29-70	William Howard Smith and Jessie H. Smith (successor to Priddle Oil & Gas Co.), No. 3 Sutherland Road, Huntington, W. Va. 25705.	United Fuel Gas Co., Big Injun Field, Stonewall District, Wayne County, W. Va.	18.0	15.325
C168-528 C 6-29-70 <sup>19</sup>	Donald W. Jackson, 1411 North Carlton, Liberal, Kans. 67901.	Northern Natural Gas Co., acreage in Texas County, Okla.	12.0	14.65
C168-677 D 6-23-70	Mobil Oil Corp.	Arkansas Louisiana Gas Co., Chismville Field, Logan County, Ark.	Assigned	

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

See footnotes at end of table.

## NOTICES

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pres- sure base
C168-914 <sup>a</sup> B 6-23-70	Pennzoil Producing Co., Post Office Box 1407, Shreveport, La. 71102.	Tennessee Gas Pipeline Co., a divi- sion of Tenneco Inc., Southwest Lake Arthur Field, Cameron Parish, La.	Depleted	-----
C168-1450 C 6-18-70	Pennzoil United, Inc., Post Office Drawer 1588, Parkersburg, W. Va. 26101.	United Fuel Gas Co., Rocky Fork Field, Kanawha County, W. Va.	28.0	15.325
C169-157 C 6-25-70	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Hous- ton, Tex. 77027.	Transwestern Pipeline Co., Rock Tank Morrow Field, Eddy Coun- ty, N. Mex.	21 15.5	14.65
C170-873 C 6-10-70	El Paso Oil & Gas Co. (Operator) et al., Post Office Box 3866, Odes- sa, Tex. 73760.	Arkansas Louisiana Gas Co., North End Area, Garfield Coun- ty, Okla.	21 15.0	14.65
C170-1109 B 6-18-70	H. L. Hunt et al., 1401 Elm St., Dallas, Tex. 75202.	Transcontinental Gas Pipe Line Corp., Bear Field, Beauregard Parish, La.	Depleted	-----
C170-1110 B 6-18-70	Carlton Oil Co., 12th Floor, Peoples National Bank Bldg., Tyler, Tex. 75701.	United Gas Pipe Line Co., Red Branch Field, Trinity County, Tex.	Depleted	-----
C170-1111 A 6-18-70	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	United Fuel Gas Co., Bayou Carlin Field, St. Mary Parish, La.	22.25	15.025
C170-1112 A 6-18-70	Clinton Oil Co. (Operator) et al., 217 North Water St., Wichita, Kans. 67202.	Transwestern Pipeline Co., acreage in Lipscomb County, Tex.	23 25.52	14.65
C170-1113 A 6-18-70	Banquette Gas Co., a division of Crestmont Oil & Gas Co., 2622 Mission St., San Marino, Calif. 91108.	United Gas Pipe Line Co., Odem and Taft Fields, San Patricio County, Tex.	17.8	14.65
C170-1114 A 6-18-70	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001.	United Gas Pipe Line Co., Bethany Field, Panola County, Tex.	15.0	14.65
C170-1115 F 6-4-70 <sup>34</sup>	Delta Drilling Co. (Operator) et al. (successor to Amerada Hess Corp.), Post Office Box 2012, Tyler, Tex. 75702.	Northern Natural Gas Co., Ozona Area, Crockett County, Tex.	16.06	14.65
C170-1116 A 6-15-70	Champion Petroleum Co., Post Office Box 3865, Fort Worth, Tex. 76107.	Marathon Oil Co., <sup>25</sup> Doran Field, Cheyenne County, Nebr.	12.5	15.025
C170-1117 A 6-19-70	Doran & Braddock Petroleum Ex- ploration (Operator) et al., 200 Oil & Gas Bldg., Shreveport, La. 71101.	Arkansas Louisiana Gas Co., Ada Field, Webster Parish, La.	14.3533	15.025
C170-1118 B 6-19-70	Dora C. Aikinson, Box 507, Minden, La. 71055.	United Gas Pipe Line Co., Cotton Valley Field, Webster Parish, La.	( <sup>26</sup> )	-----
C170-1119 A 6-19-70	Graham-Michaels Drilling Co. (Operator), 302 G-M Bldg., 211 North Broadway, Wichita, Kans. 67202.	Panhandle Eastern Pipe Line Co., Cora Field, Woods County, Okla.	23 20.0	14.65
C170-1121 A 6-22-70	An-Son Corp., 3814 North Santa Fe, Oklahoma City, Okla. 73118.	Northern Natural Gas Co., Cam- rick Field, Beaver County, Okla.	23 20.0	14.65
C170-1122 A 6-22-70	do	Northern Natural Gas Co., Mocane- Laverne Field, Harper County, Okla.	23 20.0	14.65
C170-1123 (C167-1826) F 6-22-70	Edwin L. Cox (Operator) et al. (successor to Whitestone Petro- leum Corp. (Operator) et al.), 3800 First National Bank Bldg., Dallas, Tex. 75202.	Southern Natural Gas Co., Mag- nolia Field, Plaquemines Parish, La.	19.5	15.025
C170-1124 (C567-70) F 6-22-70	Terra Resources, Inc. (successor to CRA, Inc.), 1410 Fourth National Bank Bldg., Tulsa, Okla. 74119.	El Paso Natural Gas Co., Langlie- Matrix Field, Lea County, N. Mex.	10.0	14.65
C170-1125 (G-4825) F 6-22-70	Frank Scott Moran, d.b.a. Moran Oil Co. (successor to A. J. Hodges Industries, Inc.), Post Office Box 881, Mansfield, La. 71052.	United Gas Pipe Line Co., Sligo Field, Bossier Parish, La.	27 13.5508	15.025
C170-1126 A 6-24-70	National Cooperative Refinery As- sociation, 404 Lincoln Tower Bldg., Denver, Colo. 80203.	Panhandle Eastern Pipe Line Co., acreage in Woodward County, Okla.	23 18.0	14.65
C170-1127 A 6-24-70	William D. Johnson, 810 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Banquette Gas Co., a division of Crestmont Oil & Gas Co., Plym- outh-Taft Field, San Patricio County, Tex.	14.0	14.65

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI71-13 A 7-6-70	Amarox, Inc., Room 221, Arcade Bldg., 2000 Classen Blvd., Oklahoma City, Okla. 73106.	Michigan Wisconsin Pipe Line Co., Woodward Area, Woodward County, Okla.	\$20.0	14.65

<sup>1</sup> Certificate is presently in names of B. M. Britain & C. E. Weymouth. Filing reflects transfer of Weymouth's interest to Weymouth Corp.

<sup>2</sup> Amendment to certificate filed to cover interest of Dora C. Atkinson.

<sup>3</sup> Certificate issued to Edmond Tate.

<sup>4</sup> No certificate action ever taken on application filed Dec. 20, 1954, as amended Mar. 14, 1955. Applicant's motion to withdraw the certificate application filed July 1, 1955, and letter dated Jan. 15, 1959, advising that the well has been abandoned are being accepted as an amendment to the application to reflect abandonment of service.

<sup>5</sup> Adds acreage acquired from Mobil Oil Corp., Docket No. G-12840.

<sup>6</sup> Application was erroneously assigned Docket No. CI70-989 as a partial succession. Docket No. CI70-989 is canceled and application will be processed as a petition to amend certificate in Docket No. G-15271.

<sup>7</sup> Sales from Jan. 1, 1970, the effective date of assignment, shall be 15.05625 cents per Mcf subject to refund in Docket No. RI69-632 through Feb. 6, 1970; and 15.06 cents per Mcf on Feb. 7, 1970 subject to refund in Docket No. RI70-178.

<sup>8</sup> The certificate in Docket No. CI69-540 which was terminated by order issued Mar. 29, 1967, in Docket No. G-12994, et al., will be reinstated.

<sup>9</sup> Cities Service resells gas under its FPC GRS No. 216 to Kansas-Nebraska Natural Gas Co., Inc.

<sup>10</sup> Contract provides for rate of 19.015 cents per Mcf; however, applicant states its willingness to accept permanent certificate conditioned to an initial rate of 15 cents per Mcf.

<sup>11</sup> Rate in effect subject to refund in Docket No. RI70-406.

<sup>12</sup> Production from Pictured Cliffs formation.

<sup>13</sup> Production from Mesa Verde and Dakota formations. Rate in effect subject to refund in Docket No. RI64-551.

<sup>14</sup> Rate includes 1 cent per Mcf for liquids.

<sup>15</sup> Deletes expired leases.

<sup>16</sup> For gas produced from above the base of the Wolfcampian Series of the Permian System.

<sup>17</sup> For gas produced from the base of the Wolfcampian Series down to 7,500 feet and all casinghead gas. Rate in effect subject to refund in Docket No. RI68-676.

<sup>18</sup> For shallow gas.

<sup>19</sup> For deep gas and casinghead gas.

<sup>20</sup> Adds acreage acquired from Cities Service Oil Co.

<sup>21</sup> Original application in Docket No. CI68-914 sought certificate of public convenience and necessity. Applicant now proposes to abandon service previously commenced pursuant to temporary authorization.

<sup>22</sup> Plus New Mexico tax. Subject to upward and downward B.t.u. adjustment.

<sup>23</sup> Contract provides for a rate of 17 cents per Mcf; however, applicant is proposing a rate of 15 cents per Mcf.

<sup>24</sup> Subject to upward and downward B.t.u. adjustment.

<sup>25</sup> Partially succeeds Amerada Hess Corp.'s FPC GRS No. 126.

<sup>26</sup> For resale to Kansas-Nebraska Natural Gas Co., Inc.

<sup>27</sup> A abandons sale under applicant's rate schedule to permit sale to be made under Hunt Oil Co.'s rate schedule and certificate authorization.

<sup>28</sup> Includes 1.5 cent per Mcf tax reimbursement.

<sup>29</sup> Wells are no longer capable of delivering into Buyer's line.

<sup>30</sup> Contract provides for rate of 17.8 cents per Mcf; however, by letter filed July 1, 1970 applicant stated its willingness to accept certificate at 16 cents per Mcf.

<sup>31</sup> Rate in effect subject to refund in Docket No. RI69-156. Subject to upward and downward B.t.u. adjustment.

<sup>32</sup> Effective rate under Hill & Hill's FPC GRS No. 10. Subject to upward and downward B.t.u. adjustment.

<sup>33</sup> Effective rate under Hill & Hill's FPC GRS No. 11.

<sup>34</sup> For Nugget Gas.

<sup>35</sup> Contract provides for rate of 17.5 cents per Mcf; however, applicant states its willingness to accept certificate at 15.384 cents per Mcf.

<sup>36</sup> For Phosphoria Gas.

<sup>37</sup> Gas will no longer be sold in interstate commerce.

<sup>38</sup> Includes 2.4 cents per Mcf upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.

[F.R. Doc. 70-9868; Filed, July 31, 1970; 8:45 a.m.]

[Docket No. G-8980 etc.]

## WESTMORE DRILLING CO., ET AL.

### Findings and Order

#### Correction

In F.R. Doc. 70-9465, appearing at page 12033 of the issue for Saturday, July 25, 1970, in the column "Docket No. and date filed" on page 12036 the docket number for Clarke Oilfield Service, Inc. (successor to Sun Oil Co.) now reading "CI70-292", should read "CI70-924".

[Dockets Nos. RP69-39, RP70-22]

## CITIES SERVICE GAS CO.

### Notice of Filing of Stipulation and Agreement and Revised Tariff Sheets

JULY 28, 1970.

Take notice that on July 20, 1970 Cities Service Gas Co. (Cities) filed in Dockets Nos. RP69-39 and RP70-22 a proposed stipulation and agreement. The stipulation and agreement would resolve all issues in these proceedings.

The stipulation and agreement, among other things, allows Cities, while the rates provided for therein are in effect, to increase its rates, from time to time until December 23, 1971, to reflect rate increases of its suppliers and requires Cities to decrease its rates to reflect supplier rate reductions; requires Cities to flow through to its jurisdictional customers the appropriate portion of all refunds, together with interest, received from its suppliers which are applicable to purchases by Cities from such suppliers during the term of the stipulation and agreement, as defined therein; requires Cities to reduce its rates to reflect reductions resulting from a decrease in the effective Federal income tax rate effective as of the effective date of such tax reduction, and permits Cities, to increase its rates to reflect an increase in its jurisdictional cost of service resulting from an increase in the effective Federal income tax rate effective as of the effective date of such tax rate increase; and provides, that Cities will not file a general increase in its jurisdictional rates

which would become effective prior to December 23, 1971, after suspension, if any.

Together with the stipulation and agreement Cities filed revised tariff sheets reflecting the rate levels specified in the Appendices C and D of the stipulation and agreement for the periods indicated therein.

Copies of the stipulation and agreement and revised tariff sheets were served on all parties to these proceedings, all of Cities' jurisdictional customers and interested State commissions.

Answers or comments relating to the stipulation and agreement and/or to the revised tariff sheets may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before August 11, 1970.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9990; Filed, July 31, 1970; 8:48 a.m.]

[Docket No. RI68-673]

## CITIES SERVICE GAS CO. AND MOBIL OIL CORP.

### Notice Postponing Oral Argument

JULY 29, 1970.

On July 24, 1970, Mobil Oil Corp., Defendant, filed a motion requesting postponement of the oral argument scheduled for August 3, 1970. The postponement is requested pending Commission action upon a motion for approval of a settlement proposal which was filed on July 28, 1970, by Complainant and Defendant. Counsel for Cities Service and Commission staff concur in the request.

Take note that the oral argument scheduled for August 3, 1970, in the above-designated proceeding is postponed until further notice.

By direction of the Commission.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9981; Filed, July 31, 1970; 8:48 a.m.]

[Docket No. E-7548]

## GEORGIA POWER CO.

### Order Suspending Proposed Electric Tariff, Providing for Hearing and Granting Intervention

JULY 28, 1970.

Georgia Power Co. (Georgia), a public utility subject to the jurisdiction of this Commission, on May 26, 1970, with revisions made on June 29, 1970, tendered for filing a proposed electric tariff,<sup>1</sup> to supersede individual rate schedules for service to 50 municipalities and 39 rural electric cooperatives. The proposed change would have resulted in increases to Georgia's municipal customers of

<sup>1</sup> Designated FPC Electric Tariff Original Volume No. 1.

\$5,147,342 annually based on estimated sales for the 12-month period ending July 1970, as adjusted, and to \$7,073,141 for the cooperative customers, in the same period, a total combined increase of approximately 34 percent. The new tariff is proposed to become effective on August 1, 1970. This order suspends the operation of the proposed tariff and orders a public hearing concerning the lawfulness of that tariff.

In support of its filing, Georgia indicates that the new tariff is necessary to provide Georgia with adequate revenues to permit it to earn a fair return upon its property devoted to service to its municipal and rural cooperative customers. Georgia states that the proposed electric tariff would result in a rate of return of 7.7 percent. The proposed tariff format would also result in a simplification of Georgia's present system of a separate contract for each delivery point. Georgia presently serves the 50 municipal systems at 93 delivery points and the 39 cooperatives at 280 delivery points. The filing states that Georgia intends to commence billing under the new rates concurrently with the termination dates of the individual service agreements under which it is serving each of its wholesale customers. Such termination dates range from December 12, 1970, to September 5, 1974, with the majority in 1971. With respect to new delivery points, the tariff would be applicable upon its effective date.

The Power Section, Georgia Municipal Association, Inc., and 49 of the municipal customers have filed a "Complaint" requesting suspension of the proposed electric tariff for 5 months and a hearing on the lawfulness of the proposed rates. The complaint states that the increase will impose a severe financial hardship on the municipalities. They request the maximum suspension period because the wholesale increase will necessitate increases in municipal retail rates, a process possibly requiring several months.

A petition to intervene was filed jointly by Mitchell County Electric Membership Corp., Oconee Electric Membership Corp., and Georgia Electric Membership Corp., the last consisting of the 41 electric membership corporations in the State of Georgia. That petition calls the proposed rate increase "unjust, unreasonable and unlawful," and requests suspension, investigation and hearing. Similar comments have also been received from a number of individual municipal and cooperative customers. The Georgia Public Service Commission has stated that it has no comment on the company's proposal.

A preliminary review of the filing indicates that the proposed rates may be excessive. Georgia's assertions in support of its filing and the protests and complaints of the wholesale customers raise questions which can best be resolved through a public hearing. Thus, we are ordering a hearing to determine the lawfulness of the proposed electric tariff and we shall suspend the filing in accordance with section 205(e) of the Federal Power Act.

The Commission further finds:

(1) Georgia's proposed FPC Electric Tariff Original Volume No. 1 may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful under the Federal Power Act.

(2) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of Georgia's FPC Electric Tariff Original Volume No. 1 and that the proposed tariff be suspended and the use thereof deferred, all as hereinafter provided.

(3) Participation by Mitchell County Electric Membership Corp., Oconee Electric Membership Corp., and Georgia Electric Membership Corp. may be in the public interest.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened to commence with a prehearing conference to be held on September 10, 1970, at 10 a.m., e.d.t., at the offices of the Federal Power Commission in Washington, D.C., concerning the lawfulness of the rates and charges contained in the FPC Electric Tariff Original Volume No. 1 of the Georgia Power Co.

(B) Pending such hearing and decision thereon, Georgia's FPC Electric Tariff Original Volume No. 1 is hereby suspended and the use thereof deferred until January 1, 1971. On that date, that tariff shall take effect in the manner prescribed by the Federal Power Act, and Georgia, subject to further orders of the Commission, shall charge and collect the increased rates and charges set forth in the tariff for all power sold and delivered thereunder.

(C) Georgia shall refund at such times and in such manner as may be required by final order of the Commission, the portion of the increased rates and charges found by the Commission in this proceeding not justified, together with interest at the New York prime rate on January 1, 1971, from the date of payment to Georgia until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rates and charges effective as of January 1, 1971, for each billing period; and shall report (original and one copy) in writing and under oath, to the Commission monthly, for each billing period, the billing determinants of electric energy sold and delivered under the above-described tariff, and the revenues resulting therefrom as computed under the rates in effect immediately prior to January 1, 1971, and under the rates and charges made effective by this order, together with the differences in revenues so computed.

(D) Unless otherwise ordered by the Commission, Georgia shall not change the terms or provisions of FPC Electric

Tariff Original Volume No. 1 until this proceeding has been terminated or until the period of suspension has expired.

(E) The Petitioners, Mitchell County Electric Membership Corp., Oconee Electric Membership Corp. and Georgia Electric Membership Corp., are hereby permitted to intervene in the proceeding subject to the rules and regulations of the Commission: *Provided, however*, That participation of such interveners shall be limited to the matters affecting asserted rights and interests specifically set forth in their joint petition to intervene: *And provided, further*, That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered in this proceeding.

(F) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37) on or before August 20, 1970.

By the Commission.

[SEAL] GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9952; Filed, July 31, 1970;  
8:45 a.m.]

[Docket No. RI70-828, etc.]

GULF OIL CORP. ET AL.

# Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction

JULY 16, 1970.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued December 17, 1969, and published in the FEDERAL REGISTER December 25, 1969, 34 F.R. 20285, Appendix A, Docket No. RI70-829, Atlantic Richfield Co. (opposite Rate Schedule No. 50) under column headed "Supp. No." change "19" to read "20".

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9982; Filed, July 31, 1970;  
8:48 a.m.]

[Project No. 2110]

CONSOLIDATED WATER POWER CO.

Notice of Issuance of Annual License

JULY 24, 1970.

On February 10, 1969, Consolidated Water Power Co., licensee for Stevens Point Project No. 2110 located in Portage County, Wis., on the Wisconsin River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 27, 1970.

[Project No. 1971]

**IDAHO POWER CO.****Notice of Additional Land Withdrawal**

JULY 24, 1970.

Idaho Power Co., on December 30, 1969, filed a Revised Exhibit J & K map for Project No. 1971 in connection with a television access road right-of-way within the Oxbow Hydroelectric Development.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the hereinafter described lands, insofar as title thereto remains in the United States, are from the date of filing of the exhibit, December 30, 1969, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

WILLAMETTE MERIDIAN

All portions of the following described subdivisions lying within 15 feet of the centerline survey of the television access road right-of-way location as delimited on map, Revised Exhibit J & K (FPC No. 1971-247):

T. 6 S., R. 48 E.,  
Sec. 32, NE $\frac{1}{4}$  SE $\frac{1}{4}$ ;  
Sec. 33, SW $\frac{1}{4}$  SW $\frac{1}{4}$ .  
T. 7 S., R. 48 E.,  
Sec. 4, lot 1.

The area of U.S. lands reserved by this notice is approximately 3.44 acres of which approximately 2.54 acres have been heretofore reserved for power purposes in Power Site Reserve No. 77 or Power Site Classification No. 421.

Copies of map Exhibit J & K (FPC No. 1971-247) have been transmitted to the Bureau of Land Management, Geological Survey and the Forest Service.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9940; Filed, July 31, 1970;  
8:45 a.m.]

[Project No. 2095]

**INTERNATIONAL PAPER CO.****Notice of Issuance of Annual License**

JULY 28, 1970.

On May 14, 1969, International Paper Co., licensee for York Haven Project No. 2095 located in the vicinity of York County, Pa., on the Susquehanna River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on May 21, 1970.

The license for Project No. 2095 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the

Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to International Paper Co. for continued operation and maintenance of Project No. 2095.

Take notice that an annual license is issued to International Paper Co. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the York Haven Project No. 2095, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9944; Filed, July 31, 1970,  
8:45 a.m.]

[Docket No. RP70-6 etc.]

**LAWRENCEBURG GAS TRANSMISSION CORP.**

**Order Permitting Tracking of Purchased Gas Increase, Suspending Proposed Revised Tariff Sheets Pending Effectiveness of Supplier Rate Increase and Consolidating Proceedings**

JULY 28, 1970.

Lawrenceburg Gas Transmission Corp. (Lawrenceburg), on June 23, 1970, tendered for filing in Docket No. RP70-44 proposed changes in its FPC Gas Tariff, Original Volume No. 1,<sup>1</sup> designed solely to track the rate increase filed by its sole supplier, Texas Gas Transmission Corp. (Texas Gas), on May 4, 1970, in Docket No. RP70-33. Lawrenceburg proposes that its increase become effective on August 1, 1970, and, in the alternative, requests that if the filing is suspended, such suspension not extend beyond November 1, 1970, the date to which the proposed rate increase of Texas Gas was suspended in Docket No. RP70-33. Lawrenceburg's proposed rate changes would increase charges under its two jurisdictional rate schedules, CDS-1 and EX-1 by approximately \$17,339 annually, based on volumes for the 12-month period ended June 30, 1969.

In support of its filing, Lawrenceburg submitted cost of service and other data and incorporated by reference various statements which it submitted in support of its rate increase filings in Dockets Nos. RP70-6 and RP70-26.<sup>2</sup> In its filing, Lawrenceburg requests permission to track future supplier rate increases. In our order issued April 29, 1970, in Docket

<sup>1</sup> The proposed revised tariff sheets are Fourth Revised Sheet Nos. 4 and 12.

<sup>2</sup> Docket No. RP70-26 was consolidated with Docket No. RP70-6 by order issued Apr. 29, 1970.

The license for Project No. 2110 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Consolidated Water Power Co. for continued operation and maintenance of the Stevens Point Project No. 2110.

Take notice that an annual license is issued to Consolidated Water Power Co. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Stevens Point Project No. 2110, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.A. Doc. 70-9942; Filed, July 31, 1970;  
8:45 a.m.]

[Project No. 2192]

**CONSOLIDATED WATER POWER CO.****Notice of Issuance of Annual License**

JULY 24, 1970.

On February 10, 1969, Consolidated Water Power Co., licensee for Biron Project No. 2192 located in Wood and Portage Counties, Wis., on the Wisconsin River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 27, 1970.

The license for Project No. 2192 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Consolidated Water Power Co. for continued operation and maintenance of Project No. 2192.

Take notice that an annual license is issued to Consolidated Water Power Co. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Biron Project No. 2192, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9943; Filed, July 31, 1970;  
8:45 a.m.]

No. RP70-6 et al., we stated that, consistent with our policy regarding tracking increases, Lawrenceburg would not be precluded from requesting permission to track supplier rate increases in the future. We accordingly will accept Lawrenceburg's filing. However, as the increased rates proposed herein are directly and entirely based upon the proposed rate increase of Texas Gas in Docket No. RP70-33, which was suspended to November 1, 1970, by order issued May 28, 1970, Lawrenceburg's proposed rate filing should be suspended to that same date.

The proposed rate increases have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

The fact that the cost and related data relied upon by Lawrenceburg in support of its filings in Dockets Nos. RP70-44, RP70-26, and RP70-6 are substantially the same raises issues of law and fact common to each proceeding. Under these circumstances it is appropriate that Docket No. RP70-44 be consolidated with the latter proceedings for purposes of hearing and decision.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the proposed tariff sheets listed in footnote 1 above be suspended and the use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that Docket No. RP70-44 be consolidated with Docket No. RP70-6, et al. for purposes of hearing and decision.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. 1), a public hearing be held concerning the lawfulness of the rates, charges, classifications, and services contained in Lawrenceburg's FPC Gas Tariff, as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Lawrenceburg's revised tariff sheets, listed in footnote 1 above, are suspended and the use thereof is deferred until November 1, 1970, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act: *Provided however*, That Lawrenceburg shall not make the increase proposed herein effective prior to the date that the increased rates proposed by Texas Gas in Docket No. RP70-33 are made effective.

(C) The proceedings in Dockets Nos. RP70-44 and RP70-6, et al., are hereby consolidated.

By the Commission.

[SEAL]

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9996; Filed, July 31, 1970;  
8:49 a.m.]

[Docket No. RI70-1717 etc.]

### LIVINGSTON OIL CO., ET AL.

#### Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and allowing Rate Changes To Become Effective Subject to Refund; Correction

JULY 16, 1970.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued June 17, 1970, and published in the FEDERAL REGISTER June 25, 1970, 35 F.R. 10397, Appendix A, change "June 14, 1970" to read "July 4, 1970".

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9983; Filed, July 31, 1970;  
8:48 a.m.]

[Docket No. G-2602 etc.]

### MARATHON OIL CO. ET AL.

#### Findings and Order; Correction

JULY 9, 1970.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, making successors co-respondents, redesignating proceedings, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing, issued May 27, 1970 and published in the FEDERAL REGISTER June 10, 1970, 35 F.R. 8969, Change FPC Gas Rate Schedule "No. 10" to read FPC Gas Rate Schedule "No. 40" relating to Docket No. G-19387. Change the Letter Agreement date to read "2-470" in lieu of "2-24-70" relating to Docket No. CI70-871.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9984; Filed, July 31, 1970;  
8:48 a.m.]

[Project No. 2709]

### MONONGAHELA POWER CO. ET AL.

#### Notice of Application for License for Unconstructed Project

JULY 24, 1970.

Public notice is hereby given that application for a license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Monongahela Power Co., The Potomac Edison Co., and West Penn Power Co. (Correspondence to: Robert G. MacDonald, Senior Vice President, Allegheny Power Service Corp., 800 Cabin Hill Drive, Greensburg, Pa. 15601), for proposed Project No. 2709, to be known as the Davis Power Project, to be located on the Blackwater River in the vicinity of the towns of Thomas and Davis in Tucker County, W. Va.

According to the application, the proposed pumped storage project will con-

sist of: (1) Two rock-fill dams on Cabin Mountain having a total length of about 7,800 feet and a maximum height of about 90 feet forming; (2) an upper reservoir with a gross storage capacity of 28,400 acre-feet and a surface area of about 550 acres at full pond elevation of 4,042 feet (m.s.l.); (3) an intake works; (4) a 30-foot diameter concrete-lined power tunnel about 4,000 feet long; (5) three 15-foot steel-lined penstocks; (6) an underground power chamber containing three 250,000 kw. pump-turbine generating units; (7) three 305,000 k-v-a. transformers located outdoors; (8) surge chambers; (9) a tailrace tunnel and channel about 3,700 feet long; (10) a lower reservoir having a gross storage capacity of 170,000 acre-feet and a surface area of about 7,200 acres at full pond elevation 3,192 feet (m.s.l.) formed by; (11) a rock-fill dam about 65 feet high and 640 feet long, having an adjacent spillway and low level outlet works, constructed across the Blackwater River; (12) three 138-kv. transmission lines extending about 9,600 feet from the step-up transformers to; (13) a 500-kv. switchyard located approximately one-half mile northerly of the upper reservoir; and (14) all other facilities and interests appurtenant to operation of the project.

According to the application, the proposed project will be located near the Canaan Valley State Park, the Blackwater Falls State Park, the Spruce Knob-Seneca Rocks National Recreation Area, the Monongahela National Forest, and Cathedral State Park. None of the above recreational developments contain any large body of water. Since drawdown of the lower reservoir will be limited to 4 feet, it will provide a 7,200-acre lake which will be available at all times for recreation.

The application includes a recreation plan, which proposes development of three types of facilities. Two recreation sites are planned along the lower 7,200-acre reservoir. The day use area will contain a visitors' center, boat launching facility and 30 picnic sites. The camping area will have 100 camp sites with water and electricity available, two washhouses and a boat launching facility. In addition, three fishing access sites will be developed along the Blackwater River between the Town of Davis and the lower dam.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 16, 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 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. 70-9945; Filed, July 31, 1970;  
8:45 a.m.]

[Docket No. RI71-62]

### NI-GAS SUPPLY, INC.

#### Order Providing for Hearings on and Suspension of Proposed Changes in Rates

JULY 24, 1970.

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

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

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

The Commission orders:

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

(B) Pending hearing and decision thereon, the rate supplements herein are suspended and their use deferred until

date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

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

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before September 8, 1970.

By the Commission.

[SEAL] GORDON M. GRANT,  
Secretary.

Call letters	Location	Power kw.	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
(New).....	Calgary, Alberta, N. 50° 54' 10" 21", W. 114° 12' 36".	1440 kHz	DA-1	U	III				7.1.71.
CHEF (PO: 1450 kHz, 1 kwD/0.25 kwN, ND—Change in nighttime operation only from that shown on List No. 257)	Granby, Province of Quebec N. 45° 19' 03", W. 72° 41' 43" Day, N. 45° 28' 40", W. 72° 48' 45" Night.	1450 kHz 10D/0.25N	DA-D ND-N-182	U	IV	166	120	871	7.1.71.

The sale under NI-Gas' FPC Gas Rate Schedule No. 2 represents six sixteenths of the total volume of gas sold from the Green No. 1 Well involved here, and was permanently certificated at an initial rate of 15 cents per Mcf in Docket No. CI70-699. The sale under NI-Gas' FPC Gas Rate Schedule No. 3 represents ten sixteenths of the total volume sold from the same well but is being sold at a conditioned 15-cent rate under an interim arrangement authorized under a temporary certificate issued in Docket No. CI70-700. NI-Gas requests waiver of the condition in the temporary precluding any increased rate filing. For the reasons herein-after discussed, we believe it appropriate to waive the condition.

NI-Gas is a one-sixteenth working interest owner in this well and the remaining fifteen-sixteenths interest is owned by three other producers in equal proportions. NI-Gas purchases the interests of these other producers in such gas and resells such gas, together with its own gas, under the rate schedules involved here. One of these other producers, Grover Hefner Kennedy Oil Co. (GHK) has filed for a rate increase from 15 cents to 21 cents per Mcf which was suspended in Docket No. RI70-1723 until November 26, 1970. The other two interest owners have not yet filed similar increases.

Because GHK may collect its proposed increased rate, subject to refund, as of November 26, 1970, NI-Gas requests that it be permitted to charge the higher rate proposed here no later than the effective day of GHK's increase. In the circumstances presented here, the suspension period for NI-Gas's proposed rates should expire on November 26, 1970.

[F.R. Doc. 70-9954; Filed, July 31, 1970;  
8:45 a.m.]

[Docket No. CP70-120]

### NATURAL GAS PIPELINE COMPANY OF AMERICA

#### Findings and Order Amending Order Issuing Certificate of Public Convenience and Necessity

JULY 27, 1970.

On May 19, 1970, Natural Gas Pipeline Company of America (Petitioner) filed in Docket No. CP70-120 a petition to amend the order issued in said docket on March 18, 1970, by authorizing the construction of additional miles of pipeline loops, all as more fully set forth in the petition to amend in this proceeding.

By the aforementioned order of March 18, 1970, petitioner was authorized, inter alia, to construct and operate approximately 143.94 miles of 36-inch pipeline looping various portions of its Amarillo line in Oklahoma, Kansas, Nebraska, Iowa, and Illinois. Petitioner now states that, after observing the 1969-70 winter operation of the Amarillo line and after extensive flow tests, it has found that the flow efficiencies are lower in that line than those used in designing the expansion authorized in the aforementioned order of March 18, 1970.

Petitioner, therefore, requests that the aforementioned order be amended so as to authorize the construction and oper-

ation of a total of 153.65 miles of 36-inch pipeline looping on its Amarillo line.

The estimated cost of the additional 9.71 miles of pipeline is \$1,717,000.

Due notice of the petition to amend was given by publication in the FEDERAL REGISTER on May 28, 1970 (35 F.R. 8413). No petition to intervene, notice of intervention, or protest to the granting of the petition to amend has been received by the Commission.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order heretofore issued in Docket No. CP70-120 on March 18, 1970, be amended as herein-after ordered.

The Commission orders:

The order heretofore issued in Docket No. CP70-120 on March 18, 1970, is amended so as to authorize the construction and operation of a total of 153.65 miles of 36-inch looping pipe on petitioner's Amarillo line as hereinbefore described and as more fully set forth in the petition to amend in this proceeding. In all other respects, said order remains in full force and effect.

By the Commission.

[SEAL] GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9953; Filed, July 31, 1970;  
8:45 a.m.]

[Project No. 1967]

**NEKOOSA-EDWARDS PAPER CO.****Notice of Issuance of Annual License**

JULY 28, 1970.

On May 21, 1969, Nekoosa-Edwards Paper Co., licensee for Lower Paper Mill Development Project No. 1967 located in the vicinity of Portage County, Wis., on the Wisconsin River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6).

The license for Project No. 1967 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Nekoosa-Edwards Paper Co. for continued operation and maintenance of Project No. 1967.

Take notice that an annual license is issued to Nekoosa-Edwards Paper Co. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Lower Paper Mill Development Project No. 1967, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9991; Filed, July 31, 1970;  
8:48 a.m.]

[Project No. 1892]

**NEW ENGLAND POWER CO.****Notice of Issuance of Annual License**

JULY 27, 1970.

On June 23, 1969, New England Power Co., licensee for Wilder Project No. 1892 located in Orange and Windsor Counties, Vt., and Cheshire, Grafton, and Sullivan Counties, N.H., on the Connecticut River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 24, 1970.

The license for Project No. 1892 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to New England Power Co. for continued operation and maintenance of Project No. 1892.

Take notice that an annual license is issued to New England Power Co. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for

the continued operation and maintenance of the Wilder Project No. 1892, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9946; Filed, July 31, 1970;  
8:45 a.m.]

[Project No. 1904]

**NEW ENGLAND POWER CO.****Notice of Issuance of Annual License**

JULY 28, 1970.

On June 23, 1969, New England Power Co., licensee for Vernon Project No. 1904 located in Franklin and Worcester Counties, Mass., Windham County, Vt., and Cheshire County, N.H., on the Connecticut River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 24, 1970.

The license for Project No. 1904 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to New England Power Co. for continued operation and maintenance of Project No. 1904.

Take notice that an annual license is issued to New England Power Co. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Vernon Project No. 1904, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9992; Filed, July 31, 1970;  
8:48 a.m.]

[Docket No. RI70-1679 etc.]

**PLACID OIL CO. ET AL.****Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction**

JULY 16, 1970.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued June 3, 1970 and published in the FEDERAL REGISTER June 11, 1970, 35 F.R. 9055, Appendix A, Docket No. RI70-1681, Hunt Oil Co.: Under column headed "Supp. No." change Supplement No. "3" to read Supplement No. "4".

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9985; Filed, July 31, 1970;  
8:48 a.m.]

[Project No. 1893]

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE****Notice of Issuance of Annual License**

On June 27, 1969, Public Service Company of New Hampshire, licensee for Amoskeag Project No. 1893 located in Hillsboro and Merrimack Counties, N.H., on the Merrimack River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 17, 1970.

The license for Project No. 1893 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Public Service Company of New Hampshire for continued operation and maintenance of Project No. 1893.

Take notice that an annual license is issued to Public Service Company of New Hampshire (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Amoskeag Project No. 1893, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9947; Filed, July 31, 1970;  
8:45 a.m.]

[Project No. 1913]

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE****Notice of Issuance of Annual License**

JULY 28, 1970.

On June 27, 1969, Public Service Company of New Hampshire, licensee for Hooksett Project No. 1913 located in Merrimack County, N.H., on the Merrimack River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 17, 1970.

The license for Project No. 1913 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Public Service Company of New Hampshire for continued operation and maintenance of Project No. 1913.

Take notice that an annual license is issued to Public Service Company of New Hampshire (licensee) under section

15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Hooksett Project No. 1913, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9993; Filed, July 31, 1970;  
8:48 a.m.]

[Project No. 2161]

#### ST. REGIS PAPER CO.

#### Notice of Issuance of Annual License JULY 24, 1970.

On March 12, 1969, St. Regis Paper Co., licensee for Rhinelander Project No. 2161 located in the vicinity of Oneida County, Wis., on the Wisconsin River filed an application for a new license under (§§ 16.1-16.6). Licensee also made Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 27, 1970.

The license for Project No. 2161 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to St. Regis Paper Co. for continued operation and maintenance of Project No. 2161.

Take notice that an annual license is issued to St. Regis Paper Co. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Rhinelander Project No. 2161, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9948; Filed, July 31, 1970;  
8:45 a.m.]

[Docket No. RI70-230 etc.]

#### SUN OIL CO., ET AL.

#### Order Accepting Contract Agreement, Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

JULY 16, 1970.

In the order accepting contract agreement, providing for hearings on and suspension of proposed changes in rates, issued September 26, 1969, and published in the FEDERAL REGISTER October 3, 1969, 34 F.R. 15434, Appendix A, Docket No. RI70-241, Kingwood Oil Co.: Under col-

umn headed "Supp. No." change "4" to read "5".

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9987; Filed, July 31, 1970;  
8:48 a.m.]

[Docket No. RI70-243 etc.]

#### SUN OIL CO. ET AL.

#### Order Accepting Contract Amendments, Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

JULY 16, 1970.

In the order accepting contract amendments, providing for hearings on and suspension of proposed changes in rates, issued October 2, 1969, and published in the FEDERAL REGISTER October 11, 1969, 34 F.R. 15767, Appendix A, Docket No. RI70-253—Sun Oil Co. (Operator) et al. Under column headed "Supp. No." change "22" to read "23".

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9988; Filed, July 31, 1970;  
8:48 a.m.]

[Docket No. RI70-386 etc.]

#### TEXACO, INC., ET AL.

#### Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction

JULY 16, 1970.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued October 29, 1969, and published in the FEDERAL REGISTER November 6, 1969, 34 F.R. 17970, Appendix A, Docket No. RI70-393, Marathon Oil Co.: (Opposite Rate Schedule No. 102) under column headed "Supp. No." change "2" to read "3".

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9989; Filed, July 31, 1970;  
8:48 a.m.]

[Docket No. CP70-300]

#### TRANSCONTINENTAL GAS PIPE LINE CORP.

#### Notice of Petition To Amend

JULY 23, 1970.

Take notice that on July 20, 1970, Transcontinental Gas Pipe Line Corp. (petitioner), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP70-300 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act on July 9, 1970, to authorize an increase in the volumes of natural gas to be transported and delivered to Philadelphia Gas Works

Division of the UGI Corp. (PGW) for redelivery to Philadelphia Electric Co. (PE), 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 sell and deliver to PGW up to 36,000 Mcf of natural gas per day for redelivery to PE at the Chester and Barbadoes Island delivery points before August 31, 1970. Petitioner states that since the deliveries did not commence until July 11, 1970, it has now become apparent that in order to complete the sale of the total volumes contemplated by the parties within the time limit provided, it will be necessary to exceed the present daily volume limitation, by as much as 19,000 Mcf of natural gas per day to 55,000 Mcf per day.

It appears reasonable and consistent with the public interest in this case to prescribe a shortened period for the filing of protests and petitions to intervene. Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 30, 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. 70-9941; Filed, July 31, 1970;  
8:45 a.m.]

[Project No. 1889]

#### WESTERN MASSACHUSETTS ELECTRIC CO.

#### Notice of Issuance of Annual License JULY 27, 1970.

On June 19, 1969, Western Massachusetts Electric Co., licensee for Turners Falls & Cabot Project No. 1889 located in Windham County, Vt., Franklin County, Mass., and Cheshire County, N.H., on the Connecticut River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 18, 1970.

The license for Project No. 1889 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon

it is appropriate and in the public interest to issue and annual license to Western Massachusetts Electric Co., for continued operation and maintenance of Project No. 1889.

Take notice that an annual license is issued to Western Massachusetts Electric Co. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970 to June 30, 1971 or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Turners Falls & Cabot Project No. 1889, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9949; Filed, July 31, 1970;  
8:45 a.m.]

[Project No. 1968]

### WISCONSIN PUBLIC SERVICE CORP.

#### Notice of Issuance of Annual License

JULY 28, 1970.

On June 27, 1969, Wisconsin Public Service Corp., licensee for Hat Rapids Project No. 1968 located in the vicinity of Oneida County, Wis., on the Wisconsin River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 26, 1970.

The license for Project No. 1968 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Wisconsin Public Service Corp. for continued operation and maintenance of Project No. 1968.

Take notice that an annual license is issued to Wisconsin Public Service Corp. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Hat Rapids Project No. 1968, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9994; Filed, July 31, 1970;  
8:48 a.m.]

[Project No. 1957]

### WISCONSIN PUBLIC SERVICE CORP.

#### Notice of Issuance of Annual License

JULY 28, 1970.

On June 27, 1969, Wisconsin Public Service Corp., licensee for Otter Rapids Project No. 1957 located in the vicinity of Vilas County, Wis., on the Wisconsin

River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on June 26, 1970.

The license for Project No. 1957 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Wisconsin Public Service Corp. for continued operation and maintenance of Project No. 1957.

Take notice that an annual license is issued to Wisconsin Public Service Corp. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Otter Rapids Project No. 1957, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9995; Filed, July 31, 1970;  
8:48 a.m.]

[Project No. 1888]

### YORK HAVEN POWER CO.

#### Notice of Issuance of Annual License

JULY 27, 1970.

On June 30, 1969, York Haven Power Co., licensee for York Haven Project No. 1888 located in Dauphin, Lancaster, and York Counties, Pa., on the Susquehanna River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 27, 1970.

The license for Project No. 1888 was issued effective January 1, 1938, for a period ending June 30, 1970. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to York Haven Power Co. for continued operation and maintenance of Project No. 1888.

Take notice that an annual license is issued to York Haven Power Co. (licensee) under section 15 of the Federal Power Act for the period June 30, 1970, to June 30, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the York Haven Project No. 1888, subject to the terms and conditions of its license.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 70-9950; Filed, July 31, 1970;  
8:45 a.m.]

## FEDERAL RESERVE SYSTEM

### UNITED JERSEY BANKS

#### Order Approving Action To Become a Bank Holding Company

In the matter of the application of United Jersey Banks, Hackensack, N.J., for approval of action to become a bank holding company through the acquisition of all of the voting shares of Peoples Trust of New Jersey, Hackensack, and of Central Home Trust Co., Elizabeth; and of all the voting shares (less directors' qualifying shares) of the successors by merger to Peoples National Bank of Monmouth County, Hazlet; The Third National Bank & Trust Company of Camden, Camden; and The Cumberland National Bank of Bridgeton, Bridgeton; all in New Jersey.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by United Jersey Banks, Hackensack, N.J., for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of all of the voting shares of Peoples Trust of New Jersey, Hackensack, and of Central Home Trust Co., Elizabeth; and of all of the voting shares (less directors' qualifying shares) of the successors by merger to Peoples National Bank of Monmouth County, Hazlet; The Third National Bank & Trust Company of Camden, Camden; and The Cumberland National Bank of Bridgeton, Bridgeton; all in New Jersey.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and the New Jersey Commissioner of Banking and requested their views and recommendations. Neither objected to approval of the proposed transaction.

Notice of receipt of the application was published in the FEDERAL REGISTER on May 22, 1970 (35 F.R. 7913), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement<sup>1</sup> of this date, 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 period is extended for good cause by the Board, or by the Federal

<sup>1</sup> Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York.

Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,  
July 27, 1970.\*

[SEAL]

KENNETH A. KENYON,  
Deputy Secretary.

[F.R. Doc. 70-9965; Filed, July 31, 1970;  
8:46 a.m.]

## SECURITIES AND EXCHANGE COMMISSION

[812-2621]

### MUTUAL LIFE INSURANCE COMPANY OF NEW YORK AND MONY VARI- ABLE ACCOUNT A

#### Notice of Application

JULY 27, 1970.

Notice is hereby given that The Mutual Life Insurance Company of New York ("Mony"), 1740 Broadway, New York, N.Y. 10019, a mutual life insurance company organized under the laws of the State of New York, and The MONY Variable Account A ("Account A") (herein collectively called Applicants), have filed an application pursuant to section 6(c) of the Investment Company Act of 1940, (Act), for an order of exemption to the extent noted below from the provisions of sections 22(d) and 27(c)(2) of the Act. All interested persons are referred to the application on file with the Commission for a complete statement of the representations contained therein, which are summarized below.

MONY established Account A on July 31, 1968, pursuant to the provisions of section 227 of the New York Insurance Law for the purpose of providing an investment medium for certain variable annuity contracts to be issued by MONY and Account A. These contracts are designed to provide variable retirement benefits pursuant to plans qualifying under section 401, 403(a), or 403(b) of the Internal Revenue Code (Code), and to individuals under contracts not issued under any such tax benefited plans. Account A is an open-end, diversified management investment company registered under the Act.

The Commission on February 20, 1969, issued a notice (Investment Company Act Release No. 5617) upon the earlier application of MONY and Account A for exemption from several provisions of the Act in connection with the issuance of those individual and group multiple payment variable annuity contracts as were then designated as participating in Account A. On March 11, 1969, the Commission issued an order (Investment Company Act Release No. 5629) granting such exemptions. The subject of the instant application is a proposed new type of contract, namely, individual

single payment variable annuity contract, which was not the subject of, or included within the application previously made.

Section 22(d) provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus. This section has been construed as prohibiting variations in the sales load except on a uniform basis.

Applicants request an exemption from section 22(d) to the extent necessary to permit them to issue the single payment variable annuity contracts which are the subject of this application (a) with the scale of sales and administrative expense charges set forth below, (b) with the right to participate in the divisible surplus of MONY, and (c) with reduced sales charges where the contract is purchased by application of lump sum cash amounts payable by MONY under its life, endowment, or fixed annuity contracts.

The single payment variable annuity contracts which are the subject of this application provide for charges from the single payment thereunder to cover sales and administrative expenses. The normal rate of charges for sales expenses will be 4 percent and for administrative expenses 1 percent. In addition, there will be a \$50 charge for administration and installation expenses. Applicants state that these deductions follow the basic pricing pattern which MONY has long followed with respect to its corresponding single payment fixed annuity.

In the absence of an exemptive order of the Commission, Applicants' proposed scale of charges applicable to these contracts may be prohibited by section 22(d) in that the \$50 deduction from the single payment, if considered to be a part of the sales charge, would result in a varying, rather than a uniform, sales charge when expressed in terms of a percentage of the offering price, depending on the amount of the payment. Applicants request an exemption from section 22(d), to the extent necessary, so as to permit this scale including the deduction of the \$50 charge from the single payment.

Applicants also request an exemption from section 22(d) to permit the holders of these contracts to participate in the divisible surplus of MONY. The same exemption was previously granted for MONY's multiple payment variable annuity contracts (Investment Company Act Release No. 5629). Applicants represent that there is an annual determination of the board of trustees of MONY of the amount of surplus, if any, which may prudently be distributed and the manner in which that amount shall be distributed. Since the crediting of divisible surplus is expected to be based upon all aspects of MONY's experience with a class or group of contracts, any such crediting may reflect a reduction in charges for various factors, including sales or administrative expenses, or both.

Also, because of lesser MONY sales expenses and to bring the sales charge

for these contracts into line with MONY's charges for fixed annuities in these circumstances, Applicants proposed to permit the purchase of single payment variable annuity contracts at a 1.9 percent reduction in the sales charge in cases where such a contract is purchased by application of the death, endowment or other lump sum cash distribution under a MONY life, endowment or fixed annuity contract. Thus, the purchase of a single payment variable annuity contract with these proceeds will be made at a 2.1 percent sales charge rather than the 4 percent sales charge made on direct investments.

Applicants state that a reduced sales charge in such circumstances is equitable, because of the lesser sales expenses and because a sales charge will have been made in connection with the purchase of the original MONY life, endowment, or fixed annuity contract from which the funds for purchase of the variable annuity contract will be derived. Applicants propose that the discount be 1.9 percent because MONY wishes to offer this variable annuity at the same terms at which a MONY's corresponding single premium fixed annuity is available in these circumstances. Accordingly, the Applicants propose that the holder or beneficiary of a MONY contract have the option to use the lump sum distribution from his MONY contract to purchase either a fixed dollar or a variable annuity at terms which reflect the same savings in sales charges.

Applicants assert that from the point of view of equitable treatment of contract owners, no unfair discrimination would result under the proposed reduced sales charges. In all cases a sales charge on the premiums under MONY's insurance contracts will have been made. The purpose of the reduced sales charge is to avoid cumulating sales charges and to allow Applicants to take into account the anticipated lower sales expenses in offering these variable annuity contracts to these investors.

Applicants also assert that the proposed reduced charges are in the interest of investors and the public; that no unfair discrimination between contract owners participating in Account A would result therefrom; and that the reduction would be consistent with the policies of the Act.

Section 27(c)(2) prohibits a registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company from selling any such certificate, unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian and held under an indenture or agreement containing, in substance, the provisions required by section 26(a)(2) and (3) for trust indentures of a unit investment trust.

Because the contracts which are the subject of this application were not designated as participating in Account A at the time the order of March 11, 1969 was issued, Applicants state that the

\* Voting for this action: Chairman Burns and Governors Robertson, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Mitchell.

exemption from section 27(c)(2) contained in that order may not be considered as applicable to these contracts. To the extent that such exemption is necessary for the contracts which are the subject of this application, Applicants request similar exemptive relief from section 27(c)(2) for these contracts. Applicants consent to such relief being subject to the same conditions to which the previously granted exemption was subject, namely:

(1) That the charges under the variable annuity contracts for administrative expenses shall not exceed such reasonable amounts as the Commission shall prescribe, and that the Commission shall reserve jurisdiction for such purpose; and

(2) That the payment of sums and charges out of the assets of Account A shall not be deemed to be exempted from regulation by the Commission by reason of said order: *Provided*, That the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of the assets in Account A other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is hereby given that any interested person may, not later than August 13, 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 by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hear-

ing 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]

ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 70-10014; Filed, July 31, 1970;  
8:50 a.m.]

[812-2783]

#### STATE STREET INVESTMENT CORP.

#### Filing of Application for Order Exempting Sale by Open-End Company of Its Securities at Other Than Public Offering Price

JULY 27, 1970.

Notice is hereby given that State Street Investment Corp. (Applicant), 225 Franklin Street, Boston, Mass. 02110, a Massachusetts corporation registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission for exemption from the provisions of section 22(d) of the Act which, in pertinent part, prohibit a registered investment company from selling any redeemable security issued by it to any person except either to or through a principal underwriter for distribution at a current public offering price described in the prospectus. Section 22(d) would prevent Applicant, which does not have a prospectus describing a current offering price, from acquiring the assets of Securities Equity Co. (Securities Equity) in exchange for the shares of Applicant. 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 states that Securities Equity, a Connecticut corporation, was originally incorporated in 1926 and since that date has been primarily engaged in investing, reinvesting, and trading in securities. At present Securities Equity has 26 stockholders, is a personal holding company for Federal income tax purposes and is subject to corporate and personal holding company Federal income taxes. Applicant asserts that Securities Equity is excepted from the definition of an investment company by reason of section 3(c)(1) of the Act.

On April 3, 1970, Applicant and Securities Equity entered into an Agreement and Plan of Reorganization (Agreement) whereby substantially all of the assets of Securities Equity are to be transferred to Applicant in exchange for shares of Applicant's common stock. Pursuant to the Agreement, the number of Applicant's shares to be delivered to Securities Equity shall be determined on the closing date, as defined in the Agreement, by dividing the aggregate value of the gross assets of Securities Equity

(subject to certain adjustments as set forth in the Agreement) to be transferred to Applicant by the net asset value per share of Applicant.

As of April 30, 1970, the market value of the assets of Securities Equity to be delivered to Applicant was approximately \$2,693,000. Applicant intends to sell, soon after receipt, securities representing approximately 18.74 percent of the market value of such assets, but in no event will such sale represent more than 25 percent of the market value on the closing date of the assets received. The remainder of the assets will be retained in Applicant's portfolio. When the shares of Applicant are received by Securities Equity, Securities Equity will distribute such shares to its stockholders upon liquidation of Securities Equity. Applicant has been advised that the stockholders of Securities Equity have no present intention of redeeming any substantial number or otherwise transferring any of applicant's shares following the proposed transaction.

Applicant represents that no affiliation exists between Securities Equity or any director or stockholder thereof and Applicant; and that the agreement was negotiated at arm's length by the principals of both corporations.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 17, 1970 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon such application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing

(if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DuBois,  
Secretary.

[F.R. Doc. 70-10015; Filed, July 31, 1970;  
8:50 a.m.]

[812-2777]

#### STATE STREET INVESTMENT CORP.

#### Filing of Application for Order Exempting Sale by Open-End Company of Its Securities at Other Than Public Offering Price

JULY 27, 1970.

Notice is hereby given that State Street Investment Corp. (Applicant), 225 Franklin Street, Boston, Mass. 02110, a Massachusetts corporation registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission for exemption from the provisions of section 22(d) of the Act which, in pertinent part, prohibit a registered investment company from selling any redeemable security issued by it to any person except either to or through a principal underwriter for distribution at a current public offering price described in the prospectus. Section 22(d) would prevent Applicant, which does not have a prospectus describing a current offering price, from acquiring the assets of Washburn Investment Co., Inc. (Washburn) in exchange for the shares of Applicant. 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 states that Washburn, a Massachusetts corporation, was originally incorporated in 1882 and was engaged directly and through a wholly owned Canadian subsidiary in the manufacture and sale of wire products. On March 11, 1969, Washburn sold all of its operating assets and all of the operating assets of its subsidiary and liquidated the subsidiary. Since that date, Washburn has been primarily engaged in investing, reinvesting, and trading in securities. At present Washburn has 58 stockholders, is a personal holding company for Federal income tax purposes and is subject to corporate and personal holding company Federal income taxes. Applicant asserts that Washburn is excepted from the definition of an investment company by reason of section 3(c)(1) of the Act.

On March 20, 1970, Applicant and Washburn entered into an Agreement and Plan of Reorganization (Agreement) whereby substantially all of the assets of Washburn are to be transferred to Applicant in exchange for shares of Applicant's common stock. Pursuant to the Agreement, the number of Applicant's shares to be delivered to Washburn shall be determined on the closing date, as

defined in the Agreement, by dividing the aggregate value of the gross assets of Washburn (subject to certain adjustments as set forth in the Agreement) to be transferred to Applicant by the net asset value per share of Applicant.

As of April 30, 1970, the market value of the assets of Washburn to be delivered to Applicant was approximately \$2,695,000. Applicant intends to sell, soon after receipt, securities representing approximately 5.81 percent of the market value of such assets, but in no event will such sale represent more than 20 percent of the market value on the closing date of the assets received. The remainder of the assets will be retained in Applicant's portfolio. When the shares of Applicant are received by Washburn, Washburn will distribute such shares to its stockholders upon the liquidation of Washburn. Applicant has been advised that the stockholders of Washburn have no present intention of redeeming any substantial number or otherwise transferring any of Applicant's shares following the proposed transaction.

Applicant represents that no affiliation exists between Washburn, or any director or stockholder thereof and Applicant, and that the agreement was negotiated at arm's length by the principals of both corporations.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 17, 1970 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon such application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the

hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DuBois,  
Secretary.

[F.R. Doc. 70-10016; Filed, July 31, 1970;  
8:50 a.m.]

## SMALL BUSINESS ADMINISTRATION

### METROPOLITAN CAPITAL CORP.

#### Notice of Application for a License as a Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (33 F.R. 326, 13 CFR 107) under the name of Metropolitan Capital Corp., 2550 Huntington Avenue, Alexandria, Va. 22303, for a license to operate in the Commonwealth of Virginia as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.).

All of the applicant's stock is owned by the Value Engineering Co. which occupies the same premises as the applicant. Value Engineering Co. is engaged in engineering and laboratory services to government and industry. Mr. John B. Toomey owns more than 10 percent of its stock and, therefore, by attribution, owns more than 10 percent of the applicant's stock.

The officers and directors of the applicant are as follows:

John B. Toomey, 7412 Admiral Drive, Alexandria, Va. 22304. Chairman of the Board and Director.

Marie Ann Riebe, 504 North Mansfield Street, Alexandria, Va. 22304. President, Treasurer, and Director.

Harold P. Weinberg, 1507 Sanford Road, Silver Spring, Md. 20902. Vice President and Director.

David L. Cain, 5802 Larpin Lane, Alexandria, Va. 22310. Secretary and Director.

The company will begin operations with a capitalization of \$300,000. It will not concentrate its investments in any particular industry.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management and the probability of successful operation of the new company under their management, including adequate profitability and soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed company. Any communication should be addressed to: Associate Administrator

for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in the metropolitan Washington, D.C. area.

A. H. SINGER,  
Associate Administrator  
for Investment.

JULY 22, 1970.

[F.R. Doc. 70-9957; Filed, July 31, 1970;  
8:46 a.m.]

#### RUTGERS MINORITY INVESTMENT CO.

##### Notice of Application for a License as a Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et. seq.), has been filed by Rutgers Minority Investment Co. (the applicant) with the Small Business Administration pursuant to § 107.102 of SBA Regulations governing small business investment companies (33 F.R. 326, 13 CFR 107).

The applicant is to commence operations with a capitalization of \$200,000.

As a MESBIC, it is to be licensed solely for the purpose of providing assistance which will contribute to a well-balanced national economy by facilitating the acquisition or maintenance of ownership of small business concerns by individuals whose participation in the free enterprise system is hampered because of social or economic disadvantages. The proposed MESBIC is to be located at 18 Washington Place, Newark, N.J. 07102, and is to conduct its operations principally in the State of New Jersey.

All of the applicant's stock is owned by International Telephone and Telegraph Corp., 320 Park Avenue, New York, N.Y. 10022, a publicly owned company engaged in several fields including the development and production of electronic and communications devices. The applicant's officers and directors are as follows:

Horace J. DePodwin, 18 Washington Place, Newark, N.J. 07102. Vice Chairman of Board of Directors.

Louis T. German, 1509 Liberty Avenue, Hillside, N.J. 07205. Director and President.

Lyman C. Hamilton, Jr., 61 Norwood Avenue, Upper Montclair, N.J. 07043. Director and Treasurer.

Charles G. Sherwood, 30 Alexander Avenue, Nutley, N.J. 07110. Chairman of the Board of Directors.

Katherine M. Sortor, 333 East 69th Street, New York, N.Y. 10021. Director and Secretary.

The applicant's agent for correspondence is Louis T. German, 18 Washington Place, Newark, N.J. 07102.

Rutgers, the State University, will furnish the office facilities and will render various services to the applicant through the Graduate School of Business Administration.

Matters involved in SBA's consideration of the application include the general business reputation and character of the owners and management and the probability of successful operation of the company under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Any interested person may, not later than 7 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any communication should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A similar notice has been published in a newspaper of general circulation in Newark, N.J.

A. H. SINGER,  
Associate Administrator  
for Investment.

JULY 22, 1970.

[F.R. Doc. 70-9958; Filed, July 31, 1970;  
8:46 a.m.]

