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Part I

(Part II begins on page 13247)

Agencies in this issue—

Agricultural Research Service
Agricultural Stabilization and
Conservation Service
Civil Aeronautics Board
Coast Guard
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Power Commission
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
Hazardous Materials Regulations
Board
Interior Department
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
National Park Service
Public Health Service
Securities and Exchange Commission
Small Business Administration
Treasury Department

Detailed list of Contents appears inside.



Presidential Proclamations and Executive Orders 1936-1969

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Contents

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Hog cholera and other communicable swine diseases; areas quarantined 13190

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Sugar; continental requirements, quotas, and quota deficits for 1970 13189

AGRICULTURE DEPARTMENT

See Agricultural Research Service; Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

CIVIL AERONAUTICS BOARD

Rules and Regulations

Uniform system of accounts and reports for certificated air carriers; miscellaneous amendments 13194

Proposed Rule Making

Charter trips by foreign air carriers; supplemental notice 13220

Notices

Hearings, etc.:

International Air Transport Association 13224
Railway Express Agency, Inc., et al 13225
Ross Aviation, Inc. 13227

COAST GUARD

Proposed Rule Making

Sturgeon Bay, Wis.; special anchorage area 13219

COMMERCE DEPARTMENT

See International Commerce Bureau.

CONSUMER AND MARKETING SERVICE

Proposed Rule Making

Prunes, dried, produced in California; expenses and rate of assessment for 1970-71 crop year 13219

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness standards and certification and operations; additional flight recorder data and other requirements 13191

Standard instrument approach procedures; miscellaneous amendments 13193

Transition area; designation; correction 13193

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Radio broadcast services; competition and responsibility in network television broadcasting 13208

Notices

Trans America Broadcasting Corp.; memorandum opinion and order amending designation order 13227

FEDERAL MARITIME COMMISSION

Notices

Sopac Transport Corp. and Allports Freight Forwarding, Inc.; order to show cause 13228

Speed-Freight, Inc.; revocation of independent ocean freight forwarder license 13228

U.S. Atlantic & Gulf/Australia-New Zealand Conference and Associated Container Transportation (U.S.A.); agreement filed 13228

U.S./Brazil trade; investigation of revenue pools 13228

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

Algonquin Gas Transmission Co 13229
New England Power Co. 13229
Orange and Rockland Utilities, Inc 13230

FEDERAL TRADE COMMISSION

Rules and Regulations

Replacement bags for vacuum cleaners; exemption from fair packaging and labeling requirements; confirmation of effective date 13195

Notices

Competitive problems in food service industry; opportunity to present written data, views, or arguments 13230

FISH AND WILDLIFE SERVICE

Rules and Regulations

Seedskaade National Wildlife Refuge, Wyo.; hunting (3 documents) 13217

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Carbon tetrachloride; classification as banned hazardous substance 13198

Delegations of authority; emergency functions 13196

Food additives; modified hop extract 13197

Pesticide chemical tolerances:

Certain surfactants and related adjuvants 13197
Ethion 13196
Malathion 13196

Notices

Drug products for veterinary use; efficacy study implementation:

Potassium penicillin G 13222
Prochlorperazine and isopropamide 13223

Food additive petitions:

Geigy Chemical Corp. 13222
Hazleton Laboratories, Inc. 13222

Lakeside Laboratories; opportunity for hearing regarding proposed withdrawal of new-drug application for Pediatric Piptal with Phenobarbital Drops 13224

North American Pharmacal, Inc., and B. F. Ascher and Co., Inc.; opportunity for hearing regarding Estrosed Tablets and Ser-gynol Tablets 13223

HAZARDOUS MATERIALS REGULATIONS BOARD

Rules and Regulations

Transportation of natural and other gas by pipeline; minimum Federal safety standards 13248

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration; Public Health Service.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau; National Park Service.

Notices

Guadalupe Mountains National Park, Tex.; boundaries 13222

INTERNATIONAL COMMERCE BUREAU

Rules and Regulations

Technical data; written assurance requirements 13195

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Rail carrier general increase proceedings 13216

Notices

Cotton Producers Association and Pillsbury Co.; petition for declaratory order regarding exempt status of precooked and cooked poultry 13243

Missouri Forest Products Association; petition for determination of commodity status 13243

(Continued on next page)

Motor carriers:

Alternate route deviation notices (2 documents)	13238
Applications and certain other proceedings	13234
Intrastate applications	13239
Temporary authority applica- tions	13240
Transfer proceedings	13242

LAND MANAGEMENT BUREAU

Notices

Montana; classification of public lands for multiple use manage- ment	13221
Oregon; proposed withdrawal and reservation of land	13221

NATIONAL PARK SERVICE

Rules and Regulations

Arkansas Post National Memorial, Ark.; boats	13206
---	-------

PUBLIC HEALTH SERVICE

Rules and Regulations

Specifications for medical exami- nations of underground coal miners	13206
--	-------

SECURITIES AND EXCHANGE
COMMISSION

Notices

Actions declaring plans effective:	
Midwest Stock Exchange	13233
Philadelphia-Baltimore - Wash- ington Stock Exchange	13233
Hearings, etc.:	
Burlington Northern, Inc. (5 documents)	13231, 13232
Continental Oil Co.	13232
Continental Vending Machine Corp	13233

SMALL BUSINESS
ADMINISTRATION

Notices

Associate Administrator for Fi- nancial Assistance delegation of authority	13234
--	-------

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Avia-
tion Administration; Hazardous
Materials Regulations Board.

TREASURY DEPARTMENT

Rules and Regulations

Practice before Internal Revenue Service; miscellaneous amend- ments	13205
--	-------

List of CFR Parts Affected

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

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

7 CFR	15 CFR	36 CFR
811	379	7
13189	13195	13206
PROPOSED RULES:	16 CFR	42 CFR
993	501	37
13219	13195	13206
9 CFR	21 CFR	47 CFR
76	2	73
13190	13196	13208
14 CFR	120 (3 documents)	49 CFR
25	13196, 13197	190
13191	13197	13248
71	121	192
13193	13198	13248
97	31 CFR	1102
13193	10	13216
121	13205	50 CFR
13191	33 CFR	32 (3 documents)
241	PROPOSED RULES:	13217
13194	110	
PROPOSED RULES:	13219	
212		
13220		

Rules and Regulations

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 7]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements, Quotas, and Quota Deficits for 1970

Basis and purposes and bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended), hereinafter referred to as the "Act". The purpose of this amendment to Sugar Regulation 811 (34 F.R. 19901), as amended, is to determine and prorate or allocate additional deficits in quotas established pursuant to the Act and to reallocate deficits previously prorated.

Section 204(a) of the Act provides that the Secretary shall from time to time determine whether any area or country will be unable to fill its quota or the proration of a deficit. On the basis of the quota established for Puerto Rico for the calendar year 1970 findings were heretofore made (35 F.R. 7777, 8915, 10353) that Puerto Rico was unable to fill its quota by 700,000 tons, raw value, and accordingly quota deficits were determined for Puerto Rico totaling 700,000 tons. On the basis of the latest available information it is herein found that Puerto Rico will be unable to fill its quota by an additional 80,000 short tons, raw value. Therefore, a total deficit is herein determined in the 1970 quota for Puerto Rico of 780,000 short tons, raw value. If production exceeds the present estimates for Puerto Rico, the marketing opportunities for that area within the total mainland quota for that area will not be limited as a result of the deficit determination and proration provided herein.

The government of Peru informed the Department prior to August 1, 1970, that it will be able to supply only 455,991 short tons, raw value, of sugar to the United States during 1970. Therefore, it is hereby found that Peru will be unable to fill deficit prorations previously allocated to it of 40,189 tons and will be unable to supply any additional deficit that may be available for proration to it during 1970. Accordingly, a deficit is hereby determined in the quota for Peru of 40,189 short tons, raw value. The government of Panama informed the Department prior to August 1, 1970, that it will be able to supply only 39,500 short

tons, raw value, of sugar to the United States during 1970. Therefore, it is hereby found that Panama will be unable to fill deficit prorations previously allocated to it of 6,580 tons, and will be unable to supply any additional deficit that may be available for proration to it during 1970. Accordingly, a deficit is herein determined in the quota for Panama of 6,580 short tons, raw value. The government of Haiti has notified the Department that it will be able to supply only 26,176 short tons, raw value, of sugar to the United States in 1970. Therefore, it is hereby found that Haiti will be unable to fill deficit prorations previously allocated to it of 5,928 tons plus 2,455 tons of its quota proration under section 202 of the Act and will be unable to supply any additional deficit that may be available for proration to it in 1970. Accordingly, a deficit is herein determined in the quota for Haiti of 8,383 short tons, raw value.

The government of the Republic of the Philippines notified the Department by wire on July 31, 1970 that it will be able to supply to the United States during 1970 an additional 25,000 tons of its share of the deficits. Therefore, of the total deficit of 135,152 tons determined herein 25,000 short tons, raw value, are allocated to the Republic of the Philippines. The balance of the deficit amounting to 110,152 short tons, raw value, is prorated and allocated to Western Hemisphere countries by prorating 70,152 short tons, raw value, to such countries listed in section 202(c)(3)(A) of the Act, which are able to supply additional sugar and allocating the remainder of the deficit equal to 40,000 short tons, raw value, to the Dominican Republic pursuant to the following determination issued by the President.

THE WHITE HOUSE
WASHINGTON

JULY 30, 1970.

MEMORANDUM FOR THE SECRETARY OF AGRICULTURE

Subject: Finding Pursuant to Section 204(a) of the Sugar Act of 1948, as amended by the Sugar Act Amendments of 1965.

In view of the development of stable political conditions and democratic institutions in the Dominican Republic,

In accordance with the recommendation of the Conference Report on the Sugar Act Amendments of 1965, that the President use his authority to assign deficits to provide additional quota for the Dominican Republic if the political situation in that Republic warrants such action, and

Pursuant to Section 204(a) of the Sugar Act of 1948, as amended by the Sugar Act Amendments of 1965,

I hereby determine that as an integral part of the continuing United States support for constitutional government and economic progress in the Dominican Republic in 1970 it would be in the national interest to give the Dominican Republic a special allocation

of 40,000 short tons of sugar in addition to its pro rata share of such additional deficit allocations as may be declared in 1970.

You are directed to take the necessary steps to allocate deficits in accordance with this finding.

RICHARD NIXON.

By virtue of the authority vested in the Secretary of Agriculture by the Act, Part 811 of this chapter is hereby amended by amending §§ 811.81, 811.82, and 811.83 as follows:

1. Section 811.81 is amended by amending paragraph (a)(2) to read as follows:

§ 811.81 Quotas for domestic areas.

(a) * * *

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1970 Puerto Rico and the Virgin Islands will be unable by 780,000 and 15,000 short tons, raw value, respectively, to fill the quotas established for such areas in subparagraph (1) of this paragraph. Pursuant to section 204(b) of the Act the determination of such deficits shall not affect the quotas established in subparagraph (1) of this paragraph.

2. Section 811.82 is amended by amending paragraph (a) to read as follows:

§ 811.82 Proration and allocation of deficits and quotas in effect.

(a) The deficits herein determined in the quotas of Puerto Rico, Peru, Panama and Haiti of 80,000, 40,189, 6,580, and 8,383 short tons, raw value, respectively, totaling 135,152 short tons, raw value, are allocated and prorated to the Republic of the Philippines and Western Hemisphere countries as follows: On the basis of information recently received from the Republic of the Philippines it is herein determined that the Republic of the Philippines will be able to fill 175,000 short tons, raw value, of its statutory share of deficits during the calendar year 1970 which is 25,000 tons more than the amount of deficits previously allocated to the Republic of the Philippines. Therefore, pursuant to section 204(a) of the Act, 25,000 short tons, raw value, of the 135,152 tons total deficit in the quota determined herein is herein allocated to the Republic of the Philippines. In accordance with a Presidential Memorandum dated July 30, 1970, 40,000 short tons, raw value, of the deficit is herein allocated to the Dominican Republic. The remainder of the deficit totaling 70,152 short tons, raw value, is prorated to Western Hemisphere countries named in section 202(c)(3)(A) of the Act which are able to supply additional sugar on the basis of published quotas most recently in effect as established in Sugar Regulation 811 for 1970 (35 F.R. 11163).

3. Section 811.83 is amended by amending paragraphs (b) and (c) to read as follows:

§ 811.83 Quotas for foreign countries.

(b) For the calendar year 1970, the quota for the Republic of the Philippines is 1,301,020 short tons, raw value, representing 1,126,020 short tons, established pursuant to section 202 of the Act and 175,000 short tons established pursuant to section 204 of the Act. Of the quantity of 1,126,020 short tons established pursuant to section 202 of the Act, only 59,920 short tons, raw value, may be

filled by direct-consumption sugar pursuant to section 207(d) of the Act.

(c) For the calendar year 1970, the prorations to individual foreign countries other than the Republic of the Philippines pursuant to section 202 of the Act are shown in columns (1) and (2) of the following table. Deficit prorations previously established in prior amendments of this section are shown in column (3). In column (4) a portion of the total deficit herein determined in the quotas amounting to 110,152 short tons, raw value, is herein prorated and allocated to Western Hemisphere countries as described in § 811.82.

Countries	Basic quotas	Temporary quotas and prorations pursuant to Sec. 202(d) ¹	Previous deficit prorations	New deficit prorations and allocation	Total quotas and prorations
<i>Short tons, raw value</i>					
Mexico	251,468	275,491	109,108	16,492	652,559
Dominican Republic	245,938	269,433	106,709	56,129	678,209
Brazil	245,938	269,433	106,709	16,130	638,210
Peru	196,164	214,904	85,112	-40,189	455,991
British West Indies	98,245	75,207	37,628	5,475	216,645
Ecuador	35,785	39,202	15,526	2,347	92,860
French West Indies	30,905	23,685	11,837	1,722	68,149
Argentina	30,254	33,144	13,127	1,984	78,509
Costa Rica	28,953	31,719	12,562	1,899	75,133
Nicaragua	28,953	31,719	12,562	1,899	75,133
Colombia	26,025	28,512	11,292	1,708	67,537
Guatemala	24,398	26,729	10,587	1,600	63,314
Panama	18,218	19,959	7,903	-6,580	39,500
El Salvador	17,892	19,601	7,763	1,173	46,429
Haiti	13,663	14,968	5,928	-8,383	26,176
Venezuela	12,362	13,542	5,364	811	32,079
British Honduras	7,157	5,485	2,741	399	15,782
Bolivia	2,928	3,208	1,271	192	7,599
Honduras	2,928	3,208	1,271	192	7,599
Australia	117,113	89,157			206,270
Republic of China	48,797	37,149			85,946
India	46,845	35,663			82,508
South Africa	34,483	26,262			60,745
Fiji Islands	25,700	19,565			45,265
Thailand	10,736	8,173			18,909
Mauritius	10,736	8,173			18,909
Malagasy Republic	5,530	4,210			9,740
Swaziland	4,229	3,219			7,448
Ireland	5,351				5,351
Bahamas	10,000				10,000
Total	1,637,694	1,630,800	565,000	55,000	3,888,494

¹ Proration of the quotas withheld from Cuba and Southern Rhodesia.

(Secs. 201, 202, 204, 207, 403; 61 Stat. 923, as amended, 924, as amended, 925, as amended, 927, as amended, 932; 7 U.S.C. 1111, 1112, 1114, 1117, 1153)

Effective date. This action establishes net deficits in quotas totaling 135,152 short tons, raw value, and allocates and prorates such quantity to the Republic of the Philippines and Western Hemisphere countries with sugar quotas in effect that are able to supply additional sugar. To permit such countries for which larger quotas or prorations are hereby established to plan and to market in an orderly manner the larger quantity of sugar, it is essential at this time that all persons selling and purchasing sugar for consumption in the continental United States be promptly informed of the changes in marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable and contrary to the public interest and this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on August 12, 1970.

KENNETH E. FRICK,
Administrator, Agricultural Sta-
bilization and Conservation
Service.

[F.R. Doc. 70-10805; Filed, Aug. 18, 1970;
8:45 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-242]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of Feb-

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

1. In § 76.2, in paragraph (e) (15) relating to the State of Texas, a new subdivision (xiv) relating to Tarrant County is added to read:

(xiv) That portion of Tarrant County bounded by a line beginning at the junction of U.S. Highway 287 and the Tarrant-Johnson County line; thence, following the Tarrant-Johnson County line in a westerly direction to Interstate Highway 35W; thence, following Interstate Highway 35W in a northerly direction to Interstate Highway 820; thence, following Interstate Highway 820 in an easterly direction to U.S. Highway 287; thence, following U.S. Highway 287 in a southeasterly direction to its junction with the Tarrant-Johnson County line.

2. In § 76.2, the introductory portion of paragraph (e) is amended by adding the name of the State of Nebraska, and a new paragraph (e) (20) relating to the State of Nebraska is added to read:

(20) *Nebraska.* That portion of Nuckolls County bounded by a line beginning at the junction of U.S. Route 136 and the Nuckolls-Thayer County line; thence, following the Nuckolls-Thayer County line in a southerly direction to the Nebraska-Kansas State line; thence, following the Nebraska-Kansas State line in a westerly direction to the Nuckolls-Webster County line; thence, following the Nuckolls-Webster County line in a northerly direction to U.S. Route 136; thence, following U.S. Route 136 in an easterly direction to State Road 14 and U.S. Route 136; thence, following State Road 14 and U.S. Route 136 in a northerly direction to U.S. Route 136; thence, following U.S. Route 136 in an easterly direction to its junction with the Nuckolls-Thayer County line.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

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

The amendments impose certain further restrictions necessary to prevent

the interstate spread of hog cholera and must be made effective immediately to accomplish their purpose in the public interest.

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

Done at Washington, D.C., this 13th day of August 1970.

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

[F.R. Doc. 70-10857; Filed, Aug. 18, 1970;
8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 7976; Amdts. 25-25; 121-66]

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS, AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Additional Flight Recorder Data and Other Requirements

The purpose of these amendments to Parts 25 and 121 of the Federal Aviation Regulations is to: (1) Increase the recorded flight data required by Part 121 for large airplanes, for which a type certificate is issued after September 30, 1969, that are turbine engine powered or certificated for operation above 25,000 feet altitude; (2) change the requirement for keeping the recorded data; (3) require a means to automatically prevent data erasure after crash impact on flight recorders which erase and re-use tape; (4) require a device to assist in the location of flight recorders under water; and (5) require a means to correlate the time of recorded data with the time of radio communications between the airplane and air traffic control.

These amendments are based on Advance Notice 67-6 (32 F.R. 3226) and Notice 69-3, which was issued on January 14, 1969, and published in the FEDERAL REGISTER (32 F.R. 941) on January 22, 1969.

The Air Line Pilots Association (ALPA) submitted a comment in qualified support of the proposal. The ALPA supports flight recorders for the single purpose of providing information in accident investigations to prevent similar accidents. The ALPA states it has be-

come increasingly concerned with the misuse of information recorded aboard aircraft solely for accident investigation purposes, and further states that its support is given with the understanding that flight recorder information will be used for accident investigation purposes only and that the proposed rule will be amended to expressly prohibit the use of the information to discipline flight crewmembers.

The ALPA expresses the view that the amendment it recommends is consistent with its petition filed with the FAA on May 24, 1968, which recommends that the Federal Aviation Regulations be amended to preclude the use of information derived from cockpit voice recorders to discipline flight crewmembers. The FAA will consider the ALPA's recommendations concerning the use of the flight recorder information in connection with the ALPA's petition of May 24, 1968 concerning the use of cockpit voice recorder information.

The National Transportation Safety Board's comments support the proposal and recommend its application to new and existing type airplanes. The Board submitted information on specific cases to show how the proposed additional data might have increased the speed and accuracy of past accident investigations. The Board asserts that the additional data will enable the investigator, for the first time, to define the external or environmental forces exerted on the aircraft and the pilot's control forces exerted on the aircraft, and will display the aircraft's response to these forces. The Board further asserts that the utilization of the additional data is a great step forward and will give the Board the capability to study and analyze the "complex interactions between the man-machine environment, the capability for which, heretofore, has not been possible."

The Air Transport Association (ATA) opposed the retrofitting of existing type certificated airplanes and submitted comments concerning the need for additional data and the cost and other disadvantages of retrofitting airplanes in service. The ATA contends the usefulness of the additional data on existing airplanes is diminished by the fact that the mechanical and operational characteristics are well known for existing airplanes and that the useful life of existing fleets will be short after retrofit, which will take several years. The ATA's comments emphasize that the installation and maintenance costs are substantial and that there is a shortage of manpower skilled in the installation and maintenance of electronic equipment.

The ATA contends that the cost of retrofitting existing fleets is not justified by the benefit, considering that the useful life of existing fleets will be largely terminated by 1980, particularly in view of the cost of other new electronic safety equipment that is planned for these airplanes during the 1970's, such as altitude alerting, collision avoidance, area navigation, and automatic landing equipment. The ATA points out that retrofitting, which requires the installation of

numerous transducers in the existing airplanes systems and extensive wiring in addition to multiplexer-digitizer equipment and recorders, would be an extremely difficult task. The ATA's comments cite serious development and reliability problems experienced by one air carrier in retrofitting and operating 16 airplanes with a recording system.

Under the notice, the requirement for recording the additional data would have applied to large airplanes that are certificated for operations above 25,000 feet altitude or are turbine engine powered regardless of type certification date. After consideration of all the information presented concerning the applicability of the proposal, the FAA has decided to limit the applicability of the proposal and require the recording of the additional data only on large airplanes for which a type certificate is issued after September 30, 1969, that are turbine engine powered or certificated for operation above 25,000 feet altitude.

The notice proposed changes in the data retention requirement in § 121.343 to permit the use of magnetic tape and data erasure and tape reuse techniques. Flight recorders presently in use retain more than 200 hours of information on foil tape that is not reused. These tapes are saved for 60 days, under present § 121.343(c), after removal from the airplane. Therefore, existing recorders can provide data for the duration of any flight that terminates in an accident and many hours of data on flights preceding an accident. In view of the need for recorded data for a sufficient period before an accident to reconstruct the flight and the need to limit the size of magnetic tape containers to permit adequate crash protection, the FAA proposed to require that the certificate holder retain at least 25 hours of recorded data for presently required information, and such a requirement is adopted herein.

With regard to the additional information, the FAA proposed to require that only 1 hour of data be retained. The shorter retention period for the additional data was proposed to allow the use of spare recording tracks on existing cockpit voice recorders to record the additional data. This method of recording the data would cost less than the cost of replacing the flight recorders on existing fleets of airplanes with entirely new flight recorder systems. Such use of voice recorders instead of new flight recorders, to record the additional data on existing airplanes was considered appropriate in view of the cost of retrofitting the large number of airplanes subject to the proposal.

Since the requirement for recording the additional data under the rule as adopted herein applies only to airplanes issued a type certificate after September 30, 1969, and such airplanes are expected to be equipped with flight recorders that retain all of the required data for at least 25 hours, it appears that the need for the shorter retention period for the additional data no longer exists. However, in view of the 1-hour retention period proposed in the notice for the additional data, the rule as adopted

herein also contains a 1-hour retention requirement.

Notwithstanding the adoption of the 1-hour retention requirement in conformance with the notice, the FAA is considering further rule-making action to require retention of all of the recorded data for 25 hours. A 25-hour retention requirement is compatible with present flight recorder technology and will fulfill the need for as much operating history as possible to reconstruct flights subject to accident investigations. In addition, a 25-hour retention period will provide more useful information on the operating characteristics of new type airplanes and information on incidents or accidents that do not cause immediate termination of a flight. Pending the accomplishment of such rule-making action, the FAA encourages the development and use of flight recorders capable of retaining 25 hours of data.

The basis upon which the time of recorder operation is determined for retention purposes is changed from the notice. The retention period proposed in the notice was based on the flight recorder operating time specified in § 121.343(b), which is, " * * * from the instant the airplane begins the takeoff roll until it has completed the landing roll * * *." This amendment allows the retention period to be based on the cockpit voice recorder operating time specified in § 121.359(a), which is, " * * * from the start of the use of the checklist (before starting engines for the purpose of flight) to completion of the final checklist at the termination of the flight." This change in the retention requirement allows the operation of both flight and voice recorders during the same period and permits simplification of recorder controls and operating procedure. It should be recognized, however, that extra tape may be needed for ground operation, such as testing, that is not done during the period upon which the retention of flight recorder data is based. Further, it should be noted that although the retention of recorded data may be based on voice recorder operating time, the flight recorder need only be operated as specified in § 121.343(b).

Notice 69-3 stated that the FAA has the subject of the standardization of the method of recording and readout under continuing study. However, in view of the standardization work underway by industry, the FAA is now of the opinion that further rule-making action on this subject will be unnecessary.

In response to a comment, we wish to point out that any recording and readout technique may be used, including the data compression technique, if the information obtained thereby is equivalent to that specified in new Appendix B. However, regardless of the recording technique used, accurate and prompt readout of data must be available in the event of an accident.

Several comments indicate misunderstanding of the requirement for time correlation of the flight recorder and communications between the airplane and air traffic control. The intent of this provision is to require time correlation

of either the communications to or from the airplane, but not both.

As a result of comments on the notice and several conferences with industry and NTSB representatives, certain changes have been made in § 121.343 (a)(2), and Appendix B has been changed with respect to the nomenclature, range, system accuracy, and recording interval of the data which is to be recorded.

Roll rate, pitch rate, yaw rate, and angle of attack, which can be determined from other recorded data, and ambient air temperature have been deleted from § 121.343(a)(2) as adopted. However, for those operators who desire to furnish angle-of-attack data by recording it directly, appropriate specifications for angle-of-attack measurement are included in Appendix B.

The proposed engine thrust data range in Appendix B has been changed to require recording the full range of engine thrust in the forward direction only. With respect to reverse thrust, an indication of the stowed and the full reverse position of each thrust reverser is required.

In response to several comments requesting specific standards for the installation and operation of the underwater locating device, the FAA is preparing an advisory circular that will set forth one acceptable means of compliance. The agency plans to issue the advisory circular approximately 6 months after the effective date of these amendments. Accordingly, the date for compliance with § 121.343(f) has been changed from 3 to 3½ years after the effective date of these amendments to allow time for installing the device after issuance of the advisory circular.

In response to comments concerning the use of more than one flight recorder, the proposal is changed to require the underwater locating device to be secured only on or near the flight recorder that records time, altitude, airspeed, vertical acceleration, and heading. It will be noted that only one device for locating flight recorders underwater is required for each airplane.

One comment recommended that the data erasure prevention means required by proposed § 25.1459(a)(5) be limited to those recorders powered from the airplane battery or from an independent source. The FAA agrees that the requirement for a means to stop the recorder and prevent data erasure within 10 minutes after crash impact should not apply to recorders powered solely from the airplane electrical generator system, and § 25.1459(a)(5) is changed accordingly.

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and for the reasons stated in Advance Notice 67-6 and Notice 69-3, Parts 25 and 121 of the Federal Aviation Regulations are amended, effective September 18, 1970, as follows:

1. Section 25.1459(a) is amended by adding the following subparagraphs:

§ 25.1459 Flight recorders.

(a) * * *

(5) Except for recorders powered solely by the engine-driven electrical generator system, there is an automatic means to simultaneously stop a recorder that has a data erasure feature and prevent each erasure feature from functioning, within 10 minutes after crash impact.

(6) There is a means to record data from which the time of each radio transmission either to or from ATC can be determined.

(7) The underwater locating device, when required by the operating rules of this chapter, is on or adjacent to the container that records time, altitude, airspeed, vertical acceleration, and heading, and is secured in such a manner that they are not likely to be separated during crash impact.

2. Section 121.343 is amended to read as follows:

§ 121.343 Flight recorders.

(a) No person may operate a large airplane that is certificated for operations above 25,000 feet altitude or is turbine engine powered, unless it is equipped with one or more approved flight recorders that record data from which the following information may be determined within the ranges, accuracies, and recording intervals specified in Appendix B of this part—

(1) Time, altitude, airspeed, vertical acceleration, and heading; and

(2) After September 18, 1973, for airplanes having an original type certificate issued after September 30, 1969, pitch attitude, roll attitude, sideslip angle or lateral acceleration, pitch trim position, control column or pitch control surface position, control wheel or lateral control surface position, rudder pedal or yaw control surface position, thrust of each engine, position of each thrust reverser, trailing edge flap or cockpit flap control position, and leading edge flap or cockpit flap control position.

(b) Whenever a flight recorder required by this section is installed, it must be operated continuously from the instant the airplane begins the takeoff roll until it has completed the landing roll at an airport.

(c) Except as provided in paragraph (d) of this section, each certificate holder shall keep the recorded data specified in paragraph (a)(1) until the airplane has been operated for at least 25 hours of the operating time specified in § 121.359(a) and the data specified in paragraph (a)(2) until the airplane has been operated for at least 1 hour of the operating time specified in § 121.359(a). Except as provided in paragraph (d) of this section, no record need be kept more than 60 days.

(d) In the event of an accident or occurrence that requires immediate notification of the National Transportation Safety Board under Part 430 of its regulations and that results in termination of the flight, the certificate holder shall remove the recording media from the

airplane and keep the recorded data required by paragraph (a) of this section for at least 60 days and for a longer period upon the request of the Board or the Administrator.

(e) Each flight recorder required by this section must be installed in accordance with the requirements of § 25.1459 of this chapter. The correlation required by paragraph (c) of § 25.1459 need be established only on one airplane of any group of airplanes—

- (1) That are of the same type;
- (2) On which the model flight recorder and its installation are the same; and
- (3) On which there is no difference in type design with respect to the installation of those first pilot's instruments associated with the flight recorder.

The most recent instrument calibration, including the recording medium from which this calibration is derived, and the recorder correlation, must be retained by each certificate holder.

(f) After March 18, 1974, each flight recorder required by this section that records the data specified in subparagraph (a) (1) of this section must have an approved device to assist in locating that recorder under water.

(g) After September 18, 1972, each flight recorder required by this section must record data from which the time of each radio transmission either to or from ATC can be determined.

3. By adding the following new Appendix B to Part 121:

APPENDIX B—Aircraft Flight Recorder Specifications

Information	Range	Accuracy, minimum (recorder and readout)	Recording interval, maximum (seconds)
Time		±0.125 percent per hour, except accuracy need not exceed ±4 seconds.	60.
Altitude	—1,000 ft. to maximum certified altitude of aircraft.	±100 to ±700 ft. (see table I TSO-C51a; FAR section 37.150).	1.
Airspeed	100 to 450 KIAS or 100 KIAS to 1.0V _D whichever is greater.	±10 knots at room temp. ±12 knots at low temp. (see table III, TSO-C51a; FAR section 37.150).	1.
Vertical acceleration	—3g to +6g	±0.2g stabilized, ±10 percent transient (see TSO-C51a).	0.25 (or 1 second) in which ± peaks are recorded).
Heading	360°	±2°	1.
Pitch attitude	±75°	±2°	1.
Roll attitude	±180°	±2°	1.
Lateral acceleration (in lieu of sideslip angle).	±1.0g	±0.05g stabilized, ±10 percent transient.	0.25 (or 1 second) in which ± peaks are recorded).
Sideslip angle (in lieu of lateral acceleration).	±30°	±2°	0.5.
Pitch trim position	Full range	±1° or ±5 percent whichever is greater.	2.
Control column or pitch control surface position	Full range	±2°	1.
Control wheel or lateral control surface position	Full range	±2°	1.
Rudder pedal or yaw control surface position	Full range	±2°	0.5.
Thrust of each engine	Full range forward.	±2 percent	4.
Position of each thrust reverser	Stowed and full reverse.		4.
Trailing edge flap or cockpit flap control position.	Full range (or each discrete position).	±3°	2.
Leading edge flap or cockpit flap control position.	Each discrete position		2.
Angle of attack (if recorded directly).	—20° to +40°	±1°	0.5.

(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 August 12, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-10774; Filed, Aug. 18, 1970; 8:45 a.m.]

[Airspace Docket No. 70-SW-21]

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

Designation of Transition Area

Correction

In F.R. Doc. 70-9536 appearing at page 11899 in the issue for Friday, July 24, 1970, the longitude designation in the

seventh line of the description of the transition area for Cushing, Okla. (§ 71.181), now reading "96°45'30" W.", should read "96°46'30" W."

[Docket No. 10507; Amdt. No. 717]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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 made a part of the public rule making dockets of the FAA in accordance with the procedures

set forth in Amendment No. 97-696 (358 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 September 17, 1970.

Sacramento, Calif.—Sacramento Executive Airport, ADF-1, Amdt. 12; Canceled.
Salem, Ill.—Salem-Leckrone Airport, ADF-1, Orig.; Canceled.
Seattle, Wash.—Boeing Field International King County Airport, NDB (ADF) Rwy 13R, Amdt. 9; Canceled.
Seattle, Wash.—Boeing Field International King County Airport, NDB (ADF) Rwy 31L, Amdt. 9; Canceled.
Palmdale, Calif.—Palmdale AF Plant No. 42 Airport, VOR-22, Amdt. 5; Canceled.
Sacramento, Calif.—Sacramento Executive Airport, VOR-1, Amdt. 13; Canceled.
South Bend, Ind.—St. Joseph County Airport, VOR No. 1, Amdt. 13; Canceled.

2. Section 97.15 is amended by establishing, revising, or canceling the following VOR/DME SIAPs, effective September 17, 1970.

Sacramento, Calif.—Sacramento Executive Airport, VOR/DME-2, Amdt. 2; Canceled.

3. Section 97.17 is amended by establishing, revising, or canceling the following ILS SIAPs, effective September 17, 1970.

Sacramento, Calif.—Sacramento Executive Airport, ILS-20 (Back Course), Amdt. 8; Canceled.
Middletown, Pa.—Olmsted State Airport, LOC (BC) Runway 31, Amdt. 1; Revised.

4. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective September 17, 1970.

Asheboro, N.C.—Asheboro Municipal Airport, VOR Runway 20, Orig.; Established.
Berger, Tex.—Hutchinson County Airport, VOR Runway 17, Amdt. 3; Revised.

Columbus, Ga.—Columbus Metropolitan Airport, VOR-A, Amdt. 12; Revised.
 Crestview, Fla.—Bob Sikes Airport, VOR-A, Amdt. 2; Revised.
 Hastings, Mich.—Hastings Airport, VOR Runway 12, Orig.; Established.
 Madison (Jackson), Miss.—Bruce Campbell Field, VOR-A, Amdt. 6; Revised.
 Philadelphia, Pa.—North Philadelphia Airport, VOR Runway 24, Amdt. 13; Revised.
 Pine Mountain, Ga.—Gardens-Harris County Airport, VOR-A, Orig.; Established.
 Pittsburgh, Pa.—Allegheny County Airport, VOR Runway 5, Amdt. 6; Revised.
 Rochester, N.Y.—Rochester-Monroe County Airport, VOR Runway 1, Amdt. 12; Revised.
 Rochester, N.Y.—Rochester-Monroe County Airport, VOR Runway 4, Amdt. 4; Revised.
 Rochester, N.Y.—Rochester-Monroe County Airport, VOR Runway 10, Amdt. 7; Revised.
 Rochester, N.Y.—Rochester-Monroe County Airport, VOR Runway 22, Amdt. 5; Revised.
 Sacramento, Calif.—Sacramento Executive Airport, VOR Runway 2, Orig.; Established.
 South Bend, Ind.—St. Joseph County Airport, VOR Runway 18, Orig.; Established.
 Madison (Jackson), Miss.—Bruce Campbell Field, VOR/DME-B, Orig.; Established.
 Muscatine, Iowa—Muscatine Municipal Airport, VOR/DME-A, Orig.; Established.
 Sacramento, Calif.—Sacramento Executive Airport, VOR/DME Runway 20, Orig.; Established.
 Sacramento, Calif.—Sacramento Metropolitan Airport, VOR/DME Runway 34, Amdt. 2; Revised.

5. Section 97.25 is amended by establishing, revising or canceling the following LOC-LDA SIAPs, effective September 17, 1970.

Abilene, Tex.—Abilene Municipal Airport, LOC (BC) Runway 17R, Amdt. 9; Revised.
 Columbus, Ga.—Columbus Metropolitan Airport, LOC (BC) Runway 23, Orig.; Established.
 Sacramento, Calif.—Sacramento Executive Airport, LOC (BC) Runway 20, Orig.; Established.
 Sacramento, Calif.—Sacramento Metropolitan Airport, LOC (BC) Runway 34, Amdt. 2; Revised.
 South Bend, Ind.—St. Joseph County Airport, LOC (BC) Runway 9, Amdt. 6; Revised.

6. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAPs, effective September 17, 1970.

Childress, Tex.—Childress Municipal Airport, NDB (ADF) Runway 35, Orig.; Canceled.
 Deadhorse, Alaska—Deadhorse Airport, NDB Runway 4, Orig.; Established.
 Deadhorse, Alaska—Deadhorse Airport, NDB Runway 22, Orig.; Established.
 Mount Pleasant, Iowa—Mount Pleasant Municipal Airport, NDB (ADF) Runway 33, Orig.; Established.
 Muscatine, Iowa—Muscatine Municipal Airport, NDB (ADF) Runway 5, Amdt. 2; Revised.
 Pine Mountain, Ga.—Gardens-Harris County Airport, NDB (ADF) Runway 9, Amdt. 1; Revised.
 Pittsburgh, Pa.—Allegheny County Airport, NDB (ADF) Runway 9, Amdt. 3; Revised.
 Pittsburgh, Pa.—Allegheny County Airport, NDB (ADF) Runway 27, Amdt. 15; Revised.
 Rochester, N.Y.—Rochester-Monroe County Airport, NDB (ADF) Runway 28, Amdt. 15; Revised.
 Sacramento, Calif.—Sacramento Executive Airport, NDB (ADF) Runway 2, Orig.; Established.

Sacramento, Calif.—Sacramento Metropolitan Airport, NDB (ADF) Runway 16, Amdt. 3; Revised.
 Salem, Ill.—Salem Leckrone Airport, NDB (ADF) Runway 18, Orig.; Established.
 Seattle, Wash.—Boeing Field International King County Airport, NDB (ADF) A, Orig.; Established.
 Seattle, Wash.—Boeing Field International King County Airport, NDB (ADF) B, Orig.; Established.
 South Bend, Ind.—St. Joseph County Airport, NDB (ADF) Runway 27, Amdt. 18; Revised.
 West Memphis, Ark.—West Memphis Municipal Airport, NDB (ADF) Runway 17, Amdt. 3; Revised.
 West Memphis, Ark.—West Memphis Municipal Airport, NDB (ADF) Runway 35, Amdt. 2; Revised.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective September 17, 1970.

Pittsburgh, Pa.—Allegheny County Airport, ILS Runway 27, Amdt. 19; Revised.
 Rochester, N.Y.—Rochester-Monroe County Airport, ILS Runway 4, Amdt. 4; Revised.
 Rochester, N.Y.—Rochester-Monroe County Airport, ILS Runway 28, Amdt. 19; Revised.
 Sacramento, Calif.—Sacramento Executive Airport, ILS Runway 2, Amdt. 13; Revised.
 Sacramento, Calif.—Sacramento Metropolitan Airport, ILS Runway 16, Amdt. 4; Revised.
 Seattle, Wash.—Boeing Field International King County Airport, ILS Runway 13R, Amdt. 12; Revised.
 South Bend, Ind.—St. Joseph County Airport, ILS Runway 27, Amdt. 23; Revised.

8. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective September 17, 1970.

Rochester, N.Y.—Rochester-Monroe County Airport, Radar-1, Amdt. 5; Revised.
 Seattle, Wash.—Boeing Field International King County Airport, Radar-1, Amdt. 2; Revised.

(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 August 12, 1970.

EDWARD C. HODSON,
Acting Director,
Flight Standards Service.

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

[F.R. Doc. 70-10784; Filed, Aug. 18, 1970; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-635; Amdt. 31]

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

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of August 1970.

When the larger supplemental air carriers were reclassified as Group II car-

riers by ER-492 (effective July 1, 1967) and thereby made subject to additional reporting requirements, Schedules B-10 and P-4 were, *inter alia*, added to the schedules required to be filed by such carriers, but the instructions applicable to these schedules were inadvertently omitted from the provisions expressly made applicable to supplemental air carriers. Sections 33 and 34 are accordingly being amended to add these instructions, similar to those currently prescribed for route air carriers.

We are also making other changes which will conform usage for supplemental carriers to that currently in effect for route air carriers. These modifications include a redesignation of operations between the mainland and Alaska/Hawaii from the territorial to the domestic classification and a change from the term "daily utilization" to "aircraft days assigned to service." Finally, the definition of "airport-to-airport distance" is amended to reflect the revised title of the publication containing standard mileages, and the list of supplemental air carriers is corrected to reflect current legal names.

Since these amendments are clarifying in nature and will not impose an additional burden on any person, notice and public procedure thereon are not necessary and the amendments may be made effective on less than 30 days' notice.

Accordingly, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective August 19, 1970, as follows:

1. Amend section 03—Definitions, by revising the definition of "airport-to-airport distance" to read:

Section 03—Definitions for Purposes of This System of Accounts and Reports

Airport-to-airport distance—the great-circle distance, measured in statute miles, between airports as listed in the Book of Official C.A.B. Airlines Route Maps and Airport-to-Airport Mileages, published by Airline Tariff Publishers, Inc., from information compiled by the Civil Aeronautics Board. (See Part 247 of this chapter.)

2. Amend paragraph (h) of section 31 to read:

Section 31—Introduction to System of Reports

(h) Each supplemental air carrier shall generally comprise a single reporting entity; however, separate data shall be reported on Schedule P-3.1 and Schedule T-3.1 for each of the following classifications: (1) Domestic within the 48 contiguous States; (2) domestic between the 48 contiguous States, Alaska and/or Hawaii; (3) territorial; and (4) international including Canadian transborder. The application to be made of the above rule with regard to the entities for which separate reports shall be made is set forth below in the list entitled "Supplemental Air Carrier Reporting Entities."

SUPPLEMENTAL AIR CARRIER REPORTING ENTITIES

American Flyers Airline Corp.
Capitol International Airways, Inc.
Charter International Airlines, Inc.
Interstate Airmotive, Inc.
Johnson Flying Service, Inc.
Modern Air Transport, Inc.
Overseas National Airways, Inc.
Purdue Airlines, Inc.
Saturn Airways, Inc.
Southern Air Transport, Inc.
Standard Airways, Inc.
Trans International Airlines, Inc.
Universal Airlines, Inc.
World Airways, Inc.

3. Amend section 33 by adding instructions for Schedule B-10, immediately after instructions for Schedule B-8, to read:

Section 33—Certification and Balance Sheet Elements

Schedule B-10—Development and Preoperating Costs

(a) This schedule shall be filed by each Group II supplemental air carrier.
(b) Column 1 shall reflect an identification and complete description of each project for which costs are deferred in balance sheet account 1830. The description shall include the CAB Docket number in cases of projects involving a proceeding before the Civil Aeronautics Board.
(c) Explanation of the amounts included in column 3 shall disclose the general characteristics of the amounts deferred during the current quarter for each project, for example, the cost of regulatory proceedings; the cost of pilot, mechanic, and ground crew training; special engineering; aircraft development flights; publicity flights; and route familiarization flights.
(d) Column 6, "Unamortized Balance—End of Quarter" shall in total agree, when aggregated for the air carrier as a whole, with the corresponding balance of account 1830 shown in schedule B-1—Balance Sheet.

(e) Column 7, "Development Costs Charged to Account 89" shall reflect costs incurred in projects which do not contribute to or protect air transportation services of the air carrier.
4. Amend section 34 by adding instructions for Schedule P-4, immediately after instructions for Schedule P-3.1, to read:

Section 34—Profit and Loss Elements

Schedule P-4—Incidental Revenues—Net; Explanation of Special Items; Explanation of Deferred Federal Income Tax Adjustments, Dividends Declared and Retained Earnings Adjustments

(a) This schedule shall be filed by each Group II supplemental air carrier.
(b) Incidental revenues—net shall be reported in this schedule in conformance with the instructions pertaining to each item in section 9-4600 Incidental Revenues—Net.
(c) Receipts from and payments to other air carriers under agreements pro-

viding for mutual financial assistance in the case of work stoppage shall be identified in separate amounts for the individual air carriers involved, through appropriate footnote on Schedule P-2 and shall be cross-referenced to account 18, Other Incidental Revenues reflected in this schedule. The note covering payments under such agreements shall identify the items and the amounts of the gross revenues and gross expenses upon which the payments to each air carrier are predicated.
(d) The aggregate of all net incidental revenues reported in this schedule shall agree with the corresponding net amount reported for classification 4600 Incidental Revenues—Net, in Schedule P-1.
(e) Each special income item shall be fully identified and reported in gross amount in this schedule.
(f) Special credits to income during the current accounting period shall be identified in positive amounts and any special debits to income shall be identified by asterisks (*).
(g) Special income and special income tax credit and debit items shall be reported separately.
(h) The net of special income items and the net of special income tax items reported in this schedule shall agree with corresponding amounts reported in schedule P-1.
(i) Deferred Federal income tax adjustments shall be fully explained in the bottom section of this schedule. The explanations for each credit and debit, respectively, shall identify the property to which related, provide a complete description of the adjustment and the reasons for the adjustment.
(j) Dividends declared and retained earnings adjustments shall be fully explained in the bottom section of this schedule. If a dividend is not payable in cash, the values of amounts declared shall be completely described.

5. Amend section 35 by revising paragraphs (b) and (f) of schedule T-3.1 to read:

Section 35—Traffic and Capacity Elements

Schedule T-3.1—Statement of Traffic and Capacity Statistics

(b) Separate schedules shall be filed for (1) domestic within the 48 contiguous States; (2) domestic-Alaska/Hawaii; (3) territorial; and (4) international including Canadian transborder by aircraft types. (See section 31(h).)
(f) Aircraft days assigned to service by aircraft type shall reflect the sum of the number of days that each aircraft owned by the reporting carrier and each aircraft rented, leased or borrowed from others is in the possession of the carrier. For reporting purposes, part of a day shall be considered a full day. Aircraft days assigned to service need not be reported separately for domestic, territorial, and international operations, but

may be reported in total on the domestic sheet.

6. Amend schedules P-3.1 and T-3.1 of CAB Form 41, as shown in Exhibits A and B, respectively, which are attached hereto¹ and incorporated herein by reference.

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

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

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-10872; Filed, Aug. 18, 1970; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 501—EXEMPTION FROM REQUIREMENTS AND PROHIBITIONS UNDER PART 500

Replacement Bags for Vacuum Cleaners; Confirmation of Effective Date

Notice is given that no objections were filed in the matter of § 501.3 which prescribed an exemption for replacement bags for vacuum cleaners from the net quantity statement requirements of Part 500 of the Fair Packaging and Labeling Act regulations (35 F.R. 10510). Accordingly, the effective date of § 501.3, July 27, 1970, is confirmed.

Issued: August 13, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70-10882; Filed, Aug. 18, 1970; 8:49 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen. Rev. of the Export Regs., Amdt. 7]

PART 379—TECHNICAL DATA

Written Assurance Requirement

Section 379.4 General License GTDR: Technical Data Under Restriction is amended as follows:

1. The following commodities are deleted from § 379.4(e) (1) (ii).

71913 Burners for carbon black furnaces, continuous combustion, controlled reaction type; and specially designed parts and attachments.

¹ Exhibits filed as part of the original document.

71914 Carbon black furnaces, continuous combustion, controlled reaction type; and specially designed parts and attachments.

2. In § 379.4(e) (1) (iii), (q) is amended to read as follows:

(q) Pyromellitic acid and its dianhydrides (Export Control Commodity No. 51202).

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.)

Effective date: August 20, 1970.

RAUER H. MEYER,

Director, Office of Export Control.

[F.R. Doc. 70-10826; Filed, Aug. 18, 1970; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

EMERGENCY FUNCTIONS

Under authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 2.121 is amended by adding the following new paragraph regarding emergency functions:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

(c) *Delegations regarding emergency functions.* Each Regional Food and Drug Director is authorized, during any period when normal channels of direction are disrupted between the Food and Drug Administration headquarters and his region, to fully represent the Food and Drug Administration within his region in consonance with the Department of Health, Education, and Welfare regional emergency plans and to exercise the authority of the Commissioner for supervision of and direction to all Food and Drug Administration activities and use of resources within his region for continuity and for Federal Emergency Health Service operations. These same officials are authorized to provide in Regional Emergency Plans for the delegation of Food and Drug Administration regional authorities to heads of field activities when such activities are cut off from national and regional headquarters.

Effective date. This order shall be effective on its date of signature.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: August 11, 1970.

SAM D. FINE,

Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-10836; Filed, Aug. 18, 1970; 8:46 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

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

Malathion

A petition (PP 0F0942) was filed with the Food and Drug Administration by the American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of a tolerance of 8 parts per million for residues of the insecticide malathion in or on the raw agricultural commodity almonds, such residues resulting from preharvest and postharvest applications.

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

Based on consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that the tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.111 is amended by revising the fifth and ninth paragraphs to read as follows to establish the subject tolerance:

§ 120.111 Malathion; tolerances for residues.

From preharvest and postharvest application: 8 parts per million in or on almonds, peanuts, and the grains of barley, oats, rice, rye, sorghum, and wheat.

From preharvest application: 1 part per million in or on chestnuts, filberts, hops, macadamia nuts, papayas, sugar beets (roots), and sweetpotatoes.

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

Dated: August 4, 1970.

R. E. DUGGAN,

Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-10829; Filed, Aug. 18, 1970; 8:45 a.m.]

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

Ethion

A petition (PP 0F0918) was filed with the Food and Drug Administration by FMC Corp., 100 Niagara Street, Middleport, N.Y. 14105, proposing the establishment of tolerances for negligible residues of the insecticide ethion (O,O',O'-tetraethyl S,S'-methylene bisphosphorodithioate) in or on the raw agricultural commodities apricots, cherries, chestnuts, filberts, pecans, and walnuts at 0.1 part per million.

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

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

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

2. The tolerances established by this order are safe and will protect the public health but are not considered negligible.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.173 is amended by revising the paragraph "0.1 part per million" to read as follows:

§ 120.173 Ethion; tolerances for residues.

0.1 part per million in or on almonds, apricots, cherries, chestnuts, filberts, pecans, and walnuts.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of

Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: August 4, 1970.

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

[F.R. Doc. 70-10828; Filed, Aug. 18, 1970;
8:45 a.m.]

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

Subpart D—Exemptions From Tolerances

CERTAIN SURFACTANTS AND RELATED ADJUVANTS

No comments and no requests for referral to an advisory committee were received in response to the notice published in the FEDERAL REGISTER of February 20, 1970 (35 F.R. 3233), in which the Commissioner of Food and Drugs proposed that certain surfactants and related adjuvants used in pesticide formulations be exempted from tolerance requirements under section 408 of the Federal Food, Drug, and Cosmetic Act. The Commissioner concludes that the proposal should be adopted.

Therefore, pursuant to provisions of the act (sec. 408 (c), (e), 68 Stat. 512, 514, 21 U.S.C. 346a (c), (e)) and under authority delegated to the Commissioner, § 120.1001 is amended as set forth below.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing

is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 408 (c), (e), 68 Stat. 512, 514, 21 U.S.C. 346a (c), (e))

Dated: August 4, 1970.

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

1. Section 120.1001 is amended by alphabetically inserting new items in the tables in paragraphs (c) and (d), as follows:

§ 120.1001 Exemptions from the requirement of a tolerance.

(c) Residues of the following materials are exempted from the requirement of a tolerance when used in accordance with good agricultural practice as inert ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest:

Inert ingredients	Limits	Uses
α -Alkyl(C_{12} - C_{15})- ω -hydroxypoly(oxyethylene); the poly(oxyethylene) content averages 3-20 moles.	-----	Surfactants, related adjuvants of surfactants.
α -(p-Alkylphenyl)- ω -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of alkylphenol (alkyl is a mixture of propylene tetramer and pentamer isomers and averages C_{12}) with 6 moles of ethylene oxide.	-----	Do.
Alkyl(C_8 - C_{12}) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts.	-----	Do.
α -Hydro- ω -hydroxypoly(oxyethylene); molecular weight 200-9,500 (as defined in § 121.2513 of this chapter).	-----	Do.
α -(p-Nonylphenyl)- ω -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70.	-----	Do.
α -(p-Nonylphenyl)- ω -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles.	-----	Do.

(d) The following materials are exempted from the requirement of a tolerance when used in accordance with good agricultural practice as inert ingredients in pesticide formulations applied to growing crops only:

Inert ingredients	Limits	Uses
α -Alkyl(C_{12} - C_{15})- ω -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 3-10 moles.	-----	Surfactants, related adjuvants of surfactants.
Amine salts of alkyl(C_8 - C_{24}) benzenesulfonic acid (butylamine, dimethylaminopropylamine, mono- and diisopropylamine, mono-, di-, and triethanolamine).	-----	Do.

2. To eliminate duplication and overlapping, § 120.1001 is also amended by deleting the following items from the tables in paragraphs (c) and (d):

(c) * * *

α -Alkyl(C_{12} - C_{15})- ω -hydroxypoly(oxyethylene); the poly(oxyethylene) content averages 3-20 moles.

Alkyl(C_{12} - C_{15}) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts.

α -Hydro- ω -hydroxypoly(oxyethylene); molecular weight 200-9,500 (as defined in § 121.1185).

α -(p-Nonylphenyl)- ω -hydroxypoly(oxyethylene) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70.

α -(p-Nonylphenyl)- ω -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding sodium salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 6-10 moles.

Sodium cetyl sulfate.
Sodium octyl sulfate.

(d) * * *

α -Dodecyl- ω -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters; the poly(oxyethylene) content averages 4-4.5 moles. Mono-, di-, and triethanolamine salts and dimethylaminopropylamine salt of alkyl(C_8 - C_{24}) benzenesulfonic acid.

α -Tridecyl- ω -hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters; the poly(oxyethylene) content averages 5.5-10 moles.

[F.R. Doc. 70-10830; Filed, Aug. 18, 1970;
8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

MODIFIED HOP EXTRACT

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 0A2537) filed by Hops Extract Corp. of America, Post Office Box 341, Yakima, Wash. 98901, and other relevant material, concludes that the food additive regulations should be amended to increase from 10 to 100 parts per million

permitted residues of methyl alcohol from its use as a solvent in the manufacture of modified hop extract as set forth below. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.1082(b)(3) is revised to read as follows:

§ 121.1082 Modified hop extract.

(b) * * *

(3) The additive is manufactured from hops by a sequence of extractions and fractionations, using methylene chloride, hexane, and methyl alcohol as solvents, followed by isomerization by sodium hydroxide treatment. Residues of the solvents in the modified hop extract shall not exceed 5 parts per million of methylene chloride, 25 parts per million of hexane, and 100 parts per million of methyl alcohol.

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

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

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

Dated: August 11, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-10831; Filed, Aug. 18, 1970;
8:45 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

[Docket No. FDC-HS-1]

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

Carbon Tetrachloride; Findings of Fact and Conclusions and Final Order Regarding Classification as Banned Hazardous Substance

In the matter of classifying carbon tetrachloride and mixtures containing it (including that used in fire extinguishers) as "banned hazardous substances" (21 CFR 191.9) within the meaning of

section 2(q)(1)(B) of the Federal Hazardous Substances Act:

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of February 9, 1968 (33 F.R. 3076), by the Commissioner of Food and Drugs on the basis of information gathered from investigations and other sources indicating that the degree or nature of the hazard involved in the presence or use of such substances in or around the household is such that the objective of the protection of the public health and safety can be adequately served only by keeping these substances out of the channels of interstate commerce. An order implementing the proposal was published May 24, 1968 (33 F.R. 7685), effective in 60 days.

Objections to the order were filed by the Chemical Specialties Manufacturers Association and a public hearing was requested. The Commissioner concluded that the objections gave sufficient grounds for staying the order and an order so staying was published July 27, 1968 (33 F.R. 10715).

Accordingly, a hearing and prehearing conference in this matter were scheduled by a document published March 27, 1969 (34 F.R. 5721). Subsequently, a public hearing was held on the following issues:

1. Does carbon tetrachloride and mixtures containing it, when intended or packaged in a form suitable for use in the household, involve a hazard of such a degree or nature that notwithstanding cautionary labeling the protection of the public health and safety can be assured only by keeping such articles out of interstate commerce?

2. Do fire extinguishers containing carbon tetrachloride, when intended or packaged in a form suitable for use in the household, involve a hazard of such a degree or nature that notwithstanding cautionary labeling the protection of the public health and safety can be assured only by keeping such articles out of interstate commerce?

The major part of the evidence introduced in this proceeding was in the form of written material—reprints of articles from medical, scientific, engineering, and specialized literature; correspondence; and affidavits from physicians, industrial hygienists, and an FDA pharmacologist.

On March 3, 1970 (35 F.R. 4001), the Commissioner published proposed findings of fact and conclusions and a tentative order in this matter which provided for the filing of written exceptions within 30 days by persons whose appearance was filed at the hearing.

In response, one exception was filed. This was by Chemical Specialties Manufacturers Association, 50 East 41st Street, New York, N.Y. 10017, stating that certain chemicals used in household articles contain trace amounts of carbon tetrachloride as a manufacturing impurity and requesting that the regulation be modified to permit such residues. The Commissioner concludes that § 191.9(a)(2) should be changed to exempt trace quantities of carbon tetrachloride in other chemicals when they are un-

avoidable under reasonable manufacturing conditions and do not result in an atmospheric concentration of carbon tetrachloride greater than 10 parts per million.

Therefore, the Commissioner, having considered the evidence received at the hearing, the hearing examiner's report, and the filed exception, and pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(q)(1)(B), (2), 74 Stat. 374, 80 Stat. 1304; 15 U.S.C. 1261) and the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e)), and under authority delegated to him (21 CFR 2.120), issues the following findings of fact, conclusions, and final order in this matter:

FINDINGS OF FACT¹

1. Carbon tetrachloride (CCl₄) is a clear, colorless, sweet-smelling liquid resembling water at room temperature. Since its discovery in 1839 by a French chemist and physician, it has been identified by a number of names; such as, "carbon tet," "bichloride of carbon," "chlorocarbon," "tetrachloride of carbon," "carbon tetrachloride," and "tetrachloromethane." It is nonflammable, does not conduct electricity, and with a vapor density of 5.32 is approximately five times as heavy as air. It has a vapor pressure of 2.2 p.s.i. so that it vaporizes easily at room temperature.

Reportedly, this chemical was discovered by reacting chlorine with chloroform in sunlight. Because of its similarity to chloroform, it was first used in the field of medicine as an analgesic and anesthetic agent; however, by 1877 this use of carbon tetrachloride had nearly ended for it had been found to be inferior to several other anesthetics and when utilized as an anesthetic "The boundary between insensibility and death appears to be so narrow and ill-defined as in practice not to be capable of regulation." (Nunneley, T., "The Tetrachloride of Carbon as an Anesthetic," British Medical Journal, 1: 685, 1867).

The use of carbon tetrachloride in medicine evidently was minimal from approximately 1877 until the early 1920's as evidenced by the lack of scientific articles in the medical literature; however, by the early 1920's it did come back into use in this field as an orally administered vermifuge (anthelmintic) for the eradication of hookworm. It evidently was an effective anthelmintic as a number of articles appeared in the medical literature reporting its successful use in many thousands of cases. Within a very short period, however, the toxic nature of carbon tetrachloride was being more clearly delineated. During the period of its use as an anthelmintic, injuries and deaths were reported from such use, and the medical profession began extensive experimental work to determine the

¹The abbreviations in the citations are: "TR" for transcript pages of the hearing's oral argument and testimony; "G" for exhibits introduced by the Government; and "R" for exhibits introduced by either of two respondents.

physiology, symptomatology, and pathology of carbon tetrachloride poisoning. Thus by the 1930's, the medical profession had become sufficiently aware of the toxicity of carbon tetrachloride to completely replace its use in medicine with less toxic chemicals and drugs. (G. 15, 27, 27A, 27B, 34, 47, 84, 86, 87, 90, 91, 93; TR, 162-210.)

2. Another less well-known use of carbon tetrachloride was as a dry (no water) shampoo for human hair. This use occurred in the early 1900's primarily in Britain and France. The published literature carry accounts of women being overcome by the fumes of carbon tetrachloride while having their hair shampooed and a number of fatalities are reported. Due to these toxic effects, this use was generally discontinued by 1913.

The greatest use of carbon tetrachloride has been, and continues to be, in industrial applications. Reportedly, the commercial production of this chemical began in the United States around 1902. It has been used extensively in such industrial processes as: Metal degreasing; solvent for rubber cement, paints, and fat extraction; fumigant for grain; cleaning agent for machinery and electrical equipment; dry cleaning agent; manufacture of soap, chloroform, dyes, insecticides, plastics, printing inks, and freon gases for refrigerants and other uses; and as a fire extinguishing agent.

Its major early industrial use was as a solvent for rubber cement, occurring around the time of World War I. Reportedly, this use by the rubber industry caused many carbon tetrachloride poisonings because adequate ventilation was not provided.

By the early 1930's carbon tetrachloride was used extensively as a dry cleaning agent, temporarily displacing its predecessor, naphtha, because of its non-inflammability. It was soon generally displaced in this application, however, by tetrachloroethylene which was less toxic, less corrosive to metals, and had a lower vapor pressure permitting a greater recovery for reuse.

One of the major uses of carbon tetrachloride reported has been as a fire extinguisher. In the United States, carbon tetrachloride fire extinguishers began to appear in the very early 1900's. With the advent of electrical machinery, particularly electrical motors, a nonconductive extinguishment became desirable to replace water extinguishers. Carbon tetrachloride fire extinguishers were also found to have an inhibiting effect on fires in flammable liquids and its use for these types of fires grew. Due to the above and because it was inexpensive and usable in portable extinguishers, worldwide use in 1933 had grown to an estimated 10 million such extinguishers.

By 1919, reports of injuries and deaths associated with the use of carbon tetrachloride fire extinguishers began to appear in the literature. The earliest reported fatalities in this country involved two welders working in a compartment of a U.S. Navy submarine at the Portsmouth Navy Yard. The clothing of one welder was ignited by a piece of hot metal and his coworker sprayed him with

carbon tetrachloride from a fire extinguisher. Both were overcome by the fumes and the compartment had to be cut open to extract the unconscious man. Both workers died, one 5 days and the other 9 days after the incident. Initially the deaths were attributed to the carbon tetrachloride vapors, but later it was determined that their deaths were caused from phosgene gas, a byproduct produced when carbon tetrachloride is exposed to high temperatures. (See case history No. 6, G. 27B.)

Since these first two reported fatalities, numerous additional injuries and deaths attributable to the use of carbon tetrachloride fire extinguishers have been reported. Government exhibit 27B sets forth 30 brief summaries of such typical case histories among which were seven injuries and 23 fatalities.

The remaining area where carbon tetrachloride has been used, and which represents the greatest area of danger, is in and around the home. Carbon tetrachloride has been used as a cleaning agent for spots upon clothing and fabrics, such as upholstery, and as a cleaning solvent in home workshops and garages. It has also been used as a fire extinguishant around the home.

The public generally has believed carbon tetrachloride to be a relatively safe cleaning agent, due in large measure to its noninflammability and its former use in commercial dry cleaning processes. (G. 1, 5, 11, 19, 22, 24, 27, 27A, 27B, 57, 85, 92; TR, 160-210.)

3. Informed medical opinion concerning carbon tetrachloride, submitted in this record in the form of affidavits from eight highly qualified physicians, is as follows:

Carbon tetrachloride is an extremely toxic substance capable of causing extensive damage to the liver, kidneys, lung, and heart, and it is injurious to all of the cells of the body. The three routes or methods of exposure are: Ingestion, inhalation, and absorption through the skin and mucous membranes. The method and duration of exposure and concentration or carbon tetrachloride to which a person is exposed are significant factors in the clinical and laboratory picture presented by one suffering from carbon tetrachloride poisoning. Reportedly, ingestion of 3 to 5 cc. of this substance may be fatal.

Because carbon tetrachloride produces a clear and consistent hepatic (liver) lesion, this type of lesion has been widely used in medical schools to demonstrate a typical liver injury that would be produced by numerous other toxic substances.

Carbon tetrachloride is no longer used by the medical profession therapeutically, nor is its use advocated by informed members of this profession. The use of this chemical as a therapeutic agent was terminated because its extreme toxicity outweighed any therapeutic advantage. This abandonment of carbon tetrachloride came about as its toxicity became known through the large number of reported injuries and fatalities it caused.

Though individuals can be exposed to carbon tetrachloride through inges-

tion, inhalation, or absorption, the most frequent route of exposure today appears to be by inhalation.

Carbon tetrachloride is readily absorbed through the lungs and more slowly from the gastrointestinal tract. Absorption through the gastrointestinal tract is considerably increased by the concomitant ingestion of fat and/or alcohol.

Cases of severe toxic effects on the central nervous system and impairment of vision associated with carbon tetrachloride exposure have been reported in the literature.

The clinical picture following inhalation and ingestion is somewhat similar except that oral ingestion is usually followed by more severe hepatic lesions. Upon exposure, the eyes, nose, and throat may be irritated. These immediate symptoms frequently disappear when exposure is stopped. A few hours following exposure, the patient suffers dizziness, headache, blurred vision, and fatigue followed by the gastrointestinal disorders of nausea, vomiting, and abdominal pain. Respiration may become labored and pulmonary edema, often complicated by pneumonia, can ensue. A few days later a transitory jaundice may develop often accompanied by tender enlargement of the liver and bleeding from the nose or other hemorrhagic (bleeding) manifestations. Oliguria (decreased urine output) and albuminuria (presence of protein in urine) begin varying from 1 to 8 days after exposure. In severe cases, renal failure may ensue. Pathological lesions are almost constantly found in both the liver and kidney. They are the death or destruction of liver cells and degeneration of the tubular epithelium (coverings) in the kidney.

The absorption of large quantities of carbon tetrachloride produces stupor, convulsions, coma, and death due to depression of the central nervous system. Sudden death may occur from ventricular fibrillation or depression of the vital centers in the brain stem.

Clinically, individual reaction to carbon tetrachloride varies greatly—many persons will evidence no ill effects, others will exhibit mild to severe symptoms, others will die. This variation in reaction to the toxicity of carbon tetrachloride is influenced by many factors, such as the physical environment under which the exposure occurs, route of exposure, duration of exposure, the concentration of carbon tetrachloride, concomitant ingestion of fat and/or alcohol, preexisting kidney or liver diseases, malnutrition, hypertension, pulmonary or cardiac diseases, diabetes, peptic ulcer, and any hypersensitivity to halogenated carbons.

The recognition of liver and/or kidney damage in a person as caused by carbon tetrachloride poisoning is difficult. No generally available specific laboratory test for carbon tetrachloride poisoning is known. Kidney damage is often insidious in appearance and the onset of anuria (absence of excretion of urine) may be delayed for as long as a week. The anuria may persist from 1 day to

several weeks (usually preceded by oliguria), generally occurs between 1 and 8 days after exposure, and has been reported to persist as long as 67 days following exposure.

The urinalysis after the onset of anuria is typical of acute renal failure, and the biochemical changes of acute renal failure caused by carbon tetrachloride poisoning follow the same course as renal failure from any other cause.

The elevation of the blood urea nitrogen (BUN) in a patient may indicate kidney damage and a large portion of the kidney function is generally affected before there is a rise in the BUN. Because a large part of the kidney function is impaired before there is a meaningful rise in the BUN, this particular test may not detect early kidney damage in mild or chronic cases of carbon tetrachloride poisoning.

Liver function tests are capable of detecting injuries to the liver, but are of limited value in ascertaining the cause of reduced liver function. Viral hepatitis causes liver dysfunction similar to that caused by carbon tetrachloride poisoning. The results of liver function tests (that is, elevated SGOT levels—serum glutamic oxalacetic transaminase levels) generally occur during the first 3 days after exposure and may be transient. This indication of liver damage therefore may be missed if blood specimens are either not taken or not subjected to these tests within a relatively short time after exposure to carbon tetrachloride.

To accomplish an accurate diagnosis of carbon tetrachloride poisoning, the most essential factor is obtaining an accurate history of carbon tetrachloride exposure. In the absence of such an accurate history, a physician generally cannot make a specific diagnosis because the signs and symptoms observed in carbon tetrachloride poisoning are very similar to, and are easily confused with, those resulting from other conditions and disease entities, such as gastrointestinal infections, viral or infectious hepatitis, influenza, chronic alcoholism, and pneumonia, among others.

All or only some of the signs and symptoms detailed above may manifest themselves in carbon tetrachloride poisoning. Similarly, liver and kidney function tests as identified above may be utilized; but in the absence of a history of carbon tetrachloride exposure, the results of these tests showing impaired functions are not definitive as to the cause of such reduced function.

Neither a specific treatment nor antidote for carbon tetrachloride poisoning is known. No medical modality is known that can reverse or alter the toxic effects of this type of poisoning once exposure occurs.

Basically, the only treatment available is supportive; that is, treatment designed to assist the body's life functions to operate long enough for normal levels of function to be reestablished plus keeping from the patient those things that might worsen his condition.

In treating cases of carbon tetrachloride poisoning, the sooner treatment is begun the better the chances that the

body's natural resistance can be conserved and built up to resist the toxic effects and thereby help prevent further possible damage. Before any treatment is begun, a diagnosis must be made. At this step in the medical management of carbon tetrachloride poisoning, delays often occur due to similarity of the signs and symptoms of this type of poisoning with other diseases and conditions.

The ultimate physiological effect of carbon tetrachloride poisoning of a person is both varied and medically uncertain. Carbon tetrachloride poisoning causes necrosis (death of cells) in both the liver and kidneys. Although kidney function is recovered in most persons who survive carbon tetrachloride poisoning, the long-term deleterious effects of kidney necrosis are not medically known; however, persons who suffer any acute necrosis have a slight predisposition to infection and secondary infections of the kidney.

Medical details of cases involving carbon tetrachloride fatalities and acute poisoning are set forth in the case histories incorporated into the affidavits numbered as exhibits G. 84, 87, 88, 90, 91, and 93. (G. 3, 5, 7, 9, 11, 16, 20-22, 30, 48A-I, 51, 73, 84, 86-91, 93.)

4. The public has been and will continue to be exposed unknowingly to the dangers of carbon tetrachloride in the home where it is used as a cleaning agent and in hobby work. It has been available for public purchase at many drugstores and hardware stores. Exposure to this chemical by adults in the household is usually by inhalation, although occasional intentional and accidental ingestions have occurred. In children the exposure may be by inhalation and/or ingestion. Reported exposures in industry in recent years have been few because the extreme toxicity of carbon tetrachloride has become well known therein and because, to a considerable degree, different, less toxic chemicals have been substituted in industrial use.

Obese individuals are more susceptible to the toxic effects of carbon tetrachloride than nonobese individuals, not because of the outside layer of fat tissue, but because the liver in such persons is usually fatty and carbon tetrachloride tends to accumulate in fatty tissue. That alcohol potentiates the adverse effects of this chemical is well established.

The kidney damage caused by carbon tetrachloride poisoning results in the destruction of kidney cells whose function, in part, is to eliminate toxins from the blood. Thus, kidney damage interferes with or prevents the kidney from detoxifying poisons in the system. A major function of the liver is to detoxify the blood. Carbon tetrachloride poisoning results in destruction of liver cells, destroying or decreasing this function. When carbon tetrachloride poisoning is severe enough to cause kidney and liver damage, the body's exposure to this poison is prolonged which compounds the toxic effects.

Carbon tetrachloride is absorbed rapidly, but because of its detrimental effect on the liver and kidneys, is not detoxified rapidly.

The use of carbon tetrachloride without adequate ventilation will probably result in damage and injury to the individual user. Adequate ventilation in the home is generally not possible because it requires installed exhaust air systems adequate to protect the user from the toxic effects of this chemical.

Medical experts agree that because of the medical dangers associated with carbon tetrachloride use, this toxic substance should not be available for use by laymen in the home. (G. 22, 84, 86-91, 93, 94.)

5. The physicians' affidavits submitted by the Government also contain the following opinions concerning the medical feasibility of labeling carbon tetrachloride; these opinions are obviously well founded and are uncontroverted in this record:

Individual susceptibility to the adverse toxic effects of carbon tetrachloride varies considerably from no observable effect through various degrees of poisoning to fatal effect.

Certain conditions and diseases existing in a person exposed to carbon tetrachloride will intensify the toxic effect of this substance. These conditions and diseases are alcoholism (as a preexisting condition or the ingestion of alcohol just prior to, during, or immediately after exposure), the concomitant ingestion of fatty foods, the age of the person, malnutrition, obesity, the presence of any kidney or liver disease, hypertension, pulmonary diseases, any cardiac disease, diabetes, peptic ulcer, and any hypersensitivity to halogenated carbons.

Many of these conditions, such as hepatitis, malnutrition, kidney, liver, or cardiac diseases, among others, are not susceptible to diagnosis by the layman.

In the absence of a qualified physician's diagnosis, the layman is not aware of the existence of any such conditions in himself. The layman therefore would be unaware of his increased susceptibility to the toxic effects of carbon tetrachloride resulting from the presence of these conditions and diseases. No evidence in this record supports a finding that laymen know of the potentiating effect of preexisting physical conditions and diseases upon the toxic effects of carbon tetrachloride poisoning.

Devising labeling equally applicable to all users of carbon tetrachloride is medically impossible due to the great variability of susceptibility to the adverse effects of carbon tetrachloride in disease-free individuals, the increased susceptibility to the adverse effects of carbon tetrachloride in persons suffering from a variety of preexisting conditions, the lack of knowledge by laymen of this increased susceptibility, and the impossibility of laymen diagnosing many of these conditions. Labeling could only protect the public by warning each individual on the basis of his individual susceptibility. In the absence of complete physical and laboratory tests on each individual by competent physicians, such susceptibility cannot be determined; therefore, protecting the public from the extremely dangerous toxic effects of carbon tetrachloride by any amount or form of label

warnings is medically impossible. (G. 84, 86-91, 93.)

6. By the late 1940's, carbon tetrachloride use as a degreasing solvent was largely abandoned by industry due to its toxicity as evidenced by the increasing number of reported injuries and deaths resulting from industrial exposure. The present primary industrial use is as a chemical intermediate. Due to knowledge of carbon tetrachloride's toxicity, industrial users instituted certain restrictions on its use in plants; that is, limited the quantity used to the minimum amount required to accomplish specific jobs and allowed its use only in restricted areas. Additionally, extensive air-exhaust ventilating systems were installed to insure adequate ventilation, and employees who were to use carbon tetrachloride were required to submit to medical examinations to detect any existing physical conditions, such as diseases of the liver, kidney, heart, or lung, that would preclude exposing such workers to this chemical. Employees who did use carbon tetrachloride were required to utilize safety equipment such as respirators, gloves, etc. Other plants, mainly those using carbon tetrachloride as a chemical intermediate in the manufacture of other chemicals, restricted carbon tetrachloride to use in closed systems and instituted air-monitoring programs to detect the presence of carbon tetrachloride fumes so that a safe level would not be exceeded. Currently, most members of industry utilizing this chemical employ many or all of the above-mentioned controls. Many plants unable to install the extensive exhaust equipment, or other apparatus necessary for adequate ventilation, eliminated the use of carbon tetrachloride altogether and turned to less toxic chemicals. Some industrial safety directors have banned its use as a solvent in their plants.

Today, carbon tetrachloride is generally recognized by responsible members of industry as a serious hazard to individuals exposed to it during industrial use. This recognition came about through articles appearing in the published literature, personal knowledge of injury occurring in their own plants, and the dissemination of this knowledge to other members of industry through personal contact and discussions at various industry meetings and conferences.

Reported injuries arising from industrial use of carbon tetrachloride have decreased in recent years due to its general abandonment as a solvent, its restricted use as a chemical intermediate in closed piping systems, and the precautions and safety measures employed in plants.

Beginning in the 1930's the safe exposure level of carbon tetrachloride vapor was generally accepted in industry at 100 parts of carbon tetrachloride per million parts of air (100 p.p.m.). In the 1940's this level was reduced to 50 p.p.m., and in the early 1960's to 25 p.p.m. In 1966, the American Conference of Governmental Industrial Hygienists further reduced this level to 10 p.p.m. This steady and significant reduction of the threshold limit value (TLV) has occurred as

industry became increasingly aware of the hazards of the industrial use of this chemical.

"Adequate ventilation" is ventilation sufficient to reduce carbon tetrachloride TLV to acceptable levels and consists of exhaust ventilated booths with sufficient "face" velocity to prevent the escape of carbon tetrachloride vapors from the booth. The word "face" is an engineering term meaning the opening of an exhaust hood. Air must be so exhausted that the vapors of carbon tetrachloride do not go beyond the hood or booth and are drawn away from the face of the user. The design of adequate ventilation facilities is a specialized engineering function requiring specialized technical knowledge.

Adequate ventilation in the home is a practical impossibility because to achieve it would require properly designed and installed forced-air exhaust systems. Thus when carbon tetrachloride is used in the home and windows are open in the area where it is in use, necessary adequate ventilation will not be present. Consequently, dangerously high levels of carbon tetrachloride vapor will accumulate and subject the user or anyone present in the area to potential carbon tetrachloride poisoning.

The ordinary consumer does not understand what the term adequate ventilation means in relation to the use of carbon tetrachloride.

The odor of carbon tetrachloride does not become detectable until concentration of the vapor reaches approximately 80-p.p.m. Thus by the time a person detects its odor, the exposure has reached a level eight times greater than the 10-p.p.m. currently recommended tolerable level. Because of the toxicity of carbon tetrachloride and the variability of susceptibility of persons to its harmful effects, consumers may be subjected to potentially harmful levels of carbon tetrachloride exposure before they are warned of its presence by its odor.

As an example of how little an amount of carbon tetrachloride can produce potentially dangerous vapor concentrations, one teaspoonful of carbon tetrachloride placed in an unventilated bathroom measuring 6' x 10' x 8' will vaporize and produce a concentration of carbon tetrachloride vapor of 100 p.p.m. If one-half pint (8 oz.) were to be dropped in the same size room, a concentration of 4,420 p.p.m. would be produced, which could prove fatal to most individuals depending on the length of exposure.

Typical examples of injuries and deaths due to carbon tetrachloride use in and around the home are set forth in exhibit G. 19.

A number of the country's largest chemical manufacturers, including the prime producer of carbon tetrachloride, Dow Chemical Co., have gone on record against use of this chemical or compounds containing it in or around the home because of its toxicity. (G. 11, 19, 23-27, 31A, 31B, 31D, 31E, 35, 46, 85, 92.)

7. Animal experiments conducted at the Food and Drug Administration's Special Pharmacological Animal Labora-

tory showed a marked increase in the toxicity of the chlorinated compound lindane (benzene hexachloride) in animals, dogs, and swine when such animals had been previously given phenobarbital. These observed effects made other chlorinated compounds suspect, and experiments recently completed were conducted to determine whether the known hepatotoxic properties of carbon tetrachloride were also potentiated by predoses of phenobarbital.

These recent experiments demonstrated that a marked increase in the lethality and hepatotoxicity of carbon tetrachloride occurs when this solvent is administered to rats, dogs, and swine pretreated with phenobarbital. In that laboratory, the oral LD 50 for carbon tetrachloride is estimated in phenobarbital-treated dogs and pigs to be approximately 0.05 ml./kg. The oral LD 50 of carbon tetrachloride in normal dogs and pigs is believed to be in excess of 5 ml./kg. Thus the dogs and pigs pretreated with phenobarbital are over 100 times more sensitive to the toxic effects of carbon tetrachloride than normal, non-treated dogs and swine. The mechanism and pharmacological explanation for this greatly increased sensitivity to the toxic effects of carbon tetrachloride are explained in considerable detail in exhibit G. 94.

These investigators concluded that the administration to humans of phenobarbital and other barbiturate drugs such as pentobarbital and amobarbital, anti-convulsants such as Dilantin, antihistamines such as chlorcyclazine, antiarthritic drugs, and insecticides such as DDT, chlordane, dieldrin, and toxophene would also lead to a significant elevation of sensitivity to the toxic effects of carbon tetrachloride. This conclusion is supported by reference to published works of other scientists and to the scientifically established fact that the biochemical pathways for drug metabolism in laboratory animals have also been found in the human liver. Although the rate of drug metabolism in humans may differ from that in laboratory animals, man does metabolize drugs in a way similar to laboratory animals including the species (dog, swine, and rat) used in this carbon tetrachloride investigation.

Thus in the absence of any evidence to the contrary, a reasonable conclusion is that the sensitivity of humans to the toxic effects of carbon tetrachloride is significantly increased when such individuals are taking phenobarbital and the other types of drugs specified above. See also exhibit G. 56, wherein a cardiac patient being maintained on an anti-coagulant drug suffered serious adverse effect through the accidental ingestion of a minute amount (0.1 ml.) of carbon tetrachloride that could have proven fatal if the medication had not been suspended.

Thus the adverse interaction of carbon tetrachloride with drugs essential to the medical maintenance of patients constitutes a real and important hazard that cannot be eliminated or reduced by

any form or amount of labeling on containers of carbon tetrachloride used by the public at large. (G. 56, 94.)

8. For this record, the Government submitted authenticated medical records of 23 documented cases (some involving more than one individual) of deaths and acute poisonings due to carbon tetrachloride exposure. These cases represent only a small proportion of the number of injuries and fatalities due to carbon tetrachloride exposure reported in the medical and technical literature and merely represent typical examples of such occurrences.

No accurate total of the number of injuries and fatalities due to carbon tetrachloride exposure is possible because, in the absence of a history of exposure, many such cases are not accurately diagnosed (see finding number three above) and many such cases are treated by private physicians and hospitals with no reports of such occurrences made. Although for the past 2 or 3 years efforts have been made to systematize the reporting of accidental poisonings caused by a wide variety of substances by establishing the National Clearing House for Poison Control Centers within the Department of Health, Education, and Welfare (which gathers such information from 395 poison control centers located in 43 States), the substances causing accidental poisonings are not specifically identified nor broken down into sufficiently small categories so that carbon tetrachloride is listed as one such substance. No source is available at this time that will yield an accurate current total of the number of carbon tetrachloride exposures resulting in injury and/or death.

The 23 cases documented by medical records as set forth in exhibits G. 49-73 and 83, excluding G. 55-57, show that carbon tetrachloride exposure caused 15 deaths (14 by inhalation and one by ingestion) and 21 acute poisonings (13 by ingestion and eight by inhalation). Because these 23 cases are typical of cases of injuries and deaths reported in the medical literature, the factual details of four are set forth below as examples of the nature and degree of hazards present in the use of carbon tetrachloride under typical circumstances of home use.

Case 1—exhibit G. 58. In May of 1968, this individual cleaned a necktie with carbon tetrachloride in the kitchen of his home. He became ill that evening, nauseated, and vomited. The following day he experienced chills and elevated temperature and was seen by his private physician who prescribed some medication to quiet him. During the next 2 or 3 days, he became agitated and restless and his respiratory rate increased. He was admitted to a hospital in Boston, Mass., on May 16, 1968, and died the following day. The autopsy report and death certificate list the cause of death as acute hepatic necrosis and renal failure due to accidental inhalation of carbon tetrachloride while cleaning a necktie.

Case 2—exhibit G. 59. This case involved the death of a 7-year-old child in California in March 1967. On a Sunday

morning, the parents of this victim were sleeping later than usual as was their custom. At approximately 10:40 a.m., the mother arose and went to the bedroom of her child and found the victim and his 4-year-old brother unconscious on the floor. The bedrooms were on the second floor of the family residence. The wife immediately called her husband who upon entering his sons' bedroom detected a strong odor of carbon tetrachloride, which he readily recognized as he was a chemical engineer employed by a large California aircraft company. The parents carried both boys out of the room and began to administer artificial respiration to their 7-year-old, the 4-year-old evidently having revived. A rescue squad was called by a neighbor and the victim was transported to a local hospital. The boy was pronounced dead upon arrival at the hospital.

This case was investigated by the local police who determined that the parents had stored a gallon bottle containing approximately 1 pint of carbon tetrachloride in an upstairs hall closet. The rug and pad in the victim's room were wet under where the victim and his brother were found unconscious, and a wet towel smelling of carbon tetrachloride was also found in the room. Samples of the rug, pad, the towel, and the bottle were taken as exhibits. The investigating officials concluded that the victim was using the carbon tetrachloride to clean something from the rug in his bedroom, and he and his brother were overcome by the carbon tetrachloride fumes.

Upon autopsy, carbon tetrachloride was found in the victim's blood. The coroner's report listed this fatality as acute carbon tetrachloride intoxication by inhalation of this chemical.

Case 3—exhibit G. 62. This case and the medical records contained in this exhibit represent the acute poisoning of eight persons by accidental ingestion of carbon tetrachloride in Oregon.

In October 1965, a group of middle-aged married couples gathered at the home of one of this group for a dinner party and were served cocktails and canapés. Within 15 minutes from the time that the cocktails were served and consumed, all but the hostess became violently ill with numbness, acute diarrhea, perspiration, weakness, loss of color, vomiting, and palpitations. At first accidental food poisoning was suspected; however, investigation by the local public health department physician disclosed that the food consumed by the victims was not the cause of the illnesses, but that carbon tetrachloride had been accidentally used in making the cocktails. One drink had not been consumed and upon chemical analysis showed the presence therein of 66 percent by volume of carbon tetrachloride. The carbon tetrachloride used in making these drinks was contained in a bottle marked "Arrow Spot Remover." The front panel label on this container bore a skull and crossbones warning with the warning "Dangerous—May be fatal if inhaled or swallowed. Read precautions on back before using." Additional warnings and instructions were set forth on the back label of the container.

Ultimately, all eight persons were treated at various local clinics or hospitals and were diagnosed as having suffered severe liver damage as a result of their accidental ingestion of carbon tetrachloride. From the records in this exhibit, all of the victims appeared to have recovered.

Case 4—exhibit G. 72. This case involves the death of a 17-year-old high school student living in Seattle, Wash. On June 1, 1966, this youth was discovered by his father lying fully clothed upon his bed in his bedroom in an unconscious state. An ambulance was summoned and the boy taken to the University Hospital where he was pronounced dead on arrival. Attempts were made to revive the boy to no avail. An investigation was made by the local police department and the coroner's office. It developed that earlier on the day of his death, the victim had worked on his automobile, cleaning the hot engine with carbon tetrachloride. The coroner's report lists the cause of death as acute pulmonary edema due to inhalation of toxic products of decomposition of carbon tetrachloride used in cleaning the hot automobile engine.

Additional typical examples of fatalities and acute poisonings caused by carbon tetrachloride are set forth in exhibits G. 49-54, 60, 61, 63-71, 73, and 83. (G. 4, 5, 9, 13, 27, 27A, 27B, 33.)

9. The hazards associated with carbon tetrachloride use have been extensively commented upon in the medical, scientific, technical, and specialized (industrial, engineering, fire prevention, etc.) literature over the past 30 or more years. Although some efforts have been made to alert the public to these hazards through publication of articles in consumer magazines such as "Family Safety" (see exhibit G. 19), the evidence of record does not reveal that any concentrated, effective dissemination of this information to the public has been accomplished. Consequently, the nature and degree of the hazards associated with carbon tetrachloride use have become known to specialized groups of people; that is, informed members of the medical profession and members of industries who utilize or have utilized this chemical for a number of applications. The consuming public at large has not been made aware of these hazards.

The Government introduced a number of articles published in journals and publications associated with the various fields mentioned above. An examination of these printed articles reveals that these exhibits are merely a sampling of the total literature available concerning the hazards of carbon tetrachloride use. See the bibliographies set forth in a number of these exhibits; for example, G. 1, 5-7, 10, 14, 16, 21, 22, 27A, and 27B. An exhaustive coverage in detail of the nature and degree of hazards associated with carbon tetrachloride use, both in the home and industry, from the medical, pharmacological, and physiological points of view, as well as the effects caused by such hazards, are set forth in the following exhibits: G. 1-13, 15-18, 20-26, 28-30, 32-36, 38-47, 48A-I, and 55-57.

10. As referred to in finding No. 2 above, one of the major uses of carbon tetrachloride has been as a fire extinguishing agent. These types of fire extinguishers began to appear in this country during the first decade of this century after having been used previously in Europe. Apparently, the popularity of carbon tetrachloride for this use was its portability, inexpensiveness, electrical nonconductability, penetrating capacity, and reported effectiveness on flammable liquid fires.

The literature reported a limited number of injuries and fatalities involving carbon tetrachloride fire extinguishers during the early years of its use. These cases emphasized that the adverse effects experienced were due to the byproducts, mainly phosgene gas, produced by the decomposition of carbon tetrachloride when subjected to high temperatures. (See exhibits G. 39 and 40.) By the middle and late 1930's, however, more published reports began to appear in the literature of injuries caused by this use of carbon tetrachloride. As more knowledge of the toxicity of carbon tetrachloride was accumulated, it became apparent that the use of this chemical as a fire extinguishant presented two hazards: The inherent toxicity of carbon tetrachloride in its natural state and the lethal toxicity of the decomposition products of carbon tetrachloride when subjected to high temperatures, primarily phosgene gas. The relatively small number of published reports of injuries and deaths involving carbon tetrachloride fire extinguishers, where carbon tetrachloride is listed as the cause, is believed to be due to the tendency to classify all fume exposures from firefighting as "smoke poisonings," even though the adverse effects may have been caused by carbon tetrachloride and its decomposition products. This relatively small number of cases may also be due to the fact that much of the use of carbon tetrachloride fire extinguishers is by unsupervised, nonfirefighting personnel and consequently injuries and adverse reactions go unreported.

A study of a number of vaporizing fire extinguishants conducted in 1958-59 by the Dow Chemical Co. under a U.S. Air Force contract showed carbon tetrachloride to be the most toxic agent studied and to be the only one with the capacity to cause liver damage. (G. 26, 27, 27A, 27B, 38, 42, 81, 92; TR. 370; R. 2.)

11. In the past various types of carbon tetrachloride fire extinguishers in various sizes have been marketed. One was a glass bulb-type mounted in a bracket and affixed to room ceilings or walls. It would be actuated and dispense carbon tetrachloride when a certain degree of heat was reached. This type was referred to as an "automatic" fire extinguisher although it was also recommended as a hand extinguisher used by throwing the globe at a fire to break the glass and allow the carbon tetrachloride to disperse.

In 1947 the Division of Industrial Health of the Illinois State Department of Health, along with other Illinois officials, conducted an experiment to defi-

nately ascertain the cause of death of three children who died in a fire in their trailer that was equipped with two of the glass bulb-type carbon tetrachloride fire extinguishers. The conditions of the fatal fire were simulated and the two bulb-type extinguishers were found to cause a concentration of phosgene gas of 70 p.p.m. within 45 seconds, which concentration remained between 63 to 150 p.p.m. for the remainder of the test, a total of 7 minutes and 15 seconds. The fatal dose of phosgene is 50 p.p.m. during a 51 to 10-minute exposure.

The thermally produced decomposition products of carbon tetrachloride present a hidden hazard to its use. Concentrations of chlorinated hydrocarbons at one half and less of their threshold limit values (TLV) have been found to produce significant amounts of phosgene when exposed to open gas flame. Phosgene is a lethal gas used in World War I that exhibits little irritation and can be inhaled in lethal dosage without undue discomfort. Reportedly, under some conditions the phosgene generated from 1 cup of carbon tetrachloride might be lethal to humans.

Although claims have been made that carbon tetrachloride is an efficient fire extinguishant for flammable liquid fires, this claim is subject to serious question. In 1967 the Federal Fire Council examined this claim and, relying upon a report by the National Bureau of Standards of tests of portable carbon tetrachloride fire extinguishers and other material, concluded that carbon tetrachloride fire extinguishers had been demonstrated to be inefficient in flammable liquid fires. In addition, significant corrosion problems have developed in the past with the hand-pump portable types of extinguishers.

Despite the inadequacies of carbon tetrachloride fire extinguishers they were widely available for use up to the early 1950's, and this use resulted in numerous reported cases of injuries and fatalities. Details of these injuries and deaths are set forth in exhibits G. 2, 7, 11, 18, 26, 39-45, 55, and 81. An excellent summary report of case histories of deaths and injuries from carbon tetrachloride fire extinguishers is set forth in exhibit G. 27B. (G. 11, 26, 27, 41; R. 2.)

12. As a result of the hazards associated with carbon tetrachloride use in fire extinguishers, a number of Federal, State, and local authorities, and other boards and groups responsible for recommending against hazards, have taken actions to ban or severely limit the use of carbon tetrachloride fire extinguishers within their jurisdictions.

a. Pennsylvania banned the use of carbon tetrachloride fire extinguishers on school buses and substituted dry-chemical fire extinguishers.

b. Michigan discontinued the purchase of carbon tetrachloride fire extinguishers and have replaced them in State-owned buildings with other extinguishers.

c. Connecticut outlawed the use in fire extinguishers of any agent having a level of toxicity equal to or greater than carbon tetrachloride for use in any building regulated by the fire safety code. Such

extinguishers are also prohibited in school buses or other public service motor vehicles.

d. North Dakota banned extinguishers containing any of the 15 halogenated hydrocarbon liquids, one of which is carbon tetrachloride.

e. Iowa prohibits the use of carbon tetrachloride fire extinguishers in public buildings, hospitals, schools, State-owned vehicles, and school buses.

f. South Dakota prohibits the use of carbon tetrachloride fire extinguishers in all public buildings, amusement parks, hospitals, and schools.

g. Reportedly, France and West Germany outlawed carbon tetrachloride fire extinguishers in 1961.

h. Columbus, Ohio, banned all types of vaporizing liquid fire extinguishers.

i. The Federal Fire Council in its "Recommended Practices No. 3," dated January 1967, makes the following recommendation:

Carbon tetrachloride extinguishers, including bulb-type devices, should be immediately removed from the Federal Government's operations. Their inefficiency in extinguishing fires, poor maintenance characteristics, and death-dealing potential justifies their immediate and complete removal from the Government's inventory. Existing units should be destroyed and not be made available for transfer within and/or without the Federal establishment. Also, no future carbon tetrachloride fire extinguishers should be purchased as part of any Federal contract nor allowed on Federal property. (G. 27, p. 11.)

j. In 1963, the International Association of Fire Chiefs adopted a resolution recommending that State and local authorities discontinue the listing and approval of fire extinguishers using carbon tetrachloride or similar materials of toxic nature.

k. In 1950, the U.S. Public Health Service initiated a program of prompt replacement of carbon tetrachloride fire extinguishers after a survey of 653 units showed that 25 percent of them had failed when tested due to leakage, corrosion, and other causes.

l. In 1956, the Veterans Administration began to eliminate its carbon tetrachloride fire extinguishers.

m. In 1964, the Federal Supply Service of the General Services Administration deleted carbon tetrachloride fire extinguishers and fire extinguisher liquid from the Federal Supply Schedule.

n. In 1955, the U.S. Navy restricted carbon tetrachloride use throughout the Navy because of its high toxicity.

o. In January 1966, the Navy prohibited carbon tetrachloride use throughout the Navy (except as a laboratory reagent and pharmacological preparation) because of its toxicity and hazards to health.

p. In 1958, the U.S. Coast Guard withdrew its approval of carbon tetrachloride fire extinguishers on board boats and vessels effective January 1, 1962.

q. Through a series of bulletins beginning in November 1966, Underwriters' Laboratories, Inc. (U.L.), withdrew its listing of carbon tetrachloride fire extinguishers as qualifying for use of their U.L. label. This delisting became effective July 1, 1967.

r. In addition, the Underwriters' Laboratories of Canada withdrew their recognition of carbon tetrachloride fire extinguishers effective January 1, 1967, which date was subsequently changed to March 1, 1967.

s. The New York City Poison Control Center has gone on record opposing carbon tetrachloride use because it is "so vicious it should be banned from every home." (G. 27, 27A, 36, 37, 75, 77-80; TR. 221-269.)

13. Since the early 1950's, the use of carbon tetrachloride fire extinguishers has decreased markedly because of the hazards associated with their use and the availability of safer, more efficient types such as the dry chemical type. The evidence of record reveals that since 1962, only one company, the General Fire Extinguisher Corp., has produced such extinguisher and only 0.1 percent of this company's total sales volume consists of carbon tetrachloride fire extinguishers. (TR. 301, 311, 403, and 404.) This company currently manufactures three types of carbon tetrachloride fire extinguishers, a 1-quart portable hand-pump type (see exhibit R. 4), a 1½-quart size of the above type, and a 1-quart stored-pressure type. It also distributes 1-quart (see exhibit R. 6) and 1-gallon size containers of carbon tetrachloride as refills for carbon tetrachloride fire extinguishers. The formulation of the fluid used in these extinguishers is 90 percent carbon tetrachloride, 9 percent trichloroethylene, and 1 percent carbon disulfide, the formula in use for many years by practically all manufacturers. (TR. 293 and 294.) Unless an inhibitor (carbon disulfide) is mixed with it, carbon tetrachloride corrodes fire extinguisher pumps, allowing the escape of the carbon tetrachloride.

The General Fire Extinguisher Co. purchases the carbon tetrachloride for its fire extinguishers from the Freeport, Tex., plant of the Dow Chemical Co. It assembles and fills its extinguishers at its plant at Northbrook, Ill., and ships them to its branch offices in Atlanta, Dallas, San Francisco, Culver City, and New York City. The extinguishers are then shipped to "authorized distributors who distribute these to their industrial and trucking customers." (TR. 304-307.) The containers holding refills of carbon tetrachloride for the extinguishers are distributed in a similar fashion. This company does not distribute its carbon tetrachloride fire extinguishers or its refill containers directly to any retail market; that is, to any outlet other than its industrial and trucking customers. (TR. 308.) This market is extremely small. (TR. 312, 373, and 376.) The manufacturer at the present time, however, has no positive control over its products beyond the branch office level. The company does discourage its distributors from selling its carbon tetrachloride fire extinguishers and refills to noncommercial customers. This company and its exclusive supplier of carbon tetrachloride, the Dow Chemical Co., maintain that carbon tetrachloride in any form is too hazardous to be allowed for use in the home. (TR. 405.) At the sub-

ject hearing, this participant did not controvert either the toxicity of carbon tetrachloride, nor the hazards associated with its use as a fire extinguishant in the household. (TR. 160-210, 246, 290-291, 293-294, 301-312, 326, 343-344, 373-376, 396-399, 401-405, 411-419, 425-426; R. 4, 6; G. 19, 31D.)

14. The evidence of record indicates that products on the market, including fire extinguishing fluid, contain from 90 to 100 percent of carbon tetrachloride. Prior to the enactment of the Federal Hazardous Substances Act, carbon tetrachloride fire extinguishers bore on their labels the warning "Avoid exposure to smoke or fumes." Current labels contain the additional warnings "Danger—Poison—May be fatal if inhaled or swallowed. Poisonous gases form when used to extinguish flame. Avoid repeated or prolonged contact with skin. Do not enter area until well-ventilated and all odor of chemical has disappeared. Use in an enclosed space may be fatal."

Even this current labeling, however, cannot be considered adequate or effective because a layman cannot recognize preexisting physical conditions, diseases, or circumstances that will make him more susceptible to the toxic effects of carbon tetrachloride. Public health officials believe that the nature of the toxicity of carbon tetrachloride is such that the average home user cannot familiarize himself with proper precautions for use. Some experts question whether the average consumer either reads, understands, or heeds warning information concerning the hazards associated with carbon tetrachloride use in any application and thus question the effectiveness of any label warning that could be devised. (G. 3, 4, 17, 19, 24, 26, 46, 84, 86-94; TR. 175, 207, 309, 405.)

15. A fair evaluation of all the evidence of this record leads to the conclusion that both issues, as stated in the notice scheduling the hearing in this matter published in the FEDERAL REGISTER of March 27, 1969 (34 F.R. 5721), are answered in the affirmative.

16. On December 16, 1969, the Chemical Specialties Manufacturers Association withdrew its objection to classifying carbon tetrachloride and mixtures containing it (including that used in fire extinguishers) as a banned hazardous substance, conceding that Government exhibit 94 reflects data indicating that carbon tetrachloride is considerably more toxic in the presence of certain drugs and chemicals which are present in a substantial portion of the population. The Association states it has no evidence to refute this, and thus the nature of this hazard is such as to be beyond the reach of adequate precautionary labeling.

CONCLUSIONS OF LAW

1. Carbon tetrachloride is a hazardous substance as defined in the Federal Hazardous Substances Act in that it is a toxic substance that has the capacity to produce personal injury, illness, and death to man through ingestion or inhalation (sec. 2(f) (1) (A) (i), (g), 74 Stat. 372; 15 U.S.C. 1261).

2. Products containing carbon tetrachloride are packaged in a form suitable for use in the household (a) if they are intended or offered for such use or (b) if under any reasonably foreseeable condition of purchase, storage, or use such products may be found in or around a dwelling (21 CFR 191.1(c)).

3. The nature of the hazard involved in the presence or use of carbon tetrachloride and mixtures containing it in households is the toxicity of such substances. The degree of such hazard is, depending upon an individual's physical condition and the circumstances and duration of exposure, that this hazard has proven to be lethal or to have caused serious personal injury and illness.

4. The nature and degree of the hazards involved in the presence or use of carbon tetrachloride and mixtures containing this substance in households are such that it is impossible to adequately protect consumers through any form or amount of precautionary labeling or directions for use because no adequate and effective labeling can be devised.

5. Because no adequate and effective labeling can be devised to adequately protect the public health and safety, the only way to prevent further consumer injuries and deaths is to ban the distribution of carbon tetrachloride and mixtures containing it (including that used in fire extinguishers) for use in households.

6. Carbon tetrachloride and mixtures containing it (including that used in fire extinguishers) are banned hazardous substances within the meaning of the Federal Hazardous Substances Act (sec. 2(q) (1) (B), 74 Stat. 374, as amended 80 Stat. 1304; 15 U.S.C. 1261).

FINAL ORDER

Therefore, on the basis of the foregoing findings of fact and conclusions of law drawn therefrom, and the additional conclusion of the Commissioner in response to the exception regarding trace quantities of carbon tetrachloride in other chemicals: *It is ordered*, That the stay of effective date of § 191.9(a) (2), which stay was promulgated July 27, 1968 (33 F.R. 10715), be ended and the subject regulation be modified to read as follows:

§ 191.9 Banned hazardous substances.

(a) * * *

(2) Carbon tetrachloride and mixtures containing it (including carbon tetrachloride and mixtures containing it used in fire extinguishers), excluding unavoidable manufacturing residues of carbon tetrachloride in other chemicals that under reasonably foreseeable conditions of use do not result in an atmospheric concentration of carbon tetrachloride greater than 10 parts per million.

Effective date. This order shall become effective 90 days after its date of publication in the FEDERAL REGISTER.

(Sec. 2(q) (1) (B), (2), 74 Stat. 374, 80 Stat. 1304, 15 U.S.C. 1261; sec. 701(e), 52 Stat. 1055, as amended, 21 U.S.C. 371(e))

Dated: August 10, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-10627; Filed, Aug. 18, 1970;
8:45 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

[Treas. Dept. Circular 230]

PART 10—PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Miscellaneous Amendments

By notice published in the FEDERAL REGISTER on May 15, 1970 (35 F.R. 7565), the Treasury Department proposed amendments to Part 10 of Subtitle A of Title 31 of the Code of Federal Regulations (Treasury Department Circular No. 230), concerning practice before the Internal Revenue Service. The amendments are intended primarily to clarify the language of certain provisions of the regulations, strengthen certain conflict of interest and disciplinary provisions, and update statutory references. After careful consideration of all relevant matter presented by interested persons, the proposed amendments are hereby adopted, subject to the following technical changes:

1. In the authority paragraph following the table of contents, "R.S. 161," is deleted.

2. Section 10.22 is changed by dividing its proposed text into paragraphs (a), (b), and (c).

Effective date. These amendments as adopted are set forth below and shall become effective on the 31st day after the date of publication in the FEDERAL REGISTER.

Dated: August 14, 1970.

[SEAL] SAMUEL R. PIERCE, Jr.,
General Counsel.

1. The authority paragraph following the table of contents is amended to read as follows:

AUTHORITY: The provisions of this Part 10 issued under sec. 3, 23 Stat. 258, secs. 2-12, 60 Stat. 237 et seq.; 5 U.S.C. 301, 500, 551-559, 31 U.S.C. 1026, Reorg. Plan No. 26 of 1950, 15 F.R. 4935, 64 Stat. 1280, 3 CFR, 1949-1953 Comp., except as otherwise noted.

§ 10.3 [Amended]

2. Paragraph (c) of § 10.3 is amended by adding to the end thereof the following sentence: "Nothing herein shall be construed as prohibiting an officer or employee of the United States as aforesaid, who is otherwise eligible to practice under the provisions of this part, from representing others before the Internal Revenue Service when doing so in the proper discharge of his official duties."

§ 10.4 [Amended]

3. Subdivision (ii) of paragraph (b) (3) of § 10.4 is revised to read as follows:

(ii) Application for enrollment on account of employment in the Internal Revenue Service must be made within 3 years from the date of separation from such employment.

§ 10.6 [Amended]

4. Section 10.6 is amended by deleting from the second sentence of paragraph (c) "and there shall be annexed thereto the outstanding enrollment card".

§ 10.7 [Amended]

5. Paragraph (a) (7) of § 10.7 is amended by deleting "Any person" at the beginning of the paragraph and inserting in lieu thereof "Any individual".

6. Section 10.21 is revised to read as follows:

§ 10.21 Knowledge of client's omission.

Each attorney, certified public accountant, or enrolled agent who, having been retained by a client with respect to a matter administered by the Internal Revenue Service, knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client is required by law to execute in connection with such matter, shall advise the client promptly of the fact of such noncompliance, error, or omission.

7. Section 10.22 is amended by inserting "oral or written" before "representations" both places in which it occurs. As amended, § 10.22 reads as follows:

§ 10.22 Diligence as to accuracy.

Each attorney, certified public accountant, or enrolled agent shall exercise due diligence:

(a) In preparing or assisting in the preparation of, approving, and filing returns, documents, affidavits, and other papers relating to Internal Revenue Service matters;

(b) In determining the correctness of oral or written representations made by him to the Internal Revenue Service; and

(c) In determining the correctness of oral or written representations made by him to clients with reference to any matter administered by the Internal Revenue Service.

8. In § 10.24, the heading is amended and a new paragraph (c) is added to read as follows:

§ 10.24 Assistance from disbarred or suspended persons and former Internal Revenue Service employees.

(c) Accept assistance in a specific matter from any person who participated personally and substantially in such matter as an Internal Revenue Service officer or employee.

§ 10.25 [Amended]

9. Section 10.25 is amended by deleting "(18 U.S.C. 207(c))."

§ 10.26 [Amended]

10. Section 10.26 is amended by deleting "See 18 U.S.C. 207(a)." from para-

graph (b); by deleting "See 18 U.S.C. 207(b)." from paragraph (c); and by adding at the end thereof a new paragraph (d) to read as follows:

(d) **Aid or assistance.** No former officer or employee of the Internal Revenue Service, who is eligible to practice before the Service, shall aid or assist any person in the representation of a specific party or parties in any matter in which the former officer or employee participated personally and substantially as an officer or employee of the Internal Revenue Service.

11. Section 10.30 is revised to read as follows:

§ 10.30 Solicitation.

No attorney, certified public accountant, or enrolled agent shall solicit employment, directly or indirectly, in matters related to the Internal Revenue Service. For the purposes of this section, solicitation includes, but is not limited to the advertising of professional attainments or services, the employment of, or the forming of an association or partnership with, any person, partnership, corporation or other organization which solicits in a manner prohibited to attorneys, certified public accountants, and enrolled agents by the provisions of this part, or the use of signs, printing, or other written matter indicating some past or present connection with, or relationship to the Internal Revenue Service. In the case of an enrolled agent, the phrase "enrolled to practice before the Internal Revenue Service," when appearing on the stationery, letterhead or professional card of such enrolled agent is not considered to violate this prohibition. The customary biographical insertions in approved law lists and in reputable professional directories and journals, as well as the use of professional cards and announcements, are permissible providing that they do not violate the standards of ethical conduct adopted by the American Bar Association, the American Institute of Certified Public Accountants, and the National Society of Public Accountants.

§ 10.50 [Amended]

12. Section 10.50 is amended by deleting "(5 U.S.C. 261)" and by inserting in lieu thereof "(31 U.S.C. 1026)".

§ 10.51 [Amended]

13. Paragraph (c) of § 10.51 is revised to read as follows:

(c) Solicitation of employment as prohibited under § 10.30 of this part, the use of false or misleading representations with intent to deceive a client or a prospective client in order to procure employment, or intimating that the practitioner is able improperly to obtain special consideration or action from the Internal Revenue Service or officer or employee thereof.

14. Paragraph (g) of § 10.51 is amended by changing the period to a comma, by deleting "or" where it last appears, and by adding to the end thereof "or by any Federal Court of record."

§ 10.55 [Amended]

15. Paragraph (b) of § 10.55 is amended by inserting "offer his" after "may" in the first sentence; and by deleting "given" in the last sentence and inserting "offered" in lieu thereof. As amended, paragraph (b) reads as follows:

(b) *Resignation or voluntary suspension.* An attorney, certified public accountant, or enrolled agent, in order to avoid the institution or conclusion of a disbarment or suspension proceeding, may offer his consent to suspension from practice before the Internal Revenue Service. An enrolled agent may also offer his resignation. The Director of Practice, in his discretion, may accept the offered resignation of an enrolled agent and may suspend an attorney, certified public accountant, or enrolled agent in accordance with the consent offered.

§ 10.66 [Amended]

16. Paragraph (c) of § 10.66 is amended by inserting "and the Office of Director of Practice" after "Internal Revenue Service" in the first sentence; and by inserting "or the Treasury Department as the case may be" before the period at the end of the last sentence. As amended, paragraph (c) reads as follows:

(c) *Proof of documents.* Official documents, records, and papers of the Internal Revenue Service and the Office of Director of Practice shall be admissible in evidence without the production of an officer or employee to authenticate them. Any such documents, records, and papers may be evidenced by a copy attested or identified by an officer or employee of the Internal Revenue Service or the Treasury Department, as the case may be.

§ 10.75 [Amended]

17. The first sentence of § 10.75 is amended by deleting "2" and by inserting in lieu thereof "5".

[F.R. Doc. 70-10883; Filed, Aug. 18, 1970; 8:49 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Arkansas Post National Memorial, Ark.; Boats

A proposal was published at page 14468 of the FEDERAL REGISTER of September 17, 1969, to add § 7.72 to Title 36 of the Code of Federal Regulations. The effect of this addition is to control launching, beaching, or landing of vessels.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposal. No comments, suggestions, or objections have been re-

ceived and the proposal is hereby adopted without change and is set forth below. This amendment shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3; Act of July 6, 1960 (74 Stat. 333; 16 U.S.C. 43 Int))

Section 7.72 is added as follows:

§ 7.72 Arkansas Post National Memorial.

(a) *Launching, beaching, or landing of vessels.* Except in emergencies, no vessel shall be launched, beached, or landed from or on lands within the Arkansas Post National Memorial.

BERNARD T. CAMPBELL,
Superintendent,
Hot Springs National Park.

[F.R. Doc. 70-10841; Filed, Aug. 18, 1970; 8:46 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, De- partment of Health, Education, and Welfare

SUBCHAPTER C—MEDICAL CARE AND EXAMINATIONS

PART 37—SPECIFICATIONS FOR MED- ICAL EXAMINATIONS OF UNDER- GROUND COAL MINERS

Chest Roentgenographic Examinations

On June 3, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 8584) to amend Title 42, Code of Federal Regulations by the addition of a new Part 37. As proposed, the part set forth the specifications for giving, reading, classifying, and submitting the chest roentgenograms required to be given to underground coal miners by section 203 of the Federal Coal Mine Health and Safety Act (Public Law 91-173).

Interested persons were offered the opportunity to participate in the rule making through the submission of comments. A number of comments were received and due consideration has been given to all relevant material presented.

In light of the comments a number of revisions have been made in the rules as proposed, principally with respect to the content of an operator's plan for initial roentgenographic examinations in § 37.4 and with respect to specifications for giving chest roentgenograms in § 37.20. The regulations specify a date, 30 days after publication, when operators' initial plans must be submitted and clarify that additional films, or supplemental examination, may be required when the existence of pneumoconiosis cannot be determined from the roentgenogram or roentgenograms submitted. The forms required by the regulations are available from the Bureau of Occupational Safety and Health, 1014 Broadway, Cincinnati, Ohio 45202.

In addition, the organization of Part 37 has been revised so that the specifications for chest roentgenographic exami-

nations appear as a subpart rather than as the entire part.

Because the regulations require the physician who will read and classify the roentgenograms to have demonstrated proficiency in the use of the ILO or UICC/Cincinnati Classifications of the Pneumoconioses, by either submitting sample chest roentgenograms that have been classified properly under § 37.31 or by successfully completing a course in one of the classification systems, the Bureau of Occupational Safety and Health is supporting a number of classification courses to be held on a regional basis. Details of these courses can be obtained from the American College of Radiology, 6900 Wisconsin Avenue, Bethesda, Md. 20014. Any plans which include the use of physicians who have signified their intent to take an approved course may be approved conditionally as provided in § 37.5.

In accordance with the notice of proposed rule making, Part 37, as set forth below, is hereby adopted effective on the date of its publication in the FEDERAL REGISTER.

Subpart—Chest Roentgenographic Examinations

- | | |
|------|---|
| Sec. | Scope. |
| 37.1 | Definitions. |
| 37.2 | Chest roentgenograms required for miners and new miners. |
| 37.3 | Plans for initial chest roentgenographic examinations. |
| 37.4 | Approval of plans. |
| 37.5 | Roentgenographic examinations conducted by the Secretary. |
| 37.6 | Transfer of affected miner to less dusty area. |
| 37.7 | |

SPECIFICATIONS FOR GIVING CHEST ROENTGENOGRAMS

- | | |
|-------|---|
| 37.20 | General provisions. |
| 37.21 | Ability to take high quality chest roentgenograms. |
| 37.22 | Protection against radiation emitted by roentgenographic equipment. |

SPECIFICATIONS FOR READING, CLASSIFYING, AND SUBMITTING FILMS

- | | |
|-------|---|
| 37.30 | Reading and classifying chest roentgenograms. |
| 37.31 | Proficiency in the use of the ILO or UICC/Cincinnati Classifications. |
| 37.32 | Submitting required chest roentgenograms. |
| 37.33 | Notifications to miners of abnormal findings. |

AUTHORITY: The provisions of this Part 37 issued under the authority of sec. 203, 83 Stat. 763; Public Law 91-173.

§ 37.1 Scope.

The provisions of this subpart set forth the specifications for giving, reading, classifying, and submitting chest roentgenograms required by section 203 of the Act to be given to underground coal miners and new miners.

§ 37.2 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act.

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173).

(b) "Secretary" means the Secretary of Health, Education, and Welfare.

(c) "Bureau" means the Bureau of Occupational Safety and Health, Environmental Health Service, 1014 Broadway, Cincinnati, Ohio 45202.

(d) "Panel of Radiologists" means the U.S. Public Health Service Consultant Panel of Radiologists, 1014 Broadway, Cincinnati, Ohio 45202.

(e) "ALFORD" means the Appalachian Laboratory for Occupational Respiratory Diseases, Environmental Health Service, Box 4258, Morgantown, W. Va. 26505.

(f) "Chest roentgenogram" means an X-ray view of the chest recorded on photographic film.

(g) "Miner" means any individual who is working in or at any underground coal mine and who has been employed to work in or at any underground coal mine on or before December 30, 1969, but does not include any surface worker who does not have direct contact with underground coal mining or with coal processing operations.

(h) "New miner" means any individual who began working in or at an underground coal mine for the first time subsequent to December 30, 1969, but does not include any surface worker who does not have direct contact with underground coal mining or with coal processing operations.

(i) "Operator" means any owner, lessee, or other person who operates, controls, or supervises an underground coal mine.

(j) "ILO Classification" means the extended form of the 1968 revision of the International Labour Office's scheme for classifying the pneumoconioses.

(k) "UICC/Cincinnati Classification" means the classification of the pneumoconioses devised in 1968 by a Working Committee of the International Union Against Cancer.

§ 37.3 Chest roentgenograms required for miners and new miners.

(a) Every operator shall provide to each miner presently working in or at any of its underground coal mines an opportunity for:

(1) An initial chest roentgenogram by June 30, 1971, provided that this requirement will be considered as having been fulfilled with respect to any miner for whom is submitted a chest roentgenogram which meets the requirements of § 37.20(d) and which was taken on or after June 30, 1969;

(2) A second chest roentgenogram by June 30, 1974; and

(3) Such subsequent chest roentgenograms as the Secretary prescribes in this subsection.

(b) Every operator shall provide to each new miner presently working or subsequently employed in or at any of its underground-coal mines:

(1) An initial chest roentgenogram as soon as possible but in no event later than 6 months after commencement of his employment;

(2) A second chest roentgenogram 3 years following the initial roentgenogram if the miner is still engaged in underground-coal mining; and

(3) A third chest roentgenogram 2 years following the second chest roentgenogram if the miner is still engaged in underground-coal mining and if the second chest roentgenogram shows any evidence of dust retention;

(4) Such subsequent chest roentgenograms as the Secretary prescribes in this subsection.

(c) The operator shall provide the chest roentgenograms in accordance with a plan which meets the specifications of this subpart and which is approved by the Secretary pursuant to § 37.5.

§ 37.4 Plans for initial chest roentgenographic examinations.

(a) Every plan for initial chest roentgenographic examination of underground coal miners and new miners shall be submitted in writing on such forms as prescribed by the Secretary to the Bureau by September 19, 1970, and shall include:

(1) The name(s) and address(es) of the operator or group of operators participating in the plan;

(2) A time schedule for the required roentgenograms which include: the number of miners to be given or offered roentgenograms under the plan;

(3) The location(s) at and time(s) during which roentgenograms will be given, in sufficient detail to enable a determination of compliance with § 37.20(a) to be made;

(4) The names and qualifications, including specialty training and experience, of the individual(s) who will give, read and classify the chest roentgenograms, the office address(es), State license number(s) and date of last State, county, or city radiation protection inspection of the roentgenographic equipment to be used; a listing of any deficiencies that were noted during the course of such inspection and what action was taken to correct the deficiencies.

(5) A description of the technical factors to be employed in accordance with the specifications in § 37.20(d) (1), (2) and (3) and (2) and (3).

(6) A statement of the steps that have been taken to assure confidentiality of medical records and roentgenographic findings.

(b) The operator shall advise the Bureau of any change in its plan.

§ 37.5 Approval of plans.

(a) If, after review of any plan submitted pursuant to this subpart, the Secretary determines that the action to be taken by the operator or group of operators meets the specifications of this subpart and will effectively achieve its purpose, the Secretary will forward written notice of his approval of such plan to the operator(s) submitting the plan. Such approval may be conditioned upon such terms as the Secretary deems necessary to carry out the purpose of section 203 of the Act.

(b) Where the Secretary has reason to believe that he will deny approval of a plan he will, prior to the denial, give reasonable notice in writing to the oper-

ator(s) and opportunity to amend the plan. The notice shall specify the ground upon which approval is proposed to be denied.

(c) If a plan is denied approval, the Secretary shall advise the operator(s) in writing of the reasons therefor.

§ 37.6 Roentgenographic examinations conducted by the Secretary.

(a) The Secretary will give chest roentgenograms or make arrangements with an appropriate person, agency or institution to give the chest roentgenograms or supplemental examinations required under this subpart in the locality where the miner resides, at the mine, or at a medical facility in a town easily accessible to a mining community or mining communities, under the following circumstances:

(1) Where, in the judgment of the Secretary, due to the lack of adequate medical or other necessary facilities or personnel at the mine or in the locality where the miner resides, the required roentgenographic or supplemental examination cannot be given.

(2) Where the operator has not submitted an approvable plan.

(3) Where, after commencement of an operator's program pursuant to an approved plan, the Secretary, after notice to the operator of his failure to follow the approved plan and, after allowing 30 days to bring the program into compliance, the Secretary determines and notifies the operator that the operator's program still fails to comply with the approved plan.

(b) The operator of the mine shall reimburse the Secretary or such other person, agency, institution, as the case may be, for the actual cost of conducting each examination made in accordance with this section.

§ 37.7 Transfer of affected miner to less dusty area.

(a) Any miner who, in the judgment of the Secretary based upon reading of a chest roentgenogram or the result of other medical examinations, shows category 2(2/1) pneumoconiosis or development of category 1(1/0) pneumoconiosis in less than 10 years (ILO or UICC/Cincinnati Classification) shall be afforded the option by the operator of transferring from his position to any position in any area of the mine where the concentration of respirable dust in the mine atmosphere is not more than 2.0 mg/m³ of air.

(b) Effective December 31, 1972, the option of transferring shall be to any area in the mine where the concentration of respirable dust in the mine atmosphere is not more than 1.0 mg/m³ of air, or, if such level is not attainable in such mine, to a position in the mine where the concentration is the lowest attainable below 2.0 mg/m³ of air.

(c) Any transfer under this section shall be for such period or periods as may be necessary to prevent further development of pneumoconiosis, and during such period or periods, the miner shall receive compensation for his work

at not less than the regular rate of pay received by him immediately prior to his transfer.

SPECIFICATIONS FOR GIVING CHEST ROENTGENOGRAMS

§ 37.20 General provisions.

(a) The chest roentgenographic examination shall be given in the locality in which the miner resides or in a location that is equivalent with respect to convenience of time and place. Examinations at the mine during, immediately preceding, or immediately following work and a "no-appointment" examination at a medical facility in a town easily accessible to a mining community or mining communities shall be considered of equivalent convenience for purposes of this section.

(b) The initial chest roentgenographic examination shall be supplemented by a completed miner's identification document (Form ECA-108) furnished by the U.S. Public Health Service.

(c) A roentgenographic examination shall be given by or under the supervision of a physician who regularly takes chest roentgenograms and who has demonstrated his ability to take high quality chest roentgenograms in accordance with section 37.21.

(d) Every chest roentgenogram shall

(1) Be a posteroanterior view on a 14" x 17" or 14" x 14" film;

(2) Be taken with a diagnostic X-ray machine having a rotating anode tube;

(3) Have a broad range of contrast such as that which is produced by using 70-78 kV without grid or 110-145 kV with grid;

(4) Permit the study of pulmonary detail as well as an adequate viewing of the mediastinum; and

(5) Show the (i) date of exposure; (ii) hospital, clinic, or other facility where the roentgenogram was taken; and (iii) social security number of the miner.

(e) To ensure high quality chest roentgenograms: (1) the maximum exposure time shall not exceed 1/20 of a second; (2) minimum source to film distance shall not be less than 5 feet; and (3) medium speed film and medium speed intensifying screens shall be used.

(f) Upon notification by the Secretary that a film or group of films is not adequate for the purpose for which they were intended, the mine operator shall make provision for additional films or supplemental examinations as may be deemed necessary by the Secretary.

(g) No payment may be required of any miner in connection with any examination or test given to him under the Act.

§ 37.21 Ability to take high quality chest roentgenograms.

Ability to take high quality chest roentgenograms shall be demonstrated by submitting from the physician's files to the panel of radiologists, six sample chest roentgenograms which are of acceptable quality to the Panel. These shall have been taken within the last 12 months and shall identify the hospital, clinic, or other facility where each film was taken. These may be the same roentgenograms sub-

mitted pursuant to § 37.31(a) and will be returned to the physician.

§ 37.22 Protection against radiation emitted by roentgenographic equipment.

Fixed roentgenographic equipment, its use and the facilities in which such equipment is used, shall conform to the recommendations of the National Council on Radiation Protection and Measurements in NCRP Report No. 33 "Medical X-ray and Gamma-Ray Protection for Energies up to 10 MeV—Equipment Design and Use" (issued Feb. 1, 1968) which document is hereby incorporated by reference and made a part hereof. This document is available for examination at the Bureau, ALFORD, the Bureau of Occupational Safety and Health, 5600 Fishers Lane, Rockville, Md., and at the Public Health Service Information Center or Regional Office Information Centers as listed in 45 CFR 5.31. Copies of the document may be purchased for \$1 each from NCRP Publications, Post Office Box 4867, Washington, D.C. 20008. An official historic file of NCRP Report No. 33 will be maintained at the Bureau of Occupational Safety and Health, 5600 Fishers Lane, Rockville, Md.

SPECIFICATIONS FOR READING, CLASSIFYING, AND SUBMITTING FILMS

§ 37.30 Reading and classifying chest roentgenograms.

(a) The interpretation of chest roentgenograms shall be classified in accordance with the ILO or UICC/Cincinnati Classification System and recorded on Form ECA-116.

(b) Reading and classification shall be performed only by a physician who regularly reads chest roentgenograms and who has demonstrated proficiency in the use of the ILO or UICC/Cincinnati Classification Systems in accordance with § 37.31.

§ 37.31 Proficiency in the use of the ILO or UICC/Cincinnati Classifications.

Proficiency in the use of the ILO or UICC/Cincinnati Classification Systems shall be demonstrated by either:

(a) Submitting from the physician's files six recent sample chest roentgenograms taken within the last 12 months to the panel of radiologists which are considered properly classified by the panel. The submission shall consist of two without pneumoconiosis, two with simple pneumoconiosis, and two with complicated pneumoconiosis and will be returned to the physician. (These may be the same roentgenograms submitted pursuant to § 37.21) or;

(b) Successful completion of a course approved by the Bureau in the ILO or UICC/Cincinnati Classification Systems.

§ 37.32 Submitting required chest roentgenograms.

All chest roentgenograms required to be taken under this part, together with their interpretations and the miner identification documents shall be submitted immediately after classification to AL-

FORD and become the property of the U.S. Public Health Service.

§ 37.33 Notification to miners of abnormal findings.

Findings or suspected findings of enlarged heart, tuberculosis, lung cancer, or any other significant abnormal findings other than pneumoconiosis shall be communicated by the physician reading and classifying the roentgenogram to the miner or new miner or to his designated physician, as indicated on the miner's identification document, and a copy of the communication shall be submitted to ALFORD.

NOTE: Guidelines for the selection of equipment and recommendations for the technique for obtaining high quality roentgenograms are available to any interested person. Requests should be directed to the Bureau of Occupational Safety and Health, 1014 Broadway, Cincinnati, Ohio 45202.

Approved: August 12, 1970.

ELLIOT L. RICHARDSON,
Secretary.

NOTE: The incorporation by reference provision in this document was approved by the Director of the Federal Register on July 7, 1970.

[F.R. Doc. 70-10794; Filed, Aug. 18, 1970; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12782; FCC 70-872]

PART 73—RADIO BROADCAST SERVICES

Competition and Responsibility in Network Television Broadcasting

Memorandum opinion and order.

1. The Commission has before it a number of petitions seeking reconsideration of the report and order released May 7, 1970¹ which added paragraphs (j) and (k) to § 73.658 of its rules and regulations. That section contains the chain broadcasting rules for television. New paragraph (j), Network Syndication and Program Practices, prohibits networks after September 1, 1971, from engaging in domestic syndication of all television programs and restricts networks' foreign distribution to programs wholly produced by them. Also, it prohibits networks, after September 1, 1970, from acquiring rights other than network exhibition rights in programs produced wholly or in part by other persons. Further, it provides for recapture of network exhibition rights if not timely exercised. Divestiture of existing network-owned syndication rights and interests is not commanded but the Commission will observe their effect on competition and take future action if required.

¹ FCC 70-466; 46636, 35 F.R. 7417, 23 FCC 2d, 382.

2. Paragraph (k), Prime Time Access Rule, prohibits television stations in the top 50 markets where there are three operating commercial stations from broadcasting, after September 1, 1971, more than 3 hours of network programs between 7 and 11 p.m. (6 and 10 p.m. c.t.) each day. Special news programs dealing with fast-breaking news events, on-the-spot news, or paid political broadcasts by candidates for public office are exempted. The portion of the time from which network programming is excluded may not be filled with off-network syndicated series programs, or feature films previously broadcast in the market. The rule does not apply to educational, noncommercial, or public broadcasting stations.

3. Several petitions for reconsideration—NBC in particular—say that as the Commission made no economic study to determine the consequences in the syndication market, and the effect on licensees of the prime time access rule, it should now either abandon or postpone the effectiveness of the rules until the Commission has obtained the "economic" facts to support its conclusions together with "credible evidence" showing the rule will not have a substantially harmful impact. At the least, it is urged, the Commission should "call as witnesses, the stations, producers, syndicators, advertisers, and others whose views would be relevant and from whom information has not been obtained." NBC admits that information is contained in the record "showing the adverse effect of the rule upon stations, networks, producers, and the public" but complains that the Commission has "ignored" these facts. This same lack of knowledge was urged upon us before we issued our report and order. However, we concluded that the record was adequate to permit us to make informed judgments regarding the matters involved. We determined that on the basis of all the facts before us the new rules are important to the public interest. However, we asked for further "facts and figures" and analyses of the impact of the rules on stations in small markets in any petitions for reconsideration which might be filed, if any persons chose to present them.

4. So that there may be no doubt as to the state of the record with regard to these matters some history of this proceeding is necessary. The Commission's notice of proposed rule making was issued on March 22, 1965,¹⁶ following a long detailed inquiry into the policies and practices involved in the network television program process. The stated purpose of the rules proposed was to multiply competitive sources of programming and lessen network control by placing limitations on the network activities which tended to confine areas of competition. The rules regarding syndication as adopted were approximately the same as those originally proposed. The so-called 50/50 rule, which would have limited network financial and proprietary control of the programs contained in their evening schedules, was

not adopted as originally proposed. Instead, the prime time access rule, which is essentially the alternate proposal suggested by Westinghouse Broadcasting Co. in its comment in 1966 was substituted.¹⁷

5. The record upon which the Commission's action was taken is exhaustive and its compilation extended over a long period. Following the issuance of the Commission's notice of proposed rule making in March 1965, Part II of the Second Interim Report of the Office of Network Study was issued in September 1965. It contained a great deal of information relevant to the proceeding which had been collected in a long series of hearings in the Commission's Program Inquiry (Docket 12782). Subsequently the networks (ABC, NBC, and CBS) asked for several extensions of time in order to obtain an economic report by the Arthur D. Little Co., dealing with television program procurement, marketing, and exhibition. That report was submitted as part of the record herein in 1966 and contained much pertinent statistical information as well as comment and conclusions not only with regard to the network programming process but also the composition, extent and operation of television program markets. Extensive comments largely based on the information and conclusions contained in the Little Report were filed by various persons, including, of course, the three national television networks and the affiliate organizations.

6. On September 20, 1968, oral argument was set for December 16, 1968, and comment was specifically requested on the Westinghouse proposal. The Commission said it had no indication that the overall situation with regard to network programming and other relevant matters had materially altered since the filing of the original Little Report and the 1966 comments, but it asked to be advised of significant changes if any had taken place. It added that unless additional information and data were presented by the parties to demonstrate the contrary, the Commission would assume the situation to be not materially altered "from what the record disclosed it to be prior to 1964," in domestic and foreign television program markets.¹⁸

7. At the request of CBS and NBC oral argument was postponed to July 21, 1969, to permit the preparation and submission of a Supplemental Report by Arthur D. Little Co. to bring the statistical record to date and to provide an economic study of the effects of the Westinghouse proposal on both the network pro-

gram and the syndication markets. This was pleaded as essential to a proper evaluation of the Westinghouse plan. On or about April 21, 1969, the Supplemental Little Report was submitted. It contained additional data on program production, marketing and exhibition. Additional comments were filed by the networks, their affiliates and others in further opposition to the proposed rule and extensive analyses and allegations were made in the network comments, particularly those of NBC, with regard to the entire situation in the syndication market. NBC and CBS and their affiliate organizations put forward essentially the same argument now again urged on reconsideration. Oral argument was had on July 22 and 23, 1969, which included extensive discussion of the economics of television program production, marketing, and exhibition. All parties were given until September 15, 1969, to submit further information. Later, on September 1, 1969, counsel for CBS and NBC advised the Commission that considerable data contained in the Supplemental 1969 Arthur D. Little Report was erroneous. On January 2, 1970, revised data was submitted and provided to all parties.

8. It is true that the Commission did not conduct an economic study of the syndication market. However, as above stated, it granted delay of this proceeding on two occasions for substantial periods of time, at the request of the networks, to enable such studies to be prepared by Arthur D. Little Co., and made available to the Commission and all parties to the proceeding. In seeking these delays the networks pleaded that no economic study had been made and that such studies were essential. These reports were comprehensive in nature and were presented by the networks as objective studies by disinterested economic experts.

9. While in many instances the inferences and conclusions drawn by the networks and the Arthur D. Little Co., itself did not appear to be necessary or appropriate inferences from the data, these reports provided the Commission with a broad and meaningful factual basis for an understanding of the situation in television network program and syndication markets and the probable impact of its rules. Indeed the information and data contained in the Little Report when properly analyzed and considered, fully support most of the tentative conclusions which resulted from the program inquiry and which were set out in the Commission's notice of March 1965. Much additional information was contained in the comments filed by the networks and others bearing on the present state of the economics of television program production and marketing. The information and data thus submitted were carefully studied by the Commission, and a large part of the Commission's report and order, most particularly that part dealing with the syndication market, relies very heavily on the data contained in the Little studies. In view of these facts, there would appear to be no reason why this proceeding should be further delayed to conduct an administrative conference or

¹⁶ We decided not to adopt the 50/50 rule although we concluded that it would accomplish its purpose without undesirable side effects because the Westinghouse proposal appeared to be "somewhat more direct in opening up time for programs and sponsors outside the network funnel." We stated however, that we were not closing the docket and were holding the 50/50 rule in abeyance "to give us time to determine whether the Westinghouse approach will achieve its intended purpose." Report and order of May 7, 1970 (note 1 supra) par. 4.

¹⁷ Report and Order, par. 2. Order Sept. 20, 1968 (FCC 68-959, 33 F.R. 14470).

¹⁸ FCC 65-227; No. 64453, 30 F.R. 4065.

to permit the Commission to make or procure further economic studies and analyses of these already well-plowed fields. The Commission is satisfied that through the Little Reports, the comments, letters from stations and the entire record, it has ample information before it to permit informed judgments regarding the questions—economic and otherwise—presently before it in this matter.

10. In the petitions the question is again debated whether, and the extent to which, prime time quality syndicated programs will become available under the operation of the prime time access rule. NBC, CBS, and several "house" program producers in addition to the "independent" film majors (MCA, Screen Gems, Paramount, and Warner Bros.) who produce for network exhibition say, in effect, that production for station-by-station distribution of prime time television programs competitive with network offerings is impracticable and not economically feasible. Other independent producers assert the contrary, that is, that production for syndication of "quality" programs is not only feasible but awaits only reasonable opportunity of access to high-rated evening time.⁸

⁸ Screen Gems in its petition for reconsideration uses the term "house producers" to mean those producers who work for a network "under exclusive deals" financed by the network. The program thus produced should, according to Screen Gems, be classed as the network's own programming.

⁹ See particularly petitions of Westinghouse, Metromedia, ABC, Hughes Sports Network. Also see letters from Western Video Industries, Inc. (July 14, 1970); Goodson-Todman Productions (July 8, 1970); Firestone Film Syndication (July 14, 1970); The Maguire Co. (June 5, 1970); Public Media, Inc. (June 19, 1970); Robert H. Lilly & Co. (June 25, 1970); Video Tape Enterprises, Inc. (June 5, 1970); Madison Productions, Inc. (Robert Stabler) (July 30, 1970); Mike Stokey Enterprises, Inc. (May 26, 1970); El-Von Productions (May 12, 1970); City Film Corp. It is, of course, true that several of these concerns are small and little known, but others are not. Mike Stokey, for instance, is a pioneer in television program production and past president of the Academy of Television Arts and Sciences. Stabler is also a producer of long standing in television. Stokey says, "without belaboring you with the frustrations of the independent producer's lot as the vice-like grip of the network steadily strangled his initiative, creative freedom and economic horizons over the past two decades—I can say to you that it would be a crushing blow to us now to see you at the FCC bow down to the blatant and shamefully transparent lobbying by the networks as they attempt to belittle your recent majority vote on the matter. I assure you that there will be more work, not less, for artisans of all kinds in the entertainment industry; there will be more choices, not less, for millions of viewers." Said Stabler, "Independent producers . . . will come forth with programming of values that will match or exceed the levels brought forth under network monopoly. Furthermore, they will achieve this at lower costs than now exist under the 'control' of the networks' wasteful and frequently unacknowledged management. Advertisers . . . have for some time found the increasing cost, coupled with reduced appeal of many network shows have resulted in a lessening of the effectiveness of television as an advertising medium. They are, in grow-

11. Those who say such production is not now practical concede that there was a time in the early days of television when syndicated programs were staples of station fare and constituted available alternatives to network offerings. But, they contend, that day is gone. Costs of production have increased to a point where individual producers cannot compete with network-producer combinations. MCA says, for instance, that it is as "unhappy as the Commission" that there are only three purchasers in the network television program market. However, it concludes that the sharp rise in costs, the efficiencies of network distribution and the uncertainties involved make production for nonnetwork distribution of "quality" series a thing of the past. It concedes that under the Prime Time Access Rule programs would be available, as presently they are to nonnetwork stations and to affiliates in nonnetwork hours, but says such programs consist of "off-network or repeat feature film." New program production induced by the rule would probably consist of "additional talk, interview, game, animal, contemporary and country western music shows of the type currently being offered in the tape syndication business."

12. In its comments MCA sets forth the reasons generally asserted by the networks and others as to why in their view the Prime Time Access Rule would not result in any substantial supply of prime time programming for syndication. MCA points out the fact that at this time—and for the past 10 years—first-run film syndication is and has been virtually non-existent in prime time and that such is presently the case.¹⁰ MCA,

ing numbers, seeking means to counteract this trend and, as evidenced by present negotiations with my organization, are aggressively interested in acquiring programs for syndicated presentation. There will undoubtedly be a continuation of great wailing and dire prediction of the future from the networks, which is perfectly understandable since it will all be motivated by the desire to continue the monopolistic greed they have so profitably enjoyed in the past. The facts are that they will continue to live and live well, while advertisers and independent producers will improve their circumstances and while the public audience will find television a greater source of entertainment, education, and enjoyment. And, in the final analysis, that's the real objective, isn't it?"

¹⁰ There is a substantial difference between the statements made by MCA and others as to the availability of first run type of syndicated programming and those in the original Little Reports and the network comments based thereon. Originally the networks and the Little Reports scoffed at the statement made in the Commission's original notice of proposed rule making that the first run prime time syndication "had virtually disappeared." Indeed, the Supplemental Little Report filed in the spring of 1969 contained erroneous information "showing" substantial clearance of syndicated programming in prime time by network affiliates. Later that was admitted to be in error. It is now conceded that there is "no first run syndication of high caliber film programs in prime time." This was the conclusion set forth in the Commission's notice of proposed rule making in 1965.

"like other independent producers of television film" is not engaged in any first run syndication efforts; but in the past it has done so. However, it is engaged on a large scale in second run off-network syndication of programs both domestically and abroad. This is the essential ingredient in any program production since:

Except for the rarities of the highest-rated and longest-run television programs, a television series will seldom, if ever, return a profit from the sales of network television performance rights alone.

MCA presents figures on its own syndicated production and distribution between 1956 and 1960 and contrasts them with its production costs for network exhibition of recent years to show that any attempt to produce network quality television programs for distribution in syndication would be economically unrealistic. MCA says production costs¹¹ have risen more rapidly than potential returns from syndicated exhibition, so that, while there might be somewhat higher revenues now obtainable in prime time in major markets, MCA's "best estimates are that such revenue could not hope to triple the 1956-60 figures which would be the minimum necessary to reach the expected break-even point." MCA states conclusions, which, in general, represent the positions taken by the networks and others with regard to these matters: (1) Cost per thousand for any syndicated program "have markedly increased" since the increase in production and distribution costs have not been accompanied by any equivalent increase in potential viewers; (2) the increase in television stations, 28 percent from 1960 to 1969, has not been matched by an equivalent increase in television homes, 16 percent in the same period; (3) 10 years ago the networks did not generally program for the 7:30-8 p.m. time period each evening. This left that valuable time free for syndication shows without the risk of network competition;¹² and (4) most syndicated shows formerly were sold to multiple sponsors, advertisers, and on regional networks. Today, in contrast, network advertisers generally do not sponsor programs but purchase

¹¹ "The average per episode production cost for each of the six half-hour black and white syndicated programs MCA produced from 1956 to 1960 ranged from \$27,000 to \$45,000 each. In contrast the average per episode production cost for the two half-hour color film series MCA produced for network distribution in the 1969-70 program season were \$90,000 and \$108,000 respectively. (For the one-hour color programs which are now becoming more standard, 1969 to 1970 average per episode costs have ranged from \$191,000 to \$305,000 per segment.) Similarly by 1967 it was costing MCA \$158,000 and \$182,000, respectively, for two "pilot" programs for a half-hour color film series—programs which it was not then able to sell for either television or theatrical release." MCA Petition, p. 13.

¹² The Prime Time Access Rule, of course, is intended to permit alternate program sources to compete for some part of prime time now occupied by network programs. One purpose of the rule is to encourage the development of additional regional and national networks in TV.

spot participations in a number of shows.

13. While a majority of those commenting generally agree with the position stated by MCA and the networks, other experienced independent producers take a very different and optimistic view as to the possibility of producing programs for syndicated exhibition not only in the top 50 markets but in all television markets.⁹

14. Metromedia, Inc., a large multiple owner of independent television stations and a program producer, now appears for the first time in this proceeding and supports the Commission's action. It says the central problem which the report and order "graphically demonstrates" is the increase of dominance by the tele-

vision networks over the medium in the United States "from production through exhibition." This dominance is not restricted to prime time, for the networks offer their affiliated stations "wall to wall" program service. This dominance was demonstrated by the expansion during the 1960's of an additional half hour of network programming in prime time (which the Prime Time Access Rule is designed to recapture for occupancy by nonnetwork sources) and the number of the network programs in "late and fringe time periods" that have traditionally been the station's time. Metromedia notes that MCA indicates its dissatisfaction with the present system confined to three network customers but could offer no alternative which it felt would alleviate the situation. While Metromedia does not present figures in support of its conclusions, it feels that the situation with regard to network dominance is of sufficient consequence to the public interest that the rule should be given an opportunity to demonstrate its effectiveness as a means of diversifying program sources. Metromedia recalls that the "forecasts of doom" heard during the proceeding about the abolition of option time did not come to pass. Indeed, the reverse was true and, following the abolition of option time "the network dominance of television process increased." Metromedia agrees with the Commission that there is a sufficient need in the public interest for the rule and sufficient probability of its success to make its adoption imperative.

15. MCA and the other producers deplore the fact that the television program market is restricted largely to the three networks as customers. But they assert, in effect, that the present method of producing television programs, in which networks provide much of the financing and assume much of the "risk", is essential to the viable operation of our national television structure. This conclusion assumes that cost and pricing structures in television program production are such that even were a producer willing to chance the necessary risk and produce a quality program series for syndication he would of necessity price himself out of the market.¹⁰ This question was dealt with at great length in the studies and comments which preceded our report and order. It was urged upon us, then, as now, that the absence of prime time syndicated programs is a function of the economics of television program production and that production costs and financial risks involved in

the production of prime time programs are so great that no producer can afford to engage in their production for syndication. However, after due consideration we concluded that there was no compelling reason to conclude that the normal forces of competition would not bring about an adequate supply of programming to meet the demand created by the operation of the Prime Time Access Rule. We pointed out there was sharp disagreement in the record on this score. The matter we found could not be determined with absolute certainty short of operational experience under competitive conditions, i.e., opportunity for the placement of syndicated programming in high rated evening time, but that the likelihood that independent production would succeed was sufficiently great that it should be given the opportunity.¹¹

16. The large amount of space given to this question in the petitions for reconsideration adds very little to the substance. As stated above, we are again told by MCA and others that it is doubtful whether an adequate supply of appropriate programming can be produced to take the place of the half-hour of network programming which will be needed if the networks refuse to continue offering a 3½-hour entertainment schedule. On the other hand, Westinghouse, Metromedia and a number of other producers have informed us that, if high-rated evening time is opened in the top 50 markets, no substantial problems will be encountered in providing adequate programs.¹² Indeed, it is pointed out that local and regional advertisers will have a "golden opportunity" to buy spots in prime time from their local stations—a situation which has not existed for years. For many years the inability of local businessmen to gain access to prime time television has been a matter of concern.¹³ There is, of course, some element

¹¹ Report and order, supra note 1, paragraph 24.

¹² Westinghouse says (Comments, page 8):

"Group W estimates that, using modern video tape and coproduction techniques, it can produce a first run dramatic series of prime time quality, with public and advertiser appeal comparable to current prime time programming, for approximately \$60,000 per half hour episode. With a 20 percent distribution expense, this would raise the cost to \$72,000—far less than MCA's estimate of \$159,000 to \$185,000. Given reasonable access to the high audience prime time hours there is every reason to believe that such costs would be fully recoverable through syndication."

¹³ In 1966 after an exhaustive study Subcommittee No. 6 of the Select Committee on Small Business, House of Representatives, 89th Cong., second session, recommended:

"* * * that the Federal Communications Commission seek new ways and means to insure greater availability of desirable TV advertising time for small business. It is recognized that national networks time is not an appropriate vehicle for most small business advertising because of its prohibitive cost. However, it is clear that at the present time local businesses do not have either access to prime time on network affiliated local stations or any meaningful choice of alternative programming from non-

⁹ A number of these producers have made their positions known only since the Commission report and order, May 7, 1970 (Note 5, p. 5 supra). Western Video Enterprises, Inc. (letter of July 14, 1970) which distributes programs on tape, states that there will be no problem in providing programs to substitute for network programs in the top 50 markets or to provide programs, if the networks fail to do so, in markets below the top 50. As an example, a network quality show is cited which is being purchased from Western by a large national advertiser for syndication in the larger markets. This returns the producer's costs plus a modest profit and the program will then be available on a graduated scale to all other markets. To sell the show in as many small markets as possible will be in the interests of the syndicator since returns from these markets will be net—his costs have been met by distribution in the larger markets. Distribution costs can be held to a minimum by the use of the telephone and other means. Western cites a sale of program above referred to for the coming season in a smaller market for \$75 a run. It was in turn sold to local advertisers for \$550, giving the station a net profit of \$475 per broadcast. A network program in the same time period would net the station only \$192.50 even if the network spots were sold out and if the station was getting 35% of its card rate. Thus, by "going with a good syndicated show" the station will make a net profit of \$282.50 per show over and above what it would have made from the network. In addition, tape syndication, according to Western Video, permits large savings in both production and distribution costs. This example is cited to counter the assertion from many stations that loss of revenues, if the network should shorten their schedules, would be a disaster. As one producer puts it, if local stations will assume their "responsibility and seek out local advertisers and look for the local dollar", instead of coming in in the morning and throwing the network switch" it seems probable that a substantial increase in local revenue from nonnetwork sources can more than offset loss of network revenues. Western points out "The more local business a station writes the more profit they make because they are working on much higher percentages with a local syndicated show than they are with shows through the networks and the national reps." Another potential program source, the Hughes Sports Network, states that, assuming the rule makes it clear that programs from sources other than three major television networks do not count as network programs, it will be able to expand its clearances of network programming in the field of public affairs, sports, and entertainment in all markets.

¹⁰ MCA asserts that they and other network program producers rarely recover their costs from the network run of a new program series. They must look to the subsequent domestic syndication and foreign distribution to make them whole. In our report and order of May 7, we pointed out that such is the favorable bargaining position of television networks because of their occupancy of prime time that even the major motion picture companies, with their size and resources, fare little if any better than one-shot producers in bargaining with the networks. (Report and order, par. 9.)

of uncertainty in our action, indeed in any action in the field of administrative regulation. Actions based on the public interest as found by this Commission must be educated forecasts. In 1943 Judge Learned Hand in answer to almost identical argument by some of these same parties that the Commission's Chain Broadcasting rules, then recently issued were grounded in "speculation," said that on the question as to whether the network practices struck down by those rules kept down "competition which would prove beneficial" * * * was a question which the Commission alone could determine. He added that even though the Commission was "steeped in the details" its conclusion must be largely "speculation"; that does not mean that the industry must be left to itself; the Commission was created precisely to say how far it was best to let things stand and how far to intervene.¹⁴

17. When syndication was in its heyday local banks, breweries, bakeries, dairies, etc. were able to sponsor syndicated shows in prime time in competition with big national advertisers. Now such is rarely the case. Under the Prime Time Access Rule this trend should be reversed. The smaller national advertisers and local concerns would then have a chance to compete for prime time advertising spots once again. All in all, on the whole record, including the additional petitions and letters filed since our report and order was issued, we find no reason to alter our view that substantial benefit to the public interest in television broadcast service will flow from opening up evening time so that producers of television programs may have the opportunity to develop their full economic and creative potential under better competitive conditions than are now available to them.¹⁵ As we said,¹⁶ the types, cost levels and sources of programs which will develop from opening up evening time cannot be predicted with precision. The producers who have now appeared in addition to those who filed comments and

appeared previously have said that under the competitive conditions created by the rule, they and other television program producers will be able to provide adequate programming to take the place of and supplement network programming precluded by the rule. Some of them have submitted cost figures for prime time programs which appear to be reasonable. Others tell of plans to begin similar production or to expand present production. We believe that the public should have the opportunity to benefit from this expanded and diversified market. The result of our Prime Time Access Rule will be to make available for competition among existing and potential program producers, both at the local and national levels, an arena of more adequate competition for the custom and favor of broadcasters and advertisers.

Effect on small market affiliates. 18. In our report and order we noted that we had received expressions of concern by licensees of affiliated stations in smaller markets as to the impact of the rule on their operations.¹⁷ As we said earlier herein, all parties and interested persons have either presented their positions herein at length or have had ample and repeated opportunity to do so. However, not to reward the lack of diligence of those who failed to make timely appearance, but to assure ourselves that we had not precluded the presentation of all relevant and helpful information and opinion in this most important matter, we suggested in our report and order that on reconsideration "facts and figures" be presented with respect to the present operation of such licensees and a "more careful analysis" be made of the impact of the rule upon them. In response we received over 100 letters and petitions from various licensees throughout the country, the vast majority of whom were network affiliates, in which the impact of the rule on their operations was discussed and analyzed in specific terms. Generally speaking, these analyses assume that the networks will cut back from 3½ to 3 hours of network programming between 7 and 11 p.m.¹⁸ Most affiliates cited the amount of network revenue of which they would be deprived and the additional cost which would be incurred in the purchase of substitute nonnetwork programming. Many of them say that they will be seriously disadvantaged by the reduction in network programming which will result from the rule, without any commensurate benefit to the public interest. However, very little weight was given to potential revenues from the opportunities for the sale of local and regional spots which will become available in prime time.¹⁹

On the whole, the petitions and letters submitted in response to our request for "facts and figures" indicate a clear preference on the part of television licensees for the security of network programs and network revenues over the initiative and effort required to develop other and perhaps more lucrative sources of economic support for nonnetwork programming.

19. In general, the concerned stations assert or imply that the rule will result in substantial reduction in their profits because they will be unable to offset through spot sales substantial network revenue losses and increases in expenditures for syndicated programming to replace lost prime time network programming. Many claim that the anticipated deterioration in their financial situation will raise questions as to the appropriateness of maintaining news and public affairs expenditures at present levels.

20. CBS and NBC concur in the stations' conclusions as to adverse financial impact, particularly as they relate to stations in smaller markets. NBC states that the average network affiliate in markets below the top fifty will suffer a 20 percent reduction in profits. NBC says that these stations are frequently of a marginal type and that the Commission has "consistently recognized the particular importance of fostering the vitality of stations in small markets." ABC concedes that there are some small market situations in which at least for the "short-range," there will be adverse impact on individual stations, but says that the real issue is not "limited financial adjustments," but the overall public interest.

21. The argument presented for adverse impact on network affiliates in the smaller markets rests essentially on the premise that the stations will be unable to recoup fully their increased outlays

tion. Many station licensees refer to network revenues which will be lost and to the cost for replacement programming without even mentioning revenues which can be realized in connection with such replacement programming * * *

"ABC knows firsthand that many prime time network programs are not cleared by affiliates, or are cleared outside of prime time, so that the station may substitute its own more profitable entertainment programming. It is evident that what many station licensees desire is the continuing opportunity to pick and choose whether to clear network programs or to make the greater profit on non-network programs in particular prime time periods."

ABC goes on to say that some small market stations will be adversely affected by a cut-back in network scheduling. It then adds this significant statement in support of the finding which the Commission made in its report and order: "This is limited to stations where there are at least three stations in the market which means that the smallest markets supporting only one or two stations would be unaffected inasmuch as there would be ample network programming from all three networks to support their schedules as at present."

network sources." H. Rept. No. 2344 89th Cong., second session, p. 172. Also see Network Broadcasting (The Barrow Report) H. Rept. 1297, 85th Cong. second session pp. 360-366. " * * * A national advertiser * * * who is in a position to use network TV has, in effect, a priority claim on some of the most desirable time periods of the day. This places those advertisers—national, regional or local, who are unable * * * to use network television at a competitive disadvantage * * *. In view of the importance of television advertising to the commercial success of many products this competitive disadvantage is potentially a serious one."

¹⁴ *NBC v. United States*, 47 F. Supp. 940, 945, 946 (S.D.N.Y., 1942) aff'd. 319 U.S. 190 (1943).

¹⁵ Despite the assertions of the networks, our action is not taken to advance the private interest of any group of producers or any kinds and sources of programs. CBS appears to charge the Commission with complicity in a scheme to advance the interest of "first-run syndicators over other outside program sources." (see Petition, pages 8, 9, 10). This type of exaggerated argument tends to defeat its own purpose.

¹⁶ Report and order, par. 26.

¹⁷ Paragraph 38, report and order.

¹⁸ In their petitions for reconsideration all three networks indicate that economics will require them to cut back their schedules.

¹⁹ The comment of American Broadcasting Cos., Inc., in their petition is pertinent: (p. 7).

"With regard to the burden upon individual stations the petitions and oppositions reveal that the Commission has not been provided with very much detailed informa-

on syndicated programs²⁰ and their loss of prime time network revenues through additional sales of local and national or regional advertising. In this connection, it is pointed out that national spot advertising is disproportionately concentrated in the larger markets to a degree out of proportion to their populations. It is said that many affiliates already are unable to sell all of the limited amount of spot time now available in prime time.

22. Westinghouse, on the other hand, is optimistic about the prospect for sales of spot advertising. It assumes that in general, stations will be able to sell 75 percent of the spots during the half-hours vacated by network programming, although there will probably be some reduction in spot prices due to audience declines. Westinghouse calculates that application of the rule will improve the financial status of network affiliates in small as well as large markets. It also points out that "a few years ago" the networks only programed 3 hours of prime time per night.

23. We have given particular attention to the question of possible impact of the rule on affiliated stations in three-station markets smaller than the top 50.²¹ On the basis of current experience²² in the smaller markets, we cannot accept the Westinghouse assumption of 75 percent sell-out of prime time availabilities. Nor can we accept the calculations made by many stations in which they discount any revenues at all from the syndicated prime time programs. In order to obtain a working estimate of the impact in these small markets, we made a set of assumptions which appeared to be reasonable and calculated an estimate of impact for each affiliated station in these three-station markets.²³ We focused our attention on those stations which reported

1969 revenues of \$1 million or more. Only 11 of these reported a loss. The estimated impact for these stations was less than \$20,000 in each case. Their potential losses are so minor compared to their operating revenues that we are not concerned that the service of these stations would be significantly affected.

24. We then considered those affiliates which reported 1969 revenues of less than \$1 million. There were 58 such stations of which 33 reported losses. The estimated impact, as calculated for these 58 stations, varied from zero to \$44,000 reduction in income. For these 33 stations reporting a loss, the estimated impact was principally in the range of \$25,000-\$30,000 per station. We do not expect this difference in income to cause any of these stations to go out of business. But this reduction in income could possibly affect non-network and local programming. The audience for the 58 small stations studied accounts for 3 percent of the U.S. audience, and the audience for the 33 losing stations accounts for only 1½ percent of the total U.S. audience. We consider this disadvantage occasioned these few stations to be outweighed by the public interest benefits in a more diverse and competitive program market.

25. Any regulatory action which the Commission may take in the broadcast area is bound to be fraught with the potential of economic effect on licensees. How serious and how permanent will be the effect in this instance cannot be precisely determined in advance of actual experience. We must deal in probabilities. The result will depend largely on the extent to which stations, especially in smaller markets, can through enterprise and initiative substitute local, regional and national spots for network revenues.²⁴ Several stations concede that no one can predict the effect of the rule with certainty since no network station or producer has operated under the conditions imposed by the rule. Another licensee says it is difficult if not impossible to develop facts and figures to demonstrate the impact of the rule because of the many variables involved.

26. At the same time we are cognizant of the import of the repeated statement in the letters and petitions by television affiliates of their almost complete dependence on networks for viable economic operation. This confirms our conclusion that our television broadcast structure is over-centralized and poses a serious question as to whether the basic concept of a competitive, locally responsible television structure as envisioned by Congress and this Commission is being implemented. One principal objective of our prime time access rule is to lessen the degree of network domination of station operation. The stations in effect are pleading this domination as an element

essential to their economic viability. If, as many licensees say in their letters and petitions, affiliates at present are so dependent on national networks that their economic viability and their ability to serve the public interest turn on whether they continue to receive revenues from an additional half-hour of network programming, they clearly are not in a position to exercise the appropriate freedom of choice and the responsibility for television service which are essential to the proper discharge of their broadcast trusteeships.²⁵ The present degree of network dominance of television broadcasting, now so graphically confirmed by the letters and petitions filed on reconsideration herein, emphasizes the need for Commission action to improve the situation, and to seek to reestablish licensee individuality and responsibility as operable factors in television broadcasting.

27. Hence, we find that the probable overall effect on station operation of the daily 3-hour limitation in the prime time access rule as presently constituted, will not be so severe as to outweigh the benefits to the public interest in television broadcast service which will flow from the added competition and diversity among program sources which the rule will engender. We see no sufficient reason to modify the rule or postpone its effectiveness in this regard.

The syndication and foreign sales rules. 28. The petitions for reconsideration add little to the information and data already in the record relative to the new rules restricting network activity in nonnetwork and foreign distribution, and the acquisition of subsidiary rights and interests. The networks reiterate at length the positions and arguments against these prohibitions which were included in their prior comments and urged in oral argument. On the other hand, several firms who together produce a large share of network programs, in their petitions for reconsideration—particularly that of MCA—now make it abundantly clear that "independent" television producers of programs for network exhibition must deal with the networks or not at all;²⁶ all effectively excluded from nonnetwork sales of their program in prime time and rarely recoup their costs from the network run of the pro-

²⁰ It is apparent from station comments that in general syndicated programs, rather than programs generated from the station's own resources, will replace network programming. Station-generated programs are far more costly and apparently beyond the limited financial, physical, and manpower resources of the smaller stations.

²¹ In two-station markets, there should be sufficient prime time network programs available from the three networks.

²² However, as several stations concede, there is not sufficient comparable experience on which a precise forecast can be projected. Availability of prime time spots for local and regional sale will be greatly increased under the rule.

²³ We assumed each station would lose 10 percent of its network compensation. We assumed that the cost of replacement syndication programs would be \$35,000 for stations in the 50th to 80th market and \$25,000 in smaller markets (obtained from studying station comments). Finally, we assumed that the estimated national network prime time revenue lost would all be converted to national spot advertising and that each station would share in this new spot advertising in the same proportion as it now does of all national spot. No additional local advertising was assumed; no reduction was assumed for spots now carried between the network station breaks; no slippage in national advertising was assumed in the transfer from networks to national spot.

²⁴ The Commission's licensees as trustees share the responsibility to maintain healthy competition and should actively encourage the development of new and diverse program sources.

²⁵ In the matter of amendment of § 73.658 (d) (The Option Time Case, 34 FCC 1103, 1120), the Commission said:

"We have indicated herein that it is to be expected that the removal of this artificial restraint on competition between program sources and advertisers [option time] will result . . . in improvement of competitive conditions and the position of the 'fenced out' groups (e.g., more first run syndicated film production). Even if it were not, however, we would take the action we adopt herein on the principle that freedom of choice to the licensee should be preserved . . ."

²⁶ Formerly a producer dealt in a network program market including, in addition to the three national networks, 50 to a hundred sponsors who were potential purchasers of programs.

gram, let alone make a profit.²⁸ Normally, producers do not earn profits from the network run of the program, but must look to subsequent syndication of the series to make them whole and to provide a profit. In effect, network exhibition is to this extent subsidized by nonnetwork use of the programs. Often the network provides financing for the development of the program and, in many cases, also provides financial assistance during the course of program production. In these circumstances the networks have sought and frequently have obtained various interests in the subsidiary uses of the program—particularly domestic syndication and foreign distribution—as part of the consideration in the overall transaction. On the record it appears that the networks do not normally accept untried packager-licensed programs for network exhibition unless the producer-packager is willing to cede a substantial part of the valuable rights and subsidiary uses of the program to the network. The networks say that they do not overreach producers in bargaining; that they acquire subsidiary program rights as part of normal commercial dealing in return for their providing developmental and, on occasion, production financing and/or assuming the entrepreneur's risk. CBS recently initiated a policy through which financing can be paid back on bank terms by a producer and his subsidiary rights recaptured.

29. In the network comments the point has been repeatedly made that there is no evidence that network operation in domestic syndication brings about a "conflict of interest" in the sense that the network syndication division "forces" its programs on the network affiliates. However, it is important that we preclude the potential of conflict which might arise if the networks were to take advantage of the relationship with affiliates in the syndication of programs wholly produced by them. And of course there is a clear conflict when networks sell to nonaffiliates competing with their affiliates. In addition, of course, the principal purposes of our new syndication rules are two: (1) To lessen the bargaining leverage provided by network control of program exhibition on most stations throughout the country which enables networks successfully to bargain for subsidiary rights and interests with producers, and (2) to remove the possibility that acquisition of such rights

becomes a prerequisite to acceptance of a program for network exhibition.

30. As we found in our report and order, if networks are prevented from operating as syndicators or from sharing in distribution by others in the domestic syndication market there will no longer be an inducement for them to choose for network exhibition only those packager programs in which they have acquired subsidiary rights. Relieved of the need to grant to networks large portions of his broadcast profit, the producer's ability to operate in the network television program market will be greatly enhanced. Also, this rule will remove any possibility of the networks taking advantage in syndication distribution of their existing relationships with their affiliates. As stated earlier there is no evidence that the latter has been the case. But the rule will eliminate the potential for competitive restraint in these areas.

31. As we pointed out in our report and order, foreign distribution rights are an important part of the valuable assets which currently are on the bargaining table when the choice of packager licensed programs or series for network exhibition is being determined. Were we to permit networks to continue to bargain for foreign distribution rights and profit shares, such rights would continue to be important elements in program acceptance.

32. The principal network producers now support the part of our rule which eliminates networks from nonnetwork distribution and subsidiary rights and interests.²⁹ Screen Gems, division of Columbia Pictures Industry, Inc., an "independent" producer dealing with networks, which has sold 19 new film series to the networks since 1965, suggests that the rule does not go far enough. It asserts that networks, in addition, ought to be excluded from distribution outside the United States of programs of which they are the sole producers. Screen Gems alleges that by permitting networks to engage in foreign distribution of their own program product, the Commission encourages networks to give preferential treatment in program selection and otherwise to their own programming at the expense of independent suppliers. This, Screen Gems suggests, is contrary to the Commission's objective of making more prime time available to other suppliers and will tend to defeat that objective. It is suggested that the Commission ought further to study network programming activities to determine whether the Commission's "stated purpose" to encourage "greater diversity of program sources" would be advanced by eliminating networks from foreign distribution in toto. Screen Gems points out, also, that networks act as "brokers" for their affiliates in the purchase of programs of the same kind as they themselves produce. Screen Gems suggests that this "dual role of producer and consumer" may well call for some limitation on the amount of their own

programming which they may include in their schedules. In this connection Screen Gems states that for this purpose a network's own programming" should mean not only those shows which it produces itself but also those it finances under exclusive deals with house producers.³⁰ Screen Gems denies that it occupies a favored position with any network or that such a position accounts for its opposition to the Prime Time Access Rule. It merely asks for "opportunity to participate in open competition with other independent suppliers." If Screen Gems believed that the Prime Time Access Rule could open up the market to a multiplicity of program customers in lieu of the present three—or preferably in addition to the present three—Screen Gems would support it "enthusiastically" but since the rule will not accomplish this Screen Gems is "doing the next best thing"—proposing a course of action which will permit greater competition in the network area." While we note with interest Screen Gems' suggested addition to our syndication rule and the reason put forward in its support, we believe that the rule as presently constituted will tend to improve the bargaining positions of producers with networks so as to bring about a desirable degree of expansion of stable and viable program sources. If the rule does not have that result its future amendment along the lines suggested by Screen Gems could be considered.

3. Several suggestions which we believe have merit have been made for changes and modifications in the rules. CBS Television Affiliates and the Hughes Sports Network (HSN), among others, state that if the Prime Time Access Rule is retained the term "network" should be defined so as to include only the three national networks (ABC, CBS, and NBC). In this regard HSN points out that the Commission's objective is to multiply the independent sources of programs available to station licensees so that they better exercise their responsibility to program their stations in the public interest. While HSN started out as a network devoted largely to sports events—it was incorporated in New York in 1956 and has been in operation ever since—it has more recently distributed programs of a nonsports nature. The reason was that the costs of the rights to "college and professional football" have "skyrocketed". These rights have been "locked up for the next 4 years by NBC, ABC, and CBS." This is also true of rights to basketball, as well as golf tournaments, and horseraces such as the Kentucky Derby, which Hughes formerly broadcast in prime time. Faced with the loss of sports events in both prime time

²⁸ See particularly MCA's petition for reconsideration. The "insurmountable advantage of the networks over the producer, i.e., syndicator, has been further increased in recent years by the elimination of sponsors as an independent market for television programs." P. 8, 9 * * * "It is true that programs selected by the national networks from among those offered them by independent producers have steadily pushed syndication efforts out of the prime time hours." P. 11 * * * "Except for the rarities of the highest-rated and longest-run television programs, a television series will seldom, if ever, return a profit from the sales of network television performance rights alone." P. 12 * * * Schedules I and II appended to MCA petition.

²⁹ See petitions for reconsideration of MCA, Warner Bros., Paramount Pictures, and Screen Gems.

³⁰ Screen Gems identifies such house producers as Aaron Spelling, David Dortort, Bob Finkel, Norman Felton, and Sheldon Leonard. Several of these named individuals have written letters to the Commission strongly opposing the Commission prohibition on network acquisition of program rights and interests, which action they claim would interfere seriously with the arrangements under which they presently produce for networks.

and fringe time, HSN went into the broadcast of nonsports programs, of which it has broadcast a number since December 1967.³² Hughes' immediate target is to program a greater number of prime time nonsports programs.³³

34. We agree with HNS that there is no "sound and evident" reason which should prohibit a station in the top 50 markets from broadcasting both a full major network prime time schedule and program of regional or lesser national networks such as HSN. Encouragement of the development of additional networks to supplement or compete with existing networks is a desirable objective and has long been the policy of this Commission. Hence we have redefined the term "network" in the Prime Time Access Rule to apply only to major national television networks. This will remove any doubt that our actions are intended to encourage the competitive development of additional networks as well as other alternate program sources.

35. A number of petitioners request that if the Commission retains the Prime Time Access Rule, clause (3) of § 73.658 (k) be eliminated, modified, or suspended. This clause prohibits stations from substituting off-network programs, or feature films which previously have been shown in the market, for network programs in the time made available by the rule. Also, there appears to be some misconception as to the overall effect, particularly on independent stations, of this provision of the rule. In the first place, we should make it entirely clear that this provision does not prevent an affiliate from substituting its own feature film for a network feature or for other network programming.³⁴ Many affiliates now prefer to carry their own features instead of network feature

films. Whether or not to clear a network offering is a decision which affiliates have the duty to make. Under the new rule they may continue to do so, provided that overall the total of network and off-network programs and feature film previously shown in the market do not exceed three hours, between 7 and 11 p.m. It is pointed out that the rule is not clear as to what the situation might be if a program has been previously exhibited in the market via a CATV "distant signal." It is suggested that in order to avoid the possibility of misunderstanding, the rule should be reworded so that this prohibition is clearly restricted to feature films previously exhibited on a station in the market. We believe this point is well taken and we have modified the rule accordingly. Other petitions raise questions as to the difficult administrative problems which will be raised by the broad prohibition against feature films previously exhibited in the market. They point out that in many of the top 50 markets there are several stations and it would be difficult for an individual affiliate to be certain that the program had not been previously exhibited on some one of the other stations in the market if there is no time limitation for such prior exhibition. It is suggested that such a time limitation be adopted. For example, it is suggested that only those feature films which have been exhibited in the market during the period 2 years prior to the present exhibition be excluded. Here again we think the point is well taken and are so amending the rule to provide for a limit of 2 years.

36. There is much discussion in the petitions for reconsideration of our failure to exempt news programs from the definition of network programs. This matter was considered at length prior to the report and order. We decided that the purposes of the rule could well be defeated if we were to exempt network newscasts from its operation. However, there was more doubt as to whether news documentaries should be exempted. We are still not persuaded that the public interest would be furthered by exemption of news documentaries. We do not mean to discourage networks from continuing to present these programs, but we also do not wish to weaken our objectives by encouraging an increased presentation of such programs as a means of preventing the rule from being effective. In any event, we see no reason in present practice to believe the networks now desire to present substantially more documentaries. They are, of course, not the only parties capable of preparing these important programs and our rule may encourage others to do so. We will review the categories of exemption when the rule has been in operation for a reasonable length of time to determine whether the exemptions as presently included should stand, whether other categories of programming should be added, or whether some of the present exemptions should be deleted.

37. The question is also raised in the petitions as to the proper date upon which the rules should become effective.

At present the Prime Time Access Rule becomes effective on September 1, 1971. It is suggested that this date will impinge the end of the summer season and that a date of October 1, 1971, would be more realistic in view of the fact that it is contemplated that the rule become effective with the fall season in 1971. Therefore we have also amended the rule in this regard.

38. In view of the nature and extent of this proceeding and our invitations to all interested persons to provide us with information and comment relevant to the serious issue here involved, we have considered all relevant petitions and letters without regard to form or date of filing, that all parties might have full opportunity to provide us with information and opinion and to comment fully on that provided by others. Hence the various motions filed on reconsideration to accept late filings and to permit petitions to vary from the form or length required by our rules are moot.

39. Several petitioners request that Clause (3) of § 73.658(k) be deleted or, at least, that its effectiveness be postponed to allow utilization of off-network programs and features already contracted for by stations in the top 50 markets. We have postponed to October 1, 1972, the effectiveness of Clause 3 to permit ample time for change-over and to permit for a longer period unrestricted use of films and features already bought by stations. Also, we have placed a 2-year limit on the prohibition on rebroadcast of feature films.

40. As we have said earlier herein, in view of the entire record including voluminous comments, the Little Reports, data provided by the networks and others and finally the additional facts and figures and analyses submitted on reconsideration there is no need further to delay this proceeding to conduct additional economic studies, administrative conferences or other oral proceedings. The record presently before us is an ample basis for a resolution of this proceeding.

41. It is suggested that note 36 in our report and order should be clarified to remove any possible ambiguity. The waiver there discussed will be appropriate not only in the case of these stations who presently present an hour of local news between 6 p.m. and 7:30 p.m. but to any station which does so in the future.

42. There are many other requests and recommendations contained in the petitions for reconsideration. They range from broad requests that we vacate the rule in toto, to simple requests that we clarify the wording here and there. Each of these requests and petitions has been carefully considered in the light of the original record and the additional information presented in the petitions and letters on reconsideration. It is impractical for us to identify and discuss each of the many requests and recommendations. As stated earlier we have adopted those among them which are well taken.

43. The Commission has before it requests for stays by CBS, NBC, MCA, Inc., Paramount Pictures, and Warner Brothers. The networks essentially seek postponement of the effectiveness of the rules

³² For example, in January 1970 Hughes televised for Alcoa a documentary "Thirty Days to Survival" which was followed in April by "Cowboy." Both shows received critical acclaim and both enjoyed an average coverage of more than 95 percent of the country. Also in January 1970, on behalf of the Xerox Corp., HSN televised a 90-minute prime time network special "Front Page." 142 stations comprised the network for this broadcast, more than 120 of which were affiliated with one or more of the three major networks. During the remaining months of 1970 the network will broadcast two more prime time specials on behalf of Alcoa.

³³ We received a number of telegrams from labor unions, guilds, and others asserting that the reduction in network programming which the networks say they will make under the Prime Time Access Rule will have an adverse effect on employment in television program production. The statements of prospective producers indicate that under the rule the amount of programming necessary to fill stations' schedules will not be reduced but will be increased. The independent production which the Prime Time Access Rule will bring about will, we believe, act as a spur to television program production and should stimulate rather than depress employment.

³⁴ The rule does not limit the total amount of film or off-network series that an affiliate may carry in an evening. It limits these categories only insofar as they are sought to be used to fill in the time from which network programs are excluded.

until 18 months after a final judicial determination of their validity. The two program producers seek a stay of the Prime Time Access Rule. We do not believe that any stay is warranted. None of the parties presents the sort of specific data upon which a request for a stay of these important rules should be based. Rather, the petitions consist primarily of generalized argumentative material. We note preliminarily that the fear of CBS that the time required for reconsideration would actually outrun the effective date of at least part of the rules has not proved to be well founded. The primary problem advanced by the networks is the alleged need for an 18-month lead time in planning network schedules. Of course, we gave almost that much time in adopting the rules initially and did not ourselves stay the effective dates for reconsideration. Moreover, it is not at all clear that 18 months is actually required. While networks may have additional problems, MCA says that it can prepare a program series in about 1 year, and we also are aware that the networks change their schedules during the winter on very short notice. If the networks assume, as they should, that the Prime Time Access Rule will be in effect on October 1, 1971, and the rule is invalidated on appeal prior to that time, we see no irreparable injury in the necessity for the networks to add new programs on short notice or over a somewhat longer period.

44. In view of the fact that effectiveness of § 73.658(j) as it applies to syndication distribution may involve stringent action by the networks, upon a more persuasive showing, we might have been more sympathetic to a stay in this one area. However, this section does not become effective until October 1, 1971, which would appear to provide sufficient time for orderly procedures. Indeed, CBS has already announced the divestiture of its syndication arm. NBC and ABC make no convincing showing that they will be irreparably injured in this area before an appeal could be decided. Indeed, revenues from syndication distribution constitute a very small part of network income. Its loss will have only a slight effect on overall network operations.

45. So far as the producers are concerned, we also see no such injury, particularly in view of the showing concerning the lack of profitability of sales to the networks, and the additional time being opened to them for nonnetwork sales. In sum, none of the parties seeking a stay has convinced us that there would be any such injury to them as would outweigh the public interest in the prompt implementation of the rules.

46. Several petitioners have again challenged the Commission's authority to adopt these rules. CBS has filed an additional memorandum reiterating and amplifying its prior memoranda. The detailed memorandum attached to our order of September 18, 1968, and the further statement in our Report and Order of May 4, 1970 (paragraph 33), set forth the basis for our authority to issue these rules. We do not think anything need be added. Also, several petitioners state that adequate notice of and oppor-

tunity to comment on subparagraph (3) of § 73.658(k) was not given prior to its adoption and hence it goes beyond the scope of this proceeding, as defined in our notice and subsequent orders. We do not believe this objection is valid. The prohibition of off-network programs and repeat feature films was, we believe, inherent in the subject at issue. Furthermore, it was also suggested in essence in the comments of the National Committee for Broadcasting filed in June 1969, together with reports of the studies on which it was based. Subsequently oral argument was held in July 1969 and all parties were then given opportunity to file further information and comment by September 15, 1969. Thus all parties and interested persons had adequate notice of this proposal and ample opportunity to evaluate it and to present facts and argument.

47. For the reasons stated herein: *It is ordered*, That § 73.658 of our rules is amended by adding a new subparagraph (4) to paragraph (j); by modifying subparagraph (1) and (3) of paragraph (k); all as set forth in detail below. Authority for the adoption and amendment of the rules herein as set forth below is contained in sections 1, 2, 4(i); 301; 303 (b), (f), (g), (i), and (j); 307(d); 308(b), 309(a); 310; 312; 313; 314 and 405 of the Communications Act of 1934 as amended: *It is further ordered*, That except as specifically adopted herein, the various requests and recommendations contained in the petitions for reconsideration filed herein are denied: *It is further ordered*, That the petitions for stay of the effective date of § 73.658 (j) and (k) filed by MCA, NBC, CBS, Paramount, and Warner Brothers, Inc. be and are hereby denied.

(Secs. 1, 2, 4, 301, 303, 307, 308, 309, 310, 312, 313, 314, 405; 48 Stat., as amended, 1064, 1066, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1095; 47 U.S.C. 151, 152, 154, 301, 303, 307, 308, 309, 310, 312, 313, 314, 405)

Adopted: August 7, 1970.

Released: August 14, 1970.

FEDERAL COMMUNICATIONS
COMMISSION,²¹

[SEAL] BEN F. WAPLE,
Secretary.

In § 73.658, a new subparagraph (4) is added to paragraph (j); and subparagraphs (1) and (3) of paragraph (k) are amended. The amended subparagraphs read as follows:

§ 73.658 Affiliation agreements and network program practices.

(j) Network syndication and program practices. * * *

(4) For the purposes of this paragraph and paragraphs (k) and (l) of this section the term network means any person, entity or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week

²¹ Chairman Burch and Commissioner Wells dissenting. Statement of Chairman Burch to be released at a later date.

to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity or corporation controlling, controlled by or under common control with such person, entity or corporation.

(k) Prime time access rule. (1) After October 1, 1971, * * *

(3) The portion of the time from which network programming is excluded by subparagraph (1) of this paragraph may not after October 1, 1972, be filled with off-network programs; or feature films which within 2 years prior to the date of broadcast have been previously broadcast by a station in the market.

[F.R. Doc. 70-10861; Filed, Aug. 18, 1970; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—PRACTICE AND PROCEDURE

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

At a general session of the Interstate Commerce Commission, held at its office at Washington, D.C., on the 13th day of August 1970.

Upon consideration of the record in recent general rate increase proceedings involving rates and charges of carriers by railroad, the Commission is of the opinion that more effective and efficient processing will make possible prompt disposition of such cases, reduce the volume of submitted material and the cost of participation by carriers, shippers, and other interested parties, and aid in the elimination of uncertainty among users of the service as to future transportation costs. It is contemplated that, pursuant to the procedures herein-after ordered, all interested parties will be apprised of the full evidential basis for general rate increases at the time the original petition therefor is filed. By separate order, evidence and argument in opposition thereto will be received in the form of verified statements not later than 6 weeks from the filing date of the petition. The matter will be set for hearing promptly thereafter and the Commission will proceed to a decision on the merits of the proposal following briefs and oral argument (if granted). It is contemplated that concurrently with the foregoing, the Commission will consider and decide the matter of whether or not to suspend the operation of the proposed increase for the statutory period, but that the consideration and disposition of this matter shall not interfere with orderly progress of the hearing on the merits. Accordingly, in order to accomplish these objectives, and good cause appearing therefor:

It is ordered, That the procedures herein set forth shall govern any investigation of an increase in rates or charges

filed by or on behalf of carriers by railroad generally throughout the United States or by such carriers generally throughout any of the three primary ratemaking territories, that is; Eastern, Western or Southern territories, which shall have been instituted on or after the effective date hereof. New Part 1102 shall read as follows:

- Sec.
1102.1 Filing of tariff schedules, petitions and verified statements.
1102.2 Service of verified statements on the Commission.
1102.3 Service of verified statements on the public.
1102.4 Verification of statements.

AUTHORITY: The provisions of this Part 1102 issued under 49 U.S.C. 15(7), 17(3); 5 U.S.C. 533(b).

§ 1102.1 Filing of tariff schedules, petitions and verified statements.

Upon the filing of tariff schedules containing proposed increases in railroad rates or charges applicable for the account of substantially all common carriers by railroad in the United States or in any of the three primary ratemaking territories, that is; Eastern, Western, or Southern, or of a petition seeking authority to file such schedules and relief from outstanding orders of the Commission, or other relief connected therewith, the carriers on whose behalf said schedules or petitions are filed shall, concurrently therewith, file and serve as provided herein, verified statements presenting and comprising the full and entire evidential case relied on in support of the proposed increase. These statements will be considered as submitted in evidence as basis for a decision by the Commission on the merits of the issues.

§ 1102.2 Service of verified statements on the Commission.

The original and 24 copies of each such verified statement for the use of the Commission shall be sent to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. One copy of each statement shall be sent by first-class mail to each of the Regional Offices of the Commission where it will be open to public inspection.

§ 1102.3 Service of verified statements on the public.

Concurrently with the filing of the petition and verified statements, a copy of each shall be mailed by first-class mail to each party of record in the last prior general increase ex parte proceeding. The fact thereof shall be evidenced by a certificate of service filed with the petition. Where service is made by mail, the statements shall be mailed in time to be received on the date the original is filed with the Commission. A copy of each such statement shall be furnished to any interested person on request.

§ 1102.4 Verification of statements.

Each verified statement shall be signed in ink by the affiant and verified (notarized) in the manner provided by Rule

50 and Form No. 6 of the Commission's general rules of practice. The post office address of the affiant or his counsel shall be shown. The provisions in this part supersede the provisions of the general rules of practice, Part 1100 of this chapter, to the extent inconsistent therewith.

It is further ordered, That a copy of this order shall be served upon each public utility commission or board or similar regulatory body of each State, the Secretary of the Department of Transportation, each common carrier by railroad in the United States, the Association of American Railroads, and the American Short Line Railroad Association; that a copy be posted in the office of the Secretary of this Commission and in each field office; and that a copy of this order shall be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

And it is further ordered, That the effective date of this regulation shall be the date of its publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10914; Filed, Aug. 18, 1970;
8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Seedskadee National Wildlife Refuge, Wyo.

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

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

WYOMING

SEEDSKADEE NATIONAL WILDLIFE REFUGE

Public hunting of cottontail rabbits on the Seedskadee National Wildlife Refuge, Wyo., is permitted from August 29, 1970, to March 31, 1971, inclusive. All of the refuge area, comprising 12,370 acres, and so designated by signs, is open to hunting. Maps of the area are available at the Refuge Office, Room 118, Courthouse, Green River, Wyo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of cottontail rabbits.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50,

Code of Federal Regulations, Part 32, and are effective through March 31, 1971.

MERLE O. BENNETT,
Refuge Manager, Seedskadee National Wildlife Refuge, Green River, Wyo.

JULY 13, 1970.

[F.R. Doc. 70-10843; Filed, Aug. 18, 1970;
8:46 a.m.]

PART 32—HUNTING

Seedskadee National Wildlife Refuge, Wyo.

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

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

WYOMING

SEEDSKADEE NATIONAL WILDLIFE REFUGE

Public hunting of mule deer on the Seedskadee National Wildlife Refuge, Wyo., is permitted as follows: West of the Green River from October 15 through October 31, 1970, inclusive; east of the Green River from November 12 through November 20, 1970, inclusive. All of the refuge area, comprising 12,370 acres, and so designated by signs, is open to hunting. Maps of the area are available at the Refuge Office, Room 118, Courthouse, Green River, Wyo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of mule deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 20, 1970.

MERLE O. BENNETT,
Refuge Manager, Seedskadee National Wildlife Refuge, Green River, Wyo.

JULY 13, 1970.

[F.R. Doc. 70-10844; Filed, Aug. 18, 1970;
8:46 a.m.]

PART 32—HUNTING

Seedskadee National Wildlife Refuge, Wyo.

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

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

WYOMING

SEEDSKADEE NATIONAL WILDLIFE REFUGE

Public hunting of antelope on the Seedskadee National Wildlife Refuge, Wyo., is permitted as follows: West of the Green River from September 5 through

RULES AND REGULATIONS

September 13, 1970, inclusive; east of the Green River from September 19 through September 30, 1970, inclusive. All of the refuge area, comprising 12,370 acres, and so designated by signs, is open to hunting. Maps of the area are available at the Refuge Office, Room 118, Courthouse, Green River, Wyo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of antelope.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32,

and are effective through September 30, 1970.

MERLE O. BENNETT,
*Refuge Manager, Seedskadee
National Wildlife Refuge,
Green River, Wyo.*

JULY 13, 1970.

[F.R. Doc. 70-10842; Filed, Aug. 18, 1970;
8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 993]

DRIED PRUNES PRODUCED IN CALIFORNIA

Proposed Expenses of Prune Administrative Committee for 1970-71 Crop Year and Rate of Assessment for That Crop Year

Notice is hereby given of a proposal regarding expenses of the Prune Administrative Committee for the 1970-71 crop year and rate of assessment for that crop year, pursuant to §§ 993.80 and 993.81 of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The Prune Administrative Committee has recommended for the crop year beginning August 1, 1970, a budget of expenses in the total amount of \$126,000 and a rate of assessment of \$1.05 per ton of assessable prunes. Expenses in that amount and the rate of assessment are specified in the proposal hereinafter set forth. The assessable tonnage is estimated by the Committee at 120,000 natural condition tons.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 8th day after the publication of this 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)).

The proposal is as follows:

§ 993.321 Expenses of the Prune Administrative Committee and rate of assessment for the 1970-71 crop year.

(a) *Expenses.* Expenses in the amount of \$126,000 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1970, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81, to pay to the Prune Administrative Committee as his pro rata share of the said expenses is fixed at \$1.05 per ton of salable prunes handled by him as the first handler thereof.

Dated: August 13, 1970.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 70-10858; Filed, Aug. 18, 1970;
8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGFR 70-86]

SPECIAL ANCHORAGE AREA

Sturgeon Bay, Wis.

AUGUST 14, 1970.

1. Notice is hereby given that the Chief, Office of Operations, U.S. Coast Guard Headquarters, under authority of rule 9, of section 1, 28 Stat. 647, as amended (33 U.S.C. 258), section 6(g) (1) (C) of the Department of Transportation Act (80 Stat. 937, 49 U.S.C. 1655 (g) (1) (C)), 49 CFR 1.46(c) (3) (35 F.R. 4959), and 33 CFR 1.05-1(c) (1) (35 F.R. 8279), is considering an addition to § 110.78 of Part 110, Subpart A of Title 33, Code of Federal Regulations. Section 110.78 was added by a document published in the FEDERAL REGISTER of June 6, 1970 (35 F.R. 8623) which designated a special anchorage in Sturgeon Bay as Area 1.

2. The proposed new section would establish and describe a Special Anchorage Area on Sturgeon Bay at Sturgeon Bay, Wis. In this special anchorage area, vessels not more than 65 feet in length, when at anchor, would not be required to carry or exhibit anchor lights. The proposed area is southeasterly from the Wisconsin Routes 42 and 57 highway bridge that crosses Sturgeon Bay and north of the main ship channel.

3. It is proposed to amend Part 110 by adding a new paragraph (b) to § 110.78, to read as follows:

§ 110.78 Sturgeon Bay, Sturgeon Bay, Wis.

(b) *Area 2.* Beginning at a point 160 feet from the shoreline and on the east

line of 15th Avenue extended; thence south 530 feet to a point 100 feet from the northern edge of the channel; thence southeasterly 2,350 feet along a line parallel to the northern edge of the channel to a point on the east line of 18th Avenue extended, using that portion of 18th Avenue that runs in a true north-south direction perpendicular to Utah Street; thence north 530 feet along this line of 18th Avenue extended to a point approximately 400 feet from the shoreline; thence northwesterly 2,350 feet along a line parallel to the northern edge of the channel to the point of beginning.

4. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before September 18, 1970. All submissions should be made in writing to the Commander, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199.

5. To expedite the handling of submissions regarding this proposal, it is requested that each submission be submitted in triplicate and state the subject to which it is directed; the specific wording recommended; the reason for the recommended change, and the name, address and firm or organization, if any, of the person making the submission.

6. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199.

7. After all interested persons have expressed their views, the Commander, Ninth Coast Guard District will forward the record, including the original of all written submissions, and his recommendations with respect to the proposals and submissions received to the Commandant (OLE), U.S. Coast Guard, Washington, D.C. 20591. The Commandant will thereafter make a final determination with respect to this proposal.

Dated: August 14, 1970.

D. H. LUZIVUS,
Captain, U.S. Coast Guard, Acting
Chief, Office of Operations,
By direction of the Commandant.

[F.R. Doc. 70-10866; Filed, Aug. 18, 1970;
8:48 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 212]

[Docket No. 22362; EDR-184A]

CHARTER TRIPS BY FOREIGN AIR CARRIERS**Supplemental Notice of Proposed Rule Making**

AUGUST 13, 1970.

The Board by circulation of Notice of Proposed Rule Making EDR-184, dated July 13, 1970, and publication at 35 F.R. 11521, gave notice that it had under consideration proposed amendments to Part 212 (14 CFR Part 212) which would require holders of foreign air carrier permits subject to this part, upon notice and to the extent specified by the Board, to

obtain advance Board approval for on-route charter flights operated by them. Interested persons having objections to the proposed amendments were given an opportunity pursuant to and in accordance with EDR-184 to file with the Board by August 17, 1970, a memorandum of opposition stating objections supported by evidence.

By letters dated August 10, 1970, counsel for Lufthansa and Swissair, and counsel for Sabena have requested that the August 17, 1970, date set for filing objections to the above action be extended to October 1, 1970, while counsel for Alitalia by letter dated August 10, 1970, requests that the time be extended to October 15, 1970. The reasons given in support of these requests have been considered and it is concluded that they do not justify an extension to the dates requested. However, the August 17, 1970,

date will be postponed to September 1, 1970. Accordingly, interested persons having objections to the action taken in EDR-184 shall file them with the Board by September 1, 1970. This action is taken pursuant to authority delegated to the undersigned in § 385.20(d) of the Board's Organization Regulations.

A separate notice will deal with the above requests for postponement of the date for filing objections to the action taken in Order 70-7-58, issued contemporaneously with EDR-184.

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

By the Civil Aeronautics Board.

[SEAL]

ARTHUR H. SIMMS,
Associate General Counsel,
Rules and Rates Division.

[F.R. Doc. 70-10871; Filed, Aug. 18, 1970; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 12080]

MONTANA

Notice of Classification of Public Lands for Multiple-Use Management

AUGUST 11, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR, Parts 2400 and 2460, the public lands within the areas described below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Comments and statements were received following publication of the notice of proposed classification published in the FEDERAL REGISTER (35 F.R. 6765 and 6766) dated April 29, 1970. Comments were also received at the public hearing held June 2, 1970, at Glendive, Mont. All comments and statements concerning the proposed classification were carefully considered and evaluated. Sec. 36, T. 13 N., R. 56 E., Wibaux County, has been deleted from the proposed retention classification as these are State lands which were erroneously included in the notice of proposed classification. Sec. 6, T. 17 N., R. 57 E., Dawson County, has been deleted from the proposed retention classification as these lands were previously withdrawn for a Reclamation project. The following additional public lands are being added to the retention classification: T. 17 N., R. 57 E., sec. 12; and T. 17 N., R. 58 E., sec. 6 both in Dawson County. The acreage to be classified as shown in paragraph 2 of the notice of proposed classification is decreased from 52,718.38 to 52,364.22 acres in Dawson County, decreased from 17,706.83 to 17,682.99 acres in Wibaux County, and the total acreage for Dawson and Wibaux Counties is decreased from 70,425.21 to 70,047.21 acres. The record showing comments received and other information can be examined in the Miles City District Office, Miles City,

Mont., and the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

3. The public lands affected by this classification are located within the following described areas and are shown on maps on file in the Miles City District Office, Miles City, Mont., and on maps and records in the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

PRINCIPAL MERIDIAN, MONTANA

DAWSON COUNTY

- T. 13 N., R. 54 E.,
Sec. 6.
- T. 17 N., R. 54 E.,
Secs. 20 to 22, inclusive;
Secs. 25 to 36, inclusive.
- T. 13 N., R. 55 E.,
Secs. 1 to 4, inclusive;
Secs. 10 to 14, inclusive;
Sec. 24.
- T. 14 N., R. 55 E.
- T. 15 N., R. 55 E.
- T. 16 N., R. 55 E.,
Sec. 2;
Sec. 24.
- T. 17 N., R. 55 E.,
Secs. 20 to 36, inclusive.
- T. 13 N., R. 56 E.,
Secs. 1 to 24, inclusive.
- T. 14 N., R. 56 E.
- T. 15 N., R. 56 E.
- T. 16 N., R. 56 E.
- T. 17 N., R. 56 E.
- T. 18 N., R. 56 E.,
Secs. 20 to 36, inclusive.
- T. 14 N., R. 57 E.
- T. 15 N., R. 57 E.
- T. 17 N., R. 57 E.,
Sec. 4;
Sec. 12;
Sec. 14;
Secs. 20 to 24, inclusive;
Sec. 26.
- T. 18 N., R. 57 E.,
Sec. 2;
Sec. 20.
- T. 14 N., R. 58 E.,
Sec. 18.
- T. 17 N., R. 58 E.,
Sec. 6;
Sec. 18.

The public lands described above aggregate approximately 52,364.22 acres.

PRINCIPAL MERIDIAN, MONTANA

WIBAUX COUNTY

- T. 13 N., R. 56 E.,
Sec. 25;
Sec. 26;
Sec. 35.
- T. 11 N., R. 57 E.,
Secs. 2 to 4, inclusive;
Sec. 10;
Sec. 14;
Sec. 22.
- T. 12 N., R. 57 E.,
Secs. 4 to 10, inclusive;
Secs. 14 to 23, inclusive;
Secs. 26 to 30, inclusive;
Secs. 32 to 34, inclusive.
- T. 13 N., R. 57 E.,
Secs. 28 to 32, inclusive.
- T. 18 N., R. 57 E.,
Sec. 2.

- T. 18 N., R. 58 E.,
Secs. 2 to 10, inclusive.
- T. 18 N., R. 59 E.,
Secs. 2 to 12, inclusive.

The public lands described above aggregate approximately 17,682.99 acres. Total public lands within the areas described aggregate approximately 70,047.21 acres.

4. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3. For a period of 30 days interested parties may submit comments to the Secretary of the Interior, LLM, 321, Washington, D.C. 20240.

EDWIN ZAJDLICZ,
State Director.

[F.R. Doc. 70-10867; Filed, Aug. 18, 1970;
8:48 a.m.]

[OR 6245]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

AUGUST 11, 1970.

The Bureau of Land Management, U.S. Department of the Interior, has filed application, OR 6245, for the withdrawal of the public land described below, from all forms of appropriation under the public land laws including the mining laws, but not the mineral leasing laws.

The applicant desires the land for use as the Hyatt Lake Recreation Area.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 Northeast Oregon Street, Post Office Box 2965, Portland, Oreg. 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources.

After receipt of comments from interested parties, he will prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the Bureau of Land Management.

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

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

The land involved in the application is:

WILLAMETTE MERIDIAN

T. 39 S., R. 3 E.,
 Sec. 3, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 11, W $\frac{1}{2}$;
 Sec. 15, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 22, S $\frac{1}{2}$ NW $\frac{1}{4}$.

Containing approximately 960 acres.

VIRGIL O. SEISER,
 Chief, Branch of Lands.

[F.R. Doc. 70-10856; Filed, Aug. 18, 1970;
 8:47 a.m.]

Office of the Secretary
 GUADALUPE MOUNTAINS NATIONAL
 PARK, TEX.

Notice of Revision of Park
 Boundaries

The Act of October 15, 1966 (80 Stat. 920), provides for the establishment of the Guadalupe Mountains National Park, to consist of the land and interests in land within the area shown on the drawing entitled "Proposed Guadalupe Mountains National Park, Texas," numbered SA-GM-7100C, and dated February 1965, which is on file in the Offices of the National Park Service, Department of the Interior.

The Act requires, that notwithstanding the foregoing, the Secretary shall omit from the park secs. 7 and 17, P.S.L. Block 121, in Hudspeth County, and revise the boundaries of the park accordingly if the owner of said sections agrees, on behalf of himself, his heirs and assigns that there will not be erected thereon any structure which, in the judgment of the Secretary, adversely affects the public use and enjoyment of the park.

A scenic easement which meets the conditions of the foregoing paragraph has been obtained by the United States from the owner of the above-described sections.

Therefore, notice is hereby given that in accordance with the Act of October 15, 1966, secs. 7 and 17, P.S.L. Block 121, in Hudspeth County, are hereby omitted from the park. A map of the new park boundaries entitled "Boundary Map, Guadalupe Mountains National Park, Texas," Drawing No. 166-20,000, 3/70, EPD-WSC, is on file and available for inspection in the Offices of the National Park Service, Department of the Interior.

Dated: August 7, 1970.

FRED J. RUSSELL,
 Acting Secretary of the Interior.

[F.R. Doc. 70-10845; Filed, Aug. 18, 1970;
 8:46 a.m.]

DEPARTMENT OF HEALTH,
 EDUCATION, AND WELFARE

Food and Drug Administration
 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 1H2572) has been filed by the Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing the establishment of a tolerance of 1 part per million for residues of the herbicide simazine in or on sugarcane byproducts (including sugar, syrup, and molasses). Such residues would result from application of the herbicide to the growing sugarcane, as proposed by the subject petitioner in a pesticide petition previously submitted under section 408(d) of the Act.

Dated: August 12, 1970.

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

[F.R. Doc. 70-10832; Filed, Aug. 18, 1970;
 8:45 a.m.]

HAZLETON LABORATORIES, INC.

Notice of Filing of Petition for Food
 Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 1A2575) has been filed by Hazleton Laboratories, Inc., a subsidiary of TRW, Inc., Post Office Box 30, Falls Church, Va. 22046, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of propylene carbonate as a component of a defrost fluid in food freezing equipment.

Dated: August 12, 1970.

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

[F.R. Doc. 70-10833; Filed, Aug. 18, 1970;
 8:45 a.m.]

[DESI 0060 NV]

CERTAIN DRUG PRODUCTS CONTAIN-
 ING POSTASSIUM PENICILLIN G

Drugs for Veterinary Use; Drug Efficacy
 Study Implementation

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

1. Penicillin Powder Veterinary; each bottle contains 30 million units of potassium penicillin G (drinking water to be medicated to supply 100,000 units of potassium penicillin G per gallon); marketed by The Gland-O-Lac Co., a Subsidiary of E. R. Squibb & Sons, Inc., Agricultural Research Center, Three Bridges, N.J. 08887.

2. CO-PEN, Penicillin Powder; each 150-gram container contains 50 million units of potassium penicillin G; by The Gland-O-Lac Co.

3. Oral Buffered Penicillin Crystalline G Potassium U.S.P. and Penicillin G U.S.P.; each tablet contains 200,000 units or 250,000 units of buffered penicillin crystalline G potassium U.S.P.; by

Richlyn Laboratories, Inc., Castor Avenue at Kensington Avenue, Philadelphia, Pa. 19124.

4. Potassium Penicillin G Tablets U.S.P.; each tablet contains 50,000 units, 100,000 units, 200,000 units, or 250,000 units of potassium crystalline penicillin G (buffered); by Philadelphia Laboratories, Inc., 9815 Roosevelt Boulevard, Philadelphia, Pa. 19114.

The academy evaluated potassium penicillin G tablets for oral administration to dogs and cats and potassium penicillin G powder for adding to drinking water of poultry as "more information needed". The academy states:

1. Additional documentation, such as blood and tissue concentrations and dose response curves, is needed to determine adequacy of the dosage and to properly evaluate product claims.

2. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)" and if the disease claim cannot be so qualified the claim must be dropped.

The Food and Drug Administration concurs with the academy's findings.

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

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

Manufacturers of the subject drugs are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturers of the listed drugs have been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-51, 82 Stat. 343-51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-10834; Filed, Aug. 18, 1970;
8:46 a.m.]

[DESI 13201V]

CERTAIN DRUG PRODUCTS CONTAINING PROCHLORPERAZINE AND ISOPROPAMIDE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

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

1. Darbazine Spansule No. 1; each capsule contains 3.33 milligrams of prochlorperazine, as the maleate in sustained release form, and 1.67 milligrams of isopropamide, as the iodide; by Norden Laboratories Inc., 601 West Oak, Lincoln, Nebr. 68501.

2. Darbazine Spansule No. 3; each capsule contains 10 milligrams of prochlorperazine, as the maleate in sustained release form, and 5 milligrams of isopropamide, as the iodide; by Norden Laboratories Inc.

The Academy evaluated these preparations as probably effective for use as an anticholinergic and antiemetic tranquilizer in cats and dogs. The report stated that there is inadequate documentation to support the claim for control of physical and psychic factors in gastroenteritis. Manufacturers should document the efficacy and/or substantiate claims made and show that each active ingredient in a preparation is effective or contributes to the effectiveness of the preparation to warrant its acceptance as a therapeutic ingredient.

The Food and Drug Administration concurs with the academy's findings.

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

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to

manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drugs has been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-51, 82 Stat. 343-51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 3, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-10835; Filed, Aug. 18, 1970;
8:46 a.m.]

[Docket No. 212; NDA Nos. 10-465; 9-947]

NORTH AMERICAN PHARMACAL, INC., AND B. F. ASCHER AND CO., INC.

Estrosed Tablets and Sergynol Tablets; Notice of Opportunity for Hearing

In an announcement (DESI 9947) published in the FEDERAL REGISTER of February 6, 1970 (35 F.R. 2697), Conal Pharmaceuticals, Inc., former holder of new-drug application No. 10-465 for Estrosed Tablets containing 0.1 milligram reserpine and 0.01 milligram ethinyl estradiol (the present holder of the new-drug application is North American Pharmacal, Inc., 6851 Chase Road, Detroit, Mich. 48126); and B. F. Ascher and Co., Inc., 5100 East 59th Street, Kansas City, Mo. 64130, holder of new-drug application No. 9-947 for Sergynol Tablets containing 0.167 milligram reserpine and 0.02 milligram ethinyl estradiol, and any interested person who may be adversely affected by removal of the drugs from the market, were invited to submit any pertinent data bearing on the announced intention to initiate proceedings to withdraw approval of the new-drug applications in view of a lack of substantial evidence that the drugs are effective as fixed-combinations for the menopausal syndrome or for disturbances of the menopause and postmenopausal period.

No data have been submitted pertinent to the proposal.

Therefore, notice is hereby given to North American Pharmacal, Inc., and B. F. Ascher and Co., Inc., and to any interested person who may be adversely

affected, that the Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the above-specified new-drug applications, and all amendments and supplements thereto, on the grounds that new information before the Commissioner with respect to these drugs, evaluated with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

In accordance with 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 applicant(s), and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new-drug application(s) should not be withdrawn. Such withdrawal of approval will cause any drug for human use containing the same components and offered for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or
2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new-drug application(s). Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file within 30 days after the publication of this notice in the FEDERAL REGISTER, a written appearance requesting a hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and

substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and 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, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the person(s) requesting the hearing otherwise agree (35 F.R. 7250, May 8, 1970).

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) 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. 70-10837; Filed, Aug. 18, 1970;
8:46 a.m.]

[Docket No. 214; NDA 10-240]

LAKESIDE LABORATORIES, DIVISION OF COLGATE PALMOLIVE CO.

Pediatric Piptal With Phenobarbital Drops; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Application

In an announcement (DESI 10240) published in the FEDERAL REGISTER of September 27, 1969 (34 F.R. 14907), Lakeside Laboratories, Division of Colgate-Palmolive Co., 1707 East North Avenue, Milwaukee, Wis. 53201, holder of new-drug application No. 10-240 for Pediatric Piptal with Phenobarbital Drops containing 6 milligrams phenobarbital and 4 milligrams pipenzolate bromide per milliliter, and any interested person were invited to submit pertinent data bearing on the proposal to withdraw approval of the new-drug application for Pediatric Piptal with Phenobarbital Drops.

In a communication dated October 23, 1969, Lakeside Laboratories submitted reports of clinical studies with the drug which were not previously submitted to the Food and Drug Administration. The additional information received, together with information previously available, does not provide substantial evidence of effectiveness of the drug for use in man for the conditions for which it is recommended in the labeling.

Therefore, notice is hereby given to Lakeside Laboratories, Division of Colgate-Palmolive Co., and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug,

and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the above-specified new-drug application and all amendments and supplements thereto on the grounds that new information before the Commissioner with respect to such drug, evaluated together with the information available when the application was approved, shows there is a lack of substantial evidence that Pediatric Piptal with Phenobarbital Drops has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof. Specifically, substantial evidence is lacking to show that the combination is effective in alleviating discomfort and restlessness in a broad range of gastrointestinal disorders and in providing rapid relief of pain and spasm in pylorospasm, spitting, regurgitation, cardiospasm, and colic.

In accordance with 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 applicant(s), and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new-drug application(s) should not be withdrawn. Such withdrawal of approval will cause any drug for human use containing the same components and offered for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or
2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new-drug application(s). Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file within 30 days after the publication of this notice in the FEDERAL REGISTER a written appearance requesting the hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared

to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and 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, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the person(s) requesting the hearing otherwise agree (35 F.R. 7250, May 8, 1970).

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: August 5, 1970.

SAM D. FINE,
Acting Associate Commissioner
for Compliance.

[F.R. Doc. 70-10838; Filed, Aug. 18, 1970;
8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20993; Order 70-8-46]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority August 12, 1970.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unopposed notices to the carriers and promulgated in an IATA letter dated August 4, 1970, establishes a reduced rate for specific commodities between Stockholm and New York, and cancels a rate from Los Angeles to Sydney, as set forth below:

R-23—Additional rate:

Commodity Item 9206—Toys and Games, Athletic and Sporting Goods including Sporting/Hunting Guns, N.E.S. excluding Watches and Clocks, Clothing, Footwear, and Outboard Motors, 87 cents per kg., minimum weight 500 kgs., between Stockholm and New York.

R-24—Canceled rate:

Commodity Item 6502—Veterinary Pharmaceuticals, 251 cents per kg., minimum weight 2,000 kgs., Los Angeles to Sydney.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 21753, R-23 and R-24, be and hereby is deferred with a view toward eventual approval: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL]

HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-10868; Filed, Aug. 18, 1970;
8:48 a.m.]

[Dockets Nos. 22387, 22096; Order 70-8-48]

RAILWAY EXPRESS AGENCY, INC., ET AL.

Order Regarding Revisions in Air Express Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of August 1970.

Revisions in air express rates and charges proposed by Railway Express Agency, Inc., and participating air carriers, Docket 22387; Petition and complaint of REA Express Inc., Docket 22096.

By petition filed July 31, 1970, Railway Express Agency, Inc. (REA), requests that the Board reconsider and vacate the suspension of its proposed tariff and permit its revised air express rate structure to become effective pending investigation. REA requested that in the alternative the Board reconsider and vacate its dismissal of REA's petition and complaint in Docket 22096. In addition, by motion filed July 31, 1970, REA requested that the Board waive the 25-page limitation on petition for reconsideration provided in § 302.37(b) of its rules and accept and consider copies of hundreds of letters and telegrams from shippers supporting the tariff revisions.

In Order 70-7-109, dated July 23, 1970, the Board instituted an investigation and suspended tariff revisions marked to become effective on July 27, 1970, on behalf of REA and the participating air carriers. As described in that order, the proposal involved increasing the minimum charge from \$8 to \$8.50 per shipment; significant revisions in the general commodity rate structure including increases in smaller and shorter-haul

shipments and decreases in larger and long-haul shipments; and increases in the excess valuation charges from 18 cents to 30 cents per \$100 of excess valuation were also proposed.

A reply on behalf of the airlines participating in air express service (Airlines) has been filed supporting REA's request for reconsideration—but not desiring dismissal of the investigation. In their reply the airlines maintain, inter alia, that the new rate structure and rate level are designed to produce the additional revenue required by REA to meet its increased operating costs and produce a reasonable return; that the new rates are not intended to, nor expected to produce any appreciable increase in revenue for the airlines; that the rates and charges proposed are neither unreasonably high nor unjustly discriminatory; and that the Board's order of suspension appears to be addressed more to the concept of protecting the shipping public against substantial variations in the air express rates than protecting the public against rates which are prima facie unreasonably high or unjustly discriminatory. The carriers, however, are opposed to REA's alternative that the Board reconsider and vacate its dismissal of REA's petition and complaint in Docket 22096 and refer themselves to their "answer" filed April 17, 1970, to the foregoing petition and complaint.

The Department of Transportation (DOT) filed an answer in support of REA's petition. Muzak, a division of Wrather Corp., was a complainant against the REA tariff proposal, and filed an answer opposing REA's request to vacate the suspension. Subsequently, by filing received August 12, 1970, Muzak withdrew its objection regarding the suspension of the REA tariff.

The Air Freight Forwarders Association (AFFA), also a complainant against the original rate revisions filed by REA, submitted an answer in opposition to REA's petition. The answer alleges, inter alia, that the petition does not raise any new matter for the Board's consideration nor error on the part of the Board; that the petition attempts to saddle the Board with the burden of proving that the filings are economically unsound when, in accordance with the Federal Aviation Act and the Board's regulations, the carrier submitting the filing is burdened with providing proof of the economic viability of its proposal; and that REA's proposed tariffs would be antipromotional as far as air cargo is concerned because REA is increasing its air express rates at a much faster percentage rate than increases in its surface traffic rates. Finally the forwarders contend that if REA is in need of additional income, the across-the-board increase of 50 cents per shipment, which the forwarders noted in their original complaint, would provide the additional revenues requested.

When REA's proposal was suspended, we noted that the justifications presented by REA and the airlines were not adequate to support the proposed rate structure. We further noted that REA included a return element based upon

an operating ratio of 90 percent and that the use of an operating ratio has not been accepted since the method of computing earning element in terms of a return on investment capital has been considered more appropriate. We therefore concluded that an investigation would be a proper vehicle to determine the appropriate rate of return on investment and other costs presented by REA, including an allowance made for inflation.

REA's petition adverts to losses it has sustained in the past and asserts that the profits forecast under the new tariff were overstated in its justification of the proposed rate. In this regard REA contends that most recent data revealed a ratio of air to surface shipments of 38.5 to 61.5 percent, which increases the projected allocable costs by \$940,000 annually. REA states that costs beyond July 1, 1970, can now be more firmly assessed and that additional costs aggregating \$3,685,000 over the next 12 months will be incurred. REA now claims that it estimates a profit of \$2 million or 20 cents per shipment if the tariff becomes effective. REA asserts that its proposal is a tariff reform which should be tested by actual use; that the proposed minimum charge of \$8.50 would be well below those charged by air freight forwarders and in some instances below motor carriers; and that its prior minimum charge shipments were operated at a loss. It also contends that other rates have been uneconomically low and that substantial revisions are warranted. It asserts that its reductions in longer-haul higher-weight rates will enable it to provide competition to other carriers.

The Board has considered the REA petition, the reply of the airlines and the answer of DOT in support thereof, the answer in opposition thereto filed by the Air Freight Forwarders and all relevant matters and has concluded to deny the petition to vacate the suspension pending the investigation. The petition does not contend that the Board's order of suspension was based upon any errors of fact and, except as noted below, no new considerations of substance were advanced. The Board's order noted that the increases in general commodity rates were proposed at levels as much as 85 percent above current levels and 138 percent above the rates quoted prior to May 28, 1970. To illustrate the nature of the increases, a shipment of 55 pounds hauled less than 250 miles would be charged \$14.25 under the proposal, but was charged \$6 prior to May 28 and is being charged \$8 at present. The impact of this increase upon the large volume shipper of this type of traffic is, of course, obvious. On the other hand, reductions would be as much as 24 percent for longer hauls and larger shipments.

As characterized by REA, the proposals represent an attempt to reform the structure of the tariff. The tariff proponents, however, have not shown that the proposed revised structure is reasonably related to the costs and to value of service considerations at the different weights and distances involved, nor does the petition for reconsideration provide adequate

support for these revisions. REA's showing that the aggregate revenues accruing to it under the existing tariff and agreement do not fully cover aggregate costs of operation provides no support for the very sharp increases and decreases proposed for individual rates. Moreover, the presentations by the proponents have not made an adequate showing that the total transportation revenues do not cover the total transportation costs, including those incurred by the direct air carriers as well as REA.

The Board's references to the significant changes proposed, and the corresponding changes in costs to the public are to be considered in the context of the Board's decision to suspend the substantial changes in the absence of adequate support. The Board does not, as suggested by the reply of the participating carriers, conclude that variations in rates are unlawful per se.

The Board is aware of the fact that the proposed rates would be lower than those of the direct carriers in short-haul markets and that in long-haul markets competitive services may offer either higher or lower rates. While the proposed increases would result in rates generally still below those of the forwarders, such a comparison is not determinative of the suspension issue. In this regard we note the significant differences between forwarder and express services, including those in documentation procedures, the absence of the consolidation function in express shipments, and the fact that the express agency historically has been considered to be a high volume specialist with lower rates for small shipments reflecting economics of such operations.¹ We do not believe that the rates of other carriers, under which different services may be provided with different cost characteristics under different conditions than for air express, provide an adequate benchmark for testing the reasonableness of the proposed air express rates. In our judgment, the principal test of reasonableness of the express rates is the costs of providing that service, including the costs of both direct air carriers and REA.

Nevertheless the increases in short-haul shipments will effect a radical change in the costs of this service to the users thereof, and issues have been raised whether such increases would be used to support the reductions in the larger long-haul shipments. The Board believes that these circumstances require that the proposals be scrutinized carefully in an investigation before determining whether they should be permitted to become effective.

The Board has considered REA's request for additional revenues at this time, and the support for such revenues as advanced by the airlines and DOT. We make no determination at this time as to whether we would permit, pending in-

vestigation, a tariff revision providing revenue relief which does not involve radical and unsupported revisions to the rate structure. The determination as to any such filing would, of course, be dependent upon a full and adequate support showing the needs of REA for immediate revenue relief. In this connection, we note that REA has provided no adequate documentation for the claim, in its petition for reconsideration, that its earlier justification for the tariff filing understated costs by \$3,685,000. We also note that the \$5.4 million rate increase proposed includes substantial additional revenues to the direct air carriers for which no valid support has been offered.

With regard to the request to vacate the suspension of increased excess valuation charges, the Board, in suspending the foregoing increases, stated that it does not believe that the charges should exceed the costs of the additional coverage. The petition has not come forth with any data purporting to meet this criterion and there is thus no basis to vacate the suspension of these proposed increases.

The Board will deny REA's motion to waive its 25 page limit on petitions for reconsideration contained in § 302.37(b) of the Board's rules of practice in order to consider, and accept herein, hundreds of shipper letters and telegrams supporting the tariff proposal. We are constrained to note that these communications were solicited by REA and indeed the expressions of views were couched in substantially identical language. We also note that REA's petition for reconsideration requests review of the suspension in a context that REA will discontinue service unless the Board abandons the orderly procedures contemplated in the express rate investigation initiated, and permits the implementation of the revised rate structure without hearing. The tenor of many of the communications suggests that the support of the tariff proposal was given under the assumption that the tariff revision must become effective prior to hearing, or service will be abandoned. Under the circumstances, the communications are entitled to little if any probative weight. Moreover, the rules of conduct in board proceedings consider improper any effort to sway the judgment of the Board or solicit communications to the Board other than communications by parties or nonparties under Rules 14 and 15 of the Board's rules of practice and a question is thereby presented as to the proprieties of the solicitation.²

In sum, the Board finds that no new considerations have been submitted which warrant the relief requested by REA in Docket 22387.

We turn next to REA's alternative request that the Board reconsider and vacate its dismissal in Order 70-7-110 of the petition and complaint of REA in Docket 22096. REA alleges that if the

Board fails to grant its alternative request, in conjunction with Board action denying its primary request, "the Board will have taken away both of the means to make air express viable in the interim while it investigates the longer range aspects." (Pet. p. 13.) Upon reconsideration, we disagree with that contention. As we stated in Order 70-7-110, the investigations in Dockets 22387 and 22388 encompass in broader scope many of the matters raised by REA in its petition and complaint in Docket 22096. In our view the thrust of that petition and complaint is for broad reform and long-range relief relating to the existing air express arrangement. That reform and relief are clearly the subject of the wide ranging investigations in Dockets 22387 and 22388, and do not require separate consideration solely on REA's terms. For the short term, the statutory scheme and the nature of the present arrangement, i.e., the conduct of air express service pursuant to a voluntary arrangement between the parties, leaves it entirely up to the parties as to whether such service will continue pending our investigation. We specifically noted this in Order 70-7-110 in our invitation to the parties either to agree to a pendente lite extension of the present agreement or to file an amended agreement embodying pendente lite their new revenue division formula in terms of the existing express tariff. We did not intend that these be the sole choices left up to the parties, but we cannot agree with REA that interim air express service must only be provided pursuant to the tariff which is under investigation.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404 and 1002 thereof.

It is ordered, That:

1. The petition of REA Express, Inc., requesting the Board to vacate its suspension of the joint tariff revisions of REA and the participating carriers filed June 25, to be effective July 27, 1970, be and it is hereby denied;

2. The motion for waiver under § 302.37(b) of the Board's rules, filed by REA Express, Inc., in Docket 22387 be and it is hereby denied;

3. The alternative request of REA for vacation of the Board's dismissal in Order 70-7-110 of REA's petition and complaint in Docket 22096 be and it is hereby denied;

4. The Air Freight Forwarders Association representing individual air freight forwarders, and Muzak, a division of Wrather Corp. are hereby made parties to Docket 22387; and

5. The Department of Transportation and all parties in Dockets 22096 and 22387 will be served with a copy of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL]

HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-10869; Filed, Aug. 18, 1970; 8:48 a.m.]

¹ It is noted that United Parcel Service, also specializing in small shipments, has forwarder rates applicable in limited markets which are significantly below the current or proposed increased rates of REA.

² See New York-San Francisco Nonstop Service, Reopened, 35 CAB 423, 427, 429 (1962). Affirmed in United Air Lines et al. v. CAB 309 Fed. 2d 238 (C.A.D.C. 1962).

[Docket No. 22391; Order 70-8-45]

ROSS AVIATION, INC.**Order To Show Cause Regarding Establishment of Service Mail Rates**

Issued under delegated authority August 12, 1970.

Final service mail rates for the transportation of mail by aircraft, established by Order 70-7-8, July 1, 1970, in Dockets 20275 and 20276, are currently in effect for the above-captioned air taxi, operating under 14 CFR, Part 298. These rates are for 6-day weekly service between Reno and Las Vegas, and between Ely and Reno via Elko, Nev.

The Postmaster General filed a petition on July 27, 1970, stating that since weekend trips cannot be justified on these routes in view of the volume of mail involved, he has been authorized by the carrier to petition for new rates of 37.22 and 37.16 cents per great circle aircraft mile, respectively, based on five round trips per week flown with Piper PA-23 aircraft. The carrier and the Post Office Department have agreed that the proposed rates are the fair and reasonable rates for the above services.

The Board finds it is in the public interest to fix and determine the fair and reasonable rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order¹ to include the following findings and conclusions:

1. The fair and reasonable final service mail rates per great circle aircraft mile to be paid on and after July 27, 1970, to Ross Aviation, Inc., entirely by the Postmaster General, pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be as follows:

	Cents per mile
Between	
Reno and Las Vegas, Nev.	37.22
Ely and Reno via Elko, Nev.	37.16

2. These rates are based on 5-day, weekly round-trip service flown with Piper PA-23 aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's Regulations 14 CFR, Part 302; 14 CFR, Part 298 and the authority duly delegated by the Board in its Organization Regulations 14 CFR 385.16(f),

It is ordered, That:

1. Ross Aviation, Inc., the Postmaster General, Air West, Inc., United Air Lines, Inc., Western Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and

¹ As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR, Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.16(g).

publish the final rates for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rates of compensation to be paid to Ross Aviation, Inc.;

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

3. This order shall be served upon Ross Aviation, Inc., the Postmaster General, Air West, Inc., United Air Lines, Inc., and Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL]

HARRY J. ZINK,
Secretary.

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

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

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

[F.R. Doc. 70-10870; Filed, Aug. 18, 1970; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18616; FCC 70-832]

TRANS AMERICA BROADCASTING CORP.

Memorandum Opinion and Order Amending Designation Order

In regard applications of Trans America Broadcasting Corp., for renewal of licenses of radio stations KTYM and KTYM-FM, Inglewood, Calif., File No. BR-3611, File No. BRH-968.

1. The Commission has before it for consideration: (a) Its Order herein (FCC 69-839, released Aug. 4, 1969) designating the above-captioned applications for hearing upon 10 issues; (b) a petition for addition of forfeiture issue, filed November 10, 1969, by Trans America Broadcasting Corp. (Trans America); (c) comments thereon, filed November 24, 1969, by the Chief, Broadcast Bureau; (d) a reply, filed December 5, 1969, by Trans America; (e) the Commission's letter to the Chief, Broadcast Bureau, dated May 6, 1970, requesting further information; (f) the reply thereto of the

Chief, Broadcast Bureau, filed May 19, 1970; and (g) Trans America's response to the letter of the Chief, Broadcast Bureau, filed May 25, 1970.

2. So that the hearing examiner would have available to him the opportunity to impose a monetary forfeiture sanction if this appears to be appropriate, and in the event that he concludes that a denial of license renewal is not warranted, Trans America requests that a forfeiture issue be added to this proceeding.¹ We believe that Trans America's request should be granted, and the particulars of our action adding a forfeiture issue to this proceeding are set forth below.

3. Although the Chief, Broadcast Bureau, in his response to our request for further information, has indicated several instances of alleged violations which he believes would form the basis for issuance of a notice of apparent liability for forfeiture at this time, we believe that only one of those alleged violations clearly provides a basis for issuance of such a notice. In its reply to the Chief, Broadcast Bureau's response to our letter dated May 6, 1970, Trans America agrees that the alleged violations, described hereinafter, provides a basis for addition of a forfeiture issue.

4. Section 503(b)(3) of the Communications Act of 1934, as amended, provides that no forfeiture liability shall attach for any violation occurring more than 1 year prior to the date of issuance of the notice of apparent liability, and in no event shall the forfeiture imposed for the acts or omissions set forth in any such notice exceed \$10,000. Trans America's alleged violations of § 1.613(c) of the Commission's rules concerning contracts relating to the sale of broadcast time to "time brokers" for resale appear to be of a continuing nature coming within 1 year of the issuance of a notice of apparent liability herein specified. Accordingly, issuance of a notice of apparent liability at this time would comply with the provisions of section 503(b)(3) of the Act.

5. In Issue 4 of the order of designation of Trans America's renewal applications for hearing (FCC 69-839, released Aug. 4, 1969) specific inquiry is made into the question whether Trans America sold broadcast time on its radio stations to time brokers for resale. Shortly after the release of the designation order, the Chief, Broadcast Bureau, as directed, served upon Trans America a bill of particulars setting forth the basis for adoption of the hearing issues. Reference may be had to that bill for the precise details concerning the alleged violations upon

¹ Trans America suggests that the order of designation herein may be considered as a notice of apparent liability, and it consents to having that order so considered. We believe, however, that we are precluded by the express provisions of section 503 of the Communications Act of 1934, as amended, from adopting the suggestion advanced by Trans America. Because questions of monetary forfeiture are involved, we believe that the provisions of section 503, and the procedures provided therein, must be strictly observed.

which Issue No. 4 of the previously issued designation order is based.

6. In view of the foregoing, we believe that the public interest would be served by our amending the designation order released August 4, 1969, to include a notice of apparent liability for forfeiture. The effect of this amendment will be to afford the hearing examiner and the Commission maximum flexibility in determining the appropriate sanction applicable to Trans America if after the hearing any sanction is deemed to be warranted. In Issue 4 (and as more fully detailed in the Bill of Particulars), Trans America is specifically charged with selling broadcast time on its radio stations to time brokers for resale, which, if proved, constitutes a violation of § 1.613(c) of the Commission's rules. We point out, in accord with WPRY Radio Broadcasters, Inc., FCC 70-650, released June 24, 1970, where we indicated that inclusion of a forfeiture notice would henceforth be a routine or standard procedure in hearings involving revocation or denial of renewal for alleged violations which also come within the purview of section 503(b) of the Act, that inclusion of the notice of apparent liability herein is not to be taken as in any way indicating what the initial or final disposition of the case should be. That judgment is of course to be made on the particular facts of this case.

7. Accordingly, it is ordered, That the petition for addition of a forfeiture issue, filed November 10, 1969, by Trans America Broadcasting Corporation is granted to the extent indicated herein and is otherwise denied; and that the designation order (FCC 69-839, released Aug. 4, 1969) is amended to include the following language which will serve as a notice of apparent liability for a monetary forfeiture:

If the hearing examiner should determine, in light of the evidence adduced pursuant to the foregoing issues, that the hearing record does not warrant denial of the renewal applications, he shall make findings of fact as to whether any willful or repeated violations of the Communications Act or our rules, as specified in the amended designation order and relating to "time brokerage" contracts, have occurred within 1 year of the issuance of the amendment (adopted Aug. 5, 1970) to the designation order, and if so, shall recommend to the Commission whether a forfeiture should be issued against the licensee in the amount of \$10,000 or some lesser sum pursuant to section 503(b) of the Communications Act of 1934, as amended.

Adopted: August 5, 1970.

Released: August 10, 1970.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-10862; Filed, Aug. 18, 1970;
8:48 a.m.]

*Commissioners Burch, Chairman; Johnson, and Wells concurring in the result; Commissioner Cox concurring and issuing a statement which is filed as part of the original document.

FEDERAL MARITIME COMMISSION

U.S. ATLANTIC AND GULF/AUSTRALIA- NEW ZEALAND CONFERENCE AND ASSOCIATED CONTAINER TRANSPORTATION (U.S.A.)

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Edward F. Reardon, Assistant Secretary, U.S. Atlantic and Gulf/Australia-New Zealand Conference, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 6200-15 is a memorandum of agreement between the U.S. Atlantic and Gulf/Australia-New Zealand Conference (Conference) and Associated Container Transportation (U.S.A.) (ACT) whereby an ACT officer is permitted to attend Conference meetings as a nonvoting observer until such time as ACT becomes a full member of the Conference, or at such time as ACT places its vessels on berth in the Conference's trade, whichever is sooner.

Dated: August 13, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-10819; Filed, Aug. 18, 1970;
8:45 a.m.]

[Docket No. 69-48]

SPEED-FREIGHT INC.

Revocation of Independent Ocean Freight Forwarder License

Order. The Commission having fully considered the above matter, and having this date made and entered of record a report containing its conclusions and decision thereon, which report is hereby referred to and made a part hereof;

It is ordered, That the Independent Ocean Freight Forwarder License No. 1092, issued to and now held by Speed-Freight Inc., is hereby revoked pursuant to section 44(d), Shipping Act, 1916, and Rule 510.9 of General Order 4.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-10820; Filed, Aug. 18, 1970;
8:45 a.m.]

[Docket No. 70-26]

SOPAC TRANSPORT CORP. AND ALLPORTS FREIGHT FORWARDING, INC.

Order To Show Cause; Amendment

AUGUST 11, 1970.

Counsel for respondents has requested a postponement of filing dates in this proceeding in order to pursue divestment procedures which might render this proceeding moot.

Good cause appearing, the order of July 24, 1970, is amended as follows:

Requests for hearing, affidavits of fact and memoranda of law may be filed on or before September 18, 1970.

Replies thereto shall be filed on or before October 2, 1970.

Answer by respondents may be filed on or before October 12, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-10821; Filed, Aug. 18, 1970;
8:45 a.m.]

[No. 70-30; Agreement Nos. 9847, 9848]

REVENUE POOLS, U.S./BRAZIL TRADE

Order of Investigation; Amendment

The order served August 7, 1970, is amended to add the following ordering paragraph:

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provision of Rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness

of documents if notice thereof is served within 10 days of commencement of the proceeding, is similarly waived.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-10822; Filed, Aug. 18, 1970;
8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RP69-14]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Filing of Stipulation and Settlement Agreement

AUGUST 13, 1970.

Take notice that on August 11, 1970, Algonquin Gas Transmission Co. (Algonquin), filed a request for approval of a stipulation and settlement agreement in Docket No. RP69-14. The stipulation and settlement agreement is a result of discussions among Algonquin, the Commission's staff, and interested parties in the above entitled proceedings. The stipulation and settlement agreement provides for refunds in the amount of \$4,591,900 for the period May 15, 1969, through April 30, 1970, and includes a schedule of rates to determine refunds for May and June 1970. It further provides for reduced rates to be effective July 1, 1970, and represents a settlement of all phase II issues of Docket No. RP69-14.

The stipulation and settlement agreement terminates on November 1, 1970, when Algonquin's rate increase in Docket No. RP70-30 becomes effective. Such termination, however, will not extinguish Algonquin's obligations to pass on appropriate refunds.

Copies of the stipulation and settlement agreement were served on all parties to the proceedings in Docket No. RP69-14. Comments with respect to the proposed stipulation and settlement agreement may be filed with the Commission on or before August 26, 1970.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-10863; Filed, Aug. 18, 1970;
8:48 a.m.]

[Docket No. E-7541]

NEW ENGLAND POWER CO.

Order Suspending Tendered Rate Schedule Supplements, Providing for Hearing, and Granting Intervention

AUGUST 14, 1970.

This order grants intervention and provides for a hearing and suspends for a period of 5 months rate schedule supplements instituting a fuel cost adjustment clause in the filed wholesale rate schedules of New England Power Co. (NEPCO).

On June 22, 1970, NEPCO, a public utility subject to the jurisdiction of this Commission, tendered for filing supplements to its jurisdictional rate schedules

for service to 33 wholesale customers.¹ By its tender, NEPCO seeks to establish a new fuel cost adjustment clause into its wholesale for resale rate schedules, which clause provides for adjustment to the energy charges when fuel costs are above 27.5 cents or below 25 cents per million B.t.u. NEPCO proposes that its tendered fuel clause become effective August 15, 1970.²

In support of its filing, NEPCO states that the Massachusetts State Legislature recently enacted air quality control standards that will require electric utilities to burn oil containing no more than 1 percent sulfur in all generating stations operating within the State. As a result, NEPCO anticipates substantial increases in its fuel cost as well as wide fluctuations in the price of low sulfur oil.

On August 3, 1970, the Power Planning Committee of the Municipal Electric Association of Massachusetts, Inc., together with the electric departments and plants of the Massachusetts towns and cities of Ashburnham, Boylston, Danvers, Georgetown, Groton, Hingham, Holden, Hudson, Hull, Ipswich, Littleton, Mansfield, Marblehead, Merrimac, Middleton, North Attleboro, Paxton, Peabody, Princeton, Shrewsbury, Sterling, Templeton, West Boylston ("Municipal Utilities"), filed petition to intervene and a protest to NEPCO's attempt to reinstitute a fuel adjustment clause in its wholesale rate schedules. In its protest, the Municipal Utilities assert that the fuel clause is improper on three general grounds: (1) That all such clauses are unlawful under the Federal Power Act; (2) that such clauses are unsound as a matter of regulatory policy; and (3) that the proposed fuel clause is not properly designed. They, therefore, request us to reject the filing and refuse to permit it to become effective. Alternatively, they request suspension and investigation into the lawfulness of the proposed fuel clause.

By letter filed August 6, 1970, NEPCO disputes the contentions asserted by the Municipal Utilities; requests us to permit its rate schedule supplements to become effective as requested; and, alternatively, suggests that, if we believe that a proceeding is desirable, we should permit its supplements to become effective and treat the protest as a complaint.

A public hearing should be held to resolve the factual and legal issues presented by the protest and NEPCO's response. We believe that the best procedure to resolve those issues presented will be to suspend the proposed fuel clause and to initiate a formal hearing at the earliest possible time to attempt to reach a decision before the suspension period ordered herein has expired.

The Commission further finds:

(1) The supplements to NEPCO's rate schedules, identified in appendix A hereto, may be unjust, unreasonable, unduly discriminatory, or preferential, or

¹ Those supplements are designated in appendix A, which is attached hereto.

² NEPCO at first requested Aug. 1, 1970, as the effective date but by letter dated July 14, 1970, requested the August 15th date.

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 a public hearing be held on the lawfulness of NEPCO's proposed supplements to its rate schedules (as identified in appendix A) and that the operation of the proposed rate schedule supplements be suspended and the use thereof deferred, all as hereinafter provided.

(3) Each of the Municipal Utilities either purchases electric power at wholesale from NEPCO or represents such purchaser and, consequently, participation by each in this proceeding 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 1, 1970, at 10 a.m., e.s.t., at the offices of the Federal Power Commission in Washington, D.C., concerning the lawfulness of NEPCO's proposed rate schedule supplements (as identified in appendix A). Further dates for hearing and for filing of prepared testimony shall be set by the presiding examiner at the prehearing conference with the objective of expediting this proceeding to attempt, if possible, to conclude it prior to the expiration of the suspension period.

(B) Pending such hearing and decision thereon, NEPCO's proposed rate schedule supplements (identified in appendix A hereto) are hereby suspended and the use thereof deferred until January 15, 1971. On that date, those supplements shall take effect in the manner prescribed by the Federal Power Act, subject to further order of the Commission in this proceeding, subject to NEPCO's keeping an accurate account in detail of all amounts received by reason of such change in rates and charges, and subject to such refund with interest as the Commission may order—all in accordance with section 205(e) of the Federal Power Act.

(C) Unless otherwise ordered by the Commission, NEPCO shall not change the terms or provisions of its proposed rate schedule supplements or its present effective rate schedules until this proceeding has been terminated or until the period of suspension has expired.

(D) Each of the Municipal Utilities is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That participation of such intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in its petition to intervene; *And provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders entered in this proceeding.

(E) Further notices of intervention and petitions to intervene in this proceeding may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before August 28, 1970, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.37). Answers to those petitions may be filed on or before September 15, 1970.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

RATE SCHEDULE DESIGNATIONS

Filing Date: June 22, 1970

New England Power Co., Third Revised Sheet No. 12 (Supersedes Second Revised Sheet No. 12), to the following rate schedules:

FPC No.	Other Party
161-----	The Narragansett Electric Co.
162-----	Massachusetts Electric Co.
163-----	Granite State Electric Co.
164-----	Green Mountain Power Corp.
165-----	Manchester Electric Co.
166-----	Town of Groveland
167-----	Town of Littleton (New Hampshire)
169-----	Town of Georgetown
170-----	Town of Mansfield
171-----	Town of Middleton
172-----	Town of Sterling
173-----	Town of Hull
174-----	Town of Merrimac
175-----	Town of Littleton (Massachusetts)
176-----	Town of Groton
177-----	Town of Boylston
178-----	Town of Paxton
179-----	Town of Danvers
180-----	Town of Templeton
181-----	Town of Marblehead
182-----	Town of Ashburnham
183-----	Town of Princeton
184-----	Town of Hingham
185-----	Town of North Attleborough
186-----	City of Peabody
187-----	Town of Holden
188-----	Town of West Boylston
189-----	Town of Ipswich
199-----	Department of the Army (Fort Danvers)
200-----	New Hampshire Electric Cooperative, Inc.
202-----	Town of Hudson
207-----	Town of Shrewsbury
208-----	Fitchburg Gas and Electric Light Co.

[F.R. Doc. 70-10865; Filed, Aug. 18, 1970; 8:48 a.m.]

[Docket No. E-7549]

ORANGE AND ROCKLAND UTILITIES, INC.

Notice of Application

AUGUST 14, 1970.

Take notice that on July 31, 1970, Orange and Rockland Utilities, Inc. (applicant), filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of short term unsecured promissory notes and commercial paper notes, in the aggregate principal amount of not in excess of \$75 million of which said commercial notes would not exceed 25 percent of applicants current 12 months gross operating revenues.

Applicant is incorporated under the laws of the State of New York with its principal business office at Spring Valley, N.Y. and is engaged in the electric utility business in three counties in the State of New York.

The promissory notes are to be issued from time to time to commercial banks or similar institutions and the commercial paper notes are to be issued in the open commercial paper market. All notes will mature within 1 year from their dates of issuance and in any event not later than March 31, 1972.

The proceeds from the issuance of the notes will be used to finance the applicant's 1970-71 construction program. The principal items in this program are the construction of a 600 mw. steam plant at Haverstraw, N.Y. (a joint venture with Consolidated Edison Company of New York), the construction of two 40 mw. gas turbine generators at Hillburn and Middletown, N.Y., and the company's portion of the interconnection of Pennsylvania, New Jersey, Maryland Power Pool (PJM) with the New York Power Pool (NYPP).

Any person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-10864; Filed, Aug. 18, 1970; 8:48 a.m.]

FEDERAL TRADE COMMISSION COMPETITIVE PROBLEMS IN FOOD SERVICE INDUSTRY

Notice of Opportunity To Present Written Data, Views or Arguments

Notice is hereby given that the Federal Trade Commission invites the submission of written comments from all interested parties on competitive problems in the food service industry. After consideration of all comments received, the Commission will then decide whether or not to hold public hearings on the subject.

This invitation for comments represents a continuation of the Commission's ongoing policy of close surveillance of competitive conditions and important new developments in the entire food retailing industry. Recently, the food service industry—that part involved in food served away from home—has been the most rapidly growing and changing segment of the entire industry. Its share of the total retail food market has grown from 25 to 30 percent in the last 5 years. Changes are occurring in the distribution patterns of food brought about by the growth in the food service industry and which could affect the competitive

vitality of this industry. The invitation for comments is designed to elicit information on these changes with a view to determining their competitive impact.

Among the newly emerging areas of competitive relevance which it is hoped the written comments will shed light upon are such questions as the following: Whether acquisition of independent institutional distributors by large food manufacturers or other wholesalers or food retailers poses the competitive problem of possibly eliminating or seriously curtailing independent selling agents for small nonintegrated food manufacturers; what types of other mergers in this field might be expected to have pro or anticompetitive consequences for independent institutional distributors; whether directly negotiated price arrangements between food manufacturers and food service institutions which bypass the wholesaler can be the cause of significant competitive problems not only for the independent wholesalers, but also for smaller food manufacturers as well as smaller food service institutions which do not have access to direct buying arrangements; whether there is a realistic possibility that this industry in its various specialty product lines, given the increasing importance of its fast food franchising segment relative to conventional institutional arrangements, will generate entry barriers to others or otherwise become highly concentrated; whether the formation of buying groups on the part of institutional wholesalers presents significant competitive problems; whether the existence of large institutional food distributors who may stand in position of being "power" buyers poses any special competitive problems for the industry.

Through these comments the Commission will broaden its expertise and will consider competitive problems which have arisen or may arise within the food service industry. The comments will provide an opportunity for the various segments of the industry, food manufacturers, wholesalers, institutions, and others to advise the Commission with respect to competitive problems in this industry. This invitation for comments is not intended as an investigation or rulemaking proceeding, and it is not designed to elicit specific facts concerning possible violations of any of the laws administered by the Commission.

Those submitting comments are particularly invited to submit data, views and arguments on the following topics:

1. The effect of the entry into the industry and increased emphasis placed upon the industry by large food manufacturing companies and chain grocery retailers.

2. Changing patterns of distribution in the institutional food service industry, such as are embodied in the direct price negotiations between food manufacturers and institutions, which bypass independent wholesalers in pricing and use them only for delivery.

3. The effect on competitive performance in the industry of the growth of chain and franchised eating establishments.

4. The motivation underlying the formation of buying groups and their effect on competition in the institutional food distribution industry.

5. The extent to and manner in which the largest institutional distributors affect competition and their smaller competitors.

The written data, views, or arguments submitted in response to this invitation may be filed with Harry A. Garfield, II, Assistant Director, Bureau of Competition, Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C. 20580, not later than October 15, 1970. Persons wishing to file written presentations in excess of two pages should submit 20 copies.

The comments will be available for examination by interested persons at the office of the Assistant Secretary for Legal and Public Records, Federal Trade Commission, Washington, D.C.

If the Commission decides, after consideration of all of the written comments submitted, to hold public hearings, an appropriate announcement will be made.

Issued: August 14, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70-10859; Filed, Aug. 18, 1970;
8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-3438]

BURLINGTON NORTHERN, INC.

Notice of Application for Unlisted Trading Privileges and of Oppor- tunity for Hearing

AUGUST 13, 1970.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Burlington Northern, Inc., File No. 7-3438.

Upon receipt of a request, on or before August 28, 1970, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified.

If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 70-10847; Filed, Aug. 18, 1970;
8:47 a.m.]

[File 7-3439]

BURLINGTON NORTHERN, INC.

Notice of Application for Unlisted Trading Privileges and of Oppor- tunity for Hearing

AUGUST 13, 1970.

In the matter of application of the Detroit Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Burlington Northern, Inc., File No. 7-3439.

Upon receipt of a request, on or before August 28, 1970, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 70-10848; Filed, Aug. 18, 1970;
8:47 a.m.]

[File No. 7-3441]

BURLINGTON NORTHERN, INC.

Notice of Application for Unlisted Trading Privileges and of Oppor- tunity for Hearing

AUGUST 13, 1970.

In the matter of application of the Pacific Coast Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Burlington Northern, Inc., File No. 7-3441.

Upon receipt of a request, on or before August 28, 1970, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 70-10849; Filed, Aug. 18, 1970;
8:47 a.m.]

[File No. 7-3442]

BURLINGTON NORTHERN, INC.

Notice of Application for Unlisted Trading Privileges and of Oppor- tunity for Hearing

AUGUST 13, 1970.

In the matter of application of the Pacific Coast Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12F-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which security is listed and registered on one or more other national securities exchange:

Burlington Northern, Inc., 5½ percent Cumulative Preferred Stock, \$10 Par Value, File No. 7-3442.

Upon receipt of a request, on or before August 28, 1970, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed

to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 70-10850; Filed, Aug. 18, 1970;
8:47 a.m.]

[File No. 7-3440]

BURLINGTON NORTHERN, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 13, 1970.

In the matter of application of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Burlington Northern, Inc., File No. 7-3440.

Upon receipt of a request, on or before August 28, 1970, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 70-10851; Filed, Aug. 18, 1970;
8:47 a.m.]

[Files Nos. 22-5593, etc.]

CONTINENTAL OIL CO.

Notice of Application and Opportunity for Hearing

AUGUST 13, 1970.

In the matter of Continental Oil Co.,
Files Nos. 22-5593, 22-3036, 22-1600.

Notice is hereby given that Continental Oil Co. (the Company) has filed an application under clause (ii) of section 310(b) (1) of the Trust Indenture Act of 1939 (the Act) for a finding that the trusteeship of Morgan Guaranty Trust Company of New York (Morgan) under indentures dated as of July 1, 1970 (the New Indenture), dated as of February 1, 1968 (the 1968 Indenture), which are not qualified under the Act, and indentures dated as of July 15, 1969 (the 1969 Indenture), dated as of May 1, 1961 (the 1961 Indenture) and dated as of November 1, 1954 (the 1954 Indenture), which are qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as trustee under any such Indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of said indentures.

The Company alleges that:

(1) As of July 1, 1970, it had outstanding the following issues of debentures under wholly unsecured indentures executed by the Company with Morgan as trustee:

(a) \$100 million principal amount of its 7½ percent debentures due 1999 (the 1969 Debentures) issued under an indenture dated as of July 15, 1969, qualified under the Act.

(b) \$18,500,000 principal amount of its 7 percent guaranteed debentures due 1980 (the 1968 Debentures) issued by its wholly owned subsidiary Continental Oil International Finance Corp. (Finance) and unconditionally guaranteed as to payment of principal, premium, if any, interest and sinking fund by the Company. The 1968 Debentures were issued under an indenture dated as of February 1, 1968, not qualified under the Act.

(c) \$84 million principal amount of its 4½ percent debentures due 1991 (the 1961 Debentures) issued under an indenture dated as of May 1, 1961, qualified under the Act.

(d) \$60 million principal amount of its 3 percent sinking fund debentures due 1984 (the 1954 Debentures) issued under an indenture dated as of November 1, 1954, qualified under the Act.

(e) Its wholly owned subsidiary, Finance, a Delaware corporation, has issued and sold under the new indenture between the Company, Finance, and Morgan, as trustee, \$24,525,000 principal amount of its 9½ percent guaranteed debentures due 1985 (the New Debentures), guaranteed by the Company. An additional \$475,000 principal amount of new debentures will be issued on September 16, 1970, pursuant to delayed delivery arrangements. The New Debentures are not registered under the Securities Act of 1933 and the New Indenture is not qualified under the Act for the reason that the offering was made outside the United States.

(3) The 1969 Indenture, the 1968 Indenture, the 1961 Indenture, the 1954 Indenture, and the New Indenture are wholly unsecured and the Company is not in default thereunder. All debentures issued under the 1969 Indenture, the 1961 Indenture, and the 1954 Indenture rank equally with each other and with the guarantees by the Company of the 1968 Debentures and of the New Debentures.

(4) With certain exceptions there are no material variations among such five indentures and such differences as exist are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as trustee under any of said indentures.

The Company has waived notice of hearing, hearing, and any and all rights to specify procedures under the rules of practice of the Securities and Exchange Commission with respect to this application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 4, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 70-10852; Filed, Aug. 18, 1970;
8:47 a.m.]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

AUGUST 13, 1970.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10-cent par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period August 14, 1970, through August 23, 1970, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 70-10853; Filed, Aug. 18, 1970;
8:47 a.m.]

[Release No. 34-8946]

MIDWEST STOCK EXCHANGE

Action Declaring Plan Effective

The Securities and Exchange Commission has announced that it has declared effective a plan filed by the Midwest Stock Exchange (MSE) pursuant to the provisions of Rule 17a-10(b) (17 CFR 240.17a-10(b)) under the Securities Exchange Act of 1934 (the Act).

Rule 17a-10 (17 CFR 240.17a-10) requires every member of a national securities exchange and every broker or dealer registered pursuant to section 15 of the Act to file each year with the Commission a report of his income and expenses and related financial and other information on Form X-17A-10 (17 CFR 249.618). Paragraph (b) of the rule provides that a national securities association may submit to the Commission a plan providing for reports from its members on forms consistent with Form X-17A-10, and for the transmission to the Commission of copies of such reports. Such a plan may also provide that, in transmitting copies of such records to the Commission, the names and addresses of members whose information is transmitted may be omitted. The Commission, in declaring any such plan effective, may impose such terms and conditions relating to the provisions of

the plan and the period of its effectiveness as may be deemed necessary or appropriate in the public interest, for the protection of investors, or to carry out the Commission's duties under the Act. Upon Commission approval of such a plan, the members of the exchange or association which submitted the plan are to file their reports directly with the association or exchange in accordance with the plan and not with the Commission.

The MSE plan covers members of that exchange who are not also members of the National Association of Securities Dealers, Inc. In summary, the plan provides that the MSE, (1) will adopt and implement appropriate internal procedures for review of the information submitted by members, (2) will review all reports filed for reasonableness and accuracy, (3) will submit edited data to the SEC, (4) will maintain and preserve a copy of all information furnished it by any member and of related correspondence, memoranda, etc. for a period of 6 years, and (5) will undertake certain other obligations. A copy of the MSE plan is available for inspection at the Securities and Exchange Commission, Washington, D.C.

Commission action. The text of the Commission action declaring effective the MSE plan filed pursuant to paragraph (b) of § 240.17a-10 of Chapter II of Title 17 of the Code of Federal Regulations is as follows:

The Securities and Exchange Commission acting pursuant to the Securities Exchange Act of 1934, particularly sections 17(a) and 23(a) thereof and § 240.17a-10(b) thereunder, deeming it necessary for the exercise of the functions vested in it and having due regard for the public interest and for the protection of investors, hereby declares effective July 28, 1970, the plan filed by the Midwest Stock Exchange (MSE) with the Commission pursuant to paragraph (b) of § 240.17a-10 on July 13, 1970, and amended on July 21, 1970, on the condition that if at any time it appears to the Commission to be necessary or appropriate in the public interest or for the protection of investors so to do, the Commission may suspend or terminate the effectiveness of such plan by sending at least 60 days written notice to the MSE. The Commission finds that notice and subsequent procedure specified in 5 U.S.C. 553 are unnecessary with respect to this action.

(Secs. 17(a), 23(a), 48 Stat. 897, 901 as amended by 49 Stat. 1379, 52 Stat. 1076, 15 U.S.C. 78q, 78w)

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

JULY 28, 1970.

[F.R. Doc. 70-10854; Filed, Aug. 18, 1970;
8:47 a.m.]

[Release No. 34-8954]

PHILADELPHIA-BALTIMORE- WASHINGTON STOCK EXCHANGE

Action Declaring Plan Effective

The Securities and Exchange Commission has announced that it has declared effective a plan filed by the Philadelphia-

Baltimore-Washington Stock Exchange (PBW) pursuant to the provisions of Rule 17a-10(b) (17 CFR 240.17a-10(b)) under the Securities Exchange Act of 1934 (the Act).

Rule 17a-10 (17 CFR 240.17a-10) requires every member of a national securities exchange and every broker or dealer registered pursuant to section 15 of the Act to file each year with the Commission a report of his income and expenses and related financial and other information on Form X-17A-10 (17 CFR 249.618). Paragraph (b) of the rule provides that a national securities association or a registered national securities association may submit to the Commission a plan providing for reports from its members on forms consistent with Form X-17A-10, and for the transmission to the Commission of copies of such reports. Such a plan may also provide that, in transmitting copies of such records to the Commission, the names and addresses of members whose information is transmitted may be omitted. The Commission, in declaring any such plan effective, may impose such terms and conditions relating to the provisions of the plan and the period of its effectiveness as may be deemed necessary or appropriate in the public interest, for the protection of investors, or to carry out the Commission's duties under the Act. Upon Commission approval of such a plan, the members of the exchange or association which submitted the plan are to file their reports directly with the association or exchange in accordance with the plan and not with the Commission.

The PBW plan covers members of that exchange who are not also members of the National Association of Securities Dealers, Inc. In summary, the plan provides that the PBW, (1) will adopt and implement appropriate internal procedures for review of the information submitted by members, (2) will review all reports filed for reasonableness and accuracy, (3) will submit edited data to the SEC, (4) will maintain and preserve a copy of all information furnished it by any member and of related correspondence, memoranda, etc. for a period of 6 years, and (5) will undertake certain other obligations. A copy of the PBW plan is available for inspection at the Securities and Exchange Commission, Washington, D.C.

Commission action. The text of the Commission action declaring effective the PBW plan filed pursuant to paragraph (b) of § 240.17a-10 of Chapter II of Title 17 of the Code of Federal Regulations is as follows:

The Securities and Exchange Commission acting pursuant to the Securities Exchange Act of 1934, particularly sections 17(a) and 23(a) thereof and § 240.17a-10(b) thereunder, deeming it necessary for the exercise of the functions vested in it and having due regard for the public interest and for the protection of investors, hereby declares effective August 11, 1970, the plan filed by the Philadelphia-Baltimore-Washington Stock Exchange (PBW) with the Commission pursuant to paragraph (b) of section 240.17a-10 on July 6, 1970, and amended on July 27, 1970, and August 3, 1970, on the condition that if at any time it

appears to the Commission to be necessary or appropriate in the public interest or for the protection of investors so to do, the Commission may suspend or terminate the effectiveness of such plan by sending at least 60 days written notice to the PBW. The Commission finds that notice and subsequent procedure specified in 5 U.S.C. 553 are unnecessary with respect to this action.

(Secs. 17(a), 23(a), 48 Stat. 897, 901 as amended by 49 Stat. 1379, 52 Stat. 1076, 15 U.S.C. 78q, 78w)

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

AUGUST 11, 1970.

[F.R. Doc. 70-10855; Filed, Aug. 18, 1970;
8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 4, Revision 2]

ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation on Financial Assistance

Delegation of Authority No. 4, Revision 1 (32 F.R. 178), as amended (33 F.R. 7603, 33 F.R. 8793, 33 F.R. 11569, 34 F.R. 6020 and 35 F.R. 4155), is hereby revised to read as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended; there is hereby delegated to the Associate Administrator for Financial Assistance the following authority:

A. To approve or decline business, disaster, development company and economic opportunity loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans, but is not authorized to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. To cancel, reinstate, modify, and amend authorizations for loans.

C. To determine eligibility of loan applicants.

D. To authorize acceptance of disaster loan applications after expiration of the original disaster period.

E. To extend the original disaster period resulting from a disaster declaration.

F. To declare a disaster area and period in the absence of both the Administrator and the Deputy Administrator.

G. To take all necessary actions in connection with the servicing, administration, collection, and liquidation of all loans with the exception of those loans classified as in liquidation, and other obligations and acquired property and to accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount due thereon, but is not authorized:

1. To sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon.

2. To deny liability of the Small Business Administration under terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

H. To approve or decline any application to the Small Business Administration for a guarantee of the payment of rent under a lease.

I. To enter into reinsurance agreements with participating insurance companies and to modify and revise the same whenever necessary.

J. To reinsure or decline to reinsure any application for the guarantee of the payment of rent under a lease.

K. To take all necessary actions in connection with the servicing, administration, collection, and payment of claims arising under insurance policies upon default of the lessee.

L. To approve the investment of moneys in the Lease Guarantee revolving fund not needed for the payment of current operating expenses or for the payment of claims arising under the Lease Guarantee program, in bonds or other obligations guaranteed as to principal and interest by the United States.

M. To make size determinations for the purpose of the Lease Guarantee Program.

II. The authority delegated here may be redelegated with the exception of that contained in Item I.F.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Associate Administrator for Financial Assistance.

IV. All authority previously delegated by the Administrator to the Associate Administrator for Financial Assistance is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to date hereof.

Effective date: August 7, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-10846; Filed, Aug. 18, 1970;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 76]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

AUGUST 14, 1970.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include de-

scriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 4405 (Sub-No. 478) (Republication), filed December 29, 1969, published in the FEDERAL REGISTER issue of February 5, 1970, and republished in this issue. Applicant: DEALERS TRANSIT, INC., 7701 South Lawndale Avenue, Chicago, Ill. 60652. Applicant's representative: Harold G. Hernly, Jr., 711 14th Street NW., Washington, D.C. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated May 28, 1970, and served June 16, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes, of (A) trailers, semitrailers, and trailer chassis (except those designed to be drawn by passenger automobiles), in initial movements, in truckaway and driveway service, from points in Mecklenburg County, N.C., to points in the United States (including Alaska but excluding Hawaii); return shipments of the commodities described above on return, from points in the United States (including Alaska but excluding Hawaii) to points in Mecklenburg County, N.C.; (B) tractors (when drawing trailers, semitrailers, or trailer chassis moving in initial movements in driveway service), in secondary movements, in driveway service, from points in Mecklenburg County, N.C., to points in Alaska, Arizona, Nevada, Oregon, and Vermont; (C) truck bodies and trailer bodies, and containers, from points in Mecklenburg County, N.C., to points in the United States (including Alaska but excluding Hawaii); and (D) materials, supplies, and parts, used in the manufacture, assembly, or servicing of the commodities described in (A) and (C) above when moving in mixed loads with such commodities, from points in Mecklenburg County, N.C., to points in the United States (including Alaska but excluding Hawaii). Because it is possible that other parties who have relied upon the notice of the application as previously published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition to reopen or for other appropriate relief setting forth in detail the

precise manner in which it has been so prejudiced.

No. MC 115840 (Sub-No. 50) (Republication), filed November 24, 1969, published in the FEDERAL REGISTER issue of December 18, 1969, and republished this issue. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as above) and E. Stephen Hiesley, 666 11th Street NW., Washington, D.C. 20001. The modified procedure has been followed in this proceeding and report and order of the Commission, Review Board Number 4, decided July 29, 1970, and served August 6, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of iron and steel articles, and contractors' equipment, materials, and supplies (except cement and commodities in bulk), between Montgomery, Birmingham, and Leeds, Ala., on the one hand, and, on the other, points in North Carolina and South Carolina, restricted against the transportation of pipe, fittings, valves, hydrants, and gaskets, from Birmingham, Ala., to points in North Carolina and South Carolina; that applicant is fit, willing, and able properly to perform such service and to conform to the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice as previously published may have an interest in and would be prejudiced by the lack of proper notice of the authority granted herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen the proceeding, or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 117119 (Sub-No. 422) (Republication), filed March 16, 1970, published in the FEDERAL REGISTER issue of April 16, 1970, and republished this issue. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, Ark. 72728. Applicant's representative: Bobby G. Shaw (same address as applicant). The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated July 28, 1970, and served August 12, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) frozen foods, and (2) agricultural commodities as defined in section 203 (b) (6) of the Interstate Commerce Act when moving in mixed loads, with frozen foods, from the plant site and storage facilities utilized by Ralston Purina Co., at Springdale and Johnson, Ark., to points in Oklahoma. Because

it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133322 (Republication), filed November 29, 1968, published in the FEDERAL REGISTER issue of January 16, 1969, and republished this issue. Applicant: A. FRISSELLA MOVING AND STORAGE COMPANY, INC., 2900 North Kings Highway Boulevard, St. Louis, Mo. 63115. Applicant's representative: William A. Boles, 408 Olive Street, St. Louis, Mo. 63102. A report and order of the Commission, Review Board Number 1, decided July 28, 1970, and served August 6, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of used household goods, restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized, and further restricted to the performance of pickup and delivery service in conjunction with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic between points in St. Louis, Franklin, Jefferson, St. Charles, Pulaski, Maries, Miller, Camden, Laclede, Wright, Texas, Dent, and Phelps Counties, Mo., and St. Louis City, Mo., and Madison and St. Clair Counties, Ill.; that applicant is fit, willing, and able to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief, setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134187 (Republication), filed November 24, 1969, published in the FEDERAL REGISTER issue of January 8, 1970, and republished this issue. Applicant: DALE BUBLITZ, 1603 West Fifth Street, Winona, Minn. 55987. Applicant's representative: Dennis A. Challen, Suite 203, First National Bank Building, Winona, Minn. 55987. The modified procedure has been followed

in this proceeding, and a report and order of the Commission, Review Board No. 3, decided July 29, 1970, and served August 10, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of trailers designed to be drawn by passenger automobiles, in secondary movements, between points in Winona, Houston, Fillmore, Olmstead, and Wabasha Counties, Minn., on the one hand, and, on the other, points in Buffalo, Trempealeau, LaCrosse, Monroe, Jackson, and Pepin Counties, Wis.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by a lack of proper notice of the authority described in the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen the proceeding or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITION

No. MC 109772 (Sub-No. 13), (Notice of Filing of Petition To Remove Restriction in Certificate), filed July 30, 1970. Petitioner: ROBERTSON TRUCK-A-WAYS, INC., Los Angeles, Calif. 90022. Petitioner's representative: Charles Pieroni, 7101 East Slauson Avenue, Los Angeles, Calif. 90022. Petitioner is authorized in No. MC 109772 (Sub-No. 13), to transport new and used motor vehicles (except trailers), in secondary movements, in truckaway service, between points in Arizona, New Mexico, Nevada, and Utah, restricted against the transportation of new motor vehicles which are in the course of a continuous movement from a point of manufacture or assembly in Michigan, Indiana, and Wisconsin. By the instant petition, petitioner seeks the removal of the restriction against the transportation of new motor vehicles which are in the course of a continuous movement from a point of manufacture or assembly in Michigan, Indiana, and Wisconsin. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 2401 (Sub-No. 49), filed July 28, 1970. Applicant: MOTOR

FREIGHT CORPORATION, 2345 South 13th Street, Terre Haute, Ind. 47802. Applicant's representatives: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603, and John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) Regular routes: Serving all points in Lake, McHenry, De Kalb, Kane, Du Page, Cook, Kendall, and Will Counties, Ill., and those in Kankakee County, Ill., on and north of Illinois Highway 17 as off-route points in connection with application's authorized regular routes operations; and (2) Irregular routes: Between points in Lake, McHenry, De Kalb, Kane, Du Page, Cook, Kendall, and Will Counties, Ill., and those in Kankakee County, Ill., on and north of Illinois Highway 17, on the one hand, and, on the other, points in Illinois, restricted to shipment originating at or destined to points in said Illinois counties. **NOTE:** applicant states that the requested irregular route authority sought will be tacked at points in Illinois with applicant's regular route authority. This application is a matter directly related to MC-F-10895, published in the *FEDERAL REGISTER* issue of July 22, 1970, wherein applicant seeks to convert the certificate of registration of Maher Trucking Co., under MC 120138 (Sub-No. 1) into a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 109043 (Sub-No. 4), filed July 28, 1970. Applicant: TROJAN FREIGHT LINES, INC., 909 Keowee Street, Dayton, Ohio 45404. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment); (1) between Dayton and Cincinnati, Ohio, over Interstate Highway 75, serving all intermediate points; (2) between Dayton and Toledo, Ohio, over Interstate Highway 75, serving all intermediate points; (3) between Dayton and Bridgeport, Ohio, from Dayton over Interstate Highway 75 to junction Interstate Highway 70, thence east over Interstate Highway 70 to Bridgeport, Ohio, and return over the same route, serving all intermediate points; (4) between Dayton and Portsmouth, Ohio, from Dayton over U.S. Highway 35 to junction U.S. Highway 23 at Chillicothe, Ohio, thence south over U.S. Highway 23 to Portsmouth, and return over the same route, serving all intermediate points; (5) between Dayton and Marietta, Ohio, from Dayton to Chillicothe as set forth above, thence over U.S. Highway 50 to Ohio Highway 7 near Coolville, thence over Ohio Highway 7

to Marietta, and return over the same route, serving all intermediate points;

(6) Between Dayton and Marietta, Ohio, from Dayton over Ohio Highway 444 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction U.S. Highway 33 at Columbus, Ohio, thence over U.S. Highway 33 to junction U.S. Highway Alternate 50 near Athens, Ohio, thence over U.S. Highway Alternate 50 to Marietta, and return over the same route, serving all intermediate points; (7) between Dayton and Cleveland, Ohio, from Dayton over Interstate Highway 75 to junction Ohio Highway 12 at Findlay, Ohio, thence over Ohio Highway 12 to junction Ohio Highway 53 near Fremont, Ohio, thence over Ohio Highway 53 to junction Interstate Highway 80 (also known as Ohio Turnpike), thence over Interstate Highway 80 to Cleveland, and return over the same route, serving all intermediate points; (8) between Dayton and Cleveland, Ohio, from Dayton over Ohio Highway 4 to junction U.S. Highway 40 at Springfield, Ohio, thence over U.S. Highway 40 to junction U.S. Highway 42 at Lafayette, Ohio, thence over U.S. Highway 42 to Cleveland, and return over the same route, serving all intermediate points; (9) between Dayton and Cleveland, Ohio, from Dayton over Ohio Highway 4 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 71 at Columbus, Ohio, thence over Interstate Highway 71 to Cleveland, and return over the same route, serving all intermediate points;

(10) Between Dayton and Youngstown, Ohio, from Dayton over Ohio Highway 4 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 71, at Columbus, thence over Interstate Highway 71 to junction Interstate Highway 80S near Seville, Ohio, thence over Interstate Highway 80S to junction Ohio Highway 18, thence over Ohio Highway 18 to Youngstown, and return over the same route, serving all intermediate points; and (11) between Dayton and Findlay, Ohio, from Dayton over Ohio Highway 4 to junction U.S. Highway 68 at Springfield, Ohio, thence over U.S. Highway 68 to Findlay, and return over the same route, serving all intermediate points, and serving all points in Ohio as off-route points in connection with (1) through (11) above, restricted to traffic moving from, to, or through Dayton, Ohio, and further restricted against service to any commercial zone point located outside of Ohio. **NOTE:** This application is a matter directly related to MC-F-10899, published in the *FEDERAL REGISTER* issue of July 29, 1970, wherein applicant seeks to convert the certificate of registration of Atkinson Lines, Inc., under MC 120247 (Sub-No. 1) into a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

TRANSFER APPLICATIONS UNDER SECTION 212(b) WHICH HAVE BEEN DESIGNATED FOR ORAL HEARING

No. MC-FC-71453. Authority sought by transferee, ADOBE VAN AND STOR-

AGE, INC., 1323 North 22d Avenue, Phoenix, Ariz., to transfer to transferee operating rights of transferor, WILLIAM B. JOHNSON, DOING BUSINESS AS JOHNSON VAN LINES, 7621 Maple Crest Street, Dallas, Tex. 75240. Transferee's and transferor's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. Operating rights in Certificate No. MC 129999 sought to be transferred: household goods, as defined by the Commission, between points in McKinley, San Juan, and Valencia Counties, N. Mex., on the one hand, and, on the other, Durango, Colo., and points in Colorado within 100 miles thereof, Lupton, Ariz., and points in Arizona within 200 miles thereof, and Monticello, Utah, and points in Utah within 100 miles thereof; and household goods, between points in McKinley, San Juan, and Valencia Counties, N. Mex., other than between points both of which are served by rail lines or both of which are served by regular route motor common carriers.

The above-entitled transfer application under section 212(b) of the Interstate Commerce Act is to be assigned for hearing on a consolidated record with the proceeding in MC-F-10865 at a time and place to be fixed, for the purpose of determining, among other things, whether transferee, under section 1132.3 of the Rules and Regulations Governing Transfer of Operating Rights, is fit to acquire the rights proposed for transfer. Interested parties have 30 days from the date of this publication in which to file petitions for leave to intervene. Such petitions should state the reason or reasons for the intervention, where the petitioner wishes the hearing to be held, the number of witnesses to be presented, and the estimated time required for the presentation of evidence. The Bureau of Enforcement has been directed to participate as a party in the consolidated proceeding for the purpose of presenting evidence and otherwise developing the record.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10903. (Correction) (COLE'S EXPRESS—Purchase—HUNNEWELL TRUCKING, INC.), published in August 5, 1970, issue of the *FEDERAL REGISTER* on page 12511. This notice is to show transferee seeks to purchase the *entire* authority of transferor in lieu of a *portion* and to include authority inadvertently omitted in MC-59855 Sub 1, *General commodities*, excepting, among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier*, over an alternate regular route, between Portland, Maine, and Kittery, Maine.

No. MC-F-10919. Authority sought for purchase by INTERCITY TRANSPORTATION COMPANY, 600 Turnpike Street, South Easton, Mass. 02375, of the operating rights of GARRETT TRANSPORTATION CO., INC., 100 Western Avenue, Allston, Mass. 02134, and for acquisition by HAROLD BERGERON, STANLEY L. BERGERON, NORMAN S. BERGERON, G. IRVIN BERGERON and MARIE C. KEARNEY, all of 600 Turnpike Street, South Easton, Mass. 02375, of control of such rights through the purchase. Applicants' attorney: Frank J. Weiner, 6 Beacon Street, Boston, Mass. 02108. Under a certificate of registration, in No. MC-99438 Sub-1, covering the transportation of general commodities, as a common carrier in interstate commerce, within the State of Massachusetts. Vendee is authorized to operate as a common carrier in Massachusetts, New Jersey, and New York. Application has been filed for temporary authority under section 210a(b). NOTE: No. MC-47904 Sub-3 is a matter directly related.

No. MC-F-10920. Authority sought for purchase by KISSICK TRUCK LINES, INC., Post Office Box 5687, Kansas City, Mo. 64102, of the operating rights of ACTIVE MOTOR SERVICE CO., 932 North Racine Avenue, Chicago, Ill. 60622, and for acquisition by TENNYS L. ALKIRE, 5804 Colrain, Kansas City, Mo., of control of such rights through the purchase. Applicants' attorney: Lowell L. Knipmeyer, 2804 Power & Light Bldg., Kansas City, Mo. 64105. Operating rights sought to be transferred: General commodities, excepting, among others, household goods and commodities in bulk, as a common carrier over irregular routes between points and places in the Chicago, Ill., commercial zone, as defined by the Commission in 1 M.C.C. 673. Vendee is authorized to operate as a common carrier in Missouri, Illinois, Iowa, Kansas, Nebraska, Oklahoma, Ohio, Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10923. Authority sought for purchase by SHIPPERS DISPATCH, INC., 1216 West Sample Street, South Bend, Ind. 46624, of the operating rights of JAMES THAYNE KING, doing business as Kingdon Truck Lines, Rural Route No. 2, Carrollton, Ill. 62016, and for acquisition by ROY L. ROELKE, 1216 West Sample Street, South Bend, Ind. 46624, of control of such rights and property through the purchase. Applicants' attorney: Ferdinand Born, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-98611 Sub-1, covering the transportation of property, as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a common carrier in Indiana, Ohio, Illinois, Michigan, and Missouri. Application has not been filed for temporary

authority under section 210a(b). NOTE: MC-72140 Sub-57, is a matter directly related.

No. MC-F-10924. Authority sought for purchase by SMYTH OVERSEAS VAN LINES, INC., 11616 Aurora Avenue North, Seattle, Wash. 98133, of a portion of the operating rights of AR-DEES ALASKA TRUCK LINES, INC., Post Office Box 337, Hardin, Mont. 59034, and for acquisition by SMYTH INTERNATIONAL VAN LINES, INC., and in turn by SMYTH WORLDWIDE MOVERS, INC., both also of 11616 Aurora Avenue North, Seattle, Wash. 98133, and GOLDEN CYCLE CORPORATION, 115 Barnes Avenue, Colorado Springs, Colo. 80909, of control of such rights through the purchase. Applicants' attorney: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Operating rights sought to be transferred: General commodities, except those of unusual value, classes A and B explosives, and commodities requiring special equipment, as a common carrier, over irregular routes, between points in Alaska except points in the Alaska panhandle located east of an imaginary line constituting a southward extension of the United States (Alaska)—Canada (Yukon Territory) boundary line. Vendee is authorized to operate as a common carrier in Alaska and Washington. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIERS OF PASSENGERS

No. MC-F-10921. Authority sought for purchase by WOLF'S BUS LINES, INC., Post Office Box 235, York Springs, Pa. 17372, of the operating rights of VALLEY TRANSPORTATION COMPANY (INTERNAL REVENUE SERVICE SUCCESSOR IN INTEREST), 811 State Street, Lemoyne, Pa. 17043, and for acquisition by PAUL W. WOLF, Post Office Box 235, York Springs, Pa. 17372, of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Operating rights sought to be transferred: Passengers and their baggage, in special operations during the authorized racing season of each year, as a common carrier over irregular routes, beginning and ending at Harrisburg, Camp Hill, Lemoyne, and York, Pa., and extending to the Pimlico Race Course, Baltimore, Md., beginning and ending at Harrisburg, Camp Hill, Lemoyne, and York, Pa., and extending to the Laurel Race Course, Laurel, Md., beginning and ending at Harrisburg, Camp Hill, Lemoyne, and York, Pa., and extending to the Timonium Race Course, Timonium, Md., beginning and ending at Harrisburg, Camp Hill, Lemoyne, and York, Pa., and extending to Hagerstown, Md., Race Course, Hagerstown, Md., beginning and ending at Harrisburg, Lemoyne, Camp Hill, Middletown, Elizabethtown, and York, Pa., and extending to the Delaware Park Race Course, Stanton, Del.; passengers and their baggage, in round-trip special operations, during the authorized racing season of each year, beginning and ending at Harrisburg, Camp Hill, Lemoyne, and York,

Pa., and extending to the Bowie Race Course, Bowie, Md., beginning and ending at Harrisburg, Camp Hill, Lemoyne, and York, Pa., and extending to Charles Town Race Track and Shenandoah Downs Race Track, Charles Town, W. Va.;

Passengers and their baggage, in special operations, during the authorized horse racing season at Marlboro Race Track, Marlboro, Md., between Harrisburg, Camp Hill, Lemoyne, and York, Pa., on the one hand, and, on the other, Marlboro Race Track, Marlboro, Md.; passengers and their baggage, in special operations, during the authorized racing seasons at the respective tracks, between Carlisle, Pa., on the one hand, and, on the other, the Hagerstown Race Track, Hagerstown, Md., and the Charles Town and Shenandoah Downs Race Tracks, Charles Town, W. Va., beginning and ending at Columbia, Mount Joy, Elizabethtown, Middletown, and Wrightsville (York County), Pa., and extending to Pimlico Race Course, Baltimore, Md., the Laurel Race Course, Laurel, Md., the Timonium Race Course, Timonium, Md., the Hagerstown Race Course, Hagerstown, Md., the Bowie Race Course, Bowie, Md., the Charles Town Race Track and the Shenandoah Downs Race Track, Charles Town, W. Va., the Delaware Park Race Course, Stanton, Del., and the Marlboro Race Track, Marlboro, Md.;

Passengers and their baggage, in the same vehicle with passengers, in special operations, during the authorized horse racing seasons at the respective race tracks specified below, beginning and ending at Lancaster, Pa., and extending to the sites of Pimlico Race Course, at Baltimore, Md., Laurel Race Course, at Laurel, Md., Timonium Race Course, at Timonium, Md., Hagerstown Race Course, at Hagerstown, Md., Bowie Race Course, at Bowie, Md., Marlboro Race Track, at Marlboro, Md., Charles Town Race Track, Charles Town, W. Va., Shenandoah Downs Race Track, Charles Town, W. Va., and Delaware Park Race Course, at Stanton, Del.; passengers and their baggage, in special operations, beginning and ending at Harrisburg, Camp Hill, Middletown, Elizabethtown, Mount Joy, Lancaster, Columbia, Wrightsville (York County), and York, Pa., and extending to Baltimore Memorial Stadium, Baltimore, Md., with restriction; passengers and their baggage, in the same vehicle with passengers, in special operations, during the authorized racing seasons at the respective race tracks specified below, between Abbottstown and New Oxford (Adams County), Pa., on the one hand, and, on the other, the sites of Hagerstown Race Course at Hagerstown, Md., and Charles Town and Shenandoah Downs Race Tracks, at Charles Town, W. Va., with restriction. Vendee is authorized to operate as a common carrier in all States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-10922. Authority sought for purchase by WOLF'S BUS LINES, INC., Post Office Box 235, York Springs, Pa. 17372, of a portion of the operating rights

of ANTIETAM TRANSIT COMPANY, INC. (INTERNAL REVENUE SERVICE SUCCESSOR IN INTEREST), 437 East Baltimore Street, Hagerstown, Md. 21740, and for acquisition by PAUL W. WOLF, Post Office Box 235, York Springs, Pa. 17372, of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Operating rights sought to be transferred: Passengers and their baggage, in special operations, in round trip sightseeing and pleasure tours, as a common carrier over irregular routes, beginning and ending at Hagerstown and Funkstown, Md., State Line, Pa., and Martinsburg and Inwood, W. Va., and extending to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, Maine, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, West Virginia, Wisconsin, and the District of Columbia, with restriction;

Passengers and their baggage in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Washington County, Md., Berkeley County and Berkeley Springs, W. Va., and at points in that part of Pennsylvania on and bounded by a line beginning at junction Pennsylvania-Maryland State line and Pennsylvania Highway 75, and extending along Pennsylvania Highway 75 to junction Pennsylvania Highway 416, thence along Pennsylvania Highway 416 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Pennsylvania Highway 997, thence along Pennsylvania Highway 997 to junction Pennsylvania Highway 16, thence along Pennsylvania Highway 16 to junction the Adams-Franklin County line, Pa., thence along the Adams-Franklin County line to junction the Pennsylvania-Maryland State line, and thence along the Pennsylvania-Maryland State line to junction Pennsylvania Highway 75, and extending to points in the United States (excluding Alaska and Hawaii); passengers and their baggage, in the same vehicle with passengers, in special operations, during the respective authorized racing seasons at the race tracks herein specified, as a common carrier over regular routes, between Shippensburg, Pa., and the Charles Town Race Track, and Shenandoah Downs Race Track, at Charles Town, W. Va., serving the intermediate point of Hagerstown, Md., and all intermediate points between Hagerstown, Md., and Shippensburg, Pa., with restriction. Vendee is authorized to operate as a common carrier in all States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10874; Filed, Aug. 18, 1970;
8:48 a.m.]

[Notice 17]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

AUGUST 14, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 557) (Cancels Deviation No. 516) GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed August 3, 1970. Carrier proposes to operate as a common carrier, by motor vehicles, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a deviation route as follows: From junction U.S. Highway 41 and the Pennyrile Parkway 2 miles north of Henderson, Ky., over the Pennyrile Parkway to junction U.S. Highway 41, thence over U.S. Highway 41 to junction the Pennyrile Parkway 3 miles south of Nortonville, Ky., thence over the Pennyrile Parkway to junction Alternate U.S. Highway 41, 2 miles south of Hopkinsville, Ky., with the following access routes: (1) From Madisonville, Ky., over Kentucky Highway 85 to junction U.S. Highway 41; and (2) from Henderson, Ky., over Kentucky Highway 54 to junction the Pennyrile Parkway, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Evansville, Ind., over U.S. Highway 41 via Hopkinsville, Ky., and Springfield and Goodlettsville, Tenn., to Nashville, Tenn. (also from Hopkinsville over Alternate U.S. Highway 41 to Nashville), and return over the same route.

No. MC 1515 (Deviation No. 558) (Cancels Deviation No. 482), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third St., Cleveland, Ohio 44113, filed August 7, 1970. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over deviation route as follows: (1) From Detroit,

Mich., over Interstate Highway 75 to junction U.S. Highway 25, approximately one mile north of Cygnet, Ohio; (2) from junction Interstate Highway 75 and access highway to U.S. Highway 24 (near Southgate, Mich.), over access highway to U.S. Highway 24, thence over U.S. Highway 24 to junction Interstate Highway 94, thence over Interstate Highway 94 to Detroit, Mich.; (3) from Southgate, Mich., over city streets to junction Interstate Highway 75; (4) from Monroe, Mich., over city streets to Interstate Highway 75; (5) from Toledo, Ohio, over city streets to Interstate Highway 75; (6) from Toledo, Ohio, over U.S. Highway 24 to junction Interstate Highway 475, thence over Interstate Highway 475 to junction Interstate Highway 75; (7) from junction Ohio Highways 51, 120 and Interstate Highway 280 over Interstate Highway 75; (8) from Perrysburg, Ohio, over city streets to Interstate Highway 75; (9) from junction Interstate Highway 75 and Ohio Highway 582 over Ohio Highway 582 to junction U.S. Highway 25; and (10) from Bowling Green, Ohio, over U.S. Highway 6 to junction Interstate Highway 75, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Port Austin, Mich., over U.S. Highway 25 to Port Huron, Mich., thence over Business Route U.S. Highway 25 to junction Interstate Highway 94, thence over unnumbered highway (Gratiot Avenue) to junction Michigan Highway 19, thence over Michigan Highway 19 to New Haven, Mich., thence over unnumbered highway (Gratiot Avenue) to junction U.S. Highway 25, approximately 4 miles north of Mount Clemens, Mich., thence over U.S. Highway 25 via Mount Clemens, Detroit, and Monroe, Mich., and Toledo, Perrysburg, and Bowling Green, Ohio, to junction Interstate Highway 75 approximately 1 mile north of Cygnet, Ohio, thence over Interstate Highway 75 to Van Buren, Ohio, and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10875; Filed, Aug. 18, 1970;
8:49 a.m.]

[Notice 27]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

AUGUST 14, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described

may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 69116 (Deviation No. 40), SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, Ill. 60606, filed August 3, 1970. Carrier's representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, Ill. 60603. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over deviation routes as follows: (1) From junction Ohio Highway 8 and Interstate Highway 80 over Interstate Highway 80 to junction Ohio Highway 5, thence over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction Ohio Highway 7, thence over Ohio Highway 7 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 206, thence over U.S. Highway 206 to junction New Jersey Highway 28, thence over New Jersey Highway 28 to junction New Jersey Highway 18, thence over New Jersey Highway 18 to junction U.S. Highway 1 (near Edison, N.J.); (2) from junction Ohio Highway 8 and Interstate Highway 80 over the route described in (1) above to junction Interstate Highway 80 and Ohio Highway 7, thence over Interstate Highway 80 to junction Interstate Highway 280, thence over Interstate Highway 280 to Newark, N.J.; (3) from junction Ohio Highway 8 and Interstate Highway 80 over the route described in (1) above to junction Interstate Highway 80 and Ohio Highway 7, thence over Interstate Highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 to New York, N.Y.; (4) from junction U.S. Highways 66 and 60 (near Springfield, Mo.) over U.S. Highway 60 to junction U.S. Highway 51 at or near Cairo, Ill.; and

(5) From junction Indiana Highway 37 and Interstate Highway 69 over Interstate Highway 69 to junction Interstate Highway 94 (near Marshall, Mich.), and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from junction Ohio Highway 8 and Interstate Highway 80 over Ohio Highway 8 to Cleveland, Ohio, thence over U.S. Highway 21 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction U.S. Highway 422, thence over U.S. Highway 422 to Ebsburg, Pa., thence over U.S. Highway 22 to

Harrisburg, Pa., thence over U.S. Highway 230 to Lancaster, Pa., thence over U.S. Highway 30 to Philadelphia, Pa., thence over U.S. Highway 1 to junction New Jersey Highway 18; (2) from junction Ohio Highway 8 and Interstate Highway 80 over Ohio Highway 8 to Cleveland, Ohio, thence over U.S. Highway 20 to Erie, Pa., thence over U.S. Highway 19 to Meadville, Pa., thence over U.S. Highway 322 to Franklin, Pa., thence over Pennsylvania Highway 8 to Butler, Pa., thence over U.S. Highway 422 to Ebsburg, Pa., and thence over the route described in (1) above to junction U.S. Highway 1 and New Jersey Highway 18; (3) from junction Ohio Highway 8 and Interstate Highway 80 over Ohio Highway 8 to Cleveland, Ohio, thence over U.S. Highway 20 to Silver Creek, N.Y., thence over New York Highway 5 to Buffalo, N.Y., thence over New York Highway 33 to Rochester, N.Y., thence over York Highway 31 to Weedsport, N.Y., thence over New York Highway 31B to junction New York Highway 5, thence over New York Highway 5 to Albany, N.Y., thence over U.S. Highway 9 to New York, N.Y. (also from Albany over U.S. Highway 9W and bridge or ferry to New York, N.Y.), thence over U.S. Highway 1 to junction New Jersey Highway 18;

(4) From junction Ohio Highway 8 and Interstate Highway 80 over the routes described in (1) and (2) above to Philadelphia, Pa., thence over U.S. Highway 1 to Newark, N.J.; (5) from junction Ohio Highway 8 and Interstate Highway 80 over the route described in (3) above to New York, N.Y., thence over U.S. Highway 1 to Newark, N.J.; (6) from junction Ohio Highway 8 and Interstate Highway 80, over the routes described in (1) and (2) above to Philadelphia, Pa., thence over U.S. Highway 1 to New York, N.Y.; (7) from junction Ohio Highway 8 and Interstate Highway 80, over the route described in (3) above to Albany, N.Y., thence over U.S. Highway 9 to New York, N.Y. (also from Albany over U.S. Highway 9W and bridge or ferry to New York); (8) from junction U.S. Highways 66 and 60 (near Springfield, Mo.) over U.S. Highway 66 to junction U.S. Highway 40, thence over U.S. Highway 40 to junction Illinois Highway 13, thence over Illinois Highway 13 to junction U.S. Highway 51, thence over U.S. Highway 51 to Cairo, Ill.; and (9) from junction Indiana Highway 37 and Interstate Highway 69 over Indiana Highway 37 to the Ohio-Indiana State line, thence over Ohio Highway 2 to junction U.S. Highway 127, thence over U.S. Highway 127 to junction Interstate Highway 94, thence over Interstate Highway 94 to junction Interstate Highway 69 (near Marshall, Mich.), and return over the same routes.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10876; Filed, Aug. 18, 1970;
8:49 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

AUGUST 14, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. A-52030, filed July 10, 1970. Applicant: GOLDEN WEST FREIGHT LINES, Post Office Box Bin 5817, Bakersfield, Calif. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, Calif. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of General commodities, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, motor vehicles, livestock, and commodities requiring special equipment, from, to, and between points in California as follows: Proposed Route 1: From San Diego over U.S. Highway 101 to Santa Rosa. Proposed Route 2: From Los Angeles over U.S. Highway 99 to Sacramento. Proposed Route 3: From San Francisco over U.S. Highway 50 to Sacramento. Proposed Route 4: From Pinole over California Highway 4 to Stockton. Proposed Route 5: From San Francisco over Interstate Highway 80 to Sacramento. Return over the above-specified routes to points of origin. Service is authorized at all intermediate points on the above specified routes, and at the following as off-route points: All points in Sacramento, Mariposa, Merced, Madera, Fresno, Tulare, Kings, Kern, San Benito, San Joaquin, Alameda, Stanislaus, Santa Clara, San Mateo, Marin, Santa Cruz, Solano, Contra Costa, Monterey, San Luis Obispo, Santa Barbara, Ventura, Orange, San Diego and Los Angeles Counties. General commodities, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, motor vehicles, livestock, and commodities requiring special equipment, over the following routes for operating convenience only, serving no intermediate points, and the terminal points for purpose of joinder only, between points in California as follows:

From Wheeler Ridge over Interstate Highway 5 to junction of U.S. Highway 50 near Tracy. From Gilroy over California Highway 152 to junction of U.S. Highway 99 near Chowchilla. From San Lucas over California Highway 198 to junction of U.S. Highway 99 near Goshen. From Paso Robles over California Highway 46 to Famoso. From junction of U.S. Highway 101 near Santa Maria over California Highway 166 to junction of U.S. Highway 99 near Wheeler Ridge. Return over the above routes to point of origin. Los Angeles Basin Territory beginning at the intersection of Sunset Boulevard and U.S. Highway No. 101, Alternate; thence northeasterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Los Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway 99 to and including the city of Redlands; westerly along U.S. Highway No. 99 to U.S. Highway No. 395; southerly along U.S. Highway 395 to State Highway No. 18; southerly along State Highway No. 18 to U.S. Highway 91; westerly along U.S. Highway 91 to State Highway No. 55; southerly along State Highway 55 to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U.S. Highway 101, Alternate; thence northerly along an imaginary line to points of beginning.

San Francisco Territory between points in California (including the city of San Jose) within an area bounded by a line beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southeast from Simla to Permanence; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to the Campbell-Los Gatos city limits; easterly

along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbor Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning, and servicing points within 25 miles of the boundaries of the above-described area.

San Diego Territory between points in California within an area bounded by a line beginning at the northerly junction of U.S. Highway 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on U.S. Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway (State Highway 67); thence southerly to Bostonia on U.S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the international boundary line, west to the Pacific Ocean and north along the coast to point of beginning and servicing points within 5 miles of the boundaries of the above described area. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Request for procedural information, including the time for filing protests concerning this application, should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10877; Filed, Aug. 18, 1970;
8:49 a.m.]

[Notice 134]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 14, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67. (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 95540 (Sub-No. 783 TA) filed August 11, 1970. Applicant: WATKINS MOTOR LINE, INC., 1120 West Griffin Road, Lakeland, Fla. 33801. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen concentrated coffee*, from points in Florida to points in Arkansas, Colorado, Connecticut, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Coca-Cola Co., Foods Division, Post Office Box 2711, Orlando, Fla. 32802. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, Fla. 33155.

No. MC 95540 (Sub-No. 784 TA), filed August 11, 1970. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33801. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dairy products*, from Elizabeth, N.J., to points in North Carolina, South

Carolina, Georgia, and Florida, for 180 days. Supporting shipper: Breakstone Sugar Creek Foods, Division of Kraftco Corp., 111 Fifth Avenue, New York, N.Y. 10003. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, Fla. 33155.

No. MC 107295 (Sub-No. 423 TA), filed August 10, 1970. Applicant: PRE-FAB TRANSIT CO., Post Office Box 146, 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Mill-board, roofing, sheathing, nails, insulation and insulation materials, pitch, shingles, siding, wallboard, mineral wool, filler strips, ridge rolls, paving and flooring planks, compounds, fasteners, paving joints, building paper, asbestos board, asphalt cloth, asphalt, roofing cement in containers, and materials and supplies used in the manufacture, packing and shipping of building, roofing, and insulating materials (except in bulk)*, from the plantsite of Philip Carey Co., Division of Panacan Corp., located at Lockland, Ohio, to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, New York, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: The Philip Carey Co., Division of Panacan Corp., 320 South Wayne Avenue, Cincinnati, Ohio 45215. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 108449 (Sub-No. 316 TA), filed August 10, 1970. Applicant: INDIAN-HEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Larry L. Gass (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Salt*, from Pine Bend, Minn., to points in Iowa, Wisconsin, North Dakota, and South Dakota, for 180 days. Supporting shipper: International Salt Co., Rosemont, Ill. Send protests to: District Supervisor A. E. Rathert, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 108449 (Sub-No. 317 TA), filed August 10, 1970. Applicant: INDIAN-HEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Larry L. Gass (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquefied natural gas*, in bulk, in tank vehicles; (1) from San Diego, Calif., to Waterton, Colo.; (2) from Eau Claire, Wis., to Waterton, Colo.; (3) from Oak Creek, Wis., to Waterton, Colo.; (4) from Birmingham, Ala., to Easley, S.C.; (5) from Memphis, Tenn., to Easley, S.C.; (6) from Philadelphia, Pa. to Easley, S.C.; (7) from Erlanger, Ky., to Easley, S.C.; (8) from Port of

Entry near Champlain, N.Y. to Boston, Mass.; (9) from Eau Claire, Wis., to Chicago, Ill., and points in Cook, Du Page, Lake, Kane, and Will Counties, Ill.; and (10) from Oak Creek, Wis., to Chicago, Ill., and points in Cook, Du Page, Lake, Kane, and Will Counties, Ill., for 180 days. Supporting shipper: American L. N. G. Co., Oak Brook, Ill. Send protests to: District Supervisor A. E. Rathert, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 110884 (Sub-No. 15 TA), filed July 29, 1970. Applicant: AUBREY FREIGHT LINES, INC., 651 Grove Street, ZIP 07202, Elizabeth, N.J. 07030. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods*, from the plantsite Kitchens of Sara Lee, Deerfield, Ill., to Hershey, Allentown, Philadelphia Commercial Zone, Spring House, King of Prussia, Greensburg, Pittsburgh, Leetsdale, Ebensburg, Shiremanstown, Sunbury, Scranton, Erie, Uniontown, Altoona, and Sharon, Pa.; Baltimore and Halenthorne, Md.; Edison, Totowa, Spring Lake, Trenton, N.J.; Mahapac, Marlboro, Ellenville, Syracuse, Elmira, Binghamton, Albany, Buffalo, Mount Kisco, Kingsport, Bayshore, Falconer, Jamestown, Olean, Newburgh, Rochester, N.Y., and points in the New York, N.Y., commercial zone, as defined by the Commission; Southboro, Mass., and points in the Boston, Mass., commercial zone; Suffield, Hartford, Conn., and the District of Columbia, under contract with Kitchens of Sara Lee, Deerfield, Ill., for 150 days. Supporting shipper: James D. Varrato, Distribution Manager, Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, Ill. 60015. Send protests to: District Supervisor Walter J. Grossmann, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 114830 (Sub-No. 1 TA), filed August 10, 1970. Applicant: JOHN OTHO SCHUMACHER, doing business as J. O. SCHUMACHER, R.F.D. No. 3, Pinckneyville, Ill. 62274. Applicant's representative: Ernest A. Brooks II, 1301-02 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Gasoline and fuel oil*, in bulk, in tank vehicles, from the storage facilities of Union Oil Co., at or near Mount Vernon, Ind., and Cape Girardeau, Mo.; to Anna, Benton, Cairo, Carmi, Chester, Coulterville, Eldorado, Enfield, Harrisburg, Herrin, Karnak, Marion, Metropolis, Mount Carmel, Mount Vernon, Nashville, Neoga, Noble, Pana, Pinckneyville, Ridgway, Rosiclare, Salem, and Windsor, Ill., for 150 days. Supporting shipper: Knapp Oil Co., Xenia, Ill. 62899. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 115322 (Sub-No. 73 TA), filed August 10, 1970. Applicant: REDWING REFRIGERATED, INC., 2939 Orlando Drive, Post Office Box 1698, Sanford, Fla. 32771. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen concentrated coffee*, from points in Florida to points in Connecticut, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and North Carolina, for 180 days. Supporting shipper: The Coca-Cola Co., Foods Division, 1200 West Colonial Drive, Orlando, Fla. 32804. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 117799 (Sub-No. 4 TA), filed August 10, 1970. Applicant: BEST WAY FROZEN EXPRESS, INC., 3033 Excelsior Boulevard, Room 210, Minneapolis, Minn. 55416. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned meats*, from East Brunswick, N.J., to Salt Lake City, Utah, Seattle, Wash., and points in California, for 180 days. Supporting shipper: DAK Meat Packers Ltd., Lexington Avenue, Post Office Box 66, East Brunswick, N.J. 08816. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 124796 (Sub-No. 68 TA), filed July 21, 1970. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, Calif. 91747. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Air conditioning equipment, furnaces, water heaters, and component parts and accessories for such items*, from the plantsites and distribution facilities of Carrier Corp. located in Davidson County, Tenn., to points in the United States, except Alaska and Hawaii. (2) *Returned, rejected, or refused shipment of air conditioning equipment, furnaces, water heaters, and component parts and accessories for such items* from points in the United States, except Alaska and Hawaii, to plantsites and distribution facilities of Carrier Corp. located in Davidson County, Tenn. (3) *Furnaces*, from Blackville, S.C., to the plantsites and distribution facilities utilized by Carrier Corp. located in Davidson County, Tenn. All restricted against the transportation of commodities in bulk or those which, by reason of size or weight, require the use of special equipment and further restricted to traffic which either originates or terminates at the plantsites and distribution facilities of Carrier Corp. located in Davidson County, Tenn., for 180 days. Supporting shipper: Carrier Air Conditioning Co., Carrier Parkway, Syracuse, N.Y. 13201. Send protests to: John E. Nance, District Supervisor,

Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 125433 (Sub-No. 17 TA), filed July 27, 1970. Applicant: F-B TRUCK LINE COMPANY, 1891 West 2100 South Street, Salt Lake City, Utah 84119. Applicant's representative: Martin J. Rosen, 140 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: *Iron or steel articles*, consisting of namely, angles, bars, billets, blooms, blanks, stampings, or unfinished shapes, boiler parts, bolts, channels, forms or molds, plates, and sheets, rivets, reinforcement, rods, roof bolt mats and support lagging, crews, skelp, slabs, strip steel, tanks, tank towers, forms or molds, ingots, ladder assemblies, nuts, beams, bases, bracing, brackets or forms, caps, clevises, columns, frames, furring, girders, gratings, guides, hangers, joists, lathing, lintels, piling, pins, plates, posts, pulleys, railings, rails, retaining wall spacers, stringers, or stringer stiffeners, shoes, struts, stud- ding, tees, trusses, tubing, turnbuckles, weights, zees, buckles, clamps, wire cloth, fasteners, fence materials, wire fencing, fence posts drivers, gates, guards, hoops, lift- ers, nails, wire netting, spikes, staples, stretchers, ties, twist- ers, welding rods or wire, wire, wire strand, boiler flues and tubes, pipe or tubing, tin plate, tin mill black plate, terne plate, tin mill plate (chrome coated), from the plantsites and adjacent storage and/or processing facilities at Kaiser, Calif. (San Bernardino County), to points in Oregon and Wash- ington, for 180 days. NOTE: There will be no tacking contemplated. Supporting shipper: Kaiser Steel Corp., General Offices, Kaiser Center, 300 Lakeside Drive, Oakland, Calif. 94612 (James H. Mullen, Assistant to the General Traffic Manager—Services). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6201 Federal Build- ing, Salt Lake City, Utah 84111.

No. MC 129645 (Sub-No. 27 TA), filed August 10, 1970. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership doing business as SMEESTER BROTHERS TRUCKING, 1330 South Jackson, Iron Mountain, Mich. 49801. Applicant's representative: Basil J. Smeester (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wood fiberboard, wood fiberboard faced and finished with decorative and protective material* (except commodities in bulk) and accessories and supplies used in the installation thereof, from the plant and warehouse sites of Evans Products Co. at or near Phillips, Wis., to points in Iowa, Minnesota, Nebraska, North Da- kota, and South Dakota, for 180 days. Supporting shipper: Evans Products Co., Phillips, Wis. 54555 (by Lloyd F. Koth, Jr., Resident Manager). Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bu-

reau of Operations, 225 Federal Build- ing, Lansing, Mich. 48933.

No. MC 133725 (Sub-No. 4 TA), filed August 10, 1970. Applicant: SAME DAY TRUCKING CO., INC., 400 Newark Avenue, Piscataway, N.J. 08854. Applicant's representative: Chester F. Romeo (same address as above). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transport- ing: *Tailpipes, exhaust pipes, shock ab- sorbers, brake parts, mufflers, and auto- motive parts and materials used in the installation of such commodities*, from North Brunswick, N.J., to Baltimore, Md., points in New York (except New York, N.Y., and except points in Nassau and Suffolk Counties, N.Y.) and to points in Pennsylvania (except Philadelphia, Pa.), for 150 days. Supporting shipper: Midas Inc., 1575 Jersey Avenue, North Bruns- wick, N.J. 08902. Send protests to: Dis- trict Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Com- merce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 134277 (Sub-No. 2 TA), filed August 10, 1970. Applicant: BOYER TRUCKING CO., Post Office Box 566, Rawlins, Wyo. 82301. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transport- ing: *Malt beverages*, from Omaha, Nebr.; Peoria, Ill.; and Milwaukee, Wis., to Rawlins, Wyo., for 180 days. Supporting shipper: Franks Distributing Co., Raw- lins, Wyo., for 180 days. Send protests to: Paul A. Naughton, District Super- visor, Interstate Commerce Commission, Bureau of Operations, Room 304, Lierd Building, 259 South Center Street, Cas- per, Wyo. 82601.

No. MC 134737 (Sub-No. 1 TA), filed August 10, 1970. Applicant: CENTRAL TEXAS MOVERS AND RIGGERS, INC., 615 Forest Avenue, Waco, Tex. 76703. Applicant's representative: James T. Mixson (same address as above). Au- thority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Palletized brick and mortar*, in sacks or drums, from Mexia, Tex., to Big Brown Steam Electric Sta- tion, 11 miles northeast of Fairfield, Tex., for 180 days. Supporting shipper: The Rust Engineering Co., 930 Fort Duquesne Boulevard, Pittsburgh, Pa. 15222. Send protests to: Billy R. Reid, District Super- visor, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 134789 TA (Correction) filed July 27, 1970, published in the FEDERAL REGISTER issue August 8, 1970 and repub- lished in part corrected, this issue. Ap- plicant: WILBER C. SHAFFER AND TY- RONE FROEMKE, a partnership, doing business as TAB TRANSPORTATION COMPANY, 1010 South Hooper Avenue, Los Angeles, Calif. 90021. Applicant's rep- resentative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. NOTE: The purpose of this partial re- publication is to show (between points within the Counties of Ventura, Santa Barbara, Kern, San Diego, Orange, San

Bernardino, Riverside, and Los Angeles— State of California) as the territorial description, which was inadvertently omitted in previous publication. The rest of the application remains as published.

No. MC 134839 (Sub-No. 1 TA), filed August 10, 1970. Applicant: JEROME M. HAACK, Route 1, Deerfield, Wis. 53531. Applicant's representative: Eu- gene E. Zegarowicz, 232 King Street, Madison, Wis. 53703. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transport- ing: *Feed and feed supplements*, from Howard Lake, Minn., to points in Wis- consin, Iowa, and Illinois, for 180 days. Supporting shipper: American Feeds & Livestock Co., Howard Lake, Minn. 55349. Send protests to: Barney L. Hardin, Dis- trict Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, Wis. 53703.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[P.R. Doc. 70-10880; Filed, Aug. 18, 1970;
8:49 a.m.]

[Notice 574]

MOTOR CARRIER TRANSFER PROCEEDINGS

August 14, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Com- merce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's gen- eral rules of practice any interested person may file a petition seeking recon- sideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposi- tion. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72295. By order of July 12, 1970, the Motor Carrier Board approved the transfer to C. H. Miller doing busi- ness as C. H. Miller Transportation, Oroville, Calif., of a portion of Certifi- cate of Registration No. MC-97557 (Sub- No. 9), issued July 12, 1968, to Hawkey Transportation, Redding, Calif., evi- dencing a right to engage in transporta- tion in interstate commerce pursuant to certificate of public convenience and necessity granted in Decision No. 48291, dated February 17, 1953, transferred by Decision No. 72203, dated March 28, 1967, by the Public Utilities Commission of the State of California. Raymond A. Greene, Jr., Handler, Baker & Greene, 405 Mont- gomery Street, San Francisco, Calif. 94104, attorney for applicants.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[P.R. Doc. 70-10881; Filed, Aug. 18, 1970;
8:49 a.m.]

[No. MC-C-6953]

**COTTON PRODUCERS ASSOCIATION
AND PILLSBURY CO.****Exempt Status of Pre-Cooked and
Cooked Poultry; Petition for De-
claratory Order**

AUGUST 14, 1970.

Petitioners: Cotton Producers Association, Atlanta, Ga., The Pillsbury Company, Minneapolis, Minn.; Petitioners' representatives: John F. Donelan and John H. Caldwell, 914 Washington Building, Washington, D.C. 20005.

By petition filed July 31, 1970, petitioners seek a determination as to whether the transportation of precooked and cooked poultry is exempt from economic regulation pursuant to section 203(b)(6) of the Interstate Commerce Act.

The Poultry Division of Cotton Producers Association, an agricultural cooperative, is said to engage in an integrated poultry operation ranging from production of feed ingredients through processing of poultry to distribution. Processing plants are located at Durham, N.C.; Athens, Canton, Carrollton and Lithonia, Ga.; Boaz, Ala., and Live Oak, Fla. Similarly, Pillsbury Farms Division of the Pillsbury Co., and J-M Poultry Processing Co., Inc., a wholly-owned subsidiary, engage in integrated poultry operations which culminate in product distribution. Pillsbury Farms maintains processing plants at Gainesville and Ellijay, Ga., and Guntersville, Ala., and J-M maintains such facilities at Alexandria and Baton Rouge, La., and El Dorado, Ark. For purposes of accomplishing the interstate distribution of their poultry products, including precooked and cooked poultry, petitioners rely upon certain motor carriers not authorized by this Commission to provide the involved transportation service. The propriety of such operations has been questioned by a district supervisor and field representatives of the Commission.

Petitioners request that this Commission enter an order declaring that (1) cut-up, precooked or cooked, frozen or refrigerated poultry, (2) cut-up, precooked or cooked, breaded and/or battered, frozen or refrigerated poultry, and (3) cut-up, precooked or cooked, marinated, breaded and/or battered, frozen or refrigerated poultry constitute agricultural commodities the transportation

of which is not subject to economic regulation by this Commission pursuant to section 203(b)(6) of the Interstate Commerce Act. They note that the categories set forth above have not been the subject of a formal ruling by the Commission and that they have not been the subject of a litigated decision by the Commission or by any court. Petitioners contend that the processing undergone by poultry in the above categories does not constitute a manufacturing change which would alter its fundamental identity.

Any interested person (including petitioners) desiring to participate in this proceeding shall file an original and seven copies of his written representations, views and arguments in support of, or against, the relief requested within 30 days from the date of this publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.[F.R. Doc. 70-10878; Filed, Aug. 18, 1970;
8:49 a.m.]

[No. MC-C-7070]

**MISSOURI FOREST PRODUCTS
ASSOCIATION****Notice of Filing of Petition for
Determination of Commodity Status**

AUGUST 14, 1970.

Petitioner: Missouri Forest Products Association, a corporation. Petitioner's representative: Turner White, 805 Woodruff Building, Springfield, Mo. By petition filed July 13, 1970, petitioner requests that the Commission determine that the following waste products are within the partial exemption from economic regulation under section 203(b)(6) of the Interstate Commerce Act: (a) Trimmings from logs and bolts; (b) bark, sawdust, and shavings produced as an incident to, and waste product of, the sawing, planing, and finishing of wood products.

Missouri Forest Products Association, a nonprofit corporation consisting of more than 100 individuals and firms connected with the wood industry, maintains (a) that there is presently no feasible method of disposing of such waste material other than by burning, a

procedure now questionable under a recent Missouri Air Conservation statute making "the discharge into the ambient of air contaminants so as to cause or contribute to air pollution" unlawful. Chapter 203 V.A.M.S. § 203.030; (b) that there is some limited use for this waste material, such as trimmings in charcoal production and bark as decorative mulch; and (c) that the value of these commodities ranges from nil for bark and sawdust to between \$2 and \$3 a ton for the other material delivered to utilization site.

Petitioner notes that Administrative Ruling No. 107, incorporated into section 203(b)(6) of the Act, lists bark as exempt and wood chips for making wood-pulp and sawdust from saw mills as nonexempt, but asserts that the circumstances giving rise to the latter "non-exempt" rulings are factually distinguishable from those involved herein. The waste materials herein it asserts, are often produced at plants other than lumber mills, such as plants producing final wood products. It maintains that the essential problem with regard to these allegedly valueless materials is their disposal in order to avoid air and surface pollution. Petitioner asserts that these materials are generally a last-resort commodity for most motor carriers and that rates presently in effect constitute a virtual embargo because of the valuelessness of this material.

Petitioner, therefore, requests that a hearing be held for the purpose of determining that the commodities listed above are within the partial exemption of section 203(b)(6) of the Interstate Commerce Act. Petitioner will produce witnesses with knowledge of the facts contained in the petition to testify in support thereof.

Any person or persons desiring to participate in this proceeding, may, within 30 days from the date of this publication file representations, consisting of an original and six copies, supporting or opposing the relief sought by petitioner. A copy of such statement should be served upon petitioner's representative.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.[F.R. Doc. 70-10879; Filed, Aug. 18, 1970;
8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

3 CFR

EXECUTIVE ORDERS:

2513 (revoked in part by PLO 4882)	12657
11248 (amended by EO 11550)	12315
11399 (amended by EO 11551)	12885
11550	12315
11551	12885

5 CFR

213	12341
12387, 12531, 12644, 12747	13075
335	13075
550	12387
890	13075

7 CFR

26	12321
58	12639
225	12391
265	13076
701	12639
718	12640
725	13076
811	13189
814	13003
855	12529
876	12640, 12887
908	12529, 12829, 13076
910	12322, 12642, 13006
921	12643
923	12392
927	12705
931	12392, 12643
947	12455
948	12887
958	12529
980	12530
993	12323
1137	13007
1421	12393, 12706, 12829
1427	12707
1434	12597, 13077
1443	12455, 12747
1602	12597

PROPOSED RULES:

201	12847
362	12478
711	12404
729	13135
919	12478
925	12478
932	12345
945	13135
958	12544
981	12767, 13135
989	12544
991	12660
993	13136, 13219
1030	12545
1036	12978
1061	12613
1099	12767

9 CFR

76	12388
12460, 12644, 12707, 12747, 12833, 12887, 13007, 13077, 13190	
78	12747

PROPOSED RULES:

201	12769
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10 CFR

2	12649
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PROPOSED RULES:

Ch. I	12770
30	12412
40	12412
70	12412
170	12412

12 CFR

329	12460
526	12388
545	12834
555	12834
605	12461

PROPOSED RULES:

204	12777
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13 CFR

122	12529
-----	-------

14 CFR

1	13115
15	12708
21	12748, 13008
25	13191
39	12325, 12650, 12749, 12834, 12835, 13008, 13116
61	12708
65	12326
71	12327, 12328, 12533, 12650, 12750-12752, 12835-12837, 12888, 13115-13118, 13193
73	12328, 13118
75	13118
91	13115
95	13119
97	12328, 12598, 12889, 13193
121	12708, 13191
171	12709
225	12651
241	13194
245	12388
298	12534
378	12651

PROPOSED RULES:

25	13138
36	12555
71	12348, 12349, 12556-12556, 12769, 12847, 12953-12956, 13138
121	12479, 13138
123	13138
212	13220
399	12770

15 CFR

377	12389, 12837
379	13195

16 CFR

13	12753, 12754, 12837-12843
245	13122
252	12718
501	12461, 13195

PROPOSED RULES:

250	12958
416	12727
428	12671

17 CFR

240	12390
270	13122

PROPOSED RULES:

231	12853
-----	-------

18 CFR

154	12329
-----	-------

PROPOSED RULES:

2	13030, 13139
101	12668
104	12958
105	12958
141	12668, 12958
154	12559
201	12668
204	12958
205	12958
260	12668, 12958

19 CFR

4	12391
---	-------

20 CFR

405	12330, 12899
602	12393

PROPOSED RULES:

405	12346, 12545, 12660, 12727, 13023
-----	-----------------------------------

21 CFR

2	13196
3	12890
19	12461
120	13123, 13196, 13197
121	12332, 12390, 12598, 12755, 12890, 13124, 13197
130	12652, 12891
135a	12719
135d	12332
135e	12332
135g	12332, 12333
141d	12719
146c	12653
146d	12719
148m	12654
148n	12653
191	12892, 13198
320	12461

PROPOSED RULES:

3	12411, 12479
45	12951
120	12951
130	12952
135	12479
144	12479
191	13137, 13138

22 CFR

201	12611, 13009
-----	--------------

24 CFR

7	13011
1914	12599, 12600, 12757, 12896
1915	12601, 12602, 12758, 12897

25 CFR

PROPOSED RULES:

221	13022
-----	-------

26 CFR	Page
Ch. II	12462
PROPOSED RULES:	
1	12342, 12343, 12400, 12467, 12477, 12544, 12612
31	12343
151	12911
301	12343

28 CFR	Page
0	13077

29 CFR	Page
1500	12756
1607	12333
PROPOSED RULES:	
103	12614

30 CFR	Page
300	12336
302	12337
PROPOSED RULES:	
75	12911
80	12765

31 CFR	Page
10	13205
500	13124

32 CFR	Page
132	12654
248	12756
720	13078
726	13078
750	13086
751	13086
752	13086
753	13086
755	13086
756	13086
757	13086
870	12534
882	12395
1453	13017
1499	12338, 13017

32A CFR	Page
BDSA (Ch. VI):	
M-1A	12897
OIA (Ch. X):	
OI Reg. 1	12759

33 CFR	Page
23	12541
92	12395, 13017
117	12396, 12720
PROPOSED RULES:	
110	13219
117	12554, 12727

36 CFR	Page
2	12542
5	12542
7	13017, 13206
9	12542

38 CFR	Page
17	13125
18	13133
21	12844
39 CFR	Page
113	12462
119	12760
135	12845

41 CFR	Page
1-8	13133
1-16	13133
Ch. 2	12542
4-2	13018
4-3	12602
4-4	13018
4-7	12604
4-12	12338
4-16	12607
4-50	13018
5A-2	12607
5A-72	12721
8-2	12340
8-6	12340
9-51	12396
12B-3	12654
12B-75	12654
101-19	12542, 12608
101-26	12721, 13133
101-27	12721
101-38	12609
114-43	12722
114-46	12722

42 CFR	Page
37	13206
81	12722, 12723, 12756, 12757, 12843
PROPOSED RULES:	
81	12660, 12726, 13022, 13023

43 CFR	Page
3810	12723
PUBLIC LAND ORDERS:	
1756 (revoked by PLO 4881)	12657
2198 (see PLO 4882)	12657
2199 (modified and extended in part by PLO 4870)	12655
2379 (modified and extended in part by PLO 4870)	12655
3258 (see PLO 4875)	12656
4582 (see PLO 4881)	12657
4870	12655
4871	12655
4872	12655
4873	12655
4874	12655
4875	12656
4876	12656
4877	12656
4878	12656
4879	12657
4880	12657
4881	12657
4882	12657

45 CFR	Page
73	12902
175	12543
600	13133

45 CFR—Continued	Page
901	12516
903	12517
904	12521
905	12522
907	12523
908	12524
PROPOSED RULES:	
250	12346

46 CFR	Page
401	12723
531	12399

47 CFR	Page
0	12892
1	12892
21	12462, 12892
23	12892
73	12658, 13208
81	12762
83	12762
85	12762
87	12397, 12762
89	12397, 12762
91	12397, 12762
93	12398, 12762
95	12762
99	12762

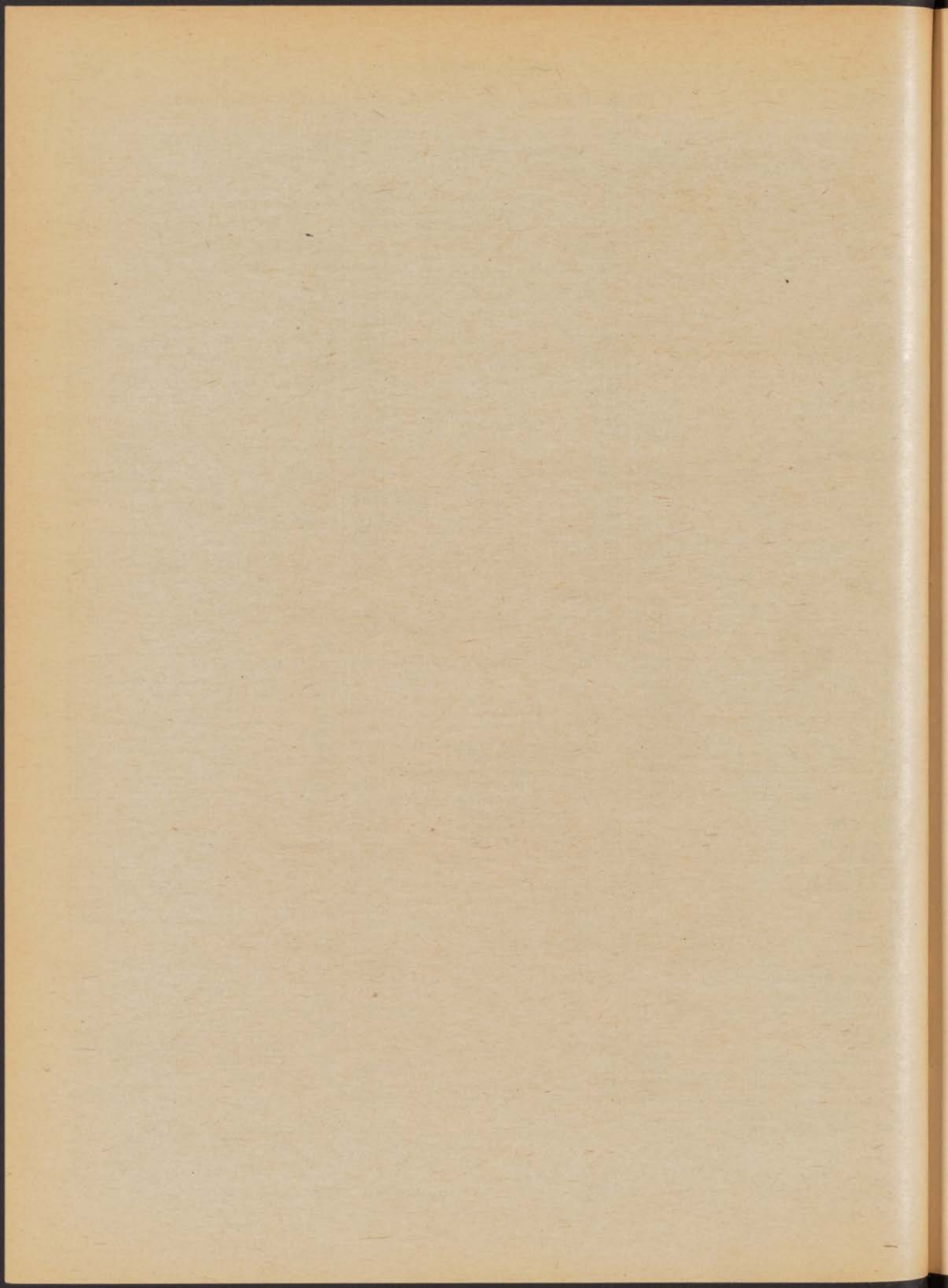
PROPOSED RULES:	Page
2	12771, 12772
64	12957
73	12481, 12483, 12661, 12775, 13139
74	12775
87	12771
91	12772
93	12772

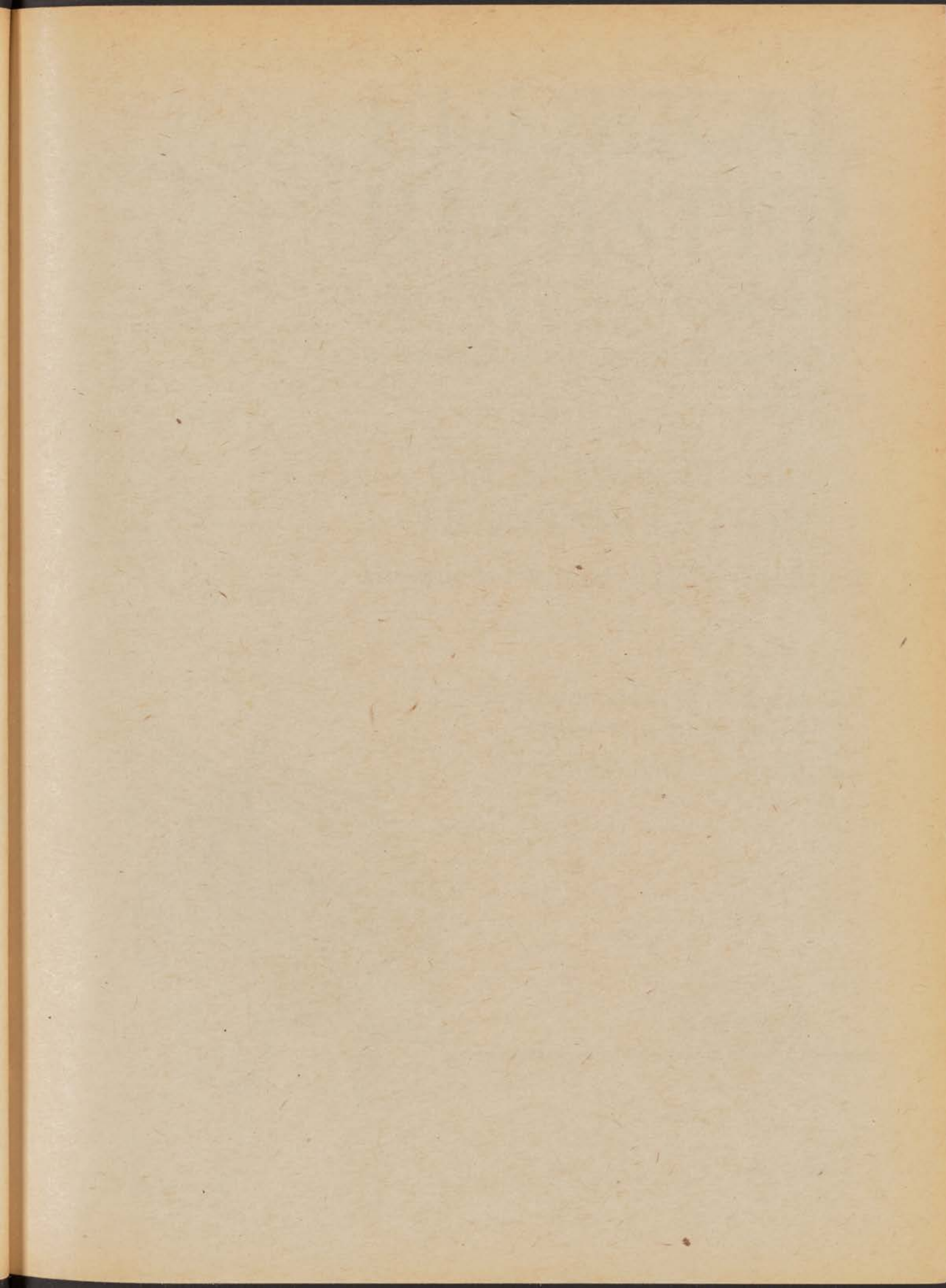
49 CFR	Page
1	12763
71	12317
171	12609
173	12610
178	12610
190	13248
192	13248
235	12463
236	12465
393	13018
1033	12910
1048	12764
1102	13216

PROPOSED RULES:	Page
393	13024
568	13139
571	12847, 12956, 13025
575	12849
1048	12483

50 CFR	Page
2	12658
11	12658
14	12391
16	12658
28	13019
32	12465, 12466, 12543, 12611, 12724, 12725, 13019-13021, 13133, 13134, 13217

PROPOSED RULES:	Page
17	12726, 12847





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PART II

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

Transportation of Natural and
Other Gas by Pipeline;
Minimum Safety Standards



Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket OPS-3]

PART 190—INTERIM MINIMUM FEDERAL SAFETY STANDARDS FOR THE TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Establishment of Minimum Standards

This amendment establishes a new Part 192 in Title 49, Code of Federal Regulations, containing the minimum Federal safety standards for the transportation of gas and for pipeline facilities used for this transportation.

The Natural Gas Pipeline Safety Act was enacted on August 12, 1968. It required the Secretary of Transportation to adopt, within 3 months, the then existing State safety standards for gas pipelines as interim regulations and to establish, within 24 months, minimum Federal safety standards. The interim standards were issued on November 7, 1968, as Part 190 of Title 49 of the Code of Federal Regulations and became effective on December 13, 1968. With the adoption of these minimum Federal standards in Part 192, the interim standards are no longer necessary. Therefore, the interim standards are revoked on the date that Part 192 becomes effective, except for those provisions applicable to design, installation, construction, initial inspection, and initial testing of new pipelines which will remain in effect until March 13, 1971.

These regulations were proposed in the following notices of proposed rulemaking issued between November 14, 1969, and June 10, 1970:

OPS Notice 69-3, 34 F.R. 18556.
OPS Notice 70-1, 35 F.R. 1112.
OPS Notice 70-2, 35 F.R. 3237.
OPS Notice 70-3, 35 F.R. 4413.
OPS Notice 70-4, 35 F.R. 5012.
OPS Notice 70-5, 35 F.R. 5482.
OPS Notice 70-6, 35 F.R. 5724.
OPS Notice 70-7, 35 F.R. 5713.
OPS Notice 70-11, 35 F.R. 9293.

This amendment does not include the requirements on corrosion control (Subpart I) which were proposed in a notice published in the *FEDERAL REGISTER* on May 6, 1970 (35 F.R. 2127). Final action on that notice will be taken after the comments that were received on the notice and at the public hearing that was held on July 20, 1970, have been analyzed.

Part 192 differs in many respects from the notices upon which it is based. Some changes were made for consistency in terminology and format. Others involve the moving of requirements from one section to another, or from one subpart to another, for better organization.

Many sections were renumbered, particularly in Subparts C, D, L, and M. Even numbered sections and blocks of sections between subparts were left blank to accommodate additional sections in future rulemaking actions.

Some changes are substantive in nature and are based both on the comments received on the notices (over 500 separate comments totaling over 2,500 pages were received and the recommendations of the Technical Pipeline Safety Standards Committee. Each of these changes is within the general scope of the notice on which it was based.

This is a major rulemaking action dealing with a highly technical subject in which many requirements are interdependent. Since the entire project was accomplished in less than 9 months from the first notice to the final rule, some of the changes may create problems in interpretation and compliance. Interested persons should inform the Office of Pipeline Safety in writing of any such problems, so that a determination can be made as to whether a correcting or clarifying amendment should be issued before the effective date of the particular requirement.

In addition to the many comments on the proposals which have been reflected in this final rule, a number of commenters recommended additional requirements to supplement present requirements or to cover areas not presently covered. Since many of these recommendations were beyond the scope of the proposed regulations, they could not be included in this final rule. However, these recommendations will be considered as petitions for rulemaking and many will be the subject of future rulemaking actions.

A large number of the comments were directed to areas of overall effect, such as the determination of maximum allowable operating pressure, the definition of "class location", and the determination and effect of a change in class location. These general subjects are discussed in detail below. All other significant changes and comments are discussed in a subpart by subpart, section by section, analysis.

Determination of maximum allowable operating pressure. As proposed in the notice, maximum allowable operating pressure would have been limited to the lowest of a designated series of pressures. Two of the designated pressures were (1) the design pressure in the weakest element in the pipeline system, and (2) the pressure obtained by dividing the pressure to which the pipeline was tested after construction by the factor for the appropriate class location.

Since some pipelines have been operated above 72 percent of specified minimum yield strength (the highest design stress allowed by Part 192) and since many were tested to no more than 50 pounds above maximum allowable operating pressure, these proposed requirements would have required a reduction of operating pressures in those pipelines. In a letter to the Office of Pipeline Safety, the Federal Power Commission stated (NOTE: the section numbers are those used in the notice):

Section 192.617 establishes maximum allowable operating pressure for existing steel pipelines. Several limitations are listed with paragraph (a) providing, "No person may operate a steel or plastic pipeline or main at a pressure that exceeds the lowest of the following." Paragraph (a)(2)(ii) is a table that requires applying a factor related to test pressure to establish the maximum allowable operating pressure. This table provides that in Class 1 locations the maximum allowable operating pressure cannot exceed the test pressure divided by 1.1 and in Class 2 locations a factor of 1.25.

Presumably these limits were established to relate to the requirements for testing presently contained in the Interim Federal Safety Standards which are essentially the same as those in ANSI B31.8-1968.

The proposed regulation does not recognize that the B31.8 Code did not establish these minimum test levels until 1952. Prior to that time, between 1935 and 1951, the predecessor Code, B31, required only that a pipeline be tested to a pressure 50 p.s.i.g. in excess of the proposed maximum operating pressure.

There are thousands of miles of jurisdictional interstate pipelines installed prior to 1952, in compliance with the then existing codes, which could not continue to operate at their present pressure levels and be in compliance with proposed section 192.617.

This Commission has reviewed the operating record of the interstate pipeline companies and has found no evidence that would indicate a material increase in safety would result from requiring wholesale reductions in the pressure of existing pipelines which have been proven capable of withstanding present operating pressures through actual operation.

If it is the intention of the Office of Pipeline Safety to require the retesting of all existing pipelines to the higher standards proposed in section 192.617, it is our suggestion that this section be revised to permit the development of an orderly testing program that will allow the jurisdictional pipeline companies the necessary time to obtain from this Commission such certificate authorizations as may be necessary.

In view of the statements made by the Federal Power Commission, and the fact that this Department does not now have enough information to determine that existing operating pressures are unsafe, a "grandfather" clause has been included in the final rule to permit continued operation of pipelines at the highest pressure to which the pipeline had been subjected during the 5 years preceding July 1, 1970.

The uprating requirements in Subpart K apply when an operator wants to establish a maximum allowable operating pressure higher than the highest actual operating pressure to which the pipeline was subjected in these 5 years. This will prevent an operator from using a theoretical maximum allowable operating pressure which may have been determined under some formula used 20, 30, or 40 years ago.

Changes in class location. The notice proposed that confirmation or revision of maximum allowable operating pressure, due to a change in class location, must be accomplished within 60 days of the date when the operator has notice that such a change has occurred. The notice requested specific comment on the proposed 60-day period, since the B31.8 Code provisions upon which this proposal was based did not contain a specific time

limit. (It is relevant to note that the requirement for the evaluation of pipeline facilities when it appears that there has been a change in class location was newly adopted in the 1968 edition of the B31.8 Code, which does not apply in a number of States, and that there is diversity of opinion as to the burden these requirements impose on operators.) The comments on the proposed requirement were in general agreement that a 60-day time limit would be impractical and would leave the operators no alternative but to reduce pressure, thereby decreasing throughput. With respect to this proposal, the Federal Power Commission in its comments stated (note: the section numbers are those used in the notice):

Section 192.609(e) requires that, "confirmation or revision of the maximum allowable operating pressure in accordance with this section must be accomplished within 60 days of the date when the operator has noticed that a change in location class has occurred."

It is the Commission's opinion that this is an unduly restrictive requirement which would be impossible of accomplishment by jurisdictional interstate pipeline companies under the requirements of the Natural Gas Act.

Section 7(b) of the Act prohibits abandonment of facilities or any service rendered by such facilities without the permission of the Commission after due hearing.

Section 7(c) of the Act prohibits construction or extension of facilities unless there is in force a certificate of public convenience and necessity issued by the Commission authorizing such construction.

Giving consideration to requirements for public noticing, opportunity for intervention and accumulation of an adequate record upon which a decision can be rendered, it does not appear that in every instance the Commission would have adequate time to permit alternate construction within the 60-day time limit.

The potential loss in delivery capacity at a time when many pipeline companies are encountering difficulty in obtaining adequate supply of gas to meet growth requirements could seriously affect the ability of the industry to meet its obligation to satisfactorily serve the public convenience and necessity of the Nation.

It is suggested that the Office of Pipeline Safety consider modifying proposed § 192.609(e) to not be mandatory as applied to jurisdictional interstate pipeline companies unless and until appropriate certificate authorization has been granted by the Federal Power Commission.

The alternative time periods suggested by the other commenters ranged from 120 days to 5 years. Further, the comments pointed out that compliance with this section would be complicated by the fact that the "class location" definitions were not identical with the present B31.8 definitions.

In view of these comments, the change in class location requirements will be treated in two phases. A new § 192.607 contains requirements for the initial determination of class location and confirmation or establishment of maximum allowable operating pressure. Each operator is required to complete before April 15, 1971, a study to determine (for pipelines operated at more than 40 percent of SMYS) the present class location of all of the pipeline in its system,

and whether the maximum allowable operating pressure for each segment of pipeline is commensurate with the present class location. The operator is then required to confirm or revise, in accordance with section 192.611, the maximum allowable operating pressure of the affected segment of pipeline so that at least 50 percent of the affected pipeline is confirmed or revised before January 1, 1972, and the remainder before January 1, 1973.

In view of the new definitions of "class location", the diversity of views as to how much time is needed for confirmation or revision of pressures after a change has been discovered, the fact that the change in class location requirements are not included in the interim Federal standards in a number of States, and the disagreement within the pipeline industry as to the actual meaning of the change in class location requirements added in the 1968 edition of the B31.8 Code, the impact of § 192.607 will not be known until April 1971, when the required studies are completed. These studies may show that the existing pipelines are, for the most part, already in compliance with the new class locations, so that there will be little difficulty in meeting the schedule for adjusting operating pressure. On the other hand, the studies may reveal a problem of such magnitude as to raise serious question as to the practicality of the schedule.

The Office of Pipeline Safety plans to hold a public hearing in late April 1971 to get the results of the required studies and to give all interested parties an opportunity to present their recommendations on any adjustment which may be required in the schedule for adjusting operating pressures. The date, time, location, and other specific details of that hearing will be announced.

Sections 192.609 and 192.611 apply to changes in class location that occur after April 15, 1971. Under § 192.611(e), an operator will have 1 year from the date when a change in class location has occurred to accomplish the confirmation or revision.

Odorization of gas in transmission lines. The notice of proposed rulemaking proposed to require the odorization of gas in transmission lines. This proposal was based on a requirement that presently exists in the States of California, New York, New Jersey, Massachusetts, and Vermont (previously Wisconsin was erroneously included in this list). Because the comments received on the original notice were almost unanimously opposed to the odorization of gas in high pressure transmission lines, we issued a supplemental notice on June 10 requesting additional comments.

The comments received on the June 10 notice also generally opposed the proposal. However, the States of New York, New Jersey, and Massachusetts urged that the requirement be adopted as originally proposed. These States indicated that their experience with the odorization of transmission lines did not support the objections that had been listed in the supplemental notice.

The information on hand is conflicting and inconclusive, though it tends toward eliminating the requirement for odorization of gas in interstate transmission lines. Further, the comments were largely expressions of opinion, with little objective information to support the opinions. To insure that those who favor the requirement have ample opportunity to furnish further supporting information, the Office of Pipeline Safety plans to hold a public hearing in mid-September on this subject. The date, location, and other specific details on this public hearing will be announced in the near future. If warranted by the information received at that hearing, further action will be taken before November 12, 1970, when Part 192 takes effect.

Liquefied petroleum gas systems. Section 192.11 contains requirements applicable to petroleum gas pipeline systems. The authority of this Department to regulate certain petroleum gas pipeline systems under the Natural Gas Pipeline Safety Act, has been questioned. While there may be some question as to jurisdiction over a pipeline carrying petroleum gas from a tank (where it is stored in liquid form), to one or two single-family houses, there is no question as to authority over petroleum gas systems that serve a significant number of customers. In these cases, there is certainly a sufficient affect on interstate commerce to sustain a Congressional grant of authority and the language of the Natural Gas Pipeline Safety Act is broad enough to cover such cases. Section 192.11 applies only to petroleum gas systems that serve more than 10 customers from a common source or in which a pipeline crosses a public place, such as a highway.

A new paragraph (c) has been added to make clear which gas systems have to meet the additional requirements of this section. In effect it excludes gas systems that use petroleum gas only to supplement natural gas supplies during peak shaving. The word liquefied has been deleted to avoid any implication that these sections apply to petroleum gas when it is in liquid form. Notwithstanding that § 192.11 reflects the present requirements of the B31.8 Code, certain requirements (particularly in the operating and maintenance areas) may not be appropriate for a petroleum gas system. In order to determine whether there are any such inappropriate requirements and what, if any, changes should be made, we are asking operators of petroleum gas systems and other interested persons to comment on the various provisions of this regulation. If any of the provisions are inappropriate, commenters should suggest alternative requirements that would be appropriate and that would achieve the same safety objective.

Authority of States to act as enforcement agents of the Department with respect to interstate pipelines. In section 190.6 of the interim minimum Federal safety standards, States were authorized to act as the agents of this Department with respect to inspecting and overseeing interstate pipeline facilities, because the Office of Pipeline Safety was not

staffed to enforce regulations. Termination of the interim regulations will not affect the authority of the States to act as agents of this Department with respect to interstate pipelines. The authority is being continued and those States that are already acting as agents of the Department may continue to do so without further indication of their intent. All existing agency relationships will continue until formally terminated by either the State or by this Department. Any State which wishes to act as agent, but did not previously so indicate, may establish an agency relationship merely by submitting a statement of intent to the Office of Pipeline Safety.

The agency authority with respect to interstate pipelines authorizes the State to maintain surveillance over the operation to insure compliance with Federal regulations. State personnel should perform the same function that Federal field personnel perform, inspecting operations and giving informal opinions and approvals as to compliance with the regulations.

The agency authority does not create enforcement authority in the State. Enforcement actions, except those which the operator voluntarily accepts, will be taken at the Federal level.

The agency authority does not authorize a State to create new standards or to take any action which would substantively change the Federal standards. The Act requires that standards be prescribed by the Department in accordance with applicable rulemaking procedures.

State and industry officials are invited to contact the Office of Pipeline Safety with regard to any questions that may arise concerning this relationship.

Effective date. As stated in Notice 70-1, section 3(c) of the Natural Gas Pipeline Safety Act requires that standards and amendments thereto prescribed under that Act "shall become effective 30 days after the date of issuance unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance". In that notice, it was stated that since most of the proposed requirements would be based on existing recommended industry standards, a long lead time should not be necessary for compliance. Further, the notice requested commenters to identify specific requirements that would require a longer lead time.

In addition to the numerous comments received in the various dockets on the proposed effective date, the question of effective dates was discussed with the Technical Pipeline Safety Standards Committee. That Committee unanimously recommended that the overall effective date should be 90 days after the date of issuance. Additional time for certain provisions relating to new pipelines is covered in § 192.13 and discussed elsewhere in this preamble. The primary reasons for an effective date more than 30 days after issuance are as follows:

(1) Part 192 is a complete revision of the interim minimum Federal regula-

tions and it is desirable to allow time for all affected parties to receive copies of the new regulation and to thoroughly review its provisions before its effective date.

(2) Though Part 192 is based largely on the interim minimum Federal regulations, which were based primarily on recommended industry standards, we have found that many operators are not familiar with the recommended standards of the B31.8 Code. From investigations of accidents and the comments on our notices of proposed rulemaking, we know that a wide range of operators—large and small, privately owned and municipally-owned—are not familiar with either the Act or the interim regulations.

(3) The B31.8 Code in many cases recommended the establishment of written plans, and the interim Federal regulations required plans, but the requirement was not stated in clearly mandatory terms. We now find many companies have not established the plans.

Therefore, after considering the comments, the recommendations of the Technical Pipeline Safety Standards Committee, and the other information that has come to our attention, the 90-day recommendation of the Technical Committee has been accepted.

Retroactive effect on existing pipelines. Many comments related to the effect of these regulations on existing pipelines. They expressed concern that existing pipelines would not meet the design, construction, and testing requirements of the new regulations and would therefore have to be replaced or otherwise modified in order to comply. There is no basis for this concern and the prospective effect of Part 192 is made clear in section 192.13. The Natural Gas Pipeline Safety Act (Section 3(b)) speaks quite clearly on this point, as follows:

Not later than 24 months after the enactment of this Act, and from time to time thereafter, the Secretary shall, by order, establish minimum Federal safety standards for the transportation of gas and pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted.

Existing pipelines are subject to the maintenance, repair, and operations requirements. They may be subject to retest requirements or restrictions on operating pressure, under a future rulemaking action, if that action is necessary to meet the need for pipeline safety.

Federal regulations as a minimum standard. The scope provisions of these regulations state that they prescribe minimum safety standards. Though some commenters objected to the word "minimum," it has been retained. Under the Natural Gas Pipeline Safety Act, these are in fact minimum standards. With respect to interstate facilities under Federal jurisdiction, an operator may voluntarily exceed these standards. With respect to intrastate

facilities under State jurisdiction, an operator may voluntarily exceed these standards. Further, section 3(b) of the Act specifically provides that a State agency may adopt additional or more stringent standards.

As evidence of hazardous situations becomes available the Department will, either through an individual hazardous condition order or through a general amendment, provide more stringent requirements for individual pipelines or for different types of pipelines.

Performance vs. specification requirements. As indicated in the series of notices upon which this regulation is based, we intend to state the Federal safety standards in performance terms, rather than as detailed specifications, whenever it is possible to do so within the state-of-the-art and without lowering the required level of safety. Several commenters pointed out certain requirements that are stated in specification language and recommended that they be stated in the final rule in performance terms. As the discussion of this subject in the notices pointed out, the schedule within which this rulemaking action was accomplished did not give us time to develop adequate performance-type substitutes in all of the instances where such a standard would be appropriate. This is one of the areas to which future attention will be devoted and will be the subject of future rulemaking actions where performance-type requirements are appropriate.

Incorporation by reference. In the proposed rulemaking it was stated that, while the editions of the documents incorporated by reference in the notice were based on the B31.8 Code, the final regulation might be updated to incorporate the most recent edition of the referenced standard or specification. Specific comments were requested on whether the use of the newer editions would cause a significant change in the impact of the regulations involved. The comments in general indicated that use of the latest published edition would not create any problems. However, some commenters questioned how future edition changes would be handled, since pipe and materials built to a new specification could not be used if that specification were not referenced in the regulations. New editions of referenced documents will be reviewed as soon as they are available and, if found to be acceptable, will be included in the referenced documents.

Subpart A—General:

Section 192.3. In response to many requests, several new definitions have been added. A number of comments suggested the incorporation of all of the definitions in the B31.8 Code. This has not been done, since it is not necessary to define a term when it is used in its ordinary dictionary sense or in accordance with the meaning commonly understood in the industry.

We have defined those terms which are being used in a different sense than the commonly understood meaning. For example, the term "pipeline" is used in

the B31.8 Code to refer to a high pressure, long distance transmission line, while in the Natural Gas Pipeline Safety Act the term is used as a generic term for all types of lines carrying gas in gathering, transmission, or distribution systems. Since this latter meaning is also consistent with the liquid pipeline regulation (49 CFR, Part 195), pipeline is defined in this broad sense in these regulations.

In most places where the proposed rules used the phrase "pipeline facilities," the word "pipeline" has been substituted. The terms "gathering line," "transmission line," and "distribution line" are defined as various types of pipelines. "Distribution line" is further divided into "main" and "service line." In addition to these six terms, we have defined the term "pipe" to include tubing.

The definition of SMYS has been changed to make it consistent with the use of that term in the design formula of § 192.105. For specifications listed in Appendix B, SMYS will be the yield strength specified as a minimum in the specification. For unlisted or unknown specifications, SMYS is the yield strength determined by tensile testing in accordance with § 192.107(b) and Appendix B, paragraph II-D.

Section 192.5. A number of comments pointed out that the proposed class location definitions could create a 2-mile stretch of high class location solely to protect a small cluster of buildings at a crossroad or road crossing.

To avoid this situation, a new paragraph (f) has been added to allow adjustment of class location boundaries. A Class 4 location boundary may be moved to within 220 yards of the nearest four-story building. Whenever a Class 2 or 3 location is required by a cluster of buildings in otherwise open country, the boundary may be moved to within 220 yards of the nearest building in the cluster.

In addition, a number of other changes have been made to clarify this section. It was pointed out by one commenter that heavy traffic and many other underground utilities almost always exist in an area where four-story buildings are prevalent thus making the proposed Class 4 location criteria redundant. Since other comments indicated some confusion about whether these requirements were cumulative or alternative in effect, the references to heavy traffic and other underground utilities have been deleted and the sole criterion for Class 4 locations will be a prevalence of four-story buildings.

The term "class location unit" has been substituted for the sliding mile, but will be used in the same way. It also has been made clear that each separate dwelling unit, such as an apartment, must be counted as a building intended for human occupancy.

Section 192.9. Several comments pointed out that, although gathering lines in nonrural areas were included in the scope, the proposed rules made no specific provision for them. This new

section has been added to eliminate the problem by requiring all gathering lines, if they are subject to the regulations under § 192.1, to meet the requirements applicable to transmission lines.

Section 192.13. This new section has been added to clearly state the applicability of these regulations with respect to new and existing pipelines, and to avoid confusion as to the retroactive effect of these standards. Due to the long lead times involved in preparing for pipeline construction, the new requirements for design, installation, construction, initial inspection, and initial testing will apply only to new pipelines that initially became ready for service after March 12, 1971. Since the comparable provisions of the interim standards will continue in effect until March 13, 1971, a pipeline that is readied for service before March 13, 1971, will have to comply with the interim Federal standards. With respect to existing pipelines, all changes made after November 12, 1970, must comply with Part 192.

A paragraph (c) has been included to make clear that plans, programs, and procedures required to be established must also be followed by the operators.

Section 192.15. Some basic rules to be used in construing these regulations have been set forth in this section.

Subpart B—Materials:

A number of commenters felt that failure to include certain types of materials would preclude their use. This is not the result because these regulations are not all-encompassing. Rather, they establish prohibitions and requirements only for those areas where safety problems are known to exist. To the extent that certain materials are not specifically treated, they need only meet the general requirements of this subpart to be qualified for use in a pipeline.

Section 192.53. This section has been reorganized slightly and, based on paragraph 810.1 of the B31.8 Code, a new requirement for chemical compatibility has been added. Since it is now used in other subparts as well, the definition of "listed specification" has been placed in § 192.3.

Section 192.55. In paragraph (a) the word "or" was inadvertently omitted in the proposed rules. It has been inserted to make clear that paragraph (a) (1), (2), and (3) is complete alternatives, any one of which will suffice to qualify new steel pipe.

Several commenters apparently misunderstood the import of paragraph (c). This paragraph merely states the ways that new or used steel pipe may be used if it is not otherwise qualified under paragraph (a) or (b).

Section 192.61. This section has been expanded to require both new and used copper pipe to be manufactured in accordance with a listed specification.

Section 192.63. Several comments expressed concern that small diameter pipe is sometimes marked only by the bundle and therefore would not comply with this section. However, so long as marking by the bundle is prescribed in the manufacturing specification, the pipe will

comply with this section under paragraph (a) (1). A paragraph has been added to prohibit field die stamping on surfaces of pipe or components that are subjected to internal stress.

Section 192.65. This section has been limited in application to large-diameter, thin-wall pipe which is more susceptible to damage during railroad transportation, if it is not properly loaded. Although the other pipe that would have been covered by the language of the proposed regulation might also be damaged by improper loading, this damage would be of a type that could be found by the required visual inspections and need not be a basis for rejecting the pipe as required by this section.

Subpart C—Pipe Design:

The proposed sections on corrosion factors and design limitations for steel pipe have been deleted and a new § 192.103 has been added with general requirements for pipe design. These changes have resulted in renumbering of each section of this subpart after § 192.101. The corrosion section is deleted, because we are now considering regulations which will require the installation of corrosion protection (proposed Subpart I) and control systems. Therefore, requiring an increase in the wall thickness of pipe to provide additional protection against the effects of corrosion will be unnecessary. The design limitations for steel pipe have been placed in §§ 192.103 and 192.105(b).

Section 192.103. This new section has been added as a composite of several separate provisions contained in the design requirements for each type of pipe material. It replaces requirements proposed in the notice as §§ 192.117(b), 192.119(b), 192.121(b), and 192.127(d).

Section 192.105. A sentence has been added to the definition of "t" to prevent the increase of design pressure based on wall thickness added under § 192.103 to protect against external loads. Paragraph (b) was taken from the proposed design limitations on steel pipe without change. One comment suggested an alternative method of determining "S" for pipe of unlisted specification by hydrostatic yield testing. This suggestion appears to have merit but will require further study and a separate rulemaking proceeding to obtain the benefit of full public comment.

Section 192.111. In response to comments requesting clarification of this section, language has been inserted in paragraphs (b) (1), (b) (2), and (c) to insure that heavier wall pipes is installed across the entire right-of-way when a pipeline crosses a public road or street without a casing.

Since Classes 3 and 4 locations require the use of design factors 0.50 and 0.40, the application of paragraph (d) has been limited to Class 1 and 2 locations.

Proposed paragraph (e) has been deleted. The situation it was designed for is now covered by § 192.5(f) which permits adjustment of class location boundaries in thinly populated areas.

Section 192.113. ASTM specification A333 has been added to the longitudinal

joint factor list. The flush paragraph at the end of the table has been reworded so as not to preclude the use of a lower joint factor if this is desired by the operator.

Section 192.115. In response to a comment, the word "gas" has been inserted in the table to make clear that this is a temperature attained during operation of the pipeline.

Section 192.121. The definition of "S" for thermosetting plastic pipe has been changed to 11,000 p.s.i. to conform to the design provisions contained in the B31.8 Code.

Section 192.123. Paragraph (a) has been rearranged for greater clarity and a new paragraph, which was proposed as part of Subpart D, has been added.

Section 192.125. The minimum wall thickness requirement for copper service lines has been moved from Subpart H to this section.

Subpart D—Design of Pipeline Components:

This subpart has been completely renumbered and some sections have been combined or deleted to remove overlapping and redundant provisions. For instance, where there were 10 separate sections on compressor station design, there are now six sections; where there were six sections on pipe and bottle-type holders, there are now two sections. Most of this consolidation has been done without substantive change and, except for transfers to other subparts, the requirements that were proposed will be found in Subpart D. The substantive changes or transfers to other subparts are discussed below along with some of the more significant changes resulting from consolidation of proposed regulations.

Section 192.141. Reference to specific components or devices covered in Subpart D has been deleted from the Scope.

Section 192.145. Paragraph (a) has been rewritten to require that valves be used in accordance with the applicable API and MSS standards, rather than the service recommendation of the manufacturer, and that valves be capable of meeting "anticipated" operating conditions.

Paragraph (c) restricts the use of valves "having shell components made of ductile iron", whereas the proposed rule referred to valves "having pressure containing parts made of ductile iron". The substitution was made in response to comments that, as written, the rule would limit the use of valves with internal pressure containing parts, such as valve discs or plugs made of ductile iron. However, paragraph (d) retains the words "pressure containing parts made of ductile iron", since it was intended to limit such use in compressor stations where valves are subjected to greater vibration.

Section 192.147. Paragraph (a) is a new paragraph requiring that flanges and flange accessories meet the minimum requirements of applicable ANSI and MSS standards. Except for paragraph (c) (1), § 192.144 as proposed in the notice and on which § 192.147 is based has been eliminated in accordance with comments

recommending that the section be rewritten in performance language, omitting details, and specifications.

Section 192.149. Paragraph (b), which requires that the actual bursting strength of steel butt-welding fittings must at least equal the computed bursting strength of pipe of the designated material and wall thickness, has been modified by the addition of the words, "as determined by a proto-type that was tested to at least the pressure required for the pipeline to which it is being added."

Section 192.151. This section, entitled "Branch connections" as proposed in the notice as § 192.146, is now entitled "Tapping". It now provides that a 1½-inch tap may be made in a 4-inch cast iron or ductile iron pipe without reinforcement. However, in areas where climate, soil, and service conditions may create unusual external stresses on cast iron pipe, unreinforced taps may be used only on 6-inch or larger pipe.

Section 192.167. In response to a number of comments, electrical circuits needed to protect equipment, such as circuits driving the lubricating pumps, will not have to be deactivated by the emergency shutdown system. Since the requirements for shutdown systems for transmission and distribution compressor stations were so similar, they have been combined in paragraph (a) of this section.

Section 192.175. Since pipe-type holders are basically pieces of pipe, the requirements for their design and installation were nearly identical to those for pipe contained in other subparts. Therefore, the definition of pipe has been expanded to include these holders and all the identical provisions have been deleted. In addition, the prohibition against the storage of gas with a high hydrogen sulfide content in pipe-type and bottle-type holders has been transferred to Subpart L.

Section 192.179. The provisions on spacing of transmission line valves have been rewritten to more clearly express the intended result. Due to the lack of necessity and the impracticality of installation and operation, all offshore transmission lines have been exempted from the requirements for sectionalizing block valves.

Section 192.185. The requirement that vaults be located in accessible locations away from street intersections, heavy traffic, etc., has been modified by the addition of the words, "so far as practical". Many comments indicated that it would be impossible in some cases to comply with the section as written.

Section 192.189. The provision that "all electrical equipment in vaults must conform to the requirements of Class 1, Group D, of the National Electrical Code, ANSI Standard C1, has been modified by the insertion of the word "applicable" before the word "requirements".

Section 192.197. Paragraph (a) (5) has been rewritten in performance-type language by the addition of the words "to prevent a pressure which would cause

the unsafe operation of any connected and properly adjusted gas utilization equipment."

Paragraph (c) (1) has been rewritten by changing "secondary regulator" to "upstream regulator" for purposes of clarity. A new subparagraph (4) has been added to the list of methods in paragraph (c) which may be used to regulate and limit the pressure of gas where the maximum actual operating pressure of the distribution system exceeds 60 p.s.i.g. This new subparagraph authorizes the use of—"A service regulator and an automatic shut-off device that closes upon a rise in pressure downstream from the regulator and remains closed until manually reset."

Section 192.199. A new paragraph (h) has been added to the requirements for pressure limiting or pressure relief devices. It provides that "except for a valve that will isolate the system under protection from its source of pressure, (such devices must) be designed to prevent unauthorized operation of any stop valve that will make the pressure relief valve or pressure limiting device inoperative."

Section 192.201. Paragraph (c) has been rewritten in performance-type language by deleting "2 p.s.i.g." and substituting "a pressure that will not exceed the safe operating pressure for any connected and properly adjusted gas utilization equipment."

Section 192.203. Paragraph (b) (6) is a new provision which requires that pipe or components subject to clogging from solids or deposits must have suitable connections for cleaning. Several comments pointed out that this requirement was contained in the B31.8 Code and should not be omitted from the regulations.

Subpart E—Welding of Steel in Pipelines:

Three of the sections that were in proposed Subpart E have been deleted or moved. Since each welding procedure contains detailed requirements for filler metal, it is not necessary to have a separate requirement in these regulations. Section 192.213 now contains the restrictions on miter joints which were transferred from Subpart G. The section on the acceptability of welds has been added to § 192.241 as paragraph (c). The section requiring repair of arc burns has been included in Subpart G with the section on repair of steel pipe.

Section 192.221. The words "arc and gas" have been deleted so as not to exclude new welding processes such as electron beam welding, from the scope of this subpart. In this section, as in other scope sections, the newly defined word "pipeline" has been substituted for "pipeline facilities." This will make it clear that these requirements do not apply to welding on water or air piping or welding during construction of buildings that will house gas equipment. Since the scope is broad enough to include all welding on pipelines and components, the words "when constructing, relocating, replacing, repairing, or otherwise changing * * *" are unnecessary and have been deleted.

Section 192.223. As proposed, paragraph (c) related to industrial safety practices; it has been deleted as inappropriate in these regulations. The size of a fillet weld is covered by individual welding procedures and a separate requirement proposed for paragraph (d) is repetitious and unnecessary. Paragraph (b) has been reworded to make clear that multiple qualification of welders under API 1104 is acceptable.

Sections 192.227 and 192.229. In response to a number of comments requesting clarification, these two sections have been reorganized. As proposed, § 192.209 was intended only as an alternative method of qualifying for low stress level welders and did not preclude the use of high stress level welders on low stress level pipe. This section has been placed in § 192.227 as paragraph (c) to clarify this point. Section 192.229 now contains only the limitations on the use of welders. The limitation in § 192.229(c) has been added to cover the situation of the welder qualified for high stress level pipe (i.e., qualified under § 192.227 (a)) who welds only on low stress level pipe. High stress level welders are not required to periodically requalify since it is assumed that their work is regularly subjected to nondestructive testing. However, this is not always the case when they weld only on low stress level pipe, since nondestructive testing is not required for pipe to be operated below 20 percent of SMYS. Consequently, paragraph (c) requires high stress level welders to have at least one weld destructively or nondestructively tested each 6 months.

Since the guided bend test is appropriate only for butt welds and not for fillet welds, the requirement for compressor station welders has been made more flexible by requiring only that a welder's qualification be based on destructive testing, rather than requiring the specific test.

Section 192.233. Since miter bends are another form of welded joint, the restrictions on their use have been moved from Subpart G to this section. The provisions have been reworded and the prohibition against miter bends in plastic pipe has been placed in Subpart F with the other provisions on the joining of plastic pipe.

Section 192.235. In response to many comments, paragraphs (c) and (d) have been deleted and paragraphs (a) and (b) have been combined. Since these requirements were appropriate for all welding, the section has been expanded and is no longer limited to butt welding.

Section 192.241. Paragraph (a) has been modified to avoid the implication that every weld must be inspected. This requirement is intended to impose on the operator the responsibility for providing sufficient visual inspection to ensure that certain criteria are met. In the case of a highly qualified and experienced welder, occasional spot checking may be sufficient to achieve this goal, while apprentice welders may require constant inspection.

Section 192.243. Several changes have been made to this section to remove or reduce some burdensome requirements that, in light of the comments received, would have provided little increased safety. There is a substantial increase in time spent and cost associated with testing the last few welds in order to achieve 100 percent coverage. Therefore, some flexibility is permitted in Classes 3 and 4 locations and at river crossings by permitting, if 100 percent testing is not practicable, the testing of less than 100 percent, but in no event less than 90 percent of the welds.

Also, since the identification and retention of X-ray film would present a substantial clerical burden, and will not prove too valuable in accident investigation, these requirements have been deleted from paragraph (f). Instead the operator will have to identify his testing records by geographic location to facilitate their analysis should leaks occur during subsequent testing or operation of the pipeline.

A third major change involves the applicability of paragraphs (d), (e), and (f). In order to encourage the use of nondestructive testing on the low stress level lines where it is not required, the provisions of these paragraphs have been changed so as to apply only to nondestructive testing that is required by § 192.241(b). This will permit random testing of welds and welders on lines operated below a 20 percent stress level even though they are in a Class 3 or 4 location and will avoid the burden of keeping records in this situation.

Since the comments indicated that a single daily sampling of each welder's work is sufficient to establish his continued competency, the requirement for sampling to a specific percentage has been removed from paragraph (e).

An exception has also been made to avoid the problem of testing welders each day, who might be working in areas quite remote from the regular welding crew and testing apparatus.

The prohibition against the use of trepanning as a nondestructive testing method has been placed in paragraph (a) of this section.

Subpart F—Joinings of Materials other than by welding:

Section 192.271. The scope of this subpart has been changed to make it clear that welding material other than steel is not covered. At such time as regulations to cover this subject are issued they will be placed in Subpart E. This change will also make it clear that joining of steel, other than by welding, is covered by this subpart. As with the scope of Subpart E, the broad coverage of this section permits the elimination of redundant language concerning constructing, replacing, and repairing of pipelines.

Section 192.273. The general requirement proposed for this section has been reworded to make clear that the use of restraint devices at points other than at the joints is permitted. So long as each joint will sustain the forces that may be applied, it does not matter whether the joint does so because of its own intrinsic

strength or because of a restraining or anchoring device attached elsewhere on the pipeline.

In addition, two new requirements have been added to require visual inspection of the completed joints and the use of written procedures in joining. These new paragraphs are based on the general construction requirements of the B31.8 Code.

Section 192.275. As proposed, this section contained two requirements that related to existing joints in cast iron lines. To alleviate the misunderstandings that resulted from this placement and to put these requirements in their proper perspective, these requirements have been added to the subpart on maintenance as § 192.753. As now written, paragraph (a) of this section applies only to newly joined caulked bell and spigot joints. The prohibition against brazing of cast iron pipe that has been added to this section was taken from a proposed requirement in Subpart H.

Section 192.281. Paragraph (a) has been rewritten in performance type language. The prohibition against miter joints in plastic pipe has been transferred to this section from Subpart G. The prohibitions against joining different types of plastic were too inflexible and have been deleted since the requirement for compatibility of materials that is contained in § 192.53 attains the same objective.

Subpart G—General Construction Requirements for Transmission Lines and Mains:

Three proposed sections, 192.313—Dents, 192.319—Miter bends, and 192.329—Casing of plastic pipe or tubing, have been deleted or combined with other sections. Restrictions on dents are now included in the section on repair of steel pipe, § 192.309. The restrictions on miter bends have been transferred to § 192.233 of Subpart F. Paragraph (b) of the proposed section on casing of plastic pipe was deleted, since the design requirement in new § 192.103, and the balance of the section on the casing of plastic pipe have been added to § 192.325.

Section 192.301. Some comments suggested the establishment of separate sets of regulations for transmission lines and mains because of different operating conditions. However, the requirements are sufficiently similar to warrant retention in one set of regulations. If at some time in the future the requirements for transmission and distribution systems become sufficiently different, separate bodies of regulations may be established.

Section 192.309. The requirements for elimination of dents and arc burns have been added to this section as new paragraphs (b) and (c). In response to a number of comments, an alternative limitation has been established for the depth of a repair by grinding. If a piece of pipe has a greater nominal wall thickness than required for the pressure and stress level at which the pipe is to be operated, the operator may grind down the pipe wall to the required thickness even though the remaining wall may be less than permitted by the tolerances of the pipe specification.

Many commenters suggested that this section apply only to pipeline operated at 20 percent of SMYS, or more. In response to these comments, paragraph (a) has been changed to require repair only when the damage is such that the serviceability of the pipe is impaired. This will allow greater flexibility in repair of low stress level pipe, rather than requiring repair whenever a stress concentrator, however small, is discovered. With respect to dents, the specific requirements for removal contained in paragraph (b) will apply only to pipe operated at more than 20 percent of SMYS. Dents on lower stress level pipe will be subject to repair or removal under paragraph (a) if they impair the serviceability of the pipe.

Section 192.313. When this section was proposed in Notice 70-2, it applied only to steel pipe operated at 30 percent of SMYS or more. This limitation was based on a proposal originally made in Notice 69-3, the first notice of the series. It was intended to apply only to paragraph (a)(1) of the proposed section which required bends to be made at least one and one-half pipe diameters away from a circumferential weld. This restriction on bends has been deleted due to a number of comments questioning its validity and pointing out the problems this created when bending double jointed pipe. Therefore, the 30 percent stress level limitation has been deleted as well. The new paragraph (a)(1) contains a broad, general requirement that a bend may not impair the serviceability of the pipe. Paragraph (a)(4) has been combined with paragraph (d) in a general requirement that applies to all types of pipe.

The restriction on out-of-roundness has been limited to pipe of more than 4 inches in diameter because the 2½ percent of nominal diameter is difficult to measure on small diameter pipe. In addition, it appears that a greater degree of out-of-roundness is acceptable in small diameter, low pressure pipe. Pipe that is four inches or smaller in diameter will be required to be serviceable as provided in paragraph (a)(1). Proposed paragraph (e) has been deleted.

Section 192.325. In response to a great many comments pointing out the difficulties that distribution companies would have attaining the proposed 12 inches of clearance, the clearance requirements for mains are now couched in performance type language. This will allow these operators flexibility to attain the desired objectives of proper maintenance and protection from external damage. In addition, a new paragraph has been added to refer to the section in Subpart D which prescribes clearance for pipe-type and bottle-type holders.

Section 192.327. The minimum depth of cover for transmission lines laid in consolidated rock has been decreased to 24 inches for pipe under drainage ditches and in Classes 2, 3, and 4 locations. After considering the comments it appears that a rock ditch with 24 inches of cover provides a considerable degree of protection, which is increased relatively little by requiring 30 or 36 inches of cover. However, despite the small in-

crease in protection this additional 6 or 12 inches of cover adds substantially to the cost of construction.

It also appears that increasing the cover for mains from 24 to 30 inches will not provide nearly as much additional protection as had been hoped. Therefore the 24-inch requirement of the existing standards is being retained. However, we plan on developing new standards, particularly in the areas of marking, mapping, and interutility coordination of construction work, to achieve the additional protection.

The requirement for encasing or bridging a pipeline to protect from excessive external loads has been removed from this section since it is now covered by § 192.103.

Subpart H—Customer Meters, Service Regulators and Service Lines:

Section 192.351. In accordance with suggestions received in the comments, reference to specific materials used for service lines has been deleted from the scope, and the words "customer's meters" have been changed to "customer meters" to avoid any implication of customer control over meters.

Section 192.353. The following changes, all of which were suggested in the comments, have been made in § 192.353:

(1) Paragraph (a) no longer requires that meters and service regulators be installed in a location that provides protection from corrosion or other damage, but only that they be installed in a readily accessible location, and "be protected from corrosion or other damage, age". The comments indicated that it is sometimes impossible for protection from corrosion and damage to be provided by the location itself. In addition, paragraph (a) now permits the upstream regulator in a series to be buried.

(2) Paragraph (b) provides that each service regulator within a building must be located "as near as practical" to the point of service line entrance.

(3) Paragraph (d) provides that "where feasible," the upstream regulator in a series must be located outside the building, "unless it is located in a separate metering or regulating building."

Section 192.357. Paragraph (b) of this section has been completely rewritten to express the intention that close all-thread nipples must be of extra strong wall pipe so that after the threads are cut, the remaining wall thickness meets the minimum wall thickness requirements of Part 192. Paragraph (d) was added to make clear that regulators that release gas must be vented to the outside atmosphere.

Section 192.359. This section has been rewritten to reflect the present practice of the industry, which based on the comments and further investigation, appears to be safe. Paragraph (a) limits the pressure at which any meter may be used to 67 percent of the manufacturer's shell test pressure.

Paragraph (b) requires that each new meter must have been tested by the manufacturer to a minimum of 10 p.s.i.g.

Section 192.361. In response to the comments, paragraph (b) no longer requires that each service line be "properly

supported at all points" on undisturbed or well compacted soil but merely that it be "properly supported", material for backfill must be "free of materials that could damage the pipe or its coating", rather than "free of rocks and building materials", as provided in the proposal.

Paragraph (d) now provides that service lines must be installed so as to minimize "anticipated" piping strain or external loading.

Section 192.363. The requirement for tamperproof valves in paragraph (c) is now limited to valves on high pressure service lines, installed above ground or in an area where the blowing of gas would be hazardous, rather than all high pressure service lines, as in the proposal.

Section 192.365. Paragraph (b) requires that each service line be equipped with a shutoff valve in a readily accessible location that, "if feasible", is outside the building. This requirement applies not only to new shutoff valves, but also to replacement valves and valves on replaced service lines.

Section 192.367. The requirement of paragraph (a) that a service line connection to a main must be located at the top of the main, or if that is not practical, at the side of the main, has been modified by the addition of the words "unless a suitable protective device is installed to minimize the possibility of dust and moisture being carried from the main into the service line."

Section 192.369. This section has been rewritten to require that a service line connection to a cast iron or ductile iron main must be made by a mechanical clamp, by drilling or tapping the main, or by another method meeting the requirements of § 192.273. If a threaded tap is used, the requirements of § 192.151 (b) and (c) must be met. Paragraph (c) of the proposal, which prohibited brazing a service line connection directly to a cast iron or ductile iron main, has been deleted from this section since it is covered in §§ 192.275(d) and 192.277(c).

Section 192.371. The proposed requirement on installation of steel service lines in bores has been deleted and will be included in Subpart I on corrosion control.

Section 192.373. The prohibition against the installation of cast iron pipe less than 6 inches in diameter for service lines has been extended to ductile iron, since it appears that this will not cause any practical problems for the industry and will result in added safety. The possibility of eliminating the use of cast iron in any size for service lines has been suggested, and is currently under consideration. This proposal may be the subject of a future notice of proposed rule making.

Section 192.375. Paragraph (a) of the proposal has been deleted because it is covered in § 192.321(c) of Subpart G, General Construction Requirements.

This section also provides that a plastic service line inside a building "must be protected against external damage", in contrast to the former requirement that it "not be exposed".

Section 192.377. Paragraph (a) of the proposal, on the minimum wall thickness for copper pipe used for service lines, has

been moved to § 192.125(b) of Subpart C, Pipe Design.

Subpart J—Test Requirements:

Section 192.503. Section 192.503(b) has been rewritten to make it clear that liquid, air, natural gas, or inert gas may each be used as a test medium, provided that the stated requirements are met.

Section 192.505. The inclusion of the test medium authorizations in § 192.503 has made it possible to eliminate the table that was proposed for § 192.505(a). The required test pressures in each case may be calculated by applying the factors set forth in § 192.619(a)(2) to the desired maximum allowable operating pressure.

Paragraph (c) of § 192.505 in the notice proposed to require that field tests be conducted by maintaining the test pressure for at least 24 consecutive hours after the pressure stabilized in all parts of the pipeline facility being tested. Numerous objections were received to the 24-hour requirement. After consultation with the Technical Pipeline Safety Standards Committee, it has been concluded that the evidence available at this time will substantiate a requirement for an 8-hour test, but not for a longer test. The question of test duration will be the subject of further study and, if it is determined that a different test period is warranted, will be covered in a future rule making action.

Section 192.507. The requirements of proposed §§ 192.507 and 192.509 have been combined in § 192.507. The proposed 4-hour test duration has been reduced to one hour since, as many commenters pointed out, the test requirements of proposed § 192.507 are essentially leak test rather than strength test requirements.

Subpart K—Uprating:

Section 192.553. Several commenters objected to the requirements of proposed § 192.553(a)(2) that each leak must be repaired before a further pressure increase is made. Section 192.553(a)(2), as issued, includes an exception for leaks that are determined not to be hazardous, provided they are monitored during the pressure increase and do not become potentially hazardous. This will permit the repair of very minor leaks in the course of routine maintenance.

Section 192.555. The notice proposed that, where a pipeline qualified for an increase in maximum allowable operating pressure, the increase must be made in increments not greater than 25 percent of the total of the proposed increase. Some commenters questioned the need for incremental increases in distribution systems, while others questioned the need for four increments where the total pressure increase was a small percentage of the pressure before the proposed uprating. Other commenters questioned the justification for incremental increases where the basis for the proposed uprating was a pressure test.

Section 192.555(e). Requires that, where a pipeline segment qualifies for uprating, the increase in pressure must be made in increments of either—

- (1) 10 percent of the pressure before the uprating; or

- (2) 25 percent of the total pressure increase;

whichever requires fewer increments. This will eliminate the need for four incremental increases if the total increase is small as compared to the pressure before uprating. Section 192.557(c) contains a similar provision for pipeline segments that are uprated under that section. Also, § 192.555(e) does not require incremental increases where the basis for the uprating is a new pressure test under paragraph (d)(1) of § 192.555.

Section 192.557. Proposed §§ 192.557, 192.559, and 192.561 have been combined since the requirements of each proposed section were substantially similar. Several commenters indicated that, while proposed § 192.561(b)(4) required the testing of each regulator to determine if it is functioning, it would be impossible to complete such a test without increasing the pressure. Therefore, § 192.557(b)(6) has been revised to permit pressure to be increased, as necessary, to test each regulator after a regulator has been installed on each pipeline that is subject to the increased pressure.

Subpart L—Operations:

Section 192.605. In response to comments received, several changes have been made. In paragraph (a), the requirement that the operating and maintenance plan include detailed instructions for employees covering operating and maintenance procedures has been changed by the deletion of the word "detailed."

Paragraph (e), proposed to cover periodic inspection of transmission systems only, has been reworded to also include distribution systems.

Paragraph (f) as proposed in the notice, which required that provisions for a detailed population index survey be included in the operating and maintenance plan, has been deleted, since § 192.609 requires that a study must be made whenever an increase in population density indicates a change in class location.

Section 192.607 is a new section on the initial determination of class location and confirmation or establishment of maximum allowable operating pressure applying to existing pipelines. It has been discussed above.

Section 192.611. In paragraph (c), the word "hydrostatically" has been deleted, since testing must be done in accordance with the applicable requirements of Subpart J and there may be instances where other methods of testing would be permitted under that subpart. Paragraph (e) has been rewritten to provide that the operator shall confirm or revise the maximum allowable operating pressure "within 1 year of the date when a change in class location has occurred", instead of "within 60 days of the date when the operator has notice that a change in class location has occurred", as was proposed in the notice. The reasons for this change are discussed in detail above.

Section 192.613. In response to comments received, paragraph (a) was rewritten by deleting "drop in flow

efficiency due to internal corrosion", from the list of conditions to be determined by a continuing surveillance program and by adding "changes in class location" to this list. A drop occurring in flow efficiency cannot necessarily be related to internal corrosion and may be due to other factors.

Section 192.615. Paragraph (d) of this section on emergency plans has been changed by omitting the requirement for an educational program to enable customers and the general public "to know how and when to shut off the supply of gas at the customer's meter in an emergency". Although this requirement was a recommendation of the National Transportation Safety Board, most of the comments indicated that safety would be lessened if inexperienced persons were to close or open the supply of gas. For this reason, the requirement was not included. If further information indicates its desirability, it will be considered for a future notice of proposed rulemaking.

Section 192.617. In accordance with suggestions received in the comments, the selection of samples of a failed facility or equipment for laboratory examination is required only "where appropriate".

Section 192.619. In this section, which establishes the maximum allowable operating pressure for steel or plastic pipelines, new paragraphs (a)(3) and (c) have been added to permit operation at the highest actual operating pressure to which an existing segment of pipeline in satisfactory condition was subjected during the 5 years preceding July 1, 1970. Paragraph (a)(3) also permits operation at a pressure for which a segment of pipeline was qualified by test during that period. This section has been more fully discussed above.

Sections 192.621 and 192.623. In these sections, dealing with maximum allowable operating pressure for high- and low-pressure distribution systems, paragraph (a)(5) of § 192.619 and paragraph (a)(2) of § 192.621 as proposed in the notice have been deleted, because the definitions of "high-pressure distribution systems" and "low-pressure distribution system" permit the elimination of 2 p.s.i.g. as a dividing line between high and low pressure distribution systems, and have also permitted the use of performance-type language.

Section 192.625. Paragraph (a) of this section limits the applicability of the odorization requirements to mains and service lines. This requirement is discussed above.

Section 192.629. This section on purging of pipelines has been modified to make the procedure for purging air consistent with the procedure for purging gas. Paragraph (c) has been eliminated from this section and moved to § 192.751, Subpart M, Maintenance.

Subpart M—Maintenance:

Section 192.701. In accordance with suggestions received in the comments, references to the specific areas of maintenance covered in this subpart have been deleted from this section.

Section 192.703. This is a new section comprised of general provisions. Section 192.703 (a) and (b) was formerly contained in proposed § 192.723(b) (3) and (4).

Sections 192.711 and 192.713. The words "injurious defect, gouge, groove, dent, or leak," have been replaced by "leak, imperfection, or damage that impairs its serviceability," and the definitions contained in the proposal have been eliminated, in order to make this section consistent with Subpart G.

Section 192.715. The words "Each weld found to have an injurious defect" have been eliminated and replaced by "Each weld that is unacceptable under § 192.241(c)."

Sections 192.713, 192.715, and 192.717. A full encirclement welded split sleeve is required to be "of appropriate design" and the words "greater design strength" have been substituted for the words, "greater wall thickness and grade."

Section 192.725. The provisions concerning service lines "previously abandoned" and service lines "temporarily disconnected" are combined, since in each instance the line must be tested in the same manner as a new service line before being reinstated.

Section 192.727. Sections 192.719 and 192.725 as proposed in the notice have been combined in this section, since the requirements for abandonment of transmission and distribution facilities are substantially the same. Abandoned lines now include lines that are not subject to gas pressure, except when undergoing maintenance. In addition, it is now provided in paragraph (a) that the line need not be purged when the volume of gas is so small that there is no potential hazard. Paragraph (b) requires that, if air is used to purge the line, the operator shall ensure that a combustible mixture is not present after purging.

Section 192.737. Paragraph (b) has been eliminated since the requirements to follow prescribed plans, keep records and promptly correct all unsatisfactory conditions are covered elsewhere.

Sections 192.739 and 192.743. Rupture discs are excepted from the periodic testing requirements for pressure relief devices in order to make these sections consistent with § 192.731, and because testing of a rupture disc would destroy it and require replacement.

Section 192.751. This section has been modified to require the operator to minimize the danger of accidental ignition of gas in areas where the pressure of gas constitutes a hazard, including the removal of potential sources of ignition when a hazardous amount of gas is being vented into open air, and the prohibition of welding or cutting on pipe containing a combustible mixture of gas and air in the area of work.

Section 192.753. This section requires that all existing cast iron caulked bell and spigot joints, subject to pressure of 25 p.s.i.g. or more must be sealed with mechanical leak clamps. Those subject to pressure of less than 25 p.s.i.g. must be sealed by means other than caulking

whenever exposed for any reason. These requirements were transferred to Subpart M from Subpart F (§ 192.255 as proposed in the notice).

Appendices. The proposed appendices have been relettered so as to appear in the order in which they are referred to in the regulations. This results in proposed Appendixes A and C being exchanged. The materials incorporated by reference have been corrected and the editions listed have been updated to the most recent one. The dates have also been added to the listed specifications in Appendix B, section I for convenient reference. ASTM specification A 539 has been added to the list in Appendix B.

Report of Technical Pipeline Safety Standards Committee. Section 4(a) of the Natural Gas Pipeline Safety Act required the establishment of a 15-member Technical Pipeline Safety Standards Committee. Section 4(b) of the Act requires that all proposed standards and amendments to such standards be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicality of each such proposal." Part 192 was submitted to the Technical Committee and that Committee has sub-

mitted a favorable report. The Committee's report and the minority views of the one Committee member who disagreed with the majority report are set forth below. As indicated in the majority report, several members of the Committee submitted concurring statements recommending further regulatory action in specific areas. These recommendations have been included in the rulemaking docket for Part 192.

SECRETARY OF TRANSPORTATION,
400 Sixth Street SW.,
Washington, D.C.

Attention: Mr. William C. Jennings, Acting Director, Office of Pipeline Safety.

AUGUST 10, 1970.

GENTLEMEN: In accordance with the provisions of Section 4 of the Natural Gas Pipeline Safety Act of 1968, the Technical Pipeline Safety Standards Committee herewith submits its report on the technical feasibility, reasonableness and practicability of the several proposals of the Office of Pipeline Safety which together comprise a "Rule Establishing Comprehensive Federal Pipeline Safety Standards." These minimum Federal safety standards are those which were developed by the Office of Pipeline Safety to comply with the requirements of section 3(b) of the Act and consist of proposals, and modifications thereto, which were published in the FEDERAL REGISTER as follows:

Notice	Docket	Title	FEDERAL REGISTER publication
69-3	OPS-3	Minimum Federal Safety Standards	34 F.R. 18556.
70-1	OPS-3A	Welding and Other Joining of Pipe Components	35 F.R. 1112.
70-2	OPS-3B	General Construction Requirements	35 F.R. 3237.
70-3	OPS-3C	Customers Meters, Service Regulators and Service Lines	35 F.R. 4526.
70-4	OPS-3D	Class Location	35 F.R. 5012.
70-5	OPS-3E	Operation and Maintenance	35 F.R. 5483.
70-6	OPS-3F	Testing and Upgrading	35 F.R. 5724.
70-7	OPS-3G	Pipe and Component Design	35 F.R. 5713.
70-11	OPS-3E	Odorization of Gas—Request for Additional Comment	35 F.R. 9293.

The Committee has worked very closely with the Office of Pipeline Safety and has offered technical assistance in a series of meetings in June and July of this year which resulted in material changes in the technical content of the several proposals.

In view of the Committee's close association with the development of the final rule it did not appear appropriate to prepare a separate report on Committee consideration of individual items of the final rule. Therefore the Committee has, by letter ballot, evaluated the proposed final rule and a majority concurs that the proposed standards accomplished the intent of Congress to establish reasonable minimum standards applicable to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities.

It should be noted from the concurring views, expressed in the attached documents, that a number of the members of the majority are concerned that much work remains to be accomplished in future rulemaking to expand and clarify the rules to further improve the safety of pipeline facilities.

The Committee, in approving the presently proposed final rule, relies on assurances of the Office of Pipeline Safety and the General Counsel of the Department of Transportation that supplemental rulemaking dockets will be instituted to provide opportunity to consider additional items affecting safety of pipeline facilities that were judged to be beyond the scope of Docket OPS-3 and its several subparts. Addition-

ally, the Committee recognizes the necessity for inclusion of "Requirements for Corrosion Control" which is the subject of Notice 70-8, Docket OPS-5 (35 F.R. 7127) and was considered in a public hearing on July 20, 1970, pursuant to Notice 70-12.

The letter ballot canvass of the Committee (copies attached) indicated a vote of 13 approving the majority report and one opposed.

Minority views on specific items (copies attached) were submitted by Committee members Melvin R. Meyerson, A. W. Peabody, Martin T. Bennett, George W. White, Robert I. Snyder, and A. F. Rhodes.

Mr. Lang in voting in opposition to the majority has chosen to refer to the transcripts of the several meetings of the Committee for detail of his proposed alternate to the rule recommended by the majority.

This final Committee action is based on a review of the final rule without benefit of the preamble that will be issued with the rule. Therefore, the Committee has voted on the assumption that the preamble statement will be consistent with the Committee's understanding of the intent of the various requirements as specifically discussed with the Committee at its several meetings with the Office of Pipeline Safety.

LOUIS W. MENDONSA,
Secretary, Technical Pipeline
Safety Standards Committee.

Attachments:

cc: Mr. Sheftel, Bureau of the Budget.
Each committee member.

FREDERIC A. LANG P.E.,
Good Hope Road,
Landenberg, Pa. 19350.

EXPLANATION OF THE DISAPPROVAL BY FREDERIC A. LANG OF THE PROPOSED MAJORITY REPORT ON THE PROPOSED FINAL RULE ESTABLISHING COMPREHENSIVE FEDERAL PIPELINE SAFETY STANDARDS

August 7, 1970.

As member of the Technical Pipeline Safety Standards Committee, I disapprove the proposed majority report because the proposed Final Rule will establish regulations not measurably more effective than the standards written and suggested by the industry. In fact, the proposed Final Rule is based on the industry standard B 31.8 and has the same deficiencies.

Industry standards do not require more safety than is optimum for profits. The industry standards leave major loopholes available to the pipeline operator in order that the standard or the regulation not result in higher costs which might result from using a safer pipe material or a safer design, construction, or operating practice.

A further weakening of the Final Rule exists because of documents incorporated by reference. The opinion of DOT counsel is that documents incorporated by reference provide the same loopholes (lack of regulation) in this DOT Regulation (Part 192) that exist in the referenced document. Referenced documents were written in most cases by industry groups such as American Petroleum Institute who were not desirous of creating self-imposed regulation and who provided numerous loopholes and options that leave uncontrolled important pipeline safety items.

A suitable alternate Proposed Final Rule was outlined by me and others during the official Committee meeting on the Proposed Final Rule. The transcript of the meetings is available.

FREDERIC A. LANG.

After considering the comments, the recommendations of the Technical Pipeline Safety Standards Committee, and other information discussed above, I have determined that good cause exists for making these regulations effective more than 30 days after issuance.

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

In consideration of the foregoing and for the reasons stated in the series of notices listed above, Title 49 of the Code of Federal Regulations is amended as follows:

1. Part 190, except for those provisions applicable to design, installation, construction, initial inspection, and initial testing, is revoked effective November 12, 1970.

2. The provisions of Part 190 applicable to design, installation, construction, initial inspection, and initial testing are revoked effective March 12, 1971.

3. A new Part 192 is added, effective November 12, 1970, to read as set forth below.

Issued in Washington on August 11, 1970.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Acts of 1942.

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

The incorporation by reference provisions in this Part 192 were approved by the Director of the Federal Register on August 18, 1970.

Subpart A—General

- Sec. 192.1 Scope of part.
- 192.3 Definitions.
- 192.5 Class locations.
- 192.7 Incorporation by reference.
- 192.9 Gathering lines.
- 192.11 Petroleum gas systems.
- 192.13 General.
- 192.15 Rules of regulatory construction.

Subpart B—Materials

- 192.51 Scope.
- 192.53 General.
- 192.55 Steel pipe.
- 192.57 Cast iron or ductile iron pipe.
- 192.59 Plastic pipe.
- 192.61 Copper pipe.
- 192.63 Marking of materials.
- 192.65 Transportation of pipe.

Subpart C—Pipe Design

- 192.101 Scope.
- 192.103 General.
- 192.105 Design formula for steel pipe.
- 192.107 Yield strength (*S*) for steel pipe.
- 192.109 Nominal wall thickness (*t*) for steel pipe.
- 192.111 Design factor (*F*) for steel pipe.
- 192.113 Longitudinal joint factor (*E*) for steel pipe.
- 192.115 Temperature derating factor (*T*) for steel pipe.
- 192.117 Design of cast iron pipe.
- 192.119 Design of ductile iron pipe.
- 192.121 Design of plastic pipe.
- 192.123 Design limitations for plastic pipe.
- 192.125 Design of copper pipe.

Subpart D—Design of Pipeline Components

- 192.141 Scope.
- 192.143 General requirements.
- 192.145 Valves.
- 192.147 Flanges and flange accessories.
- 192.149 Standard fittings.
- 192.151 Tapping.
- 192.153 Components fabricated by welding.
- 192.155 Welded branch connections.
- 192.157 Extruded outlets.
- 192.159 Flexibility.
- 192.161 Supports and anchors.
- 192.163 Compressor stations: design and construction.
- 192.165 Compressor stations: liquid removal.
- 192.167 Compressor stations: emergency shutdown.
- 192.169 Compressor stations: pressure limiting devices.
- 192.171 Compressor stations: additional safety equipment.
- 192.173 Compressor stations: ventilation.
- 192.175 Pipe-type and bottle-type holders.
- 192.177 Additional provisions for bottle-type holders.
- 192.179 Transmission line valves.
- 192.181 Distribution line valves.
- 192.183 Vaults: structural design requirements.
- 192.185 Vaults: accessibility.
- 192.187 Vaults: sealing, venting, and ventilation.

- Sec. 192.189 Vaults: drainage and waterproofing.
- 192.191 Design pressure of plastic fittings.
- 192.193 Valve installation in plastic pipe.
- 192.195 Protection against accidental overpressuring.
- 192.197 Control of the pressure of gas delivered from high-pressure distribution systems.
- 192.199 Requirements for design of pressure relief and limiting devices.
- 192.201 Required capacity of pressure relieving and limiting stations.
- 192.203 Instrument, control, and sampling pipe and components.

Subpart E—Welding of Steel in Pipelines

- 192.221 Scope.
- 192.223 General.
- 192.225 Qualification of welding procedures.
- 192.227 Qualification of welders.
- 192.229 Limitations on welders.
- 192.231 Protection from weather.
- 192.233 Miter joints.
- 192.235 Preparation for welding.
- 192.237 Preheating.
- 192.239 Stress relieving.
- 192.241 Inspection and test of welds.
- 192.243 Nondestructive testing.
- 192.245 Repair or removal of defects.

Subpart F—Joining of Materials Other Than by Welding

- 192.271 Scope.
- 192.273 General.
- 192.275 Cast iron pipe.
- 192.277 Ductile iron pipe.
- 192.279 Copper pipe.
- 192.281 Plastic pipe.

Subpart G—General Construction Requirements for Transmission Lines and Mains

- 192.301 Scope.
- 192.303 Compliance with specifications or standards.
- 192.305 Inspection: general.
- 192.307 Inspection of materials.
- 192.309 Repair of steel pipe.
- 192.311 Repair of plastic pipe.
- 192.313 Bends and elbows.
- 192.315 Wrinkle bends in steel pipe.
- 192.317 Protection from hazards.
- 192.319 Installation of pipe in a ditch.
- 192.321 Installation of plastic pipe.
- 192.323 Casing.
- 192.325 Underground clearance.
- 192.327 Cover.

Subpart H—Customer Meters, Service Regulators, and Service Lines

- 192.351 Scope.
- 192.353 Customer meters and regulators: location.
- 192.355 Customer meters and regulators: protection from damage.
- 192.357 Customer meters and regulators: installation.
- 192.359 Customer meter installations: operating pressure.
- 192.361 Service lines: installation.
- 192.363 Service lines: valve requirements.
- 192.365 Service lines: location of valves.
- 192.367 Service lines: general requirements for connections to main piping.
- 192.369 Service lines: connections to cast iron or ductile iron mains.
- 192.371 Service lines: steel.
- 192.373 Service lines: cast iron and ductile iron.
- 192.375 Service lines: plastic.
- 192.377 Service lines: copper.

Subpart I—[Reserved]

Subpart J—Test Requirements

- 192.501 Scope.
- 192.503 General requirements.

- Sec.
192.505 Strength test requirements for steel pipeline to operate at a hoop stress of 30 percent or more of SMYS.
192.507 Test requirements for pipeline to operate at a hoop stress less than 30 percent of SMYS and above 100 p.s.i.g.
192.509 Test requirements for pipelines to operate at or below 100 p.s.i.g.
192.511 Test requirements for service lines.
192.515 Environmental protection and safety requirements.
192.517 Records.

Subpart K—Upgrading

- 192.551 Scope.
192.553 General requirements.
192.555 Upgrading to a pressure that will produce a hoop stress of 30 percent or more of SMYS in steel pipelines.
192.557 Upgrading: steel pipelines to a pressure that will produce a hoop stress less than 30 percent of SMYS; plastic, cast iron, and ductile iron pipelines.

Subpart L—Operations

- 192.601 Scope.
192.603 General provision.
192.605 Essentials of operating and maintenance plan.
192.607 Initial determination of class location and confirmation or establishment of maximum allowable operating pressure.
192.609 Change in class location: required study.
192.611 Change in class location: confirmation or revision of maximum allowable operating pressure.
192.613 Continuing surveillance.
192.615 Emergency plans.
192.617 Investigation of failures.
192.619 Maximum allowable operating pressure: steel or plastic pipelines.
192.621 Maximum allowable operating pressure: high-pressure distribution systems.
192.623 Maximum and minimum allowable operating pressure: low-pressure distribution systems.
192.625 Odorization of gas.
192.627 Tapping pipelines under pressure.
192.629 Purging of pipelines.

Subpart M—Maintenance Procedures

- 192.701 Scope.
192.703 General.
192.705 Transmission lines: patrolling.
192.707 Transmission lines: markers.
192.709 Transmission lines: recordkeeping.
192.711 Transmission lines: general requirements for repair procedures.
192.713 Transmission lines: permanent field repair of imperfections and damage.
192.715 Transmission lines: permanent repair of welds.
192.717 Transmission lines: permanent field repair of leaks.
192.719 Transmission lines: testing of repairs.
192.721 Distribution systems: patrolling.
192.723 Distribution systems: leakage surveys and procedures.
192.725 Test requirement for reinstating service lines.
192.727 Abandonment or inactivation of facilities.
192.729 Compressor stations: procedures for gas compressor units.
192.731 Compressor stations: inspection and testing of relief services.
192.733 Compressor stations: isolation of equipment for maintenance or alterations.

- Sec.
192.735 Compressor stations: storage of combustible materials.
192.737 Pipe-type and bottle-type holders: plan for inspection and testing.
192.739 Pressure limiting and regulating stations: inspection and testing.
192.741 Pressure limiting and regulating stations: telemetering or recording gages.
192.743 Pressure limiting and regulating stations: testing of relief devices.
192.745 Valve maintenance: transmission lines.
192.747 Valve maintenance: distribution systems.
192.749 Valve maintenance.
192.751 Prevention of accidental ignition.
192.753 Caulked bell and spigot joints.

Appendix A—Materials incorporated by reference.

Appendix B—Qualification of pipe.

Appendix C—Qualification of welders for low stress level pipe.

AUTHORITY: The provisions of this Part 192 issued under 49 U.S.C. 1671 et seq.

Subpart A—General

§ 192.1 Scope of part.

(a) This part prescribes minimum safety requirements for pipeline facilities and the transportation of gas, including pipeline facilities and the transportation of gas within the limits of the outer continental shelf as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(b) This part does not apply to the gathering of gas outside of the following areas:

- (1) An area within the limits of any incorporated or unincorporated city, town, or village.
- (2) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

§ 192.3 Definitions.

As used in this part—

“Distribution Line” means a pipeline other than a gathering or transmission line.

“Gas” means natural gas, flammable gas, or gas which is toxic or corrosive.

“Gathering Line” means a pipeline that transports gas from a current production facility to a transmission line or main.

“High pressure distribution system” means a distribution system in which the gas pressure in the main is higher than the pressure provided to the customer.

“Listed specification” means a specification listed in section I of Appendix B of this part.

“Low-pressure distribution system” means a distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the customer.

“Main” means a distribution line that serves as a common source of supply for more than one service line.

“Maximum actual operating pressure” means the maximum pressure that occurs during normal operations over a period of 1 year.

“Maximum allowable operating pressure” means the maximum pressure at which a pipeline or segment of a pipeline may be operated under this part.

“Municipality” means a city, county, or any other political subdivision of a State.

“Operator” means a person who engages in the transportation of gas.

“Person” means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

“Pipe” means any pipe or tubing used in the transportation of gas, including pipe-type holders.

“Pipeline” means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.

“Pipeline facility” means new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

“Secretary” means the Secretary of Transportation or any person to whom he has delegated authority in the matter concerned.

“Service Line” means a distribution line that transports gas to a customer meter set assembly from a common source of supply.

“SMYS” means specified minimum yield strength is—

(1) For steel pipe manufactured in accordance with a listed specification, the yield strength specified as a minimum in that specification; or

(2) For steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with § 192.107(b).
“State” means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“Transmission line” means a pipeline, other than a gathering line, that—

(1) Transports gas from a gathering line or storage facility to a distribution center or storage facility;

(2) Operates at a hoop stress of 20 percent or more of SMYS; or

(3) Transports gas within a storage field.

“Transportation of gas” means the gathering, transmission, or distribution of gas by pipeline or the storage of gas, in or affecting interstate or foreign commerce.

§ 192.5 Class locations.

(a) Class location is determined by applying the criteria set forth in this section. The class location unit is an area that extends 220 yards on either side of the centerline of any continuous 1-mile length of pipeline. Except as provided in paragraphs (d) (2) and (f) of this section, the class location is determined by the buildings in the class location unit. For the purposes of this

section, each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

(b) A Class 1 location is any class location unit that has 10 or less buildings intended for human occupancy.

(c) A Class 2 location is any class location unit that has more than 10 but less than 46 buildings intended for human occupancy.

(d) A Class 3 location is—

(1) Any class location unit that has 46 or more buildings intended for human occupancy; or

(2) An area where the pipeline lies within 100 yards of any of the following:

(i) A building that is occupied by 20 or more persons during normal use.

(ii) A small, well-defined outside area that is occupied by 20 or more persons during normal use, such as a playground, recreation area, outdoor theater, or other place of public assembly.

(e) A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.

(f) The boundaries of the class locations determined in accordance with paragraphs (a) through (e) of this section may be adjusted as follows:

(1) A Class 4 location ends 220 yards from the nearest building with four or more stories above ground.

(2) When a cluster of buildings intended for human occupancy requires a Class 3 location, the Class 3 location ends 220 yards from the nearest building in the cluster.

(3) When a cluster of buildings intended for human occupancy requires a Class 2 location, the Class 2 location ends 220 yards from the nearest building in the cluster.

§ 192.7 Incorporation by reference.

(a) Any documents or parts thereof incorporated by reference in this part are a part of this regulation as though set out in full.

(b) All incorporated documents are available for inspection in the Office of Pipeline Safety, Room 107, 400 Sixth Street SW., Washington, D.C. In addition, the documents are available at the addresses provided in Appendix A to this part.

(c) The full titles for the publications incorporated by reference in this part are provided in Appendix A to this part.

§ 192.9 Gathering lines.

Each gathering line must comply with the requirements of this part applicable to transmission lines.

§ 192.11 Petroleum gas systems.

(a) No operator may transport petroleum gas in a system that serves 10 or more customers, or in a system, any portion of which is located in a public place (such as a highway), unless that system meets the requirements of this part and of NFPA Standards No. 58 and No. 59. In the event of a conflict, the requirements of this part prevail.

(b) Each petroleum gas system covered by paragraph (a) of this section must comply with the following:

(1) Aboveground structures must have open vents near the floor level.

(2) Belowground structures must have forced ventilation that will prevent any accumulation of gas.

(3) Relief valve discharge vents must be located so as to prevent any accumulation of gas at or below ground level.

(4) Special precautions must be taken to provide adequate ventilation where excavations are made to repair an underground system.

(c) For the purpose of this section, petroleum gas means propane, butane, or mixtures of these gases, other than a gas air mixture that is used to supplement supplies in a natural gas distribution system.

§ 192.13 General.

(a) No person may operate a segment of pipeline that is readied for service after March 12, 1971, unless that pipeline has been designed, installed, constructed, initially inspected, and initially tested in accordance with this part.

(b) No person may operate a segment of pipeline that is replaced, relocated, or otherwise changed after November 12, 1970, unless that replacement, relocation, or change has been made in accordance with this part.

(c) Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part.

§ 192.15 Rules of regulatory construction.

(a) As used in this part—

"Includes" means including but not limited to.

"May" means "is permitted to" or "is authorized to".

"May not" means "is not permitted to" or "is not authorized to".

"Shall" is used in the mandatory and imperative sense.

(b) In this part—

(1) Words importing the singular include the plural;

(2) Words importing the plural include the singular; and

(3) Words importing the masculine gender include the feminine.

Subpart B—Materials

§ 192.51 Scope.

This subpart prescribes minimum requirements for the selection and qualification of pipe and components for use in pipelines.

§ 192.53 General.

Materials for pipe and components must be—

(a) Able to maintain the structural integrity of the pipeline under temperature and other environmental conditions that may be anticipated;

(b) Chemically compatible with any gas that they transport and with any other material in the pipeline with which they are in contact; and

(c) Qualified in accordance with the applicable requirements of this subpart.

§ 192.55 Steel pipe.

(a) New steel pipe is qualified for use under this part if—

(1) It was manufactured in accordance with a listed specification;

(2) It meets the requirements of paragraphs II-A through II-D of Appendix B of this part; or

(3) It is used in accordance with paragraph (c) of this section.

(b) Used steel pipe is qualified for use under this part if—

(1) It was manufactured in accordance with a listed specification and it meets the requirements of paragraph II-C of Appendix B to this part;

(2) It meets the requirements of paragraph II-A through II-D of Appendix B to this part.

(3) It has been used in an existing line of the same or higher pressure and meets the requirements of paragraph II-C of Appendix B to this part; or

(4) It is used in accordance with paragraph (c) of this section.

(c) New or used steel pipe may be used at a pressure resulting in a hoop stress of less than 6,000 p.s.i. where no close coiling or close bending is to be done, if visual examination indicates that the pipe is in good condition and that it is free of split seams and other defects that would cause leakage. If it is to be welded, steel pipe that has not been manufactured to a listed specification must also pass the weldability tests prescribed in paragraph II-B of Appendix B to this part.

(d) New steel pipe that has been cold expanded must comply with the mandatory provisions of API Standard 5LX.

§ 192.57 Cast iron or ductile iron pipe.

(a) New cast iron or new ductile iron pipe is qualified for use under this part if it has been manufactured in accordance with a listed specification.

(b) Used cast iron or used ductile iron pipe is qualified for use under this part if inspection shows that the pipe is sound and allows the makeup of tight joints and—

(1) It has been removed from an existing pipeline that operated at the same or higher pressure; or

(2) It was manufactured in accordance with a listed specification.

§ 192.59 Plastic pipe.

(a) New plastic pipe is qualified for use under this part if—

(1) It is manufactured in accordance with a listed specification; and

(2) It is resistant to chemicals with which contact may be anticipated.

(b) Used plastic pipe is qualified for use under this part if—

(1) It meets the requirements of a listed specification;

(2) It is resistant to chemicals with which contact may be anticipated;

(3) It has been used only in natural gas service;

(4) Its dimensions are still within the tolerances of the specification to which it was manufactured; and

(5) It is free of visible defects.

§ 192.61 Copper pipe.

Copper pipe is qualified for use under this part if it has been manufactured in accordance with a listed specification.

§ 192.63 Marking of materials.

(a) Each valve, fitting, length of pipe, and other component must be marked as prescribed in—

(1) The specification or standard to which it was manufactured; or

(2) MSS standard practice, SP-25.

(b) Surfaces of pipe and components that are subject to stress from internal pressure may not be field die stamped.

(c) If any item is marked by die stamping, the die must have blunt or rounded edges that will minimize stress concentrations.

§ 192.65 Transportation of pipe.

In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, no operator may use pipe having an outer diameter to wall thickness ratio of 70 to one, or more, that is transported by railroad unless that transportation was performed in accordance with API RP5L1.

Subpart C—Pipe Design

§ 192.101 Scope.

This subpart prescribes the minimum requirements for the design of pipe.

§ 192.103 General.

Pipe must be designed with sufficient wall thickness, or must be installed with adequate protection, to withstand anticipated external pressures and loads that will be imposed on the pipe after installation.

§ 192.105 Design formula for steel pipe.

(a) The design pressure for steel pipe is determined in accordance with the following formula:

$$P = \frac{2 St}{D} \times F \times E \times T$$

P=Design pressure in pounds per square inch gage.

S=Yield strength in pounds per square inch determined in accordance with § 192.107.

D=Nominal outside diameter of the pipe in inches.

t=Nominal wall thickness of the pipe in inches. If this is unknown, it is determined in accordance with § 192.109. Additional wall thickness required for concurrent external loads in accordance with § 192.103 may not be included in computing design pressure.

F=Design factor determined in accordance with § 192.111.

E=Longitudinal joint factor determined in accordance with § 192.113.

T=Temperature derating factor determined in accordance with § 192.115.

(b) If steel pipe that has been cold worked to meet the SMYS is heated, other than by welding, to 600° F. or more, the design pressure is limited to 75 percent of the pressure determined under paragraph (a) of this section.

§ 192.107 Yield strength (S) for steel pipe.

(a) For pipe that is manufactured in accordance with a specification listed in section I of Appendix B of this part, the yield strength to be used in the design formula in § 192.105 is the SMYS stated

in the listed specification, if that value is known.

(b) For pipe that is manufactured in accordance with a specification not listed in section I of Appendix B to this part or whose specification or tensile properties are unknown, the yield strength to be used in the design formula in § 192.105 is one of the following:

(1) If the pipe is tensile tested in accordance with section 11-D of Appendix B to this part, the lower of the following:

(i) 80 percent of the average yield strength determined by the tensile tests.

(ii) The lowest yield strength determined by the tensile tests, but not more than 52,000 p.s.i.

(2) If the pipe is not tensile tested as provided in subparagraph (1) of this paragraph 24,000 p.s.i.

§ 192.109 Nominal wall thickness (t) for steel pipe.

(a) If the nominal wall thickness for steel pipe is not known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end.

(b) However, if the pipe is of uniform grade, size, and thickness and there are more than 10 lengths, only 10 percent of the individual lengths, but not less than 10 lengths, need be measured. The thickness of the lengths that are not measured must be verified by applying a gage set to the minimum thickness found by the measurement. The nominal wall thickness to be used in the design formula in § 192.105 is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness used may not be more than 1.14 times the smallest measurement taken on pipe less than 20 inches in outside diameter, nor more than 1.11 times the smallest measurement taken on pipe 20 inches or more in outside diameter.

§ 192.111 Design factor (F) for steel pipe.

(a) Except as otherwise provided in paragraphs (b), (c), and (d) of this section, the design factor to be used in the design formula in § 192.105 is determined in accordance with the following table:

Class location	Design factor (F)
1	0.72
2	0.60
3	0.50
4	0.40

(b) A design factor of 0.60 or less must be used in the design formula in § 192.105 for steel pipe in Class 1 locations that:

(1) Crosses the right-of-way of an unimproved public road, without a casing;

(2) Crosses without a casing, or makes a parallel encroachment on, the right-of-way of either a hard surfaced road, a highway, a public street, or a railroad;

(3) Is supported by a vehicular, pedestrian, railroad, or pipeline bridge; or

(4) Is used in a fabricated assembly, (including separators, mainline valve as-

semblies, cross-connections, and river crossing headers) or is used within five pipe diameters in any direction from the last fitting of a fabricated assembly, other than a transition piece or an elbow used in place of a pipe bend which is not associated with a fabricated assembly.

(c) For Class 2 locations, a design factor of 0.50, or less, must be used in the design formula in § 192.105 for uncased steel pipe that crosses the right-of-way of a hard surfaced road, a highway, a public street, or a railroad.

(d) For Class 1 or Class 2 locations, a design factor of 0.50, or less, must be used in the design formula in § 192.105 for each compressor station, regulator station, and measuring station.

§ 192.113 Longitudinal joint factor (E) for steel pipe.

The longitudinal joint factor to be used in the design formula in § 192.105 is determined in accordance with the following table:

Specification	Pipe class	Longitudinal joint factor (E)
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	.60
ASTM A 106	Seamless	1.00
ASTM A 134	Electric fusion arc welded	.80
ASTM A 135	Electric resistance welded	1.00
ASTM A 139	Electric fusion welded	.80
ASTM A 155	Electric fusion arc welded	1.00
ASTM A 211	Spiral welded steel pipe	.80
ASTM A 333	Seamless	1.00
	Electric resistance welded	1.00
ASTM A 381	Double submerged arc welded	1.00
API 5 L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace butt welded	.60
	Furnace lap-welded	.80
API 5 LX	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
API 5 LS	Electric resistance welded	1.00
	Submerged arc welded	1.00
Other	Pipe over 4 inches	.80
Other	Pipe 4 inches or less	.60

If the type of longitudinal joint cannot be determined, the joint factor to be used must not exceed that designated for "Other".

§ 192.115 Temperature derating factor (T) for steel pipe.

The temperature derating factor to be used in the design formula in § 192.105 is determined as follows:

Gas temperature in degrees Fahrenheit	Temperature derating factor (T)
250 or less	1.000
300	0.967
350	0.933
400	0.900
450	0.867

For intermediate gas temperatures, the derating factor is determined by interpolation.

§ 192.117 Design of cast iron pipe.

Cast iron pipe must be designed in accordance with ANSI A 21.1 using the following values for S (bursting tensile

strength) and R (modulus of rupture) in the design equations:

Specification	Type of pipe	S	R
ANSI A 21.3	Pit cast	11,000	31,000
ANSI A 21.7	Centrifugal (metal mold)	18,000	40,000
ANSI A 21.9	Centrifugal (sand-lined mold)	18,000	40,000

§ 192.119 Design of ductile iron pipe.

(a) Ductile iron pipe must be designed in accordance with ANSI A21.50 using the following values in the design equations:

s (design hoop stress) = 16,800 p.s.i.
 f (design bending stress) = 36,000 p.s.i.

(b) Ductile iron pipe must be grade (60-42-10) and must conform to the requirements of ANSI A21.52.

§ 192.121 Design of plastic pipe.

(a) The design pressure for plastic pipe is determined in accordance with the following formula and is subject to the limitations of § 192.123:

$$P = 2S \frac{t}{(D-t)} \times F$$

P = Design pressure in pounds per square inch gage.

S = For thermoplastic pipe, the long-term hydrostatic strength in pounds per square inch as stated in the listed specification; for thermosetting plastic pipe, 11,000 p.s.i.

t = Specified wall thickness in inches.

D = Specified outside diameter in inches.

F = Design factor for plastic pipe.

(b) The design factor for plastic pipe is determined as follows:

Class location	Design factor
1	0.32
2	0.25
3	0.25
4	0.20

§ 192.123 Design limitations for plastic pipe.

(a) The design pressure may not exceed 100 p.s.i.g. for plastic pipe used in—

- (1) Distribution systems; or
- (2) Classes 3 and 4 locations.

(b) Plastic pipe may not be used where operating temperatures of the pipe will be—

- (1) Below minus 20° F.; or

(2) Above 100° F. for thermoplastic pipe or above 150° F. for reinforced thermosetting plastic pipe.

(c) The wall thickness for thermoplastic pipe may not be less than 0.062 inches.

(d) The wall thickness for reinforced thermosetting plastic pipe may not be less than that listed in the following table:

Nominal size in inches	Minimum wall thickness in inches
2	0.060
3	0.060
4	0.070
6	0.100

§ 192.125 Design of copper pipe.

(a) Copper pipe used in mains must have a minimum wall thickness of 0.065 inches and must be hard drawn.

(b) Copper pipe used in service lines must have a minimum wall thickness as specified for type "L" pipe in ASTM B 88.

(c) Copper pipe used in mains and service lines may not be used at pressures in excess of 100 p.s.i.g.

(d) Copper pipe that does not have an internal corrosion resistant lining may not be used to carry gas that has an average hydrogen sulfide content of more than 0.3 grains per 100 standard cubic feet of gas.

Subpart D—Design of Pipeline Components

§ 192.141 Scope.

This subpart prescribes minimum requirements for the design and installation of pipeline components and facilities. In addition, it prescribes requirements relating to protection against accidental overpressuring.

§ 192.143 General requirements.

Each component of a pipeline must be able to withstand operating pressures and other anticipated loadings with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service.

§ 192.145 Valves.

(a) Each valve must meet the minimum requirements of API 6D, or MSS SP-52, or the equivalent, and may not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those standards.

(b) Each valve must be able to meet the anticipated operating conditions.

(c) No valve having shell components made of ductile iron may be used at pressures exceeding 80 percent of the pressure ratings for comparable steel valves at their listed temperature. However, a valve having shell components made of ductile iron may be used at pressures up to 80 percent of the pressure ratings for comparable steel valves at their listed temperature, if—

(1) The temperature-adjusted service pressure does not exceed 1,000 p.s.i.g.; and

(2) Welding is not used on any ductile iron component in the fabrication of the valve shells or their assembly.

(d) No valve having pressure containing parts made of ductile iron may be used in the gas pipe components of compressor stations.

§ 192.147 Flanges and flange accessories.

(a) General requirements. Each flange or flange accessory must meet the minimum requirements of ANSI B16.5, MSS SP-44, or ANSI B16.24, or the equivalent.

(b) Each flange assembly must be able to withstand the maximum pres-

sure at which the pipeline is to be operated and to maintain its physical and chemical properties at any temperature to which it is anticipated that it might be subjected in service.

§ 192.149 Standard fittings.

(a) The minimum metal thickness of threaded fittings may not be less than specified for the pressures and temperatures in the applicable standards referenced in this part, or their equivalent.

(b) Each steel butt-welding fitting must have pressure and temperature ratings based on stresses for pipe of the same or equivalent material. The actual bursting strength of the fitting must at least equal the computed bursting strength of pipe of the designated material and wall thickness, as determined by a prototype that was tested to at least the pressure required for the pipeline to which it is being added.

§ 192.151 Tapping.

(a) Each mechanical fitting used to make a hot tap must be designed for at least the operating pressure of the pipeline.

(b) Where a ductile iron pipe is tapped, the extent of full-thread engagement and the need for the use of outside-sealing service connections, tapping saddles, or other fixtures must be determined by service conditions.

(c) Where a threaded tap is made in cast iron or ductile iron pipe, the diameter of the tapped hole may not be more than 25 percent of the nominal diameter of the pipe unless the pipe is reinforced, except that

(1) Existing taps may be used for replacement service, if they are free of cracks and have good threads; and

(2) A 1¼-inch tap may be made in a 4-inch cast iron or ductile iron pipe, without reinforcement.

However, in areas where climate, soil, and service conditions may create unusual external stresses on cast iron pipe, unreinforced taps may be used only on 6-inch or larger pipe.

§ 192.153 Components fabricated by welding.

(a) Except for branch connections and assemblies of standard pipe and fittings joined by circumferential welds, the design pressure of each component fabricated by welding, whose strength cannot be determined, must be established in accordance with paragraph UG-101 of section VIII of the ASME Boiler and Pressure Vessel Code.

(b) Each prefabricated unit that uses plate and longitudinal seams must be designed, constructed, and tested in accordance with the ASME Boiler and Pressure Vessel Code, except for the following:

(1) Regularly manufactured butt-welding fittings.

(2) Pipe that has been produced and tested under a specification listed in Appendix B to this part.

(3) Partial assemblies such as split rings or collars.

(c) Orange-peel bull plugs and orange-peel swages may not be used on pipelines that are to operate at a hoop stress of 20 percent or more of the SMYS of the pipe.

(d) Except for flat closures designed in accordance with section VIII of the ASME Boiler and Pressure Code, flat closures and fish tails may not be used on pipe that either operates at 100 p.s.i.g., or more, or is more than 3 inches nominal diameter.

§ 192.155 Welded branch connections.

Each welded branch connection made to pipe in the form of a single connection, or in a header or manifold as a series of connections, must be designed to ensure that the strength of the pipeline system is not reduced, taking into account the stresses in the remaining pipe wall due to the opening in the pipe or header, the shear stresses produced by the pressure acting on the area of the branch opening, and any external loadings due to thermal movement, weight, and vibration.

§ 192.157 Extruded outlets.

Each extruded outlet must be suitable for anticipated service conditions and must be at least equal to the design strength of the pipe and other fittings in the pipeline to which it is attached.

§ 192.159 Flexibility.

Each pipeline must be designed with enough flexibility to prevent thermal expansion or contraction from causing excessive stresses in the pipe or components, excessive bending or unusual loads at joints, or undesirable forces or moments at points of connection to equipment, or at anchorage or guide points.

§ 192.161 Supports and anchors.

(a) Each pipeline and its associated equipment must have enough anchors or supports to—

- (1) Prevent undue strain on connected equipment;
- (2) Resist longitudinal forces caused by a bend or offset in the pipe; and
- (3) Prevent or damp out excessive vibration.

(b) Each exposed pipeline must have enough supports or anchors to protect the exposed pipe joints from the maximum end force caused by internal pressure and any additional forces caused by temperature expansion or contraction or by the weight of the pipe and its contents.

(c) Each support or anchor on an exposed pipeline must be made of durable, noncombustible material and must be designed and installed as follows:

- (1) Free expansion and contraction of the pipeline between supports or anchors may not be restricted.
- (2) Provision must be made for the service conditions involved.
- (3) Movement of the pipeline may not cause disengagement of the support equipment.

(d) Each support on an exposed pipeline operated at a stress level of 50 percent or more of SMYS must comply with the following:

(1) A structural support may not be welded directly to the pipe.

(2) The support must be provided by a member that completely encircles the pipe.

(3) If an encircling member is welded to a pipe, the weld must be continuous and cover the entire circumference.

(e) Each underground pipeline that is connected to a relatively unyielding line or other fixed object must have enough flexibility to provide for possible movement, or it must have an anchor that will limit the movement of the pipeline.

(f) Each underground pipeline that is being connected to new branches must have a firm foundation for both the header and the branch to prevent lateral and vertical movement.

§ 192.163 Compressor stations: design and construction.

(a) *Location of compressor building.* Each main compressor building of a compressor station must be located on property under the control of the operator. It must be far enough away from adjacent property, not under control of the operator, to minimize the possibility of fire being communicated to the compressor building from structures on adjacent property. There must be enough open space around the main compressor building to allow the free movement of fire-fighting equipment.

(b) *Building construction.* Each building on a compressor station site must be made of noncombustible materials if it contains either—

- (1) Pipe more than 2 inches in diameter that is carrying gas under pressure; or
- (2) Gas handling equipment other than gas utilization equipment used for domestic purposes.

(c) *Exits.* Each operating floor of a main compressor building must have at least two separated and unobstructed exits located so as to provide a convenient possibility of escape and an unobstructed passage to a place of safety. Each door latch on an exit must be of a type which can be readily opened from the inside without a key. Each swinging door located in an exterior wall must be mounted to swing outward.

(d) *Fenced areas.* Each fence around a compressor station must have at least two gates located so as to provide a convenient opportunity for escape to a place of safety, or have other facilities affording a similarly convenient exit from the area. Each gate located within 200 feet of any compressor plant building must open outward and, when occupied, must be openable from the inside without a key.

(e) *Electrical facilities.* Electrical equipment and wiring installed in compressor stations must conform to the National Electrical Code, ANSI Standard C1, so far as that code is applicable.

§ 192.165 Compressor stations: liquid removal.

(a) Where entrained vapors in gas may liquefy under the anticipated pressure and temperature conditions, the

compressor must be protected against the introduction of those liquids in quantities that could cause damage.

(b) Each liquid separator used to remove entrained liquids at a compressor station must—

(1) Have a manually operable means of removing these liquids.

(2) Where slugs of liquid could be carried into the compressors, have either automatic liquid removal facilities, an automatic compressor shutdown device, or a high liquid level alarm; and

(3) Be manufactured in accordance with section VIII of the ASME Boiler and Pressure Vessel Code, except that liquid separators constructed of pipe and fittings without internal welding must be fabricated with a design factor of 0.4, or less.

§ 192.167 Compressor stations: emergency shutdown.

(a) Except for unattended field compressor stations of 1,000 horsepower or less, each compressor station must have an emergency shutdown system that meets the following:

(1) It must be able to block gas out of the station and blow down the station piping.

(2) It must discharge gas from the blowdown piping at a location where the gas will not create a hazard.

(3) It must provide means for the shutdown of gas compressing equipment, gas fires, and electrical facilities in the vicinity of gas headers and in the compressor building, except, that—

(i) Electrical circuits that supply emergency lighting required to assist station personnel in evacuating the compressor building and the area in the vicinity of the gas headers must remain energized; and

(ii) Electrical circuits needed to protect equipment from damage may remain energized.

(4) It must be operable from at least two locations, each of which is—

- (i) Outside the gas area of the station;
- (ii) Near the exit gates in the station fence; and

(iii) Not more than 500 feet from the limits of the station.

(b) If a compressor station supplies gas directly to a distribution system with no other adequate source of gas available, the emergency shutdown system must be designed so that it will not function at the wrong time and cause an unintended outage on the distribution system.

§ 192.169 Compressor stations: pressure limiting devices.

(a) Each compressor station must have pressure relief or other suitable protective devices of sufficient capacity and sensitivity to ensure that the maximum allowable operating pressure of the station piping and equipment is not exceeded by more than 10 percent.

(b) Each vent line that exhausts gas from the pressure relief valves of a compressor station must extend to a location where the gas may be discharged without hazard.

§ 192.171 Compressor stations: additional safety equipment.

(a) Each compressor station must have adequate fire protection facilities. If fire pumps are a part of these facilities, their operation may not be affected by the emergency shutdown system.

(b) Each compressor station prime mover, other than an electrical induction or synchronous motor, must have an automatic device to shut down the unit before the speed of either the prime mover or the driven unit exceeds a maximum safe speed.

(c) Each compressor unit in a compressor station must have a shutdown or alarm device that operates in the event of inadequate cooling or lubrication of the unit.

(d) Each compressor station gas engine that operates with pressure gas injection must be equipped so that stoppage of the engine automatically shuts off the fuel and vents the engine distribution manifold.

(e) Each muffler for a gas engine in a compressor station must have vent slots or holes in the baffles of each compartment to prevent gas from being trapped in the muffler.

§ 192.173 Compressor stations: ventilation.

Each compressor station building must be ventilated to ensure that employees are not endangered by the accumulation of gas in rooms, sumps, attics, pits, or other enclosed places.

§ 192.175 Pipe-type and bottle-type holders.

(a) Each pipe-type and bottle-type holder must be designed so as to prevent the accumulation of liquids in the holder, in connecting pipe, or in auxiliary equipment, that might cause corrosion or interfere with the safe operation of the holder.

(b) Each pipe-type or bottle-type holder must have minimum clearance from other holders in accordance with the following formula:

$$C = \frac{3D \times P \times F}{1,000}$$

in which:

C=Minimum clearance between pipe containers or bottles in inches.

D=Outside diameter of pipe containers or bottles in inches.

P=Maximum allowable operating pressure, p.s.i.g.

F=Design factor as set forth in § 192.111 of this part.

§ 192.177 Additional provisions for bottle-type holders.

(a) Each bottle-type holder must be—
(1) Located on a storage site entirely surrounded by fencing that prevents access by unauthorized persons and with minimum clearance from the fence as follows:

Maximum allowable operating pressure	Minimum clearance (feet)
Less than 1,000 p.s.i.g.	25
1,000 p.s.i.g. or more	100

(2) Designed using the design factors set forth in § 192.111; and

(3) Buried with a minimum cover in accordance with § 192.327.

(b) Each bottle-type holder manufactured from steel that is not weldable under field conditions must comply with the following:

(1) A bottle-type holder made from alloy steel must meet the chemical and tensile requirements for the various grades of steel in either API Standard 5A or ASTM A 372.

(2) The actual yield-tensile ratio of the steel may not exceed 0.85.

(3) Welding may not be performed on the holder after it has been heat treated or stress relieved, except that copper wires may be attached to the small diameter portion of the bottle end closure for cathodic protection if a localized thermit welding process is used.

(4) The holder must be given a mill hydrostatic test at a pressure that produces a hoop stress at least equal to 85 percent of the SMYS.

(5) The holder, connection pipe, and components must be leak tested after installation as required by Subpart J of this part.

§ 192.179 Transmission line valves.

(a) Each transmission line, other than offshore segments, must have sectionalizing block valves spaced as follows:

(1) Each point on the pipeline in a Class 4 location must be within 2½ miles of a valve.

(2) Each point on the pipeline in a Class 3 location must be within 4 miles of a valve.

(3) Each point on the pipeline in a Class 2 location must be within 7½ miles of a valve.

(4) Each point on the pipeline in a Class 1 location must be within 10 miles of a valve.

(b) Each sectionalizing block valve on a transmission line, other than offshore segments, must comply with the following:

(1) The valve and the operating device to open or close the valve must be readily accessible and protected from tampering and damage.

(2) The valve must be supported to prevent settling of the valve or movement of the pipe to which it is attached.

(c) Each section of a transmission line, other than offshore segments, between main line valves must have a blowdown valve with enough capacity to allow the transmission line to be blown down as rapidly as practicable. Each blowdown discharge must be located so the gas can be blown to the atmosphere without hazard and, if the transmission line is adjacent to an overhead electric line, so that the gas is directed away from the electrical conductors.

§ 192.181 Distribution line valves.

(a) Each high-pressure distribution system must have valves spaced so as to reduce the time to shut down a section of main in an emergency. The valve spacing is determined by the operating pres-

sure, the size of the mains, and the local physical conditions.

(b) Each regulator station controlling the flow or pressure of gas in a distribution system must have a valve installed on the inlet piping at a distance from the regulator station sufficient to permit the operation of the valve during an emergency that might preclude access to the station.

(c) Each valve on a main installed for operating or emergency purposes must comply with the following:

(1) The valve must be placed in a readily accessible location so as to facilitate its operation in an emergency.

(2) The operating stem or mechanism must be readily accessible.

(3) If the valve is installed in a buried box or enclosure, the box or enclosure must be installed so as to avoid transmitting external loads to the main.

§ 192.183 Vaults: structural design requirements.

(a) Each underground vault or pit for valves, pressure relieving, pressure limiting, or pressure regulating stations, must be able to meet the loads which may be imposed upon it, and to protect installed equipment.

(b) There must be enough working space so that all of the equipment required in the vault or pit can be properly installed, operated, and maintained.

(c) Each pipe entering, or within, a regulator vault or pit must be steel for sizes 10 inches, and less, except that control and gage piping may be copper. Where pipe extends through the vault or pit structure, provision must be made to prevent the passage of gasses or liquids through the opening and to avert strains in the pipe.

§ 192.185 Vaults: accessibility.

Each vault must be located in an accessible location and, so far as practical, away from—

(a) Street intersections or points where traffic is heavy or dense;

(b) Points of minimum elevation, catch basins, or places where the access cover will be in the course of surface waters; and

(c) Water, electric, steam, or other facilities.

§ 192.187 Vaults: sealing, venting, and ventilation.

Each underground vault or closed top pit containing either a pressure regulating or reducing station, or a pressure limiting or relieving station, must be sealed, vented or ventilated, as follows:

(a) When the internal volume exceeds 200 cubic feet—

(1) The vault or pit must be ventilated with two ducts, each having at least the ventilating effect of a pipe 4 inches in diameter;

(2) The ventilation must be enough to minimize the formation of combustible atmosphere in the vault or pit; and

(3) The ducts must be high enough above grade to disperse any gas-air mixtures that might be discharged.

(b) When the internal volume is more than 75 cubic feet but less than 200 cubic feet—

(1) If the vault or pit is sealed, each opening must have a tight fitting cover without open holes through which an explosive mixture might be ignited, and there must be a means for testing the internal atmosphere before removing the cover;

(2) If the vault or pit is vented, there must be a means of preventing external sources of ignition from reaching the vault atmosphere; or

(3) If the vault or pit is ventilated, paragraph (a) or (c) of this section applies.

(c) If a vault or pit covered by paragraph (b) of this section is ventilated by openings in the covers or gratings and the ratio of the internal volume, in cubic feet, to the effective ventilating area of the cover or grating, in square feet, is less than 20 to 1, no additional ventilation is required.

§ 192.189 Vaults: drainage and waterproofing.

(a) Each vault must be designed so as to minimize the entrance of water.

(b) A vault containing gas piping may not be connected by means of a drain connection to any other underground structure.

(c) All electrical equipment in vaults must conform to the applicable requirements of Class 1, Group D, of the National Electrical Code, ANSI Standard C1.

§ 192.191 Design pressure of plastic fittings.

(a) Thermosetting fittings for plastic pipe must conform to ASTM D 2517.

(b) The design pressure of alpha-buna-styrene (ABS) and polyvinyl chloride (PVC) Schedule 40 and 80 thermoplastic fittings must be obtained from the following table:

DESIGN PRESSURE OF THERMOPLASTIC FITTINGS, P.S.I.G. OF VARIOUS STRENGTHS, MATERIALS AND CLASS LOCATIONS

Size inches	Schedule	ABS Type I and PVC Type II class location				PVC Type I class location			
		1	2 and 3	4		1	2 and 3	4	
1/4	40	100	100	100	100	100	100	100	
	80	100	100	100	100	100	100	100	
3/8	40	100	100	96	100	100	100	100	
	80	100	100	100	100	100	100	100	
1/2	40	100	100	90	100	100	100	100	
	80	100	100	100	100	100	100	100	
3/4	40	100	92	74	100	100	100	100	
	80	100	100	100	100	100	100	100	
1 1/4	40	100	83	66	100	100	100	100	
	80	100	100	94	100	100	100	100	
2	40	89	69	55	100	100	100	100	
	80	100	100	81	100	100	100	100	
2 1/2	40	99	78	61	100	100	100	100	
	80	100	100	85	100	100	100	100	
3	40	84	66	53	100	100	100	100	
	80	100	94	75	100	100	100	100	
3 1/2	40	77	60	48	100	100	96	100	
	80	100	86	69	100	100	100	100	
4	40	71	56	44	100	100	89	100	
	80	100	81	65	100	100	100	100	
5	40	62	49	39	100	97	78	100	
	80	93	72	58	100	100	100	100	
6	40	56	44	35	100	88	71	100	
	80	89	70	56	100	100	100	100	

NOTE: These pressure ratings are the same value as the design pressure of the corresponding pipe size and schedule in the same class location, as determined by the formula given in § 192.121 and the limitations in § 192.123 of this part.

§ 192.193 Valve installation in plastic pipe.

Each valve installed in plastic pipe must be designed so as to protect the plastic material against excessive torsional or shearing loads when the valve or shutoff is operated, and from any other secondary stresses that might be exerted through the valve or its enclosure.

§ 192.195 Protection against accidental overpressuring.

(a) *General requirements.* Except as provided in § 192.197, each pipeline that is connected to a gas source so that the maximum allowable operating pressure could be exceeded as the result of pressure control failure or of some other type of failure, must have pressure relieving or pressure limiting devices that meet the requirements of §§ 192.199 and 192.201.

(b) *Additional requirements for distribution systems.* Each distribution system that is supplied from a source of gas that is at a higher pressure than the maximum allowable operating pressure for the system must—

(1) Have pressure regulation devices capable of meeting the pressure, load, and other service conditions that will be experienced in normal operation of the system, and that could be activated in the event of failure of some portion of the system; and

(2) Be designed so as to prevent accidental overpressuring.

§ 192.197 Control of the pressure of gas delivered from high-pressure distribution systems.

(a) If the maximum actual operating pressure of the distribution system is under 60 p.s.i.g. or less and a service regulator having the following characteristics is used, no other pressure limiting device is required:

(1) A regulator capable of reducing distribution line pressure to pressures recommended for household appliances.

(2) A single port valve with proper orifice for the maximum gas pressure at the regulator inlet.

(3) A valve seat made of resilient material designed to withstand abrasion of the gas, impurities in gas, cutting by the valve, and to resist permanent deformation when it is pressed against the valve port.

(4) Pipe connections to the regulator not exceeding 2 inches in diameter.

(5) A regulator that, under normal operating conditions, is able to regulate the downstream pressure within the necessary limits of accuracy and to limit the build-up of pressure under no-flow conditions to prevent a pressure that would cause the unsafe operation of any connected and properly adjusted gas utilization equipment.

(6) A self-contained service regulator with no external static or control lines.

(b) If the maximum actual operating pressure of the distribution system is 60 p.s.i.g. or less, and a service regulator that does not have all of the characteristics listed in paragraph (a) of this

section is used, or if the gas contains materials that seriously interfere with the operation of service regulators, there must be suitable protective devices to prevent unsafe overpressuring of the customer's appliances if the service regulator fails.

(c) If the maximum actual operating pressure of the distribution system exceeds 60 p.s.i.g., one of the following methods must be used to regulate and limit, to the maximum safe value, the pressure of gas delivered to the customer:

(1) A service regulator having the characteristics listed in paragraph (a) of this section, and another regulator located upstream from the service regulator. The upstream regulator may not be set to maintain a pressure higher than 60 p.s.i.g. A device must be installed between the upstream regulator and the service regulator to limit the pressure on the inlet of the service regulator to 60 p.s.i.g. or less in case the upstream regulator fails to function properly. This device may be either a relief valve or an automatic shutoff that shuts, if the pressure on the inlet of the service regulator exceeds the set pressure (60 p.s.i.g. or less), and remains closed until manually reset.

(2) A service regulator and a monitoring regulator set to limit, to a maximum safe value, the pressure of the gas delivered to the customer.

(3) A service regulator with a relief valve vented to the outside atmosphere, with the relief valve set to open so that the pressure of gas going to the customer does not exceed a maximum safe value. The relief valve may either be built into the service regulator or it may be a separate unit installed downstream from the service regulator. This combination may be used alone only in those cases where the inlet pressure on the service regulator does not exceed the manufacturer's safe working pressure rating of the service regulator, and may not be used where the inlet pressure on the service regulator exceeds 125 p.s.i.g. For higher inlet pressures, the methods in subparagraph (1) or (2) of this paragraph must be used.

(4) A service regulator and an automatic shutoff device that closes upon a rise in pressure downstream from the regulator and remains closed until manually reset.

§ 192.199 Requirements for design of pressure relief and limiting devices.

Each pressure relief or pressure limiting device must—

(a) Be constructed of materials such that the operation of the device will not be impaired by corrosion;

(b) Have valves and valve seats that are designed not to stick in a position that will make the device inoperative;

(c) Be designed and installed so that it can be readily operated to determine if the valve is free, can be tested to determine the pressure at which it will operate, and can be tested for leakage when in the closed position;

(d) Have support made of noncombustible material;

(e) Have discharge stacks, vents, or outlet ports designed to prevent accumulation of water, ice, or snow, located where gas can be discharged into the atmosphere without undue hazard;

(f) Be designed and installed so that the size of the openings, pipe, and fittings located between the system to be protected and the pressure relieving device, and the size of the vent line, are adequate to prevent hammering of the valve and to prevent impairment of relief capacity;

(g) Where installed at a district regulator station to protect a pipeline system from overpressuring, be designed and installed to prevent any single incident such as an explosion in a vault or damage by a vehicle from affecting the operation of both the overpressure protective device and the district regulator; and

(h) Except for a valve that will isolate the system under protection from its source of pressure, be designed to prevent unauthorized operation of any stop valve that will make the pressure relief valve or pressure limiting device inoperative.

§ 192.201 Required capacity of pressure relieving and limiting stations.

(a) Each pressure relief station or pressure limiting station or group of those stations installed to protect a pipeline must have enough capacity, and must be set to operate, to prevent—

(1) The pressure from exceeding the maximum allowable operating pressure plus 10 percent or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower; or

(2) In a low-pressure distribution system, a pressure that would cause the unsafe operation of any connected and properly adjusted gas utilization equipment.

(b) When more than one pressure regulating or compressor station feeds into a pipeline, relief valves or other protective devices must be installed at each station to ensure that the complete failure of the largest capacity regulator or compressor, or any single run of lesser capacity regulators or compressors in that station, will not impose pressures on any part of the pipeline or distribution system in excess of those for which it was designed, or against which it was protected, whichever is lower.

(c) Relief valves or other pressure limiting devices must be installed at or near each regulator station in a low-pressure distribution system, with a capacity to limit the maximum pressure in the main to a pressure that will not exceed the safe operating pressure for any connected and properly adjusted gas utilization equipment.

§ 192.203 Instrument, control, and sampling pipe and components.

(a) *Applicability.* This section applies to the design of instrument, control, and sampling pipe and components. It does not apply to permanently closed systems, such as fluid-filled temperature-responsive devices.

(b) *Materials and design.* All materials employed for pipe and components must be designed to meet the particular conditions of service and the following:

(1) Each takeoff connection and attaching boss, fitting, or adapter must be made of suitable material, be able to withstand the maximum service pressure and temperature of the pipe or equipment to which it is attached, and be designed to satisfactorily withstand all stresses without failure by fatigue.

(2) A shutoff valve must be installed in each takeoff line as near as practicable to the point of takeoff. Blowdown valves must be installed where necessary.

(3) Brass or copper material may not be used for metal temperatures greater than 400° F.

(4) Pipe or components that may contain liquids must be protected by heating or other means from damage due to freezing.

(5) Pipe or components in which liquids may accumulate must have drains or drips.

(6) Pipe or components subject to clogging from solids or deposits must have suitable connections for cleaning.

(7) The arrangement of pipe, components, and supports must provide safety under anticipated operating stresses.

(8) Each joint between sections of pipe, and between pipe and valves or fittings, must be made in a manner suitable for the anticipated pressure and temperature condition. Slip type expansion joints may not be used. Expansion must be allowed for by providing flexibility within the system itself.

(9) Each control line must be protected from anticipated causes of damage and must be designed and installed to prevent damage to any one control line from making both the regulator and the over-pressure protective device inoperative.

Subpart E—Welding of Steel in Pipelines

§ 192.221 Scope.

(a) This subpart prescribes minimum requirements for welding steel materials in pipelines.

(b) This subpart does not apply to welding that occurs during the manufacture of steel pipe or steel pipeline components.

§ 192.223 General.

(a) Welding must be performed in accordance with established written welding procedures that have been qualified under § 192.225 to produce sound, ductile welds.

(b) Welding must be performed by welders who are qualified under §§ 192.227 and 192.229 for the welding procedure to be used.

§ 192.225 Qualification of welding procedures.

(a) Each welding procedure must be qualified under either section IX of the ASME Boiler and Pressure Vessel Code or section 2 of API Standard 1104,

whichever is appropriate to the function of the weld.

(b) When a welding procedure is being qualified under section IX of the ASME Boiler and Pressure Vessel Code, the following steels are considered to fall within the P-Number 1 grouping for the purpose of the essential variables and do not require separate qualification of welding procedures:

(1) Carbon steels that have a carbon content of 0.32 percent (ladle analysis) or less.

(2) Carbon steels that have a carbon equivalent ($C + \frac{1}{4} Mn$) of 0.65 percent (ladle analysis) or less.

(3) Alloy steels with weldability characteristics that have been shown to be similar to the carbon steels listed in subparagraphs (1) and (2) of this paragraph.

Alloy steels and carbon steels that are not covered by subparagraph (1), (2), or (3) of this paragraph require separate qualification of procedures for each individual pipe specification in accordance with sections VIII and IX of the ASME Boiler and Pressure Vessel Code.

(c) Each welding procedure must be recorded in detail during the qualifying tests. This record must be retained and followed whenever the procedure is used.

§ 192.227 Qualification of welders.

(a) Except as provided in paragraph (c) of this section, each welder must be qualified in accordance with one of the following:

(1) Section IX of the ASME Boiler and Pressure Vessel Code.

(2) Section 3 of API Standard 1104.

(b) When a welder is being qualified under section IX of the ASME Boiler and Pressure Vessel Code, the following steels are considered to fall within the P-Number 1 grouping for the purpose of the essential variables and do not require separate qualification:

(1) Carbon steels that have a carbon content of 0.32 percent (ladle analysis) or less.

(2) Carbon steels that have a carbon equivalent ($C + \frac{1}{4} Mn$) of 0.65 percent (ladle analysis) or less.

(3) Alloy steels with weldability characteristics that have been shown to be similar to the carbon steels listed in subparagraphs (1) and (2) of this paragraph.

Alloy steels and carbon steels that are not covered by subparagraph (1), (2), or (3) of this paragraph require separate qualification of welders for each individual pipe specification in accordance with sections VIII and IX of the ASME Boiler and Pressure Vessel Code.

(c) A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS by performing an acceptable test weld, for the process to be used, under the test set forth in section I of Appendix C to this part. A welder who makes welded service line connections to mains must also perform an acceptable test weld under section II of Appendix C to this part as a part of

his qualifying test. After initial qualification, a welder may not perform welding unless—

(1) Within the preceding 12 calendar months, he has requalified; or

(2) Within the preceding 6 calendar months he has had—

(i) A production weld cut out, tested and found acceptable in accordance with the qualifying test; or

(ii) For welders who work only on service lines 2 inches or smaller in diameter, two sample welds tested and found acceptable in accordance with the test in section III of Appendix C to this part.

§ 192.229 Limitations on welders.

(a) No welder whose qualification is based on nondestructive testing may weld compressor station pipe and components.

(b) No welder may weld with a particular welding process unless, within the preceding 6 calendar months, he has engaged in welding with that process.

(c) No welder who is qualified under § 192.227(a) may weld unless, within the preceding 6 calendar months, he has had at least one weld tested and found acceptable under either section 3 or 6 of API Standards 1104.

§ 192.231 Protection from weather.

The welding operation must be protected from weather conditions that would impair the quality of the completed weld.

§ 192.233 Miter joints.

(a) A miter joint on steel pipe to be operated at a pressure that produces a hoop stress of 30 percent or more of SMYS may not deflect the pipe more than 3°.

(b) A miter joint on steel pipe to be operated at a pressure that produces a hoop stress of less than 30 percent, but more than 10 percent, of SMYS may not deflect the pipe more than 12½° and must be a distance equal to one pipe diameter or more away from any other miter joint, as measured from the crotch of each joint.

(c) A miter joint on steel pipe to be operated at a pressure that produces a hoop stress of 10 percent or less of SMYS may not deflect the pipe more than 90°.

§ 192.235 Preparation for welding.

Before beginning any welding, the welding surfaces must be clean and free of any material that may be detrimental to the weld, and the pipe or component must be aligned to provide the most favorable condition for depositing the root bead. This alignment must be preserved while the root bead is being deposited.

§ 192.237 Preheating.

(a) Carbon steel that has a carbon content in excess of 0.32 percent (ladle analysis) or a carbon equivalent ($C + \frac{1}{4} Mn$) in excess of 0.65 percent (ladle analysis) must be preheated for welding.

(b) Carbon steel that has a lower carbon content or carbon equivalent than the steels covered by paragraph (a) of this section must be preheated for welding when preheating will alleviate exist-

ing conditions that would limit the welding technique or tend to adversely affect the quality of the weld.

(c) When steel materials with different preheat temperatures are being preheated for welding, the higher temperature must be used.

(d) Preheat temperature must be monitored to ensure that the required preheat temperature is reached before, and maintained during, the welding operation.

§ 192.239 Stress relieving.

(a) Except as provided in paragraph (f) of this section, each weld on carbon steel that has a carbon content in excess of 0.32 percent (ladle analysis) or a carbon equivalent ($C + \frac{1}{4} Mn$) in excess of 0.65 percent (ladle analysis) must be stress relieved as prescribed in section VIII of the ASME Boiler and Pressure Vessel Code.

(b) Except as provided in paragraph (f) of this section, each weld on carbon steel that has a carbon content of less than 0.32 percent (ladle analysis) or a carbon equivalent ($C + \frac{1}{4} Mn$) of less than 0.65 percent (ladle analysis) must be thermally stress relieved when conditions exist which cool the weld at a rate detrimental to the quality of the weld.

(c) Except as provided in paragraph (f) of this section, each weld on carbon steel pipe with a wall thickness of more than 1¼ inches must be stress relieved.

(d) When a weld connects pipe or components that are of different thickness, the wall thickness to be used in determining whether stress relieving is required under this section is—

(1) In the case of pipe connections, the thicker of the two pipes joined; or

(2) In the case of branch connections, slip-on flanges, or socket weld fittings, the thickness of the pipe run or header.

(e) Each weld of different materials must be stress relieved, if either material requires stress relieving under this section.

(f) Notwithstanding paragraphs (a), (b), and (c) of this section, stress relieving is not required for the following:

(1) A fillet or groove weld one-half inch, or less, in size (leg) that attaches a connection 2 inches, or less, in diameter; or

(2) A fillet or groove weld three-eighths inch, or less, in groove size that attaches a supporting member or other nonpressure attachment.

(g) Stress relieving required by this section must be performed at a temperature of at least 1,100° F. for carbon steels and at least 1,200° F. for ferritic alloy steels. When stress relieving a weld between steel materials with different stress relieving temperatures, the higher temperature must be used.

(h) When stress relieving, the temperature must be monitored to ensure that a uniform temperature is maintained and that the proper stress relieving cycle is accomplished.

§ 192.241 Inspection and test of welds.

(a) Visual inspection of welding must be conducted to insure that—

(1) The welding is performed in accordance with the welding procedure; and

(2) The weld is acceptable under paragraph (c) of this section.

(b) The welds on a pipeline to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS must be nondestructively tested in accordance with § 192.243, except that welds that are visually inspected and approved by a qualified welding inspector need not be nondestructively tested if—

(1) The pipe has a nominal diameter of less than 6 inches; or

(2) The pipeline is to be operated at a pressure that produces a hoop stress of less than 40 percent of SMYS and the welds are so limited in number that nondestructive testing is impractical.

(c) The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in section 6 of API Standard 1104.

§ 192.243 Nondestructive testing.

(a) Nondestructive testing of welds must be performed by any process, other than trepanning, that will clearly indicate defects that may affect the integrity of the weld.

(b) Nondestructive testing of welds must be performed—

(1) In accordance with written procedures; and

(2) By persons who have been trained and qualified in the established procedures and with the equipment employed in testing.

(c) Procedures must be established for the proper interpretation of each nondestructive test of a weld to ensure the acceptability of the weld under § 192.241(c).

(d) When nondestructive testing is required under § 192.241(b), the following percentages of each day's field butt welds, selected at random by the operator, must be nondestructively tested over their entire circumference:

(1) In Class 1 locations, at least 10 percent.

(2) In Class 2 locations, at least 15 percent.

(3) In Classes 3 and 4 locations and at crossings of major or navigable rivers, 100 percent if practicable, but not less than 90 percent.

(4) Within railroad or public highway rights-of-way, including tunnels, bridges and overhead road crossings, and at pipeline tie-ins, 100 percent.

(e) Except for a welder whose work is isolated from the principal welding activity, a sample of each welder's work for each day must be nondestructively tested, when nondestructive testing is required under § 192.241(b).

(f) When nondestructive testing is required under § 192.241(b), each operator must retain, for the life of the pipeline, a record showing by milepost, engineering station, or by geographic feature, the number of girth welds made, the number nondestructively tested, the number rejected, and the disposition of the rejects.

§ 192.245 Repair or removal of defects.

(a) Each weld that is unacceptable under § 192.241(c) must be removed or repaired. A weld must be removed if it has a crack that is more than 2 inches long or that penetrates either the root or second bead.

(b) Each weld that is repaired must have the defect removed down to clean metal and the segment to be repaired must be preheated. After repair, the segment of the weld that was repaired must be inspected to insure its acceptability. If the repair is not acceptable, the weld must be removed.

Subpart F—Joining of Materials Other Than by Welding

§ 192.271 Scope.

(a) This subpart prescribes minimum requirements for joining materials in pipelines, other than by welding.

(b) This subpart does not apply to joining during the manufacture of pipe or pipeline components.

§ 192.273 General.

(a) The pipeline must be designed and installed so that each joint will sustain the longitudinal pullout or thrust forces caused by contraction or expansion of the piping or by anticipated external or internal loading.

(b) Each joint must be made in accordance with written procedures that have been proven by test or experience to produce strong gastight joints.

(c) Each joint must be inspected to insure compliance with this subpart.

§ 192.275 Cast iron pipe.

(a) Each caulked bell and spigot joint in cast iron pipe must be sealed with mechanical leak clamps.

(b) Each mechanical joint in cast iron pipe must have a gasket made of a resilient material as the sealing medium. Each gasket must be suitably confined and retained under compression by a separate gland or follower ring.

(c) Cast iron pipe may not be joined by threaded joints.

(d) Cast iron pipe may not be joined by brazing.

(e) Each flange on a flanged joint in cast iron pipe must conform in dimensions and drilling to ANSI Standard B16.1 and be cast integrally with the pipe, valve, or fitting.

§ 192.277 Ductile iron pipe.

(a) Each mechanical joint in ductile iron pipe must conform to ANSI Standard A21.52 and ANSI Standard A21.11.

(b) Ductile iron pipe may not be joined by threaded joints.

(c) Ductile iron pipe may not be joined by brazing.

§ 192.279 Copper pipe.

Copper pipe may not be threaded, except that copper pipe used for joining screw fittings or valves may be threaded if the wall thickness is equivalent to the comparable size of standard wall pipe, as defined in ANSI Standard B36.10.

§ 192.281 Plastic pipe.

(a) *General.* Each plastic pipe joint must be made in accordance with written procedures that have been proven by destructive burst test to produce joints at least as strong as the pipe being joined. A plastic pipe joint that is joined by solvent cement, adhesive, or heat fusion may not be disturbed until it has properly set. Plastic pipe may not be joined by a threaded joint or miter joint.

(b) *Solvent cement joints.* Each solvent cement joint on plastic pipe must comply with the following:

(1) The mating surfaces of the joint must be clean, dry, and free of material which might be detrimental to the joint.

(2) The solvent cement must conform to ASTM Specification D 2513.

(3) The safety requirements of Appendix A of ASTM Specification D 2513 must be met.

(4) The joint may not be heated to accelerate the setting of the cement.

(c) *Heat-fusion joints.* Each heat-fusion joint on plastic pipe must comply with the following:

(1) A butt heat-fusion joint must be joined by a device that holds the heater element square to the ends of the piping, compresses the heated ends together, and holds the pipe in proper alignment while the plastic hardens.

(2) A socket heat-fusion joint must be joined by a device that heats the mating surfaces of the joint uniformly and simultaneously to essentially the same temperature.

(3) Heat may not be applied with a torch or other open flame.

(d) *Adhesive joints.* Each adhesive joint on plastic pipe must comply with the following:

(1) The adhesive must conform to ASTM Specification D 2517.

(2) The materials and adhesive must be compatible with each other.

(e) *Mechanical joints.* Each compression type mechanical joint on plastic pipe must comply with the following:

(1) The gasket material in the coupling must be compatible with the plastic.

(2) A rigid internal tubular stiffener, other than a split tubular stiffener, must be used in conjunction with the coupling.

Subpart G—General Construction Requirements for Transmission Lines and Mains

§ 192.301 Scope.

This subpart prescribes minimum requirements for constructing transmission lines and mains.

§ 192.303 Compliance with specifications or standards.

Each transmission line or main must be constructed in accordance with comprehensive written specifications or standards that are consistent with this part.

§ 192.305 Inspection: general.

Each transmission line or main must be inspected to ensure that it is constructed in accordance with this part.

§ 192.307 Inspection of materials.

Each length of pipe and each other component must be visually inspected at the site of installation to ensure that it has not sustained any visually determinable damage that could impair its serviceability.

§ 192.309 Repair of steel pipe.

(a) Each imperfection or damage that impairs the serviceability of a length of steel pipe must be repaired or removed. If a repair is made by grinding, the remaining wall thickness must at least be equal to either:

(1) The minimum thickness required by the tolerances in the specification to which the pipe was manufactured; or

(2) The nominal wall thickness required for the design pressure of the pipeline.

(b) Each of the following dents must be removed from steel pipe to be operated at a pressure that produces a hoop stress of 20 percent, or more, of SMYS:

(1) A dent that contains a stress concentrator such as a scratch, gouge, groove, or arc burn.

(2) A dent that affects the longitudinal weld or a circumferential weld.

(3) In pipe to be operated at a pressure that produces a hoop stress of 40 percent or more of SMYS, a dent that has a depth of—

(i) More than one-quarter inch in pipe 12¾ inches or less in outer diameter; or

(ii) More than 20 percent of the nominal pipe diameter in pipe over 12¾ inches in outer diameter.

For the purpose of this section a "dent" is a depression that produces a gross disturbance in the curvature of the pipe wall without reducing the pipe-wall thickness. The depth of a dent is measured as the gap between the lowest point of the dent and a prolongation of the original contour of the pipe.

(c) Each arc burn on steel pipe to be operated at a pressure that produces a hoop stress of 40 percent, or more, of SMYS must be repaired or removed. If a repair is made by grinding, the arc burn must be completely removed and the remaining wall thickness must be at least equal to either:

(1) The minimum wall thickness required by the tolerances in the specification to which the pipe was manufactured; or

(2) The nominal wall thickness required for the design pressure of the pipeline.

(d) A gouge, groove, arc burn, or dent may not be repaired by insert patching or by pounding out.

(e) Each gouge, groove, arc burn, or dent that is removed from a length of pipe must be removed by cutting out the damaged portion as a cylinder.

§ 192.311 Repair of plastic pipe.

Each imperfection or damage that would impair the serviceability of plastic pipe must be repaired by a patching saddle or removed.

§ 192.313 Bends and elbows.

(a) Each field bend in steel pipe, other than a wrinkle bend made in accordance with § 192.315, must comply with the following:

(1) A bend may not impair the serviceability of the pipe.

(2) On pipe containing a longitudinal weld, the longitudinal seam must be as near as practicable to the neutral axis of the bend.

(3) A bend on pipe that is 12 inches, or more, in nominal diameter must not deflect the pipe more than $1\frac{1}{2}^\circ$ in any length of pipe equal to the diameter.

(4) For pipe more than 4 inches in nominal diameter, the difference between the maximum and minimum diameter at a bend may not be more than $2\frac{1}{2}$ percent of the nominal diameter.

(b) Each circumferential weld of steel pipe that is subjected to stress during bending must be nondestructively tested.

(c) Wrought-steel welding elbows and transverse segments of these elbows may not be used for changes in direction on steel pipe that is 2 inches or more in diameter unless the arc length, as measured along the crotch, is at least 1 inch.

(d) Each bend, other than a wrinkle bend made in accordance with § 192.315, must have a smooth contour and be free of mechanical damage.

§ 192.315 Wrinkle bends in steel pipe.

(a) A wrinkle bend may not be made on steel pipe to be operated at a pressure that produces a hoop stress of 30 percent, or more, of SMYS.

(b) Each wrinkle bend on steel pipe must comply with the following:

(1) The bend must not have any sharp kinks.

(2) When measured along the crotch of the bend, the wrinkles must be a distance of at least one pipe diameter.

(3) On pipe 16 inches or larger in diameter, the bend may not have a deflection of more than $1\frac{1}{2}^\circ$ for each wrinkle.

(4) On pipe containing a longitudinal weld the longitudinal seam must be as near as practicable to the neutral axis of the bend.

§ 192.317 Protection from hazards.

(a) Each transmission line or main must be protected from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipe to move or to sustain abnormal loads.

(b) Each transmission line or main that is constructed above ground must be protected from accidental damage by vehicular traffic or other similar causes, either by being placed at a safe distance from the traffic or by installing barricades.

§ 192.319 Installation of pipe in a ditch.

(a) When installed in a ditch, each transmission line that is to be operated at a pressure producing a hoop stress of 20 percent or more of SMYS must be installed so that the pipe fits the ditch so as to minimize stresses and protect the pipe coating from damage.

(b) Each ditch for a transmission line or main must be backfilled in a manner that—

(1) Provides firm support under the pipe; and

(2) Prevents damage to the pipe and pipe coating from equipment or from the backfill material.

§ 192.321 Installation of plastic pipe.

(a) Plastic pipe must be installed below ground level.

(b) Plastic pipe that is installed in a vault or any other below grade enclosure must be completely encased in gas-tight metal pipe and fittings that are adequately protected from corrosion.

(c) Plastic pipe must be installed so as to minimize shear or tensile stresses.

(d) Thermoplastic pipe that is not encased must have a minimum wall thickness of 0.090 inches, except that pipe with an outside diameter of 0.875 inches or less may have a minimum wall thickness of 0.062 inches.

(e) Plastic pipe that is not encased must have an electrically conductive wire or other means of locating the pipe while it is underground.

(f) Plastic pipe that is being encased must be inserted into the casing pipe in a manner that will protect the plastic. The leading end of the plastic must be closed before insertion.

§ 192.323 Casing.

Each casing used on a transmission line or main under a railroad or highway must comply with the following:

(a) The casing must be designed to withstand the superimposed loads.

(b) If there is a possibility of water entering the casing, the ends must be sealed.

(c) If the ends of an unvented casing are sealed and the sealing is strong enough to retain the maximum allowable operating pressure of the pipe, the casing must be designed to hold this pressure at a stress level of not more than 72 percent of SMYS.

(d) If vents are installed on a casing, the vents must be protected from the weather to prevent water from entering the casing.

§ 192.325 Underground clearance.

(a) Each transmission line must be installed with at least 12 inches of clearance from any other underground structure not associated with the transmission line. If this clearance cannot be attained, the transmission line must be protected from damage that might result from the proximity of the other structure.

(b) Each main must be installed with enough clearance from any other underground structure to allow proper maintenance and to protect against damage that might result from proximity to other structures.

(c) In addition to meeting the requirements of paragraph (a) or (b) of this section, each plastic transmission line or main must be installed with sufficient clearance, or must be insulated,

from any source of heat so as to prevent the heat from impairing the serviceability of the pipe.

(d) Each pipe-type or bottle-type holder must be installed with a minimum clearance from any other holder as prescribed in § 192.175(b).

§ 192.327 Cover.

(a) Except as provided in paragraph (c) of this section, each buried transmission line must be installed with a minimum cover as follows:

Location	Normal soil	Consolidated rock
	Inches	Inches
Class 1 locations.....	30	18
Class 2, 3, and 4 locations.....	36	24
Drainage ditches of public roads and railroad crossings.....	36	24

(b) Except as provided in paragraphs (c) and (d) of this section, each buried main must be installed with at least 24 inches of cover.

(c) Where an underground structure prevents the installation of a transmission line or main with the minimum cover, the transmission line or main may be installed with less cover if it is provided with additional protection to withstand anticipated external loads.

(d) A main may be installed with less than 24 inches of cover if the law of the State or municipality—

(1) Establishes a minimum cover of less than 24 inches;

(2) Requires that mains be installed in a common trench with other utility lines; and

(3) Provides adequately for prevention of damage to the pipe by external forces.

Subpart H—Customer Meters, Service Regulators, and Service Lines**§ 192.351 Scope.**

This subpart prescribes minimum requirements for installing customer meters, service regulators, service lines, service line valves, and service line connections to mains.

§ 192.353 Customer meters and regulators: location.

(a) Each meter and service regulator, whether inside or outside of a building, must be installed in a readily accessible location and be protected from corrosion and other damage. However, the upstream regulator in a series may be buried.

(b) Each service regulator installed within a building must be located as near as practical to the point of service line entrance.

(c) Each meter installed within a building must be located in a ventilated place and not less than 3 feet from any source of ignition or any source of heat which might damage the meter.

(d) Where feasible, the upstream regulator in a series must be located outside the building, unless it is located in a separate metering or regulating building.

§ 192.355 Customer meters and regulators: protection from damage.

(a) *Protection from vacuum or back pressure.* If the customer's equipment might create either a vacuum or a back pressure, a device must be installed to protect the system.

(b) *Service regulator vents and relief vents.* The outside terminal of each service regulator vent and relief vent must—

(1) Be rain and insect resistant;

(2) Be located at a place where gas from the vent can escape freely into the atmosphere and away from any opening into the building; and

(3) Be protected from damage caused by submergence in areas where flooding may occur.

(c) *Pits and vaults.* Each pit or vault that houses a customer meter or regulator at a place where vehicular traffic is anticipated, must be able to support that traffic.

§ 192.357 Customer meters and regulators: installation.

(a) Each meter and each regulator must be installed so as to minimize anticipated stresses upon the connecting piping and the meter.

(b) When close all-thread nipples are used, the wall thickness remaining after the threads are cut must meet the minimum wall thickness requirements of this part.

(c) Connections made of lead or other easily damaged material may not be used in the installation of meters or regulators.

(d) Each regulator that might release gas in its operation must be vented to the outside atmosphere.

§ 192.359 Customer meter installations: operating pressure.

(a) A meter may not be used at a pressure that is more than 67 percent of the manufacturer's shell test pressure.

(b) Each new meter must have been tested by the manufacturer to a minimum of 10 p.s.i.g.

(c) A rebuilt or repaired tinned steel case meter may not be used at a pressure that is more than 50 percent of the pressure used to test the meter after rebuilding or repairing.

§ 192.361 Service lines: installation.

(a) *Depth.* Each buried service line must be installed with at least 12 inches of cover in private property and at least 18 inches of cover in streets and roads. However, where an underground structure prevents installation at those depths, the service line must be able to withstand any anticipated external load.

(b) *Support and backfill.* Each service line must be properly supported on undisturbed or well-compacted soil, and material used for backfill must be free of materials that could damage the pipe or its coating.

(c) *Grading for drainage.* Where condensate in the gas might cause interruption in the gas supply to the customer, the service line must be graded so as to drain into the main or into drips at the low points in the service line.

(d) *Protection against piping strain and external loading.* Each service line

must be installed so as to minimize anticipated piping strain and external loading.

(e) *Installation of service lines into buildings.* Each underground service line installed below grade through the outer foundation wall of a building must—

(1) In the case of a metal service line, be protected against corrosion;

(2) In the case of a plastic service line, be protected from shearing action and backfill settlement; and

(3) Be sealed at the foundation wall to prevent leakage into the building.

(f) *Installation of service lines under buildings.* Where an underground service line is installed under a building—

(1) It must be encased in a gas-tight conduit;

(2) The conduit and the service line must, if the service line supplies the building it underlies, extend into a normally usable and accessible part of the building; and

(3) The space between the conduit and the service line must be sealed to prevent gas leakage into the building and, if the conduit is sealed at both ends, a vent line from the annular space must extend to a point where gas would not be a hazard, and extend above grade, terminating in a rain and insect resistant fitting.

§ 192.363 Service lines: valve requirements.

(a) Each service line must have a service-line valve that meets the applicable requirements of Subparts B and D of this part. A valve incorporated in a meter bar, that allows the meter to be bypassed, may not be used as a service-line valve.

(b) A soft seat service line valve may not be used if its ability to control the flow of gas could be adversely affected by exposure to anticipated heat.

(c) Each service-line valve on a high-pressure service line, installed above ground or in an area where the blowing of gas would be hazardous, must be designed and constructed to minimize the possibility of the removal of the core of the valve with other than specialized tools.

§ 192.365 Service lines: location of valves.

(a) *Relation to regulator or meter.* Each service-line valve must be installed upstream of the regulator or, if there is no regulator, upstream of the meter.

(b) *Outside valves.* Each service line must have a shut-off valve in a readily accessible location that, if feasible, is outside of the building.

(c) *Underground valves.* Each underground service-line valve must be located in a covered durable curb box or standpipe that allows ready operation of the valve and is supported independently of the service lines.

§ 192.367 Service lines: general requirements for connections to main piping.

(a) *Location.* Each service-line connection to a main must be located at the

top of the main or, if that is not practical, at the side of the main, unless a suitable protective device is installed to minimize the possibility of dust and moisture being carried from the main into the service line.

(b) *Compression-type connection to main.* Each compression-type service line to main connection must—

(1) Be designed and installed to effectively sustain the longitudinal pull-out or thrust forces caused by contraction or expansion of the piping, or by anticipated external or internal loading; and

(2) If gaskets are used in connecting the service line to the main connection fitting, have gaskets that are compatible with the kind of gas in the system.

§ 192.369 Service lines: connections to cast iron or ductile iron mains.

(a) Each service line connected to a cast iron or ductile iron main must be connected by a mechanical clamp, by drilling and tapping the main, or by another method meeting the requirements of § 192.273.

(b) If a threaded tap is being inserted, the requirements of § 192.151 (b) and (c) must also be met.

§ 192.371 Service lines: steel.

Each steel service line to be operated at less than 100 p.s.i.g. must be designed for a minimum of 100 p.s.i.g.

§ 192.373 Service lines: cast iron and ductile iron.

(a) Cast or ductile iron pipe less than 6 inches in diameter may not be installed for service lines.

(b) If cast iron pipe or ductile iron pipe is installed for use as a service line, the part of the service line which extends through the building wall must be of steel pipe.

(c) A cast iron or ductile iron service line may not be installed in unstable soil or under a building.

§ 192.375 Service lines: plastic.

(a) Each plastic service line outside a building must be installed below ground level, except that it may terminate above ground and outside the building, if—

(1) The above ground part of the plastic service line is protected against deterioration and external damage; and

(2) The plastic service line is not used to support external loads.

(b) Each plastic service line inside a building must be protected against external damage.

§ 192.377 Service lines: copper.

Each copper service line installed within a building must be protected against external damage.

Subpart I—[Reserved]

Subpart J—Test Requirements

§ 192.501 Scope.

This subpart prescribes minimum leak-test and strength-test requirements for pipelines.

§ 192.503 General requirements.

(a) No person may operate a new segment of pipeline, or return to service a

segment of pipeline that has been relocated or replaced, until—

(1) It has been tested in accordance with this subpart to substantiate the proposed maximum allowable operating pressure; and

(2) Each potentially hazardous leak has been located and eliminated.

(b) The test medium must be liquid, air, natural gas, or inert gas that is—

(1) Compatible with the material of which the pipeline is constructed;

(2) Relatively free of sedimentary materials; and

(3) Except for natural gas, nonflammable.

(c) Except as provided in § 192.505

(a), if air, natural gas, or inert gas is used as the test medium, the following maximum hoop stress limitations apply:

Maximum hoop stress allowed as percentage of SMYS

Class location	Natural gas	Air or inert gas
1.-----	80	80
2.-----	30	75
3.-----	30	50
4.-----	30	40

(d) Each weld used to tie-in a test segment of pipeline is excepted from the test requirements of this subpart.

§ 192.505 Strength test requirements for steel pipeline to operate at a hoop stress of 30 percent or more of SMYS.

(a) Except for service lines, each segment of a steel pipeline that is to operate at a hoop stress of 30 percent or more of SMYS must be strength tested in accordance with this section to substantiate the proposed maximum allowable operating pressure. In addition, in a Class 1 or Class 2 location, if there is a building intended for human occupancy within 300 feet of a pipeline, a hydrostatic test must be conducted to a test pressure of at least 125 percent of maximum operating pressure on that segment of the pipeline within 300 feet of such a building, but in no event may the test section be less than 600 feet unless the length of the newly installed or relocated pipe is less than 600 feet. However, if the buildings are evacuated while the hoop stress exceeds 50 percent of SMYS, air or inert gas may be used as the test medium.

(b) In a Class 1 or Class 2 location, each compressor station, regulator station, and measuring station, must be tested to at least Class 3 location test requirements.

(c) Except as provided in paragraph (e) of this section, the strength test must be conducted by maintaining the pressure at or above the test pressure for at least 8 hours.

(d) If a component other than pipe is the only item being replaced or added to a pipeline, a strength test after installation is not required, if the manufacturer of the component certifies that—

(1) The component was tested to at least the pressure required for the pipeline to which it is being added; or

(2) The component was manufactured under a quality control system that en-

sures that each item manufactured is at least equal in strength to a prototype and that the prototype was tested to at least the pressure required for the pipeline to which it is being added.

(e) For fabricated units and short sections of pipe, for which a post installation test is impractical, a preinstallation strength test must be conducted by maintaining the pressure at or above the test pressure for at least 4 hours.

§ 192.507 Test requirements for pipelines to operate at a hoop stress less than 30 percent of SMYS and above 100 p.s.i.g.

Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated at a hoop stress less than 30 percent of SMYS and above 100 p.s.i.g. must be tested in accordance with the following:

(a) The pipeline operator must use a test procedure that will ensure discovery of all potentially hazardous leaks in the segment being tested.

(b) If, during the test, the segment is to be stressed to 20 percent or more of SMYS and natural gas, inert gas, or air is the test medium—

(1) A leak test must be made at a pressure between 100 p.s.i.g. and the pressure required to produce a hoop stress of 20 percent of SMYS; or

(2) The line must be walked to check for leaks while the hoop stress is held at approximately 20 percent of SMYS.

(c) The pressure must be maintained at or above the test pressure for at least 1 hour.

§ 192.509 Test requirements for pipelines to operate at or below 100 p.s.i.g.

Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated at or below 100 p.s.i.g. must be leak tested in accordance with the following:

(a) The test procedure used must ensure discovery of all potentially hazardous leaks in the segment being tested.

(b) Each main that is to be operated at less than 1 p.s.i.g. must be tested to at least 10 p.s.i.g. and each main to be operated at or above 1 p.s.i.g. must be tested to at least 90 p.s.i.g.

§ 192.511 Test requirements for service lines.

(a) Each segment of a service line (other than plastic) must be leak tested in accordance with this section before being placed in service. If feasible, the service-line connection to the main must be included in the test; if not feasible, it must be given a leakage test at the operating pressure when placed in service.

(b) Each segment of a service line (other than plastic) intended to be operated at a pressure of at least 1 p.s.i.g. but not more than 40 p.s.i.g. must be given a leak test at a pressure of not less than 50 p.s.i.g.

(c) Each segment of a service line (other than plastic) intended to be operated at pressures of more than 40 p.s.i.g. must be tested to at least 90

p.s.i.g., except that each segment of a steel service line stressed to 20 percent or more of SMYS must be tested in accordance with § 192.507 of this subpart.

§ 192.513 Test requirements for plastic pipelines.

(a) Each segment of a plastic pipeline must be tested in accordance with this section.

(b) The test procedure must insure discovery of all potentially hazardous leaks in the segment being tested.

(c) The test pressure must be at least 150 percent of the maximum operating pressure or 50 p.s.i.g., whichever is greater. However, the maximum test pressure may not be more than three times the design pressure of the pipe.

(d) The temperature of thermoplastic material must not be more than 100° F. during the test.

§ 192.515 Environmental protection and safety requirements.

(a) In conducting tests under this subpart, each operator shall insure that every reasonable precaution is taken to protect its employees and the general public during the testing. Whenever the hoop stress of the segment of the pipeline being tested will exceed 50 percent of SMYS, the operator shall take all practicable steps to keep persons not working on the testing operation outside of the testing area until the pressure is reduced to or below the proposed maximum allowable operating pressure.

(b) The operator shall insure that the test medium is disposed of in a manner that will minimize damage to the environment.

§ 192.517 Records.

Each operator shall make, and retain for the useful life of the pipeline, a record of each test performed under §§ 192.505 and 192.507. The record must contain at least the following information:

(a) The operator's name, the name of the operator's employee responsible for making the test, and the name of any test company used.

(b) Test medium used.

(c) Test pressure.

(d) Test duration.

(e) Pressure recording charts, or other record of pressure readings.

(f) Elevation variations, whenever significant for the particular test.

(g) Leaks and failures noted and their disposition.

Subpart K—Uprating

§ 192.551 Scope.

This subpart prescribes minimum requirements for increasing maximum allowable operating pressures (uprating) for pipelines.

§ 192.553 General requirements.

(a) *Pressure increases.* Whenever the requirements of this subpart require that an increase in operating pressure be made in increments, the pressure must be increased gradually, at a rate that can be controlled, and in accordance with the following:

(1) At the end of each incremental increase, the pressure must be held constant while the entire segment of pipeline that is affected is checked for leaks.

(2) Each leak detected must be repaired before a further pressure increase is made, except that a leak determined not to be potentially hazardous need not be repaired, if it is monitored during the pressure increase and it does not become potentially hazardous.

(b) *Records.* Each operator who uprates a segment of pipeline shall retain for the life of the segment a record of each investigation required by this subpart, of all work performed, and of each pressure test conducted, in connection with the uprating.

(c) *Written plan.* Each operator who uprates a segment of pipeline shall establish a written procedure that will ensure that each applicable requirement of this subpart is complied with.

(d) *Limitation on increase in maximum allowable operating pressure.* Except as provided in § 192.555(c), a new maximum allowable operating pressure established under this subpart may not exceed the maximum that would be allowed under this part for a new segment of pipeline constructed of the same materials in the same location.

§ 192.555 Uprating to a pressure that will produce a hoop stress of 30 percent or more of SMYS in steel pipelines.

(a) Unless the requirements of this section have been met, no person may subject any segment of a steel pipeline to an operating pressure that will produce a hoop stress of 30 percent or more of SMYS and that is above the established maximum allowable operating pressure.

(b) Before increasing operating pressure above the previously established maximum allowable operating pressure the operator shall—

(1) Review the design, operating, and maintenance history and previous testing of the segment of pipeline and determine whether the proposed increase is safe and consistent with the requirements of this part; and

(2) Make any repairs, replacements, or alterations in the segment of pipeline that are necessary for safe operation at the increased pressure.

(c) After complying with paragraph (b) of this section, an operator may increase the maximum allowable operating pressure of a segment of pipeline constructed before September 12, 1970, to the highest pressure that is permitted under § 192.619, using as test pressure the highest pressure to which the segment of pipeline was previously subjected (either in a strength test or in actual operation).

(d) After complying with paragraph (b) of this section, an operator that does not qualify under paragraph (c) of this section may increase the previously established maximum allowable operating pressure if at least one of the following requirements is met:

(1) The segment of pipeline is successfully tested in accordance with the requirements of this part for a new line

of the same material in the same location.

(2) An increased maximum allowable operating pressure may be established for a segment of pipeline in a Class 1 location if the line has not previously been tested, and if—

(i) It is impractical to test it in accordance with the requirements of this part;

(ii) The new maximum operating pressure does not exceed 80 percent of that allowed for a new line of the same design in the same location; and

(iii) The operator determines that the new maximum allowable operating pressure is consistent with the condition of the segment of pipeline and the design requirements of this part.

(e) Where a segment of pipeline is uprated in accordance with paragraph (c) or (d) (2) of this section, the increase in pressure must be made in increments that are equal to—

(1) 10 percent of the pressure before the uprating; or

(2) 25 percent of the total pressure increase,

whichever produces the fewer number of increments.

§ 192.557 Uprating: steel pipelines to a pressure that will produce a hoop stress less than 30 percent of SMYS; plastic, cast iron, and ductile iron pipelines.

(a) Unless the requirements of this section have been met, no person may subject—

(1) A segment of steel pipeline to an operating pressure that will produce a hoop stress less than 30 percent of SMYS and that is above the previously established maximum allowable operating pressure; or

(2) A plastic, cast iron, or ductile iron pipeline segment to an operating pressure that is above the previously established maximum allowable operating pressure.

(b) Before increasing operating pressure above the previously established maximum allowable operating pressure, the operator shall—

(1) Review the design, operating, and maintenance history of the segment of pipeline;

(2) Make a leakage survey (if it has been more than 1 year since the last survey) and repair any leaks that are found, except that a leak determined not to be potentially hazardous need not be repaired, if it is monitored during the pressure increase and it does not become potentially hazardous;

(3) Make any repairs, replacements, or alterations in the segment of pipeline that are necessary for safe operation at the increased pressure;

(4) Reinforce or anchor offsets, bends and dead ends in pipe joined by compression couplings or bell and spigot joints to prevent failure of the pipe joint, if the offset, bend, or dead end is exposed in an excavation;

(5) Isolate the segment of pipeline in which the pressure is to be increased from any adjacent segment that will

continue to be operated at a lower pressure; and

(6) If the pressure in mains or service lines, or both, is to be higher than the pressure delivered to the customer, install a service regulator on each service line and test each regulator to determine that it is functioning. Pressure may be increased as necessary to test each regulator, after a regulator has been installed on each pipeline subject to the increased pressure.

(c) After complying with paragraph (b) of this section, the increase in maximum allowable operating pressure must be made in increments that are equal to 10 p.s.i.g. or 25 percent of the total pressure increase, whichever produces the fewer number of increments. Whenever the requirements of paragraph (b) (6) of this section apply, there must be at least two approximately equal incremental increases.

(d) If records for cast iron or ductile iron pipeline facilities are not complete enough to ascertain compliance with § 192.117 or § 192.119, as applicable, the following procedures must be followed:

(1) If the original laying conditions cannot be ascertained, the operator shall assume, when applying the design formulas of ANSI A21.1, that cast iron pipe was supported on blocks with tamped backfill and, when applying the design formulas of ANSI A21.50, that ductile iron pipe was laid without blocks with tamped backfill.

(2) Unless the actual maximum cover depth is known, the operator shall measure the actual cover in at least three places where the cover is most likely to be greatest and shall use the greatest cover measured.

(3) Unless the actual nominal wall thickness is known, the operator shall determine the wall thickness by cutting and measuring coupons from at least three separate pipe lengths. The coupons must be cut from pipe lengths in areas where the cover depth is most likely to be the greatest. The average of all measurements taken must be increased by the allowance indicated in the following table:

Pipe size (inches)	Allowance (inches)		
	Cast iron pipe		Ductile iron pipe
	Pit cast pipe	Centrifugally cast pipe	
3-8	0.075	0.065	0.065
10-12	0.08	0.07	0.07
14-24	0.08	0.08	0.075
30-42	0.09	0.09	0.075
48	0.09	0.09	0.08
54-60	0.09		

NOTE.—The nominal wall thickness of the cast iron is the standard thickness listed in table 10 or table 11, as applicable, of ANSI A21.1 nearest the value obtained under this subparagraph. The nominal wall thickness of ductile iron pipe is the standard thickness listed in table 6 of ANSI A21.50 nearest the value obtained under this subparagraph.

(4) For cast iron pipe, unless the pipe manufacturing process is known, the operator shall assume that the pipe is pit case pipe with a bursting tensile strength of 11,000 p.s.i. and a modulus of rupture of 31,000 p.s.i.

Subpart L—Operations

§ 192.601 Scope.

This subpart prescribes minimum requirements for the operation of pipeline facilities.

§ 192.603 General provisions.

(a) No person may operate a segment of pipeline unless it is operated in accordance with this subpart.

(b) Each operator shall establish a written operating and maintenance plan meeting the requirements of this part and keep records necessary to administer the plan.

§ 192.605 Essentials of operating and maintenance plan.

Each operator shall include the following in its operating and maintenance plan:

(a) Instructions for employees covering operating and maintenance procedures during normal operations and repairs.

(b) Items required to be included by the provisions of Subpart M of this part.

(c) Specific programs relating to facilities presenting the greatest hazard to public safety either in an emergency or because of extraordinary construction or maintenance requirements.

(d) A program for conversion procedures, if conversion of a low-pressure distribution system to a higher pressure is contemplated.

(e) Provision for periodic inspections to ensure that operating pressures are appropriate for the class location.

§ 192.607 Initial determination of class location and confirmation or establishment of maximum allowable operating pressure.

(a) Before April 15, 1971, each operator shall complete a study to determine for each segment of pipeline with a maximum allowable operating pressure that will produce a hoop stress that is more than 40 percent of SMYS—

(1) The present class location of all such pipeline in its system; and

(2) Whether the hoop stress corresponding to the maximum allowable operating pressure for each segment of pipeline is commensurate with the present class location.

(b) If an operator finds that the hoop stress corresponding to the established maximum allowable operating pressure of a segment of pipeline is not commensurate with the present class location and the segment is in satisfactory physical condition, the operator shall confirm or revise the maximum allowable operating pressure of the affected segment of pipeline as required by § 192.611 in accordance with the following schedule:

(1) Before January 1, 1972, the operator shall complete the confirmation or revision of at least 50 percent of the affected pipelines.

(2) Before January 1, 1973, the operator shall complete the confirmation or revision of the remainder of the affected pipelines.

§ 192.609 Change in class location: required study.

Whenever an increase in population density indicates a change in class location for a segment of an existing steel pipeline operating at hoop stress that is more than 40 percent of SMYS, or indicates that the hoop stress corresponding to the established maximum allowable operating pressure for a segment of existing pipeline is not commensurate with the present class location, the operator shall immediately make a study to determine—

(a) The present class location for the segment involved.

(b) The design, construction, and testing procedures followed in the original construction, and a comparison of these procedures with those required for the present class location by the applicable provisions of this part.

(c) The physical condition of the segment to the extent it can be ascertained from available records;

(d) The operating and maintenance history of the segment;

(e) The maximum actual operating pressure and the corresponding operating hoop stress, taking pressure gradient into account, for the segment of pipeline involved; and

(f) The actual area affected by the population density increase, and physical barriers or other factors which may limit further expansion of the more densely populated area.

§ 192.611 Change in class location: confirmation or revision of maximum allowable operating pressure.

If the hoop stress corresponding to the established maximum allowable operating pressure of a segment of pipeline is not commensurate with the present class location, and the segment is in satisfactory physical condition, the maximum allowable operating pressure of that segment of pipeline must be confirmed or revised as follows:

(a) If the segment involved has been previously tested in place to at least 90 percent of its SMYS for a period of not less than 8 hours, the maximum allowable operating pressure must be confirmed or reduced so that the corresponding hoop stress will not exceed 72 percent of SMYS of the pipe in Class 2 locations, 60 percent of SMYS in Class 3 locations, or 50 percent of SMYS in Class 4 locations.

(b) If the segment involved has not been previously tested in place as described in paragraph (a) of this section, the maximum allowable operating pressure must be reduced so that the corresponding hoop stress is not more than that allowed by this part for new segments of pipelines in the existing class location.

(c) If the segment of pipeline involved has not been qualified for operation under paragraph (a) or (b) of this section, it must be tested in accordance with the applicable requirements of Subpart J of this part, and its maximum allowable operating pressure must then be

established so as to be equal to or less than the following:

(1) The maximum allowable operating pressure after the requalification test is 0.8 times the test pressure for Class 2 locations, 0.667 times the test pressure for Class 3 locations, and 0.555 times the test pressure for Class 4 locations.

(2) The maximum allowable operating pressure confirmed or revised in accordance with this section, may not exceed the maximum allowable operating pressure established before the confirmation or revision.

(3) The corresponding hoop stress may not exceed 72 percent of the SMYS of the pipe in Class 2 locations, 60 percent of SMYS in Class 3 locations, or 50 percent of the SMYS in Class 4 locations.

(d) Confirmation or revision of the maximum allowable operating pressure of a segment of pipeline in accordance with this section does not preclude the application of §§ 192.553 and 192.555.

(e) After completing the study required by § 192.609, the operator shall confirm or revise the maximum allowable operating pressure in each segment of pipeline in accordance with this section within 1 year of the date when a change in class location has occurred.

§ 192.613 Continuing surveillance.

(a) Each operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions.

(b) If a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, the operator shall initiate a program to recondition or phase out the segment involved, or, if the segment cannot be reconditioned or phased out, reduce the maximum allowable operating pressure in accordance with § 192.619 (a) and (b).

§ 192.615 Emergency plans.

Each operator shall—

(a) Have written emergency procedures;

(b) Acquaint appropriate operating and maintenance employees with the procedures;

(c) Establish liaison with appropriate public officials, including fire and police officials, with respect to the procedures; and

(d) Establish an educational program to enable customers and the general public to recognize and report a gas emergency to the appropriate officials.

§ 192.617 Investigation of failures.

Each operator shall establish procedures for analyzing accidents and failures, including the selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence.

§ 192.619 Maximum allowable operating pressure: steel or plastic pipelines.

(a) Except as provided in paragraph (c) of this section, no person may operate a segment of steel or plastic pipeline at a pressure that exceeds the lowest of the following:

(1) The design pressure of the weakest element in the segment, determined in accordance with Subparts C and D of this part.

(2) The pressure obtained by dividing the pressure to which the segment was tested after construction as follows:

(i) For plastic pipe in all locations, the test pressure is divided by a factor of 1.5.

(ii) For steel pipe, the test pressure is divided by a factor determined in accordance with the following table:

Class location	Factor	
	Segment installed before (Nov. 12, 1970)	Segment installed after (Nov. 11, 1970)
1.....	1.1	1.1
2.....	1.25	1.25
3.....	1.4	1.5
4.....	1.4	1.5

(3) The highest actual operating pressure to which the segment was subjected during the 5 years preceding July 1, 1970, unless the segment was tested in accordance with paragraph (a)(2) of this section after July 1, 1965, or the segment was updated in accordance with Subpart K of this part.

(4) For furnace butt welded steel pipe, a pressure equal to 60 percent of the mill test pressure to which the pipe was subjected.

(5) For steel pipe other than furnace butt welded pipe, a pressure equal to 85 percent of the highest test pressure to which the pipe has been subjected, whether by mill test or by the post installation test.

(6) The pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressure.

(b) No person may operate a segment to which paragraph (a)(6) of this section is applicable, unless over-pressure protective devices are installed on the segment in a manner that will prevent the maximum allowable operating pressure from being exceeded, in accordance with § 192.195.

(c) Notwithstanding the other requirements of this section, an operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the 5 years preceding July 1, 1970, subject to the requirements of § 192.611.

§ 192.621 Maximum allowable operating pressure: high-pressure distribution systems.

(a) No person may operate a segment of a high pressure distribution system at

a pressure that exceeds the lowest of the following pressures, as applicable:

(1) The design pressure of the weakest element in the segment, determined in accordance with Subparts C and D of this part.

(2) 60 p.s.i.g., for a segment of a distribution system otherwise designed to operate at over 60 p.s.i.g., unless the service lines in the segment are equipped with service regulators or other pressure limiting devices in series that meet the requirements of § 192.197(c).

(3) 25 p.s.i.g. in segments of cast iron pipe in which there are unreinforced bell and spigot joints.

(4) The pressure limits to which a joint could be subjected without the possibility of its parting.

(5) The pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressures.

(b) No person may operate a segment of pipeline to which paragraph (a)(5) of this section applies, unless over-pressure protective devices are installed on the segment in a manner that will prevent the maximum allowable operating pressure from being exceeded, in accordance with § 192.195.

§ 192.623 Maximum and minimum allowable operating pressure: low-pressure distribution systems.

(a) No person may operate a low-pressure distribution system at a pressure high enough to make unsafe the operation of any connected and properly adjusted low-pressure gas burning equipment.

(b) No person may operate a low pressure distribution system at a pressure lower than the minimum pressure at which the safe and continuing operation of any connected and properly adjusted low-pressure gas burning equipment can be assured.

§ 192.625 Odorization of gas.

(a) Combustible gases in mains and service lines must be odorized as provided in this section.

(b) The intensity of the odor of combustible gases must be such as to be readily detectable at concentrations of one fifth of the lower explosive limit.

(c) In the concentrations in which it is used, the odorant in combustible gases must comply with the following:

(1) The odorant may not be deleterious to persons, materials, or pipe.

(2) The products of combustion from the odorant may not be toxic when breathed nor may they be corrosive or harmful to those materials to which the products of combustion will be exposed.

(d) The odorant may not be soluble in water to an extent greater than 2.5 parts to 100 parts by weight.

(e) Equipment for odorization must introduce the odorant without wide variations in the level of odorant.

(f) Each operator shall conduct periodic sampling of combustible gases to assure the proper concentration of odorant in accordance with this section.

§ 192.627 Tapping pipelines under pressure.

Each tap made on a pipeline under pressure must be performed by a crew qualified to make hot taps.

§ 192.629 Purging of pipelines.

(a) When a pipeline is being purged of air by use of gas, the gas must be released into one end of the line in a moderately rapid and continuous flow. If gas cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas must be released into the line before the gas.

(b) When a pipeline is being purged of gas by use of air, the air must be released into one end of the line in a moderately rapid and continuous flow. If air cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas must be released into the line before the air.

Subpart M—Maintenance

§ 192.701 Scope.

This subpart prescribes minimum requirements for maintenance of pipeline facilities.

§ 192.703 General.

(a) No person may operate a segment of pipeline, unless it is maintained in accordance with this subpart.

(b) Each segment of pipeline that becomes unsafe must be replaced, repaired, or removed from service.

(c) Hazardous leaks must be repaired promptly.

§ 192.705 Transmission lines: patrolling.

(a) Each operator shall have a patrol program to observe, at intervals not exceeding 1 year, surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

(b) The frequency of the patrol must be determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors.

(c) Highway and railroad crossings must be patrolled more often and in greater detail than transmission lines in open country.

§ 192.707 Transmission lines: markers.

Each operator shall install signs or markers wherever necessary to identify the location of a transmission line in order to reduce the possibility of damage or interference.

§ 192.709 Transmission lines: record-keeping.

Each operator shall keep records covering each leak discovered, repair made, transmission line break, leakage survey, line patrol, and inspection, for as long as the segment of transmission line involved remains in service.

§ 192.711 Transmission lines: general requirements for repair procedures.

(a) Each operator shall take immediate temporary measures to protect the public whenever—

(1) A leak, imperfection, or damage that impairs its serviceability is found in a segment of steel transmission line operating at or above 40 percent of the SMYS; and

(2) It is not feasible to make a permanent repair at the time of discovery.

As soon as feasible, the operator shall make permanent repairs.

(b) Except as provided in § 192.717(c), no operator may use a welded patch as a means of repair.

§ 192.713 Transmission lines: permanent field repair of imperfections and damage.

Each imperfection or damage that impairs the serviceability of a segment of steel transmission line operating at or above 40 percent of SMYS must be repaired, as follows:

(a) If it is feasible to take the segment out of service, the imperfection or damage must be removed by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.

(b) If it is not feasible to take the segment out of service, a full encirclement welded split sleeve of appropriate design must be applied over the imperfection or damage.

(c) If the segment is not taken out of service, the operating pressure must be reduced to a safe level during the repair operations.

§ 192.715 Transmission lines: permanent field repair of welds.

Each weld that is unacceptable under § 192.241(c) must be repaired as follows:

(a) If it is feasible to take the segment of transmission line out of service, the weld must be repaired in accordance with the applicable requirements of § 192.245.

(b) A weld may be repaired in accordance with § 192.245 while the segment of transmission line is in service if—

(1) The weld is not leaking;

(2) The pressure in the segment is reduced so that it does not produce a stress that is more than 20 percent of the SMYS of the pipe; and

(3) Grinding of the defective area can be limited so that at least 1/8-inch thickness in the pipe weld remains.

(c) A defective weld which cannot be repaired in accordance with paragraph (a) or (b) of this section must be repaired by installing a full encirclement welded split sleeve of appropriate design.

§ 192.717 Transmission lines: permanent field repair of leaks.

Each permanent field repair of a leak must be made as follows:

(a) If feasible, the segment of transmission line must be taken out of service and repaired by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.

(b) If it is not feasible to take the segment of transmission line out of service,

it must be repaired by installing a full encirclement welded split sleeve of appropriate design.

(c) If the leak is due to a corrosion pit, the repair may be made by installing a properly designed bolt-on leak clamp; or, if the leak is due to a corrosion pit and on pipe of not more than 40,000 p.s.i. SMYS, the repair may be made by fillet welding over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half the diameter of the pipe in size.

§ 192.719 Transmission lines: testing of repairs.

(a) *Testing of replacement pipe.* (1) If a segment of transmission line is repaired by cutting out the damaged portion of the pipe as a cylinder, the replacement pipe must be tested to the pressure required for a new line installed in the same location.

(2) The test required by subparagraph (1) of this paragraph may be made on the pipe before it is installed, but all field girth butt welds that are not strength tested must be tested after installation by nondestructive tests meeting the requirements of § 192.243.

(b) *Testing of repairs made by welding.* Each repair made by welding in accordance with §§ 192.713, 192.715, and 192.717 must be examined in accordance with § 192.241.

§ 192.721 Distribution systems: patrolling.

(a) The frequency of patrolling mains must be determined by the severity of the conditions which could cause failure or leakage, and the consequent hazards to public safety.

(b) Mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled at intervals not exceeding 3 months.

§ 192.723 Distribution systems: leakage surveys and procedures.

(a) Each operator of a distribution system shall provide for periodic leakage surveys in its operating and maintenance plan.

(b) The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements:

(1) A gas detector survey must be conducted in business districts, including tests of the atmosphere in gas, electric, telephone, sewer and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding 1 year.

(2) Leakage surveys of the distribution system outside of the principal business areas must be made as frequently as necessary, but at intervals not exceeding 5 years.

§ 192.725 Test requirements for re-instating service lines.

(a) Except as provided in paragraph

(b) of this section, each disconnected

service line must be tested in the same manner as a new service line, before being reinstated.

(b) Each service line temporarily disconnected from the main must be tested from the point of disconnection to the service line valve in the same manner as a new service line, before reconnecting. However, if provisions are made to maintain continuous service, such as by installation of a bypass, any part of the original service line used to maintain continuous service need not be tested.

§ 192.727 Abandonment or inactivation of facilities.

Each operator shall provide for abandonment or inactivation of facilities in its operating and maintenance plan, including the following provisions:

(a) Each facility abandoned in place, or, except when undergoing maintenance, each line not subject to gas pressure, must be disconnected from all sources and supplies of gas, purged of gas, and the ends sealed; however, the line need not be purged when the volume of gas is so small that there is no potential hazard.

(b) If air is used for purging, the operator shall ensure that a combustible mixture is not present after purging.

(c) Each abandoned vault must be filled with a suitable compacted material.

§ 192.729 Compressor stations: procedures for gas compressor units.

Each operator shall establish starting, operating, and shutdown procedures for gas compressor units.

§ 192.731 Compressor stations: inspection and testing of relief devices.

(a) Except for rupture discs, each pressure relieving device in a compressor station must be inspected and tested in accordance with §§ 192.739 and 192.743, and must be operated periodically to determine that it opens at the correct set pressure.

(b) Any defective or inadequate equipment found must be promptly repaired or replaced.

(c) Each remote control shutdown device must be inspected and tested, at intervals not to exceed 1 year, to determine that it functions properly.

§ 192.733 Compressor stations: isolation of equipment for maintenance or alterations.

Each operator shall establish procedures for maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service.

§ 192.735 Compressor stations: storage of combustible materials.

(a) Flammable or combustible materials in quantities beyond those required for everyday use, or other than those normally used in compressor buildings, must be stored a safe distance from the compressor building.

(b) Aboveground oil or gasoline storage tanks must be protected in accordance with National Fire Protection Association Standard No. 30.

§ 192.737 Pipe-type and bottle-type holders: plan for inspection and testing.

Each operator having a pipe-type or bottle-type holder shall establish a plan for the systematic, routine inspection and testing of these facilities, including the following:

(a) Provision must be made for detecting external corrosion before the strength of the container has been impaired.

(b) Periodic sampling and testing of gas in storage must be made to determine the dew point of vapors contained in the stored gas, that if condensed, might cause internal corrosion or interfere with the safe operation of the storage plant.

(c) The pressure control and pressure limiting equipment must be inspected and tested periodically to determine that it is in a safe operating condition and has adequate capacity.

§ 192.739 Pressure limiting and regulating stations: inspection and testing.

Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected, at intervals not exceeding 1 year, to inspections and tests to determine that it is—

(a) In good mechanical condition;

(b) Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;

(c) Set to function at the correct pressure; and

(d) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

§ 192.741 Pressure limiting and regulating stations: telemetering or recording gages.

(a) Each distribution system supplied by more than one district pressure regulating station must be equipped with telemetering or recording pressure gages to indicate the gas pressure in the district.

(b) On distribution systems supplied by a single district pressure regulating station, the operator shall determine the necessity of installing telemetering or recording gages in the district, taking into consideration the number of customers supplied, the operating pressures, the capacity of the installation, and other operating conditions.

(c) If there are indications of abnormally high- or low-pressure, the regulator and the auxiliary equipment must be inspected and the necessary measures employed to correct any unsatisfactory operating conditions.

§ 192.743 Pressure limiting and regulating stations: testing of relief devices.

(a) If feasible, pressure relief devices (except rupture discs) must be tested in place, at intervals not exceeding 1 year, to determine that they have enough capacity to limit the pressure on the facilities to which they are connected to the desired maximum pressure.

(b) If a test is not feasible, review and calculation of the required capacity of the relieving device at each station must be made, at intervals not ex-

ceeding one year, and these required capacities compared with the rated or experimentally determined relieving capacity of the device for the operating conditions under which it works.

(c) If the relieving device is of insufficient capacity, a new or additional device must be installed to provide the additional capacity required.

§ 192.745 Valve maintenance: transmission lines.

Each transmission line valve that might be required during any emergency must be inspected and partially operated, at intervals not exceeding 1 year.

§ 192.747 Valve maintenance: distribution systems.

Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced, at intervals not exceeding 1 year.

§ 192.749 Vault maintenance.

(a) Each vault housing pressure regulating and pressure limiting equipment, and having a volumetric internal content of 200 cubic feet or more, must be inspected, at intervals not exceeding 1 year, to determine that it is in good physical condition and adequately ventilated.

(b) If gas is found in the vault, the equipment in the vault must be inspected for leaks, and any leaks found must be repaired.

(c) The ventilating equipment must also be inspected to determine that it is functioning properly.

(d) Each vault cover must be inspected to assure that it does not present a hazard to public safety.

§ 192.751 Prevention of accidental ignition.

Each operator shall take steps to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion, including the following:

(a) When a hazardous amount of gas is being vented into open air, each potential source of ignition must be removed from the area and a fire extinguisher must be provided.

(b) Gas or electric welding or cutting may not be performed on pipe or on pipe components that contain a combustible mixture of gas and air in the area of work.

(c) Post warning signs, where appropriate.

§ 192.753 Caulked bell and spigot joints.

(a) Each cast iron caulked bell and spigot joint that is subject to pressures of 25 p.s.i.g. or more must be sealed with mechanical leak clamps.

(b) Each cast iron caulked bell and spigot joint that is subject to pressures of less than 25 p.s.i.g. and is exposed for any reason, must be sealed by a means other than caulking.

APPENDIX A—INCORPORATED BY REFERENCE

I. List of organizations and addresses.

A. American National Standards Institute (ANSI), 1430 Broadway, New York, N.Y. 10018 (formerly the United States of Ameri-

can Standards Institute (USASI)). All current standards issued by USASI and ASA have been redesignated as American National Standards and continued in effect.

B. American Petroleum Institute (API), 1271 Avenue of the Americas, New York, N.Y. 10020 or 300 Corrigan Tower Building, Dallas, Tex. 75201.

C. The American Society of Mechanical Engineers (ASME) United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

D. American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pa. 19103.

E. Manufacturers Standardization Society of the Valve and Fittings Industry (MSS), 1815 North Fort Myer Drive, Room 913, Arlington, Va. 22209.

F. National Fire Protection Association (NFPA), 60 Batterymarch Street, Boston, Mass. 02110.

II. Documents incorporated by reference.

A. American Petroleum Institute:

1. API Standard 5L "API Specification for Line Pipe" (1970 edition).

2. API Standard 5LS "API Specification for Spiral-Weld Line Pipe" (1970 edition).

3. API Standard 5LX "API Specification for High-Test Line Pipe" (1970 edition).

4. API Recommended Practice 5L1 entitled "API Recommended Practice for Railroad Transportation of Line Pipe" (1967 edition).

5. API Standard 5A "API Specification for Casing, Tubing, and Drill Pipe" (1968 edition).

6. API Standard 6D "Specification for Pipeline Valves" (1968 edition).

7. API Standard 1104 "Standard for Welding Pipe Line and Related Facilities" (1968 edition).

B. The American Society for Testing and Materials:

1. ASTM Specification A53 "Standard Specification for Welded and Seamless Steel Pipe" (A53-68).

2. ASTM Specification A72 "Standard Specification for Welded Wrought-Iron Pipe" (A72-68).

3. ASTM Specification A106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A106-68).

4. ASTM Specification A134 "Standard Specification for Electric-Fusion (ARC)-Welded Steel Plate Pipe, Sizes 16 in. and Over" (A134-68).

5. ASTM Specification A135 "Standard Specification for Electric-Resistance-Welded Steel Pipe" (A135-68).

6. ASTM Specification A139 "Standard Specification for Electric-Fusion (ARC)-Welded Steel Pipe (Sizes 4 in. and over)" (A139-68).

7. ASTM Specification A155 "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service" (A155-68).

7a. ASTM Specification 211 "Standard Specification for Spiral Welded Steel or Iron Pipe" (A211-68).

8. ASTM Specification A333 "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (A333-67).

9. ASTM Specification A377 "Standard Specification for Cast Iron and Ductile Iron Pressure Pipe" (A377-66).

10. ASTM Specification A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for High-Pressure Transmission Service" (A381-68).

10a. ASTM Specification A539 "Standard Specification for Electric-Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines" (A539-65).

11. ASTM Specification B42 "Standard Specification for Seamless Copper Pipe, Standard Sizes" (B42-66).

12. ASTM Specification B68 "Standard Specification for Seamless Copper Tube, Bright Annealed" (B68-68).

13. ASTM Specification B75 "Standard Specification for Seamless Copper Tube" (75-68).

14. ASTM Specification B88 "Standard Specification for Seamless Copper Water Tube" (B88-66).

15. ASTM Specification B251 "Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tube" (B251-68).

16. ASTM Specification D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (D2513-68).

17. ASTM Specification D2517 "Standard Specification for Reinforced Thermosetting Plastic Gas Pressure Piping and Fittings" (D2517-67).

18. ASTM Specification A372 "Standard Specification for Carbon and Alloy Steel Forgings for Pressure Vessel Shells" (A372-67).

C. The American National Standards Institute, Inc.:

1. ANSI A21.1 "Thickness Design of Cast-Iron Pipe" (A21.1-1967).

2. ANSI A21.3 "Specifications for Cast Iron Pit Cast Pipe for Gas" (A21.3-1953).

3. ANSI A21.7 "Cast-Iron Pipe Centrifugally Cast in Metal Molds for Gas" (A21.7-1962).

4. ANSI A21.9 is titled "Cast-Iron Pipe Centrifugally Cast in Sand-Lined Molds for Gas" (A21.9-1962).

5. ANSI A21.11 "Rubber Gasket Joints for Cast-Iron Pressure Pipe and Fittings" (A21.11-1964).

6. ANSI 21.50 "Thickness Design of Ductile-Iron Pipe" (A21.50-1965).

6a. ANSI A21.52 "Ductile-Iron Pipe, Centrifugally Cast, in Metal Molds or Sand-Lined Molds for Gas" (A21.52-1965).

7. ANSI B16.1 "Cast Iron Pipe Flanges and Flanged Fittings" (B16.1-1967).

8. ANSI B16.5 "Steel Pipe Flanges and Flanged Fittings" (B16.5-1968).

9. ANSI B16.24 "Bronze Flanges and Flanged Fittings" (B16.24-1962).

10. ANSI B36.10 "Wrought-Steel and Wrought-Iron Pipe" (B36.10-1959).

11. ANSI C1 "National Electrical Code, 1968" (C1-1968).

D. The American Society of Mechanical Engineers:

1. ASME Boiler and Pressure Vessel Code, section VIII is titled "Pressure Vessels, Division 1" (1968 edition).

2. ASME Boiler and Pressure Vessel Code, section IX is titled "Welding Qualifications" (1968 edition).

E. Manufacturer's Standardization Society of the Valve and Fittings Industry:

1. MSS SP-25 "Standard Marking System for Valves, Fittings, Flanges, and Union" (1964 edition).

2. MSS SP-44 "Steel Pipe Line Flanges" (1955 edition).

3. MSS SP-52 "Cast Iron Pipe Line Valves" (1957 edition).

F. National Fire Protection Association:

1. NFPA Standard 30 "Flammable and Combustible Liquids Code" (1969 edition).

2. NFPA Standard 58 "Storage and Handling, Liquefied Petroleum Gases" (1969 edition).

3. NFPA Standard 59 "LP Gases at Utility Gas Plants" (1968 edition).

APPENDIX B—QUALIFICATION OF PIPE

I. Listed Pipe Specifications.

API 5 L—Steel and iron pipe (1970).

API 5 LS—Steel pipe (1970).

API 5 LX—Steel pipe (1970).

ASTM A 53—Steel pipe (1968).

ASTM A 106—Steel pipe (1968).

ASTM A 134—Steel pipe (1968).

ASTM A 135—Steel pipe (1968).

ASTM A 139—Steel pipe (1968).

ASTM A 155—Steel pipe (1968).

ASTM A 211—Steel and iron pipe (1968).

ASTM A 333—Steel pipe (1967).

ASTM A 377—Cast iron pipe (1966).

ASTM A 381—Steel pipe (1968).

ASTM A 539—Steel tubing (1965).

ANSI A 21.3—Cast iron pipe (1953).

ANSI A 21.7—Cast iron pipe (1962).

ANSI A 21.9—Cast iron pipe (1962).

ANSI A 21.52—Ductile iron pipe (1965).

ASTM A 72—Wrought iron pipe (1968).

ASTM B 42—Copper pipe (1966).

ASTM B 68—Copper tubing (1968).

ASTM B 75—Copper tubing (1968).

ASTM B 88—Copper tubing (1966).

ASTM B 251—Copper pipe and tubing (1968).

ASTM D 2513—Thermoplastic pipe and tubing (1968).

ASTM D 2517—Thermosetting plastic pipe and tubing (1967).

II. Steel pipe of unknown or unlisted specification.

A. *Bending Properties.* For pipe 2 inches or less in diameter, a length of pipe must be cold bent through at least 90 degrees around a cylindrical mandrel that has a diameter 12 times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld.

For pipe more than 2 inches in diameter, the pipe must meet the requirements of the flattening tests set forth in ASTM A53, except that the number of tests must be at least equal to the minimum required in paragraph II-D of this appendix to determine yield strength.

B. *Weldability.* A girth weld must be made in the pipe by a welder who is qualified under Subpart E of this part. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104. If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with section IX of the ASME Boiler and Pressure Vessel Code. The same number of chemical tests must be made as are required for testing a girth weld.

C. *Inspection.* The pipe must be clean enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and there are no defects which might impair the strength or tightness of the pipe.

D. *Tensile Properties.* If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000

p.s.i.g. or less, or the tensile properties may be established by performing tensile tests as set forth in API Standard 5LX. All test specimens shall be selected at random and the following number of tests must be performed:

NUMBER OF TENSILE TESTS—ALL SIZES	
10 lengths or less----	1 set of tests for each length.
11 to 100 lengths----	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths----	1 set of tests for each 10 lengths, but not less than 20 tests.

If the yield-tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in § 192.55(c).

APPENDIX C—QUALIFICATION FOR WELDERS OF LOW STRESS LEVEL PIPE

I. *Basic test.* The test is made on pipe 12 inches or less in diameter. The test weld must be made with the pipe in a horizontal fixed position so that the test weld includes at least one section of overhead position welding. The beveling, root opening, and other details must conform to the specifications of the procedure under which the welder is being qualified. Upon completion, the test weld is cut into four coupons and subjected to a root bend test. If, as a result of this test, two or more of the four coupons develop a crack in the weld material, or between the weld material and base metal, that is more than 1/4-inch long in any direction, the weld is unacceptable. Cracks that occur on the corner of the specimen during testing are not considered.

II. *Additional tests for welders of service line connections to mains.* A service line connection fitting is welded to a pipe section with the same diameter as a typical main. The weld is made in the same position as it is made in the field. The weld is unacceptable if it shows a serious undercutting or if it has rolled edges. The weld is tested by attempting to break the fitting off the run pipe. The weld is unacceptable if it breaks and shows incomplete fusion, overlap, or poor penetration at the junction of the fitting and run pipe.

III. *Periodic tests for welders of small service lines.* Two samples of the welder's work, each about 8 inches long with the weld located approximately in the center, are cut from steel service line and tested as follows:

(1) One sample is centered in a guided bend testing machine and bent to the contour of the die for a distance of 2 inches on each side of the weld. If the sample shows any breaks or cracks after removal from the bending machine, it is unacceptable.

(2) The ends of the second sample are flattened and the entire joint subjected to a tensile strength test. If failure occurs adjacent to or in the weld metal, the weld is unacceptable. If a tensile strength testing machine is not available, this sample must also pass the bending test prescribed in subparagraph (1) of this paragraph.

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