AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

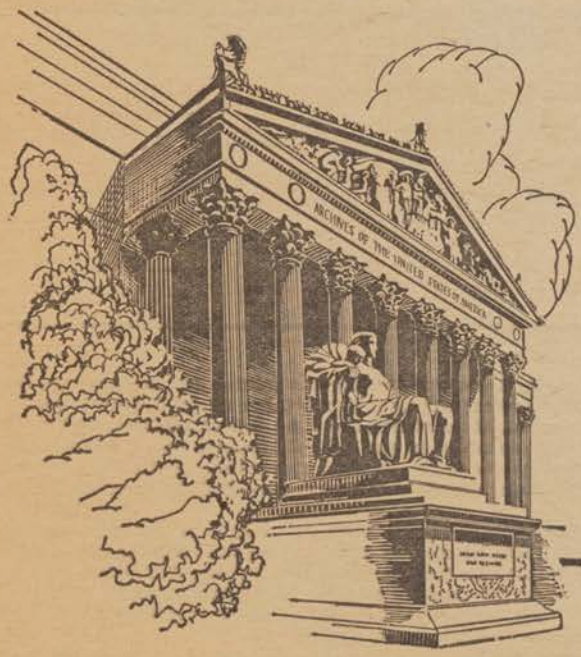
VOLUME 35 • NUMBER 179

Tuesday, September 15, 1970 • Washington, D.C.

Pages 14431–14491

Agencies in this issue—

Detailed list of Contents appears inside.



Latest Edition

Guide to Record Retention Requirements

[Revised as of January 1, 1970]

This useful reference tool is designed to keep businessmen and the general public informed concerning the many published requirements in Federal laws and regulations relating to record retention.

The 89-page "Guide" contains about 1,000 digests which tell the user (1) what type records must be kept, (2) who must keep them, and (3) how long they must be kept. Each digest carries a reference to the full text of the basic law or regulation providing for such retention.

The booklet's index, numbering over 2,200 items, lists for ready reference the categories of persons, companies, and products affected by Federal record retention requirements.

Price: $1.00

Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962-8626

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

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

Contents

(Continued on next page)

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.

5 CFR

213 14435

7 CFR

215 14435
908 14435
910 14435
932 14436
958 14437
1822 14437
1890g 14442

PROPOSED RULES:

722 14462
931 14462

9 CFR

53 14445
76 14445
78 14446

14 CFR

37 14446
71 (5 documents) 14448–14450
97 14450

PROPOSED RULES:

39 14462
71 14463
121 14463
241 14464
399 14468

21 CFR

138 14450

32 CFR

766 14451

42 CFR

81 (2 documents) 14460

45 CFR

505 14456
506 14457
507 14457
508 14459
509 14459

47 CFR

PROPOSED RULES:

81 14462

49 CFR

PROPOSED RULES:

Ch. X 14470

50 CFR

32 (3 documents) 14461

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one additional position of Confidential Assistant to the Associate Director for Congressional and Governmental Relations is excepted under Schedule C and that the position of Deputy Associate Director for Congressional and Governmental Relations is no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER paragraph (e) of § 213.3373 is amended by revoking subparagraph (1) and amending subparagraph (4) as set out below.

§ 213.3373 Office of Economic Opportunity.

* * * * *

(e) *Office of the Associate Director for Congressional and Governmental Relations.*

(1) [Revoked]

* * * * *

(4) Three Confidential Assistants to the Associate Director.

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

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

[F.R. Doc. 70-12223; Filed, Sept. 14, 1970; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Appendix—Third Apportionment of Special Milk Program Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1970

Pursuant to section 3 of the Child Nutrition Act of 1966, Public Law 89–642; 80 Stat. 885–6, milk assistance funds available for the fiscal year ending June 30, 1970, are reapportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$1,987,462	$1,920,416	$67,046
Alaska	34,344	34,344	
Arizona	441,733	441,733	
Arkansas	1,068,979	1,019,712	49,267
California	8,358,698	8,358,698	
Colorado	950,556	866,209	84,347
Connecticut	1,755,764	1,755,764	
Delaware	321,998	279,326	42,672
Del. St. Dis. Ag	17,853	17,853	
District of Columbia	602,152	602,152	
Florida	1,960,396	1,794,288	166,110
Georgia	1,662,332	1,632,732	29,600
Hawaii	129,720	91,491	38,229
Idaho	213,272	162,112	51,160
Illinois	6,527,895	6,527,895	
Indiana	2,966,839	2,966,839	
Iowa	1,409,784	1,225,993	183,791
Kansas	1,081,654	1,081,654	
Kentucky	2,054,003	2,054,003	
Louisiana	683,119	683,119	
Maine	518,289	440,627	77,642
Maryland	2,294,776	1,975,323	319,453
Md. Bud. & Proc	59,244	59,244	
Massachusetts	3,436,041	3,436,041	
Michigan	5,488,853	4,580,231	908,622
Minnesota	2,861,069	2,566,845	294,224
Mississippi	1,324,910	1,324,910	
Missouri	2,379,651	2,332,632	47,019
Montana	206,902	177,049	29,853
Nebraska	661,479	548,528	112,951
Nevada	165,878	143,250	22,628
New Hampshire	502,128	428,357	73,771
New Jersey	3,682,687	3,155,492	527,195
New Mexico	670,628	398,108	272,520
New York	9,214,185	9,214,185	
N.Y. Off Gen. Serv.	434,773	434,773	
North Carolina	3,364,255	3,364,255	
North Dakota	357,939	318,057	39,882
Ohio	6,535,751	5,741,438	794,313
Ohio Dep. Pub. Wel.	191,534	191,534	
Oklahoma	1,128,371	1,128,371	
Oregon	615,277	598,080	17,197
Pennsylvania	5,273,872	4,638,435	635,437
Rhode Island	529,135	529,135	
South Carolina	615,968	522,945	93,023
South Dakota	378,942	378,942	
Tennessee	1,960,830	1,885,679	75,151
Texas	4,170,220	3,906,543	263,677
Utah	336,850	331,201	5,649
Vermont	275,507	261,884	13,623
Virginia	1,888,805	1,746,842	141,963
Washington	1,373,183	1,158,596	214,587
West Virginia	730,910	694,631	36,279
Wisconsin	3,568,232	2,860,214	708,018
Wyoming	103,872	103,872	
Total	101,529,479	95,092,580	6,436,899

(Secs. 2, 3, 6, 8–16, 80 Stat. 885–890; 42 U.S.C. 1771, 1772, 1775, 1777–1785)

Dated: September 9, 1970.

EDWARD J. HEKMAN,
Administrator.

[F.R. Doc. 70-12265; Filed, Sept. 14, 1970; 8:48 a.m.]

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

[Valencia Orange Reg. 329, Amdt. 1]

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

Limitation of Handling

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

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

Order, as amended. The provisions in paragraph (b)(1) (i), and (ii) of § 908.629 (Valencia Orange Reg. 329, 35 F.R. 13969) are hereby amended to read as follows:

§ 908.629 Valencia Orange Regulation 329.

* * * * *

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

(i) District 1: 338,000 cartons;

(ii) District 2: 412,000 cartons.

* * * * *

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

Dated: September 9, 1970.

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

[F.R. Doc. 70-12226; Filed, Sept. 14, 1970; 8:46 a.m.]

[Lemon Reg. 444]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.744 Lemon Regulation 444.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement

Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 8, 1970.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period September 13, 1970, through September 19, 1970, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 175,000 cartons;
(iii) District 3: 32,003 cartons.

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

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

Dated: September 9, 1970.

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

[F.R. Doc. 70-12225; Filed, Sept. 14, 1970; 8:45 a.m.]

PART 932—OLIVES GROWN IN CALIFORNIA

Modified Grade Requirements

Notice is hereby given of the approval of amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 932.108–932.161; 35 F.R. 13772) currently effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment of said rules and regulations was unanimously recommended by the Olive Administrative Committee, established under said marketing agreement and order as the agency to administer the terms and provisions thereof.

The amendment modifies the grade requirements for the Chopped or Minced style of canned ripe olives by establishing, for the effective period hereinafter set forth, certain additional requirements. The additional requirements are that said style of olives be practically free from identifiable units of pit caps, end slices, slices or pieces of slices ("practically free from identifiable units" means not more than 5 percent, by weight, of the units may be identifiable pit caps, end slices, slices or pieces of slices). Such modification reflects the committee's appraisal as to the appropriate quality of Chopped or Minced style of olives which, in view of current and anticipated marketing conditions, would provide consumers with a better quality of this style of olives and thereby maximize returns to growers pursuant to the declared policy of the act.

The amendment is twofold as to its effective period. First, it modifies the grade requirements for the Chopped or Minced style of canned ripe olives as aforesaid by establishing, for the effective period hereinafter set forth, certain additional requirements while providing that said style of olives packaged prior to the effective date of this amendment may be shipped without regard to the provisions of this amendment if such olives meet the requirements in effect immediately prior thereto. Second, the amendment contains additional provisions to clarify the objective of existing provisions in § 932.149 that apply to whole, pitted, and broken pitted style olives. The additional provisions specify that any of the aforesaid styles of packaged olives produced prior to the effective date of § 932.149 may be shipped if such packaged olives comply with the requirements in effect immediately prior thereto.

It is hereby found that amendment of said rules and regulations as hereinafter set forth is in accordance with the provisions of said marketing agreement and order, and will tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended.

The amendment redesignates paragraph (d) of § 932.149 (35 F.R. 13772) as paragraph (g) and adds new paragraphs (d), (e), and (f) reading as follows:

§ 932.149 Modified grade requirements for specified styles of canned olives of the tree ripe type.

* * * * *

(d) During the period September 14, 1970, through August 31, 1971, Chopped or Minced style of canned ripe olives, as set forth in the U.S. Standards for Canned Ripe Olives (§ 52.3753(e) of this title), shall grade at least U.S. Grade C and shall be practically free from identifiable units of pit caps, and slices, slices, and pieces of slices ("practically free from identifiable units" means that not more than 5 percent, by weight, of the units of Chopped or Minced style of olives may be identifiable pit caps, end slices, slices or pieces of slices).

(e) During the period specified in paragraph (d) of this section, the provisions set forth therein shall apply to processed olives of the Chopped or Minced style of canned ripe olives and to the shipment of such packaged olives. Packaged olives of the Chopped or Minced style produced prior to the effective date of paragraph (d) of this section may be shipped if such packaged olives comply with the applicable requirements in effect, under this part, immediately prior to such effective date.

(f) With respect to the provisions of paragraphs (a), (b), and (c) of this section, any packaged olives of the specified styles, produced prior to the effective date of such provisions, may be shipped if such packaged olives comply with the applicable requirements in effect, under this part, immediately prior to such effective date.

(g) * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of the amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), and good cause exists for making the provisions hereof effective on the date specified herein in that (1) the time intervening between the date when the information upon which this amendment is based became available and the time such amendment must become effective in order to effectuate the declared policy of the act is insufficient; (2) the preparation of processed olives into the Chopped or Minced style is currently in progress and to be of maximum benefit the provisions of such amendment should apply to as much of the production of such style in the current crop year as possible; (3) compliance with the amended rules and regulations will require of handlers no special preparation therefor which cannot be completed by the effective time hereof; and (4) the amendment was unanimously recommended by members of the Olive Administrative Committee after an open meeting at which all interested persons were afforded an opportunity to submit their views.

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

Dated: September 10, 1970.

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

[F.R. Doc. 70–12224; Filed, Sept. 14, 1970; 8:45 a.m.]

[958.315, Amdt. 2]

PART 958—ONIONS GROWN IN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958), regulating the handling of onions grown in the production area defined therein, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Idaho-Eastern Oregon Onion Committee, established pursuant to said marketing agreement and order, and other available information, it is hereby found that the amendment to the limitation of shipments hereinafter set forth will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the time intervening between the date of the committee's recommendation and the date when this amendment should become effective in order to effectuate the declared policy of the act is insufficient, (2) compliance with this amendment will not require any special preparation by handlers which cannot be completed by the effective date, and (3) information regarding the committee's recommendation was made available to producers and handlers in the production area.

Regulation as amended. In § 958.315 (35 F.R. 11165, 12529) subparagraph (1) of paragraph (a) is hereby amended to change the minimum sizes for yellow varieties as follows:

§ 958.315 Limitation of shipments.

* * * * *

(a) *Grade, size, and pack requirements*—(1) *Yellow varieties.* U.S. No. 1 grade, 2¼ inches minimum diameter; or U.S. No. 2 grade, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality, 3 inches minimum diameter.

* * * * *

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

Effective date. Issued September 11, 1970, to become effective September 16, 1970.

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

[F.R. Doc. 70–12297; Filed, Sept. 14, 1970; 8:50 a.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instruction 444.6]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart E — Farm Labor Housing Grant Policies, Procedures and Authorizations

Subpart E, Part 1822, Title 7, Code of Federal Regulations (31 F.R. 14138), is revised to read as follows:

Subpart E—Farm Labor Housing Grant Policies, Procedures and Authorizations

Sec.

AUTHORITY: The provisions of this Subpart E issued under sec. 509, 63 Stat. 436, 42 U.S.C. 1479; sec. 510, 63 Stat. 437, 42 U.S.C. 1480; orders of the Secretary of Agriculture 29 F.R. 16210, 32 F.R. 6650, 33 F.R. 9677.

§ 1822.201 General.

This subpart is supplemented by Parts 1890, 1890f, and 1890g of this chapter. This subpart sets forth the policies and procedures and delegates authority for extending financial assistance in the form of grants under section 516 of the Housing Act of 1949 to provide low-rent housing and related facilities for domestic Farm Labor Housing (LH) grants.

§ 1822.202 Objective.

The basic objective of the Farmers Home Administration (FHA) in making LH grants is to provide decent, safe, and sanitary low-rent housing and related facilities for domestic farm labor when there is a pressing need for such facilities in the area and there is reasonable doubt that the housing can be provided without grant assistance.

§ 1822.203 Definitions.

As used in this subpart:

(a) "Domestic farm labor" means persons who receive a substantial portion of their income as laborers on farms in the United States and either: Are citizens of the United States, or; reside in the United States after being legally admitted for permanent residence and may include families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while they are in the unprocessed stage, provided title to the commodity is held by the producer and the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. Laborers on farms do not include workers on "oyster farms" or "fish farms."

(b) "Housing" means existing structures or new structures which are or will be suitable for decent, safe, and sanitary dwelling use by domestic farm labor at rentals within the payment ability of families of low income. "Housing" may also include "related facilities" where appropriate.

(c) "Related facilities" include community rooms or buildings, cafeterias, dining halls, infirmaries, child care facilities, assembly halls, and other essential service facilities, such as central heating, sewerage, lighting systems, bathing facilities, and a safe domestic water supply. All related facilities must be reasonably necessary for proper use of the housing as dwellings for the domestic farm labor occupants.

(d) "Organization" means a State agency, or political subdivision, or an agency of State or local government such as a public housing authority.

(e) "Construct or repair" means to construct new structures or facilities, or to acquire, relocate, or improve existing structures or facilities.

(f) "Development cost" means the cash cost of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities, and purchasing and improving the necessary land, including necessary architectural, legal, and other appropriate technical and professional fees and charges.

(g) "Board" and "directors" include the governing body and members of the governing body of an organization.

(h) "Applicant" means the applicant for or the recipient of an LH grant.

§ 1822.204 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an LH grant the applicant must:

(1) Be an organization with an assured life over a period of years sufficient to carry out the purpose of providing low-rent housing for domestic farm labor. This should not be less than

the anticipated useful life of the project as suitable housing for domestic farm labor, assuming proper maintenance and repair of the property. Ordinarily, this should not be less than 50 years.

(2) When the grant is closed, be the owner (as distinguished from a lessee) of the housing and related facilities, including the site.

(3) Be unable to provide the necessary housing from its own resources, including any power to levy taxes assessments, or charges, and unable to obtain the necessary credit through an LH loan or from other sources upon terms and conditions the applicant could reasonably be expected to fulfill.

(4) Have initial operating capital and other assets needed for a sound operation, and have, after the housing is completed, income sufficient for its operating expenses, necessary capital replacements, payments on authorized debts, including an LH loan, and other reasonable and necessary expenses, and the accumulation of reasonable reserve as required. Initial operating capital should be sufficient to pay such costs as property and liability insurance premiums, fidelity bond premiums, utility hookup charges, maintenance equipment, movable furnishings and equipment, printing lease forms, and other initial expenses.

(5) Possess the legal and actual capacity, ability, and experience to incur and carry out the undertakings and obligations required, including the obligations to maintain and operate the housing and related facilities for the purpose for which the grant is made.

(6) Legally obligate itself not to divert income from the housing to any other business, enterprise, or purpose.

(b) *Authorized representative of applicant.* The FHA will deal only with the applicant or its bona fide representative and technical advisers. The authorized representative of the applicant must be a person who has no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of the land for the housing site.

§ 1822.205 Grant purposes.

LH grants may only be made to:

(a) Construct or repair housing, as those terms are defined in § 1822.203. Housing may include single family units, apartments, or dormitory-type units.

(b) Acquire the necessary land on which the housing is or will be located and make improvements such as landscaping, foundation plantings, seeding and sodding lawns, and construction of walks, yard fences, parking areas, and driveways.

(1) The cost of the land so acquired may not exceed its present market value in its present condition. Present market value will be determined by a current appraisal.

(2) Land will not be acquired in excess of the minimum adequate amount needed for the housing.

(3) Land will not be acquired from a member, officer, or director of the applicant, or from another organization in which any member of the applicant has an interest, without the prior consent of the national office.

(c) Develop and install related facilities as defined in § 1822.203(c) and other related facilities subject to the limitations of § 1822.203(1), for the use of the occupants fo the housing, such as:

(1) Recreation area or center.

(2) Central cooking and dining facilities.

(3) Small infirmary for emergency care only.

(4) Laundry facilities.

(5) Fallout shelters or similar protective structures.

(6) Essential equipment which upon installation legally becomes a part of the real estate. The applicant must provide movable-type furnishings and equipment from its own funds.

(d) Pay related costs such as fees and charges for legal, architectural, and other appropriate technical services which are not available from the FHA or other sources without cost to the applicant.

§ 1822.206 Conditions under which an LH grant may be made.

A grant may be made to an eligible applicant only when all of the following requirements can be met:

(a) The applicant will contribute at least one-third of the cash development cost, obtained from its own resources, including any power to levy taxes, assessments, or charges, or with credit from other sources, or with an LH loan. The applicant's contribution must be available at the time of grant closing. If an LH loan is needed, the applicant will file an application for the loan to be considered with the grant application.

(b) The housing and related facilities will fulfill a pressing need in the area in which the housing is or will be located and there is reasonable doubt that such housing can be provided without the grant.

(1) The applicant will furnish the FHA factual evidence of fulfilling a pressing need, showing:

(i) Number of domestic farm laborers currently being used in the area.

(ii) Kind of labor performed.

(iii) Outlook for future need for domestic farm labor in the area.

(iv) Kind, condition, and adequacy of housing presently used by domestic farm laborers.

(v) Ownership of presently occupied housing.

(vi) Customary rental terms and conditions.

(vii) Reasons why needed housing cannot be financed with funds from other sources including an LH loan.

(2) When appropriate, the county supervisor may check with such sources as the State Department of Labor, Bureau of Employment Security, and other reliable sources.

(3) If, after evaluating the information furnished by the applicant and additional information he may obtain, the county supervisor determines that the housing will fulfill a pressing need and that a reasonable doubt exists that the housing can be provided without the grant, he will prepare a narrative statement to support his conclusions.

(c) The housing to be provided is the most practicable type, giving due consideration to the purposes to be served and the needs of the occupants.

(d) The housing will be constructed in an economical manner and will not be of elaborate or extravagant design or material.

§ 1822.207 Limitations and conditions.

(a) *Maximum amount of grant.* The amount of any grant may not exceed the lesser of:

(1) Two-thirds of the total cash development cost, or

(2) That portion of the total cash development cost which exceeds the sum of any amount the applicant can provide from its own resources plus the amount of a loan which the applicant will probably be able to repay, with interest, from income from rentals within the financial reach of families of low income.

(b) *Advances of grant funds.* The times for requesting treasury checks representing LH grant funds and depositing such checks in the applicant's supervised bank account will be determined in accordance with § 1822.220(e). Where other funds to help finance the labor housing are being supplied by the applicant from its own resources or from a loan, such other funds will be used before a grant check is requested from the treasury or deposited in or disbursed from the supervised bank account, as appropriate to comply with § 1822.220(e).

(c) *Development cost over $500,000.* No docket for a grant which would result in the total amount of grant assistance to the applicant, plus any LH indebtedness of the applicant, exceeding $500,000 will be developed without the prior consent of the national office. Any request for such consent must include the following information, which must be detailed, accurate, complete, and current:

(1) Name and address of the applicant.

(2) Applicant's assets.

(3) A listing of any debts owed.

(4) Status of each debt.

(5) Applicant's experience in operating farm labor housing.

(6) Proposed amount of applicant's financial contribution to the project, including any loan the applicant may be able to obtain.

(7) A realistic estimate of future need for the housing.

(8) A general description of the housing planned.

(9) The evidence of need submitted by the applicant and the county supervisor's evaluation.

(10) Any other factors having a bearing on the need and financial soundness of the proposed housing.

(d) *Prohibited use of grant funds.* Grant funds may only be used for the purposes stated in § 1822.205. Among the purposes for which grant funds will not be used are the following:

(1) Housing or related facilities which are elaborate or extravagant in design or material.

(2) Movable-type furnishings or equipment.

(3) Refinancing debts of the applicant.

(4) Payment of any fees, charges, or commissions to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of the grant.

(5) The payment of any fees, salary, commission, profit, or compensation to an applicant, or any officer, director, trustee, or agent of the applicant, except as provided in § 1822.205(d).

(e) *Obligations incurred before grant closing.* When the applicant files an application for a grant, the county supervisor will advise the applicant that construction must not be started and that obligations for work, materials, or land purchase must not be incurred before the grant is closed, and that it is the policy of the FHA not to permit grant funds to be used to pay such obligations. If, nevertheless, the applicant incurs debts for work, materials, or land purchase before the grant is closed, the State director may authorize the use of grant funds to pay such debts only when he finds that all the following conditions exist:

(1) The debts were incurred after the applicant filed a written application for a grant.

(2) The applicant is unable to pay such debts from its own resources or with credit from other sources, and failure to authorize the use of grant funds to pay such debts would impair the applicant's financial position.

(3) The debts were incurred for authorized grant purposes.

(4) Contracts, materials, construction, and any land purchase meet FHA standards and requirements, including the Davis-Bacon Act and related requirements.

(f) *Resolution.* A resolution will be adopted by the applicant's board of directors and a certified copy included in the grant docket before the grant is approved.

(1) For a grant accompanied by an LH loan, the form of resolution for LH loans and grants, a copy of which is available at any FHA office, will be used, with any necessary changes required or approved by the national office. For a grant not accompanied by an LH loan, the form of resolution will be provided or approved by the national office, following this form as closely as feasible.

(2) The form of resolution to be adopted by the applicant will contain policy and procedure requirements which should be read and fully understood by the applicant's board of directors and officers. Included in the resolution will be provisions authorizing the FHA to prescribe requirements regarding the housing and related operations of the applicant, and other provisions including the following:

(i) The rentals charged domestic farm labor will not exceed such amounts as are approved by the FHA after considering the income of the occupants and the necessary costs of operating and adequately maintaining the housing.

(ii) The housing will be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by State and local law, or as required by FHA.

(iii) In granting occupancy of the housing an absolute priority will be given at all times to domestic farm labor.

(3) The form of resolution will also authorize the appropriate officers of the applicant to execute a grant agreement and will indicate the amount of the grant. The grant agreement will be in the form of the sample form entitled "Labor Housing Grant Agreement" available at any FHA office unless necessary changes are required or approved by the national office.

(g) *Conditional obligations to repay grant.* The obligations incurred by the applicant as a condition of the grant will continue for 50 years from the date of the grant, unless sooner terminated in accordance with provisions of the entire contract between the applicant and the Government. If default should occur under any grant obligation, the Government will have the right, at its option, to require repayment of the full amount of the grant plus interest at the rate of 5 percent per annum after the default. The conditional obligation to repay the grant will be secured by a mortgage on the housing or other security, such as would be taken to secure an LH loan.

(h) *Nondiscrimination in use and occupancy.* The borrower will not discriminate, or permit discrimination by any agent, lessee, or other operator, in the use or occupancy of the housing or related facilities because of race, color, creed, or national origin.

(i) *Complaints regarding discrimination in use and occupancy of housing.* Complaints of any occupant or applicant for occupancy or use of housing who believes he has been discriminated against because of race, color, creed, or national origin will be handled in accordance with § 1822.77.

(j) *Civil Rights Act of 1964.* LH grants will be subject to the provisions of Part 1890 of this chapter.

(k) *Supervisory assistance.* Supervision will be provided to the extent necessary to achieve the objective of the grant and protect the interest of the Government.

§ 1822.208 Legal and other services.

(a) *Title clearance and legal services.* Title clearance and legal services will be obtained in accordance with special instructions from the Office of the General Counsel (OGC), observing the provisions of Part 1807 of this chapter insofar as feasibly applicable.

(b) *Contract for legal services.* The applicant will be required to have a written contract for legal services which are rendered in the period from the filing of the application to the closing of the grant, or which are rendered after grant closing and paid for with grant funds. All such contracts, including the amount of the fees to be paid, will be subject to review and approval by the FHA and, therefore, should be submitted to the FHA before execution by the applicant. Contracts will provide for the types of service to be performed, the amount of the fees to be paid, and payment of the fee in a lump sum on the completion of all services, or in installments as services are performed. The amount of the fees will be based on the nature and extent of the legal service needed to be furnished to the applicant in connection with the housing planning, development, financing, and the rate of compensation for such services in the community. The State director may request the advice of the OGC before approving the contract as to its provisions, including the amount of fees to be paid.

(c) *Contract for architectural services.* Architectural services will be required on each project, and the applicant will be required to have a written contract for such services. All such contracts, including the amount of the fees to be paid, will be subject to review and approval by the FHA, and therefore, should be submitted to the FHA before execution by the applicant. Contracts will provide for the type of services to be performed, such as (1) preliminary and final planning; (2) furnishing of sketches, drawings, specifications, and cost estimates; (3) assisting in preparing and soliciting construction bids; (4) analyzing bids; (5) preparing and awarding construction contracts; (6) preparing change orders; (7) exercising supervision during construction; (8) certification of all payments for work performed; and (9) the amount of fees to be paid and payment of the fees in a lump sum upon completion of all services or in installments as services are performed. The amount of fees payable will be based on the nature and extent of the services needed by the applicant in connection with the planning and development of the housing.

§ 1822.209 Construction and development policies.

(a) *Planning and construction.* Housing will be planned in accordance with Subpart A of Part 1804 of this chapter, and the guidebook "Supplement No. 1, Farm Labor Housing," of "A Guide for the Construction of Farm Buildings." available at all FHA offices. Construction and development will be performed in accordance with Subpart A of Part 1804 of this chapter and any other special instructions from the national office.

(b) *Davis-Bacon Act.* Construction financed with the assistance of an LH grant will be subject to Part 1890g of this chapter regarding the Davis-Bacon Act and related requirements.

(c) *Compliance with local codes and regulations.* Planning, constructing, zoning, and operating housing will conform with the applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, and health sanitation.

§ 1822.210 Supervised bank account.

LH grant funds and any funds furnished by the applicant, including any FHA loan funds, will be handled in accordance with Part 1803 of this chapter. For a grant, Form FHA 402–1, "Deposit Agreement," will be altered by inserting "advance(s) or" after "in connection with such" in the fourth line of the first numbered paragraph. Collateral for deposits of funds will be pledged whenever the supervised bank account exceeds $20,000. Funds furnished by the applicant for the purchase of special equipment and furnishings which will be used in connection with the housing but are not eligible under § 1822.205 for financing with grant funds will be deposited in a special account separate from the supervised bank account containing grant funds. Withdrawal of funds from the supervised bank account may be made only for the approved eligible purposes.

§ 1822.211 Insurance.

The State director will determine the minimum amount and types of insurance the applicant will carry.

(a) Fire and extended coverage will be required on all buildings essential to the successful operation of the housing development in accordance with Part 1806 of this chapter.

(b) Suitable Workman's Compensation Insurance will be carried by the applicant for all its employees.

(c) The applicant will be advised of the possibility of incurring liability and encouraged, or may be required when appropriate to obtain liability insurance.

§ 1822.212 Bonding.

The applicant will provide fidelity bond coverage for the official entrusted with the receipt and disbursement of its funds and the custody of any property. While the "Labor Housing Grant Agreement" as provided in § 1822.207 remains in effect, the amount of the bond will be at least equal to the maximum amount of money that the applicant will have on hand at any one time exclusive of funds in a supervised bank account. If permitted by State law the United States will be named coobligee in the bond. Form FHA 440–24, "Position Fidelity Bond," may be used if permited by State Law.

§ 1822.213 Optioning of land.

If the project involves the purchase of real estate, § 1821.15 of this chapter regarding options will be followed. After the grant is approved, the county supervisor will have Form FHA 440–35, "Form Letter—Acceptance of Option," or other appropriate form of acceptance completed, signed, and mailed to the seller.

§ 1822.214 Processing applications.

The application for a grant will be in the form of a letter to the county supervisor. The letter will include a full statement of: The purpose for which the grant is requested; the amount applicant is able to furnish; the estimated amount of the grant needed; the proposed manner of securing and repaying any debts the applicant has or plans to incur; any previous experience in operating labor housing; the name and address of the authorized representative of the applicant, if any. The applicant will attach to the letter of application as exhibits the following, which will be included in the preliminary docket with the application:

(a) A current, dated financial statement signed by an authorized official of the organization showing the amounts and nature of assets and liabilities together with information on the repayment schedule and status of each debt. The county supervisor's evaluation and verification, when appropriate, of the applicant's financial statement will be attached to the county office copy of the financial statement.

(b) Evidence of inability to obtain credit from other sources.

(c) Statement explaining why housing cannot be provided without a grant.

(d) Information on customary tenure arrangements and rental charges to laborers.

(e) Statement of method of operation and management practices.

(f) A proposed operating budget showing anticipated income and expenses for a typical year of operation.

(g) Plot plan and preliminary plans and specifications for the proposed housing and related facilities including:

(1) Building layout.

(2) Type of construction.

(3) Number and type of rental units.

(4) Estimate of cost, including basis for the estimate.

(5) Evidence of compliance with State and local health regulations.

(h) Preliminary survey of the area to determine evidence of need in accordance with § 1822.206(b) and probable demand for labor housing.

(i) Information on neighborhood and existing facilities, such as distance to shopping area, schools, neighborhood churches, available transportation and to other essential services.

(j) Information on topography, drainage, sanitation, and water supply. Any known problems related to these items should be mentioned.

(k) A statement on the amount, purpose, and method of providing capital to cover preliminary expenses and initial operating expenses.

(l) An accurate citation to the specific provisions of the State law under which the applicant is organized; a copy of the applicant's existing or proposed charter, bylaws, and other basic organization documents; the names and addresses of the applicant's board of directors, commissioners, or officers.

§ 1822.215 Preliminary docket.

(a) *County supervisor's review.* (1) The preliminary docket will be reviewed by the county supervisor. If it appears that the applicant is probably eligible and a grant likely can be made, the preliminary docket, including the comments and recommendations of the county supervisor and any additional material, will be forwarded to the State director. The comments of the county supervisor will include his views on the financial position, income, and background of the applicant's organization. If an LH loan is involved the loan docket should also be sent.

(2) At any time the county supervisor considers it necessary, the preliminary docket may be sent to the State director for his evaluation and further instructions.

(b) *State office action.* (1) The State director will review the preliminary docket and submit it with any comments or questions he may have, to the OGC for its preliminary opinion, to be included in the docket, as to whether the applicant and the proposed grant meet or can meet the requirements of State law and this subpart.

(2) The State director will make a thorough study of the preliminary plans and specifications for the proposed housing to determine compliance with the guidebook "Supplement No. 1—Farm Labor Housing" of "A Guide for the Construction of Farm Buildings," available at all FHA offices or compliance with applicable State codes for the construction of buildings for labor housing. The State director's comments pointing out any deficiencies in the plans and suggestions for improvements will be attached to the plan for the applicant's consideration when obtaining detailed plans and specifications and cost estimates.

(3) If in any case before the grant docket has been completed, the State director with the advice of the OGC is unable to determine whether the proposed grant meets the requirements of this subpart, he may submit the incomplete docket to the national office for special review. The incomplete docket will contain as many of the completed docket entries as possible. Such submission to the national office will identify the specific difficulties in which the opinion of the State director makes the special submission advisable. It will also include the State director's comments and recommendations and sufficient information concerning the applicant and the proposed grant to enable the national office to reach an informed conclusion. When appropriate, the national office may authorize approval without requiring the State director to resubmit the docket.

§ 1822.216 Determining rentals.

(a) *Information.* (1) The applicant will provide the following information by making a survey of the area where the occupants of the housing will be employed:

(i) The probable earnings of the prospective domestic farm labor occupants of the housing.

(ii) The income required to enable such prospective occupants to obtain other adequate housing.

(iii) The expenditure budget required by the prospective occupants for an adequate level of living which provides for the essentials of food, clothing, health, education of children, and participation in community life.

(iv) Customary rental practices and charges for other rental housing in the area that might be available to the prospective occupants.

(2) The information furnished by the applicant will be reviewed and verified by the county supervisor with the assistance of the county committee.

(3) The information will then be included in the loan docket.

(4) Additional information as may be required by the State director to determine and approve the maximum rental to be charged domestic farm labor occupants of the housing, assisted with the LH grant, will be included or specified in instructions issued by the State office.

(b) *Approval of rental charges.* The State director, after a thorough analysis of the information required by paragraph (a) of this section, will establish and approve the maximum rentals to be charged domestic farm labor for occupancy of the housing. When making this determination he will give due consideration to the income and earning capacity of the prospective occupants of the housing and the necessary cost of operating and maintaining such housing. As a general guide, the weekly, monthly, or other rental charges usually should not exceed a rate which on an annual basis would equal 25 percent of the occupant families' estimated annual income.

(1) A memorandum stating the amount of the approved initial rental charges will be sent to the county supervisor in an original and one copy. Both the original and copy will be retained by the county supervisor and included in the grant docket. After the grant is approved, the county supervisor will send the original and copy to the applicant, which will sign the original as received and noted, and return it to the county supervisor to be retained in the county office file.

(2) Rental charges may be adjusted subsequently when justified by a substantial change in the occupants' income, living costs, and other pertinent factors. The procedure will be similar to that provided in this section for establishing and approving rental charges initially.

§ 1822.217 Determining amount of grant.

(a) *General.* The State director will determine the amount the applicant can obtain from other sources, including an LH loan, and the amount of the grant to be made, within the limits set forth in § 1822.207(a). The State director will make this determination after thoroughly analyzing the information in the docket.

(b) *Method of determining amount of grant.* (1) The State director will examine the income of the project based on the approved rental charges and operating cost of the housing when in full operation to determine the soundness of the operations. In cases where there is any doubt as to the probable soundness due to unrealistic planning of income or operating expenses, or for other reasons, the housing project and its operation will be discussed with the applicant to determine changes which realistically can be made to correct the deficiencies.

(2) When a sound plan of operation has been agreed upon, the amount of funds which the State director determines can practicably be obtained from other sources, including an LH loan, will be determined on the basis of the amount of income available for loan repayments after allowing for reasonable and necessary maintenance costs, payments on other debts of the applicant, and the orderly accumulation of an adequate reserve.

(3) If the income available is sufficient to repay a loan which, added to any funds available from the applicant's own resources, equals an amount which is at least one-third of the total cash development cost, the applicant will be required to contribute the maximum such amount and a grant may be made for the difference.

(c) *Actions after State director has established amount of grant.* The State director will establish the amount of grant to be made and instruct the county supervisor to complete the development of the docket. A summary of the State director's analysis and his basis for determining the amount of grant will be fully documented and become a part of the grant docket which will be subject to review by the national office before approval.

§ 1822.218 Actions prior to grant approval.

(a) *Completion of docket.* If the State director authorizes further processing, the grant docket will be completed in accordance with § 1822.72, but will not include Form FHA 422–1, "Appraisal Report Farm Tract," or Form FHA 440–9, "Supplementary Payment Agreement." When an LH loan is being made concurrently with an LH grant, the dockets will be considered at the same time. In such a case, the information required for both the loan and the grant will not be duplicated.

(b) *County committee certification or recommendation.* Before a grant is approved, the county committee will make the necessary certification on Form FHA 440–2, "County Committee Certification or Recommendation." Before executing Form FHA 440–2, the county committee will consider all pertinent information concerning the applicant and the proposed project, and will be given an opportunity to talk with the applicant or its representative if the committee desires to do so.

(c) *Furnishing title evidence.* If the applicant is already the owner of the land, it may furnish title evidence at any time after it is determined the grant is likely to be made. For property to be purchased, title clearance will not be requested until the grant is approved.

§ 1822.219 Grant approval.

(a) *Delegation of authority.* The State director is authorized to approve or disapprove grants in accordance with this subpart with prior consent of the national office.

(b) *Grant approval action.* Section 1822.73(b), excepting subparagraph (1) (v), will apply to grants, with the word "grant" substituted for the word "loan."

§ 1822.220 Actions subsequent to grant approval.

(a) *Distribution of documents after grant approval.* Section 1822.74(a) will apply to grants with the word "grant" substituted for the word "loan."

(b) *Increase or decrease in the amount of the grant.* If it becomes necessary for the amount of the grant to be increased or decreased prior to closing, the county supervisor will request that all distributed docket forms be returned to the county office. The grant docket will be revised accordingly and reprocessed, except that if the amount of the grant is decreased, no LH loan is involved, and there is no substantial change in the planned improvements, a new form FHA 440–2 need not be obtained.

(c) *Cancellation of grant.* Grants may be canceled before closing as follows:

(1) The county supervisor will prepare Form FHA 440–10, "Notification of Loan or Grant Cancellation," in an original and two copies, or three copies, if the grant check has been received in the county office from the regional disbursing office. The form will be altered by changing all references from "loan" to "grant." Form FHA 440–10 will be sent to the State director with the reasons for requesting cancellation. If the State director approves the request for cancellation, he will forward the original request to the finance office. After making appropriate adjustments on the records, a copy of Form FHA 440–10 will be returned to the county office.

(i) If the grant check is received in the county office, the county supervisor will return it to the U.S. Treasury, Regional Disbursing Office, Kansas City, Mo., with a copy of Form FHA 440–10.

(2) All interested parties, including the national office, will be notified of the cancellation as provided in § 1807.6 of this chapter.

(d) *How to request grant check.* To request a grant check, the county supervisor will check the block for issuance of the check on a copy of Form FHA 440–3, "Record of Actions," sign the form, insert the date and signature, and forward it to the Finance Office, St. Louis, Mo.

(e) *When to request and deposit grant check.* The policy of the Government is not to disburse grant funds from the Treasury until they are actually needed by the applicant.

(1) In order to comply with this policy, the county supervisor will send the finance office a request or requests for a grant check or checks so that each check will be received in the county office not more than 10 days before the estimated date the applicant will expend the grant funds represented by the check, except that:

(i) All grant funds which the applicant will expend within a 30-day period will be included in one advance, and

(ii) The total amount of any grant which does not exceed $20,000 will be disbursed in one advance.

(2) If the county supervisor, upon receiving a grant check after the grant is closed, determines that more than 20 days will elapse before the earliest date any grant funds represented by the check will be needed by the applicant, he will return the check to the United States Treasury, Regional Disbursing Office, Kansas City, Mo., and specify a remailing date.

(f) *Handling the grant check.* (1) Subject to paragraph (e) of this section, the grant check will be handled in accordance with Part 1803 of this chapter:

(i) If a grant check cannot be delivered within 21 days from the date of the check for any reason, the check will be returned to the regional disbursing office with a specified mailing date.

§ 1822.221 Grant closing.

(a) *Date of closing.* As necessary to comply with § 1822.220(e), a grant may be closed, by executing the required instruments including the grant agreement and mortgage and filing the mortgage for record, before the grant check is ordered or received. A grant involving a mortgage is closed when the mortgage is filed for record.

(b) *Applicable provisions.* Subject to § 1822.220(e), LH grants will be closed in accordance with Part 1807 of this chapter and any instructions issued by the State office which supplement this subpart. The OGC may be requested to issue instructions in any case in which the State director or the national office considers it advisable. The State director, with the advice of the OGC, may permit the services of other legal counsel for the applicant to be utilized in addition to or in lieu of the services of a title insurance company or designated attorney.

(c) *Labor Housing Grant Agreement.* A Labor Housing Grant Agreement, prepared and authorized as provided in § 1822.207, will be dated and executed by the applicant on the date of grant closing on a form identical to that attached to the resolution. The executed agreement will be filed with the mortgage or other security instrument in the county office case file.

(d) *Mortgage.* (1) For a grant made at the same time as an LH loan, the mortgage securing the loan will contain a provision making it also secure the applicant's obligations under the Labor Housing Grant Agreement as provided in § 1822.207. For a grant not made at the same time as an LH loan, the form of mortgage will be prescribed by the national office or approved by it upon recommendation of the State director with the advice of the OGC.

(2) Any security instrument taken by the FHA under subparagraph (1) of this paragraph may be taken upon the condition, if it expressed in the security instrument or elsewhere in the grant contract between the applicant and the Government, that the Government may at any time give any consent, deferment, subordination, release, or satisfaction of the secured grant obligations or the security therefor, with or without valuable consideration, upon such terms and conditions as the Government in its sole discretion may determine to be advisable to further the purposes of the grant or protect the Government's financial interest under the grant agreement and mortgage, and consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which the grant is made.

§ 1822.222 Subsequent LH grants.

A subsequent grant is a grant made to an applicant which has previously received an LH grant. Subsequent grants may be made in compliance with all the provisions of this subpart.

Dated: September 4, 1970.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[F.R. Doc. 70-12228; Filed, Sept. 14, 1970; 8:46 a.m.]

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[AL 838(440)]

PART 1890g—DAVIS-BACON AND RELATED ACTS

New Part 1890g, an administrative directive supplementing certain preceding parts of this chapter, is added to Chapter XVIII, Title 7, Code of Federal Regulations, to read as follows:

Sec.
1890g.1 General.
1890g.2 Contracts with the U.S. Department of Labor.
1890g.3 Requesting wage determination.
1890g.4 Issuance of wage determination.
1890g.5 Redetermination or extension of wage rates.
1890g.6 Supplemental classifications.
1890g.7 State wage rate determination.
1890g.8 Contract provisions.
1890g.9 Enforcement of contract provisions.
1890g.10 Violations.
1890g.11 Semiannual reports.

AUTHORITY: The provisions of this Part 1890g issued under sec. 510, 63 Stat. 437, 42 U.S.C. 1480; sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; Order of Director, Office of Economic Opportunity, 29 F.R. 14764; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650, 33 F.R. 9677.

§ 1890g.1 General.

This part supplements Subpart B of Part 1804, Subpart E of Part 1822, Subparts D and E of Part 1823, and Subparts A and B of Part 1833, all of this chapter. This part applies to all projects assisted with (a) Economic Opportunity loans to individuals and cooperative associations under Subparts A and B of Part 1833 of this chapter, and Subpart E of Part 1823 of this chapter, (b) Labor Housing Grants under Subpart E of Part 1822 of this chapter, (c) Timber Development Organization loans under Subpart F of Part 1823 of this chapter, (d) supplemental grants under the Appalachian Regional Development Act of 1965 made through the Farmers Home Administration (FHA), or (e) supplemental grants under the Public Works and Economic Development Act of 1965 made through the FHA. Where the construction contract cost on any such project exceeds $2,000, all laborers and mechanics employed by contractors or subcontractors shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. Other related Acts will also apply to such contracts as outlined in this part. This part applies to all such contracts and subcontracts when the total contract cost of construction exceeds $2,000, regardless of whether it is contemplated that the work will be performed by the contractor (or subcontractor) without the employment of labor, or by hired laborers and mechanics.

§ 1890g.2 Contracts with the U.S. Department of Labor.

Other than requests for wage determinations or redeterminations, all contacts with the U.S. Department of Labor, including followup action with respect to requested wage determinations, will be handled through the FHA National Office.

§ 1890g.3 Requesting wage determination.

A Department of Labor form, Form DB-11, "Request for Determination," will be used in requesting a wage determination for each construction contract. The county supervisor will fill out Form DB-11 with the assistance of the applicants' architect or engineer, or where the applicant does not employ an architect or engineer with FHA personnel. Form DB-11 will be sent to the Solicitor of Labor as soon as practical and in no case in less than 45 days prior to the anticipated date of advertising or informal request for bids. This timing is essential because minimum wage rates must be incorporated in the proposed contract documents released to bidders.

§ 1890g.4 Issuance of wage determination.

Department of Labor Form SOL-123, "Wage Determination Decision" which incorporates the wage determination by the Department of Labor will be transmitted through the National and State offices to the county supervisor. The county supervisor will retain one copy of Form SOL-123 and forward the remaining copies immediately to the applicant for transmittal to its engineer or architect or prospective contractors.

(a) Wage determinations are dated, numbered, and are valid for 120 days from their dates.

(b) The Department of Labor may amend wage rates after the determination has been made. Amended determinations received by FHA not later than 10 days before the date of bid opening must be incorporated in the proposed contract documents. However, amended determinations received later than 10 days before the date of bid opening may be incorporated if the State director finds there is reasonable time in which

to notify bidders of the modifications:

(1) When contracts are awarded on the basis of informal bids, rather than by advertising for and opening of bids, the term "date of bid opening," as used in this part, will be construed to mean the date the contract is awarded.

§ 1890g.5 Redetermination or extension of wage rates.

If a contract is not awarded prior to the expiration date, it will be necessary to secure a new determination by again submitting Form DB–11. If it appears that the wage determination may expire between the date of bid opening and date of award, a new determination shall be requested by the State director sufficiently in advance of the bid opening to assure receipt of the new determination prior to the date of bid opening.

(a) The new determination shall be requested by the State director on Form DB–11.

(b) When, due to unavoidable circumstances, a determination expires after the bid opening, but before the award, a request for an extension of the expiration date may be requested through the National office. Such request shall include:

(1) A copy of the original determination.

(2) A statement fully supporting the necessity of an extension outlining clearly why it is necessary in the public interest to prevent injustice or undue hardship to the applicant or serious impairment of the Government's business.

§ 1890g.6 Supplemental classifications.

After the contract is awarded, any class of laborers or mechanics to be employed under the contract and not included in the wage determination may be classified or reclassified conformably to the wage determination if all interested parties (applicant, contractors, and the employees affected or their representatives) agree upon a proper classification or reclassification and a wage rate which is the prevailing rate paid by contractors engaged in similar work in the area.

(a) If the State director concurs in the proposed classification or reclassification and the prevailing wage rate recommended, he will advise the applicant to incorporate it in the contract by change order.

(b) The State director will then immediately submit a signed "Report of Wage Rate Classification," copies of which are available at all FHA offices, together with any supporting documentation, to the National office for transmittal to the Department of Labor.

(c) In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question accompanied by the recommendation of FHA shall be referred to the Secretary of Labor through the National office for final determination.

§ 1890g.7 State wage rate determination.

In some States wage determinations are required by State or local law for certain types of contracts. Where such a State wage determination is required, the State director shall obtain from the State Department of Labor a determination of applicable wage rates, shall require the inclusion of such wage determination in the contract, and shall require compliance with such State requirements in addition to those required pursuant to the Davis-Bacon Act. Thus, both the State wage determination and that of the U.S. Department of Labor shall be incorporated in the bid documents and in case of any difference the higher rate shall be paid for each classification.

(a) Periods of validity of the State wage rate determination may vary between States. A State FHA supplement prepared by the FHA State office will be issued giving the period that wage rates are valid in the State and outlining any other regulations which apply. A redetermination must be secured in accordance with State regulations.

§ 1890g.8 Contract provisions.

Each contract to which this part is applicable must include Form FHA 440–27, "Labor Standards Provisions," These provisions will be incorporated either by insertion in the contract, or by reference in the contract with physical attachment thereto.

(a) Each "Notice and Instructions to Bidders" must include the statement: "The successful bidder must comply with minimum rates of wages for laborers and mechanics, as determined by the Secretary of Labor, and other labor regulations."

§ 1890g.9 Enforcement of contract provisions.

(a) *General.* It is the responsibility of the county supervisor to insure the inclusion of the provisions of Form FHA 440–27 in every contract on projects to which this part applies, and to make the reviews and investigations necessary to assure compliance with those provisions.

(b) *Understanding with the contractor.* Before work begins, the county supervisor should make sure that the contractor understands his responsibilites under Form FHA 440–27, the provisions of which are part of the contract, understands that he must include such provisions in his subcontracts, knows that compliance checks will be made, and realizes that violations may have serious consequences.

(c) *Posting of information.* The county supervisor should see that the wage determination received from the Labor Department is posted by the contractor at the site of the work in a prominent and accessible place where it can be easily read by the workers. Department of Labor poster WHPC Publication 1240, "Notice to Employees Working on Federal or Federally Financed Construction Projects," should be posted with the wage determination. WHPC Publication 1240 is a poster which can be obtained from the Finance Office, St. Louis, Mo. The county supervisor should order sufficient copies of the poster in time to have them available on the job before the contractor begins work.

(d) *Weekly submission of payrolls.* (1) Contractors and subcontractors are required by the provisions of Form FHA 440–27 and by regulations of the Secretary of Labor (29 CFR Part 3) to submit copies of all payrolls each week to the borrower for transmittal to the county supervisor. The payrolls must be accompanied by a weekly statement of compliance regarding the payment of wages, which statement must be on an appropriate form as provided in subparagraph (2) of this paragraph. The weekly statement must be signed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages.

(2) The Secretary of Labor has developed a payroll form, Form WH–347, "Payroll (For Contractor's Optional Use)," for use by contractors and subcontractors on an optional basis. This payroll form, when properly completed on both sides, meets all requirements outlined in subparagraph (1) of this paragraph, since is has the proper form of weekly statement printed on the back. If the contractor or subcontractor uses his own choice of appropriate payroll form, he must attach the required weekly statement, using either Form WH–348, "Statement of Compliance," on which the weekly statement is printed separately, or any other form with identical wording. Samples of Forms WH–347 and WH–348 and instructions for preparation of these forms are available at all FHA offices. FHA will not supply Form WH–347. Contractors who elect to use this form may order it from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, at their own expense. Form FH–348 can be obtained from the Finance Office, St. Louis, Mo., as needed.

(3) No payment from loan or grant funds may be made on any contract subject to this part unless the required weekly statements by the contractor or subcontractor are currently on file with FHA.

(e) *Review and filing of payrolls.* The county supervisor will examine the weekly payrolls to determine compliance with the provisions of Form FHA 440–27. Particular attention should be given to the correctness of job classifications and any disproportionate number of laborers, helpers, or apprentices in relation to the number of employees in higher classifications. The county office copies of payrolls and statements will be filed in the borrower's case folder and will be produced at the request of the Secretary of Labor any time during a 3-year period from the date of completion of the contract. The contractor is required by Form FHA 440–27 to preserve his copies of the payroll for a period of 3 years.

(f) *Interview of workmen.* In order to determine compliance with Form FHA 440–27 and the wage determination, the county supervisor should interview a sufficient number of employees to assure that the contractor is performing his

obligations thereunder. Interviews may be recorded on Form FHA 440–28, "Labor Standards Interview Report," If Form FHA 440–28 is used, the employee interviewed shall be requested to sign the report. If he refuses to do so, an appropriate notation should be made in the "Remarks" space. It is of the utmost importance for county and district supervisors to conduct adequate investigations and detect any possible violations as soon as possible. Most of these violations will be due to misunderstandings or unintentional omission and they can be corrected very simply if they are discovered early. Once total underpayments under any contract have reached $500 the problem of corrective actions is much greater. County supervisors should immediately report in detail any apparent violations to the State office with a request for guidance.

(1) If routine interviews disclose any evidence of violations, additional interviews and other investigations shall be conducted to determine if violations have occurred and, if so, all pertinent facts on the violations will be assembled.

(2) Complaints of alleged violations shall be given priority. Unwritten or oral statements by a workman shall be treated as confidential and not disclosed to his employer without his consent.

§ 1890g.10 Violations.

(a) *General.* When it appears that there has been a violation of the provisions of Form FHA 440–27, including minimum wages and overtime requirements, and that restitution may be due employees of a contractor, the county supervisor should determine if the contractor is willing to make voluntary restitution to the employees before any more payments are made to the contractor.

(1) If the amount of underpayments to employees totals less than $500, the nonpayment was not willful, restitution is effected, and future compliance by the contractor is assured, no report is required other than a summary of pertinent facts on Form FHA 440–29, "Semiannual Labor Compliance Report," as required in § 1890g.11.

(2) If the underpayments total $500 or more, or if they represent violations which constitute a disregard of obligations to employees with respect to the minimum wage requirements in Form FHA 400–27, or which constitute willful or aggravated violations of the other portions of Form FHA 440–27, the county supervisor should immediately forward a comprehensive report through the State director to the Administrator. Steps must also be taken immediately to withhold from payments due the contractor an amount equal to the estimated restitution due the employees. This amount may be paid to the contractor when the county supervisor determines that the contractor has made restitution. If the contractor prefers, he may execute an authorization substantially similar to the form letter entitled "Authorization for Payment," available at all FHA offices, and the county supervisor may then countersign a check payable to each of the employees for the unpaid amount due. If the contractor refuses to make or authorize restitution to the employee, the funds withheld for this purpose will not be released by the county supervisor to either the contractor or the employee, or to any other person, until proper authorization has been received from the Administrator of the Farmers Home Administration.

(i) The essentials of a comprehensive report include: A chronological narration of the facts; a copy of any FHA investigative report and exhibits, including payrolls submitted to the Government and other pertinent documentary evidence; copies of correspondence showing administrative action with respect to the demand for compliance and actions taken or explanations proffered by offenders, and; any additional information, evidence, or recommendations believed to be useful in our determinations. If the wage underpayments are corrected by contractors or subcontractors to the satisfaction of the county supervisor, evidence of such corrective payments need not be furnished with the report. Instead, a statement by the county supervisor that adjustments have been made and verified will be included in the report.

(ii) Reports will be submitted to the National office in triplicate for review and transmittal to the Secretary of Labor.

(b) *Overtime requirements.* The Contract Work Hours Standards Act requires contractors and subcontractors engaged in the performance of the contract to pay every laborer or mechanic at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, as the case may be. For each violation of the requirements of this law, liquidated damages in the sum of ten dollars shall be imposed for each laborer or mechanic for each calendar day on which such employee was required or permitted to work in excess of 8 hours or in excess of the standard workweek of 40 hours without receiving the overtime wages computed in accordance with the above. Such liquidated damages will be imposed by the county supervisor whether or not the violation is determined willful, and an amount sufficient to pay the liquidated damages will be withheld from payments otherwise due the contractor. He will immediately send a memorandum to the State director including: Full information regarding the wage underpayments for which the liquidated damages were imposed; information as to whether or not restitution has or will be made, and; an opinion as to whether or not the violation was inadvertent.

(1) When the amount of liquidated damages administratively determined by the county supervisor to be due is $100 or less, restitution has been made to the employees, and the State director finds that the amount assessed was incorrect or that the contractor or subcontractor violated inadvertently the overtime provisions notwithstanding the exercise of due care upon the part of the contractor or subcontractor, the State director may make an appropriate adjustment in such liquidated damages or relieve the contractor or subcontractor of liability for each liquidated damages.

(2) When the amount of liquidated damages administratively determined by the county supervisor to be due exceeds $100, restitution has been made to the employees, and the State director finds that the amount assessed is incorrect or that the contractor or subcontractor violated inadvertently the overtime provisions notwithstanding the exercise of due care upon the part of the contractor or subcontractor, he will report the case to the National office. The State director's report will include his recommendations as to whether the contractor or subcontractor should be relieved of part or all of such liquidated damages. The report shall also include full information regarding the wage underpayments for which liquidated damages were imposed.

(3) As soon as the amount of liquidated damages has been finally determined, the State director will transfer or instruct the county supervisor to transfer to the FHA from funds due the contractor in the supervised bank account an amount sufficient to pay the liquidated damages. This will be done by check made payable to the FHA and forwarded to the finance office for final transmittal to the Treasury as miscellaneous receipts.

(c) *Antikickback regulations.* The Copeland (Anti-Kickback) Act and Copeland regulations issued by the Labor Department require that every person employed on projects to which this part applies shall receive the full weekly wages earned and that no rebate or deduction (other than permissible deductions defined in the regulations) shall be made either directly or indirectly. Such Act and regulations require contractors and subcontractors to submit weekly payrolls and statements with respect to wages paid each employee during the preceding week, as provided in § 1890g.9(d).

(1) When it appears that there has been a violation of the Copeland Act and regulations, and that restitution may be due employees of a contractor, the procedure outlined in paragraph (a) of this section will apply.

§ 1890g.11 Semiannual reports.

Each county office should submit a report on Form FHA 440–29 to the State director covering the periods January 1 through June 30 and July 1 through December 31, respectively. A negative report should be made if applicable.

Dated: September 8, 1970.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[F.R. Doc. 70–12229; Filed, Sept. 14, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF ANIMAL DISEASES

PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY

Change in Indemnity Provisions

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114, 114a, 115, 117, 120, 121, 134a–134h), § 53.2(b) of Part 53, Title 9, Code of Federal Regulations, relating to payment of indemnities for animals destroyed because of certain communicable diseases of livestock or poulty, is hereby amended to read as follows:

§ 53.2 Determination of existence of disease; agreement with States.

* * * * *

(b) Upon agreement of the authorities of the State to enforce quarantine restrictions and orders and directives properly issued in the control and eradication of such a disease, the Director of Division is hereby authorized to agree, on the part of the Department, to cooperate with the State in the control and eradication of the disease, and to pay 50 percent of the expenses of purchase, destruction and disposition of animals and materials required to be destroyed because of being contaminated by or exposed to such disease: *Provided, however,* That if the animals were exposed to such disease prior to or during interstate movement and are not eligible to receive indemnity from any State, the Department may pay up to 100 percent of the purchase, destruction, and disposition of animals and materials required to be destroyed: *And provided further,* That the Secretary may authorize other arrangements for the payment of such expenses upon finding that an extraordinary emergency exists.

* * * * *

(Secs. 3 and 11, 23 Stat. 32, as amended, sec. 2, 32 Stat. 792, as amended, 76 Stat. 129–132; 21 U.S.C. 111–113, 114, 114a, 115, 117, 120, 121, 134b)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The purpose of the foregoing amendment is to permit the Department, under certain conditions, to pay up to 100 percent of the expenses of purchase, destruction, and disposition of animals and materials required to be destroyed because of being contaminated by or exposed to any disease within the meaning of § 53.1(f) of this Part.

It is believed the amendment will facilitate the control and eradication of emergency disease outbreaks in this country and will therefore be of benefit to affected persons. Accordingly, under administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendment are impracticable and unnecessary; therefore, it may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of September 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-12230; Filed, Sept. 14, 1970; 8:46 a.m.]

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-259]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2, paragraph (e)(7) relating to the State of Maryland is amended to read:

(7) *Maryland.* (i) The adjacent portions of Charles and Prince Georges Counties bounded by a line beginning at the junction of Maryland Highways 210 and 225 in Charles County; thence, following Maryland Highway 210 in a generally northeasterly direction to Interstate Highway 495; thence, following Interstate Highway 495 in a northeasterly direction to Maryland Highway 5; thence, following Maryland Highway 5 in a southeasterly direction to Maryland Highway 381; thence, following Maryland Highway 381 in a generally southeasterly direction to Maryland Highway 231; thence, following Maryland Highway 231 in a generally southwesterly direction to Maryland Highway 5; thence, following Maryland Highway 5 in a northwesterly direction to Maryland Highway 488; thence, following Maryland Highway 488 in a southwesterly direction to Maryland Highway 6; thence, following Maryland Highway 6 in a generally southwesterly direction to U.S. Highway 301; thence, following U.S. Highway 301 in a northerly direction to Maryland Highway 225; thence, following Maryland Highway 225 in a generally northwesterly direction to its junction with Maryland Highway 210 in Charles County.

(ii) That portion of Wicomico County bounded by a line beginning at the junction of U.S. Highway 50 and the Sixty Foot Road; thence, following U.S. Highway 50 in an easterly direction to the Pocomoke River; also the Wicomico-Worcester County line; thence, following the west bank of the Pocomoke River in a generally southwesterly direction to State Highway 374; thence, following State Highway 374 in a northwesterly direction to State Highway 354; thence, following State Highway 354 in a northwesterly direction to State Highway 350; thence, following State Highway 350 in a northwesterly direction to the Sixty Foot Road; thence, following the Sixty Foot Road in a northeasterly direction to its junction with U.S. Highway 50.

* * * * *

2. In § 76.2, in paragraph (e)(6) relating to the State of Missouri, a new subdivision (iv) relating to Dunklin County is added to read:

(6) *Missouri.* * * *

(iv) That portion of Dunkin County bounded by a line beginning at the junction of State Highway B and the Gibson-Clarkton gravel Road; thence, following the Gibson-Clarkton gravel Road in an easterly direction to the southern boundary of the city of Clarkton; thence, following the southern boundary of the city of Clarkton in an easterly direction to the Dunklin-New Madrid County line; thence, following the Dunklin-New Madrid County line in a generally southerly direction to State Highway OO; thence, following State Highway OO in a westerly direction to State Highway 153; thence, following State Highway 153 in a northerly direction to the Frisbee gravel Road; thence, following the Frisbee gravel Road in a generally westerly direction to the St. Francis River (also the Missouri-Arkansas State line); thence, following the east bank of the St. Francis River in a generally northerly direction to State Highway BB; thence, following State Highway BB in an easterly direction to State Highway B; thence, following State Highway B in a generally northwesterly direction to its junction with the Gibson-Clarkton gravel road.

* * * * *

(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 Wicomico County, Md., and a portion of Dunklin County, Mo., 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 portions of such counties.

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 9th day of September 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-12262; Filed, Sept. 14, 1970; 8:48 a.m.]

PART 78—BRUCELLOSIS

Modified Certified Brucellosis Areas

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal regulations, containing restrictions on the interestate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended; and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulations designating modified certified brucellosis areas is hereby amended to read as follows:

§ 78.13 Modified certified brucellosis areas.

The following States, or specified portions thereof, are hereby designated as modified certified brucellosis areas:

Alabama. The entire State;
Alaska. The entire State;
Arizona. The entire State;
Arkansas. The entire State;
California. The entire State;
Colorado. The entire State;
Connecticut. The entire State;
Delaware. The entire State;
Florida. Alachua, Baker, Bay, Bradford, Brevard, Broward, Calhoun, Charlotte, Citrus, Clay, Collier, Columbia, Dade, De Soto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hendry, Hernando, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Lee, Leon, Levy, Liberty, Madison, Manatee, Marion, Martin, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Putnam, St. Johns, St. Lucie, Santa Rosa, Sarasota, Seminole, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington Counties;
Georgia. The entire State;
Hawaii. The entire State;
Idaho. The entire State;
Illinois. The entire State;
Indiana. The entire State;
Iowa. The entire State;
Kansas. The entire State;
Kentucky. The entire State;
Louisiana. The entire State;
Maine. The entire State;
Maryland. The entire State;
Massachusetts. The entire State;
Michigan. The entire State;
Minnesota. The entire State;
Mississippi. The entire State;
Missouri. The entire State;
Montana. The entire State;
Nebraska. The entire State;
Nevada. The entire State;
New Hampshire. The entire State;
New Jersey. The entire State;
New Mexico. The entire State;
New York. The entire State;
North Carolina. The entire State;
North Dakota. The entire State;
Ohio. The entire State;
Oklahoma. Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Cimarron, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Custer, Delaware, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Latimer, LeFlore, Lincoln, Logan, Love, McClain, McCurtain, McIntosh, Major, Marshall, Mayes, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Omulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, and Woodward Counties;
Oregon. The entire State;
Pennsylvania. The entire State;
Rhode Island. The entire State;
South Carolina. The entire State;
South Dakota, Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Henson, Harding, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Marshall, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, and Ziebach Counties; and Crow Creek Indian Reservation;
Tennessee. The entire State;
Texas. Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Denton, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fayette, Fisher, Floyd, Foard, Freestone, Gaines, Garza, Gillespie, Glasscock, Goliad, Gray, Grayson, Gregg, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Houston, Howard, Hudspeth, Hutchinson, Irion, Jack, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamb, Lampasas, Lee, Leon, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Mason, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Ward, Washington, Webb, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties;
Utah. The entire State;
Vermont. The entire State;
Virginia. The entire State;
Washington. The entire State;
West Virginia. The entire State;
Wisconsin. The entire State;
Wyoming. The entire State;
Puerto Rico. The entire State;
Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended, 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment adds the following additional areas to the list of areas designated as modified certified brucellosis areas because it has been determined that such areas come within the definition of § 78.1(i): Henderson and Red River Counties in Texas.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of September 1970.

ROBERT S. SHARMAN,
Acting Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 70-12263; Filed, Sept. 14, 1970; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9995; Amdt. 37-23]

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

Airborne ILS Glide Slope Receiving Equipment TSO-C34C and Airborne ILS Localizer Receiving Equipment TSO-C36C

The purpose of this amendment to the Federal Aviation Regulations is to update the minimum performance standards for airborne ILS glide slope and

localizer receiving equipment in §§ 37.160 and 37.161 of Part 37.

These amendments were proposed in Notice 69-52, issued December 3, 1969 (34 F.R. 19142). The comments received in response to Notice 69-52 were all favorable. However, a few comments suggested minor clarifying changes to the proposal. In addition, two commentators noted and Notice 69-52 stated that the minimum performance standards set forth herein are suitable only for equipment used on aircraft which operate under Category I or Category II minimums. These standards are not intended for ILS equipment that is to be used in aircraft operated under Category III minimums. Minimum performance standards have not yet been developed for this latter equipment. In response to another comment, the proposed amendments have been changed to make it clear that the performance requirements of the antenna must be met after the equipment has been exposed to the environmental tests.

Finally, the marking requirement has been revised to make it clear that all markings required in addition to those required under § 37.7 must also be "permanent and legible."

In consideration of the foregoing, §§ 37.160 and 37.161 of Part 37 of the Federal Aviation Regulations are amended effective October 15, 1970, as follows:

§ 37.160 Airborne ILS Glide Slope Receiving Equipment, TSO-C34c.

(a) *Applicability.* (1) This technical standard order prescribes the minimum performance standards that airborne ILS glide slope receiving equipment must meet in order to be identified with the applicable TSO marking. New models of equipment that are to be so identified, and that are manufactured on or after October 15, 1970, must meet the requirements of Radio Technical Commission for Aeronautics Document No. DO-132 entitled "Minimum Performance Standards—Airborne ILS Glide Slope Receiving Equipment" dated March 15, 1966, and Radio Technical Commission for Aeronautics Document No. DO-138 entitled "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments" dated June 27, 1968, except as provided in subparagraph (2) of this paragraph. RTCA Documents Nos. DO-132 and DO-138 are incorporated herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23, and are available as indicated in § 37.23. Additionally, RTCA Documents Nos. DO-132 and DO-138 may be examined at any FAA regional office of the Chief of Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division), and may be obtained from the RTCA Secretariate, Suite 655, 1717 H Street NW., Washington, D.C. 20006, at a cost of $2.50 per copy for Document No. DO-132 and $4 per copy for Document No. DO-138.

(2) *Exceptions.* (i) RTCA Paper DO-108 referenced in RTCA Document DO-132 has been superseded by RTCA Document DO-138. Therefore, the environmental test conditions of RTCA Document DO-138 are applicable to equipment under this TSO.

(ii) RTCA Document DO-138 lists environmental test conditions covering equipment subjected to water, hydraulic fluid, sand and dust, fungus and salt spray, for which there are no corresponding equipment performance requirements in RTCA Document DO-132. Therefore, if the applicant elects to certify compliance with any of the aforementioned environmental test conditions, the equipment performance requirements of paragraphs 2.1a, 2.7, and 2.16 of RTCA Document DO-132 must be met after the equipment has been exposed to those test conditions.

(b) *Marking.* In addition to the markings specified in § 37.7, the article must be permanently and legibly marked with the following information:

(1) The environmental extremes over which the article has been designed to operate. There are 12 environmental test procedures outlined in RTCA Document DO-138 which have categories established. These must be identified on the nameplate by the words, "Environmental Categories" or, as abbreviated, "Env. Cat.", followed by 12 letters which identify the categories designated. Reading from left to right, the category designations must appear on the nameplate in the following order, so that they may be readily identified:

(i) Temperature—altitude category;
(ii) Humidity category;
(iii) Vibration category;
(iv) Audiofrequency magnetic field susceptibility category;
(v) Radiofrequency susceptibility category;
(vi) Emission of spurious radiofrequency energy category;
(vii) Explosion category;
(viii) Water proofness category;
(ix) Hydraulic fluid category;
(x) Sand and dust category;
(xi) Fungus resistance category; and
(xii) Salt spray category.

(2) The article must be marked to indicate the class of centering accuracy (Class A, B, C, or D) for which it has been designed to operate.

(3) Each separate component of the article (antenna, receiver, indicators, etc.) must be identified with at least the name of the manufacturer, the TSO number, and the environmental categories over which the article component is designed to operate. Where an environmental test procedure is not applicable to that component and the test is not conducted, an X should be placed in the space assigned for that category.

(4) Where a manufacturer desires to substantiate his article in dual categories for a specific environmental test procedure, the nameplate must be marked with both categories in the space designated for that category, by placing one letter above the other. A typical nameplate identification would be as follows:

Env. Cat. $\frac{A}{D}$AJAAAXWHDFS Class A

(c) *Data requirements.* In accordance with § 37.5, the manufacturer must furnish to the Chief, Engineering and Manufacturing Branch, Flight Standards Division (or in the case of the Western Region, the Chief, Aircraft Engineering Division), Federal Aviation Administration, in the region in which the manufacturer is located, the following technical data:

(1) One copy of the operating instructions and equipment limitations of the manufacturer.

(2) One copy of the installation procedures with applicable schematic drawings, wiring diagrams, and specifications, and a listing of components (by part number) or possible combinations thereof, which make up a system complying with this TSO. The procedures must show all limitations, restrictions, or other conditions pertinent to the installation.

(3) One copy of the manufacturer's test report.

(d) *Previously approved equipment.* Airborne ILS glide slope receiving equipment approved prior to October 15, 1970, may continue to be manufactured under the provisions of its original approval.

§ 37.161 Airborne ILS localizer receiving equipment, TSO-C36c.

(a) *Applicability.* (1) This technical standard order prescribes the minimum performance standards that airborne ILS localizer receiving equipment must meet in order to be identified with the applicable TSO marking. New models of equipment that are to be so identified, and that are manufactured on or after October 15, 1970, must meet the requirements of Radio Technical Commission for Aeronautics Document No. DO-131 entitled "Minimum Performance Standards—Airborne ILS Localizer Receiving Equipment" dated December 15, 1965, and Radio Technical Commission for Aeronautics Document No. DO-138 entitled "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments" dated June 27, 1968, except as provided in subparagraph (2) of this paragraph. RTCA Documents Nos. DO-131 and DO-138 are incorporated herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23, and are available as indicated in § 37.23. Additionally, RTCA Documents Nos. DO-131 and DO-138 may be examined at any FAA regional office of the Chief of Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division) and may be obtained from the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, at a cost of $2.50 per copy for Document No. DO-131 and $4 per copy for Document No. DO-138.

(2) *Exceptions.* (i) RTCA Paper DO-108, referenced in RTCA Document DO-131 has been superseded by RTCA Document DO-138. Therefore, the environmental test conditions of RTCA Document DO-138 are applicable to equipment under this Technical Standard Order.

(ii) RTCA Document No. DO-138 lists environmental test conditions covering equipment subjected to water, hydraulic

fluid, sand and dust, fungus and salt spray, for which there are no corresponding equipment performance requirements in RTCA Document DO–131. Therefore, if the applicant elects to certify compliance with any of the aforementioned environmental test conditions, the equipment performance requirements of paragraphs 2.1a, 2.7, and 2.20 of RTCA DO–131 must be met after the equipment has been exposed to these test conditions.

(b) *Marking.* In addition to the markings specified in § 37.7, the article must be permanently and legibly marked with the following information:

(1) The environmental extremes over which the article has been designed to operate. There are 12 environmental test procedures outlined in RTCA Document DO–138 which have categories established. These must be identified on the nameplate by the words, "Environmental Categories" or, as abbreviated, "Env. Cat.", followed by 12 letters which identify the categories designated. Reading from left to right the category designations must appear on the nameplate in the following order, so that they may be readily identified:

(i) Temperature-altitude category;
(ii) Humidity category;
(iii) Vibration category;
(iv) Audiofrequency magnetic field susceptibility category;
(v) Radiofrequency susceptibility category;
(vi) Emission of spurious radiofrequency energy category;
(vii) Explosion category;
(viii) Waterproofness category;
(ix) Hydraulic fluid category;
(x) Sand and dust category;
(xi) Fungus resistance category;
(xii) Salt spray category.

(2) The article must be marked to indicate the class of centering accuracy (Class A, B, C, or D) for which it has been designed to operate.

(3) Each separate component of the article (antenna, receiver, indicator, etc.) must be identified with at least the name of the manufacturer, the TSO number, and the environmental categories over which the article component is designed to operate. Where an environmental test procedure is not applicable to that component and the test is not conducted, an X should be placed in the space assigned for that category.

(4) Where a manufacturer desires to substantiate his article in dual categories for a specific environmental test procedure, the nameplate must be marked with both categories in the space designated for that category, by placing one letter above the other. A typical nameplate identification would be as follows:

Env. Cat. $\frac{A}{D}$AJAAAXWHDFS Class A

(c) Data requirements. In accordance with § 37.5, the manufacturer must furnish to the Chief, Engineering and Manufacturing Branch, Flight Standards Division (or in the case of the Western Region, the Chief, Aircraft Engineering Division), Federal Aviation Administration, in the region in which the manufacturer is located, the following technical data:

(1) One copy of the operating instructions and equipment limitations of the manufacturer.

(2) One copy of the installation procedures with applicable schematic drawings, wiring diagrams, and specifications, and a listing of components (by part number) or possible combinations thereof, which make up a system complying with this TSO. The procedures must show all limitations, restrictions, or other conditions pertinent to the installation.

(3) One copy of the manufacturer's test report.

(d) Previously approved equipment. Airborne ILS localizer receiving equipment approved prior to October 15, 1970, may continue to be manufactured under the provisions of its original approval.

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

Issued in Washington, D.C., on September, 8, 1970.

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

Note: The incorporation by reference in this document was approved by the Director of the Federal Register on April 16, 1969.

[F.R. Doc. 70–12216; Filed, Sept. 14, 1970; 8:45 a.m.]

[Airspace Docket No. 70–SW–44]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Dallas, Tex. (Redbird Airport), control zone.

On July 16, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 11408) stating the Federal Aviation Administration proposed to alter this control zone.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 12, 1970, as hereinafter set forth.

In § 71.171 (35 F.R. 2054), the Dallas, Tex. (Redbird Airport), control zone is amended by deleting "* * * within 2 miles each side of the 159° bearing from the Duncanville RBN, extending from the 5-mile radius zone to 8 miles south of the RBN * * *" and substituting "* * * within 3.5 miles each side of the 165° bearing from the Duncanville RBN extending from the 5-mile-radius zone to 10 miles south of the RBN * * *" therefor.

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

Issued in Fort Worth, Tex., on September 4, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70–12253; Filed, Sept. 14, 1970; 8:48 a.m.]

[Airspace Docket No. 70–EA–30]

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

Alteration, Designation and Revocation of Control Zones and Transition Areas

On page 8748 of the FEDERAL REGISTER for June 5, 1970 the Federal Aviation Administration published a proposed rule which would designate a Cleveland, Ohio (Cuyahoga County Airport), and Willoughby, Ohio, control zone; alter the Cleveland, Ohio (Cleveland-Hopkins International Airport) (35 F.R. 2067), Cleveland, Ohio (Burke-Lakefront Airport) (35 F.R. 2067) control zones and Cleveland, Ohio, 700-foot transition area (35 F.R. 2161); revoke the Chagrin Falls, Ohio (35 F.R. 2157), Painesville, Ohio (35 F.R. 2238), and Willoughby, Ohio (35 F.R. 2285) transition areas.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., November 12, 1970 except as follows:

Delete item 1(d) Willoughby, Ohio, control zone.

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

Issued in Jamaica, N.Y., on August 28, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to:

(a) Delete the description of the Cleveland, Ohio (Cleveland-Hopkins International Airport), control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 41°24'30" N., 81°51'00" W., of Cleveland-Hopkins International Airport, Cleveland, Ohio; within 1.5 miles each side of the Runway 5–R ILS localizer southwest course, extending from the 5-mile radius zone to 3 miles northeast of the Gilbert RBN; within 2 miles each side of the Runway 23–L ILS localizer northeast course, extending from the 5-mile radius zone to 2 miles southwest of the Stadium RBN; within 2 miles each side of the Runway 28–R ILS localizer east course, extending from the 5-mile radius zone to 2 miles west of the Brecksville RBN; within 2 miles each side of the Runway 18–R centerline extended from the 5-mile radius zone to 7.5 miles south of the end of the runway.

(b) Delete the description of the Cleveland, Ohio (Burke-Lakefront Airport), control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 41°31'00" N., 81°41'00" W., of Burke-Lakefront Airport, Cleveland, Ohio; within 2 miles each side of the Burke-Lakefront ILS localizer northeast course, extending from the 5-mile radius zone to the OM, excluding the portion within the Cleveland, Ohio (Cleveland-Hopkins International Airport), control zone. This control zone shall be effective from 0700 to 2300 hours, local time, daily.

(c) Designate a Cleveland, Ohio (Cuyahoga County Airport), control zone described as follows:

CLEVELAND, OHIO (CUYAHOGA COUNTY AIRPORT)

Within a 5-mile radius of the center 41°-34'00" N., 81°29'15" W. of Cuyahoga County Airport, Cleveland, Ohio; within 2.5 miles each side of the 050° bearing from the Cuyahoga County RBN, extending from the 5-mile radius zone to 5 miles northeast of the RBN, excluding the portion within the Cleveland, Ohio (Burke-Lakefront Airport), control zone. This control zone shall be effective from 0700 to 2200 hours, local time, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to:

(a) Delete the description of the Cleveland, Ohio, 700-foot transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center (41°24'30" N., 81°51'00" W.), of Cleveland-Hopkins International Airport, Cleveland, Ohio; within 3 miles each side of the Cleveland-Hopkins International Airport Runway 18–R centerline, extended from the 12.5-mile radius area to 14.5 miles south of the end of the runway; within 3 miles each side of the 230° bearing from the Gilbert, Ohio, RBN extending from the 12.5-miles radius area to 5 miles southwest of the RBN; within 3 miles each side of the Cleveland-Hopkins International Airport Runway 28–R centerline, extended from the 12.5-mile radius area to 13 miles west of the end of the runway; within the area bounded by a line beginning at a point on the Cleveland, Ohio, VORTAC 041° radial 20 miles northeast of the VORTAC, thence along a line bearing 052° from this point to its intersection with the arc of a 15-mile radius circle centered on Lost Nation Airport, Willoughby, Ohio (41°-41'00" N., 81°23'20" W.), thence clockwise along the arc of the 15-mile radius circle to its intersection with the arc of a 9-mile radius circle centered on Casement Airport, Painesville, Ohio (41°44'05" N., 81°13'25" W.), thence clockwise along the arc of the 9-mile radius circle to its intersection with the arc of a 7.5-mile radius circle centered on Concord Airpark, Painesville, Ohio (41°40'00" N., 81°12'00" W.), thence clockwise along the arc of the 7.5-mile radius circle to its point of intersection with a line 2 miles east and parallel to the Chardon VORTAC 350° radial, thence south along this parallel line to its point of intersection with the Chardon VORTAC 080° radial, thence west along the Chardon VORTAC 080° radial to the Chardon VORTAC, thence southeast along the Chardon VORTAC 145° radial to a point 2 miles southeast of the VORTAC, thence southwest along a line 2 miles southeast and parallel to the Chardon VORTAC 235° radial commencing at the point of intersection of this parallel line and the Chardon VORTAC 145° radial to the point of intersection with the arc of a 5.5-mile radius circle centered on Chagrin Falls Airport, Chagrin Falls, Ohio (41°25'45" N., 81°19'50" W.), thence clockwise along the arc of the 5.5-mile radius circle to the point of intersection of the 5.5-mile arc with a line bearing 180° from a point 41°25'45" N., 81°19'50" W., thence direct to the intersection of a 126° bearing from the Brecksville, Ohio, RBN and the arc of a 12.5-mile radius circle centered on the Cleveland-Hopkins International Airport, thence to the point of beginning.

(b) In the description of the Cleveland, Ohio, 1,200-foot transition area, delete the words, "excluding the portion within the Willoughby, Ohio, transition area".

(c) Revoke the Chagrin Falls, Ohio, transition area.

(d) Revoke the Painesville, Ohio, transition area.

(e) Revoke the Willoughby, Ohio, transition area.

[F.R. Doc. 70–12254; Filed, Sept. 14, 1970; 8:48 a.m.]

[Airspace Docket No. 70–EA–43]

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

Alteration of Control Zone & Transition Areas

On page 11184 of the FEDERAL REGISTER for July 11, 1970, the Federal Aviation Administration published a proposed rule which would alter the Syracuse, N.Y., control zone (35 F.R. 2125) and Transition Area (35 F.R. 2272) and Fulton, N.Y., transition area (35 F.R. 2184).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., November 12, 1970, subject to the following changes:

The coordinates and associated airport recited in the Syracuse, N.Y., control zone alteration as "43°11'00" N., 76°07'00" W. of Cicero Airpark" are changed to read "43°10'45" N., 76°07'30" W. of Michael Field".

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

Issued in Jamaica, N.Y., on August 26, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Syracuse, N.Y., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 43°06'50" N., 76°06'35" W. of Clarence E. Hancock Airport, Syracuse, N.Y.; and within 2.5 miles each side of the Clarence E. Hancock Airport Runway 10 ILS localizer back course, extending from the 5-mile radius zone to 5 miles west of the localizer, excluding that airspace within a 1-mile radius of the center 43°10'45" N., 76°07'30" W. of Michael Field, Cicero, N.Y.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to:

(a) Delete the description of the Syracuse, N.Y., transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center 43°06'50" N., 76°06'35" W. of Clarence E. Hancock Airport, Syracuse, N.Y.; within 9.5 miles north and 4.5 miles south of the Clarence E. Hancock Airport Runway 28 ILS localizer course, extending from the OM to 18.5 miles east of the OM; and within 9.5 miles north and 4.5 miles south of the Clarence E. Hancock Airport Runway 10 ILS localizer back course, extending from the localizer to 26 miles west of the localizer.

(b) Delete the description of the Fulton, N.Y., transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 43°21'05" N., 76°23'20" W. of Oswego County Airport, Fulton, N.Y.

[F.R. Doc. 70–12255; Filed, Sept. 14, 1970; 8:48 a.m.]

[Airspace Docket No. 70–EA–46]

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

Alteration of Control Zone and Transition Area

On page 11516 of the FEDERAL REGISTER for July 17, 1970, the Federal Aviation Administration published a proposed rule which would alter the Westfield, Mass., control zone (35 F.R. 2130) and Chicopee Falls, Mass., transition area (35 F.R. 2159).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.M.T., November 12, 1970.

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

Issued in Jamaica, N.Y., on August 28, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Westfield, Mass., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 42°09'25" N., 72°42'50" W. of Barnes Municipal Airport, Westfield, Mass.; within 3 miles each side of the Westfield VOR 012° radial, extending from the 5-mile radius zone to 10 miles north of the VOR; and within 2 miles each side of the Runway 33 centerline extended from the 5-mile radius zone to 7.5 miles northwest of the end of the runway, excluding the portion which coincides with

the Westover, Mass., control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Chicopee Falls, Mass. 700-foot transition area, all after: "a 10-mile radius of the center," and insert the following in lieu thereof:

"42°09'25" N., 72°42'50" W. of Barnes Municipal Airport, Westfield, Mass., and within that airspace bounded by a line beginning at 42°11'50" N., 72°54'10" W. to 42°32'20" N., 72°49'20" W. to 42°30'00" N., 72°32'00" W. to 42°24'45" N.; 72°34'00" W. to 42°24'50" N.; 72°33'25" W. to 42°22'00" N.; 72°34'00" W., thence to the point of beginning, excluding the portion which coincides with the Hartford, Conn. transition area."

[F.R. Doc. 70-12256; Filed, Sept. 14, 1970; 8:48 a.m.]

[Airspace Docket No. 70-EA-49]

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

Alteration of Transition Area

On page 11517 of the FEDERAL REGISTER for July 17, 1970, the Federal Aviation Administration published a proposed rule which would alter the Auburn, Maine Transition Area (35 F.R. 2142).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., November 12, 1970.

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

Issued in Jamaica, N.Y., on August 28, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Auburn, Maine transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°02'55" N., 70°17'00" W. of Auburn-Lewiston Municipal Airport; within 3 miles each side of the 215° and 035° bearing from the New Gloucester, Maine RBN, 43°59'14" N., 70°19'29" W., extending from the 5-mile radius area to 9 miles southwest of the RBN; and within 2 miles each side of the 049° bearing from the New Gloucester, Maine RBN extending from the RBN to 12 miles northeast of the RBN.

[F.R. Doc. 70-12257; Filed, Sept. 14, 1970; 8:48 a.m.]

[Docket No. 10565; Amdt. No. 720]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

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

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and 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 97.13 is amended by establishing, revising or canceling the following Ter VOR SIAPs, effective October 8, 1970.

Durango, Colo.—Durango-La Plata County Airport; TerVOR R-104, Amdt. 9; Canceled.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective October 8, 1970.

Doylestown, Pa.—Central Bucks County Airport; VOR Runway 23, Amdt. 1; Revised.
Durango, Colo.—Durango-La Plata County Airport; VOR-A, Orig.; Established.
Durango, Colo.—Durango-La Plata County Airport; VOR Runway 2, Amdt. 1; Revised.
Fayetteville, Ark.—Drake Field; VOR-A, Amdt. 9; Revised.
Langhorne, Pa.—Buehl Field; VOR Runway 6, Amdt. 1; Revised.
Manitowoc, Wis.—Manitowoc Municipal Airport; VOR Runway 17, Amdt. 4; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective October 8, 1970.

Fort Worth, Tex.—Greater Southwest International/Dallas-Fort Worth Field; LOC (BC) Runway 31, Amdt. 13; Revised.
Syracuse, N.Y.—Clarence E. Hancock Airport; LOC (BC) Runway 10, Amdt. 15; Revised.

4. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective October 8, 1970.

Fayetteville, N.C.—Fayetteville Municipal (Grannis Field); NDB Runway 3, Amdt. 3; Revised.
Juneau, Alaska—Juneau Municipal Airport; NDB-1 Runway 8, Orig.; Established.
Willoughby, Ohio—Lost Nation Airport; NDB Runway 9, Amdt. 5; Revised.
Willoughby, Ohio—Lost Nation Airport; NDB Runway 27, Amdt. 8; 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 September 3, 1970.

HARRY A. TURNPAUGH,
Acting Director,
Flight Standards Service.

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

[F.R. Doc. 70-12167; Filed, Sept. 14, 1970; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 138—DRUGS; OFFICIAL NAMES

New Names

In the FEDERAL REGISTER of July 29, 1969 (34 F.R. 12394), a notice was published proposing that § 138.2 be amended by adding certain items to the list therein as official names for drugs.

Having considered the comments received in response to the proposal, and other relevant information, the Commissioner of Food and Drugs concludes that:

1. The proposed names "fluocinolide," "laramycin," and "prazosin" should not be adopted at this time pending further study, and

2. The balance of the proposal should be adopted with minor technical or editorial changes.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 508, 76 Stat. 1789; 21 U.S.C. 358) and the administrative procedure provisions of 5 U.S.C. 552 (80 Stat. 383, as amended 81 Stat. 54), and under authority delegated to the Commissioner (21 CFR 2.120), § 138.2 is amended by alphabetically inserting in the table the following new items as official names for drugs:

§ 138.2 Drugs; official names.

• • • • • • •

Official name	Chemical name or description	Molecular formula
Acedapsone	4',4'''-Sulfonylbis[acetanilide]	$C_{16}H_{16}N_2O_4S$
Acronine	3,12-Dihydro-6-methoxy-3,3,12-trimethyl-7*H*-pyrano[2,3-c]acridin-7-one.	$C_{20}H_{19}NO_3$
Adiphenine	2-(Diethylamino)ethyl diphenylacetate	$C_{20}H_{25}NO_2$
Amquinate	Methyl 7-(diethylamino)-4-hydroxy-6-propyl-3-quinolinecarboxylate.	$C_{18}H_{24}N_2O_3$
Apazone	5-(Dimethylamino)-9-methyl-2-propyl-1*H*-pyrazolo[1,2-*a*][1,2,4]benzotriazine-1,3(2*H*)-dione.	$C_{16}H_{20}N_4O_2$
Bromazepam	7-Bromo-1,3-dihydro-5-(2-pyridyl)-2*H*-1,4-benzodiazepin-2-one	$C_{14}H_{10}BrN_3O$
Carbomer	A polymer of acrylic acid crosslinked with allyl sucrose	
Cephaloglycin	7-(D-2-Amino-2-phenylacetamido)-3-(hydroxymethyl)-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid, acetate.	$C_{18}H_{19}N_3O_6S$
Cephalothin	3-(Hydroxymethyl)-8-oxo-7-[2-(2-thienyl)acetamido]-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid, acetate.	$C_{16}H_{16}N_2O_6S_2$
Clintazone	2-Pentyl-6-phenyl-1*H*-pyrazolo[1, 2-*a*] cinnoline-1, 3(2*H*)-dione	$C_{22}H_{22}N_2O_2$
Clemastine	(+)-2-[2-[(*p*-Chloro-α-methyl-α-phenylbenzyl)oxy]ethyl]-1-methylpyrrolidine.	$C_{21}H_{26}ClNO$
Clindamycin	Methyl 7(*S*)-chloro-6, 7, 8-trideoxy-6-*trans*-(1-methyl-4-propyl-L-2-pyrrolidinecarboxamido)-1-thio-L-*threo*-α-D-galacto-octopyranoside; 7(*S*)-chloro-7-deoxylincomycin.	$C_{18}H_{33}ClN_2O_5S$
Clortermine	o-Chloro-α, α-dimethylphenethylamine	$C_{10}H_{14}ClN$
Colestipol	Tetraethylenepentamine polymer with 1-chloro-2, 3-epoxypropane	
Dexpanthenol	D(+)-2, 4-Dihydroxy-*N*-(3-hydroxypropyl)-3, 3-dimethylbutyramide.	$C_9H_{19}NO_4$
Domiphen	Dodecyldimethyl(2-phenoxyethyl)ammonium	$C_{22}H_{40}NO$
Epimestrol	3-Methoxyestra-1,3,5(10)-triene-16α,17α-diol	$C_{19}H_{28}O_3$
Fetoxylate	2-Phenoxyethyl 1-(3-cyano-3,3-diphenylpropyl)-4-phenylisonipecotate.	$C_{36}H_{36}N_2O_3$
Flucytosine	5-Fluorocytosine	$C_4H_4FN_3O$
Flutiazin	8-(Trifluoromethyl)phenothiazine-1-carboxylic acid	$C_{14}H_8F_3NO_2S$
Iocetamic acid	*N*-Acetyl-*N*-(3-amino-2,4,6-triiodophenyl)-2-methyl-β-alanine	$C_{13}H_{13}I_3N_2O_3$
Kethoxal	3-Ethoxy-1,1-dihydroxy-2-butanone	$C_6H_{12}O_4$
Memotine	3,4-Dihydro-1-[(*p*-methoxyphenoxy)methyl] isoquinoline	$C_{17}H_{17}NO_2$
Metiapine	2-Methyl-11-(4-methyl-1-piperazinyl) dibenzo[*b*, *f*][1,4]thiazepine	$C_{19}H_{21}N_3S$
Mithramycin	From *Streptomyces argillaceus* n.sp. and *Streptomyces tanashiensis*	
Morantel	(*E*)-1,4,5,6-Tetrahydro-1-methyl-2-[2-(3-methyl-2-thienyl)vinyl] pyrimidine.	$C_{12}H_{16}N_2S$
Orgotein	A pure, water-soluble, highly compact protein of fairly low molecular weight (about 34,000) with a predominantly alpha-helical configuration; the molecule is chelated with from two (2) to four (4) atoms of divalent metals, for example, Mg, Zn, and Cu, and it is presently produced from bovine liver in a multistep process.	
Ormetoprim	2,4-Diamino-5-(6-methylveratryl) pyrimidine	$C_{14}H_{18}N_4O_2$
Pemoline	2-Amino-5-phenyl-2-oxazolin-4-one	$C_9H_8N_2O_2$
Perhexilene	2-(2,2-Dicyclohexylethyl)piperidine	$C_{19}H_{35}N$
Polacrilin	A synthetic ion-exchange resin prepared through the polymerization of methacrylic acid and divinylbenzene and supplied in the hydrogen or free-acid form.	
Poligeenan	3,6-Anhydro-4-*o*-β-D-galactopyranosyl-α-D-galactopyranose 2,4'-bis-(potassium/sodium sulfate) (1→3')-polysaccharide.	$[C_{12}H_{16}M_2O_{15}S_2]_n$ where M = Na or K
Pyrantel	(*E*)-1,4,5,6-Tetrahydro-1-methyl-2-[2-(2-thienyl)vinyl]pyrimidine	$C_{11}H_{14}N_2S$
Ritodrine	*Erythro*-*p*-hydroxy-α-[1-[(*p*-hydroxyphenethyl)amino]ethyl]benzyl alcohol.	$C_{17}H_{21}NO_3$
Tramadol	(±)-*trans*-2-[(Dimethylamino)methyl]-1-(*m*-methoxyphenyl)cyclohexanol.	$C_{16}H_{25}NO_2$

Effective date. This order shall become effective 30 days after its publication in the FEDERAL REGISTER.

(Sec. 508, 76 Stat. 1789; 21 U.S.C. 358)

Dated: September 1, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12147; Filed, Sept. 14, 1970; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

PART 766—USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY CIVIL AIRCRAFT

Part 766 is revised to read as follows:

Sec.
766.1 Purpose.
766.2 Definitions of terms.
766.3 Authority.
766.4 Policy.
766.5 Conditions governing use of aviation facilities by civil aircraft.
766.6 Who may approve landings at naval aviation facilities.
766.7 How to request use of naval aviation facilities.
766.8 Procedure for review, approval, execution and distribution of aviation facility licenses.
766.9 Insurance requirements.
766.10 Cancellation or suspension of the aviation facility license (OPNAV Form 3770/1).
766.11 Fees for landing, parking and storage.
766.12 Unauthorized landings.
766.13 Sale of aviation fuel, oil, services and supplies.
766.14 Reports/forms.

AUTHORITY: The provisions of this Part 766 are issued under authority of 10 U.S.C. 1507.

SOURCE: The provisions of this Part 766 are SECNAV Instruction 3770.1B of 30 June 1970.

§ 766.1 Purpose.

This part establishes the policy and procedures for the use of Navy and Marine Corps aviation facilities by aircraft other than U.S. Department of Defense aircraft.

§ 766.2 Definition of terms.

For the purpose of this part certain terms are defined as follows:

(a) *Alternate use.* Use of the aviation facility, specified in the flight plan, to which an aircraft may divert when a landing at the point of first intended landing becomes impractical because of weather. (Aircraft may not be dispatched, prior to takeoff from the airport of origin, to a facility licensed for alternate use.)

(b) *Civil aircraft.* Domestic or foreign aircraft operated by private individuals or corporations, or foreign government-owned aircraft operated for commercial purposes. This includes:

(1) *Contract aircraft.* Civil aircraft operated under charter or other contract to any U.S. Government department or agency.

(2) *Leased aircraft.* U.S. Government-owned aircraft delivered by the Government to a lessee subject to terms prescribed in an agreement which does not limit the lessee's use of the aircraft to Government business.

(c) *Civil aviation.* All flying activity by civil aircraft including:

(1) *Commercial aviation.* Transportation by aircraft of passengers or cargo for hire and the ferrying of aircraft as a commercial venture.

(2) *General aviation.* All types of civil aviation other than commercial aviation as defined above.

(d) *Facility.* A separately located and officially defined area of real property in which the Navy exercises a real property interest and which has been designated as a Navy or Marine Corps aviation facility by cognizant authority; or where the Department of the Navy has jurisdiction over real property agreements, expressed or implied, with foreign governments, or by rights of occupation. (This definition does not include aircraft carriers nor any other type of naval vessel with a landing area for aircraft.)

(e) *Government aircraft.* Aircraft owned or operated by any department or agency of either the United States or a foreign government (except a foreign government-owned aircraft operated for commercial purposes). Also aircraft owned by any department, agency, or political subdivision of a State, territory, or possession of the United States when such local government has sole responsibility for operating the aircraft. Government aircraft includes:

(1) *Military aircraft.* Aircraft used in the military services of any government.

(2) *Bailed aircraft.* U.S. Government-owned aircraft delivered by the Government to a Government contractor for a specific purpose directly related to a Government contract.

(3) *Loaned aircraft.* U.S. Government-owned aircraft delivered gratuitously by any Department of Defense agency to another Government agency, to a U.S. Navy or Marine Corps Flying Club, or to a U.S. Army or Air Force Aero Club.

(f) *Joint-use facility.* A Navy or Marine Corps facility where a specific agreement between the Department of the Navy and a civilian community, or between the U.S. Government and a foreign government, provides for civil aircraft use of the runways and taxiways. Civil aircraft terminal, parking, and servicing facilities are established and controlled by civil authorities in an

area separate from those of the Navy or Marine Corps.

(g) *Official business.* Business, in the interest of the U.S. Government, which personnel aboard an aircraft must transact with U.S. Government organizations or personnel at or near the naval aviation facility concerned. Use of a facility to solicit U.S. Government business is not "official business."

(h) *Provisional use.* Use of a naval aviation facility for the purpose of providing adequate service to a community where, because of repair, construction or the performance of other work, the regular civil airport servicing the community is not available for an extended period. (An aircraft may be dispatched prior to takeoff from the airport of origin to a naval aviation facility authorized for provisional use.)

(i) *Scheduled use.* Use of a facility on a scheduled or regularly recurring basis by an air carrier certified by the Civil Aeronautics Board to provide passenger and cargo service to a community or area.

(j) *Services in connection with Government contracts.* This type of operation, cited on the Aviation Facility License, indicates the use of a facility for transporting the contractor's supplies and personnel for the performance of work at the facility under the terms of a specific U.S. Government contract.

(k) *Technical stop.* An en route landing for the purpose of obtaining fuel, oil, minor repairs, or crew rest. This does not include passenger accommodations nor passenger/cargo enplaning or deplaning privileges unless specifically authorized by the Chief of Naval Operations.

(l) *User.* An individual, corporation, or company named in the Aviation Facility License and the Certificate of Insurance.

§ 766.3 Authority.

Section 1107(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1507, 1508) states that "Air navigation facilities owned or operated by the United States may be made available for public use under such conditions and to such extent as the head of the department or other agency having jurisdiction thereof deems advisable and may by regulation prescribe." (See § 766.13 for restrictions imposed by the Federal Aviation Act of 1958.)

§ 766.4 Policy.

Navy and Marine Corps aviation facilities are established to support the operation of Navy and Marine Corps aircraft. Equipment, personnel and material are maintained only at a level necessitated by these requirements and shall not be used to support the operation or maintenance of civil aircraft or non U.S. Government aircraft, except as noted below. (Nothing in this part, however, should be interpreted to prohibit any aircraft from landing at any suitable Navy or Marine Corps aviation facility in case of a bona fide emergency.) (See § 766.5(i).)

(a) *General.* Subject to the procedures established elsewhere in this part, civil aircraft and government aircraft, other than those belonging to the U.S. Government may use Navy or Marine Corps facilities, if necessary, *Provided,* That:

(1) They do not interfere with military requirements, and the security of military operations, facilities, or equipment is not compromised.

(2) No adequate civil airport is available. (Exception to this provision may be made when the aircraft is operated in connection with official business as defined in this part.)

(3) Pilots comply with regulations promulgated by the cognizant military agency and the commanding officer of the facility.

(4) Civil aircraft users assume the risk in accordance with the provisions of the Aviation Facility License.

(5) Each aircraft is equipped with two-way radio which provides a capability for voice communications with the control tower on standard Navy/Marine Corps frequencies.

(6) The user, or requesting government, has obtained permission through diplomatic channels from the host country wherein the facility of intended landing is located, if applicable.

(b) *Civil Aircraft owned and operated by*—(1) *Military Personnel.* Private aircraft owned and operated by active duty U.S. military personnel or by Navy/Marine Corps Reservists on inactive duty may be authorized to land at a facility, provided such aircraft is not engaging in air commerce, and such landing is for official business required by written orders. Under no conditions shall such aircraft be allowed to base or operate from a facility for personal convenience nor base at a facility under the guise of official business.

(2) *Civil employees of the U.S. Government.* Private aircraft owned and operated by civil employees of the U.S. Government may be authorized to land at a facility, provided such aircraft is not engaging in air commerce, and such landing is for official business required by written orders. Such aircraft shall not be allowed to base or operate from a facility for personal convenience. (Employees of U.S. Government contractors are not considered civil employees of the U.S. Government.)

(3) *Non-U.S. Government personnel.* An individual or corporation owned and/or operated aircraft may be authorized to land at a facility for:

(i) Sales or service representation to authorized military agents (e.g. the exchange, commissary, or contracting officer).

(ii) Services in connection with U.S. Government contracts. Contracting agency and contract number(s) must be cited in the application for an Aviation Facility License.

(c) *Department of defense charter or contract.* Aircraft operating under a Military Traffic Management and Terminal Service (MTMTS), Military Airlift Command (MAC), or Navy charter or contract for the movement of DOD passengers or cargo may be authorized to use Navy or Marine Corps aviation facilities when required for loading, en route or terminal stops.

(d) *Test and experimental use.* Aircraft being produced for a military agency under contract may use Navy/Marine Corps facilities for testing and experimental purposes, if the contract so provides, or if it is determined to be in the best interests of the U.S. Government to do so. Unless otherwise provided in the contract, an Aviation Facility License is required, and the user shall furnish a Certificate of Insurance as provided in this part.

(e) *Aircraft demonstrations.* Manufacturers of aircraft or installed equipment may be authorized to use Navy Marine Corps facilities in demonstrating and/or showing aircraft or installed equipment to officials of the U.S. Government when:

(1) It is determined to be in the best interest of the U.S. Government.

(2) The aircraft was produced in accordance with U.S. Government specifications either with or without the aid of Federal funds.

(3) There is an expressed interest on the part of the U.S. Government officials responsible for procurement, approval, or certification of the aircraft.

(f) *Joint use.* When a specfic agreement is entered into by the Department of the Navy pertaining to joint civil/military use of a Navy or Marine Corps facility, the terms of that agreement shall take precedence over the provisions of this part.

(g) *Diplomatic agreements.* For diplomatic agreements and clearances to use U.S. Navy and Marine Corps aviation facilities in foreign countries, the provisions of this part are subject to the provisions of status of forces agreements, treaties of mutual cooperation or other international agreements. This part shall be used as a guide in negotiating agreements at the local level with representatives of a foreign military service, the U.S. Embassy, and the host government concerning the use of naval facilities by other than U.S. military aircraft. Approval shall be obtained from the Chief of Naval Operations for proposed terms which are in conflict with this part.

§ 766.5 Conditions governing use of aviation facilities by civil aircraft.

(a) *Risk.* The use of Navy or Marine Corps aviation facilities by civil aircraft shall be at the risk of the operator. Except as hereinafter provided for U.S. Government contractors, the Department of the Navy shall assume no liability or responsibility by reason of the condition of the landing area, taxiways, radio and navigational aids, or other equipment or for notification of such condition; or by the acts of its agents in connection with the granting of the right to use such naval facility. No responsibility is assumed for the security of or damage to aircraft while on property owned or controlled by the U.S. Government.

(b) *Military rules.* Operators of civil aircraft utilizing a Navy or Marine Corps aviation facility shall be required to

comply with the air and ground rules promulgated by the Department of the Navy and the commanding officer of the aviation facility. Such compliance shall pertain specifically to clearance authorization for the entry, departure, or movement of aircraft within the confines of the terminal area normally controlled by the commanding officer of the aviation facility.

(c) *Federal aviation regulations.* Operators of civil aircraft shall be required to comply with all Federal Aviation Administration (FAA) rules and regulations including filing of flight plans. When such flight plans are required, they shall be filed with the commanding officer or his authorized representative prior to the departure of the aircraft. When such a flight plan is not required, a list of passengers and crew members, the airport of first intended landing, the alternate airport, and fuel supply in hours shall be placed on file prior to takeoff, with the commanding officer or with the local company representative as appropriate.

(d) *Hours of operation.* The use of a Navy/Marine Corps aviation facility by civil aircraft shall be limited to the hours when the facility is normally in operation.

(e) *Weather minimums.* Civil aircraft shall comply with weather minimums as follows:

(1) Visual Flight Operations shall be conducted in accordance with Federal Aviation Regulations (FAR), § 91.105 of this title. If more stringent visual flight rules minimums have been established for the point of departure or destination, as noted in the aerodrome remarks section of the Department of Defense Flight Information Publication (en Route) Instrument Flight Rules—Supplement, then the ceiling and visibility must be at or above these minimums in the applicable control zone.

(2) Instrument flight operations shall be conducted in accordance with FAR, § 91.116 of this title.

(f) *Inspection.* The commanding officer may conduct such inspection of a transiting civil aircraft and its crew, passengers and cargo as he may consider appropriate or necessary to the carrying out of his duties and responsibilities.

(g) *Customs, immigration, agriculture, and public health inspection.* (1) The civil aircraft commander shall be responsible for compliance with all applicable customs, immigration, agriculture, and public health laws and regulations. He shall also be responsible for paying fees, charges for overtime services, and for all other costs connected with the administration of such laws and regulations.

(2) The commanding officer of the Navy/Marine Corps aviation facility will inform the appropriate public officials of the arrival of civil aircraft subject to such laws and regulations. He will not issue clearances for a civil aircraft to takeoff until such laws and regulations have been complied with. Procedures for insuring compliance with such laws and regulations shall be as mutually agreed to by the commanding officer of the aviation facility and the local public officials.

(h) *Weather alternate.* If a Navy/Marine Corps aviation facility has been approved for use as an alternate airport, radio clearance must be obtained from such facility as soon as the decision is made en route for such use.

(i) *Emergency landings.* Any aircraft may land at a Navy/Marine Corps aviation facility when necessary as a result of a bona fide emergency. However, whenever the nature of the emergency permits the pilot to select the time and place of landing, it is preferred that the pilot land his aircraft at a civil field.

(1) *Report.* After an emergency landing the pilot will be requested to file with the commanding officer of the facility a complete narrative report of the circumstances pertaining to the emergency. If such a report cannot be obtained, the commanding officer will prepare a report using the facts available to him. The report shall be submitted to the appropriate Federal Aviation Administration General Aviation District Office if the facility is within the United States, its territories, or possessions. If the facility is located in a foreign country, the report shall be submitted to the U.S. naval attache. A copy of the report shall be forwarded to the Chief of Naval Operations (OP–53).

(2) The commanding officer of the aviation facility will require that the pilot of the aircraft pay all fees and charges and execute the Aviation Facility License. A statement explaining the circumstances of the emergency landing must be noted in section 766.5 of the license application. If a narrative report from the pilot is available, it may be attached to the application.

(3) *Clearance of runway.* The Department of the Navy reserves the right to use any method to clear a runway of aircraft or wreckage consistent with operational requirements. Care will be exercised to preclude unnecessary damage in removing wrecked aircraft; however, the Navy assumes no liability as a result of such removal.

(4) *Repairs.* (i) Aircraft requiring major repairs may be stored temporarily in damaged condition. If repairs cannot be completed within a reasonable time, the aircraft must be removed from the facility by the owner or operator of the aircraft without delay.

(ii) No aircraft will be given a major or minor overhaul.

(iii) Engine or air frame minor components may be furnished, when not available through commercial sources, provided such supplies can be spared and are not known to be in short supply. The issuance of such supplies must be approved by the commanding officer.

(iv) Minor components in short supply or major components for which there is a repeated demand can be furnished only on message authority obtained from the Aviation Supply Office, Philadelphia, Pa. (for continental facilities) or local fleet air command or major aviation supply depot (for extracontinental facilities). Complete egnines, airplane wings, or other major items of equipment shall not be furnished under this authority.

(v) If the commanding officer believes it is desirable to furnish requested material or services in excess of the restrictions stated herein, he shall request instructions from the Chief of Naval Operations, giving a brief description of the material or services requested together with his recommendations.

(5) *Reimbursement for costs.* (i) The civil user making an emergency landing will be billed in accordance with paragraphs 032500–032503 of the NAV COMPT Manual and paragraphs 25345–25363 of the NAVSUP Manual for payment of all costs incurred by the Government as a direct result of the emergency landing. Such costs will include those associated with labor, material, rental of equipment, vehicles or tools, etc., for:

(*a*) Spreading foam on runway before the aircraft attempts emergency landing.

(*b*) Fire and crash control and rescue.

(*c*) Movement and storage of aircraft or wreckage.

(*d*) Damage to runway, lights, navigation aids, etc.

(ii) There will be no charge for naval meteorological services and naval communications facilities for the handling of arrival and departure reports, air traffic control messages, position reports and safety messages.

(iii) The determination as to whether landing fees shall be charged pursuant to an emergency landing for maintenance or repair shall be the prerogative of the commanding officer of the facility.

§ 766.6 Approving authority for landings at Navy/Marine Corps aviation facilities.

(a) Except as indicated in paragraphs (b) and (c) of this section, the commanding officer of an active Navy/Marine Corps aviation facility may approve or disapprove landings of civil aircraft at his facility when such landing is:

(1) Directly connected with or in support of U.S. Government business (except those listed in paragraph (c) of this section).

(2) In connection with U.S. Government or community interests on an infrequent basis when no adequate civil airport is reasonably available.

(3) By aircraft owned and operated by Navy/Marine Corps Flying Clubs or U.S. Army or Air Force Aero Clubs which are operated as instrumentalities of the U.S. Government.

(4) By aircraft owned and operated by U.S. Government personnel when such use is in accordance with § 766.4(b) (1) and (2).

(5) By civil aircraft either owned or personally chartered by:

(i) The President or Vice President of the United States or a past President of the United States.

(ii) The head of any Federal department or agency.

(iii) A Member of Congress.

(6) By a bailed, leased, or loaned aircraft (as defined in § 766.2) when operated in connection with official business only.

(7) By aircraft owned and operated by States, counties, or municipalities of the United States when used for official business of the owner.

(b) Except as limited by paragraph (c) of this section, the Commander in Chief, U.S. Naval Forces, Europe; Chief of Naval Material; Commander in Chief, U.S. Atlantic Fleet; Commander in Chief, U.S. Pacific Fleet; Chief of Naval Air Training; Commander, Pacific Missile Range; Commander, Marine Corps Air Bases, Eastern Area; Commander, Marine Corps Air Bases, Western Area; and Commanding General, Fleet Marine Force, Pacific may approve civil aircraft use of any active aviation facility under their control. (At overseas locations, aircraft landing authorizations must be in consonance with the provisions of applicable international agreements.)

(c) The Chief of Naval Operations may approve any of the above requests, and is the only agency empowered to approve all other requests for use of naval facilities by civil and government aircraft, for example:

(1) Applications for use of more than one facility when the facilities are not under the control of one major command.

(2) Application for use of naval aviation facilities when participating in U.S. Government or Department of Defense single-manager contract and charter airlift operations; i.e., Military Airlift Command (MAC) or Military Traffic Management and Terminal Service (MTMTS).

(3) Application for a facility to be used as a regular civil airfield for a community, by either commercial or general aviation.

(4) Requests for use of a facility by foreign civil or government aircraft when:

(i) Such use is not covered by an agreement between the U.S. Government and the government of the aircraft's registry, or

(ii) the facility is located in a country other than that in which the foreign aircraft is registered.

§ 766.7 How to request use of naval aviation facilities.

(a) *Forms required.* Each applicant desiring use of a Navy/Marine Corps aviation facility will be required to:

(1) Execute an application for an Aviation Facility License (OPNAV Form 3770/1 (Rev. 7–70)).

(2) Submit a Certificate of Insurance (NAVFAC 7–11011/36) showing coverage as provided by section 766.9 below.

(b) *Exceptions.* Exceptions to the foregoing requirements are:

(1) Aircraft owned and operated by departments or agencies of the U.S. Government for official business.

(2) Aircraft owned and operated or noncommercial purposes by agencies of a foreign government, except in cases where the foreign government charges fees for U.S. Government aircraft.

(3) Aircraft owned and operated by States, possessions, and territories of the United States and political subdivisions, thereof, when used for official business of the owner.

(4) Aircraft owned and operated by either Navy/Marine Corps Flying Clubs or Aero Clubs of other military services which are operated as instrumentalities of the U.S. Government.

(5) Bailed aircraft, provided the bailment contract specifies that the U.S. Government is the insurer for liability.

(c) *Obtaining forms.* The applicant may obtain the required forms listed in paragraph (a) of this section, from the commanding officer of any Navy or Marine Corps aviation facility or from the Chief of Naval Operations (OP–53C). Navy units may obtain the forms through regular supply channels as a Cog "I" item.

(d) *Preparation of forms.* (1) The license application will be completed in quadruplicate by the applicant in accordance with detailed instructions set forth in Aviation Facility License (OPNAV Form 3770/1 (REV. 7–70)).

(2) The Certificate of Insurance will be completed by the insurer. Only the signed original certificate and one copy are required to be submitted.

(e) *Submission of forms.* (1) The forms executed by the applicant shall be submitted to the commanding officer of the aviation facility concerned, except that applications requiring approval by higher authority shall be submitted to the appropriate approving authority, as indicated in paragraph (b) or (c) of this section at least 30 days prior to the first intended landing.

(2) Once the NAVFAC 7–11011/36, Certificate of Insurance, is on file with an executing authority, it is valid until insurance expiration date and may be used by that executing authority as a basis for his action on any subsequent OPNAV Forms 3770/1 submitted for approval.

(f) *Security deposit.* All applications, other than those listed in § 766.11(a) contemplating more than one landing per month, will be accompanied by a security deposit in the form of a certified check payable to the "Treasurer of the United States" in payment of the estimated costs of landing, hangar and outside parking fees, for 3 months in advance, calculated as provided in § 766.11 (c) and (d). Security deposits will be handled as set forth in paragraph 032102 of the NAVCOMPT Manual.

(g) *Nonexclusive use airports.* When either the Chief of Naval Operations or Commandant of the U.S. Marine Corps does not have exclusive operational control over a landing area, the aircraft operator will obtain permission to land from the appropriate civil or military authority.

§ 766.8 Procedure for review, approval, execution and distribution of aviation facility licenses.

(a) *Review of application by the commanding officer.* The commanding officer will review each application for Aviation Facility License and Certificate of Insurance received and determine whether such forms have been completed by the applicant in accordance with the instructions for their preparation as indicated in the Aviation Facility License (OPNAV Form 3770/1 (REV. 7–70)) and the Certificate of Insurance (NAVFAC 7–11011/36(7–70)). As appropriate, the commanding officer will require each applicant to furnish a security deposit as stipulated in § 766.7(f).

(b) *Processing application.* The commanding officer will approve/disapprove the application or forward it to higher authority for approval as required by § 766.6 (b) or (c). If the application is approved, the approving authority will then forward all copies of the license and Certificate of Insurance to the Commander, Naval Facilities Engineering Command or his designated representative for review and execution of the license.

(c) *Action by the Commander, Naval Facilities Engineering Command or his designated representative.* (1) Upon receipt, the Commander, Naval Facilities Engineering Command, or his designated representative, will review the license and Certificate of Insurance. He shall determine whether the insurance coverage conforms to the requirements prescribed by section 766.9 of this part or to such requirements as may be promulgated from time to time by the Chief of Naval Material.

(2) Upon approval, he will then execute the license in triplicate, conform all additional copies, and make distribution as provided in paragraph (d) of this section. Applications which are not approved will be returned to the applicant with an explanation of deficiencies which must be corrected prior to execution.

(d) *Distribution.* (1) After execution of a license, distribution will be made as follows:

Original—To the licensee.

Executed copy—To the commanding officer.

Executed copy—To the Commander, Naval Facilities Engineering Command or his designated representative.

Conformed copy—To the Chief of Naval Operations (OP–53).

Conformed copy—To the cognizant commander under Section 766.6(b).

Conformed copy—To the disbursing officer serving the performing activity in the case of local deposits, and to the Office of the Navy Comptroller (NAFC3) in the case of central deposits held at the Washington, D.C. level.

Conformed copy—To the Military Airlift Command (MAC) for DOD contract or charter airlift operations.

Conformed copy—To the Military Traffic Management and Terminal Service (MTMTS) for DOD contract or charter airlift operations.

(2) Licenses issued under this authority are to be disposed of under provisions of paragraph 4280 of SECNAVINST 5212.5B, Disposal of Navy and Marine Corps Records. In accordance therewith, official executed copies of licenses are to be retained for a period of 6 years after completion or termination of the agreement. They may be transferred to the nearest Federal records center when superseded, revoked, canceled, or expired for retention by the center until expiration of the 6-year retention period.

§ 766.9 Insurance requirements.

(a) *Control of insurance.* The Commander, Naval Facilities Engineering Command, or his designee, shall be responsible for requiring aircraft owners

or operators to procure and maintain liability insurance conforming to the standards prescribed by the Chief of Naval Material. The insurance policy must be obtained at the expense of the civil aircraft owner or operator and with a company acceptable to the U.S. Navy.

(b) *Insurance coverage.* Except for those aircraft exempted by paragraph c below, each civil aircraft is required to be covered by insurance of the types and minimum limits established by the Chief of Naval Material. The Certificate of Insurance, must state all coverages in U.S. dollars. Current minimums are:

(1) Privately owned commercially-operated aircraft used for cargo carrying only and aircraft being flight-tested or ferried without passengers will be insured for:

(i) *Bodily injury liability.* At least $100,000 for each person in any one accident with at least $1 million for each accident.

(ii) *Property damage liability.* At least $1 million for each accident.

(2) Privately owned commercially-operated aircraft used for passenger carrying and privately owned noncommercially-operated aircraft of 12,500 pounds or more certified maximum gross takeoff weight will be insured for:

(i) *Bodily injury liability (excluding passengers).* At least $100,000 for each person in any one accident with at least $1 million for each accident.

(ii) *Property damage liability.* At least $1 million for each accident.

(iii) *Passenger liability.* At least $100,000 for each passenger, with a minimum for each accident determined as follows: multiply the minimum for each passenger, $100,000 by the next highest whole number resulting from taking 75 percent of the total number of passenger seats (exclusive of crew seats). For example: The minimum passenger coverage for each accident for an aircraft with 94 passenger seats is computed: $94 \times 0.75 = 70.5$—next highest whole number resulting in 71. Therefore, $71 \times \$100,000 = \$7,100,000$.

(3) Privately owned noncommercially-operated aircraft of less than 12,500 pounds will be insured for:

(i) *Bodily injury liability (excluding passengers).* At least $100,000 for each person in any one accident with at least $500,000 for each accident.

(ii) *Property damage liability.* At least $500,000 for each accident.

(iii) *Passenger liability.* At least $100,000 for each passenger, with a minimum for each accident determined by multiplying the minimum for each passenger, $100,000 by the total number of passenger seats (exclusive of crew seats).

(4) Aircraft insured for a single limit of liability must have coverage equal to or greater than the combined required minimums for bodily injury, property damage, and passenger liability for the type of use requested and for the passenger capacity and gross takeoff weight of the aircraft being operated. For example: the minimum single limit of liability acceptable for an aircraft operating as described in paragraph (b)(2) of this section is $1,000,000 + $1,000,000 + $7,100,000 = $9,100,000.

(5) Aircraft insured by a combination of primary and excess policies must have combined coverage equal to or greater than the required minimums for bodily injury, property damage, and passenger liability, for the type of use, and for the passenger capacity and gross takeoff weight of the aircraft.

(6) Each policy must specifically provide that:

(i) The insurer waives any right to subrogation the insurer may have against the United States by reason of any payment under the policy for damage or injury which might arise out of or in connection with the insured's use of any Navy installation or facility.

(ii) The insurance afforded by the policy applies to the liability assumed by the insured under OPNAV Form 3770/1, Aviation Facility License.

(iii) If the insurer cancels or reduces the amount of insurance afforded under the listed policy, the insurer shall send written notice of the cancellation or reduction to Commander, Naval Facilities Engineering Command, Department of the Navy, Washington, D.C. 20390 by registered mail at least 30 days in advance of the effective date of the cancellation; the policy must state that any cancellation or reduction will not be effective until at least 30 days after such notice is sent, regardless of the effective date specified therein.

(iv) If the insured requests cancellation or reduction, the insurer shall notify the Commander, Naval Facilities Engineering Command, Department of the Navy, Washington, D.C. 20390 immediately upon receipt of such request.

(c) *Exemption.* Government aircraft, as defined in § 766.2(e) are exempt from the insurance requirements specified above. However, this exemption applies to bailed aircraft only if the contract under which the aircraft is bailed specifies that insurance is not required.

§ 766.10 Cancellation or suspension of the aviation facility license (OPNAV Form 3770/1).

(a) *Cancellation.* (1) If the user fails to comply with the terms of the Aviation Facility License (OPNAV Form 3770/1) or of any applicable regulations, all current Aviation Facility Licenses for that user will be canceled. A canceled Aviation Facility License cannot be reinstated; a new application must be submitted for approval as explained in § 766.7.

(2) If the commanding officer of a naval aviation facility has reason to believe that the use of an Aviation Facility License is not in accordance with the terms of the license he should immediately notify the Chief of Naval Operations, giving the name of the user, the Aviation Facility License number, and citing the circumstances of the misuse.

(b) *Suspension.* The approving authority, or the commanding officer of the facility, may suspend an approved Aviation Facility License when such licensed use would be inconsistent with Navy/Marine Corps or national defense interests. Whenever possible, the Department of the Navy will avoid suspension of licenses which have been issued for official business or scheduled air carrier use. In all cases, suspensions will be lifted as quickly as possible. A suspension will not have the effect of extending the expiration date of an approved Aviation Facility License.

§ 766.11 Fees for landing, parking and storage.

(a) The commanding officer of a facility will collect landing, parking, and storage fees, as applicable, from all users required to have an Aviation Facility License by § 766.7 except for the following:

(1) Government aircraft (see definition § 766.2(g)) except that foreign government aircraft will be charged fees if their government charges similar fees for U.S. Government aircraft.

(2) Aircraft being produced under a contract of the U.S. Government.

(3) Any contract aircraft (see definition § 766.2(b)(1)) or other civil aircraft which is authorized to use the facility on official business.

(4) Aircraft employed to train operators in the use of precision approach systems (GCA, ILS, et al.) provided full-stop or touch-and-go landings are not performed.

(5) Aircraft owned and operated by either Navy/Marine Corps Flying Clubs or Aero Clubs of other military services which are operated as instrumentalities of the U.S. Government.

(6) Aircraft owned and operated by military personnel on active duty (Regular and Reserve) or retired, provided the aircraft is not used for commercial purposes.

(7) Landing fees incident to emergency landings for which the landing fee has been waived by the commanding officer in accordance with § 766.5(i)(5)(i).

(b) *Fee for unauthorized landing.* If an aircraft lands at a Navy/Marine Corps aviation facility without obtaining prior permission (except for a bona fide emergency landing), a landing fee in excess of the normal landing fee will be charged to cover the additional expenses incurred due to special handling and processing. The fee for an unauthorized landing will be as follows:

(1) For aircraft weighing less than 12,500 pounds: $100.

(2) For aircraft weighing 12,500 pounds but less than 40,000 pounds: $250.

(3) For aircraft weighing 40,000 pounds but less than 100,000 pounds: $500.

(4) For aircraft weighing above 100,000 pounds: $600.

(c) *Normal landing fee.* The normal landing fee is based on the aircraft maximum authorized gross takeoff weight, to the nearest 1,000 pounds. The maximum gross takeoff weight may be determined either from item 7F of OPNAV Form 3770/1 or from the "Airplane Flight Manual" carried aboard each aircraft. If the weight cannot be determined, it should be estimated.

CHARGE PER LANDING

Inside CONUS—0.20/1,000 pounds or any portion thereof with a minimum of $5.
Outside CONUS—0.30/1,000 pounds or any portion thereof with a minimum of $7.50.

(d) *Parking and storage fees.* Fixed and rotary wing aircraft parking and storage fees are based upon the gross takeoff weight of the aircraft as follows:

(1) *Outside a hangar.* Charges begin 6 hours after the aircraft lands. The rate is 10 cents per thousand pounds for each 24-hour period or fraction thereof, with a minmum charge of $1.50 per aircraft.

(2) *Inside a hangar.* Charges begin as soon as the aircraft is placed inside the hangar. The rate is 20 cents per 1,000 pounds for each 24-hour period or fraction thereof, with a minimum charge of $5 per aircraft.

(e) *Reimbursement.* Collections incident to direct (out of pocket) costs will be credited to local operating and maintenance funds. All other collections, such as for landing, parking, and storage fees will be credited to Navy General Fund Receipt Account 172426. Accumulation of costs and preparation of billing documents are prescribed in paragraphs 032500–032503 of the NAVCOMPT Manual.

§ 766.12 Unauthorized landings.

Any aircraft that lands at a Navy/Marine Corps aviation facility without obtaining prior permission from an approving authority, except in a bona fide emergency, is in violation of this part. Civil aircraft landing in violation of this regulation will have to pay the fee prescribed in section 766.11(b). In those cases where an unauthorized landing is made at a facility within a Naval Defense Area, proclaimed as such by Executive order of the President, civil aircraft may be impounded and the operator prosecuted as indicated in OPNAVINST 5500.11C of November 12, 1963. In any event, before the aircraft is authorized to depart, the commanding officer of the facility will:

(a) Inform the aircraft operator of the provisions of this part and the OPNAVINST 5500.11C of November 12, 1963, if applicable.

(b) Require the aircraft operator (or owner), before takeoff, to pay all fees and charges and to comply with the following procedure:

(1) Execute OPNAV Form 3770/1, explaining in item 6 of that form the reason for the landing.

(2) In lieu of submitting a Certificate of Insurance (NAVFAC 7–11011/36), the insurer must furnish evidence of sufficient insurance to include waiver of any right of subrogation against the United States, and that such insurance applies to the liability assumed by the insured under OPNAV Form 3770/1.

(3) When it appears that the violation may have been deliberate, or is a repeated violation, departure authorization must be obtained from the Chief of Naval Operations.

(4) As in the case of an emergency landing, the commanding officer will report the circumstances of the unauthorized landing to the Federal Aviation Administration General Aviation District Officer or, if in a foreign country, to the U.S. naval attache.

(5) Waiver of the requirements in subparagraphs (1) and (2) of this paragraph may be obtained from the Chief of Naval Operations to expedite removal of these aircraft when such waiver is considered appropriate.

§ 766.13 Sale of aviation fuel, oil, services and supplies.

(a) *General policy.* In accordance with sections 1107 and 1108 of the Federal Aviation Act of 1958 (72 Stat. 798 as amended, 49 U.S.C. 1507, 1508), Navy/Marine Corps Aviation fuel, oil, services, and supplies are not sold to civil aircraft in competition with private enterprise. Sections 1107 and 1108 of Federal Aviation Act of 1958 (72 Stat. 798 as amended, 49 U.S.C. 1507, 1508), however, does authorize the sales of fuel, oil, equipment, supplies, mechanical service, and other assistance by reason of an emergency. Such sales will be made only where there is no commercial source and only in the amount necessary for the aircraft to continue on its course to the nearest airport operated by private enterprise.

(b) *Contract aircraft.* The sale of aviation fuel, oil, supplies, etc. to aircraft under U.S. Government contract or charter is permitted at, and limited to, points where passengers or cargo are loaded into or discharged from the aircraft under terms of the contract or charter. Sales are not authorized at naval aviation facilities where commercial supplies and service are available.

§ 766.14 Reports/forms.

(a) Report Symbols OPNAV 3770–4 and OPNAV 3770–5 are assigned the reporting requirements set forth in § 766.5(i)(1) and § 766.12(b)(4).

(b) Aviation Facility License, OPNAV Form 3770/1 (REV. 7–70) and Certificate of Insurance, NAVFAC 7–11011/36 (7–70) will be available on or about September 1 and should be requisitioned from the Cognizance "I" stocking points in accordance with instructions set forth in NAVSUP Publication 2002.

NOTE: Copies of Forms filed with the Office of the Federal Register.

[SEAL] C. E. McDOWELL,
Captain, JAGC, U.S. Navy
Deputy Assistant Judge Advocate General (Administrative Law)

SEPTEMBER 3, 1970.

[F.R. Doc. 70–12213; Filed, Sept. 14, 1970; 8:45 a.m.]

Title 45—PUBLIC WELFARE

Chapter V—Foreign Claims Settlement Commission of the United States

Subchapter B—Receipt, Administration and Payment of Claims Under Title I of the War Claims Act of 1948, as Amended by Public Law 91–289, Approved June 24, 1970

Subchapter B of the Regulations of the Foreign Claims Settlement Commission of the United States is hereby added as set forth below.

Dated: September 10, 1970, Washington, D.C.

LYLE S. GARLOCK,
Chairman.

PART 505—FILING OF CLAIMS AND PROCEDURES THEREFOR

Sec.
505.1 Claims defined.
505.2 Time within which claims may be filed.
505.3 Official claim forms.
505.4 Place of filing claims.
505.5 Documents to accompany forms.
505.6 Receipt of claims.

AUTHORITY: The provisions of this Part 505 issued under sec. 2, 62 Stat. 1240, as amended; 50 U.S.C. App. 2001.

§ 505.1 Claim defined.

(a) A properly completed and executed application made on an official form provided by the Foreign Claims Settlement Commission for such purpose constitutes a claim and will be processed under the laws administered by the Commission.

(b) Any communication, letter, note, or memorandum from a claimant, or his duly authorized representative, or a person acting as next of friend of a claimant who is not sui juris, setting forth sufficient facts to apprise the Commission of an interest to apply under the provisions of sections 5(i), 6(e) as amended, and 6(f) of the act, shall be deemed to be an informal claim. Where an informal claim is received and an official form is forwarded for completion and execution by the applicant, such official form shall be considered as evidence necessary to complete the initial claim, and unless such official form is received within thirty (30) days from the date is was transmitted for execution, if the claimant resides in the continental United States or forty-five (45) days if outside the continental United States, the claim may be disallowed.

§ 505.2 Time within which claims may be filed.

(a) Claims of individuals entitled to benefits under section 5(i) of the War Claims Act of 1948, as added by Public Law 91–289, will be accepted by the Commission during the period, beginning June 24, 1970 and ending (1) June 24, 1973, inclusive; (2) 3 years from the date the civilian American citizens by whom the claim is filed returned to the jurisdiction of the United States; or (3) 3 years from the date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States, whichever of the preceding dates last occurs.

(b) Claims of individuals entitled to benefits under section 6(e) of the War Claims Act of 1948, as amended by Public Law 91–289, will be accepted by the Commission during the period beginning

June 24, 1970 and ending June 24, 1971, inclusive.

(c) Claims of individuals entitled to benefits under section 6(f) of the War Claims Act of 1948, as added by Public Law 91–289, will be accepted by the Commission during the period beginning June 24, 1970 and ending (1) June 24, 1973, inclusive; (2) 3 years from the date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or (3) 3 years from the date the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States, whichever of the preceding dates last occurs.

§ 505.3 Official claim forms.

Official forms are provided for use in the preparation of claims for submission to the Commission for processing. Claims forms are available at the Washington offices of the Commission and through other offices as the Commission may designate. The official claim form for all claims under sections 5(i), 6(e) as amended, and 6(f) has been designated, FCSC Form 289, "Application for Compensation for Members of the Armed Forces of the United States Held as Prisoners of War in Vietnam; for Persons Assigned to Duty on Board the 'U.S.S. *Pueblo*' Captured by Military Forces of North Korea; for Civilian American Citizens Captured or Went into Hiding to Avoid Capture or Interment in Southeast Asia During the Vietnam Conflict and, in Case of Death of any Such Person, for Their Survivors."

§ 505.4 Place of filing claims.

Claims must be mailed or delivered in person to the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579.

§ 505.5 Documents to accompany forms.

All claims filed pursuant to sections 5(a), 6(e) as amended, and 6(f) of the act must be accompanied by evidentiary documents, instruments, and records as outlined in the instruction sheet attached to the claim form.

§ 505.6 Receipt of claims.

(a) *Claims deemed received.* A claim shall be deemed to have been received by the Commission on the date postmarked, if mailed, or if delivery is made in person, on the date of delivery at the office of the Commission in Washington, D.C.

(b) *Claims developed.* In the event that a claim has been so prepared as to preclude processing thereof, the Commission may request the claimant to furnish whatever supplemental evidence, including the completion and execution of an official claim form, as may be essential to the processing thereof. In case the evidence or official claim form requested is not returned within the time which may be designated by the Commission, the claim may be deemed to have been abandoned and may be disallowed.

PART 506—PROVISIONS OF GENERAL APPLICATION

Sec.
506.1 Persons eligible to file claims.
506.2 Persons under legal disability.
506.3 Definitions applicable under the Act.

AUTHORITY: The provisions of this part 506 issued under sec. 2, 62 Stat. 1240, as amended; 50 U.S.C. App. 2001.

§ 506.1 Persons eligible to file claims.

Persons eligible to file claims with the Commission under the provisions of sections 5(i), 6(e) as amended by Public Law 91–289, and 6(f) of the War Claims Act of 1948, as amended, are:

(a) Civilian American citizens captured and held in Southeast Asia or their eligible survivors, under the provisions of section 5(i) of the act;

(b) Persons assigned to duty on board the U.S.S. Pueblo who were captured by the military forces of North Korea, or their eligible survivors, under section 6(e) of the act as amended by Public Law 91–289; and

(c) Members of the Armed Forces of the United States held as prisoners of war during the Vietnam conflict or their eligible survivors, under section 6(f) of the act.

§ 506.2 Persons under legal disability.

(a) Claims may be submitted on behalf of persons who, being otherwise eligible to make claims under the provisions of sections 5(i), 6(e) as amended, and 6(f), are incompetent or otherwise under any legal disability, by the natural or legal guardian, committee, conservator, curator, or any other person, including the spouse of such claimant, whom the Commission determined is vested with the care of the claimant.

(b) Upon the death of any individual for which an award has been made, the Commission may consider the initial application filed by or in behalf of the decedent as a formal claim for the purpose of reissuing the award to the next eligible survivor in the order of preference as set forth under sections 5(i)(4) and 6(d)(4) of the act.

§ 506.3 Definitions applicable under the Act.

(a) Widow. A "widow" is the surviving female spouse of a deceased prisoner of war or a deceased civilian American citizen who was married to the deceased at the time of his death by a marriage valid under the applicable law of the place where entered into.

(b) *Husband.* A "husband" is the surviving male spouse of a deceased prisoner of war or of a deceased civilian American citizen who was married to the deceased at the time by her death by a marriage valid under the applicable law of the place entered into.

(c) *Child.* (1) A "child" is a natural or adopted son or daughter of a deceased prisoner of war or a deceased civilian American citizen, including any posthumous son or daughter of such deceased person.

(2) Any son or daughter of such deceased person born out of wedlock will be deemed to be a child of such deceased for the purpose of this act, if, (i) legitimated by a subsequent marriage of the parents, (ii) recognized as a child of the deceased by his or her admission, or (iii) so declared by an order or decree of any court of competent jurisdiction.

(d) *Parent.* (1)(i) A "parent" is the natural or adoptive father or mother of a deceased prisoner of war, or any person standing in loco parentis to such deceased person, for a period of not less than 1 year immediately preceding the date of his entry into active service and during at least 1 year of his minority. Not more than one mother and/or father as defined shall be recognized in any case. A person will not be recognized as standing in loco parentis if the natural parents or adoptive parents are living, unless there is affirmative evidence of abandonment and renunciation of parental duties and obligations by the natural or adoptive parent or parents prior to entry into active service by the deceased prisoner of war; (ii) an award in the full amount allowable had the deceased prisoner of war survived may be made to only one parent when it is shown that the other parent has died or if there is affirmative evidence of abandonment and renunciation of parental duties and obligations by the other parent.

(2) The father of an illegitimate child will not be recognized as such for purpose of the act unless evidence establishes that (i) he has legitimated the child by subsequent marriage with the mother; (ii) recognized the child as his by written admission prior to enlistment of the deceased in the armed forces or entry into an overseas duty status; or (iii) prior to death of the child he has been declared by decree of a court of competent jurisdiction to be the father.

(e) *Natural guardian.* The father and mother shall be deemed to be the natural guardians of the person of their minor children. If either dies or is incapable of action, the natural guardianship of the person shall devolve upon the other. In the event of death or incapacity of both parents, then such blood relative, paternal or maternal, standing in loco parentis to the minor shall be deemed the natural guardian.

PART 507—ELIGIBILITY REQUIREMENTS FOR COMPENSATION

Subpart A—Civilian American Citizen

Sec.
507.1 "Civilian American Citizen" defined.
507.2 Other definitions.
507.3 Rate of benefits payable.
507.4 Survivors entitled to awards.
507.5 Persons not eligible to award of civilian detention benefits.

Subpart B—Prisoners of War

507.10 Vietnam conflict.
507.11 "Prisoner of War" defined.
507.12 Membership in the Armed Forces, establishment of.
507.13 "Armed Forces of the United States" defined.
507.14 "Force hostile to the United States" defined.
507.15 Geneva Convention of August 12, 1949.
507.16 Failure to meet the conditions and requirements prescribed under the Geneva Convention of August 12, 1949.

AUTHORITY: The provisions of this part 507 issued under sec. 2, 62 Stat. 1240, as amended; 50 U.S.C. App. 2001.

Subpart A—Civilian American Citizen

§ 507.1 Civilian American citizen defined.

The term "civilian American citizen" means any person who, being then a citizen of the United States, was captured in Southeast Asia during the Vietnam conflict by any force hostile to the United States, or who went into hiding in Southeast Asia in order to avoid capture or internment by any such hostile force.

§ 507.2 Other definitions.

(a) *Citizen of the United States.* A "citizen of the United States" means a person who under applicable law acquired citizenship of the United States by birth, by naturalization, or by derivation.

(b) *Force hostile to the United States.* A "force hostile to the United States" means any organization or force in Southeast Asia, or any agent or employee thereof, engaged in any military or civil activities designed to further the prosecution of its armed conflict against the Armed Forces of the United States during the Vietnam conflict.

(c) *Went into hiding.* The term "went into hiding" means the action taken by a civilian American citizen when he initiated a course of conduct consistent with an intention to evade capture or detention by a hostile force in Southeast Asia.

(d) *Southeast Asia.* The term "Southeast Asia" means but is not necessarily restricted to, the areas of North and South Vietnam, Laos, and Cambodia.

(e) *Calendar month.* The term "calendar month" means the period of time between a designated day of any given month and the date preceding a similarly designated day of the following month.

(f) *Dependent husband.* The term "dependent husband" means the surviving male spouse of a deceased civilian American citizen who was married to the deceased at the time of her death by a marriage valid under the applicable law of the place where entered into.

§ 507.3 Rate of benefits payable.

Detention benefits awarded to a civilian American citizen will be paid at the rate of $60 for each calendar month of internment or during the period such civilian American citizen went into hiding to avoid capture and internment by a hostile force. Awards shall take account of fractional parts of a calendar month.

§ 507.4 Survivors entitled to award of detention benefits.

In case of death of a civilian American citizen who would have been entitled to detention benefits under the War Claims Act of 1948, as amended, such benefits shall be awarded if claim is made only to the following persons: (a) widow or husband if there is no child or children of the deceased; (b) widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares; (c) the child or children of the deceased in equal shares if there is no widow or dependent husband, if otherwise qualified.

§ 507.5 Persons not eligible to award of civilian detention benefits.

Certain persons disqualified as a "civilian American citizen" under the Act and are thus precluded from receiving an award of detention benefits are as follows: (a) A person who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (b) a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.

Subpart B—Prisoners of War

§ 507.10 Vietnam conflict.

The term "Vietnam conflict" relates to the period beginning February 28, 1961, and ending on a date to be determined by Presidential proclamaton or concurrent resolution of the Congress.

§ 507.11 Prisoner of war defined.

The term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States who was held by any force hostile to the United States for any period of time during the Vietnam conflict.

§ 507.12 Membership in the Armed Forces of the United States, establishment of.

Regular appointment, enrollment, enlistment or induction in the Armed Forces of the United States shall be established by certification of the Department of Defense.

§ 507.13 Armed Forces of the United States defined.

The term "Armed Forces of the United States" means the United States Air Force, Army, Navy, Marine Corps and Coast Guard, commissioned officers of the U.S. Public Health Service who were detailed for active duty with the Armed Forces of the United States.

§ 507.14 Force hostile to the United States defined.

The term "force hostile to the United States" means any organization or force in Southeast Asia, or any agent or employee thereof, engaged in any military or civil activities designed to further the prosecution of its armed conflict against the Armed Forces of the United States during the Vietnam conflict.

§ 507.15 Geneva Convention of August 12, 1949.

The Geneva Convention of August 12, 1949, as contained under section 6(f) of the War Claims Act of 1948, as amended, is the "Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949" which is included under the "Geneva Conventions of August 12, 1949 For the Protection of War Victims", entered into by the United States and other governments, including the Government in North Vietnam which acceded to it on June 28, 1957.

§ 507.16 Failure to meet the conditions and requirements prescribed under the Geneva Convention of August 12, 1949.

For the purpose of this part obligations under the Geneva Convention of August 12, 1949, is the responsibility assumed by the contracting parties thereto with respect to prisoners of war within the meaning of the Convention, to comply with and to fully observe the provisions of the Convention, and particularly those articles relating to food rations of prisoners of war, humane treatment, protection, and labor of prisoners of war, and the failure to abide by the conditions and requirements established in such Convention by any hostile force with which the Armed Forces of the United States were engaged in armed conflict.

§ 507.17 Rate of and basis for award of compensation.

(a) Compensation allowed a prisoner of war during the Vietnam conflict under section 6(f)(2) of the War Claims Act of 1948, as amended, will be paid at the rate of $2 per day for each day he was held as a prisoner of war on which the hostile force, or its agents, failed to furnish him the quantity and quality of food prescribed for prisoners of war under the Geneva Convention of August 12, 1949.

(b) Compensation allowed a prisoner of war during the Vietnam conflict under section 6(f)(3) of the Act, will be paid at the rate of $3 per day for each day he was held as a prisoner of war on which the hostile force failed to meet the conditions and requirements under the provisions of the Geneva Convention of August 12, 1949 relating to labor of prisoners of war or for inhumane treatment by the hostile force by which he was held.

(c) Compensation under paragraphs (a) and (b) of this section will be paid to the prisoners of war or a qualified applicant on a lump-sum basis at a total rate of $5 per day for each day the prisoner of war was entitled to compensation.

§ 507.18 Entitlement of survivors to award in case of death of prisoner of war.

In case of death of a prisoner of war who would have been entitled to an award of compensation under section 6(f) (2) and (3) of the War Claims Act of 1948, as amended, such compensation shall be awarded to, and if claim is made, only to the following persons: (a) Widow or husband if there is no child or children of the deceased; (b) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares; (c) child or children of the deceased (in equal shares) if there is no widow or husband; and (d) parents (in equal shares) if there is no widow, husband, or child.

§ 507.19 Members of the Armed Forces of the United States precluded from receiving awards.

Any member of the Armed Forces of the United States, who at any time, voluntarily, knowingly, and without duress gave aid to or collaborated with, or in any manner served any force hostile to the United States is precluded from receiving an award of compensation based on his capture and internment.

Subpart C—Persons Captured While Assigned to Duty on Board the U.S.S. Pueblo

§ 507.25 Persons eligible for compensation as a prisoner of war.

The term "prisoner of war" as it relates to claims under section 6(e) of the War Claims Act of 1948, as amended under Public Law 91–289 [84 Stat. 323], applies to any person (military or civilian) assigned to duty on board the U.S.S. Pueblo who was captured by the military forces of North Korea on January 23, 1968, and thereafter held prisoner by the Government of North Korea for any period of time ending on or before December 23, 1968. Such persons are entitled to receive compensation to the same extent as prisoners of war under the provisions of section 6(e) of the Act.

§ 507.26 Persons assigned to duty on board the U.S.S. Pueblo.

Persons assigned to duty on board the U.S.S. Pueblo at the time of its capture by the Government of North Korea shall be established by certification of the appropriate agency of the U.S. Government.

§ 507.27 Geneva Convention of July 27, 1929.

The Geneva Convention of July 27, 1929 is the "Convention of July 27, 1929, Relative to The Treatment of Prisoners of War" entered into between the United States and other powers at Geneva, Switzerland, on July 27, 1929, to the observance of which the United States, among other signatory powers, subsequently became bound.

§ 507.28 Rate and basis for award of compensation.

(a) Compensation allowed a prisoner of war under sections 6(e)(2) of the War Claims Act of 1938, as amended will be paid at the rate of $1 per day for each day he was held as a prisoner of war on which the hostile force by which he was held as a prisoner of war, or its agents, failed to furnish him such quantity or quality of food in accordance with the standards prescribed for prisoners of war under the terms of the Geneva Convention of July 27, 1929.

(b) Compensation allowed a prisoner of war under the terms of section 6(e)(3) of the Act, will be paid at the rate of $1.50 for each day the hostile force by which he was held as a prisoner of war, or its agents, failed to meet the conditions and requirements of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war and for inhumane treatment by the hostile force by which he was held.

(c) Compensation under paragraphs (a) and (b) of this section will be paid to the prisoner of war or a qualified applicant on a lump-sum basis at a total rate of $2.50 per day for each day the prisoner of war was determined eligible to receive compensation.

§ 507.29 Hostile force defined.

The term "hostile force" as used under section 6(e) as amended, relating to claims of persons who were captured and held prisoners while assigned to duty on board the U.S.S. Pueblo, means the Government of North Korea, or its agents.

§ 507.30 Survivors entitled to award of compensation.

In case of death of any person who was captured and held as a prisoner while assigned to duty on board the U.S.S. *Pueblo* and who would have been entitled to an award of compensation under sections 6(e) (2) and (3) of the War Claims Act of 1948, as amended, such compensation shall be awarded to, and if claim is made only to, the following persons: (a) Widow or husband if there is no child or children of the deceased; (b) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares; (c) child or children of the deceased (in equal shares) if there is no widow or husband; and (d) parents (in equal shares) if there is no widow, husband, or child.

§ 507.31 Persons precluded from receiving awards.

Any person under the provisions of section 6(e) of the act who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with, or in any manner served any hostile force is precluded from receiving an award of compensation based on his capture and internment.

PART 508—PAYMENT

Sec.
508.1 Payments under the War Claims Act of 1948, as amended by Public Law 91–289.
508.2 Payments to persons under legal disability.
508.3 Reissuance of awards.

AUTHORITY: The provisions of this part 508 issued under sec. 2, 62 Stat. 1240, as amended; 50 U.S.C. App. 2001.

§ 508.1 Payments under the War Claims Act of 1948, as amended by Public Law 91–289.

(a) Upon a determination by the Commission as to amount and validity of each claim filed pursuant to sections 5(i), 6(e) as amended, and 6(f) of the War Claims Act of 1948, as amended, any award made thereunder will be certified by the Commission to the Secretary of the Treasury for payment out of funds appropriated for this purpose, in favor of the civilian internee or prisoner of war found entitled thereto.

(b) Awards made to survivors of deceased civilian internees or prisoners of war, will be certified to the Secretary of Treasury for payment to the individual member or members of the class or classes of survivors entitled to receive compensation in the full amount of the share to which each survivor is entitled, and if applicable, under the procedure set forth in § 508.3, except that as to persons under legal disability, payment will be made as specified in § 508.2.

§ 508.2 Payments to persons under legal disability.

Any award or any part of an award payable under section 5(i), 6(e) as amended, and 6(f) of the act to any person under legal disability may, in the discretion of the Commission, be certified for payment for the use of the claimant, to the natural or legal guardian, committee, conservator or curator, or if there is no such natural or legal guardian, committee, conservator or curator then, in the discretion of the Commission, to any person, including the spouse of such person, or the Chief Officer of the hospital in which the claimant may be a patient, whom the Commission may determine is vested with the care of the claimant. In the case of a minor, any part of the amount payable may, in the discretion of the Commission, be certified for payment in such minor.

§ 508.3 Reissuance of awards.

Upon the death of any claimant entitled to payment of an award, the Commission will cause the award to be cancelled and the amount of such award will be redistributed to the survivors of the same class or to members of the next class of eligible survivors, if appropriate, in the order of preference as set forth under the Act.

PART 509—HEARINGS

Sec.
509.1 Basis for hearing.
509.2 Request for hearing.

Sec.
509.3 Notification to claimant.
509.4 Failure to file request for hearing.
509.5 Purpose of hearing.
509.6 Resume of hearing, preparation of.
509.7 Action by Commission.
509.8 Application of other regulations.

AUTHORITY: The provisions of this Part 509 issued under sec. 2, 62 Stat. 1240; 50 U.S.C. App. 2001.

§ 509.1 Basis for hearing.

Any claimant whose application is denied or is approved for less than the full allowable amount of such claim, shall be entitled to a hearing before the Commission or its representative with respect to such claim. Hearings may also be held on the Commission's own motion.

§ 509.2 Request for hearing.

Within 30 days after the Commission's notice of denial of a claim or approval for a lesser amount than claimed, has been posted by the Commission, the claimant, if a hearing is desired, shall notify the Commission in writing, and shall set forth in such request his reasons in full for requesting the hearing, including any statement of law, or facts upon which the claimant relies.

§ 509.3 Notification to claimant.

Upon receipt of such a request the Commission shall schedule a hearing and notify the claimant as to the date and place such hearing is to be held. No later than 10 days prior to the scheduled hearing date, claimant shall submit all documents, brief, or other additional evidence relative to an appeal from the award.

§ 509.4 Failure to file request for hearing.

The failure to file a request for a hearing within the period specified in § 509.2 will be deemed to constitute a waiver of right to such hearing and the decision of the Commission shall constitute a full and final disposition of the case.

§ 509.5 Purpose of hearing.

(a) Such hearings shall be conducted by the Commission, its designee or designees. Oral testimony and documentary evidence, including depositions that may have been taken as provided by statute and the rules of practice, may be offered in evidence on claimant's behalf or by counsel for the Commission designated by it to represent the public interest opposed to the allowance of any unjust or unfounded claim or portion thereof, and either may cross-examine as to evidence offered through witnesses on behalf of the other. Objections to the admission of any such evidence shall be ruled upon by the presiding officer.

(b) Such hearings may be stenographically recorded either at the request of the claimant or at the discretion of the Commission. Claimants making such a request shall notify the Commission at least 10 days prior to the hearing date. When a stenographic record of a hearing is ordered at the claimant's request, the cost of such reporting and transcription may be charged to him.

(c) Such hearings shall be open to the public.

§ 509.6 Resume of hearing, preparation of.

Upon such hearing, the hearing officer shall prepare a résumé of the hearing, specifying the issues on which the hearing was based, list of documents and contents, and other items relative to such questions introduced as evidence. A brief analysis or oral testimony shall also be prepared and included in such résumé of the hearing not stenographically reported.

§ 509.7 Action by the Commission.

After the conclusions of such hearing and a review of the résumé, the Commission may affirm, modify, or reverse its former action with respect to such claim, including a denial or reduction in the amount of the award theretofore approved. All findings of the Commission concerning the persons to whom compensation is payable, and the amounts thereof, shall be conclusive and not reviewable by any court.

§ 509.8 Application of other regulations.

To the extent they are not inconsistent with the regulations set forth under provisions of Subchapter B, other regulations of the Commission shall be applicable to the claims as provided under Public Law 91-289.

[F.R. Doc. 70-12242; Filed, Sept. 14, 1970; 8:47 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER G—PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Alabama-Mississippi-Tennessee Interstate Air Quality Control Region

On May 20, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 7740) to amend Part 81 by designating the Florence (Alabama) — Corinth (Mississippi) — (Tennessee) Interstate Air Quality Control Region, hereafter referred to as the Alabama - Mississippi - Tennessee Interstate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on June 22, 1970. Due consideration has been given to all relevant material presented, with the result that the Region has been renamed the Alabama-Mississippi-Tennessee Interstate Air Quality Control Region. No changes have been made in the boundaries proposed.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making § 81.62, as set forth below, designating the Alabama-Mississippi-Tennessee Interstate Air Quality Control Region, is adopted effective on publication.

§ 81.62 Alabama—Mississippi—Tennessee Interstate Air Quality Control Region.

The Alabama—Mississippi—Tennessee Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Colbert County. Lauderdale County.
Franklin County.

In the State of Mississippi:

Alcorn County. Tishomingo County.

In the State of Tennessee:

Hardin County.

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: September 3, 1970.

JOHN G. VENEMAN,
Acting Secretary.

[F.R. Doc. 70-12090; Filed, Sept. 14, 1970; 8:45 a.m.]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Duluth (Minnesota)—Superior (Wisconsin) Interstate Air Quality Control Region

On May 20, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 7740) to amend Part 81 by designating the Duluth (Minnesota)—Superior (Wisconsin) Interstate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on June 29, 1970. Due consideration has been given to all relevant material presented with the result that Koochiching County, Minn., which was not in the original proposal, has been added to the region.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.60, as set forth below, designating the Duluth (Minnesota)—Superior (Wisconsin) Interstate Air Quality Control Region, is adopted effective on publication.

§ 81.60 Duluth (Minnesota)—Superior (Wisconsin) Interstate Air Quality Control Region.

The Duluth (Minnesota)—Superior (Wisconsin) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Minnesota:

Carlton County.	Lake County.
Cook County.	Pine County.
Koochiching County.	St. Louis County.

In the State of Wisconsin:

Bayfield County.	Douglas County.
Burnett County.	

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: September 3, 1970.

JOHN G. VENEMAN,
Acting Secretary.

[F.R. Doc. 70-12091; Filed, Sept. 14, 1970; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Erie National Wildlife Refuge, Pa.

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

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

PENNSYLVANIA

ERIE NATIONAL WILDLIFE REFUGE

Public hunting of migratory game birds on the Erie National Wildlife Refuge is permitted in accordance with all applicable State and Federal regulations. Such hunting is permitted only on the designated Migratory Game Bird Hunting Area. This area is delineated on maps available at refuge headquarters, Guys Mills, Pa., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 30, 1971.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries & Wildlife.

SEPTEMBER 8, 1970.

[F.R. Doc. 70-12209; Filed, Sept. 14, 1970; 8:45 a.m.]

PART 32—HUNTING

Erie National Wildlife Refuge, Pa.

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.

PENNSYLVANIA

ERIE NATIONAL WILDLIFE REFUGE

Public hunting of rabbits, hares, woodchucks, raccoons, skunks, foxes, opossums, squirrels, grouse, quail, and pheasants is permitted on portions of the Erie National Wildlife Refuge, Pa. The open hunting area is delineated on maps available at refuge headquarters, Guys Mills, Pa., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

Hunting shall be in accordance with all applicable State regulations governing hunting of small game and unprotected species subject to the following special conditions:

(1) The open season for hunting unprotected species on the refuge extends from September 1, 1970 through March 15, 1971.

(2) That portion of the refuge situated between Pennsylvania Routes 27 and 173, is closed to hunting with firearms from September 1, 1970 through November 25, 1970.

The provisions of this special regulation supplement the regulations governing hunting of wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through March 15, 1971.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries & Wildlife.

SEPTEMBER 8, 1970.

[F.R. Doc. 70-12210; Filed, Sept. 14, 1970; 8:45 a.m.]

PART 32—HUNTING

Erie National Wildlife Refuge, Pa.

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.

PENNSYLVANIA

ERIE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Erie National Wildlife Refuge, Pa., is permitted. The open hunting area is delineated on maps available at refuge headquarters, Guys Mills, Pa., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 10, 1971.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries & Wildlife.

SEPTEMBER 4, 1970.

[F.R. Doc. 70-12208; Filed, Sept. 14, 1970; 8:45 a.m.]

Proposed Rule Making

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 81]

[Docket No. 18944]

PUBLIC COAST III–B STATIONS

Technical Standards for Computation of Service Area

In the matter of amendment of Part 81 of the Commission's rules to provide technical standards for the computation of service area for Public Coast III–B stations, Docket No. 18944.

In the notice of proposed rule making in the above entitled matter, FCC 70–894, released on August 28, 1970, and published at 35 F.R. 14096, Footnote 1 is corrected to read as follows:

[1] In 1959 in Wisconsin Telephone Co. et al. (27 F.C.C. 513), the Commission reached certain conclusions with respect to coverage area by VHF public coast facilities and the distance that ships could communicate with such stations. Recently, in Orders designating public coast station applications for hearing the Commission has specified Appendix F to Radio Technical Committee for Marine (RTCM), Report of Special Committee 19 (SC–19), dated Feb. 21, 1956 as the standard to be used in computing coverage area.

Released: September 9, 1970.

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

[F.R. Doc. 70–12245; Filed, Sept. 14, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 722]

EXTRA LONG STAPLE COTTON

Notice of Determinations Regarding 1971 Crop

The Secretary of Agriculture is preparing to make determinations with respect to the 1971 crop of extra long staple cotton pursuant to the Agricultural Adjustment Act of 1938, as amended (referred to as the act) (52 Stat. 38, as amended; 7 U.S.C. 1281 et seq.). These determinations include the following:

(a) The number of bales of extra long staple cotton of the national marketing quota under section 347 of the act;

(b) The national acreage allotment under section 344(a) of the act;

(c) The apportionment of the national allotment to the States and counties under section 344 (b) and (e) of the act:

(d) The date or period for holding the national marketing quota referendum under section 343 of the act.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Cotton Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days following the publication of this notice in the FEDERAL REGISTER.

The date of the postmark will be considered as the date of any submission. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on September 10, 1970.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70–12264; Filed, Sept. 14, 1970; 8:48 a.m.]

Consumer and Marketing Service

[7 CFR Part 931]

HANDLING OF FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Notice of Proposed Rule Making With Respect to Expenses and Fixing of Rate of Assessment for 1970–71 Fiscal Period

Consideration is being given to the following proposals submitted by the Northwest Fresh Bartlett Pear Marketing Committee, established pursuant to the marketing agreement and Order No. 931 (7 CFR Part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses which are reasonable and likely to be incurred by the Northwest Fresh Bartlett Pear Marketing Committee, during the period July 1, 1970, through June 30, 1971, will amount to $16,000;

(2) That the rate of assessment for such period, payable by each handler in accordance with § 931.41 be fixed at $0.0125 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112A, Administration Building, Washington, D.C. 20250, not later than the 10th 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)).

Dated: September 9, 1970.

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

[F.R. Doc. 70–12227; Filed, Sept. 14, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 70–EA–60]

PRATT & WHITNEY AIRCRAFT ENGINES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Pratt & Whitney type JT8D aircraft engines.

There have been reports of 25 cases of blade failure due to improperly machined groove or tool marks in the blade root area, with at least five causing airframe damage. Since this situation is likely to exist or develop in other aircraft of the same type design the proposed airworthiness directive would require inspection and eventual replacement of the blades. The AD proposal is essentially a two step process. The first step is intended to remove those blades which have improper tool marks, and thus reduce the failure exposure rate. To allow for orderly inspection, a 600-hour period is provided. The second step is intended to eliminate the problem when the engines are in the shop for the next scheduled heavy blade maintenance by the substitution of new or reworked blades with greater fatigue strengths. A 6,000-hour period or approximately 2 years is established for accomplishment of this second step.

Interested persons are invited to participate in the making of the proposed rule by submitting written data and

views. Communications should identify the docket number and be submitted in duplicate to the Office of Regional Counsel, FAA, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before taking action upon the proposed rule. The proposals contained in the Notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested parties.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

1. Amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

PRATT AND WHITNEY AIRCRAFT. Applies to all model JT8D series turbofan engines.

Compliance required as indicated.

To prevent failure of the first stage compressor rotor blades as the result of improperly machined blade root accomplish the following:

a. With the next 600 hours time in service after the effective date of this AD, unless previously accomplished on all P/N 487801, 511901 change letter L or earlier, 594601 and 616601 change letter B or earlier, first stage compressor rotor blades, visually inspect these for improper tool marks within the radius of the "Z" plane platform on both sides of the blade root area. If tool marks are detected, replace blade with one that conforms to type certification standards for new or properly altered blades.

b. Within the next 6,000 hours time in service after the effective date of this AD unless previously accomplished, replace all P/N 487801, 511901 change letter L or earlier, 594601 and 616601 change B or earlier first stage compressor rotor blade with a new or equivalent part number blade reworked in accordance with the rework instructions as outlined in the Pratt & Whitney Aircraft JT8D Overhaul Manual Part No. 481672 Repair Section 72-33-1 or an equivalent rework approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, P/N 511901 change letter M or later and P/N 616601 change C or later first stage compressor rotor blades incorporate the rework requirements.

c. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region may adjust the compliance time.

(Pratt & Whitney letter PSE:HHB:0-4-6-1-33 dated Apr. 6, 1970, pertains to this subject.)

This amendment is made under the authority of section 313(a), 601, and 603 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423, and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on September 2, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-12259; Filed, Sept. 14, 1970; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SW-53]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Huntsville, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

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

HUNTSVILLE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Huntsville Municipal Airport (lat. 30°44'30" N., long. 95°35'30" W.), within 3 miles each side of the Leona VORTAC 139° radial extending from the 5-mile-radius area to 27.5 miles southeast of the VORTAC, and within 3.5 miles each side of the 008° bearing from the Huntsville RBN (lat. 30°44'20" N., long. 95°35'17" W.) extending from the 5-mile-radius area to 11.5 miles north of the RBN.

This transition area will provide controlled airspace for aircraft executing instrument approach/departure procedures proposed to serve the Huntsville Municipal Airport at Huntsville, Tex.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on September 4, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-12260; Filed, Sept. 14, 1970; 8:48 a.m.]

[14 CFR Part 121]

[Docket No. 10171; Notice 70-36]

PILOT-IN-COMMAND OPERATING EXPERIENCE

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 121 of the Federal Aviation Regulations to permit a check pilot designated as pilot in command to occupy an observer's seat while a transitioning pilot qualifying for service as pilot in command occupies a pilot station, if after at least two takeoffs and landings the check pilot is satisfied that the qualifying pilot is competent to perform the duties of a pilot in command.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before November 16, 1970, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

United Air Lines, Inc. (United), has petitioned for an Amendment to § 121.434 of the Federal Aviation Regulations to give check pilots greater discretion in the selection of the seat to be occupied during their supervision of air carrier pilots acquiring initial operating experience. This notice is based on that petition and the response of the FAA thereto.

Current § 121.434 requires all persons serving as required crewmembers to have completed the prescribed operating experience in Part 121 operations before so serving. With specific regard to pilots qualifying as pilots in command, § 121.434(a)(2) permits them to serve as second in command, and § 121.434(c)(1)(i) requires that they obtain their operating familiarization under the supervision of a check pilot. As stated in Notice 69-14 and Amendment 121-55 (effective Feb. 2, 1970), the effect of certain revisions to § 121.434 was to prohibit a pilot from serving as pilot in command in operations under Part 121 until all requirements, including operating experience, have been satisfactorily completed.

In support of its petition, United has submitted several arguments which it contends support broad check pilot discretion as to the position from which he supervises a qualifying pilot in command. United cites the fact that it has established and consistently followed a procedure which allows a check pilot to observe a qualifying pilot in command obtaining his operating experience from

any position on the flight deck. United contends that this procedure enables the pilot in command candidate to acquire his operating experience in the environment which would actually exist in scheduled operations, and that it permits the performance of the airman to be evaluated on the basis of command responsibility as well as technical proficiency.

In addition, United argues that if the check pilot is required to occupy a pilot station, there is a dilution of his ability to supervise and observe the qualifying pilot in command. Therefore, United asserts that the time during which the check pilot is required to occupy the right or left seat be limited to the greatest extent possible consistent with safety.

United submits that its experience has shown that it is in the initial phase of operating experience, and generally during takeoff and landing, when the check pilot is most likely to occupy the right or left seat. It is this experience which United cites as the basis for its request for rule making to provide broad check pilot discretion in supervising and observing a qualifying pilot obtaining operating experience.

However, it is the opinion of the FAA that a distinction should be made between the situation involving a pilot who is qualifying pursuant to initial or upgrade training and a pilot who is qualifying pursuant to transition training. Under the proposal of United, any qualifying pilot would be at a pilot station and the check pilot would observe from any observer's seat after only two takeoffs and landings. In the opinion of the FAA this would be a compromise of safety inasmuch as, in the initial or upgrade situation, it exposes a pilot who is inexperienced as pilot in command to important decisions before he has become sufficiently acquainted with the operating environment in a particular airplane group in Part 121 operations.

On the other hand, the FAA recognizes that a transitioning pilot will have been exposed to the operating environment in an airplane of the same group for which he is qualifying. Therefore, there appears to be merit in permitting a check pilot who is the designated pilot in command to occupy an observer's seat, rather than a pilot station, for the purpose of oberving a pilot qualifying for the position of pilot in command pursuant to transition training. However, in the interest of safety, we believe this should not be permitted until at least two takeoffs and landings have been completed and it is demonstrated to the satisfaction of the check pilot that the transitioning pilot is qualified to perform the duties of a pilot in command in the particular airplane involved. Of course, in such circumstances the check pilot would continue during flight time to be the pilot in command under the Federal Aviation Regulations.

Accordingly, this proposal would amend § 121.434 to permit a check pilot designated as pilot in command to occupy an observer's seat while observing a tranistioning pilot qualifying as pilot in command who occupies a pilot station, if after at least two takeoffs and landings the check pilot is satisfied that the qualifying pilot has demonstrated he is competent to perform the duties of a pilot in command. The proposal would of course also apply to Part 135 pursuant to § 135.2.

In view of the fact that all Part 121 operations must be under the control of a designated pilot in command (whether required by § 121.385 in the case of domestic air carriers, supplemental air carriers, or commercial operators, or by the Flight Manual in the case of flag air carriers), it has been the opinion of the FAA that during the acquisition of operating experience a check pilot serving as pilot in command must occupy a pilot station. Therefore, in order to permit the check pilot to leave the pilot in command station to observe a transitioning pilot, it is also proposed to amend § 121.543 and add an exception to cover the situation.

Finally, it is proposed to amend the requirement of current § 121.434(b)(3) that operating experience be acquired during operations under Part 121. The proposal would permit operating experience to be obtained during ferry flights or proving flights in the case of airplanes new to the certificate holder and prior to their being placed in service. This proposal is made in recognition of the problem facing certificate holders when qualifying the initial pilot in command of such aircraft.

In consideration of the foregoing, it is proposed to amend Part 121 of the Federal Aviation Regulations as follows:

1. By amending § 121.434(b)(3) and by adding a flush paragraph at the end of § 121.434(c)(1) to read as follows:

§ 121.434 Operating experience.

* * * * *

(b) * * *

(3) The experience must be acquired in flight during operations under this part, except that in the case of an aircraft not previously used by the certificate holder in operations under this part, operating experience acquired in the aircraft during proving flights or ferry flights may be used to meet this requirement.

* * * * *

(c) * * *

(1) * * *

For the purpose of subparagraph (c)(1) of this section, while observing a qualifying pilot in command the check pilot serving as pilot in command must occupy a pilot station. However, in the case of a transitioning pilot in command, if after at least two takeoffs and landings it is demonstrated to the satisfaction of the check pilot that the transitioning pilot is qualified to perform the duties of a pilot in command, the check pilot may occupy an observer's seat while the transitioning pilot occupies a pilot station.

* * * * *

2. By adding the following to the beginning of the first sentence of § 121.543:

§ 121.543 Flight crewmembers at controls.

Except as authorized by § 121.434 of this part in the case of a pilot in command performing the functions of a check pilot, * * *.

This amendment is proposed under the authority of sections 313(a), 601, 602, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422, 1424, and 1427), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 8, 1970.

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

[F.R. Doc. 70-12217; Filed, Sept. 14, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[Docket No. 22546]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Transactions With Affiliated Groups

SEPTEMBER 9, 1970.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 241 of its economic regulations (14 CFR Part 241) which would prescribe more complete disclosure of transactions by air carriers within affiliated groups of companies than is presently required and set forth standards in accounting for such transaction.

The principal features of the proposed amendment are described in the attached explanatory statement and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766; 49 U.S.C. 1324, 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before October 15, 1970, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

Explanatory statement. The certificated air carrier industry has been historically characterized by relatively noncomplex corporate structures and a

singleness of purpose, i.e., performance of air transportation. The past decade has seen, however, a considerable increase in the diversified activities of the certificated route air carriers. To illustrate, nontransport activities of certificated route air carriers have tripled, when measured in terms of revenues characterized as incidental to air transport, and have grown about seven times, when measured in terms of air carrier investments in other corporate enterprises. This expansion in diversified activities has been effected through a variety of corporate forms including a commingling of activities within a single air carrier corporate entity; separating activities through organizational divisions within a single corporate entity; separating activities through subsidiary corporate entities; and coordinating multiple activities through holding company control of multiple corporate entities. In the latter instance, the carriers, in seeking Board approval, have commonly indicated an intention to broaden the financial base through activity diversification. In the three former instances, this is the result, per se.

The dramatic shift which has occurred from the historic frame of reference within which air transport has been performed entails particularly heavy responsibilities upon both the air carriers and the Board for taking such measures as will forestall practices of activity intermingling which could impair the credibility of the regulated activities. From this public interest point of view, the Board's present accounting and reporting systems may not be fully adequate particularly with regard to the prescription of specific accounting regulations concerning multi-activity transactions and the disclosure of associated matters of substance in the carrier's reports to the Board. The proposed rule would remedy the foregoing deficiencies and would apply to all transactions between the air carrier and other members of an affiliated group which would be defined as the air carrier, any air carrier parent and other entities controlled by the parent as well as subsidiary companies or organizational divisions of the air carrier.

Since the integrity of air carrier financial statements in reflecting the fair and reasonable results of air transport activities is a basic objective, the proposed rules would provide for the analysis of each transaction into its components of an "operating" character which contribute to the performance of air transportation and into its components of a "nonoperating" character which represent the diversification financing within the affiliated group. Accordingly, incoming transactions, from the air carrier point of view, would be charged against operations at the lower of cost or market to the providing member of the affiliated group, whereas outgoing transactions, from the air carrier point of view, would be taken up at the higher of cost or market to the air carrier. Any difference between actual transaction prices and the above would be considered of a financing nature and would be recorded, accordingly, as nonoperating charges or credits. The dual standards seem fully compatible with both the potential public risks and stockholder rewards entailed in adding extraneous business ventures to a public franchise base.

In order to implement the cost standards of the proposed rule, additional provisions would require that separate venture accounting, as contrasted with incidental service accounting, be accorded each separate activity or product line for which the aggregate annual revenue rate exceeds $1 million or the aggregate investment at cost exceeds $100,000; costs attributed to incidental services would embrace proportionate direct overheads as well as direct labor and materials; and costs attributed to separate ventures would embrace proportionate general and administrative overheads as well as the direct overheads, labor, and materials.

With the respect to reporting, the proposal would substitute a new schedule for the present Schedule B–44, Transactions with Associated Companies, which would provide for the disclosure of all transactions between the air carrier and each affiliated group member or other associated company, including nontransport divisions not formally organized within a distinct organizational unit in accordance with the criteria indicated above. The proposed report would be submitted annually and would require a classification of all transactions by their inherent nature as involving sale or transfer of tangible assets, performance of operational services, or transfer or infusion of funds. Separate identification would also be required of aggregate costs, estimated market values, transaction prices and any price differentials carried to nonoperating income either directly or indirectly through amortization from appropriate balance sheet subaccounts of Account "1870—Property Acquisition Adjustment," established for recording "Intercompany Transaction Adjustment." The report would also include the book values of any resources of the air carrier which have been hypothecated in any fashion to support the acquisition in any fashion to support the acquisition of funds for any other person and the book values of any resources of other persons used to support the acquisition of funds for the air carrier. Finally, the revised report form would be applicable to persons controlling the air carrier as well as to the air carrier directly.

Proposed Rule. It is proposed to amend Part 241 of the economic regulations (14 CFR Part 241) as follows:

1. Amend the Table of Contents of the Uniform System of Accounts and Reports to insert a new section 2–18 so that the table in pertinent part reads:

Sec.
2–16 Notes to financial statements.
2–17 Revenue accounting practices.
2–18 Transactions between members of an affiliated group.

2. Amend section 03—Definitions for Purposes of This System of Accounts and Reports by inserting the definition "Affiliated Group" to read:

Sec. 03 Definitions for Purposes of This System of Accounts and Reports

* * * * *

Affiliated group—A combination of companies forming an economic unit comprised of the air carrier, any person controlling the air carrier or under common control with the air carrier, in addition to organizational divisions (as defined in Sec. 1–6) of and persons controlled by the air carrier.

* * * * *

3. Amend section 1—Introduction to System of Accounts and Reports as follows:

By revising section 1–6 Accounting entities to read:

Sec. 1–6 Accounting entities.

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the Civil Aeronautics Board are required to be made by sections 21(i) or 31(h), as applicable, and for each separate corporate or organizational division of the air carrier. For purposes of this Uniform System of Accounts and Reports each nontransport venture undertaken by the air carrier whether or not formally organized within a distinct organizational unit shall be treated on a consolidated basis as a separately operated organizational division.

(b) As a general rule, any activity or group of activities closely related in terms of functions involved and for which other than air transportation revenues are received shall be considered a separate nontransport venture under circumstances in which either: (1) A separate corporate or legal entity has been established to perform such services, (2) the aggregate annual revenue rate exceeds $1 million, or (3) the aggregate investment at cost exceeds $100,000. Nontransport revenue services which do not meet the foregoing standards shall be considered as incidental to air transportation and shall be accounted for accordingly.

(c) The records for each required accounting entity shall be maintained with sufficient particularity to permit a determination that the requirements of section 2–1 have been complied with.

4. Amend section 2—General Accounting Policies as follows:

A. By revising section 2–1 Basis of Allocation Between Entities to read:

Sec. 2–1 Basis of allocation between entities.

(a) The provisions of this section shall apply to each person controlling an air carrier, each person controlled by the air carrier, as well as each transport entity and organizational division of the air carrier for which separate records must be maintained pursuant to section 1–6.

(b) Each transaction shall be recorded and placed initially under accounting controls of the particular air

transport entity or organizational division of the air carrier or member of an affiliated group to which directly traceable. If applicable to two or more accounting entities, a proration shall be made from the entity of original recording to other participating entities on such basis that the statements of financial condition and operating results of each entity are comparable to those of distinct legal entities. The allocations involved shall embrace all debits and credits associated with each entity and shall comply with the provisions of section 2–18, as applicable.

(c) For purposes of this Uniform System of Accounts and Reports, all revenues shall be assigned to or apportioned between accounting entities on bases which will fully recognize the services provided by each entity and expenses, or costs, shall be apportioned between accounting entities on such bases as will result: (1) With respect to "incidental" services, in the assignment thereto of proportionate direct overheads, as well as direct labor and materials, of the applicable expense functions prescribed by this system of accounts and reports, and (2) with respect to separate ventures, in the assignment thereto of proportional general and administrative overheads as well as the direct overheads, labor and materials.

(d) In accordance with the provisions of section 22(d) or 32(d), as applicable, each air carrier shall file a statement with the Civil Aeronautics Board which details the practices and techniques used in directly assigning and prorating revenues and expenses, or costs, in compliance with the provisions of this section.

B. By adding a new section 2–18 to read:

Sec. 2–18 Transactions between members of an affiliated group.

(a) Unless otherwise approved by the Board's Director, Bureau of Accounts and Statistics, transactions between the regulated activity of an air carrier and activities conducted by nontransport divisions or other corporate members of an affiliated group shall be recorded by the air carrier as provided in paragraphs (b) through (e) of this section 2–18.

(b) Charges for services and assets purchased by or transferred to a regulated activity of an air carrier from other activities of an affiliated group shall be recorded initially in the accounts of the regulated air carrier activity at the lower of their cost to the originating activity, less all applicable valuation reserves, or their fair market value. In the case of charges against income for services received, as distinguished from charges for property and equipment or other assets acquired, any difference in the amount recorded and the consideration given by the air carrier shall be entered in subaccount 88.1 Intercompany Transaction Adjustment—Credit or in subaccount 89.1 Intercompany Transaction Adjustment—Debit. In the case of property and other assets acquired, any difference between the amount recorded and the consideration given by the air carrier shall be entered in appropriate subaccounts of acount 1870 Property Acquisition Adjustment, paralleling subaccount 88.1 Intercompany Transaction Adjustment—Credit and subaccount 89.1 Intercompany Transaction Adjustment—Debit, and shall be cleared to such income accounts through periodic amortization at rates coinciding with those applied to other associated assets.

(c) The cost, less all associated valuation reserve accumulations, of services and assets sold by or transferred from the regulated activity of an air carrier to other activities of an affiliated group shall be charged by the air carrier to either applicable incidental services or capital gain income accounts, as appropriate. The associated revenue shall be recorded at the higher of cost or fair market value of the asset or service involved in the appropriate incidental services or capital gain income account. Any difference between the revenue so recorded and the agreed consideration to the air carrier shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment—Credit or subaccount 89.1 Intercompany Transaction Adjustment—Debit.

(d) Income taxes shall be allocated among the transport entities of the air carrier, its nontransport divisions, and members of an affiliated group. Under circumstances in which income taxes are determined on a consolidated basis by an air carrier and other members of an affiliated group, the income tax expense to be recorded by the air carrier shall be the same as would result if determined for the air carrier separately for all time periods, except that the tax effect of carryback and carryforward operating losses, investment tax credits, or other tax credits generated by operations of the air carrier shall be recorded by the air carrier during the period in which applied in settlement of the taxes otherwise attributable to any member, or combination of members, of the affiliated group. Any difference between the income tax so recorded and the amount at which settlement is to be made shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment—Credit or in subaccount 89.1 Intercompany Transaction Adjustment—Debit, as is appropriate.

(e) The principles set forth in this section 2–18 shall apply equally to corporations, proprietorships, partnerships or other forms of business organizations.

5. Amend section 7—Chart of Profit and Loss Accounts to subdivide Account 88—Miscellaneous Nonoperating Credits and Account 89—Miscellaneous Nonoperating Debits so that the chart in pertinent part reads:

Sec. 7 Chart of Profit and Loss Accounts

*	*	*	*	*	*	*
88	Miscellaneous nonoperating credits	81	81	81.		
	88.1 Intercompany transaction adjustment-credit	81	81	81.		
	88.9 Other	81	81	81.		
89	Miscellaneous nonoperating debits	81	81	81.		
	89.1 Intercompany transaction adjustment-debit	81	81	81.		
	89.9 Other	81	81	81.		
*	*	*	*	*	*	*

6. Amend section 9—Functional Classification—Operating Revenues as follows:

By revising paragraph (b) of subclassification 4600 Incidental Revenues—Net under classification 4900 Nontransport Revenues to read:

(b) This subclassification shall include revenues, less related expenses, from only those services which are performed as an incidental adjunct to air transportation services and which provide improved utilization of plant and organization required for the performance of air transportation services. Revenues and expenses related to services of a magnitude or scope beyond an incidental adjunct to air transportation services shall not be included in this subclassification (see section 1–6(b)). Revenues and expenses applicable to such services shall be included in profit and loss classification 8100 Nonoperating Income and Expense—Net, and the accounting modified to conform with that of a nontransport division whether or not the service is organized as a nontransport division.

7. Amend section 14—Objective Classification—Nonoperating Income and Expense as follows:

A. By revising account 88 Miscellaneous Nonoperating Credits to read:

88 Miscellaneous Nonoperating Credits.

(a) Record here all credits of a nonoperating character not provided for otherwise, such as royalties from patents, gains from the reacquisition and retirement or resale of debt securities issued by the air carrier, and intercompany credit adjustments.

(b) This account shall be subdivided as follows by all air carrier groups:

88.1 *Intercompany Transaction Adjustment—Credit.* Record here all intercompany credits for any differences between amounts at which transactions between the air carrier and its nontransport divisions or associated companies are initially recorded and are to be settled as provided under section 2–18.

88.9 *Other.* Record here all other miscellaneous nonoperating credits not included in subaccount 88.1 Intercompany Transaction Adjustment—Credit.

B. By revising account 89 Miscellaneous Nonoperating Debits to read:

89 Miscellaneous Nonoperating Debits.

(a) Record here all debits of a nonoperating character not provided for otherwise, such as fines or penalties imposed by governmental authorities; costs related to property held for future use; donations for charitable, social or community welfare purposes; losses on reacquired and retired or resold debt securities of the air carrier; losses on uncollectible nonoperating receivables or accruals to reserve for uncollectible nonoperating receivables; and intercompany debt adjustments. This account shall be

charged with amortization of amounts carried in balance sheet account 1870 Property Acquisition Adjustment, unless otherwise approved or directed by the Civil Aeronautics Board.

(b) This account shall be subdivided as follows by all air carrier groups:

89.1 *Intercompany Transaction Adjustment—Debit.* Record here all intercompany debits for any differences between amounts at which transactions between the air carrier and its nontransport divisions or associated companies are initially recorded and are to be settled as provided under section 2–18.

89.9 *Other.* Record here all other miscellaneous nonoperating debits not included in subaccount 89.1 Intercompany Transaction Adjustment—Debit.

8. Amend section 15—Objective Classification—Income Taxes for Current Period as follows:

By revising paragraph (a) of account 91 Provision for Income Taxes to read:

91 Provision for Income Taxes.

(a) Record here quarterly provisions for accruals of Federal, State, local, and foreign taxes based upon net income, computed at the normal tax and surtax rates in effect during the current accounting year. In general, this account shall reflect provisions within each period for currently accruing tax liabilities as actually or constructively computed on tax returns, and any subsequent adjustments. This account shall include credits for refund claims arising from the carryback of losses in the year in which the loss occurs, credits for the carryforward of losses in the year to which the loss is carried, and investment tax credits in the year in which each credit is utilized to reduce the liability for income taxes. (See section 2–6.) Income taxes shall be apportioned between members of a consolidated tax group in accordance with the provisions of section 2–18.

* * * * *

9. Amend the title of Schedule B–44 in the list of schedules in paragraph (a) of section 22—General Reporting Instructions so that the list in pertinent part reads:

Section 22—General Reporting Instructions

(a) * * *

B–43	Inventory of Airframes and Aircraft Engines	do	90
B–44	Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies.	do	90
B–46	Long-Term and Short-Term Nontrade Debt	do	90

* * * * * * *

10. Amend section 23—Certification and Balance Sheet Elements as follows:

By revising the instruction for Schedule B–44 to read:

Schedule B–44—Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies

(a) This schedule shall be filed by all route air carriers and any person controlling the route air carrier.

(b) Single but separate sets of this schedule shall be filed for the overall corporate or other legal entity comprising the air carrier and for any person controlling the air carrier.

(c) One set each shall be filed, and checked in the appropriate box, for resources acquired by the air carrier, its regulated activity, or person controlling the air carrier and one set each shall be filed and checked in the appropriate box for resources disposed of by the air carrier, its regulated activity or person controlling the air carrier. For these purposes, the amount at which any resources of other persons are hypothecated for the benefit of the air carrier or person controlling the air carrier will be considered a resource acquired and the amount at which any resources of the air carrier or person controlling the air carrier are hypothecated for the benefit of others will be considered a disposition of resources. Land, buildings and equipment acquired from or provided other members of an affiliated group under a lease arrangement will be reported in the same manner but separately from resources hypothecated.

(d) The data reported on this schedule shall be grouped within each indicated classification for resources exchanged with separate but associated legal entities and for resources exchanged between the air carrier's regulated activities and separately organized nontransport divisions.

(e) Column 1 shall reflect under each indicated classification the name of each company or other organization with which resources of any type were exchanged during the calendar year. For this purpose income taxes determined on a consolidated basis within an affiliated group shall be classified as an operational service performed by the controlling person which constitutes resource acquisition (or resource purchased) when the tax allocation results in a charge and resource disposition (or a resource sold) when the tax allocation results in a credit for any tax year.

(f) Column 2 shall reflect the cost to the provider, less any associated valuation reserve accumulations, of all resources exchanged during the calendar year with each company or other organization reflected in column 1.

(g) Column 3 shall reflect the estimated market value counterparts of the resource costs reflected in column 2.

(h) Column 4 shall reflect the aggregate of those transactions with each company or other organization reflected in column 1 which have been recorded at cost to the provider. For this purpose, transactions concerning resource acquisitions shall not be offset against transactions concerning resource dispositions.

(i) Column 5 shall reflect the aggregate of those transactions with each company or other organization reflected in column 1 which have been recorded at estimated market value. For this purpose, transactions concerning resource acquisitions shall not be offset against transactions concerning resource dispositions.

(j) Column 6 shall reflect the debit adjustments to the aggregates shown in columns 4 and 5 combined, for each company or other organization reflected in column 1, which is necessary to reconcile with the amounts at which settlement has been established. For this purpose, transactions for which credit adjustments are entailed shall not be aggregated with transactions for which debit adjustments are entailed.

(k) Column 7 shall reflect the credit adjustments to the aggregate shown in columns 4 and 5 combined, for each company or other organization reflected in column 1, which is necessary to reconcile with the amounts at which settlement has been established. For this purpose, transactions for which debit adjustments are entailed shall not be aggregated with transactions for which credit adjustments are entailed.

(l) Column 8 shall reflect, for each company or other organization, reflected in column 1, the aggregate of the settlements established which should equal the sum of amounts shown in columns 4 and 5 adjusted by the net amounts shown in columns 6 and 7. The amounts in this column shall conform with the balance of accruals for the year, before liquidation, to accounts 2050, 2440, and/or 2445 with respect to resource acquisitions and accounts 1250, 1510, or 1520 with respect to resource dispositions, for each company or other organization, reflected in column 1, and as reflected at yearend in Schedule B–4 Accounts With Subsidiaries, Other Associated Companies and Nontransport Divisions.

(m) Column 9 shall reflect the effective interest rate(s), if any, charged on any unliquidated balance of amounts at which resource acquisitions are to be settled and the effective interest rate(s), if any, received on any unliquidated balance of amounts at which resource dispositions are to be settled. Explanatory footnotes shall be used for reporting multiple interest rates or other conditions pertinent to an understanding of effective finance charges.

11. Amend the list of schedules in paragraph (a) of section 32—General Reporting Instructions to insert a new Schedule B–44 so that the list in pertinent part reads:

Section 32—General Reporting Instructions

(a) * * *

B-43	Inventory of Airframes and Aircraft Engines	do	90
B-44	Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies.	do	90
B-46	Long-Term and Short-Term Nontrade Debt	do	90

* * * * * * *

12. Amend section 33—Certification and Balance Sheet Elements as follows:

By inserting the instruction for new Schedule B-44 to read:

Schedule B-44—Summary of Resources Exchanged with Affiliated Group Members and other Associated Companies

(a) This schedule shall be filed by all supplemental air carriers and any person controlling the supplemental air carrier.

(b) Single but separate sets of this schedule shall be filed for the overall corporate or other legal entity comprising the air carrier and for any person controlling the air carrier.

(c) One set each shall be filed, and checked in the appropriate box, for resources acquired by the air carrier, its regulated activity, or person controlling the supplemental air carrier and one set each shall be filed and checked in the appropriate box for resources disposed of by the air carrier, its regulated activity or person controlling the air carrier. For these purposes, the amount at which any resources of other persons are hypothecated for the benefit of the air carrier or person controlling the air carrier will be considered a resource acquired and the amount at which any resources of the air carrier or person controlling the air carrier are hypothecated for the benefit of others will be considered a disposition of resources. Land, buildings and equipment acquired from or provided other members of an affiliated group under a lease arrangement will be reported in the same manner but separately from resources hypothecated.

(d) The data reported on this schedule shall be grouped within each indicated classification for resources exchanged with separate but associated legal entities and for resources exchanged between the air carrier's regulated activities and separately organized nontransport divisions.

(e) Column 1 shall reflect under each indicated classification the name of each company or other organization with which resources of any type were exchanged during the calendar year. For this purpose income taxes determined on a consolidated basis within an affiliated group shall be classified as an operational service performed by the controlling person which constitutes resource acquisition (or resource purchased) when the tax allocation results in a charge and a resource disposition (or a resource sold) when the tax allocation results in a credit for any tax year.

(f) Column 2 shall reflect the cost to the provider, less any associated valuation reserve accumulations, of all resources exchanged during the calendar year with each company or other organization reflected in column 1.

(g) Column 3 shall reflect the estimated market value counterparts of the resource cost reflected in column 2.

(h) Column 4 shall reflect the aggregate of those transactions with each company or other organization reflected in column 1 which have been recorded at cost to the provider. For this purpose, transactions concerning resource acquisitions shall not be offset against transactions concerning resource dispositions.

(i) Column 5 shall reflect the aggregate of those transactions with each company or other organization reflected in column 1 which have been recorded at estimated market value. For this purpose, transactions concerning resource acquisitions shall not be offset against transactions concerning resource dispositions.

(j) Column 6 shall reflect the debit adjustments to the aggregates shown in columns 4 and 5 combined, for each company or other organization reflected in column 1, which is necessary to reconcile with the amounts at which settlement has been established. For this purpose, transactions for which credit adjustments are entailed shall not be aggregated with transactions for which debit adjustments are entailed.

(k) Column 7 shall reflect the credit adjustments to the aggregates shown in columns 4 and 5 combined, for each company or other organization reflected in column 1, which is necessary to reconcile with the amounts at which settlement has been established. For this purpose, transactions for which debit adjustments are entailed shall not be aggregated with transactions for which credit adjustments are entailed.

(l) Column 8 shall reflect, for each company or other organization, reflected in column 1, the aggregate of the settlements established which should equal the sum of amounts shown in columns 4 and 5 adjusted by the net of amounts shown in columns 6 and 7. The amounts in this column shall conform with the balance of accruals for the year, before liquidation, to accounts 2050, 2440, and/or 2445 with respect to resource acquisitions and accounts 1250, 1510, or 1520 with respect to resource dispositions, for each company or other organization, reflected in column 1, and as reflected at yearend in Schedule B-4 Accounts With Subsidiaries, Other Associated Companies and Nontransport Divisions.

(m) Column 9 shall reflect the effective interest rate(s), if any, charged on any unliquidated balance of amounts at which resource acquisitions are to be settled and the effective interest rate(s), if any, received on any unliquidated balance of amounts at which resource dispositions are to be settled. Explanatory footnotes shall be used for reporting multiple interest rates or other conditions pertinent to an understanding of effective finance charges.

13. Amend CAB Form 41 by deleting old Schedule B-44 Transactions with Associated Companies and by adding new Schedule B-44 Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies as shown in Exhibit A attached hereto and incorporated herein by reference.[1]

[F.R. Doc. 70-12267; Filed, Sept. 14, 1970; 8:49 a.m.]

[14 CFR Part 399]

[Docket No. 21866-2]

TREATMENT OF LEASED AIRCRAFT FOR RATE PURPOSES

Proposed Statement of General Policy

SEPTEMBER 10, 1970.

Notice is hereby given that the Civil Aeronautics Board is proposing to amend Part 399 of the regulations by the addition of a new § 399.43, which would establish as the cost for leased aircraft, in connection with determining domestic rates and fares, the actual and reasonable aircraft rental expense plus a profit element in certain unusual circumstances. The proposed amendment and a statement explaining its principal features are attached. The rules are proposed under the authority of sections 204, 404, and 1002 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 76, and 788; 49 U.S.C. 1324, 1374, and 1482), and section 553 of the Administrative Procedure Act (80 Stat. 378, 381; 5 U.S.C. 553).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before October 15, 1970, and reply comments received on or before October 30, 1970, will be considered by the Board before taking action. Each party to the Domestic Passenger Fare Investigation, Docket 21866, shall serve a copy of its response hereto and of its reply comments on all other parties to that investigation. Upon receipt by the Board, copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

Explanatory statement. One of the policy issues to be determined in the Domestic Passenger Fare Investigation (DPFI) is the appropriate treatment of leased aircraft for ratemaking purposes (Docket 21866-2).[2] The Board has not previously adopted such a policy. However, we believe it is appropriate to do so now because of the dramatic increase in the use of the aircraft lease

[1] Filed as part of the original document.

[2] See Orders 70-1-147 (Jan. 29, 1970) and 70-2-121 (Feb. 26, 1970).

agreement by the carriers as an alternative to outright purchase. In 1960, approximately 4 percent of the aircraft operated by the trunk carriers were leased. At 1969 year end, almost 19 percent of aircraft operated both by the trunkline and by the local service carriers were rented, and almost 23 percent of those so operated by the Big Four trunks were rented aircraft. The trunk carriers' rental expense has increased steadily over the past 6 years and in calendar 1969 amounted to more than $116 million for domestic operations with leased aircraft; including international operations, rental expense for these carriers exceeded $137 million. Moreover, the trend toward leased aircraft has accelerated in recent periods so that we estimate that about half the trunks' new aircraft acquisitions during 1969 were obtained by lease.[2]

Several factors enter into the decision of the carriers to obtain needed aircraft through long-term lease agreements, under which banks and other financial institutions provide the capital funds and become owners-lessors. For one thing, the newer aircraft are higher priced. Concomitantly, interest rates to obtain the capital necessary for outright purchase are at a record level. Leasing permits 100 percent new financing preserving cash balances and to an extent diminishes the need to seek additional equity capital. However, it is believed that the decisive factor in the expanded use of leases has been the availability of the investment tax credit to the owner-lessor. Under the Internal Revenue Code, the maximum investment tax credit which may be utilized in any single year by the taxpayer is 50 percent of his income tax determined without regard to the credit. Moreover, there are significant limitations on the carrying forward of unused credits. Because of their large equipment requirements, air carriers may generate more credits than they can use. Under these circumstances, it may be less costly for the carrier to lease its aircraft from an owner-lessor which can avail itself of the entire tax credit. The owner-lessor purchases the aircraft for lease to the carrier and shares the tax saving in some measure with the carrier. The recently enacted Tax Reform Act of 1969 has terminated the investment tax credit, except as applicable to property "on order" under a binding contract as of April 18, 1969. It is too early to foretell the extent that repeal of the credit will dampen the growth of leased aircraft, but we do have the current problem of aircraft already leased.

The trend toward leasing of course affects the carriers' financial reporting, including investment base, depreciation expense, interest expense on debt, operating profit and net income, as well as computed rate of return on investment.

We now turn to the question of how these leased aircraft should be treated for ratemaking purposes. Among the possible alternatives available are (1) recognition of rental expense, (2) recognition of rental expense and capitalization of leasehold value in investment base, (3) recognition of rental expense and allowance of reasonable profit element related to operations with leased aircraft, or (4) elimination of rental expenses and recognition of constructed investment and related depreciation expense.

In rule making proceedings establishing minimum rates for air transportation performed pursuant to contracts with the Military Airlift Command, the Board has generally relied on costs for leased aircraft based upon constructive investment. In service mail-rate cases we have usually followed the same course. Nevertheless, we have not adopted a firm policy on the subject, and in other formal fare and rate proceedings we have accepted carrier costing either on the basis of straight rental expense or constructive ownership. Indeed, the question of the appropriate treatment of leased aircraft was raised but not resolved in the military minimum rate review in 1969.[3]

Upon consideration of the various alternatives, our present view is that neither the approach involving leasehold capitalization nor that involving construction of investment and depreciation should be adopted. Constructive ownership has the advantage of treating all aircraft in the same manner. However, this approach does not give recognition to the carriers' true revenue requirements. The carriers' regular reports, on which the Board and the public rely, reflect actual rental expense, not constructive depreciation, as part of operating expenses, and no capital investment is involved. Restatement of the carriers' regular financial reports to the Board would entail considerable administrative difficulties and may engender substantial confusion as to the meaningfulness of those reports. Furthermore, logical extension of the constructive-ownership approach may require further assumptions as to the source of funds (i.e., debt or equity) and interest expense applicable to any assumed debt portion.

The leasehold capitalization method is based upon the theory that the carrier's leasehold interest in the aircraft is an asset whose value is equivalent to the present (i.e., discounted) value of the remaining rental payments. Under this method, the rental payments would be treated as an operating expense, and the capitalized leasehold interest would be included in the investment base for return purposes. However, the underlying theory appears to the Board to be of questionable validity. The carrier does not have to raise capital to acquire the leasehold interest, since the owner-lessor provides the necessary capital. Thus, inclusion of a capitalized leasehold interest in the investment base would result in compensating the carrier for a cost of capital which it does not incur. Of course, the rental expense reflects the capital costs of the owner-lessor and, since the carrier would be reimbursed for rental payments expense as an operating cost item, the public would in effect be required to pay twice for capital costs.

On the other hand, giving recognition to actual rental expenses has the advantage of conformity with the carriers' accounts and consequent simplicity of application for ratemaking purposes. In our opinion, this approach is in accord with the facts and, as long as rental expenses are at a reasonable level, is fair and reasonable from the standpoint of the farepayer.

We turn now to the question of whether a profit element should be provided over and above the rental expense. While it is true that the use of leasing does not entail the costs of raising additional capital, operations with leased aircraft would appear to create additional risks to the capital already invested in the air carrier enterprise. To the extent that these additional risks are not reflected in the data used in determining capital costs and rate of return, it would appear appropriate to provide some profit element for such operations. However, the issue of rate of return is being considered concurrently herewith in Phase 8 of the Domestic Passenger Fare Investigation, and it is to be anticipated that the impact of operations with leased aircraft on overall carrier risks should be taken into account by the expert witnesses as part of their analysis of the risk characteristics of the airline industry. Under these circumstances, any attempt in this proceeding to provide a specific profit element for leased aircraft operations over and above the rate of return on investment may result in a duplicate allowance for this factor. In other words, we believe that the rate of return ultimately fixed in Phase 8 should take into account the impact of operations with leased aircraft as conducted by the industry presently and in the reasonably foreseeable future.

Notwithstanding the foregoing, special circumstances may arise from time to time requiring provision of an additional profit element. For example, minimum rates for domestic MAC charters are normally based upon the operations of relatively few carriers and leased aircraft may represent an unusually high proportion of the aircraft utilized. In such circumstances, the application of a standard rate of return on investment without a profit element for the operation with leased aircraft could substantially understate the true earnings requirements of such operations. In order to deal with such special situations, the proposed rule provides for a reasonable profit element, in addition to an individual carrier's lease cost, if it can be established that the value of leased aircraft (determined on a constructive depreciated basis) in relation to net book value of owned aircraft operated by the same air carrier is significantly in excess of the ratio for the aggregate of the domestic trunklines and local service carriers (computed on the same basis).

The profit element would be based upon the standard rate of return. However, as previously noted, leased aircraft

[2] See Appendix A which is filed as part of the original document.

[3] EDR-168, Aug. 15, 1969, Docket 21310.

does not entail the cost of raising additional capital and therefore to the extent that the standard rate of return includes provisions for the pure cost of money, as opposed to risk elements over and above the pure cost of money, the use of the standard rate of return would, in our judgment, result in an excessive return allowance. Under these circumstances, we would propose to reduce the return for this purpose by subtracting from the standard return that portion attributable to the pure cost of money. Taking into consideration the yields on bank certificates of deposits, short-term treasury bills, and the like, and recognizing that this is a matter of judgment, it is our tentative view that the rate of return should be reduced by 6 percentage points for this factor.[4] The rate of return as so modified would then be applied to the value of the aircraft, on a constructive depreciated basis, to the extent that the ratio of such value to depreciated cost of owned aircraft exceeds the average for the domestic air carriers.

Reasonable rental expenses are those incurred under honest, economical, and efficient management. As a measure of reasonableness, we would compare the rental cost plus any allowable profit with that which would result from purchase of the same aircraft, and would recognize no higher cost than that computed under the constructive-ownership approach. Accordingly, although we have tentatively concluded to allow actual lease payments as an expense in cost of service, we would expect the carriers to justify such expense in any specific rate proceeding, where the matter is concretely in issue, by the submission of a reconstructed cost of service. Thus, in Phase 7 of the DPFI, the carriers should be prepared to introduce into evidence with their rebuttal exhibits such a reconstructed cost of service covering their leased aircraft, for the periods 1969, 1970, 1971, and 1972. We recognize that in order to do so in the present case the carriers will have to make some assumptions as to factors which are in issue, such as depreciation, rate of return, and related income taxes, including the treatment of accelerated depreciation, and that the effect of the policy on permissible fare levels cannot be estimated until completion of Phases 1 (Aircraft Depreciation), 3 (Deferred Federal Income Taxes), 7 (Fare Level), and 8 (Rate of Return).

In order that we may have the necessary record available in the Fare Level phase to evaluate the reasonableness of rental expenses, the carriers are hereby ordered to furnish with their rebuttal exhibits in Phase 7 of the DPFI, due September 22, 1970, the following information for aircraft used in domestic (48 States) operations:

(1) A list of all aircraft currently on lease and on order to be leased, giving date of lease, term of lease (including option for renewals), type of aircraft, original cost of each aircraft to the lessor, the lease payments, and name of owner-lessor.

(2) Whether the air carrier has the option to purchase the aircraft, showing the time when the option may be exercised (at end of lease term, or earlier), and the purchase price, detailing the method of determining the purchase price.

It may also be necessary to amend Part 241 to require reporting of lease data necessary for continued monitoring of passenger traffic proposals. However, such amendment is not necessary for purposes of the DPFI, and we will therefore propose any such amendments by separate notice of rule making. The Board will consider requests for oral argument if incorporated in the comments to the notice. However, the Board does not contemplate that there will be any necessity for an evidentiary hearing, since it appears at this juncture that the matters involved herein are essentially policy in nature and do not involve factual issues which would require resolution by a formal hearing process. Any interested person who believes that a hearing is required should support his request with the evidence he would intend to submit at such a hearing. All parties should be on notice that in the event that an evidentiary hearing is held, its scope will be confined to the introduction into evidence of the materials contained in this notice, the comments submitted in response, and cross-examination on the foregoing, except as the examiner may determine that additional evidence is required in order to assure a fair hearing.

Proposed rule. It is proposed to amend Part 399, Statements of General Policy (14 CFR Part 399), by adding a new § 399.43, as follows:

§ 399.43 Treatment of leased aircraft.

In determining the appropriate treatment of leased aircraft for rate-making purposes, it is the Board's policy to recognize actual rental expenses. In unusual circumstances where the leased aircraft value (determined on a constructive depreciated basis) in relation to net book value of owned aircraft operated by the same air carrier is significantly in excess of the ratio for the aggregate of the domestic trunklines and local service carriers (computed on the same basis), a reasonable profit element may be added which shall reflect the additional risks of operations with the leased aircraft, to the extent that such risks are not compensated by the return on investment. Such profit element would be determined by applying the standard rate of return, less 6 percentage points, to the value of the leased aircraft, on a constructive depreciated basis, to the extent the ratio of such value to depreciated cost of owned aircraft exceeds the average for the domestic air carriers. Rental cost plus allowable profit, if any, will not be recognized in amounts exceeding depreciation plus return on investment computed as if the aircraft had been purchased by the carrier.

[F.R. Doc. 70-12268; Filed, Sept. 14, 1970; 8:49 a.m.]

[4] Assuming for present purposes that the Board were to adopt 10½ percent as the standard rate of return, the return on leased aircraft would be based upon a standard of 4½ percent under the above policy.

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 263]

PROCESSING OF LOSS AND DAMAGE CLAIMS

Rules, Regulations, and Practices of Regulated Carriers

SEPTEMBER 9, 1970.

At the request of Mr. Charles W. Bucy, Assistant General Counsel of the U.S. Department of Agriculture, the time for filing initial statements in the above-entitled proceeding (35 F.R. 2890) has been extended from September 10, 1970, to September 30, 1970. The time for filing reply statements has been extended from October 22, 1970, to November 10, 1970.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12248; Filed, Sept. 14, 1970; 8:47 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 70-195]

RED LEAD

Approval of Practice of Classification and Rate of Duty

SEPTEMBER 3, 1970.

In a letter of December 11, 1969, the law firm of Alvord and Alvord submitted a complaint pursuant to section 516 (b), Tariff Act of 1930, as amended, in behalf of Hammond Lead Products, Inc., Hammond, Ind., described as an American manufacturer of red lead, protesting the classification and rate of duty on red lead produced in Mexico, which they contended was subject to a bounty or grant from the Mexican government within the meaning of section 303 of the Tariff Act of 1930, as amended.

In April 1970, counsel for the domestic producer was informed that the existence of such a bounty or grant within the meaning of the statutory provision had not been established. They were further informed that the Bureau was of the opinion that red lead was properly classifiable under the provision for pigments containing lead in item 473.56, TSUS, dutiable at 1.875 cents per pound.

In July 1970, the Bureau was notified that the domestic producer desired to protest the classification and rate of duty assessed on red lead and designated Laredo, Tex., as the port of entry.

In accordance with the provisions of section 516(b), notice is hereby given that the domestic producer has provided the notice contemplated by the statute that it desires to protest the rate of duty on red lead. However, under section 516 (b), the present practice of not assessing additional duty under section 303 will be continued so long as no decision of the U.S. Customs Court or of the U.S. Court of Customs and Patent Appeals not in harmony with this decision is published.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: August 31, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary.

[F.R. Doc. 70-12241; Filed, Sept. 14, 1970; 8:47 a.m.]

DEPARTMENT OF DEFENSE

Department of the Navy

HAZARDOUS MATERIAL CONTROL

Incorporation of New Standard

Military Standard MIL-STD-1341A has been coordinated with the Department of Defense and with other interested Federal agencies for publication on August 18, 1970. Invitations for bid and requests for quotation issued on or after October 1, 1970, will incorporate this Standard which requires application of new symbols depicting hazardous characteristics, and submission of a Material Safety Data Sheet to designated Department of Defense activities. The Standard will be available on request from the Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120.

The Standard incorporates two Industry Standards by reference. The first Industry Standard is the NFPA Fire Protection Guide on Hazardous Materials which includes NFPA Standards Nos. 325A, 325M, 49, 491M, and 704M. It is available from the National Fire Protection Association International, 60 Batterymarch Street, Boston, Mass. 02110.

The second Industry Standard is the MCA Guide to Precautionary Labeling of Hazardous Chemicals Manual L-1. It is available from the Manufacturing Chemists' Association, Inc., 1825 Connecticut Avenue NW., Washington, D.C. 20009.

Further information on MIL-STD-1341A may be obtained from the Naval Supply Systems Command (SUP 044), Washington, D.C. 20390.

(The provisions of this Part are issued under 5 U.S.C. 552(a))

[SEAL] C. E. MCDOWELL,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

SEPTEMBER 3, 1970.

[F.R. Doc. 70-12212; Filed, Sept. 14, 1970; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S-487]

CALIFORNIA

Notice of Classification of Public Lands for Multiple-Use Management: Partial Termination

SEPTEMBER 4, 1970.

The classification of public lands for multiple-use management published as F.R. Doc. 67-10130 on page 12565 of the issue for Wednesday, August 30, 1967, is hereby terminated insofar as it affects the land described below. Pursuant to the regulations in 43 CFR 2461.5(c)(2), the land is hereby relieved of any segregative effect by the subject classification.

MOUNT DIABLO MERIDIAN
TUOLUMNE COUNTY, CALIFORNIA

T. 1 S., R. 16 E.,
Sec. 29, that portion of NW¼SE¼ lying south of Mineral Survey No. 5415.

E. J. PETERSEN,
Acting State Director.

[F.R. Doc. 70-12211; Filed, Sept. 14, 1970; 8:45 a.m.]

National Park Service

[Order No. 2]

ADMINISTRATIVE ASSISTANT

Delegation of Authority Regarding Purchasing

SECTION 1. *Administrative Assistant.* The Administrative Assistant may issue purchase orders not in excess of $500 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 2. *Revocation.* This order supersedes Order No. 1, Homestead National Monument, published May 3, 1963.

(National Park Service Order No. 34 (31 F.R. 4255); 39 Stat. 535, 16 U.S.C., sec. 2; Midwest Region Order No. 4 (31 F.R. 5769))

Dated: August 17, 1970.

JOHN C. HIGGINS,
Superintendent, Homestead National Monument.

[F.R. Doc. 70-12252; Filed, Sept. 14, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

SHASTA LIVESTOCK AUCTION YARD, INC. ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, and location of stockyard, date of posting

Shasta Livestock Auction Yard, Inc., Anderson, Calif., Dec. 31, 1959.
Tallula Auction Company, Tallula, Ill., Feb. 19, 1968.
Stewart's Auction Barn, Bronson, Kans., Nov. 13, 1962.
Mound City Sale Company, Mound City, Kans., Dec. 26, 1968.

Name, and location of stockyard, date of posting
Bethany Livestock Auction, Inc., Bethany, Mo., Aug. 16, 1960.
Mount Cobb Auction Sales, Mount Cobb, Pa., Nov. 5, 1959.
Port City Stock Yards, Houston, Tex., June 2, 1931.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 9th day of September 1970.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70-12266; Filed, Sept. 14, 1970; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 45-1]

ECONOMIC DEVELOPMENT ADMINISTRATION

Organization and Function

This material supersedes the material appearing at 34 F.R. 6703 of April 19, 1969; 34 F.R. 14775 of September 25, 1969; and 35 F.R. 12029 of July 25, 1970.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the Economic Development Administration (EDA).

SEC. 2. *Organization structure.* The principal organization structure and line of authority of the Economic Development Administration shall be as depicted in the attached organization chart. (A copy of the organization chart is on file with original of this document with the Office of the Federal Register.)

SEC. 3. *Office of the Assistant Secretary for Economic Development.* .01 The Assistant Secretary directs the programs and is responsible for the conduct of all activities of the Economic Development Administration subject to the policies and directives prescribed by the Secretary of Commerce.

.02 The Deputy Assistant Secretary shall direct and coordinate the Regional Offices and assist the Assistant Secretary in all matters affecting the Economic Development Administration and perform the duties of the Assistant Secretary during the latter's absence.

.03 The Investigations and Inspections Staff shall investigate alleged violations of law or other impropriety on the part of applicants or recipients; conduct inspections relating to the conduct and performance of field personnel and review the suitability of applicants for financial assistance. The Staff shall also conduct special investigations requested by the Assistant Secretary, as well as inspections to assure the physical security of all EDA offices.

.04 The Indian Program Staff shall administer the Indian economic development program and advise the Deputy Assistant Secretary concerning its general effectiveness. It shall recommend approval or denial of projects proposed for Indian areas and negotiate and monitor interagency agreements relating to Indian economic development.

SEC. 4. *Deputy Assistant Secretary for Policy Coordination.* The Deputy Assistant Secretary for Policy Coordination, as the principal adviser to the Assistant Secretary on matters of policy coordination, shall:

a. Exercise responsibility for EDA's interagency and intergovernmental relations and its relations with those quasi-public and private agencies interested in economic development;

b. Develop policies for improving Federal, State, and local government economic development programing;

c. Provide staff assistance in defining policy issues, coordinate the development and formulation of policy for consideration by the Assistant Secretary, explain the position of the Administration, and exercise principal staff responsibility for policy review and evaluation;

d. Represent the Administration on international organizations when so designated;

e. Coordinate and manage Administration representation on interagency committees;

f. Serve as Executive Secretary and, as required, provide or arrange for staff support for the National Public Advisory Committee on Regional Economic Development;

g. Act as an alternate to the Assistant Secretary in serving as Chairman of EDA's Policy Planning Board and provide secretariat services for the Policy Planning Board; and

h. Review and evaluate legislative and administrative proposals related to economic development and intergovernmental relations for substantive and policy implications.

SEC. 5. *Deputy Assistant Secretary for Economic Development Planning.* .01 The Deputy Assistant Secretary for Economic Development Planning is the principal adviser to the Assistant Secretary on matters of development planning. Through the offices reporting to him, he shall:

a. Coordinate and direct EDA economic development planning activities relating to regions, districts (including economic development centers), redevelopment areas, and other areas of substantial need;

b. Formulate and recommend to the Assistant Secretary standards and criteria for administration of economic development planning by Regional Offices;

c. Inform the Deputy Assistant Secretary for Policy Coordination of significant developments and problems affecting interagency and intergovernmental development planning for districts and areas;

d. Designate economic development districts, economic development centers, redevelopment areas, and Title I areas which fulfill the statutory criteria;

e. Conduct an annual review of the areas and districts designated for assistance under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121) (the "Act"), and make such modifications or terminations of eligibility as may be appropriate;

f. Provide economic data, analyses and studies, and planning grants to development districts and areas; and

g. Recommend technical assistance proposals for areas and districts.

.02 The Deputy Assistant Secretary for Economic Development Planning shall direct and supervise the following organization elements:

a. The Office of Planning and Program Support which shall:

1. Have prime responsibility for coordinating the preparation, review and approval of area and district action programs;

2. Develop, through area and district action programs, analyses and recommended strategies of economic development, including a system of priorities for EDA's financial assistance, for redevelopment areas and districts;

3. Provide reports on the demand for specified commodities and services, efficient capacity, and existing competitive enterprises in industries for use by the Deputy Assistant Secretary for Economic Development Operations in making determinations on excess capacity, pursuant to section 702 of the Act;

4. Identify those industries which have demonstrated continuous and substantial growth during the present decade for the purpose of relating those industries to action programs;

5. Develop economic development planning systems that reflect EDA objectives and respond to area problems and potentials;

6. Develop the methods and techniques needed to evaluate established planning systems including the ability of local area representatives to understand and utilize the planning system as well as the compatibility of locally developed plans with annual agency objectives;

7. Participate in the development of budgetary requirements and coordinate with the Office of Administration and Program Analysis in the allocation of resources among Regional Offices as well as among EDA programs;

8. Provide information and special services on domestic and international regional development planning; and

9. Provide guidance to Regional Offices on the application of economic development planning techniques and systems to the specific problems of the region.

b. The Office of Economic Research which shall:

1. Direct and conduct a program of internal and external economic research designed to meet both planning and operating needs and concerned with economic development problems and opportunities for geographical subdivisions (e.g., regions, development districts, redevelopment areas, etc.);

2. Arrange for and monitor EDA sponsored research conducted by other elements of the Department, other Government agencies, or private organizations;

3. Encourage and stimulate research and data collection on economic development, both in and out of Government;

4. Review, evaluate, integrate, and disseminate (a) the results of research sponsored by EDA and (b) current methodological and other research findings wherever generated that are relevant to EDA's objectives and programs;

5. Maintain a central reference collection of economic development materials; and

6. Study and evaluate the effects of Government polices on subnational economic development.

c. The Office of Development Organizations which shall:

1. Design and carry out a program to establish multicounty development districts in consultation and with the assistance and cooperation of EDA Regional Offices, and with the concurrence of the States affected;

2. Advise and assist Regional Offices in implementing economic planning activities after the formal designation of economic development districts;

3. Initiate policy guidelines and criteria concerning the economic development district and area programs for use by other elements of EDA, and by appropriate State and local agencies;

4. Evaluate and approve proposed area and district economic development organizations and programs for economic soundness, and for compatibility with the requirements and intent of title IV, parts A and B of the Act;

5. Assist State and local efforts to organize economic development districts, including the preparation of district Overall Economic Development Programs (OEDPs) and the recruitment of professional staff;

6. Develop and recommend model administrative budgets, reporting procedures, and job specifications for use by area and district economic development organizations;

7. Provide guidance to economic development district and area organizations on the techniques and methods of economic analysis, and budgeting;

8. Maintain a system of records to indicate progress as compared to planned objectives on all grants made under section 301(b) of the Act;

9. Evaluate, recommend approval, and administer planning grants made under the Act to State, district, and area agencies;

10. Evaluate and recommend candidates for appointments to professional staff positions in economic development districts;

11. Recommend the designation and/or termination of economic development districts and economic development centers;

12. Promptly advise interested Federal, State, and local agencies of all changes affecting the eligibility status of existing or proposed economic development districts;

13. Prepare and distribute maps and related materials showing organizational and designation status of economic development districts;

14. Formulate planning and development policies and procedures for guiding the preparation and submittal of district and area OEDPs and progress reports, including the establishment of policies and standards for their review by Regional Offices;

15. Determine whether an area meets the statistical criteria to qualify as a redevelopment area or a title I area;

16. Initiate changes in the qualification status of redevelopment areas and title I areas;

17. Initiate designation or change in the designation status of redevelopment or title I areas;

18. Conduct an annual review of area eligibility and initiate termination of areas no longer eligible for designation;

19. Recommend minor adjustments in boundaries of redevelopment areas; and

20. Initiate suspension of the receipt and processing of all applications for assistance from areas and districts which fail to submit acceptable OEDP progress reports.

SEC. 6. *Deputy Assistant Secretary for Economic Development Operations.* 01. The Deputy Assistant Secretary for Economic Development Operations, through the offices reporting to him, shall:

a. Provide coordinated direction of all EDA activities related to financial assistance for or to physical projects which will improve local economies and supervise the execution of this aspect of EDA's programs;

b. Recommend standards, policies, and criteria for the technical evaluation and processing of project applications for financial assistance, including public works grants and loans, business loans, and technical assistance;

c. Direct, conduct, coordinate, monitor and, where appropriate, originate technical assistance projects (including management assistance and feasibility studies) subject to coordination with the Deputy Assistant Secretary for Economic Development Planning on proposed technical assistance projects related to area, district or center planning;

d. Review and recommend approval or denial of project applications;

e. Evaluate activities of the Regional Offices in applying policies, standards, and procedures for processing project applications to assure efficient, effective, and economical accomplishment of approved projects;

f. Execute agreements with other Federal departments and agencies in consultation with the Deputy Assistant Secretary for Policy Coordination for the conduct of specialized technical assistance; and

g. Study and evaluate the manpower development and training needs of redevelopment areas and of economic development districts, and recommend appropriate joint action with the Departments of Labor and Health, Education, and Welfare.

.02 The Deputy Assistant Secretary for Economic Development Operations shall direct and supervise the following organization elements:

a. The Office of Public Works which shall:

1. Recommend policies, standards and procedures for accepting, processing, reviewing, and approving requests for public works grants and loans, consistent with the procedures contained in the Act;

2. Review and recommend for approval or denial public works grant and loan project applications, and suggest alternate methods of financing where indicated;

3. Maintain surveillance, evaluate progress, and submit reports on the application by Regional Offices of standards, policies, and procedures to assure efficient, effective, and economical accomplishment of the approved projects;

4. Arrange for services from other Federal agencies for the administration of approved public works grants and loans; and

5. Maintain operating liaison with Federal agencies having grant-in-aid programs which may supplement EDA programs, and with those Federal agencies delegated responsibility for administering or servicing EDA projects.

b. The Office of Business Development which shall:

1. Recommend policies, standards, and procedures for processing and approving applications for financial assistance for industrial or commercial usage, consistent with the criteria contained in the Act;

2. Review applications for commercial or industrial loans and working capital guarantees, and recommend approval or denial;

3. Maintain surveillance over the implementation by Regional Offices of policies, standards and procedures related to processing loan applications for business development to assure efficient, effective, and economical accomplishment of the business development programs;

4. Develop and implement EDA approved agreements with the Small Business Administration and other Federal agencies to secure support of the business development programs;

5. Monitor operations of industrial and commercial projects approved by EDA, including outstanding loans for projects

approved under provisions of the Area Redevelopment Act, and prepare reports of accomplishments;

6. Arrange for or provide needed specialized assistance to recipients of EDA industrial and commercial loans and guarantees and ARA loans;

7. Develop policies, plans, and procedures to improve or terminate projects in default of loan conditions;

8. Provide assistance in the liquidation of the affairs and functions conducted under the Area Redevelopment Act; and

9. Maintain operating liaison with other agencies concerned with the activities of this office.

c. The Office of Technical Assistance which shall:

1. Propose policies, standards, and procedures pertaining to the acceptance, review, and approval of requests for technical assistance, consistent with the criteria of the Act;

2. Plan and develop technical assistance projects in cooperation with other offices, where appropriate;

3. Direct or monitor the performance and implementation of approved technical assistance projects;

4. Recommend policies, standards, and procedures for evaluating and utilizing the results of technical assistance projects;

5. Execute agreements with other Federal departments and agencies for the conduct of specialized technical assistance, in consultation with the Deputy Assistant Secretary for Policy Coordination;

6. Recommend, to the Deputy Assistant Secretary for Policy Coordination, policies and practices to facilitate effective relationships with other Government agencies which have complementary programs for technical assistance;

7. Maintain surveillance over the application of policies, standards, and procedures by the Regional Offices in processing project applications;

8. Review and recommend project applications for approval or denial; and

9. Coordinate the efforts of EDA in the manpower training program.

SEC. 7. *Office of Development Lending.* The Office of Development Lending shall be the principal staff office of the Assistant Secretary responsible for promoting greater involvement by the private sector in the EDA's development lending program. It shall also be responsible for innovative and complex financial structuring of projects which are characterized by their far-reaching scope, unusual impact on the economic development process, or their value as development lending models for future EDA projects. To acomplish these responsibilities the Office shall:

a. Establish contact with members of the business community, private foundations, universities and governmental agencies for the purpose of encouraging participation in EDA economic development activities;

b. Serve as principal point of liaison with other Federal agencies, with the private sector and with appropriate minority groups for the development and implementation of selected minority enterprise projects;

c. Represent the Assistant Secretary at meetings and negotiations concerning specific proposals and negotiations involving large-scale economic development projects;

d. Arrange for or encourage multiple funding support for large-scale economic development projects as a result of extensive promotional activities involving the private and public sector;

e. Advise the Deputy Assistant Secretary for Economic Development Operations of potential projects which may result from promotional activities performed;

f. Analyze specific projects assigned to the Office and negotiate appropriate financial structures consistent with EDA financing requirements, such analysis to include the review of company statements and the development of projected cash flow and debt equity arrangements for combinations of financial arrangements;

g. Whenever possible restructure certain significant, large-scale projects requiring an excessive portion of EDA funds by insertion of other private capital financing to allow reduction of the EDA investment;

h. Maintain continuous contact with top EDA officials in order to keep them fully informed as to activities of development lending program;

i. Analyze financial and economic impact aspects of on-going projects resulting from promotional activities in their relationship to development of new or revised policies for obtaining public and private sector support of EDA's broad economic development activities;

j. Develop promotional techniques and materials for relating the private sector to EDA's program objectives;

k. Investigate and report inquiries from industrial and financial leaders and other parties as they relate to the promotional activity of the Office; and

l. Address appropriate organizations and groups regarding EDA's program of obtaining increased financial participation by private and public sectors.

SEC. 8. *Office of Administration and Program Analysis.* The Office of Administration and Program Analysis shall be responsible for providing the full range of administrative management services and for program analysis and evaluation functions with respect to EDA's substantive programs. These functions shall be carried out through the principal organizational elements of the Office, as prescribed below, except that personnel management services, accounting for administrative funds, and in-house equal opportunity staff services shall be obtained from the appropriate Departmental offices.

.01 The Program Analysis Division shall:

Develop and implement measures of resource utilization for programming and budgeting purposes; develop and conduct a systematic program evaluation effort for EDA; prepare the annual Program Memorandum and analytical studies required by the Office of Management and Budget; and develop cost benefits studies to aid the Assistant Secretary in making choices and decisions between alternative programs for economic development projects, activities, and programs in achieving the objectives of the Act and EDA.

.02 The Management Analysis Division shall:

Conduct organization and management studies and surveys; plan and conduct a program for achieving maximum economy, effectiveness, and efficiency, and for obtaining optimum personnel utilization; develop and conduct a program for the efficient management of all official records, including an issuance system for administrative and program orders, and the design and control of official forms; and develop and administer a reports control system for all administrative and operational reports.

.03 The Budget Division shall:

Develop and manage an integrated financial management and budgeting system for EDA. It shall develop and prepare the annual budget for EDA; be responsible for the total financial program of EDA, and for the fiscal aspects of EDA programs entrusted to other Federal agencies; and operate a fiscal control system for both program and administrative expenses consistent with the requirements of the Anti-Deficiency Act, which shall include but not be restricted to, allotment of funds, operating budgets, employment limitations, and analyses of reports and proposed actions relating thereto.

.04 The Accounting Division shall:

Develop and maintain accounting systems and prepare financial reports for internal and external use, according to the needs of management, the requirements of laws or regulations, and established policies; analyze financial and operating data to assure that financial and management policies are being followed; and serve as the liaison with the Office of the Secretary and other Federal agencies in all accounting matters.

.05 The Information Systems and Services Division shall:

Plan, develop, acquire, and coordinate the use of automatic data processing systems and equipment for EDA; provide data processing services, including the conduct of feasibility studies and the development of systems and programs for the applications of automatic data processing techniques; develop and maintain a comprehensive information and data base system to meet specified requirements for administrative, planning, operational, program management, and program evaluation purposes; and provide periodic and special summary reports on current optional trends and performance comparisons to planned goals.

.06 The Office Services Division shall:

Provide or arrange for office services for EDA's headquarters and, as required, for the Regional Offices, including the procurement of administrative supplies, vehicle hire, furniture, equipment, and the distribution of printed and bound

materials; evaluate, report on, and make recommendations on the utilization of space, supplies, equipment, communications, and related services within EDA; and serve as liaison with the Office of the Secretary on office services matters.

.07 The Executive Secretariat shall:

Receive all correspondence addressed to the Office of the Assistant Secretary, and assign it to the appropriate office for action; record controlled and noncontrolled correspondence, maintain prompt followup of replies to insure that deadlines are met; and provide a selective reference service to files as requested by EDA officials.

SEC. 9. *Office of the Chief Counsel.* The Office of the Chief Counsel shall:

a. Render all necessary legal services, subject to the provisions of Department Organization Order 10-6; and

b. Have primary responsibility for the preparation, coordination, and clearance of all legislation, regulations, and external orders subject to the provisions of applicable Department orders.

SEC. 10. *Office of Public Affairs.* The Office of Public Affairs shall:

a. Advise on all public information matters;

b. Conduct a public information program under the policy guidance of the Assistant Secretary; and

c. Provide assistance in the editing, printing or reproduction, and distribution of technical materials and publications.

SEC. 11. *Office of Congressional Relations.* The Office of Congressional Relations shall:

a. Advise on all Congressional matters pertinent to the activities under the direction of the Assistant Secretary; and

b. Serve as the primary point of coordination for continuing liaison with the Congress in collaboration with the Special Assistant of the Secretary for Congressional Relations.

SEC. 12. *Office of Equal Opportunity.* The Office of Equal Opportunity shall:

a. Advise the Assistant Secretary in the development and implementation of policy and guidance affecting equality of opportunity connected with economic development programs;

b. Maintain liaison with Federal, State, and local governmental organizations and with nongovernmental organizations to coordinate and assist in planning operations aimed at achieving nondiscrimination and equality of opportunity;

c. Provide leadership, staff services and advice in matters affecting nondiscrimination to economic development program units, to organizations obligated as participants in an economic development program to achieve nondiscrimination, and to ultimate beneficiaries of economic development program activities;

d. Conduct, sponsor, or coordinate meetings, conferences, and training courses for equal employment specialists, program managers, and executives to achieve nondiscrimination in economic development programs;

e. Establish effective systems throughout EDA to obtain and monitor reports concerning the program of equality of opportunity and assure conformance thereto;

f. Establish report requirements to insure equality of opportunity by participants in economic development programs, conduct on-site inspections, and receive, investigate, and adjust complaints; and

g. Receive, investigate, review, adjust complaints, and evaluate EDA experience relating to the Equal Employment Opportunity program and make recommendations to the Assistant Secretary for improvement of employment practices within EDA.

SEC. 13. *Economic Development Regional Offices.* .01 The Economic Development Regional Offices, headed by Regional Directors, are as follows:

Name	Located at	Serves
Atlantic	Philadelphia, Pa	Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, and District of Columbia.
Mideastern	Huntington, W. Va	Kentucky, North Carolina, Ohio, Virginia, and West Virginia.
Southeastern	Huntsville, Ala	Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee.
Midwestern	Chicago, Ill	Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.
Southwestern	Austin, Tex	Arizona, Arkansas, Colorado, Kansas, Louisiana, New Mexico, Nevada, Oklahoma, Texas, Utah, and Wyoming.
Western	Seattle, Wash	Alaska, American Samoa, California, Guam, Hawaii, Idaho, Montana, Oregon, and Washington.

.02 Each Regional Director is responsible within the limits of his delegated authority for the programs of EDA in his region and, in this connection, shall:

a. Coordinate with local communities in economic planning and in development of Overall Economic Development Programs (OEDP's) which are related to the needs of designated areas and districts serviced by the Regional Office;

b. Manage EDA's resources available for use for the economic development of designated areas and districts serviced by the Regional Office; and

c. Process applications for economic development assistance, monitor and service approved projects and, when appropriate, liquidate projects.

Effective date: August 31, 1970.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F.R. Doc. 70-12240; Filed, Sept. 14, 1970; 8:47 a.m.]

[Dept. Organization Order 30-7A]

NATIONAL TECHNICAL INFORMATION SERVICE

Establishment, Authority and Function

The following order was issued by the Secretary of Commerce effective September 2, 1970.

SEC. 1. *Purpose.* This order establishes the National Technical Information Service as a primary operating unit of the Department.

SEC. 2. *Establishment.* .01 The National Technical Information Service (the "NTIS") is hereby established as a primary operating unit of the Department. It shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Science and Technology. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence.

.02 The Clearinghouse for Federal Scientific and Technical Information in the National Bureau of Standards is hereby abolished and its functions, funds, personnel, property, and records are transferred to the NTIS.

.03 The Assistant Secretary for Administration, in consultation with the Assistant Secretary for Science and Technology, shall determine the funds, personnel, property, and records being transferred by this order and shall arrange the effectuation of such transfers.

SEC. 3. *Delegation of authority.* .01 Pursuant to the authority vested in the Secretary of Commerce by law and subject to such policies and directives as the Secretary of Commerce or the Assistant Secretary for Science and Technology may prescribe, the Director is hereby delegated the authority of the Secretary under chapter 23 of title 15, United States Code (which pertains to a clearinghouse for technical information), and other authorities of the Secretary for performing the functions assigned in this order.

.02 The Director may delegate his authority to any employee of the NTIS subject to such conditions in the exercise of such authority as he may prescribe.

SEC. 4. *Functions.* The NTIS shall perform the following functions:

a. As deemed necessary and desirable for making the results of technological research and development more readily available, search for, collect, classify, coordinate, integrate, record, and catalog scientific, technical, and engineering information from whatever sources, foreign and domestic, that may be available;

b. Make collected information available to business and industry, to Federal agencies, to State and local governments, and to the general public, through the preparation of abstracts, digests, translations, bibliographies, indexes, and microforms and other reproductions, for distribution either directly or by utilization of business, trade, technical, and scientific publications and services;

c. As will assist operating units in the effective dissemination of business and statistical information produced by them, acquire, abstract, index, announce and, as appropriate, distribute such information to business, industry, Federal

agencies, State and local governments, and the general public;

d. Explore and develop new means for making the results of technological research and development and business information more readily available to business, industry, Federal agencies, State and local governments, and the general public;

e. Explore and develop with the commercial information industry of the United States ways in which that industry can contribute to the useful and efficient dissemination of information products handled by the NTIS;

f. Provide a mechanism for the distribution of the outputs of specialized documentation centers and information analysis centers, as desired by such centers; and

g. As necessary in the performance of the above functions, perform other functions authorized by Chapter 23 (Dissemination of Technical and Engineering Information), title 15 of United States Code.

SEC. 5. *Support services.* The National Bureau of Standards shall provide personnel, budget, finance, and other administrative support services to the NTIS, except that the Assistant Secretary for Administration, in consultation with the Assistant Secretary for Science and Technology, may approve or institute other arrangements for the provision of these services as he determines to be desirable.

SEC. 6. *Saving provision.* Department Organization Orders 30–2A and 30–2B (formerly DO 90–A and B) pertaining to the National Bureau of Standards and Department Organization Order 10–1 (formerly DO 177) pertaining to the Assistant Secretary for Science and Technology are hereby constructively amended to reflect the actions of this order.

Effective date: September 2, 1970.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F.R. Doc. 70-12239; Filed, Sept. 14, 1970; 8:47 a.m.]

[Dept. Organization Order 30–7B]

NATIONAL TECHNICAL INFORMATION SERVICE

Organization and Function

The following order was issued by the Secretary of Commerce effective September 2, 1970.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the National Technical Information Service (NTIS).

SEC. 2. *Organization structure.* The principal organization structure and line of authority of the National Technical Information Service shall be as depicted in the attached organization chart. (A copy of the organization chart is on file with original of this document with the Office of the Federal Register.)

SEC. 3. *Office of the Director.* .01 The Director, as the head of NTIS, directs and is responsible for all activities of the organization.

.02 The Deputy Director assists the Director in managing NTIS and performs the functions of the Director during his absence.

SEC. 4. *Operations Division.* The Operations Division shall:

a. Acquire reports of research and development conducted by agencies of the Federal Government, State, and local governments, and private organizations, as appropriate;

b. Acquire business and statistical information produced by operating units of the Department, as will assist the units in the effective dissemination of such information;

c. Abstract, index, and announce the availability of the information within its holdings; and

d. Reproduce as necessary, and sell or lease for an appropriate fee the NTIS collection of reports, microforms, computer tapes, and other media for stored information as may be necessary to increase the availability of information to business and industry, to Federal agencies, to State and local governments, and the general public.

SEC. 5. *Development Division.* The Development Division shall:

a. Conduct user studies and research and analysis to determine how information can be made most available and valuable to the users of the services of NTIS;

b. Design information packages and general and specialized services to optimize the utility of the NTIS to its communities of users;

c. Study the activities of the Operations Division and design improvements to increase effectiveness and efficiency; and

d. Maintain relationships with other developing national and international information systems and plan procedures to integrate activities of NTIS most effectively with such systems.

SEC. 6. *Administrative Management Division.* The Administrative Management Division shall:

a. Plan and coordinate budget and fiscal programs, including the internal allocations and control of funds; and collaborate with the Budget Division of the National Bureau of Standards in preparing official budget estimates for NTIS;

b. Represent NTIS in relations with the National Bureau of Standards as relates to provision of administrative support by the latter to NTIS, and carry out such actions within NTIS as will facilitate the rendering of such services;

c. Prepare production reports on operations of NTIS and conduct cost and production analyses for use in making program decisions and in setting charges for various services;

d. Participate in the negotiation of interagency working agreements on services to be rendered by NTIS for such agencies; and

e. Provide common administrative services required which are not to be provided by the National Bureau of Standards.

Effective date: September 2, 1970.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F.R. Doc. 70-12238; Filed, Sept. 14, 1970; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–263]

NORTHERN STATES POWER CO.

Notice of Issuance of Provisional Operating License

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated August 24, 1970, the Atomic Energy Commission (the Commission) has issued a Provisional Operating License No. DPR–22 to Northern States Power Co. (the licensee) to permit fuel loading and low-power start-up testing of the Monticello Nuclear Generating Plant, Unit 1, a single-cycle, forced circulation, boiling water reactor. The facility is located in Wright County, on the licensee's site in Wright and Sherburne Counties, Minn. The reactor is designed for operation at approximately 1,670 megawatts (thermal) but operation, in accordance with the provisions of Provisional Operating License No. DPR–22 and the Technical Specifications appended thereto, is restricted to 5 megawatts thermal, without the reactor vessel head in place.

The Commission's regulatory staff has inspected the facility and has determined that, for fuel loading and low-power start-up testing at power levels up to 5 megawatts thermal without the reactor vessel head in place, the facility has been constructed in accordance with the application, as amended, the provisions of Provisional Construction Permit No. CPPR–31, said initial decision, the Atomic Energy Act, and the Commission's regulations. The licensee has submitted proof of financial protection in satisfaction of the requirements of 10 CFR Part 140.

The license is effective as of the date of issuance and shall expire eighteen (18) months from said date, unless extended for good cause shown, or upon earlier issuance of a superseding provisional operating license. The matter of an initial decision authorizing issuance of such a superseding provisional operating license to permit full power operation is pending before the Atomic Safety and Licensing Board.

Copies of (1) the Initial Decision Authorizing Provisional Operating License for Fuel Loading and Low-Power Start-Up Testing and (2) Provisional Operating License No. DPR–22, complete with Technical Specifications, are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of the license may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 8th day of September 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70-12232; Filed, Sept. 14, 1970; 8:46 a.m.]

SCENIC SHORELINE PRESERVATION CONFERENCE, INC.

Notice of Filing and Denial of Petition for Rule Making

Notice is hereby given that the Scenic Shoreline Preservation Conference, Inc., by letter dated July 13, 1970, has filed with the Commission a petition for rule making to amend the Commission's regulation "Licensing of Production and Utilization Facilities," 10 CFR Part 50.

The regulations proposed by the petitioner are identical to those proposed by the Calvert Cliffs' Coordinating Committee, Inc., National Wildlife Federation, and The Sierra Club in their petition for rule making filed by letter dated June 29, 1970. That petition for rule making was denied by the Commission. "Calvert Cliffs' Coordinating Committee, Inc., et al., Filing and Denial of Petition for Rule Making in Light of Pending Rule Making Proceeding," 35 F.R. 12566 (Aug. 6, 1970).

The petition also requests the Commission to order Pacific Gas & Electric Co. to prepare and submit with respect to the Diablo Canyon Unit 1 Nuclear Power Plant, the environmental statement required by the National Environmental Policy Act (NEPA) and by Commission regulations, to begin immediately the environmental studies required by NEPA with respect to the Diablo Canyon Unit 1 Plant to determine if any modifications are required and to issue an order to show cause to Pacific Gas & Electric Co., pursuant to § 2.202 of 10 CFR Part 2, why the construction permit issued on April 23, 1968, for the Diablo Canyon Unit 1 Plant should not be suspended pending investigation of environmental factors.

The petition also makes certain similar requests with respect to the proposed Diablo Canyon Unit 2 Nuclear Power Plant. An application for a construction permit for this plant is presently pending before an atomic safety and licensing board pursuant to a notice of hearing published in the FEDERAL REGISTER on November 19, 1969 (34 F.R. 18439).

As indicated above, the instant petition for rule making is identical to that filed by the Calvert Cliffs' Coordinating Committee, Inc., National Wildlife Federation, and The Sierra Club and denied by the Commission. Accordingly, the instant petition for rule making is denied for the same reasons set out in the "Filing and Denial of Petition for Rule Making in Light of Pending Rule Making Proceeding" published in the FEDERAL REGISTER on August 6, 1970. The Commission will consider carefully, and address itself to, the matters raised by the instant petition for rule making in the current rule making proceeding to amend Appendix D of Part 50 which was initiated by a notice of proposed rule making published in the FEDERAL REGISTER on June 3, 1970 (35 F.R. 8594). A copy of the petition has been placed in the file relating to that proceeding and is available for inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

The other requests made by the petitioner, relating specifically to action in regard to the Diablo Canyon Unit 1 Nuclear Power Plant, have been referred to the Director of Regulation. It is expected that the Director of Regulation will take action on these requests following the completion of the rule making proceeding which is presently underway, the outcome of which will determine the action to be taken. The requests made by the petitioner relating to the proposed Diablo Canyon Unit 2 Nuclear Power Plant will be dealt with in that proceeding.

Dated at Germantown, Md., this 2d day of September 1970.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[F.R. Doc. 70-12231; Filed, Sept. 14, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22473]

BRANIFF AIRWAYS, INC., AND TRANS MEDITERRANEAN AIRWAYS, S.A.L.

Notice of Proposed Approval

Joint application of Braniff Airways, Inc., and Trans Mediterranean Airways, S.A.L., for disclaimer of jurisdiction or approval under section 408 of the Federal Aviation Act of 1958, as amended, Docket 22473.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority on September 16, 1970. Prior to that date, interested persons may file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., September 10, 1970.

[SEALED] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

ORDER OF APPROVAL

Joint application of Braniff Airways, Inc., and Trans Mediterranean Airways, S.A.L., for disclaimer of jurisdiction or approval under section 408 of the Federal Aviation Act of 1958, as amended, Docket 22473.

By application filed August 14, 1970, Braniff Airways, Inc. (Braniff), and Trans Mediterranean Airways, S.A.L. (Trans Mediterranean), request that the Board disclaim jurisdiction over, or, in the alternative, approve pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act) an agreement whereby Braniff will dry-lease to Trans Mediterranean two Boeing 707-320C type aircraft.

Braniff is a U.S. air carrier holding certificates of public convenience and necessity authorizing it to engage in air transportation with respect to persons, property, and mail in interstate and foreign transportation.

Trans Mediterranean is a corporation organized under the laws of the Republic of Lebanon. It is a scheduled air cargo carrier between Lebanon and various European and Asian points. It conducts no flights between the United States and Lebanon.[1]

The agreement involves the lease of two Boeing 707-320C aircraft for the period commencing April 15, 1971, and ending April 14, 1976.[2] Rental will be at the monthly rate of $90,000 plus (a) $12 per engine flight hour, and (b) $36.50 per airframe flight hour. Trans Mediterranean is also given an option to purchase the leased aircraft. Trans Mediterranean will have complete and exclusive control over the leased aircraft, providing its own crew, fuel, and so forth, under the terms of the lease. Braniff presently has no other aircraft under lease to Trans Mediterranean.

Braniff submits that the aircraft involved in the instant transaction represent approximately 5.5 percent of the total value of Braniff's aircraft, spare engines, and parts.[3] Except for this fact, Braniff has submitted no arguments justifying its request for a disclaimer of jurisdiction.[3a]

In support of the alternative request for approval, it is submitted that approval of the instant lease agreement will not result in the control of an air carrier engaged in air transportation, will not result in creating a monopoly and will not tend to restrain competition or jeopardize another air carrier; and that the lease will not result in a diminution in either the quality of Braniff's service to the public or the effectiveness of its competition with other carriers. Moreover, the applicants contend that the rent payments will be of benefit to Braniff, as well as to the United States in its balance of payments position.

No objections to the application or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

[1] As of Aug. 27, 1970, an amendment to the Air Transport Agreement between the United States and Lebanon has been signed granting an all-cargo route: "From Lebanon via intermediate points in Asia to New York and beyond via Shannon or Dublin, Amsterdam, and Basel to Lebanon in an eastbound direction only."

[2] In a separate but related agreement, Trans Mediterranean is given an option to lease one additional Boeing 707 for a lease term commencing Oct. 1, 1971, and expiring Apr. 15, 1976.

[3] The lease of an additional Boeing 707 would bring the current book value of the property under lease to Trans Mediterranean to 8.1 percent of the present total book value of all of Braniff's aircraft, spare engines, and parts.

[3a] Applicants request that this application receive expeditious treatment since the effectiveness of the lease is conditioned upon the receipt of all government approvals by Sept. 15, 1970.

Upon consideration of the application, it is concluded that the arrangement involves the lease by a person engaged in a phase of aeronautics (Trans Mediterranean) of a substantial part of the properties of an air carrier (Braniff) and, therefore, the transaction is subject to section 408 of the Act. However, it is further concluded that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a hearing. It appears that Braniff is able to consummate its obligations under the lease without reducing its present level of service. In addition, the transaction is similar to others approved by the Board; [4] and it is not found that the transaction will be inconsistent with the public interest or that the conditions of section 408 will be unfulfilled.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13 and 385.3, it is found that the foregoing transaction should be approved under section 408(b) of the Act without a hearing.

Accordingly, it is ordered, That:

1. The subject lease by Trans Mediterranean of two Boeing 707-320C aircraft be and hereby is approved; and

2. To the extent not granted, the application be and hereby is dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective upon issuance and the filing of such petitions shall not stay its effectiveness.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-12273; Filed, Sept. 14, 1970; 8:49 a.m.]

[Docket No. 22455; Order 70-9-36]

CENTRAL FLYING SERVICE, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 4, 1970.

The Postmaster General filed a notice of intent August 6, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 62 cents per great circle aircraft mile for the transportation of mail by aircraft between Kansas City, Mo., and Little Rock, Ark., based on six round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Central Flying Service, Inc., in its entirety 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 62 cents per great circle aircraft mile between Kansas City, Mo., and Little Rock, Ark., based on six round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Central Flying Service, Inc., the Postmaster General, Delta Air Lines, Inc., Braniff Airways, Inc., Frontier Airlines, 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 publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Central Flying Service, Inc.;

2. Further procedures herein 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 herein, 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;

3. 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 herein and fix and determine the final rate specified herein;

4. 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); and

5. This order shall be served upon Central Flying Service, Inc., the Postmaster General, Delta Air Lines, Inc., Braniff Airways, Inc., and Frontier Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-12269; Filed, Sept. 14, 1970; 8:49 a.m.]

[Docket No. 22164]

DOMESTIC AIR EXPRESS, INC., AND TRANSPORT HOLDINGS A.G.

Notice of Proposed Approval

Application of Domestic Air Express, Inc., and Transport Holdings A.G., for exemption from the provisions of section 408 and approval of interlocking relationships under section 409 of the Federal Aviation Act of 1958, as amended, Docket 22164.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority on September 18, 1970. Prior to such time interested persons may file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., September 10, 1970.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

ORDER OF APPROVAL

Application of Domestic Air Express, Inc., and Transport Holdings A.G., for exemption from the provisions of section 408 and approval of interlocking relationships under section 409 of the Federal Aviation Act of 1958, as amended, Docket 22164.

By application filed May 4, 1970, Domestic Air Express, Inc. (DAX), and Transport Holdings A.G. (THAG), have requested the Board to exempt from the requirements of section 408 of the Federal Aviation Act of 1958, as amended (the Act), pursuant to the provisions of subsection (a)(5) thereof, the acquisition by DAX of substantially all the shares of eight European corporations controlled by THAG.[1] In addition, the applicants request approval under section 409 of the Act of any resulting interlocking relationships between DAX and the Interdean Cos. which are not exempt pursuant to § 287.2 of the Board's economic regulations.

[4] World Airways, Inc., and Pakistan International Airlines Corp., Order 70-8-44, Aug. 12, 1970.

[1] This order to show cause is not a final action and 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).

[1] The eight companies being acquired by DAX, hereinafter collectively referred to as the Interdean Cos., are the following: Interdean S.A. (a Belgian corporation); Interdean S.A.R.L. (a French corporation); Interdean G.m.b.H. (a German corporation); Interdean S.P.A. (an Italian corporation); Interdean S.A. (a Spanish corporation); Interdean Ltd. (a British corporation); Interdean N.V. (a Netherlands corporation); and Interdean S.A. (a Swiss corporation). In addition, Interdean S.A. (Switzerland), owns 50 percent of Interdean Svenska A.B. (a Swedish corporation) and 100 percent of Interdean G.m.b.H. (an Austrian corporation); and Interdean Ltd., owns 100 percent of Interdean Packing Services, Ltd.

DAX is a Delaware corporation holding domestic air freight forwarding authority from the Board. In addition, DAX owns Intra-Mar Shipping Corp. (IMS) which, in addition to being an IATA approved cargo sales agent and a Federal Maritime Commission (FMC) approved independent ocean freight forwarder, holds international air freight forwarding authority from the Board.[3] DAX also owns Asiatic Forwarders, Inc. (AFI), Asiatic Trans Pacific, Inc. (ATP), Asiatic International Corp. (AIC), and Asiatic Trans Pacific of Guam (ATP-Guam).[3] In addition, AFI owns 50 percent of the voting stock of Conex International G.m.b.H. (a German corporation); Inter Conex (England) Ltd. (an English corporation); Conex International N.V. (a Belgian corporation); and GBL Services, A.G. (a Liechtenstein corporation)—hereinafter collectively referred to as the Conex Corps.[4]

In addition to the aforementioned companies DAX controls Interconex Inc., a Delaware corporation and Interconex (Canada) Ltd. Both of these companies are agents of IMS arranging for pick up of household goods at point of origin and performing port services on inbound shipments.[4a]

By Order 70–3–39, March 9, 1970, the Board exempted DAX's acquisition of St. Johnsbury Trucking Co. (St. Johnsbury) an ICC motor carrier transporting general commodities over regular routes in the northeastern area of the United States. In this connection, the Board has been informally advised that DAX's acquisition of St. Johnsbury will not be consummated.

THAG, a Liechtenstein corporation, is a holding company which is the registered holder of substantially all of the outstanding stock or capital shares of the Interdean Cos.

According to the application, the Interdean Cos. maintain offices in 22 European cities and are primarily engaged in the furnishing of forwarding services for household goods and personal effects to and from Europe. In this connection, the applicants state that at the present time the Interdean Cos. function as surface forwarders supplying door-to-door containerized service for the movement of household goods, both military and commercial. Generally, this service consists of arranging through agents[5] for packing, loading, overland transportation inland or to the exit port; arranging for ocean transportation; and, coordination through an agent, for delivery to the final destination.

By an agreement dated January 24, 1970, DAX has agreed to acquire the Interdean Cos. from THAG. In this connection, DAX has agreed to pay $5,750,000 for the shares of the Interdean Cos. and an additional sum not to exceed $2,750,000 conditioned on an average after-tax earnings of the Interdean Cos. and one-half of the average annual combined net income of the Conex Corps. for the 36-month period ended December 31, 1971. As additional consideration to THAG, DAX will issue to THAG a nontransferable warrant for the initial purchase of a maximum of 50,000 shares of DAX's common stock exercisable at the price of $40 per share. The agreement also provides that the chief operating officers of the Interdean Cos. will enter into employment contracts with DAX. In addition, Mr. Victor Bondarenko a director of the various Interdean Cos. has agreed to serve as a director of DAX.

The application indicates that upon acquisition of the Interdean Cos. by DAX, Interdean personnel will be authorized to solicit customers for DAX's freight forwarding operations, and that the Interdean Cos. as well as the companies they control, will act as DAX's exclusive sales representatives in Europe. In this regard the Board's staff has been advised that pursuant to the aforementioned arrangements the Interdean Cos. will act as European sales representatives for DAX's freight forwarding operations with the exception of the air freight operations of IMS.[6]

In addition to the foregoing, the application in Docket 22164 indicates that THAG and its affiliates have entered into an agency agreement with Four Winds Forwarding, Inc. (Four Winds). Four Winds is a U.S. corporation, who like AFI, is an indirect air carrier engaged in the transportation by air of used household goods for personnel of DOD under an exemption issued by the Board. It is understood that upon consummation of the acquisition of the Interdean Cos. by DAX such companies will continue to act as sales agents for Four Winds in Europe and, as such, will arrange for the transportation of goods for personnel of DOD.

The applicants state that the surface and air functions of DAX and the Interdean Cos. are compatible and that the control relationships contemplated by the acquisition will not result in any adverse competitive impact. It is further stated that the unified control of DAX and the Interdean Cos. will stimulate the development of DAX's air freight forwarding business. It is also asserted in the application that DAX, in its attempt to conscientiously promote air cargo, is developing a broad base for the movement of household goods and effects.

No comments or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the foregoing the Board finds that the Interdean Cos., and the aforementioned companies controlled thereby, by virtue of their sales agency relationships with Four Winds, are persons engaged in a phase of aeronautics otherwise than as an air carrier within the meaning of section 408 of the Act,[7] and that the acquisition by DAX of the Interdean Cos. and the companies controlled thereby is subject to section 408 of the Act.[8] It is further found that such relationships do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation do not result in creating a monopoly and do not tend to restrain competition. Furthermore, no person disclosing a substantial interest is currently requesting a hearing and it is concluded that a hearing is not required in the public interest.[9]

The control relationships do not appear to result in any detriment to the promotion of DAX's air freight forwarding operations. In this regard it appears that DAX, through utilization of the facilities of the Interdean Cos., will be in a position to offer improved service, but also to the shipping public in general. Furthermore, the addition of the Interdean Cos. to the DAX corporate system may prove to be a source of additional revenue for DAX's overall operations.

In light of the foregoing, it is not found that such control relationships would be inconsistent with the public interest or that the conditions of section 408 will be unfulfilled. Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13 and 385.3, it is found that the foregoing control relationships should be approved under section 408(b) of the Act without hearing and that the application to the extent that it requests approval of the aforementioned interlocking relationships should be dismissed.

Accordingly, it is ordered, That:

1. The acquisition by DAX of the Interdean Cos., and the concomitant control of Interdean Svenska S.A., Interdean G.m.b.H. (Austria), and Interdean Packing Services, Ltd., be and it hereby is approved; and

---

[2] By Order 69–6–173, June 30, 1969, the Board approved the acquisition by DAX of all the stock of Intra-Mar and various subsidiaries, i.e., Intra-Mar Transport Corp., a customshouse broker, and Inter-Mar Agency and Intra-Mar Air Freight, Inc., both dormant companies.

[3] By Order 69–2–117, the Board approved the control of AFI, an indirect air carrier engaged in the transportation by air of used household goods for personnel of the Department of Defense (DOD) under an exemption issued by the Board (AFI has also filed an application with the Interstate Commerce Commission (ICC) for authority as a regulated forwarder); ATP, a company engaged in the business of acting as agents for forwarders and carriers authorized to handle household goods and baggage by surface for DOD; AIC, a company engaged in the same operations as AFI but only to and from Japan; and, ATP Guam, a subsidiary of AFI holding independent ocean freight forwarder authority from the FMC and performing packing services in Guam for AFI and other forwarders and carriers.

[4] According to the application the Conex Corps. are not forwarders but have contracted with certain U.S. household effects movers to handle their moves in Europe, providing various service functions. THAG owns the remaining one-half interest in the Conex Corps. and has entered into an agreement with DAX which, among other things, provides DAX with an option to purchase the Conex Corps. under certain circumstances.

[4a] On Sept. 9, 1970, the application was amended to indicate that in August of 1969 AFI entered into a joint venture with members of the Asaji family in Japan for the purpose of forming Intra-Mar (Japan) Co., Ltd., which is a holding company. In September of 1969, Intra-Mar Japan purchased Fuyo Kiaum, a Japanese customshouse broker.

[5] The agents are usually local motor carriers who serve other forwarders and direct carriers in a similar manner.

[6] Counsel for THAG advises that in addition to performing services for DAX, the Interdean Cos. will continue their present household goods forwarding operations.

[7] In addition, Interdean S.A. (Spain) is considered to be a person engaged in a phase of aeronautics by virtue of the fact that it holds a license as an IATA approved cargo sales agent.

[8] It is noted that the Interdean Cos., and the companies they control, by virtue of their surface forwarding activities, have many of the characteristics of an indirect surface common carrier with respect to shipments originating in Europe and bound for the United States. In addition, Interdean S.A. (Spain), Interdean G.m.b.H. (Germany), Interdean S.A. (Belgium) (and Interdean S.A.R.L.) have common carrier motor licenses issued by their respective nations. Irrespective of the foregoing, it is not considered necessary to reach a determination with respect to the aforementioned activities of the Interdean Cos., in light of the fact that jurisdiction has been asserted under section 408 with respect to the acquisition of control of persons engaged in a phase of aeronautics.

[9] It appears that interlocking relationships within the meaning of section 409 of the Act will exist upon completion of the acquisition. However, upon approval of the acquisition, such relationships would come within the scope of the exemption from section 409 afforded by § 287.2 of the Board's economic regulations.

2. Except to the extent granted herein the application in Docket 22164 be and it hereby is dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

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

[F.R. Doc. 70-12274; Filed, Sept. 14, 1970; 8:49 a.m.]

[Docket No. 20291; Order 70-9-22]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding IATA Practices

Issued under delegated authority September 3, 1970.

By Order 70-8-68, dated August 18, 1970, action was deferred, with a view toward eventual approval, on certain resolutions incorporated in an agreement adopted by Traffic Conference 3 of the International Air Transport Association (IATA). The agreement would establish procedures whereby carriers operating wholly within the area comprised of Asia/Australasia/South Pacific Islands may modify an agreed-upon IATA practice so as to meet non-IATA carrier competitive situations.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 70-8-68 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21881 be and hereby is approved: *Provided,* That copies of all notices received or sent pursuant to said resolution which are applicable in air transportation as defined by the Act shall be submitted to the Board at the time of circulation among members.

This order will be published in the FEDERAL REGISTER.

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

[F.R. Doc. 70-12270; Filed, Sept. 14, 1970; 8:49 a.m.]

[Docket No. 20993; Order 70-9-38]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Rate Matters

Issued under delegated authority September 4, 1970.

By Order 70-8-79, dated August 19, 1970, action was deferred, with a view toward eventual approval, on certain resolutions incorporated in an agreement adopted by Traffic Conference 1 of the International Air Transport Association (IATA). The agreement would specify, for application on routes operated by Cia. Mexicana de Aviacion, S.A. between the United States and Mexico, where not presently IATA-agreed, a limited number of general cargo rates, specific commodity rates, and minimum charges for air freight.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 70-8-79 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21923, R-1 through R-3, be and hereby is approved: *Provided,* That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

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

[F.R. Doc. 70-12271; Filed, Sept. 14, 1970; 8:49 a.m.]

[Docket No. 22454; Order 70-9-37]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 4, 1970.

The Postmaster General filed a notice of intent August 6, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 49 cents per great circle aircraft mile for the transportation of mail by aircraft between Little Rock, Ark., and Dallas, Tex., based on six round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Sedalia, Marshall, Boonville Stage Line, Inc., in its entirety 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 49 cents per great circle aircraft mile between Little Rock, Ark., and Dallas, Tex., based on six round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, American Airlines, Inc., Delta Air Lines, Inc., Braniff Airways, Inc., Frontier Airlines, Inc., Texas International Airlines, 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 publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Sedalia, Marshall, Boonville Stage Line, Inc.;

2. Further procedures herein 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 herein, 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;

3. 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 herein and fix and determine the final rate specified herein;

4. 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); and

5. This order shall be served upon Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, American Airlines, Inc., Delta Air Lines, Inc., Braniff Airways, Inc., Frontier Airlines, Inc., and Texas International Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

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

[F.R. Doc. 70-12272; Filed, Sept. 14, 1970; 8:49 a.m.]

[1] This order to show cause is not a final action and 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).

CIVIL SERVICE COMMISSION

MANAGEMENT EDUCATION SPECIALIST; POSTAL SERVICE MANAGEMENT INSTITUTE

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on August 27, 1970, for the single position of Management Education Specialist (General Management) PFS–18, Postal Service Management Institute, Washington, D.C. This finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

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

[F.R. Doc. 70–12222; Filed, Sept. 14, 1970; 8:46 a.m.]

MEDICAL CARE ADMINISTRATION SPECIALIST, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on August 13, 1970, for the single position of Medical Care Administration Specialist, GS–601–13, Region VII, Department of Health, Education, and Welfare, Kansas City, Mo. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

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

[F.R. Doc. 70–12221; Filed, Sept. 14, 1970; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18768, 18769; FCC 70R–317]

MEDIA, INC., AND JUD, INC.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Media, Inc., Youngstown, Ohio, Docket No. 18768, File No. BP–17453; Jud, Inc., Ellwood City, Pa., Docket No. 18769, File No. BP–17749; for construction permits.

1. This proceeding involves mutually exclusive applications filed by Media, Inc. (Media), and Jud, Inc. (Jud), for new standard broadcast stations at Youngstown, Ohio, and Ellwood City, Pa., respectively. The applications were designated for hearing under various issues by Commission Order, FCC 69–1362, 20 FCC 2d 937, released December 17, 1969. In addition, the Review Board, in a memorandum opinion and order, FCC 70R–164, 22 FCC 2d 875, enlarged the issues to include a § 1.65 issue against Jud, because of Jud's apparent failure to amend its application to disclose its ownership of various CATV franchises and the dismissal of a permit to construct a new television broadcast station. Presently the Review Board has before it an appeal from the presiding officer's adverse ruling, filed July 27, 1970, by Media;[1] alternatively, Media seeks enlargement of issues.

2. On July 7, 1970, Jud, pursuant to procedures agreed to at a prehearing conference, supplied Media with information indicating that at the time Jud filed its application, on May 10, 1967, Jud's related interest, National Cable Television Corp.,[2] possessed CATV franchises to serve the Boroughs of South Connellsville and Scottsdale, Pa., which were not reported to the Commission in Jud's initial application.[3] Based on these discoveries, Media, by letter to the Examiner dated July 15, 1970, specifically requested the Examiner to clarify the § 1.65 issue previously added by the Review Board[4] to permit Media to introduce the franchises with preexisted the May 10, 1967, date of filing of the Jud application, and to permit the parties to draw permissible legal inferences from the evidence as to the dates of existence of these franchises.[5] The Hearing Examiner, on July 20, 1970, orally ruled that such evidence could not be received absent a special nondisclosure issue. The Examiner, citing footnote 8 of the Board's opinion,[6] ruled that the Board's language precluded adduction of evidence as to franchises obtained prior to the filing of Jud's application. Media appeals from the Examiner's refusal to clarify the section 1.65 issue; if its appeal is denied, Media seeks enlargement of issues in this proceeding to include a nondisclosure issue.

3. In support of the instant appeal, Media asserts that the existing § 1.65 issue should not be so narrowly construed as to preclude evidence of any franchise predating May 10, 1967, since evidence as to the acquisition of any unreported CATV franchise by Jud's principals would be relevant herein. Media questions the distinction between a § 1.65 issue and a nondisclosure issue, claiming it to be an illogical semantic one,[7] unless the concept of "initial nondisclosure" is found to be of a more serious nature than that of failing to up-date an application. Therefore, Media reasons, if initial nondisclosure and § 1.65 violations are not considered "coequal" by the Commission, then nondisclosure is a "more serious public interest question" than violation of § 1.65, and a separate issue must be framed. The Broadcast Bureau is of the view that although the Examiner's ruling should be upheld, sufficient facts have been shown pursuant to § 1.229 of the Commission's rules to warrant addition of the requested issue.

4. In its comments, Jud explains that its failure to report the franchises in its application was unintentional, since it was "under the impression that it was required to report only those [CATV] systems that were in operation or were in construction" at the time the application was filed. Therefore, Jud claims that this matter should not reflect adversely on its qualifications to be a Commission licensee, and the Board should neither clarify the existing § 1.65 issue nor add a nondisclosure issue. However, Jud urges that if the Board does enlarge the issues, it make clear that nondisclosure under the present facts of the case raises no more of a public interest question than violation of § 1.65.

5. In reply, Media first maintains that if Jud thought the language of the Review Board was too broad, then Jud should have filed a petition for reconsideration requesting clarification or modification of the issue. Secondly, Media contends that, due to the nature of a 307(b) proceeding, the addition of a § 1.65 issue is a serious matter and raises a threshold qualifying issue. Finally, Media alleges that the Review Board intentionally framed the issue broadly "because it was apparent that a number of substantial facts which should be considered by the Commission were not revealed to the Commission by Jud," and that there is nothing in the Board's opinion that lends itself to a narrow construction. Therefore, Media submits that a § 1.65 issue is a general inquiry as to whether the applicant failed to update all of the information required to be originally submitted in FCC Form 301,

[1] The Board also has before it: the Broadcast Bureau's comments, filed Aug. 6, 1970; Jud's comments and supplement to comments, filed Aug. 6, 1970, and Aug. 7, 1970, respectively; and Media's reply, filed Aug. 10, 1970. Petitioner submits that its motion is timely filed since it is based on information first received from Jud on July 7, 1970; the Board agrees and will consider the motion on its merits.

[2] Jud owns a 50% interest in National Cable Television Corp., Connellsville, Pa., which in turn is the owner and operator of CATV systems.

[3] In addition, Media alleges that Jud may also have received authorizations to operate CATV systems by this time in the form of licenses pursuant to the preexistent ordinances passed in the communities of Zelienople and Wampum, Pa.

[4] This issue reads as follows:

To determine whether Jud, Inc., failed to amend its application as required by § 1.65 of the Commission's rules; and, if so, to determine the effect thereof upon the applicant's qualifications to be a Commission licensee.

[5] Counsel for Jud stated at that time that it would have no objection to the introduction by Media of such evidence under the existing section 1.65 issue.

[6] Footnote 8 (FCC 70R–164, supra) states in pertinent part: "Based on the information before us, it appears that the [CATV] systems involved here were all acquired after the filing of Jud's application; thus, there is no necessity for a nondisclosure issue * * *."

[7] In this regard, Media notes that a failure to include information in an application may ripen into a § 1.65 issue through the failure of an applicant to amend its application.

pursuant to the Commission's nondisclosure rules.[8]

6. The Review Board shares the views of the Broadcast Bureau that the Examiner's ruling must be affirmed. It is clear from the Board's Order (FCC 70R–164, supra), that a nondisclosure issue was not warranted on the facts of Media's petition to enlarge issues, filed on January 8, 1970. Rule 1.65 contemplates amendments to report factual changes occurring after filing of an application when it is no longer substantially accurate and complete in all significant respects, whereas nondisclosure issues go to unreported facts existing prior to the filing of the initial application. A grant of the clarification sought by Media would have required the Examiner to, in effect, enlarge the issues in this proceeding. Such action would have forced the Examiner to exceed the scope of his authority; therefore, we are of the view that the Examiner's ruling was correct. However, in section II, exhibit 2 of its application, filed on May 10, 1967, Jud made no mention of the South Connellsville and Scottsdale franchises, both of which were acquired prior to the filing of Jud's application. As we indicated in our earlier Order (FCC 70R–164), and reaffirm herein, the existence of the CATV franchises is a significant matter. Media has now made a sufficient showing of a nondisclosure by Jud at the time of the filing of its application to warrant an evidentiary inquiry. Since § 1.65 is not directly involved in situations of nondisclosure in applications,[9] the requisite nondisclosure issue will be added.[10] Finally, the Board notes that the significance of a § 1.65 or nondisclosure violation rests upon a careful consideration of all the surrounding circumstances, e.g., whether the omission was deliberate, unintentional or inadvertent; the number of similar violations; etc. Cf. Media, Inc., FCC 70R–142, 22 FCC 2d 486. We do not believe it would be appropriate to label either a § 1.65 violation or a nondisclosure violation as inherently involving a greater or more serious public interest question.

7. *Accordingly, it is ordered,* That the appeal from the presiding officer's adverse ruling, filed July 27, 1970, by Media, Inc., is granted to the extent that it requests the addition of an issue to this proceeding, and is denied to the extent that it requests reversal of the presiding officer's adverse ruling; and;

8. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether Jud, Inc., has failed to report requisite information in its application, as required by § 1.514(a) of the Commission rules; and, if so, to determine the effect thereof upon the applicant's qualifications to be a Commission licensee.

9. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issue added herein will be on Media, Inc., and the burden of proof will be on Jud, Inc.

Adopted: September 9, 1970.

Released: September 10, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[11]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-12246; Filed, Sept. 14, 1970; 8:47 a.m.]

[Dockets Nos. 18856, 18858; FCC 70R–316]

GEORGE E. WORSTELL AND CIRCLEVILLE BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In regard applications of George E. Worstell, Circleville, Ohio, Docket No. 18856, File No. BP–17648; Circleville Broadcasting Co., Circleville, Ohio, Docket No. 18858, File No. BP–17868; for construction permits.

1. The mutually exclusive applications of George E. Worstell (Worstell) and Circleville Broadcasting Co. (Circleville) [1] for construction permits to establish a Class II standard broadcast station at Circleville, Ohio, were designated for hearing by Commission Order, FCC 70–501, released May 22, 1970. Before the Review Board is a motion to enlarge issues, filed June 11, 1970, by Post-Newsweek Stations, Florida, Inc. (Post-Newsweek),[2] licensee of Class I–B Station WCKY (1530 kHz, 50 kw., U, DA–N) Cincinnati, Ohio, seeking the addition of an issue to determine whether the 0.5 mv/m daytime groundwave contours of any of the proposed operations will overlap the 0.5 mv/m normally protected daytime contour of Station WCKY in contravention of the provisions of § 73.37 of the Commission's rules.[3]

2. As background for its request, Post-Newsweek explains that the former licensee of WCKY, L. B. Wilson, Inc. (Wilson), had filed a "Petition to Designate for Hearing" against the original applicant, Scioto Broadcasting Co.[4] based on field intensity measurements made in 1966 which showed prohibited overlap of the proposed 0.5 mv/m daytime groundwave contour with the 0.5 mv/m daytime groundwave contour of WCKY. Subsequently, states petitioner, on May 24, 1967, WCKY was directed by the Commission to detune the two towers of the WCKY array not used for daytime operation since it was suspected that reradiation from those towers caused abnormally high signal strength in the direction of Circleville, and that the detuning process was carried out and reported to the Commission along with further measurements. In the meantime, two other applicants, Worstell and Circleville, filed for construction permits for the Circleville facility. Post-Newsweek points out that apparently no contour overlap analysis had been made concerning the later Circleville applications and, since Wilson's petition was dismissed as moot in May 1970, because it was no longer the licensee of WCKY, it conducted its own field measurements on receipt of the designation order. While not completed because of the short period of time available to file this motion, petitioner asserts that these measurements show prohibited electrical interference and overlap from Worstell's proposed station. On this basis, concludes petitioner, a substantial factual question exists whether any of the proposals in this proceeding will violate § 73.37 of the Commission's rules; therefore, full examination at hearing is essential.

3. In its partial opposition, Circleville asserts that the subject request draws no distinction among the applicants; however, Circleville maintains, the engineering data offered by WCKY and its own engineering study demonstrate that there would be no prohibited 0.5 mv/m overlap between its proposed station and that of WCKY. Thus, nothing would be gained by the addition of an overlap issue as to Circleville or the imposition of a burden of proof where no substantial question of fact exists. Nevertheless, Circleville does agree that the issues should be enlarged against Worstell. In its reply, supplemented with additional engineering data, Post-Newsweek emphasizes that in order to file a timely motion to enlarge, it had to proceed with what engineering material could be gathered in a short period of time and avers that the measurements included in its petition reasonably support its request. Further, maintains petitioner, the additional measurements show that the initial measurements were substantially correct, and this complete set of measurements demonstrates that the proposal of Worstell violates the overlap rule. Post-Newsweek agrees that no overlap would result from the Circleville proposal even assuming seasonal variations in contours; it has therefore modified its

[8] Rule 1.514 provides in pertinent part: Each applicant shall include all information called for by the particular form on which the application is required to be filed * * *.

[9] See Azalea Corp., 10 FCC 2d 364, 11 RR 2d 541 (1967), at footnote 14.

[10] Inquiry under this issue will not be limited to the two aforementioned franchises but will include other CATV franchises that the written interrogatories disclosed were not disclosed in Jud's May 10, 1967, application.

[11] Board member Sloane absent.

[1] A third application, filed by Scioto Broadcasting Co., was dismissed with prejudice by the Hearing Examiner in an Order, FCC 70M–1078, released Aug. 4, 1970.

[2] Post-Newsweek was granted leave to intervene by the Hearing Examiner (FCC 70M–939, released July 2, 1970).

[3] Other related pleadings before the Board for consideration are: (a) Partial opposition, filed June 23, 1970, by Circleville; (b) opposition, filed June 24, 1970, by the Broadcast Bureau; (c) reply, filed June 29, 1970, by Post-Newsweek; and (d) comments on reply, filed July 2, 1970, by the Broadcast Bureau. Worstell filed an opposition to Post-Newsweek's petition to intervene on July 10, 1970 (8 days after the petition was granted by the Examiner), requesting that if the petition to intervene was certified to the Review Board, the opposition be forwarded to the Board and treated as an opposition to the petition to enlarge. Although this manner of proceeding is improper, the opposition contains Worstell's only statement regarding the merits of the petition; therefore, to insure fairness, this pleading will be considered along with the reply thereto which was filed by Post-Newsweek on July 15, 1970.

[4] See note 1, supra.

motion for enlargement of issues accordingly. Based upon its supplemental engineering showing, petitioner concludes that an overlap issue against Worstell is warranted. The Broadcast Bureau, originally opposing the requested issue because of petitioner's deficient engineering showing, supports petitioner's request for an overlap issue against Worstell on the basis of the supplemental data.

4. In his opposition,[5] Worstell contends that Post-Newsweek's showing is deficient in the following respects: the measurements were not made in accordance with § 73.152; the Commission has heretofore found no prohibited overlap; there was no showing in the engineering statement that WCKY was operating within its license; WCKY's engineer employed incorrect values to calculate Worstell's contour; the exhibits show the 67° radial passing almost 4 miles away from where the alleged overlap begins; and there has been no showing that the petition has been filed in good faith. Thus, concludes Worstell, the petition to enlarge issues should be denied. In reply to Worstell's opposition, petitioner contends that Worstell's objections relate only to its original engineering statement and that its subsequent calculations fully comply with Commission rules. Moreover, maintains Post-Newsweek, Worstell's engineering statement is in error, noting that in Worstell's application the MEOV values shown on the horizontal plane pattern of Worstell's proposed directional antenna do not agree with the MEOV values tabulated in the test of that application, but that, regardless of which value of MEOV is used, there would still be prohibited overlap.

5. The engineering data presented by Post-Newsweek raises a serious question of prohibited adjacent channel interference between Worstell's proposed station and Station WCKY (which Worstell's data does not refute) sufficient to warrant resolution in an evidentiary hearing. As th. Commission stated in TV Cable of Waynesboro, 18 FCC 2d 1055, 16 RR 2d 1093 (1969): "We cannot condone a station operation which would have an overlap of contours with another station in contravention of the rules." Further, we can find no evidence to substantiate Worstell's claim that this is not a bona fide petition; Post-Newsweek's explanation of the necessity for hastiness in filing its original motion is reasonable, and it cannot be faulted for endeavoring to comply with the Commission's rules as to the time in which to file petitions to enlarge. Therefore, the requested issue will be added.

6. *Accordingly, it is ordered,* That the motion to enlarge issues, filed June 11, 1970, by Post-Newsweek Stations, Florida, Inc., as modified by petitioner's reply filed June 30, 1970, and by the dismissal of the application of Scioto Broadcasting Co. is granted; and

7. *It is further ordered,* That the issues in this proceeding are enlarged to include the following issue:

To determine whether the 0.5 mv/m daytime groundwave contour of the operation proposed by George E. Worstell will overlap the 0.5 mv/m daytime groundwave contour of Station WCKY in contravention of § 73.37 of the rules; and

8. *It is further ordered,* That the burdens of proceeding and proof under the issue added herein shall be on George E. Worstell.

Adopted: September 9, 1970.

Released: September 10, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[6]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-12247; Filed, Sept. 14, 1970; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

N.V. NEDERLANDSCH-AMERIKAANSCHE STOOMVAART-MAATSCHAPPIJ "HOLLAND - AMERIKA LIJN"

Order of Revocation of Certificates of Financial Responsibility

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-9 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,016.

Whereas, N.V. Nederlandsch-Amerikaansche Stoomvaart - Maatschappij "Holland - Amerika Lijn" (Holland-America Line) Pier 40, North River, New York, N.Y. 10014, has ceased to operate the passenger vessel "Prinses Margriet;" and

Whereas, N.V. Nederlandsch-Amerikaansche Stoomvaart - Maatschappij "Holland - Amerika Lijn" (Holland-America Line) has returned Certificate (Performance) No. P-9 and Certificate (Casualty) No. C-1,016 for revocation.

It is ordered, That Certificate (Performance) No. P-9 and Certificate (Casualty) No. C-1,016 covering the MS "Prinses Margriet" be and are hereby revoked effective September 3, 1970.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the certificant.

By the Commission.

JOSEPH C. POLKING,
Assistant to the Secretary.

[F.R. Doc. 70-12261; Filed, Sept. 14, 1970; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP70-305]

FALL RIVER GAS CO.

Notice of Amendment To Petition To Amend Order

SEPTEMBER 11, 1970.

Take notice that on September 8, 1970, Fall River Gas Co. (Petitioner), Post Office Box 911, Fall River, Mass. 02772, filed in Docket No. CP70-305 and amendment to its petition filed August 26, 1970, to amend the Commission's order issued on July 17, 1970. The petition, for which notice was issued on August 27, 1970, proposed to import an additional 400,000 gallons of liquefied natural gas (LNG) from Canada in addition to the 1,200,000 gallons previously authorized by the aforementioned July 17 order. The instant amendment proposes the importation of 600,000 gallons of LNG in lieu of the 400,000 gallons previously contemplated, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Petitioner states that the natural gas equivalent of the volume now proposed to be imported is approximately 50,000 Mcf and the import will require about 60 cryogenic truck loads. Except for the change in volume, however, the proposed import is substantially as originally proposed in the petition of August 26. Petitioner further states that the contract for the additional purchase of LNG by Petitioner from Northern and Central Gas Corp., Ltd. (Northern and Central), provides for a volume of 600,000 gallons, and although it was initially proposed to purchase only 400,000 gallons, Petitioner now finds that further operating problems encountered in the startup of its own liquefaction facilities will require the purchase of the full 600,000 gallons.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition as amended should on or before September 18, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-12296; Filed, Sept. 14, 1970; 8:50 a.m.]

[5] See note 3, supra.

[6] Board Member Slone absent.

FEDERAL RESERVE SYSTEM

AMERICAN BANCORPORATION

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of American Bancorporation, Columbus, Ohio, for approval of acquisition of 51.77 percent or more of the voting shares of The Huntsville State Bank, Huntsville, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by American Bancorporation, Columbus, Ohio (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 51.77 percent or more of the voting shares of The Huntsville State Bank, Huntsville, Ohio (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Ohio Superintendent of Banks, and requested his views and recommendation. The Superintendent indicated he had no objection to the approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 15, 1970 (35 F.R. 11316), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and prospects of Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant, the smallest bank holding company in Ohio, has two subsidiary banks with $7.3 million in deposits, which represent less than 0.1 percent of the total deposits of all banks in the State. (All banking data are as of Dec. 31, 1969, adjusted to reflect holding company formations and acquisitions approved by the Board to date.)

Bank (deposits $3.1 million) is the only financial institution in Huntsville, and is the fifth largest of eight banks serving Logan County, the relevant market. Applicant's two present subsidiaries are located 49 and 122 miles from Bank, and it does not appear that existing competition would be eliminated, or significant potential competition foreclosed, by consummation of the present proposal.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not have significant adverse effects on competition in any relevant area. The banking factors, as they relate to Applicant, its subsidiaries, and Bank, are regarded as consistent with approval. Considerations relating to the convenience and needs of the communities to be served lend some weight in support of approval; in anticipation of consummation of this proposal, certain improvements in, and reductions in costs of, services offered by Bank have already been instituted. Included among these are the elimination of service charges on checking accounts, a reduction in the minimum deposit requirement for time certificates of deposit, and an extension of banking hours. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the findings summarized above, that said application be and hereby is approved: *Provided,* That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] September 4, 1970.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[F.R. Doc. 70-12234; Filed, Sept. 14, 1970; 8:47 a.m.]

FIRST NATIONAL BANCORPORATION, INC.

Order Granting Leave To Withdraw Applications Without Prejudice

In the matter of the applications of The First National Bancorporation, Inc., Denver, Colo., for determinations under section 4(c)(8) of the Bank Holding Company Act of 1956 relating to the acquisitions of Diversified Insurance, Inc., and Guaranty Insurors, Inc., proposed nonbank subsidiaries. Dockets Nos. BHC-100, BHC-101.

There has come before the Board of Governors a request by the applicant, The First National Bancorporation, Inc., Denver, Colo., a registered bank holding company, that leave be granted to withdraw, without prejudice to later possible renewal, two applications for determinations by the Board that the insurance activities planned to be undertaken by its proposed subsidiaries, Diversified Insurance, Inc., and Guaranty Insurors, Inc., are of the kind described in section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. section 1843(c)(8)) and § 222.4(a) of Regulation Y (12 CFR § 222.4(a)), so as to make it unnecessary for the prohibitions of section 4(a) of the Act (12 U.S.C. section 1843(a)), respecting the ownership or control of voting shares in nonbanking companies, to apply in order to carry out the purposes of the Act.

Said applications were filed by Applicant on October 8, 1969. Thereafter, pursuant to an order of the Board, a hearing was held in Denver, Colo., on December 11, 1969, before a duly selected and designated hearing examiner. At the commencement of the hearing, intervenors, the National Association of Insurance Agents, Inc., Colorado Insurors Association, Inc., and Mr. Jack Miller, doing business as the Jack Miller Agency, appeared through counsel and moved to be admitted as parties to the proceeding. Intervenors' motion to intervene in the proceeding led, ultimately, to their request for special permission to appeal to the Board, founded upon an averment that the hearing examiner had denied their motion.

By order and statement dated June 4, 1970, the Board granted intervenors' request for special permission to appeal, set forth controlling considerations, and ordered that the hearing be reconvened, at a time and place to be determined by the hearing examiner, for further proceedings not inconsistent with the Board's statement, including opportunity for renewal of the aforementioned motion to intervene. The hearing is scheduled to reconvene on September 9, 1970, in Denver, Colo.

Applicant's request to withdraw the applications referred to above, dated August 7, 1970, was served upon counsel for intervenors herein; intervenors have interposed no objection to applicant's request. Applicant avers that each of its agreements with Diversified Insurance Inc., and Guaranty Insurors, Inc., provided for cancellation if Board approval under section 4(c)(8) had not been obtained prior to July 1, 1970. Applicant further avers that the proposed nonbanking subsidiaries now seek higher stock acquisition prices from applicant, and that agreement on such prices has not been reached. Applicant, therefore, requests that leave be granted to withdraw said applications, and that the withdrawal be without prejudice to any future application.

Upon consideration of applicant's August 7 request, and of the matters set forth herein, and since, in the Board's judgment, the record in this matter is not sufficiently complete in the circumstances for final resolution of the issues to be determined.

It is hereby ordered, That the applicant's request to withdraw its applications for determinations under section 4(c)(8) of the Bank Holding Company Act of 1956 relating to the acquisitions of Diversified Insurance, Inc., and Guaranty Insurors, Inc., be and hereby is granted without prejudice to any future application which may be filed by applicant.

Dated at Washington, D.C., this 4th day of September 1970.

---

[1] Voting for this action: Governors Mitchell, Daane, Maisel, and Sherrill. Absent and not voting: Chairman Burns and Governors Robertson and Brimmer.

By order of the Board of Governors.[2]

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[F.R. Doc. 70-12235; Filed, Sept. 14, 1970; 8:47 a.m.]

MISSOURI BANCSHARES, INC.

Order Approving Action To Become a Bank Holding Company

In the matter of the application of Missouri Bancshares, Inc., Kansas City, Mo., for approval of action to become a bank holding company through the acquisition of more than 80 percent of the voting shares of Kemper State Bank, Boonville; The Central National Bank of Carthage, Carthage; The Peoples National Bank of Warrensburg, Warrensburg; and Security National Bank of Joplin, Joplin; all in the State of Missouri.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Missouri Bancshares, Inc., Kansas City, Mo., for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of the following banks in Missouri: Kemper State Bank, Boonville; The Central National Bank of Carthage, Carthage; The Peoples National Bank of Warrensburg, Warrensburg; and security National Bank of Joplin, Joplin. Applicant presently owns all but directors' qualifying shares of The City National Bank and Trust Company, Kansas City, Mo.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and to the Commissioner of Finance for the State of Missouri and requested their views and recommendations. The Comptroller and the Commissioner both recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 10, 1970 (35 F.R. 11148), which provided an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved: *Provided,* That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

Dated at Washington, D.C., this 4th day of September 1970.

By order of the Board of Governors.[2]

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[F.R. Doc. 70-12236; Filed, Sept. 14, 1970; 8:47 a.m.]

[2] Voting for this action: Governors Mitchell, Daane, Maisel, and Sherrill. Absent and not voting: Chairman Burns and Governors Robertson and Brimmer.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

SOCIETY CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Society Corp., which is a bank holding company located in Cleveland, Ohio, for prior approval by the Board of Governors of the acquisition by Applicant of 80 percent or more of the voting shares of Tri-County National Bank, Fostoria, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

By order of the Board of Governors, September 8, 1970.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[F.R. Doc. 70-12233; Filed, Sept. 14, 1970; 8:46 a.m.]

[2] Voting for this action: Chairman Burns and Governors Maisel, Brimmer, and Sherrill. Absent and not voting: Governors Robertson, Mitchell, and Daane.

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

APPLICATIONS FOR RENEWAL PERMITS

Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.[3]) have been filed as follows:

(1) ICP Docket No. 10025, Cannelton Coal Co., Mine No. 8, USBM ID No. 46-01324-0, Cannelton, Kanawha County, W. Va., section ID No. 001 (1st Right off 1st Left), and section ID No. 003 (1st Left Airways).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR, Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

SEPTEMBER 10, 1970.

[F.R. Doc. 70-12243; Filed, Sept. 14, 1970; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

ADELPHIA CAPITAL INVESTMENT CORP.

Notice of License Surrender

Notice is hereby given that Adelphia Capital Investment Corp. (Adelphia), 113 South 21 Street, Philadelphia, Pa. 19103, has surrendered its license to operate as a small business investment company pursuant to § 107.105 of the Regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107).

Adelphia was licensed as a small business investment company on June 16, 1961, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C., 661 et seq.), and the Regulations promulgated thereunder.

Under the authority vested by the Act, and pursuant to the cited regulation, the surrender of the license is hereby accepted and all rights, privileges, and franchises derived therefrom are canceled and terminated.

A. H. SINGER,
Associate Administrator for Investment.

AUGUST 28, 1970.

[F.R. Doc. 70-12214; Filed, Sept. 14, 1970; 8:45 a.m.]

CENTURY CAPITAL CORP.

Notice of Surrender of License of Small Business Investment Company

Notice is hereby given that Century Capital Corp. (Century), 250 North Water Street, Decatur, Ill. 62523, has pursuant to § 107.105 of the regulations governing Small Business Investment Companies (33 F.R. 326, 13 CFR Part 107), surrendered its license to operate as a small business investment company.

Century was incorporated December 1, 1961, under the laws of the State of Illinois, and issued license number 07-0044 by the Small Business Administration on July 6, 1962.

Century was licensed to operate solely under the Small Business Investment Act of 1958, as amended (15 U.S.C., 661 et. seq.).

Under the authority vested by the Small Business Investment Act of 1958, as amended, and the regulations promulgated thereunder, the surrender of the license of Century is hereby accepted, and accordingly, it is no longer licensed to operate as a small business investment company.

A. H. SINGER,
Associate Administrator for Investment.

AUGUST 28, 1970.

[F.R. Doc. 70-12215; Filed, Sept. 14, 1970; 8:45 a.m.]

SUMMIT CAPITAL CORP.

Notice of Surrender of License of Small Business Investment Company

Notice is hereby given that Summit Capital Corp. (Summit), 5 Hanover Square, New York, N.Y. 10004, has, pursuant to § 107.105 of the regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107), surrendered its license to operate as a small business investment company.

Summit was incorporated August 23, 1961, under the laws of the State of New York, and issued License No. 02/02-0111 by the Small Business Administration on November 27, 1961.

Summit was licensed to operate solely under the Small Business Investment Act of 1958, as amended (15 U.S.C., 661 et seq.).

Under the authority vested by the Small Business Investment Act of 1958, as amended (15 U.S.C., 661 et seq.).

Under the authority vested by the Small Business Investment Act of 1958, as amended, and the regulations promulgated thereunder, the surrender of the license of Summit is hereby accepted and, accordingly, it is no longer licensed to operate as a small business investment company.

A. H. SINGER,
Associate Administrator for Investment.

SEPTEMBER 1, 1970.

[F.R. Doc. 70-12237; Filed, Sept. 14, 1970; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 10, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42045—*Iron or steel articles to Fauna, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-179), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from points in southern, southwestern, official (including Illinois), and western trunkline territories, to Fauna, Tex.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 174 to Southwestern Freight Bureau, agent, tariff ICC 4753.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12249; Filed, Sept. 14, 1970; 8:47 a.m.]

[Notice 148]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 9, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 7585 (Sub-No. 3 TA), filed September 3, 1970. Applicant: ANTHONY SPARACINO, JOHN SPARACINO, AND RALPH SPARACINO, a partnership, doing business as SPARACINO BROS., 2819 Cedar Avenue, Scranton, Pa. 18505. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Berks, Bradford, Bucks, Carbon, Columbia, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Montgomery, Montour, Monroe, Northumberland, Northampton, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne, and Wyoming Counties, Pa. Restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shippers: Jet Forwarding, Inc., 2945 Columbia Street, Torrance, Calif. 90503; Karevan, Inc., Post Office Box 9240, Queen Anne Station, Seattle, Wash. 98019; Vanpac Carriers, Inc., 2114 MacDonald Avenue, Richmond, Calif. 94801. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 10345 (Sub-No. 91 TA) filed September 3, 1970. Applicant: C&J COMMERCIAL DRIVEAWAY, INC., 1905 West Mount Hope Avenue, Lansing, Mich. 48910. Applicant's representative: Robert E. Joyner, 711 14th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New trucks*, in secondary movements, truckaway service, from Pitcairn, Pa., to points in Pennsylvania, Ohio, and West Virginia, and *new automobiles and new trucks*, in secondary movements, in truckaway service, from Pitcairn, Pa., to points in Allegany and Garrett Counties, Md. Restricted to traffic having an immediately prior movement by rail from plantsites in Canada

of General Motors Products of Canada; Ltd., for 180 days. NOTE: Applicant states there will be no tacking nor interlining intended. Supporting Shipper: V. A. Long, Director, Vehicle Distribution Transportation Logistics Operations, General Motors Corp., 30007 Van Dyke Avenue, Warren, Mich. 48090. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 80428 (Sub-No. 73 TA), filed September 3, 1970. Applicant: McBRIDGE TRANSPORTATION, INC., 289 West Main Street, Goshen, N.Y. 10924. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580.Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and invert sugar, corn syrup, and flavoring syrups, in bulk*, from New York, N.Y., and Yonkers, N.Y., to all points in Maryland, Delaware, and Pennsylvania (except Williamsport, Milton, Berwick, Hazleton, Kingston, Scranton, and Wilkes-Barre, Pa.), for 150 days. Supporting shippers: Pepsico, Inc., Purchase, N.Y. 10577; CPC International, Inc., Refined Syrups & Sugars, Federal Street, Yonkers, N.Y. 10702; SuCrest Corp., New York, N.Y. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 103993 (Sub-No. 562 TA), filed September 3, 1970. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections mounted on undercarriages, from Whippany, N.J., to points in that portion of the United States on and east of the western boundaries of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi, for 180 days. Supporting shipper: Continental Modules, Inc., Whippany, N.J. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne, Ind. 46802.

No. MC 115322 (Sub-No. 74 TA), filed September 3, 1970. Applicant: REDWING REFRIGERATED, INC., Post Office Box 1698, 2939 Orlando Drive, Sanford, Fla. 32771. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned, preserved, or frozen, in straight or mixed shipments, from Chambersburg, Orrtanna, and Peach Glen, Pa., to points in Alabama, Florida, and Georgia, for 180 days. Supporting shipper: Knouse Foods Cooperative, Inc., Peach Glen, Pa. 17306. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 117416 (Sub-No. 38 TA), filed September 3, 1970. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue NW., Knoxville, Tenn. 37921. Applicant's representative: William A. Popejoy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal litter and cleaning compounds*, in containers, in mixed loads with laundry bleach and sodium hydroxide (otherwise authorized), from Atlanta, Ga., to Evansville, Ind.; Williamson, W. Va.; Bristol, Va., and points in Kentucky and Tennessee, for 180 days. Supporting shipper: The Clorox Co., Post Office Box 24305, Oakland, Calif. 94623. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 119127 (Sub-No. 17 TA), filed September 3, 1970. Applicant: HALE DISTRIBUTING COMPANY, INC., 914 South Vail Avenue, Montebello, Calif. 90640. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruits and rhubarb and frozen fish and shellfish*, from points in California to Southbury, Conn., for 150 days. Supporting shipper: Four'n 20 Pies, Inc., 4419 Van Nuys Boulevard, Sherman Oaks, Calif. 91403. 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 118130 (Sub-No. 64 TA), filed September 2, 1970. Applicant: BEN HAMRICK, INC., 2000 Chelsea Drive West, Box 6946, Fort Worth, Tex. 76134. Applicant's representative: Ben Hamrick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, from Dallas, Tex., to points in Louisiana, Mississippi, Alabama, Georgia, Florida, Arkansas, and South Carolina, for 150 days. Supporting shipper: Texas Meat Packers, Inc., Post Office Box 5236, Dallas, Tex. 75210. Send protests to: Billy R. Reid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 124111 (Sub-No. 28 TA), filed September 3, 1970. Applicant: OHIO EASTERN EXPRESS, INC., Post Office Box 2297, 302 West Perkins Avenue, Post Office ZIP 44127, Sandusky, Ohio 44870. Applicant's representative: M. A. Taylor (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Noncarbonated fruit drinks, chocolate drink, cider, and frozen yogurt, in mechanically refrigerated equipment*, from the plantsite and storage facilities of The Esmond Dairy Co. at Sandusky, Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 150 days. Supporting shipper: The Esmond Dairy Co., Sandusky, Ohio 44870. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 126760 (Sub-No. 2 TA), filed September 2, 1970. Applicant: CARTER'S MOVING AND STORAGE, INC., 410 North Vine Street, Urbana, Ill. 61801. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular points, transporting: *Household goods*, between points in Calhoun, Fulton, Hancock, Kankakee, Marshall, McDonough, Pike, and Stark Counties, Ill. Restricted to shipments having a prior or subsequent movement in containers beyond the points sought. And limited to the performance of pickup and delivery service in connection with packing, crating, containerization, or unpacking, uncrating, and decontainerization of such traffic, for 180 days. NOTE: Applicant intends to tack with authority granted in No. MC 126760 Sub 1. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 128355 (Sub-No. 2 TA), filed September 3, 1970. Applicant: HURLIMAN TRUCKING COMPANY, Post Office Box 17204, Portland, Oreg. 97217. Applicant's representative: Earle V. White, Farley Building, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shot*, iron or steel, not ammunition, from Mishawaka, Ind., to points in Idaho, Montana, Oregon, Washington, and Wyoming, for 180 days. Supporting shipper: The Wheelabrator Corp., Mishawaka, Ind. 46544. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, Oreg. 97204.

No. MC 133545 (Sub-No. 2 TA), filed September 3, 1970. Applicant: DAVID LEMONS, doing business as LEMONS HOUSE MOVING, 1250 Houston Road, Idaho Falls, Idaho 83401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New houses and buildings*, set up or in sections, other than knocked down flat, and not including mobile homes or buildings designed for tow-away service, from Pocatello, Idaho, to points in Mohave, Yavapai, Conconine, Navajo, and Apache Counties in Arizona and *return shipments* from those counties in Arizona to Pocatello, Idaho, for 180 days. Supporting shipper: Boise Cascade Corp., Post Office Box 7747, Boise, Idaho 83707. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and

U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83702.

No. MC 134574 (Sub-No. 3 TA), filed September 3, 1970. Applicant: FIGOL DISTRIBUTORS LIMITED, 9727 110th Street, Edmonton, Alberta, Canada. Applicant's representative: Eldon M. Johnson, 140 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and packinghouse products*, in vehicles equipped with mechanical refrigeration, for 180 days. Supporting shippers: Intercontinental Packers Ltd., Box 1260, Saskatoon, Saskatchewan, Canada; Gainers Ltd., Box 4340, South Edmonton, Alberta, Canada; Canada Packers Ltd., Box 39, Edmonton 15, Alberta, Canada; Burns Foods Ltd., Box 1300, Calgary, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 134610 (Sub-No. 1 TA), filed September 3, 1970. Applicant: JACK R. CLARK, doing business as CLARK TRUCKING SERVICE, Post Office Box 118, Niota, Tenn. 37826. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint, groundwood paper, printing paper and woodpulp* (except in bulk), from plantsite of Bowaters Southern Paper Corp., at Calhoun, Tenn., to points in Alabama on and north of U.S. 80; North Carolina on and west of U.S. 1; and South Carolina on and west of U.S. 1, for 180 days. Supporting shipper: Bowaters Southern Paper Corp., Calhoun, Tenn. 37209. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 134895 TA, filed September 2, 1970. Applicant: SANTA MARIA VAN & STORAGE, INC., 619 South Oakley, Santa Maria, Calif. 93454. Applicant's representative: Robert J. Gallagher, 350 Fifth Avenue, Suite 3020, New York, N.Y. 10001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, in containers, between points in Santa Barbara, Ventura, Los Angeles, San Luis Obispo, Monterey, and San Benito Counties, Calif., for 180 days. Supporting shipper: Burnham World Forwarders, Inc., 1623 Second Avenue, Columbus, Ga. 31901. 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 134898 TA, filed September 3, 1970. Applicant: TROY HUMPHREY MOVING & STORAGE, INC., Bell Fork Road, Jacksonville, N.C. 28540. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in North Carolina restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shippers: Continental Forwarders, Inc., 105 Leonard Street, New York, N.Y. 10013; International Export Packers, Inc., 5360 Eisenhower Avenue, Alexandria, Va. 22304; Imperial Household Shipping Co., Inc., Post Office Box 20124, St. Petersburg, Fla. 33702; Smyth Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle, Wash. 98133. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 26896, Raleigh, N.C. 27611.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Acting Secretary.*

[F.R. Doc. 70-12250; Filed, Sept. 14, 1970; 8:47 a.m.]

[Notice 149]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 10, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 99142 (Sub-No. 4 TA), filed September 4, 1970. Applicant: CIBOLA FREIGHT LINES, 10 West Ocotillo Road, Phoenix, Ariz. 85013. Applicant's representative: Joseph M. Melendez (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy or cumbersome commodities*, between points in California, on the one hand, and, or on the other, points in that part of Mohave County to Arizona, located south of the Colorado River and those in that part of Yuma County, Ariz., located north of an east-west line drawn through Cibola, Ariz., and those in Nevada within 40 miles of Kingman, Ariz., for 180 days. Supporting shippers: McCulloch Properties, Inc., 5965 West 98th Street, Los Angeles, Calif. 90045; Kingman Scrap, 3404 North Bank Street, Kingman, Ariz. 86401; Doudell Trucking Co., Post Office Box 842, San Jose, Calif. 95106; Best-Way Transportation, 310 West Watkins, Phoenix, Ariz. 85030. NOTE: Cibola Freight Lines proposes to interline with other carriers at Blythe, Calif.; Needles, Calif.; Kingman, Ariz.; Ehrenberg, Ariz.; and Wenden, Ariz. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 104724 (Sub-No. 14 TA), filed September 4, 1970. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., ZIP 30301, Post Office Box 916, Chattanoochee Station, Atlanta, Ga. 30321. Applicant's representative: Guy H. Postell, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beverages* (soft drinks), in cans or bottles, and *concentrate or syrup beverage* (not frozen), in containers, on pallets, from plantsite of Custom Canners, Inc., at or near Graves Road, and Interstate Highway 85 in Gwinnett County, Ga., and warehouse site of Custom Canners, Inc., on Pleasantdale Road, in De Kalb County, Ga., to points in North Carolina, for 180 days. Supporting shipper: Custom Canners, Inc., Gwinnett County, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 114533 (Sub-No. 217 TA), filed September 4, 1970. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Oak Brook, Ill., on the one hand, and, on the other, Indianapolis, Ind., for 180 days. Supporting shipper: Penn Controls, Inc., Executive Offices, Post Office Box 486, 2221 Camden Court, Oak Brook, Ill. 60521. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 121173 (Sub-No. 2 TA), filed September 4, 1970. Applicant: COLORADO MIDLAND TRANSPORT COMPANY, 4200 Trenton Street, Post Office Box 7134, Park Hill Station, Denver, Colo. 80207. Applicant's representative: Samuel E. Widmaier (same address as above). Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, and parts* moving in connection with vehicles being transported in initial or secondary movement at truckway or driveway service, between points in Colorado, on the one hand, and, all points in Wyoming, South Dakota, and North Dakota, on the other hand, and between points in North Dakota, South Dakota, and Wyoming, on the one hand, and all points in Colorado, on the other hand, excluding however, transportation of Government vehicles moving to and from government installations, for 180 days. Supporting shippers: Colorado Auto Auction, Inc., Post Office Box 16007, Denver, Colo. 80216; National Auto Brokers Inc., Post Office Box 1295, Englewood, Colo. 80110. Send protests to: District Supervisor H. C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 128021 (Sub-No. 5 TA), filed September 4, 1970. Applicant: DIVERSIFIED PRODUCTS TRUCKING CORPORATION, 309 Williamson Avenue, Post Office Box 100, Opelika, Ala. 36801. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except commodities in bulk in tank vehicles and hides), from points in Iowa, Kansas, Missouri, Nebraska, and Texas, to the plantsite and warehouse facilities of the Frosty Morn Meats, Inc., at Montgomery, Ala., for 180 days. Supporting shipper: Frosty Morn Meats, Inc., Mobile Highway, Montgomery, Ala. 36108. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 128862 (Sub-No. 5 TA), filed September 4, 1970. Applicant: B. J. CECIL TRUCKING, INC., Post Office Box C, Claypool, Ariz. 85532. Applicant's representative: Earl Carroll, 363 North First Avenue, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shredded tin scrap*, from Deming, N. Mex., to Safford, Ariz., producers mineral mine located 8 miles north of Safford, Ariz., for 180 days. Supporting shipper: Los Angeles By-Products Company, 1810 East 25th Street, Los Angeles, Calif. 90058. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 134631 (Sub-No. 2 TA), filed September 4, 1970. Applicant: SCHULTZ TRANSIT, INC., Post Office Box 503, 323 East Bridge, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radio, phonograph, and stereo cabinets, record changer bases, and speaker boxes* (without mechanisms), from Winona and Red Wing, Minn., to Los Angeles, Calif., for 120 days. Supporting shipper: Winona Industrial Sales Corp., Post Office Box 9, Winona, Minn. 55987. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 134769 (Sub-No. 1 TA), filed September 4, 1970. Applicant: WILLIAM J. BURTON, East Victory Way, Newberry, Mich. 49868. Applicant's representative: William B. Elmer, 22644 Gratiot Avenue, East Detroit, Mich. 48021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Newberry, Mich., and points within 4 miles thereof, to points in Wisconsin located on and east of U.S. Highway No. 41, and Goodman, Wis., for 150 days. NOTE: Applicant states there will be no tacking nor interlining. Supporting shippers: Jess Birtcher, Vice President, Superior Studs, Inc., Newberry, Mich. 49868; E. S. Covey, Mill Superintendent, Kimberly-Clark Corp., Newberry, Mich. 49868; Frank J. Furlong, Vice President, F. P. Furlong Co., Inc., 226 Newberry Avenue, Newberry Mich. 49868. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 134899 TA, filed September 4, 1970. Applicant: FRASSE TRANSPORTATION COMPANY, INC., 3 Dakota Drive, Lake Success, N.Y. 11040. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel and aluminum articles*, such as bars, billets, wire, rods coiled, rods not coiled, angles, channels, tees, beams, wrought pipe, tubing, pipe, plate and sheet, castings, sheets, strip, plate and rings, between plants of Peter A. Frasse & Co., Inc., at Twinsburg, Ohio, Philadelphia, Pa., Lindhurst, N.J., Wethersfield, Conn., Cambridge, Mass., Syracuse, N.Y., and Tonawanda, N.Y. Restriction: The proposed service to be under contract solely with Peter A. Frasse & Co., Inc., for 180 days. Supporting shipper: Peter A. Frasse & Co., Inc., 3 Dakota Drive, Lake Success, N.Y. 11040. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 134900 TA, filed September 4, 1970. Applicant: NIATCO TRUCKING CORP., 145 Price Parkway, Farmingdale, Suffolk County, N.Y. 11738. Applicant's representative: Jerome G. Greenspan, 404 Clarendon Road, Uniondale, N.Y. 11553. Authority sought to operate as a *Contract Carrier*, by motor vehicle, over irregular routes, transporting: *Appliances* such as refrigerators, air conditioners, dehumidifiers, radar ranges, freezers, ovens, and accessories for such products, from Farmingdale, Suffolk County, N.Y., to points in Fairfield, Middlesex and New Haven counties in Connecticut; and from Farmingdale, Suffolk County, N.Y., to points in Ocean, Monmouth, Middlesex, Mercer, Hunterdon, Warren, Sussex, Morris, Essex, Union, Somerset, Passaic, Bergen, and Hudson counties in New Jersey, for 180 days. Supporting shipper: Amana Refrigeration, Inc., 1587 Stewart Avenue, Westbury, Nassau County, N.Y. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 134901 TA, filed September 4, 1970. Applicant: UNITED TRUCKING CORP., 499 Ocean Parkway, Brooklyn, N.Y. 11218. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air cleaners, air coolers, air conditioners, heaters*, loose, on skids or lift-truck pallets or platforms; in packages, and *parts* thereof, between Carteret, N.J., on the one hand, and, on the other, points in Nassau, Suffolk, Westchester, Orange, Rockland, Ulster, Putnam, and Dutchess Counties, N.Y., and points in the New York, N.Y., commercial zone. Restriction: The proposed service to be performed under contract with American Standard, for 180 days. Supporting shipper: American Standard, Post Office Box 2003, New Brunswick, N.J. 08903. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12251; Filed, Sept. 14, 1970; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—SEPTEMBER

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 September.

3 CFR

Page

PROCLAMATIONS:

3998 ... 13819
3999 ... 14053
4000 ... 14187
4001 ... 14251

EXECUTIVE ORDERS:

July 15, 1875 (see PLO 4889) ... 14317
9979 (see EO 11555) ... 14191
10695–A (revoked by EO 11556) ... 14193
10705 (amended by EO 11556) ... 14193
10995 (revoked by EO 11556) ... 14193
11051 (amended by EO 11556) ... 14193
11084 (revoked by EO 11556) ... 14193
11191 (amended by EO 11556) ... 14193
11360 (see EO 11555) ... 14191
11490 (amended by EO 11556) ... 14193
11546 (amended by EO 11557) ... 14375
11554 ... 14189
11555 ... 14191
11556 ... 14193
11557 ... 14375

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Memorandum of Aug. 21, 1963 (amended by EO 11556) ... 14193

5 CFR

213 ... 14055, 14125, 14197, 14299, 14377, 14435
531 ... 14377

PROPOSED RULES:

890 ... 14092

7 CFR

10 ... 13822
52 ... 13822, 14060
210 ... 14061
215 ... 14435
245 ... 14065
401 ... 14253
724 ... 14068
725 ... 14377
729 ... 14299
777 ... 14379
813 ... 14299
850 ... 14253
906 ... 14254
908 ... 13969, 14255, 14435
909 ... 13875
910 ... 13825, 14121, 14435
913 ... 14255
932 ... 13877, 14380, 14381, 14436
945 ... 14072
946 ... 14300
948 ... 14072
958 ... 14437
981 ... 14073
993 ... 13969, 14300
1099 ... 13826
1138 ... 13826
1421 ... 13969, 13971, 14121
1822 ... 14437
1841 ... 13972
1890 ... 13972
1890a ... 13974
1890b ... 13975
1890c ... 13977

7 CFR—Continued

Page

1890d ... 13979
1890e ... 13980
1890f ... 13980
1890g ... 14442

PROPOSED RULES:

722 ... 14462
906 ... 13887
912 ... 14266
924 ... 14220
929 ... 14085
931 ... 14462
932 ... 14266
981 ... 14085
987 ... 14087, 14266
1001 ... 14324
1006 ... 13843
1012 ... 13843
1013 ... 13843
1062 ... 14406
1063 ... 14406
1133 ... 14220
1134 ... 14087
1136 ... 14087

8 CFR

103 ... 13828
204 ... 13828
214 ... 13829
223 ... 13829
238 ... 13829
245 ... 13829
247 ... 13829
299 ... 13829
341 ... 13829

9 CFR

53 ... 13981, 14445
71 ... 14197
76 ... 13878, 14126, 14127, 14198, 14301, 14302, 14445
78 ... 14446
97 ... 14127

10 CFR

PROPOSED RULES:

Ch. I ... 14222

12 CFR

265 ... 14074
526 ... 13981
545 ... 13982

14 CFR

37 ... 14446
39 ... 13879, 14074, 14132, 14257, 14381
61 ... 14074
63 ... 14074
65 ... 14074
67 ... 14074
71 ... 13822, 14076, 14077, 14199, 14303–14306, 14382, 14448–14450
73 ... 14077, 14199
97 ... 14078, 14450
141 ... 14074
143 ... 14074
213 ... 14382
298 ... 13983
385 ... 13822

14 CFR—Continued

Page

PROPOSED RULES:

39 ... 14462
71 ... 13843, 13889, 13890, 14088, 14089, 14221, 14325–14327, 14448–14450
121 ... 13998, 14327
241 ... 14461
242 ... 13999
399 ... 14468

15 CFR

30 ... 14388

PROPOSED RULES:

30 ... 14267

16 CFR

13 ... 14199–14210, 14389–14391

PROPOSED RULES:

254 ... 14002
427 ... 14328

17 CFR

239 ... 14083
274 ... 14083

18 CFR

101 ... 13985
141 ... 13986
201 ... 13987
260 ... 13988
610 ... 14306

PROPOSED RULES:

2 ... 14001
141 ... 14002, 14098
154 ... 14408
157 ... 14408
201 ... 14139
250 ... 14408
260 ... 14098, 14139

19 CFR

PROPOSED RULES:

4 ... 13843
19 ... 13843
111 ... 13843

20 CFR

404 ... 14128, 14129
410 ... 14128

PROPOSED RULES:

405 ... 13888, 14221

21 CFR

3 ... 13880
120 ... 13830, 14256
121 ... 13831, 14211, 14256
130 ... 14078
135a ... 14211
135b ... 14129
135c ... 14129
135e ... 14212, 14391
135g ... 14212
138 ... 14450
141 ... 13881, 14256
141b ... 13988
146 ... 14256
146a ... 14393

21 CFR—Continued

Page

146b ... 13988
146c ... 13988, 14393
148i ... 13831
148m ... 14393
148n ... 14393
148q ... 14212

PROPOSED RULES:

3 ... 13887
120 ... 14269
144 ... 14221
146a ... 13998
146c ... 13998
146d ... 13998
191 ... 13887

22 CFR

22 ... 14218

24 CFR

41 ... 14307
1914 ... 13882, 14213
1915 ... 13883, 14215

25 CFR

41 ... 14394

26 CFR

211 ... 14394
213 ... 14394
301 ... 13989

PROPOSED RULES:

1 ... 14403, 14405
44 ... 14138
45 ... 14138
301 ... 14138

29 CFR

520 ... 13884
870 ... 14314

PROPOSED RULES:

541 ... 14268

30 CFR

PROPOSED RULES:

75 ... 14146
80 ... 14146

32 CFR

125 ... 14130
518 ... 14384
564 ... 14384
766 ... 14451

32 CFR—Continued

Page

902 ... 14078
1499 ... 14258
1604 (see EO 11555) ... 14191

33 CFR

117 ... 14133, 14258
126 ... 14315

PROPOSED RULES:

110 ... 14269, 14407
117 ... 14139, 14408

36 CFR

7 ... 14133

39 CFR

126 ... 14259
531 ... 13831

PROPOSED RULES:

151 ... 14003

41 CFR

1–15 ... 14133
1–19 ... 13989
5A–7 ... 13885
9–5 ... 14259
101–45 ... 14134
101–47 ... 14134

42 CFR

73 ... 13922, 13989
81 ... 14135, 14460

PROPOSED RULES:

81 ... 14087, 14406

43 CFR

5430 ... 14135

PUBLIC LAND ORDERS:

4582:
Modified by PLO 4884 ... 13821
Modified by PLO 4885 ... 14083
4821 (amended by PLO 4890) ... 14317
4884 ... 13821
4885 ... 14083
4886 ... 14316
4887 ... 14317
4888 ... 14317
4889 ... 14317
4890 ... 14317

PROPOSED RULES:

1725 ... 14220
1850 ... 13887

45 CFR

Page

121 ... 13885
505 ... 14456
506 ... 14457
507 ... 14457
508 ... 14459
509 ... 14459

47 CFR

0 ... 14078
2 ... 13990, 14259, 14317
97 ... 13990

PROPOSED RULES:

2 ... 13999, 14269, 14328
25 ... 14328
67 ... 14092
73 ... 13890, 14000, 14094, 14095, 14270
81 ... 14096, 14462
87 ... 13999
91 ... 14328
93 ... 14328

49 CFR

170 ... 13834
171 ... 13834
172 ... 13834, 13837
173 ... 13834, 13837, 14402
174 ... 13834
175 ... 13834
176 ... 13834
177 ... 13834
178 ... 13834
179 ... 13834, 14216
571 ... 14135
1033 ... 13837, 13838, 14217
1204 ... 13991

PROPOSED RULES:

170–189 ... 14090
571 ... 14091
Ch. X ... 14470
1048 ... 13890
1201 ... 13844

50 CFR

10 ... 14055
28 ... 13992, 14059
32 ... 13883–13842, 13992–13995, 14059, 14060, 14137, 14218, 14219, 14263–14265, 14318–14322, 14384, 14461
240 ... 14137
250 ... 13996

PROPOSED RULES:

32 ... 13998