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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.

Rules and Regulations

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—COMMODITY DISTRIBUTION

[Amdt. 12]

PART 250—DONATION OF FOOD COMMODITIES FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

Nonprofit Food Service Programs for Children

The regulations for the operation of the Commodity Distribution Program (31 F.R. 14297), as amended, are hereby amended pursuant to the requirements of Public Law 91–248, and for other purposes, as follows:

1. The heading for Part 250 is revised to read as set forth above.

2. The authority citation for Part 250 is revised to read as follows:

AUTHORITY: The provisions of this Part 250 issued under sec. 32, 49 Stat. 774, as amended; 50 Stat. 323, as amended; secs. 6 and 9, 60 Stat. 231, 233, as amended; sec. 416, 63 Stat. 1058, as amended; sec. 402, 68 Stat. 843, as amended; sec. 210, 70 Stat. 202; sec. 9, 72 Stat. 1792, as amended; 74 Stat. 899, as amended; sec. 709, 79 Stat. 1212, as amended; sec. 3, 82 Stat. 117; sec. 11, 83 Stat. 129; 5 U.S.C. 301; 7 U.S.C. 612c; 15 U.S.C. 713, 42 U.S.C. 1755, 1758; 7 U.S.C. 1431, 22 U.S.C. 1922, 7 U.S.C. 1859, 7 U.S.C. 1431b; 7 U.S.C. 1431 note, 7 U.S.C. 1446a–1; 42 U.S.C. 1761; 42 U.S.C. 1855jjj.

3. In § 250.1, paragraph (a) is revised and paragraph (b) is amended by revising subparagraphs (6) and (7) and by adding three new subparagraphs, (12), (13), and (14), as follows:

§ 250.1 General purpose and scope.

(a) *Terms and conditions.* This part contains the regulations prescribing the terms and conditions under which commodities may be obtained by Federal, State, and private agencies for use in any State (1) in schools operating nonprofit food service programs, (2) in nonprofit summer camps and service institutions for children, (3) in charitable institutions, (4) in State correctional institutions for minors, and (5) otherwise in the assistance of needy persons.

(b) *Legislation.* * * *

(6) Section 6 of the National School Lunch Act, as amended (hereinafter referred to as section 6), which reads in part as follows:

The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 3 thereof, less (1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this Act and under the Child Nutrition Act of 1966; (2) the amount apportioned by him pursuant to sections 4 and 5 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4, 5, and 7 of the Child Nutrition Act of 1966; and (3) not to exceed 1 per centum of the funds provided for carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3 * * * shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities.

(7) Section 9 of the National School Lunch Act, as amended, which reads in part as follows:

Lunches served by schools participating in the school-lunch program under this Act * * * shall be served without cost or at a reduced cost not exceeding 20 cents per meal to children who are determined by local school authorities to be unable to pay the full cost of the lunch. Such determinations shall be made by local school authorities in accordance with a publicly announced policy and plan applied equitably on the basis of criteria which, as a minimum, shall include the level of family income, including welfare grants, the number in the family unit, and the number of children in the family unit attending school or service institutions; but, by January 1, 1971, any child who is a member of a household which has an annual income not above the applicable family size income level set forth in the income poverty guidelines shall be served meals free or at reduced cost. The income poverty guidelines to be used for any fiscal year shall be those prescribed by the Secretary as of July 1 of such year. In providing meals free or at reduced cost to needy children, first priority shall be given to providing free meals to the neediest children. Determination with respect to the annual income of any household shall be made solely on the basis of an affidavit executed in such form as the Secretary may prescribe by an adult member of such household. No physical segregation of or other discrimination against any child shall be made by the school because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means. * * * Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school-lunch program under this Act as well as to other schools carrying out nonprofit school-lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agriculture Act of 1965, as amended, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. * * *

* * * * *

(12) Section 709 of the Food and Agriculture Act of 1965, as amended (hereinafter referred to as section 709), which reads as follows:

The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.

(13) Section 13(h)(2) of the National School Lunch Act, as amended, which reads in part as follows:

Each service institution participating under this section shall, insofar as practicable, utilize in its program * * * foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1) may be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

(14) Section 8 of the Child Nutrition Act of 1966 which reads in part as follows:

* * * Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this act.

4. Section 250.3 is amended by adding a new paragraph (e–1); revising paragraph (n); and adding new paragraphs (n–1) and (p–1) as follows:

§ 250.3 Definitions.

* * * * *

(e–1) "FNSRO" means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service of the Department.

* * * * *

(n) "School" means an educational unit of high school grade or under operating under public or nonprofit private

ownership in a single building or complex of buildings and, with respect to Puerto Rico, also includes a nonprofit child-care center certified as such by the Governor of Puerto Rico. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as part of the educational system in the State, regardless of whether such preprimary grades classes are conducted in a school having classes of primary or higher grade.

(n–1) "Service institution" means a private, nonprofit institution or a public institution, such as a child day-care center, settlement house, or recreation center, which provides day care, or other child care where children are not maintained in residence, for children from areas in which poor economic conditions exist or areas in which there are high concentrations of working mothers. The term "service institution" includes a private, nonprofit institution or a public institution that develops a special summer program providing for children from such areas food service similar to that available to children under the National School Lunch or School Breakfast Programs during the school year, and includes a private, nonprofit institution or a public institution providing day-care services for handicapped children.

* * * * *

(p–1) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer) or (2) a board of education controlling the State Department of Education.

* * * * *

5. In § 250.6, paragraphs (a) and (g) are revised to read as follows:

§ 250.6 Obligations of distributing agencies.

(a) *Determination of eligibility.* Distributing agencies shall determine that recipient agencies or recipients to whom they distribute commodities are eligible under this part, and shall impose upon public welfare agencies the responsibility for determining that recipients to whom welfare agencies distribute commodities are eligible: *Provided, however,* That the State educational agency or FNSRO shall determine the eligibility under this part of schools and of service institutions participating in the Special Food Service Program for Children under Part 225 of this chapter.

* * * * *

(g) *Distribution.* Commodities shall be distributed only to recipient agencies and recipients eligible to receive them under this part (see §§ 250.8 and 250.9). Distributing agencies shall require that welfare agencies and disaster organizations distribute commodities only to recipients eligible to receive them under this part. Distribution of section 6 commodities shall be limited to those schools and service institutions participating in the National School Lunch Program under Part 210 of this chapter, the School Breakfast Program under Part 220 of this chapter, or the Special Food Service Program for Children under Part 225 of this chapter. Distribution of section 6 commodities shall be made on the basis of the average daily number of meals served which meet the meal type requirements prescribed in the regulations for such food service programs as evidenced by information provided by September of each year, and supplemented subsequently as necessary, by the State educational agency or FNSRO. Distribution of other than section 6 commodities to schools and to service institutions participating in the Special Food Service Program for Children under Part 225 of this chapter shall be made on the basis of need for such commodities as reported by the State educational agency.

* * * * *

§ 250.8 [Amended]

6. In § 250.8, paragraph (a) is revised to read as follows:

(a) *Schools.* Schools which participate in the National School Lunch Program under Part 210 of this chapter or the School Breakfast Program under Part 220 of this chapter are eligible to receive commodities under section 416, section 32, section 709, and section 6. Other schools which operate a food service under agreements with State educational agencies or with FNSRO in accordance with Part 210 of this chapter are eligible to receive commodities under section 416, section 32, and section 709. Schools receiving commodities under this part shall also be eligible to receive such foods for use in training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses.

7. In § 250.8, paragraphs (b), (c), (d), and (e) are each amended by deleting the word "and" after the phrase "section 416" and inserting a comma in lieu thereof, and by inserting the phrase "and section 709" after the phrase "section 32."

8. Section 250.8 is amended by adding a new paragraph (g) as follows:

(g) *Service institutions.* Service institutions participating in the Special Food Service Program under Part 225 of this chapter are eligible to receive commodities under section 416, section 32, section 709, and section 6. Other service institutions which maintain an established feeding operation on a regular basis as an integral part of their normal activities are eligible to receive commodities under section 416, section 32, and section 709.

9. Section 250.10 is amended by adding a new paragraph (c) as follows:

§ 250.10 Miscellaneous provisions.

* * * * *

(c) *Nondiscrimination.* Distributing agencies and recipient agencies are subject to the Department's regulations effectuating Title VI of the Civil Rights Act of 1964 (Part 15 of this title) to the end that no persons in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance from the Department.

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

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

RICHARD E. LYNG,
Assistant Secretary.

SEPTEMBER 24, 1970.

[F.R. Doc. 70–13061; Filed, Sept. 29, 1970; 8:52 a.m.]

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

SUBCHAPTER E—DETERMINATION OF SUGAR COMMERCIALLY RECOVERABLE

[Sec. 831.4, Rev. 1, Supp. 7]

PART 831—BEET SUGAR AREA

Rates of Recoverability; 1970 Crop

Pursuant to section 302(a) of the Sugar Act of 1948, as amended, § 831.17 is added to read as follows:

§ 831.17 Rates of recoverability, 1970 crop.

The hundredweight of sugar, raw value, commercially recoverable from sugar beets of the 1970 crop shall be computed by multiplying the net weight thereof in tons, at the time of delivery to a processor, by the rate of commercially recoverable sugar which is applicable under the following provisions of this section:

(a) For sugar beets marketed within a settlement area under any type of agreement other than an "individual test" or a "combined individual-cossette test" contract, the rate of commercially recoverable sugar per ton of beets with respect to each settlement area is established as follows:

Settlement areas by factories in States	1963–69 average sugar content	Rate of commercially recoverable sugar
	Percent	*Hundredweight*
Idaho:		
Idaho Falls	15.83	2.875
Rupert (Mini-Cassia) Twin Falls, including beets delivered from the Elwyhee area of Elmore and Owyhee Counties, Idaho	16.29	2.958
Utah: Lewiston (Ogden)	15.61	2.835
Minnesota, North Dakota:		
East Grand Forks, Moorhead, Crookston, Drayton	15.71	2.853
Ohio: Ottawa	15.35	2.788
Missouri: Beets delivered from Missouri and Arkansas to the Hayti, Missouri Receiving Station of the Great Western Sugar Co.	15.39	2.795
Montana: Beets delivered to the Sidney, Mont., factore of the Holly Sugar Corp. from Eastern North Dakota and Western Minnesota	15.72	2.855

(b) For sugar beets marketed under "individual test" contracts, other than

those sugar beets marketed for processing by the American Crystal Sugar Co. at their Chaska, Minn., and Mason City, Iowa, factories, the rate of commercially recoverable sugar per ton of beets shall be computed by multiplying 20 hundredweight by the percentage of sugar content of such beets, and then multiplying the result by 87.1 percent (the average extraction rate, as adjusted for shrink, effective for such beets). This computation can be shortened by the use of the factor of 0.1742. As an example, a content of 16.37 when multiplied by 0.1742 would result in a rate of commercially recoverable sugar of 2.852 hundredweight.

(c) For sugar beets marketed under "combined individual-cossette test" contracts, including those sugar beets marketed for processing by the American Crystal Sugar Co. at their Chaska, Minn., and Mason City, Iowa, factories, the rate of commercially recoverable sugar per ton of beets for a producer shall be computed by multiplying 20 hundredweight by the adjusted percentage of sugar content of the beets delivered by such producer and then multiplying the result by 90.8 percent (the average extraction rate effective for such beets). This computation can be shortened by the use of the factor of 0.1816. As an example, an adjusted content of 16.37 when multiplied by 0.1816 would result in a rate of commercially recoverable sugar of 2.973 hundredweight. The adjusted percentage of sugar content for each producer shall be obtained by multiplying the weighted average percentage of sugar content of the beets delivered by him by a factor, the numerator of which shall be the appropriate factory cossette test average set forth below and the denominator of which shall be the weighted average sugar content of all beets delivered to the factory at such time as the Agricultural Stabilization and Conservation State Committee determines that at least 97 percent of the current crop of beets has been delivered to such factory.

Settlement areas by factories in States:	*1963–69 average sugar content (percent)*
Idaho, Oregon, Washington:	
Nyssa-Nampa, including beets delivered from the Elwyhee area of Elmore and Owyhee Counties, Idaho	15.05
Toppenish-Moses Lake	15.33
Utah: North-South Utah (Garland, Layton, West Jordan)	15.29
Minnesota, Iowa: Chaska-Mason City (including beets delivered from Burt County, Nebraska)	14.75

Statement of bases and considerations. Section 831.4 (7 CFR 831.4) provides the method of determining and establishing amounts of sugar commercially recoverable from sugar beets and provides that the rates shall become effective when public notice thereof is given in the FEDERAL REGISTER.

Pursuant to that regulation, this supplement sets forth the rates of recoverability as determined for the 1970 crop. Definitive rates are specified for the various settlement areas wherein sugar beets are marketed under "cossette test" contract. Within these areas, the rates give effect to 1963–69 average percentages of sugar content and the 1964–68 national average extraction rate of beet sugar, raw value, of 90.8 percent.

In lieu of an extensive table of definitive rates applicable to sugar beets of various percentages of sugar content as marketed under "individual test" contracts, this supplement provides that the rate of recoverability per ton of beets of any given percentage of sugar content so marketed may be computed by multiplying such content by the factor of 0.1742. This factor gives effect to the average rate of extraction of sugar, raw value, of 87.1 percent, as applicable to individual test beets. Listings of the applicable rates (expressed in hundredths) will be available for inspection at county ASCS offices in sugar beet producing counties. Similarly, for beets marketed under "combined individual-cossette test" contracts, a factor of 0.1816 may be used to give effect to the average extraction rate of 90.8 percent. The difference between 90.8 and 87.1 represents the average "shrink" in percentage of sugar content between the time of delivery and the time of processing for all beets of the crops of 1964–68 marketed under individual test contracts. The lower percentage is not specified for beets marketed under combined individual-cossette tests because the results of such tests include adjustments to the cossette basis.

The percentages of 90.8 and 87.1 as determined herein for the 1970 crop, compare with the percentages of 90.8 and 87.0 for the 1969 crop.

Beginning with the 1964 crop, the regulations have provided that the 7-year factory cossette test average be substituted for the current year's factory cossette test average in calculating the factor to be applied to individual grower's sugar content for those growers marketing beets under "combined individual-cossette contracts". The average sugar content for each factory shown in paragraph (c) of this regulation represents the weighted average of the factory's cossette tests for the crops 1963–69.

Beginning with the 1969 crop, sugar beets are being produced in Missouri and Arkansas for delivery to the Hayti, Mo., area of the Great Western Sugar Co. Processor payments for these beets will be based on the current cossette tests of the beets. Processing will be done at the company's factory at Brighton, Colo. Since there is no past production history for these beets, Sugar Act payments will be based on the 1963–69 average sugar content computed for the Brighton factory.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the Act.

(Secs. 302, 303, 304, 403, 61 Stat. 930 as amended, 932; 7 U.S.C. 1132, 1133, 1134)

Effective date: Date of publication.

Signed at Washington, D.C., on September 23, 1970.

GEORGE V. HANSEN,
Deputy Administrator, State and County Operations; Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70-13058; Filed, Sept. 29, 1970; 8:51 a.m.]

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

[947.329, Amdt. 1]

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR Part 947), regulating the handling of Irish potatoes 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 recommendations and information submitted by the Oregon-California Potato Committee, established pursuant to the said marketing agreement and order, and other 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) shipments of 1970 crop potatoes grown in the production area are now being made, (2) to maximize benefits to producers, this amendment should apply to as many shipments as possible during the effective period, (3) compliance with this amendment will not require any special preparation by handlers which cannot be completed by the effective date, (4) information regarding the committee's recommendation has been made available to producers and handlers in the production area who will be affected by the amendment, and (5) this amendment reduces the grade and size requirements on shipments of potatoes.

Regulation, as amended. Section 947.329 (35 F.R. 11013) is hereby amended to read as follows:

§ 947.329 Limitation of shipments.

During the period September 30, 1970, through October 15, 1971, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) and (b) of this section, or

unless such potatoes are handled in accordance with paragraphs (c), (d), (e), (f), and (g) of this section.

(a) Grade and size requirements:

(1) Grade: All varieties—U.S. No. 2, or better grade.

(2) Size: All varieties—2 inches minimum diameter or 4 ounces minimum weight.

(b) Maturity (skinning) requirements:

(1) All varieties: "Moderately skinned" through October 15, 1971.

(2) Not to exceed a total of 100 hundredweight of any variety of a lot of potatoes may be handled for any producer any 7 consecutive days without regard to the aforesaid maturity requirements. Prior to each shipment of potatoes exempt from the above maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) Special purpose shipments: The minimum grade, size, and maturity requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Certified seed.

(2) Livestock feed: *Provided,* That potatoes may not be shipped for such purpose outside the production area except that potatoes may be shipped to the States of Idaho, Washington, and to Malheur County in the State of Oregon for livestock feed.

(3) Planting: *Provided,* That potatoes may not be shipped for such purposes outside of the district where grown except that potatoes grown in District No. 2 or District No. 4 may be shipped for planting within, or to such district for such purposes.

(4) Grading or storing: *Provided,* That potatoes may not be shipped for such purposes outside of the district where grown except that:

(i) Potatoes grown in District No. 2 or District No. 4 may be shipped for grading and storing within or to such districts for such purposes;

(ii) Potatoes grown in District 5 may be shipped for grading or storing to any specified locations in the adjoining States of Idaho and Washington and Malheur County in the State of Oregon for such purposes;

(iii) Potatoes grown in any one district may be shipped to a receiver in any other district within the production area for grading if such receiver is determined by the committee to be a processor of canned, frozen, dehydrated, prepeeled products, potato chips or potato sticks.

(5) Charity.

(6) Canning, freezing, prepeeling, and "other processing" as hereinafter defined: *Provided,* That shipments of potatoes for the purpose specified pursuant to this subparagraph shall be exempt from inspection requirements specified in § 947.60 and from assessment requirements specified in § 947.41.

(7) Export: *Provided,* That all shipments of potatoes for the purpose specified pursuant to this subparagraph shall be 1½ inches or larger in diameter and U.S. No. 1 grade or better.

(d) Safeguards:

(1) Each handler making shipments of seed pursuant to paragraph (c) of this section shall pay assessments on such shipments and shall furnish the committee with either a copy of the applicable certified seed inspection certificate or shall apply for and obtain a Certificate of Privilege and, upon request of the committee, furnish reports of each shipment made pursuant to each Certificate of Privilege.

(2) Each handler making shipments of potatoes pursuant to subparagraphs (2), (6), and (7) of paragraph (c) of this section and each receiver receiving potatoes pursuant to subparagraph (4) (iii) of paragraph (c) of this section, shall:

(i) First, apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(ii) Prepare, on forms furnished by the committee, a diversion report in quadruplicate on each individual shipment diverted from fresh market channels to the authorized outlets specified in this subparagraph;

(iii) Forward one copy of such diversion report to the committee office and forward two copies to the receiver with instructions to the receiver that he sign and return one copy to the committee office. The handler and receiver may each keep one copy for their files. Failure of handler or receiver to report such shipments by promptly signing and returning the applicable diversion report to the committee office shall be cause for cancellation of such handler's Certificate of Privilege and/or the receiver's eligibility to receive further shipments pursuant to any Certificate of Privilege. Upon the cancellation of any such Certificate of Privilege the handler may appeal to the committee for reconsideration. Such appeal shall be in writing: *Provided,* That such requirements of this paragraph shall not be applicable to shipments of potatoes for starch.

(e) Minimum quantity exception: Each handler may ship up to but not to exceed 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds 5 hundredweight of potatoes.

(f) Inspection: For the purpose of operation under this part, unless exempted from inspection by the provisions of this section, each required inspection certificate is hereby determined, pursuant to § 947.60(c), to be valid for a period of not to exceed 14 days following completion of inspection as shown on the certificate. The validity period of an inspection certificate covering inspected and certified potatoes that are stored in refrigerated storage within 14 days of the inspection shall be the entire period such potatoes remain in such storage. *Provided:* That potatoes grown over 40 airline miles from the post office, Tulelake, California, shall be exempt from the requirements of § 947.60, *Inspection and certification.*

(g) Any lot of potatoes previously inspected pursuant to § 947.60(a) is not required to have additional inspection under § 947.60(b) after regarding, resorting, or repacking such potatoes, if the inspection certificate is valid at the time of handling such regraded, resorted, or repacked potatoes.

(h) Definitions:

(1) The terms "U.S. No. 1," "U.S. No. 2," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1556 of this title), including the tolerances set forth therein.

(2) The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removing the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 U.S. Standards for Grades of Peeled Potatoes (§§ 52.2421–52.2433 of this title).

(3) The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing."

(4) Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 114, as amended, and this part.

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

Dated September 25, 1970, to become effective September 30, 1970.

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

[F.R. Doc. 70-13105; Filed, Sept. 29, 1970; 8:52 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 6]

PART 1425—COOPERATIVE MARKETING ASSOCIATIONS

Subpart—Eligibility Requirements for Price Support

MISCELLANEOUS AMENDMENTS

The regulations issued by the Commodity Credit Corporation, published in 33 F.R. 4914, 5865, 7071, 10639, 12673, and 15475 and containing eligibility requirements for cooperative marketing associations to obtain price support are hereby amended as follows:

1. Section 1425.5(g) is amended to permit voting by proxy or under power of attorney for the purpose of amending

articles of incorporation and bylaws when State law does not permit voting by mail on this issue and does permit voting by proxy or power of attorney. Section 1425.5(g), as amended, reads as follows:

§ 1425.5 Charter or bylaw provisions.

* * * * *

(g) *Proxy or power of attorney.* Voting by proxy or under power of attorney shall not be permitted, except that voting by proxy or under power of attorney may be permitted in order to amend the articles of incorporation and bylaws of an association if the association seeking to hold such vote establishes to the satisfaction of the Executive Vice President, CCC, that the law of the State in which the association is incorporated does not permit members to vote by mail on this issue and does permit voting by proxy or power of attorney.

* * * * *

2. Section 1425.9 is amended to provide that all marketing options offered by an association need not be included in the marketing agreement and reads as follows:

§ 1425.9 Uniform marketing agreement.

Any quantity of a commodity on which price support is obtained and any other quantity of such commodity which is included in the same pool with a quantity of the commodity on which price support is obtained, must be delivered to the association by its members pursuant to a uniform marketing agreement between the association and each of its members who delivered such commodity to the association. An association may provide alternative methods of marketing in addition to any set forth in its marketing agreement if the terms and conditions thereof are reasonable and information concerning such methods of marketing and how to exercise available options are made available to all active members. Such information may be published in the association membership publication or included in other written notices mailed to all active members of the association.

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on September 24, 1970.

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

[F.R. Doc. 70-13059; Filed, Sept. 29, 1970; 8:51 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Office of Emergency Preparedness

Section 213.3326 is amended to show that the Office of the Assistant Director for Telecommunications Management has been abolished and that the position of Confidential Administrative Assistant to the Assistant Director is no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (c) of § 213.3326 is revoked.

(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. 70-13024; Filed, Sept. 29, 1970; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Deputy Assistant Director for VISTA is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (2) is added to paragraph (f) of § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

* * * * *

(f) *Volunteers in Service to America.* * * *

(2) One Deputy Assistant Director for VISTA.

(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. 70-13023; Filed, Sept. 29, 1970; 8:48 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-269]

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)(3) relating to the State of Illinois is amended to read:

(3) *Illinois.* (i) That portion of Randolph County comprised of Road District No. 4, also known as Kaskaskia Island located southwest of the present channel of the Mississippi River and otherwise surrounded by the old channel of the Mississippi River, also the Missouri-Illinois State line.

(ii) Adjacent portions of Knox, Fulton, and Warren Counties comprised of Indian Point Township in Knox County, Union Township in Fulton County, and Greenbush and Berwick Townships in Warren County.

2. In § 76.2, in paragraph (e)(9) relating to the State of North Carolina, subdivision (ii) relating to Bertie County is amended, and a new subdivision (v) relating to Pitt County is added to read:

(9) *North Carolina.* * * *

(ii) That portion of Bertie County bounded by a line beginning at the junction of Secondary Road 1120 and the Roquist Creek; thence, following the Roquist Creek in a generally southeasterly direction to U.S. Highways 17, 13; thence, following U.S. Highways 17, 13 in a southwesterly direction to the Conine Creek; thence, following the Conine Creek in a westerly direction to the Roanoke River, also the Ellis-Martin County line; thence, following the east bank of the Roanoke River in a generally northwesterly direction to North Carolina Highway 11; thence, following North Carolina Highway 11 in a northeasterly direction to Secondary Road 1120; thence, following Secondary Road 1120 in a northeasterly direction to its junction with the Roquist Creek.

(v) That portion of Pitt County bounded by a line beginning at the junction of Secondary Road 1426 and U.S. Highway 13, North Carolina Highway 11; thence, following U.S. Highway 13, North Carolina Highway 11 in a southeasterly direction to Secondary Road 1515; thence, following Secondary Road 1515 in a southeasterly direction to Secondary Road 1514; thence, following Secondary Road 1514 in a northeasterly direction to Secondary Road 1518; thence, following Secondary Road 1518 in a generally southeasterly direction to Secondary Road 1512; thence, following Secondary Road 1512 in a generally southeasterly direction to Secondary Road 1519; thence, following Secondary Road 1519 in an easterly direction to Secondary Road 1517; thence, following Secondary Road 1517 in a generally southeasterly direction to Secondary Road 1541; thence, following Secondary Road 1541 in a southwesterly direction to Secondary Road 1529; thence, following Secondary Road 1529 in a westerly direction to Secondary Road 1523; thence, following Secondary Road 1523 in a southwesterly direction to Secondary Road 1537; thence, following Secondary Road 1537 in a southwesterly direction to North Carolina Highway 30; thence, following North Carolina Highway 30 in a northwesterly direction to Secondary Road 1001; thence, following Secondary Road 1001 in a generally northwesterly

direction to Secondary Road 1415; thence, following Secondary Road 1415 in a generally northeasterly direction to Secondary Road 1416; thence, following Secondary Road 1416 in a generally northeasterly direction to Secondary Road 1424; thence, following Secondary Road 1424 in a northerly direction to Secondary Road 1425; thence, following Secondary Road 1425 in a generally northeasterly direction to Secondary Road 1426; thence, following Secondary Road 1426 in a northeasterly direction to its junction with U.S. Highway 13, North Carolina Highway 11.

3. In § 76.2, in paragraph (e) (13) relating to the State of Texas, a new subdivision (xvii) relating to Ellis County is added to read:

(13) *Texas.* * * *

(xvii) That portion of Ellis County bounded by a line beginning at the junction of the Ellis-Dallas County line and Interstate Highway 35E; thence, following Interstate Highway 35E in a southeasterly direction to U.S. Highway 287; thence, following U.S. Highway 287 in a northwesterly direction to Farm-to-Market Road 875; thence, following Farm-to-Market Road 875 in a generally southwesterly direction to Farm-to-Market Road 157; thence, following Farm-to-Market Road 157 in a northwesterly direction to the Ellis-Johnson County line; thence, following the Ellis-Johnson County line in a northerly direction to the Ellis-Tarrant County line; thence, following the Ellis-Tarrant County line in an easterly direction to the Ellis-Dallas County line; thence, following the Ellis-Dallas County line in an easterly direction to its junction with Interstate Highway 35E.

4. In § 76.2, in paragraph (e) (10) relating to the State of Ohio, subdivision (i) relating to Allen and Auglaize Counties is deleted.

(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 portions of Knox, Fulton, and Warren Counties in Illinois; portions of Bertie and Pitt Counties in North Carolina; and a portion of Ellis County, Tex., 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 also exclude portions of Allen and Auglaize Counties in Ohio and a portion of Bertie County, N.C., from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine.

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

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

Done at Washington, D.C., this 25th day of September 1970.

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

[F.R. Doc. 70–13055; Filed, Sept. 29, 1970; 8:51 a.m.]

[Docket No. 70–270]

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

1. In § 76.2, in paragraph (e) (7) relating to the State of Missouri, a new subdivision (viii) relating to Mississippi County is added to read:

(7) *Missouri.* * * *

(viii) That portion of Mississippi County bounded by a line beginning at the junction of Missouri Highway C and the Maple Slough; thence, following Missouri Highway C in an easterly direction to Missouri Highway D; thence, following Missouri Highway D in an easterly direction to the James Bayou; thence, following the James Bayou in a generally southwesterly direction to Missouri Highway 80; thence, following Missouri Highway 80 in a generally westerly direction to the Maple Slough; thence, following the Maple Slough in a generally northerly direction to its junction with Missouri Highway C.

2. In § 76.2, in paragraph (e) (1) relating to the State of Alabama, subdivision (iii) relating to Marshall County is deleted.

(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 Mississippi 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 portion of such County.

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

The foregoing amendments also add the State of Iowa to the list of hog cholera eradication States as set forth in § 76.2(f).

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

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

Done at Washington, D.C., this 25th day of September 1970.

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

[F.R. Doc. 70–13056; Filed, Sept. 29, 1970; 8:51 a.m.]

[Docket No. 70-271]

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:

In § 76.2, the introductory portion of paragraph (e) is amended by adding thereto the name of the State of Kansas, and a new paragraph (e) (16) relating to the State of Kansas is added to read:

(16) *Kansas.* Wyandotte County.

(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 amendment shall become effective upon issuance.

The amendment quarantines Wyandotte County, Kans., 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 county.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish its 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 amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done in Washington, D.C., this 25th day of September 1970.

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

[F.R. Doc. 70-13057; Filed, Sept. 29, 1970; 8:51 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-WE-77]

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

Revocation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Rifle, Colo., transition area.

The Rifle, Colo., transition area was originally designated to provide controlled airspace for a private instrument approach procedure for Aspen Airways. The approach procedure was predicated on the Aspen Airways privately owned Rifle, Colo., RBN. Aspen Airways has canceled their scheduled operations at Rifle, Colo., the RBN has been decommissioned and the instrument approach procedure has been canceled. Therefore, the requirement for the Rifle, Colo., transition area is no longer justified.

Since this action imposes no burden on any person, notice, and public procedure hereon are unnecessary.

In consideration of the foregoing, in § 71.181 (35 F.R. 2134), the Rifle, Colo., transition area is revoked.

Effective date. This amendment shall be effective 0901 G.m.t., December 10, 1970.

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

Issued in Los Angeles, Calif., on September 22, 1970.

ARVIN O. BASNIGHT,
Director, Western Region.

[F.R. Doc. 70-13029; Filed, Sept. 29, 1970; 8:49 a.m.]

[Airspace Docket No. 70-SO-61]

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

Alteration of Transition Area

On August 12, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 12769), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Raleigh, N.C., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 10, 1970, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the Raleigh, N.C., transition area is amended to read:

RALEIGH, N.C.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Raleigh-Durham Airport (lat. 35°52'21" N., long. 78°47'02" W.); within 9.5 miles northwest and 4.5 miles southeast of the 045° bearing from Leesville RBN, extending from the RBN to 18.5 miles northeast of the RBN; within 9.5 miles northwest and 4.5 miles southeast of Raleigh-Durham ILS localizer southwest course, extending from the LOM to 18.5 miles southwest; within 9.5 miles northwest and 4.5 miles southeast of Raleigh-Durham VORTAC 231° radial, extending from the VORTAC to 18.5 miles southwest of the VORTAC.

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

Issued in East Point, Ga., on September 18, 1970.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[F.R. Doc. 70-13030; Filed, Sept. 29, 1970; 8:49 a.m.]

[Airspace Docket No. 70-SO-60]

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

Designation of Transition Area

On August 14, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 12953), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Wilkesboro, N.C., transition area.

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

Subsequent to publication of the notice, Coast and Geodetic Survey refined the final approach bearing from 075° to 070° for the NDB (ADF) A instrument approach procedure from Wilkesboro Radio Beacon. It is necessary to alter the description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 10, 1970, as hereinafter set forth.

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

WILKESBORO, N.C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Wilkes County Airport (lat. 36°08'33" N., long. 81°11'36" W.); within 5 miles north and 3 miles south of the 070° bearing from Wilkesboro RBN (lat. 36°08'36" N., long 81°11'44" W.), extending from the 8.5-mile-radius area to 10 miles east of the RBN.

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

Issued in East Point, Ga., on September 18, 1970.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[F.R. Doc. 70-13031; Filed, Sept. 29, 1970; 8:49 a.m.]

[Airspace Docket No. 70-EA-56]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to alter Restricted Area R-5206.

The West Point, N.Y., Restricted Area R-5206 is presently designated from the surface to 7,000 feet MSL. Action is being taken herein to reduce the lateral limits of this restricted area and to stratify the vertical limits into two subareas.

Subarea A will be designated from the surface to and including 5,000 feet MSL between the hours 0600 to 2400 local time, July 1 to August 31, and on other dates and times by the issuance of Notice to Airmen. Subarea B will be designated from 5,000 feet MSL to 7,000 feet MSL by the issuance of a Notice to Airmen when Subarea B is required. These alterations to R-5206 will provide for the optimum utilization of the airspace within the West Point restricted area by air traffic control when it is not being used for its designated purpose.

Since this amendment restores airspace to the public use and relieves a restriction, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 10, 1970, as hereinafter set forth.

In § 73.52 (35 F.R. 2342) R-5206 West Point, N.Y., is amended to read:

R-5206 WEST POINT, N.Y.

SUBAREA A

Boundaries: Beginning at lat. 41°23'08" N., long. 74°00'00" W.; to lat. 41°23'08" N., long. 73°59'42" W.; thence along south side of U.S. Highway 9W to lat. 41°22'32" N., long. 73°58'58" W.; to lat. 41°22'18" N., long. 73° 58'58" W.; to lat. 41°20'04" N., long. 74°00' 42" W.; thence along north side of Mine Torne Road to lat. 41°21'24" N., long. 74° 02'38" W.; thence along east side of New York State Highway 293 to point of beginning.

Designated altitudes: Surface to and including 5,000 feet MSL.

Time of designation: 0600 to 2400 local, July 1 to August 31, other dates and times by NOTAM 48 hours in advance.

Controlling agency: Federal Aviation Administration, New York ARTC Center.

Using agency: Superintendent, U.S. Military Academy, West Point, N.Y.

SUBAREA B

Boundaries: Beginning at lat. 41°23'08" N., long. 74°00'00" W.; to lat. 41°23'08" N., long. 73°59'42" W.; thence along south side of U.S. Highway 9W to lat. 41°22'32" N., long. 73°58'58" W.; to lat. 41°22'18" N., long. 73°58'58" W.; to lat. 41°20'04" N., long. 74° 00'42" W.; thence along north side of Mine Torne Road to lat. 41°21'24" N., long. 74° 02'38" W.; thence along east side of New York State Highway 293 to point of beginning.

Designated altitudes: 5,000 feet MSL to 7,000 feet MSL.

Time of designation: By NOTAM, 48 hours in advance.

Controlling agency: Federal Aviation Administration, New York ARTC Center.

Using agency: Superintendent, U.S. Military Academy, West Point, N.Y.

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

Issued in Washington, D.C., on September 22, 1970.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-13032; Filed, Sept. 29, 1970; 8:49 a.m.]

[Airspace Docket No. 70-WE-55]

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration and Extension of Jet Routes

On July 22, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 11701) stating that the Federal Aviation Administration was considering amendments to Part 75 of the Federal Aviation Regulations that would realign Jet Route No. 3 segment between Lakeview, Oreg., and Spokane, Wash.; and extend Jet Route No. 517 from Spokane to Boise, Idaho.

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

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 10, 1970, as hereinafter set forth.

1. Section 75.100 (35 F.R. 2359) is amended as follows:

a. In the text of Jet Route No. 3 "Pendleton, Oreg." is deleted and "John Day, Oreg." is substituted therefor.

b. In the caption of Jet Route No. 517 "Spokane, Wash." is deleted and "Boise, Idaho" is substituted therefor, and in the text "From Spokane, Wash.," is deleted and "From Boise, Idaho, via Spokane, Wash.;" is substituted therefor.

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

Issued in Washington, D.C., on September 21, 1970.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-13033; Filed, Sept. 29, 1970; 8:49 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 35-16832]

PART 251—INTERPRETATIVE RELEASES RELATING TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND GENERAL RULES AND REGULATIONS THEREUNDER

Policy With Respect to Exception From Competitive Bidding

In recent months several holding companies registered under the Public Utility Holding Company Act of 1935 have made informal approaches to the Commission seeking rulings that would permit negotiations with investment bankers, under circumstances where competitive conditions are maintained, to establish the terms and conditions under which the securities are to be sold, subject only to reservation of jurisdiction by the Commission over the terms of the offering, including the price payable by the several underwriters and the underwriting discounts, and the issuance of a supplemental order.

Any such rulings require the Commission to substitute its judgment for the determinations designed to be reached through open competitive bidding and, at the very least, any such permission to arrive at negotiated prices with only a reservation by the Commission of jurisdiction over such prices has the result of discouraging the formation of any syndicate headed by any other underwriters.

The Commission thus considers it appropriate that it announce by this release that no informal exceptions from the requirements of competitive bidding will be granted so as to permit negotiations with investment bankers for the purpose of either choosing a particular group of bankers to be the underwriters or to establish the terms and conditions under which the securities are to be sold. All such matters will be considered only by way of a formal application in accordance with the requirements of paragraph (a)(5) of Rule 50 (17 CFR 250.50).

By the Commission, September 17, 1970.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-13004; Filed, Sept. 29, 1970; 8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

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

Calcium Cyanide

No comment or requests for referral to an advisory committee were received in response to the notice published in the FEDERAL REGISTER of June 12, 1970 (35 F.R. 9214), proposing establishment of tolerances for residues of calcium cyanide, calculated as hydrogen cyanide, in or on cucumbers, lettuce, radishes, and tomatoes at 5 parts per million. The Commissioner of Food and Drugs concludes that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.125 is revised to read as follows to establish the new tolerances:

§ 120.125 **Calcium cyanide; tolerances for residues.**

Tolerances are established for residues of the insecticide calcium cyanide, calculated as hydrogen cyanide, in or on raw agricultural commodities as follows:

25 parts per million, from postharvest application, in or on the grains: Barley, buckwheat, corn, oats, rice, rye, sorghum, and wheat.

5 parts per million in or on cucumbers, lettuce, radishes, and tomatoes.

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

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

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

Dated: September 22, 1970.

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

[F.R. Doc. 70-12991; Filed, Sept. 29, 1970; 8:46 a.m.]

SUBCHAPTER C—DRUGS

PART 146d — CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS

Chloramphenicol Palmitate

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 146d.305(a)(3) is revised to read as follows to change the melting point range for chloramphenicol palmitate:

§ 146d.305 **Chloramphenicol palmitate.**

(a) * * *

(3) Its melting point is 91°±4° C.

* * * * *

Notice and public procedure are unnecessary prerequisites to this order which merely makes a minor technical change in the subject regulation.

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

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: September 18, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12992; Filed, Sept. 29, 1970; 8:46 a.m.]

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

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

Tetralute I; Exemption

By letter of July 29, 1970, Miles Laboratories, Inc., Elkhart, Ind., petitioned the Bureau of Narcotics and Dangerous Drugs for the exemption of their Tetralute I Kit, a test kit for thyroid function.

The Director of the Bureau of Narcotics and Dangerous Drugs has considered the petition and hereby gives notice that the petition for exemption of the subject drug is granted and that Miles Laboratories, Inc., with respect to this drug, does not have to meet the requirements of section 511 (c) and (e) and the recordkeeping requirements of section 511(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Title 21, Chapter II, § 320.8(b) of the Code of Federal Regulations is hereby amended by adding the following under the appropriate headings to the end of the paragraph:

§ 320.8 **Combination drugs; exemptions from section 511 of the act.**

* * * * *

(b) * * *

Trade name or other designation	Composition	Manufacturer or supplier
* * *	* * *	* * *
Tetralute I	One bottle of buffer compound containing 4.15 gm. of sodium barbital and 0.75 gm. of barbital; other drugs and components	Miles Laboratories, Inc.
* * *	* * *	* * *

Since this notice is nonrestrictive, it will become effective on the date of its publication in the FEDERAL REGISTER.

Dated: September 10, 1970.

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

[F.R. Doc. 70-13051; Filed, Sept. 29, 1970; 8:51 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER W—AIR FORCE PROCUREMENT

PART 1001—GENERAL PROVISIONS

PART 1013—GOVERNMENT PROPERTY

Miscellaneous Amendments

Subchapter W of Chapter VII, Title 32, of the Code of Federal Regulations is amended as follows:

1. Sections 1001.405–1 and 1001.405–2 are revised to read as follows:

§ 1001.405–1 **Selection.**

In addition to the requirements in Subchapter A, Chapter I of this title, contracting officer appointments will be limited to Commissioned Officers and NCOs (Grades E–6, E–7, E–8, and E–9) who have been awarded AFSC 6516, 6534, 65170, or 65190; or fully qualified civilians who occupy a manning authorization listed under these AFSCs. Limited contracting officers' appointments may be made for the following categories of personnel:

(a) Commissioned officers who have more than 1 year procurement experience, with authority limited to blanket purchase agreements, delivery orders, purchase orders, and modifications thereto.

(b) NCOs in Grade E–5 who have completed the AAR 65170 course or equivalent OJT, with authority limited to blanket purchase agreements, delivery orders, purchase orders, and modifications thereto.

(c) Transportation and commissary personnel with authority limited to performance of procurement functions as authorized by this Subchapter. Normally, appointments will be limited to commissioned officers, civilians in Grade GS–9 and above and NCOs (E–8 and E–9) who

have a minimum of 2 years of traffic management or commissary experience.

(d) Redistribution and Marketing (R&M) personnel in overseas commands with authority limited to the execution of sales contracts. Appointments will be limited to personnel who have been awarded AFSC 6416, 6424, or 6534; or fully qualified citizens who occupy a manning authorization lisited under one of these AFSC's. Applicants must have a minimum of 3 years R&M experience.

§ 1001.405–2 Appointment.

(a) (1) The commander or deputy commander of a base, division, wing, etc., and, in the case of AFLC activities, the Director of Procurement and Production (or other comparable official) will review and sign the request for designation of a contracting officer. In the case of AFSC activities the request for designation of a contracting officer will be reviewed and signed by the Director or Chief of Procurement and Production (or equivalent); however, if this individual is the designating authority, the request will be reviewed and signed by the Officer (or civilian) immediately subordinate to him. Chief of the USAFE procurement centers will sign such requests for officers serving within the USAFE procurement centers. The request will include:

(i) A résumé of his qualifications by the applicant.

(ii) A statement by the person signing the request that the qualifications contained in the résumé were verified against the applicant's personnel file.

(ii) If the designee is not an employee of the requesting activity and his qualifications are known, a statement that the designee is qualified.

(iv) If the designee is not an employee of the requesting activity and his qualifications are not known, a summary of an interview of the designee by the chief or deputy chief of the procurement activity. The summary will include a statement that the designee is qualified. If the designee is located at a distance which makes it impractical and uneconomical to conduct an interview, this requirement will be waived. Justification for not having an interview will be included. However, the statement that the designee is qualified must still be made.

(2) Requests for designation of R&M personnel as Sales Contracting Officer will be signed by the Chief of the R&M activity and forwarded to the major command R&M staff office. Requests for designation of the Chief of an R&M activity shall be initiated by the major command R&M officer or his deputy.

(3) Request for designation of a representative of a contracting officer will be the same as indicated in this paragraph (a), except that:

(i) Unless it is impractical, the contracting officer desiring a representative will initiate the request, sign the statements, and conduct the interview instead of the chief or deputy chief of the procurement activity.

(ii) If the contracting officer takes the action in subdivision subparagraph (i) of this subparagraph, the chief or deputy chief of the procurement activity will review the request prior to transmittal.

(iii) The approval of the designee's commander will be obtained when the designee is not under the jurisdiction of the designating authority.

(4) Requests for designation will be sent through channels to the appropriate designating authority. Requests for designation of personnel as contracting officer, who do not meet the full criteria in § 1001.405–1, together with the following additional information, may be submitted by the appropriate designating authority to Hq USAF (AFSPPLC), for review and approval.

(i) Complete justification of the proposed appointment.

(ii) Action taken to preclude recurrence of a situation where other than qualified personnel are recommended for appointment as a contracting officer.

(iii) A list of persons in the same office who are qualified for appointment, their present duties, and whether they are not appointed contracting officer.

(5) Designations and termination of representatives of contracting officers will be in letter form.

(b) Appointments will be reviewed at least annually by the appointing authority. Files will be updated and the appointing authority will determine whether contracting officers have maintained professional proficiency and otherwise remained qualified. Appointments will be terminated or reduced in scope if warranted.

§ 1013.302 [Amended]

2. Section 1013.302 is amended by revising the first sentence following paragraph (a) from "$500,000 to $100,000 * * *" to "$500,000 to $1,000,000 * * *".

(10 U.S.C. Ch. 137, 10 U.S.C. 8012)

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 70–12999; Filed, Sept. 29, 1970; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 70–76a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Trent River and Roanoke River, N.C.

1. The Seaboard Coast Line Railroad Co. requested the Commander, Fifth Coast Guard District to revise the special operation regulations for its bridges across the Trent River at Pollocksville and the Roanoke River at Palmyra. Public notices dated May 13, 1970, setting forth the proposed revision of the regulations governing these drawbridges were issued by the Commander, Fifth Coast Guard District and were made available to all persons known to have an interest in this subject. The Commandant also published these proposals in the FEDERAL REGISTER of June 11, 1970 (35 F.R. 9019).

2. Interested persons were afforded an opportunity to participate in this rulemaking procedure through the submission of comments. No comments were received regarding the proposal to close the bridge across the Trent River at Pollocksville to navigation. However, several objections were received regarding the closure to navigation of the bridge across the Roanoke River near Palmyra. These objections were based on the potential development of this waterway as a result of a study that is presently being conducted by the Corps of Engineers, U.S. Army. It is felt that the addition of a provision to have these bridges returned to full operation within 6 months negates this objection. After consideration of all known factors in this case, the proposal is accepted with the 6-month amendment. Accordingly, 33 CFR 117.245(g)(6) is revised and 33 CFR 117.245(g)(2–a) is added to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(g) * * *

(2–a) Seaboard Coast Line railroad bridge near Palmyra, N.C. The draw need not be opened for the passage of vessels and paragraphs (a) through (e) of this section shall not apply to this bridge provided that the draw shall be returned to full operation within 6 months after notification of the owner by the Commandant to take such action.

* * * * *

(6) Seaboard Coast Line railroad bridge across the Trent River near Pollocksville, N.C. The draw need not be opened for the passage of vessels and paragraphs (a) through (e) of this section shall not apply to this bridge provided that the draw shall be returned to full operation within 6 months after notification of the owner by the Commandant to take such action.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2) 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

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

Dated: September 23, 1970.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[F.R. Doc. 70–13010; Filed, Sept. 29, 1970; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 8—Veterans Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 8 is amended to read as follows:

PART 8–7—CONTRACT CLAUSES

1. In Subpart 8–7.1, § 8–7.150–19 is added to read as follows:

§ 8–7.150–19 Affirmative action compliance program.

Invitations for bids and requests for proposals that will result in a supply or service (excluding construction) contract of $50,000 or more will contain the following:

AFFIRMATIVE ACTION COMPLIANCE PROGRAM—EQUAL OPPORTUNITY PROGRAM

(a) If this solicitation results in the award of a contract amounting to $50,000 or more to a contractor having in his employ 50 or more employees, the contractor shall develop and maintain, within 120 days after the award, a separate written affirmative action compliance program for each of his establishments. The contractor shall require each subcontractor having 50 or more employees, to whom he awards a subcontract amounting to $50,000 or more, to develop and maintain, within 120 days after the award of such subcontract, a separate written affirmative action compliance program for each of his establishments.

(b) Each affirmative action program shall be developed in conformity with the rules and regulations of the Office of Federal Contract Compliance, U.S. Department of Labor (Title 41, Part 60–2, Chapter 60 of the Code of Federal Regulations). Each program shall be maintained at the local office responsible for personnel matters of the particular establishment and shall be made available for inspection by representatives of the Office of Federal Contract Compliance, or such agency as may be designated as the compliance agency, upon request.

(c) The bidder certifies by completing whichever of the following is appropriate that he regularly employs:

(1) ☐ Less than 50 employees.

(2) ☐ 50 or more employees and maintains a written affirmative action program for each of his establishments in accordance with Title 41, Part 60–2, Chapter 60 of the Code of Federal Regulations.

(3) ☐ 50 or more employees and agrees to develop within 120 days after award of this contract a written affirmative action program for each of his establishments in accordance with Title 41, Part 60–2, Chapter 60 of the Code of Federal Regulations.

(d) The contractor shall include the certification in paragraph (c) of this section in all of his subcontracts which are subject to the affirmative action program.

PART 8–12—LABOR

2. Subpart 8–12.8 is revised to read as follows:

Subpart 8–12.8—Equal Opportunity in Employment

Sec.

AUTHORITY: The provisions of this Subpart 8–12.8 issued under sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210 (c), 72 Stat. 1114, 38 U.S.C. 210(c).

Subpart 8–12.8—Equal Opportunity in Employment

§ 8–12.800 Scope of subpart.

Subpart 1–12.8 of the Federal Procurement Regulations implements the rules and regulations of the Secretary of Labor with respect to the Equal Employment Opportunity Program enunciated in Executive Orders 11246 (30 F.R. 12319) and 11375 (32 F.R. 14303). This Subpart 8–12.8 implements and supplements the provisions of FPR 1–12.8 and establishes the policies and procedures of the Veterans Administration with respect to the Equal Opportunity Program in Government contracts.

§ 8–12.803 Basic requirements.

§ 8–12.803–2 Equal Opportunity clause.

The words "race, color, religion, sex, or national origin" will be used in lieu of the words "race, creed, color, or national origin" wherever they appear in the Equal Opportunity clause (FPR 1–12.803–2).

§ 8–12.805 Administration.

§ 8–12.805–1 Duties of agencies.

(a) The Director, Contract Compliance Service, Central Office is the VACCO (Veterans Administration Contract Compliance Officer). He is responsible for developing, causing to be published in this Chapter 8, Title 41, Code of Federal Regulations, and enforcing the Veterans Administration program and procedures necessary to carry out the provisions of the Executive orders and directives of the Director, Office of Federal Contract Compliance (OFCC), dealing with this program.

(b) Prior to awarding a nonexempt supply or service (excluding construction) contract ($10,000 or more), the contracting officer will, not less than 10 days prior to the date on which an award must be made, submit to the VACCO (09) by teletype the following:

(1) Name and complete address of the apparent low bidder.

(2) Name of the official signing bid or proposal.

(3) Date on which the bidder's or offeror's proposal will expire.

(4) Amount of the contract.

(5) Brief description of goods or services to be provided.

(6) Number of employees of bidder.

(7) Facility where contract work will be performed.

(8) Standard Industrial Classification Code of production facility.

(9) Prior Federal contracts held by bidder (agency, amount of contract, date of award) since July 1, 1968.

(10) Has bidder filed all compliance reports required by Executive Orders 10925, 11114 and 11246.

(11) Has bidder certified that he has no segregated facilities.

(12) In case bidder has 50 or more employees and the contract is for $50,000 or more, has the bidder developed written affirmative action programs (EEO) for each of his establishments.

(13) If this is initial Federal contract for bidder who has 50 or more employees and the contract is for $50,000 or more, does the bidder agree to develop written affirmative action programs (EEO) for each of his establishments within 120 days of contract award.

(14) Date Equal Employment Opportunity clearance is required.

NOTE: Thirty days' advance request is required for contracts for supplies in case of contracts in excess of $1 million; as early notice as possible, and not less than 10 days where possible in all other cases.

(15) Names and addresses of identified subcontractors.

(c) On receipt of the information in paragraph (b) of this section, the VACCO will:

(1) Advise the contracting officer that the evidence available to him indicates that the apparent low bidder or offeror and his subcontractor(s), if any, can comply with the Equal Opportunity clause in the plants specified in the proposed contract and that a contract may be awarded. The teletype submitted by the contracting officer will be stamped "Awardable" and returned; or

(2) Furnish the contracting officer a teletype listing the deficiencies in the proposed contractor's or subcontractor's equal opportunity compliance status which must be corrected prior to an award.

(d) The contracting officer, on receipt of advice from the VACCO, will advise the prospective contractor in writing that:

(1) The award is being made; or

(2) Certain deficiencies, which are listed herein, have been found in his compliance with the equal opportunity program and that a contract cannot be awarded to him until such time as he has satisfied the VACCO that he has corrected or will correct such deficiencies.

(e) Field station contracting officers prior to awarding a nonexempt construction contract ($10,000 or more) will, not less than 10 days prior to the date on which an award must be made, submit to the VACCO by teletype the following:

(1) Name and address of the apparent low bidder.

(2) Name, title, and telephone number of the official signing the bid or proposal.

(3) Date on which bidder's or offeror's proposal will expire.

(4) Amount of contract.

(5) Brief description of the construction to be performed.

(6) Prior contracts, if any, with the Veterans' Administration (amount, station and date of such contracts).

(7) Prior contracts, if any, with other Federal Government agencies (the last and largest; amount, date, agency, and agency location where performed).

(8) Current contracts with any Federal Government agency (amounts, locations, agencies).

(9) Names and addresses of identified subcontractors.

(10) Name and telephone number of contracting officer.

(f) On receipt of the information specified in paragraph (e) of this section, the VACCO will:

(1) Advise the contracting officer by telephone that the evidence available to him indicates that the apparent low bidder or offeror and his subcontractor(s), if any, are capable of complying with the Equal Opportunity clause and that a contract may be awarded. The teletype submitted by the contracting officer will be stamped "Awardable" and returned; or

(2) Furnish the contracting officer by teletype a listing of the deficiencies in the proposed contractor's or subcontractor's equal opportunity compliance status which must be corrected prior to award.

(g) The contracting officer, on receipt of advice from the VACCO, will advise the prospective contractor in writing that:

(1) The award is being made; or

(2) Certain deficiencies, which are listed herein, have been found in his, or his subcontractor's, compliance with the equal opportunity program and that a contract cannot be awarded until such time as he has satisfied the VACCO that the deficiencies have been or will be corrected.

(h) If determined by the VACCO that the deficiencies noted in either a prospective supply or construction contractor's, or his subcontractor's, equal opportunity program will be corrected during the life of the contract, and if requested by the VACCO, the contract will be modified to so provide.

§ 8–12.805–2 Educational responsibility.

The VACCO will develop informational and educational literature which he considers necessary to enable a contracting officer to properly administer a contract subject to the equal opportunity program. This literature will be distributed through the Director, Supply Service.

§ 8–12.805–4 Reports and other required information.

(a) *Requirements for prime contractors and subcontractors.* (1) Each current contractor having a Government contract in excess of $10,000 and having 100 or more employees will be advised by the contracting officer to submit to the committee specified in SF 100, by the date required, a properly executed SF 100. He will also be requested to advise each of his subcontractors, if any, who meet the filing requirements to complete and submit this form.

(2) Each person who is required to submit a report in accordance with subparagraph (1) of this paragraph will, when awarded a contract, be advised to submit a SF 100 to the VACCO within 30 days after the award to him of a contract or subcontract, unless such a report has been filed within 12 months preceding the date of award.

(3) The VACCO will, when advised by a contracting officer of the award of a contract subject to the Equal Opportunity clause, advise the contractor of his and his subcontractor's responsibility to timely file complete and accurate reports as required by FPR 1–12.805–4. He will also advise him that failure to file such required reports can and will result in the imposition of sanctions. The VACCO will advise the Director, Office of Federal Contract Compliance, when a contractor or subcontractor fails to timely file such reports.

(b) *Requirements for bidders or prospective contractors.* Where an apparent successful bidder or offeror indicates that he has been awarded a contract, or subcontract, subject to the clause but has not filed the required reports, the award will be withheld pending the receipt of a representation from the bidder or offeror that he has submitted, or his written assurance that he will submit, all required compliance reports for the period covered by his previous contract or subcontract. Further that he will not make an award to any proposed subcontractor, who has failed to file a required report, until he has received from him a signed statement that he has filed, or his written assurance that he will file, any such required report.

(c) *Noncompliance by a prospective contractor.* Where a prospective contractor indicates that he will not comply with the provisions of the clause, his bid or proposal will be rejected as nonresponsive. Reports of such instances and their consequences will be referred to the VACCO, through the Director, Supply Service, for such further action as may be indicated.

§ 8–12.805–5 Compliance reviews.

(a) Upon receipt of a bid or offer for supplies, equipment or services, other than construction, in an amount of $1 million or more, the contracting officer will, not less than 30 days prior to the date on which the acceptance of the bid or offer expires, submit the following information by teletype to the VACCO through the Director, Supply Service.

(1) The name of the official signing the bid or proposal;

(2) The dollar amount of the bid or offer;

(3) The date on which the bidder's or offeror's bid or proposal will expire; and

(4) The date on which the contracting officer must receive advice from VACCO in order to award a valid and binding contract.

(b) The VACCO will comply with the requirements of FPR 1–12.805–5(d) and advise the contracting officer as to whether or not the apparent low bidder or offeror, and his known first tier subcontractors, can comply with the Equal Opportunity clause.

(c) Any contract entered into by the Veterans Administration, that is not exempt from the provisions of the Equal Opportunity clause as set forth in FPR 1–12.804–1, and any subcontract resulting from such contract will, during the life of the contract or subcontract, be subject to compliance reviews conducted by the VACCO, or the contract compliance officer of a designated compliance agency. Such reviews may cover all plants, facilities and practices of the contractor and/or subcontractor and will include all elements of Executive Orders 11246 and 11375 and the rules and regulations of the Secretary of Labor dealing with the program.

(d) If during the administration of a contract subject to the clause, or as a result of an oral compaint, the contracting officer suspects that the contractor has breached the Equal Opportunity clause, he shall immediately bring this to the attention of the VACCO. The VACCO shall initiate an immediate investigation and notify the contracting officer of any action that is to be taken. A copy of such notification will be given to the Director, Supply Service.

§ 8–12.805–6 Complaints.

(a) When a complaint involving the equal opportunity program is received by a contracting officer, he will, if the complaint is oral, advise the complainant to submit his complaint in writing to the VACCO. The complainant will be advised to include in his complaint the information required by FPR 1–12.805–6(c). Written complaints received by a contracting officer will be forwarded immediately to the VACCO through the Director, Supply Service.

(b) Complaints alleging violations of the Equal Opportunity clause will, when received by the VACCO, be processed in accordance with the provisions of FPR 1–12.805–6 and 1–12.805–7.

§ 8–12.805–8 Assumption of jurisdiction by or referrals to the Director.

(a) Should the Director, Office of Federal Contract Compliance assume jurisdiction over a matter pending before the Veterans Administration, or should this agency refer a pending matter to the Director, the VACCO will immediately notify the appropriate contracting officer of such action. The Director on assuming such jurisdiction may conduct, or have conducted, such investigations, hold such hearings, make such findings, issue such recommendations and directives, order such sanctions and penalties, and take such other action as may be necessary or appropriate to achieve the purpose of the order. Upon receipt of notice from the Director that corrective action is to be taken or that sanctions are to be imposed by the agency, the VACCO shall immediately notify the appropriate contracting officer of such instructions. He

shall also inform the contractor or subcontractor involved of the corrective action, as directed by the Director, that must be taken and the time limit in which such corrective action must be accomplished. The VACCO shall notify the Director, Office of Federal Contract Compliance, within the time specified by him, as to the results of the actions taken by the contractor or subcontractor.

(b) The appropriate contracting officer will be notified by the VACCO when the corrective action(s), as directed by the Director, Office of Federal Contract Compliance, has been accomplished by the contractor or subcontractor, or when the cause(s) which necessitated the imposition of sanctions has been removed.

(c) In each of the actions specified in this section involving a Veterans Administration contract, a copy of the notice to the contracting officer will also be furnished to the Director, Supply Service.

§ 8–12.805–9 Sanctions and penalties.

(a) When a complaint, investigation, or compliance review reveals the existence of a violation of the Equal Opportunity clause, the VACCO will immediately attempt to resolve the matter informally through conferences, conciliation, mediation and persuasion. If appropriate, he will also establish a program for future compliance. If the violation is not resolved by these means the contractor or subcontractor will be afforded an opportunity for a hearing as provided in FPR 1–12.807.

(b) If the VACCO determines that a current contract should be terminated in whole or in part because of violations of the Equal Opportunity clause, by the contractor and/or his subcontractor(s), he shall, after prior notification to the Director, Office of Federal Contract Compliance, forward to the contractor and/or subcontractor by certified mail, return receipt requested, a notice of the intended termination. The notice will advise the offender that he must, within 10 days after receipt of the notification, comply with the provisions of the contract or mail to the VACCO a request for a hearing. A copy of the notice furnished to the contractor or subcontractor shall be furnished all agencies by the VACCO. If, at the expiration of the 10-day period, the offender has not (1) complied with the terms of the contract, or (2) requested that he be granted a hearing, the contract or subcontract may be canceled, suspended or terminated. This latter action will, in the case of a Veterans Administration contract, be taken by the contracting officer when requested by the VACCO through the Director, Supply Service, and with the approval of the Administrator. If an agency, other than the Veterans Administration, is the contracting agency the matter will be referred to the Director, Office of Federal Contract Compliance, for necessary action.

(c) When reprocurement is required as a result of the actions taken in paragraph (b) of this section, it shall be accomplished in the same manner as any other action required as a result of a default.

(d) When because of failure to comply with the provisionsof the Equal Opportunity clause of a Veterans Administration contract, the VACCO believes that debarment of a contractor or subcontractor is in order, he shall request such action in accordance with Subpart 8–1.6 of this title. If, however, the contract is with another agency he (the VACCO) will refer the matter to the Director, Office of Federal Contract Compliance, for necessary action.

(e) The Director, Supply Service, on the basis of information furnished to him by the VACCO, will compile, maintain on a current basis, and distribute to all Veterans Administration contracting officers a list of those contractors and subcontractors who, because of violations of the program, have been declared ineligible to receive Government contracts by the Director, Office of Federal Contract Compliance.

§ 8–12.805–10 Disputed matters related to the equal opportunity program.

All invitations for bids and requests for proposals which will result in contracts subject to the Equal Opportunity clause will contain the following:

DISPUTED MATTER—EQUAL OPPORTUNITY PROGRAM

Any dispute arising under this contract relating to matters pertaining to the equal opportunity program will be handled pursuant to the provisions of the Equal Opportunity clause of this contract (subcontract or agreement), rather than the Disputes clause contained therein.

§ 8–12.805–11 Preaward notices.

When the Veterans Administration has been requested by the Director, Office of Federal Contract Compliance not to award a contract to a specific contractor, pending the conduct of a preaward compliance review, the VACCO shall, through the Director, Supply Service, immediately make this fact known to all Veterans Administration contracting officers. He shall also, through the Director, Supply Service, advise these contracting officers when, as a result of a preaward compliance review, a contract may be awarded.

§ 8–12.807 Hearings.

§ 8–12.807–1 General.

(a) The VACCO, or the person acting in that capacity, is hereby authorized to conduct informal hearings pursuant to FPR 1–12.807–2, involving violations of the Equal Opportunity clause, when the Veterans Administration is authorized to hold such hearings by the Director, Office of Federal Contract Compliance.

(b) The Director, Supply Service and Deputy Director, Supply Service are hereby authorized to conduct all formal hearings pursuant to FPR 1–12.807–3, involving violations of the Equal Opportunity clause, when the Veterans Administration is authorized to hold such hearings by the Director, Office of Federal Contract Compliance.

(c) When a determination is made by the VACCO to institute debarment proceedings against a contractor, the hearing will be held by the Director, Office of Federal Contract Compliance, or the debarring official of the Veterans Administration (see § 8–12.805–9(d)).

(d) Hearings specified in paragraphs (a) and (c) of this section will be conducted in accordance with the procedures set forth in Subpart 8–1.6 of this chapter.

§ 8–12.809 Intimidation and interference.

The VACCO, as the representative of the Administrator of Veterans Affairs, is responsible for imposing the sanctions and penalties of Subpart D of the order, under the circumstances set forth in FPR 1–12.809.

§ 8–12.810 Affirmative action compliance programs.

(a) The contracting officer will, within 10 days after the award of a contract subject to the affirmative action compliance program (FPR 1–12.810), forward to the VACCO VA Form 09–2140, Report of Contract Award.

(b) When a compliance survey conducted by the VACCO or his designee discloses that the contractor or subcontractor has not, within 120 days after the award of such contract or subcontract, developed a written plan, or that the plan he has developed is not acceptable, the VACCO will advise him that he cannot be found to be in compliance with Executive Order 11246. He will advise the offender, by certified mail, of his failure and that he must show cause, within 30 days after receipt of such notice, why enforcement proceedings under section 209(b) of Executive Order 11246 should not be instituted. A copy of this notice will be furnished to the Director, Office of Federal Contract Compliance.

(c) Should the offender fail to show good cause for his failure or to develop and implement an acceptable affirmative action program within the designated 30 days, the VACCO, with the approval of the Director, Office of Federal Contract Compliance, shall notify the offender in writing that the Veterans Administration intends to cancel or terminate his contract or subcontract and institute debarment proceedings. He shall also be advised that if he desires a hearing he must submit a request for such hearing to the VACCO within 10 days after receipt of the notice.

(d) The VACCO shall, within the 30-day show cause period, exercise every effort through conciliation, mediation and persuasion to resolve the deficiencies noted.

§ 8–12.812 Rulings and interpretations.

Questions concerning the application or interpretation of instructions concerning the equal opportunity program in Government contracting will be referred to the VACCO through the Director, Supply Service. If a ruling or interpretation of a higher authority is required it will be secured and the contracting officer advised.

§ 8–12.813 Solicitations or advertisements for employees.

Contractors and/or subcontractors who find it necessary to solicit or advertise for employees, in order to fulfill their contractual requirements, must, in their

advertising, utilize one or more of requirements set forth in FPR 1–12.813.

These regulations are effective immediately.

Approved: September 23, 1970.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[F.R. Doc. 70–13012; Filed, Sept. 29, 1970; 8:47 a.m.]

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 27; Docket No. 70–25]

PART 542—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION CLEANUP

On March 25, 1970, Congress enacted the Water Quality Improvement Act of 1970 (Act), which amends the Federal Water Pollution Control Act to provide measures for the control of water pollution. This Act was signed into law by President Nixon on April 3, 1970.

Section 11(p)(1) of the Act requires any vessel over three hundred gross tons, including any barge of equivalent size, using any port or place in the United States or the navigable waters of the United States, to establish and maintain evidence of financial responsibility of $100 per gross ton, or $14 million, whichever is the lesser, to meet the liability to the United States to which such vessel could be subjected for the discharge of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

Section 11(p)(2) of the Act provides that the above requirement shall become effective on April 3, 1971, and directs that regulations necessary to implement the financial responsibility provisions of section 11(p)(1) be issued by October 3, 1970. Further, the President is authorized under section 11(p)(2) of the Act to delegate the responsibilities to carry out the provisions of section 11(p)(1) to an appropriate agency. Exercising the power granted to him under the Act, the President by letter of June 2, 1970, to the Chairman of the Federal Maritime Commission, delegated to the Commission the responsibility to establish and maintain the regulations necessary to carry out the financial responsibility requirements of section 11(p)(1) of the Act (35 F.R. 8631).[1]

[1] On July 22, 1970, this letter of delegation was superseded, "[w]ithout derogating from any action taken thereunder", by section 3 of Executive Order 11548, Delegating Functions of the President under the Federal Water Pollution Control Act, as amended (35 F.R. 11677).

Thereafter, by notice of proposed rule making published in the FEDERAL REGISTER on July 11, 1970 (35 F.R. 11187), the Commission instituted this proceeding to promulgate rules and regulations to implement the provisions and to accomplish the purpose of section 11(p)(1) of the Act, including the establishment of procedures and qualifications for the certification of vessels under that section.

In response to the notice of proposed rule making, seventeen comments were submitted by, or on behalf of, a wide range of interested parties. Replies to these comments have been filed by the Commission's Hearing Counsel and answers to Hearing Counsel's replies have also been submitted. The Commission has carefully considered the position of all the parties and the final rules promulgated herein have been drafted with the parties' comments and arguments in mind. A section-by-section discussion of the rules and the major comments thereon is appropriate.

Section 542.1, *Scope*, as proposed, sets forth the general applicability of the Commission rules. In order that there would be no question as to when vessels became subject to the rules, it was suggested that § 542.1 be amended by inserting, after "any purpose" in the first sentence, the words "after April 2, 1971" and adding at the end of the proposed section the following sentence:

> The rules of this part shall not apply to the use by vessels of ports or places in the United States or the navigable waters of the United States prior to April 3, 1971.

Since the above suggested revisions are wholly consistent with the provisions of section 11(p)(1) of the Act and serve to more clearly conform the rule to the obvious intention of the Commission, they are being incorporated into our final rules.

Section 542.2, *Definitions*, set forth the meanings given several pertinent terms used throughout the rules. Hearing Counsel suggested redefining "applicant" in order to provide for "potential owners or operators" who do not own or operate a vessel at the time of filing of an application but who intend to acquire or operate a vessel at some future date. This suggestion has substantial merit and will be adopted in our final rules.

One commentator is of the opinion that, to conform the definition in § 542.2(g) to the statute, "public vessel" should be redefined to include a vessel owned or bare-boat chartered by a State. This point is also well taken and will be reflected in our final rules. While on this point, however, we wish to make it absolutely clear that only those "public vessels" not carrying either cargo or passengers commercially are exempt from these regulations.

Six comments were addressed to the proposed definition of "vessel", and they all objected to the fact that the definition, when used in connection with § 542.3 of the proposed rules, would require all vessels, including those that carry no oil, to conform to the regulations. It is the position of all these parties that oil free vessels should be excluded from the definition. Indeed, two commentators go so far as to argue that the intent of the Act itself was to require the certification of only those "watercraft capable of discharging oil". Basically, their argument, as summarized by one party representing barge operators, is that:

> * * * Section 11(p)(1) requires evidence of financial responsibility only with respect to the liability to which vessels may be subjected under section 11. Vessels that carry no oil may never be subjected to liability under that section: Only their owners may be. We submit that section 11(p)(1) does not authorize requiring certificates for nonoil carrying barges.

While we recognize that the requirements of section 11(p)(1) of the Act may impose added financial and administrative burdens on dry-cargo barge owners and operators, we are nevertheless firmly convinced that all vessels, including those that carry no oil, are intended to be encompassed within the requirements of that section. The statutory language of section 11(p)(1) itself could not be clearer on this point. Arguments to the contrary raised by certain commentators in this proceeding are based on a clever but irrelevant distinction between "owner or operator" and "vessel" as used in various provisions of the Act. This alone, we believe, falls far short of evidencing a congressional intent that nonoil carrying vessels were to be excluded from the financial responsibility requirements of section 11(p)(1). Indeed, if the legislative history of the Act can be called upon to demonstrate anything, it is that the financial responsibility provisions were intended to apply to every vessel, the only limitation being as to gross tonnage. We must therefore retain the definition of "vessel" contained in its proposed rules, which definition, we might add, is not only consistent with, but identical to, the one embodied in the statute.

All four comments directed to the definition of "owner" sought to have the definition include a parent company, so that where a number of vessels is owned by two or more corporations under common ownership, only one application would have to be filed by the parent company, the amount of coverage to be determined by the size of the largest vessel in all the commonly owned vessels. Hearing Counsel, in opposing the suggested redefinition of "owner," point out that the proposed revision "would conceivably water down the effectiveness of the regulations, as then there would only be the need for the evidence of responsibility to apply to the largest vessel of all the fleets of all the subsidiary companies." We agree. Applicants should not be allowed to spread themselves out too thin so far as the establishment of financial responsibility is concerned. Multiple incorporations, sometimes of each separate vessel, are employed to limit the extent of the parent's liability. That being the case, the immediate corporate owner of each vessel or group of vessels should be the applicant and bear its share of oil pollution liability.

At the suggestion of one party we have deleted the proposed definition of "charterer" and redefined "operator" to mean:

> * * * a bare-boat charterer or any other person except the owner, responsible for a vessel's operation and who mans, victuals and supplies the vessel.

The adoption of these revisions is not only more consistent with the Act, where "charterer" is not separately defined, but also more closely conforms our definition of "operator" to that commonly used in admiralty law. The revision of the definition of "operator" is incorporated in our final rules with the understanding, however, that a towboat operator would not have to man, victual or supply a barge in order to qualify as an "operator" within the meaning of our rules.

Finally, at the recommendation of certain parties, we have added into our final rules a definition of "insurer" in order to make it clear that P&I associations, and other mutual organizations, would be able to qualify as insurers and also to enable more than one company to write a policy with each assuming a percentage of the coverage. The latter revision was made in anticipation of the fact that some underwriters will only want to assume a stated percentage of the risk.

Section 542.3, *Proof of financial responsibility, when required,* provides that no vessel over 300 gross tons, shall use any port or place in, or the navigable waters of, the United States on or after the effective date of section 11(p)(1) unless a certificate evidencing compliance with the financial responsibility requirements of that section has been issued, and further explains the methods by which the gross tonnage of a vessel will be determined. One party calls for the elimination of § 542.3(a) essentially on the ground that the Commission does not have the authority to impose sanctions for the failure of vessels to be covered by certificates. This comment clearly lacks merit and must be rejected.

That compliance with the financial requirements of section 11(p)(1) of the Act and any regulations issued pursuant thereto is a condition precedent to the use of "any port or place in the United States or the navigable waters of the United States" by "any vessel" over 300 gross tons is abundantly clear from the explicit language of section 11(p)(1). Section 542.3(a) of the proposed rules is but, in essence, a restatement of section 11(p)(1) of the Act. Granted that there is no specific monetary "penalty" provided for any violation of section 11(p)(1) of the Act, it is nevertheless a fact that the Act does make certain enforcement procedures, including court injunctions, applicable to section 11(p)(1). Therefore, contrary to allegations made above, there do exist "sanctions for the failure of vessels to be covered by certificates" and the fact that these sanctions may be administratively difficult to impose does not make them any less available.

Section 542.4, *Procedure for establishing financial responsiblity,* as proposed, establishes the filing procedures for establishment of financial responsibility and also contains a requirement that each applicant, insurer, surety, and guarantor designate a person in the United States as legal agent for service of process for the purposes of the rules. A number of parties are of the opinion that the provisions of § 542.4(a) should be revised so as to make it clear which party is responsible for obtaining the certificate. In this regard it is suggested by one party that a construction which allows the choice of having either the owner or operator file an application is favorable, pointing out that chaos would result in the inland waterways if an owner, who does not operate a barge, would not be allowed to provide continuing responsibility through a succession of "spot" single movement contracts or even continuing longer term towing arrangements. Another commentator believes provisions should be made which would allow a potential owner or operator to establish his responsiblity in advance in order to cut down on time required to obtain a certificate. Hearing Counsel agree with these suggestions and propose certain revisions which would enable either the owner or operator to file the application with the Commission and further allow for potential owners or operators to file.

We find considerable merit to the revisions proposed by Hearing Counsel and to the comments which prompted these changes. It was our original intention, as we believe it was also the intention of the Act, to allow either the owner or operator to file the application and establish evidence of financial responsibility. The Act itself speaks in terms of "owner or operator." Moreover, the actual coverage of section 11(p)(1) goes to the "vessel" thereby implying that whoever is responsible, be it the owner or operator, can satisfy the requirements of that section. The proposed revisions allowing for potential owners or operators to establish financial evidence in advance merely conform this section to our revised definition of "applicant". Since the changes are therefore fully consistent with the intent of the statute and the Commission's rules, we are in full accord that these revisions in § 542.4(a) be incorporated into the final rules. In addition, we have amended our application form to specifically allow owners who are not the operators of their vessels to file the application, provided that such owners retain "full control and responsibility" for any oil discharge, subject to section 11 of the Act, and so agree on the application form. Only in this manner can the Commission be assured that reimbursement for oil spill cleanup will be available, without actually predetermining the rights and obligations of the owner and operator with respect to the vessel involved.

A number of comments objected to the requirement in § 542.4(b) which calls for the filing of an application 60 days in advance of a vessel using the navigable waters of the United States, on the grounds that such a requirement would place an undue burden on owners, and could conceivably result in extreme hardships in a number of cases. Two commentators read the paragraph as not permitting the filing of applications between January 1, 1971 and April 2, 1971. Hearing Counsel, responsive to the objections raised, would amend § 542.4(b) by trimming down the 60-day period to 45 days, making specific provision for filing of applications between January 1, 1971 and April 2, 1971, and otherwise clarifying the intent of the paragraph.

Despite the revisions of Hearing Counsel, as to which we concur, misapprehensions still exist regarding § 542.4(b). We have carefully reviewed all comments raising objections to the time filing requirements of this paragraph and it is our conclusion that the majority of these objections results from a misunderstanding of the intent of, and purpose for, the requirements. Some parties are apparently of the opinion that a certificate will not be issued until the Commission has had the application in hand for 60 or 45 days, as the case may be. While we agree with the 45-day period suggested by Hearing Counsel, there is no magic in that number. It is intended to serve only as a guideline for applicants and to place them on notice that, unless their applications are received 45 days prior to their vessels using U.S. waters, there is no assurance that the Commission will be physically able to process their applications and issue the certificates on time. In an attempt to make the Commission's intentions in this matter absolutely clear, we have revised § 542.4(b) in a number of minor respects.

At the suggestion of one commentator we have deleted from the final rules the requirement contained in § 542.4(c), that a corporate officer or a personal owner or operator submit evidence of his authority to sign the application. While not specifically mentioned in the rule, this revision would also apply to the several partners submitting an application on behalf of their partnership. The application form itself, however, must be signed by one of the partners.

Section 542.4(c) has also been amended to require notice only 15 days after a nonmaterial change since there really seems to be no regulatory reason to require any prompter action on a routine change in the application data. "Nonmaterial change" has been defined as one which does not result in an increase in the amount of financial responsibility required. Material changes involving an increase in the amount of financial responsibility required, such as the acquisition of a larger vessel, are provided for in other provisions of the rules.

One comment challenges the entire requirement for the appointment of an agent for the service of process, as required by § 542.4(d), while another objects only to the requirement for appointment of an irrevocable agent for a 3-year period, alleging that this would be an unduly long time. While we have deleted the latter requirement from our final rules, we view the basic requirement for the appointment of an agent by both foreign and domestic owners or operators as absolutely necessary. We

have considered other alternatives to the appointment of an agent for service of process and have rejected them all as being either impractical or unfeasible.

At the suggestion of Hearing Counsel, we have added to the provision permitting "substituted service upon the Secretary" the requirement that actual notice be given to the party actually sought to be served by the substituted method. It is indeed conceivable that there might be a temporary absence of the designated agent at a time when service of process was being sought, and that in such a case, under the present form of the rule, the Secretary of the Commission would be served in the parties' behalf, but the party itself under the rules need never be apprised of the fact. To remedy this "deficiency," we have adopted Hearing Counsel's suggestion.

Section 542.5, *Methods of establishing financial responsibility; forms and requirements*, sets forth the various ways an owner or operator may establish financial responsibility; namely, insurance, surety bonds, guarantees, and self-insurance, and further explains the requirements and filing procedures of each mode of compliance. Section 542.5(a)(1) of the proposed rules, particularly that portion prescribing the uniform endorsement, has probably prompted the largest number of comments, of varying degrees of validity and complexity. With regard to item 3 of the uniform endorsement, requiring a separate 30-day written notice to the Commission prior to expiration, termination or cancellation of the insurance policy, two parties object to the continuing responsibility, and the apparent lack of an automatic termination, where there is a substitution of another policy. Two other commentators submit that the 30-day requirement should be "abandoned." These parties take the position that some insurance interests insist on writing their insurance policies for a given term and that the effect of the 30-day requirement will be to negate the natural expiration of these policies. While the uniform endorsement prescribed in our final rules makes provision for automatic termination of the policy where there is filed acceptable substitute evidence of financial responsibility with the Commission, we cannot agree to the deletion of the 30-day notification requirement. Considering that we anticipate some 15,000 to 20,000 vessel owners and operators to apply for certificates, a tremendous administrative burden would result if we were to dispense with the 30-day requirement and take it upon ourselves to initiate notification to each certificant of the expiration or termination of its evidence of its financial responsibility. That the 30-day requirement is not an unreasonable regulation is, we believe, supported by the fact that we know of only one underwriter that has found this requirement "objectionable."

One of the most important and complex issues raised in this proceeding relates to the availability to the insurer of certain defenses under item 2 of the uniform endorsement. On the theory that "unnamed defenses should be * * * specified," Hearing Counsel would amend the uniform endorsement, as well as other relevant provisions in the rules and the accompanying forms, to specifically preserve to the insurer "the defense that the oil discharge resulted from the willful misconduct of the owner himself." This proposal of Hearing Counsel is strongly objected to by those associations of insurance underwriters who are parties to this proceeding. It is pointed out that the new language, by specifically recognizing the defense of willful misconduct of the owner himself, might be construed as meaning that in a direct action the insurer would not be permitted to raise any other defense which might have been available to it in an action against it by the owner or operator. To deny to insurers other "available" defenses in the words of one party, "violates the express terms of the Act." Thus, certain associations of P & I Clubs advise that while they "would be prepared to waive any contractual defenses contained in their Rules," specifically naming "bankruptcy and non-payment of premiums," they must reserve the right to raise any legal defense "preserved to them and other insurers by the express terms of Public Law 91-224."

Hearing Counsel's proposal must be rejected if for no other reason than it is, on its face at least, inconsistent with the express language of section 11(p)(3) of the Act, which, inter alia, preserves to the insurer "all rights and defenses which would have been available * * * to him if an action had been brought against him by the owner or operator." While nowhere in the legislative history is it made clear why this provision was introduced or exactly what "defenses" were referred to, the fact remains that the statute preserves certain "defenses", albeit unnamed, to the insurer. It follows, therefore, that the Commission could not, without doing injustice to the Act itself, deprive an insurer of any defenses which have been preserved to it as a matter of law. Thus, the Commission should not, and will not, attempt to list by rule these available defenses, especially in the time provided, lest it preserve some not intended by the Act or, conversely, omit some intended to be preserved. Under the circumstances, we continue to favor the approach adopted in our proposed rules. Relating the liability and available defenses of the insurer back to the purposes and policies of section 11 of the Act is, we believe, a more realistic course to follow.

Certain revisions have been effected in § 542.5(a)(1), as finally promulgated, to accommodate insurance deductibles contained in many policies, while at the same time assuring that financial responsibility has been otherwise established as to such deductibles. Under the final rule, a deductible provision in an insurance policy is acceptable only where (1) the insurer agrees to be liable to the United States for the amount of the deductible or, (2) the owner or operator evidences supplemental coverage for the amount of the deductible.

At the suggestion of Hearing Counsel and a number of other parties, the requirements imposed upon self-insurers, especially those relating to the submission of financial statements and data, have been relaxed. Besides relieving some of the burden imposed on self-insurers, we believe the revisions will also provide the Commission with much needed flexibility in its certification procedures applicable to such self-insurers. We cannot agree, however, to the deletion of the requirement that self-insurers must maintain assets located in the United States, as suggested by at least one commentator. As a guarantee that the United States would indeed be able to recover the cost of oil discharge cleanup, this requirement is absolutely indispensable. To allow self-insurers to qualify under our rules on the basis of assets domiciled abroad would be to effectively negate the certificate of financial responsibility, since there would be absolutely no assurance that the United States could ever get at those assets if it should prove necessary. Only by requiring that assets of self-insurers be physically located in the United States can the Commission maintain some degree of control over these assets and fulfill its obligations under the Act.

Certain parties suggest that any operator or parent company who can meet the requirements of being a self-insurer be accepted as a guarantor under § 542.5(a)(4). Hearing Counsel agree and propose a number of changes to implement this suggestion. In essence, they would make all the self-insurer criteria applicable to the guarantor, except that the amount of financial responsibility required to be evidenced for guarantors, could not be less than "the aggregate amount of guarantees underwritten." This would mean that a parent company would, for example, have to establish working capital and net worth each in an amount equal to the sum total of each subsidiary's potential obligations, calculated in accordance with the formula contained in § 542.5(a) of these rules. We find that the revisions suggested by certain commentators and proposed by Hearing Counsel are well-founded and accomplish the purpose desired. We accordingly concur in their adoption into the final rules.

Section 542.6. *Issuance of Certificate of Financial Responsibility*, would provide for the issuance of a Certificate of Financial Responsibility when adequate evidence of financial responsibility has been established and would further require certificants to advise the Commission of any occurrence concerning a certified vessel, whereby the certificant's liability under section 11 of the Act is terminated with respect to such vessel. Section 542.6(a) has been amended only in one respect. A new sentence has been added, providing that:

> A certificate issued pursuant to this part, or copy thereof, must be carried on board the certificated vessel.

Under the enforcement procedures presently available under the Act, it

would be difficult to get the procedural machinery going unless the Coast Guard is able to ascertain whether a particular vessel is certified. While it would be our policy to send them a periodic listing of all certified vessels, it would nevertheless facilitate enforcement to require the owners and operators of vessels to carry their certificates on board.

Two commentators object to the filing of "negative statements" required by § 542.6(b), alleging that these would be unnecessarily burdensome. They believe that only a report of an actual change is necessary. This suggestion is well taken. In view of the fact that all changes in the application form are already required to be submitted to the Commission under other provisions in the rules and no purpose would thus be served by retaining § 542.6(b), we are deleting that section in its entirety from the final rules.

Section 542.6(c), has also undergone a number of revisions besides being redesignated § 542.6(b). Upon the advice of certain parties that the 5-day time limit for the filing of changes may be too short "because of holidays, weekends, or otherwise," this period has been expanded to 5 working days. As to the concern regarding the type of certificate to be issued, we are now able to advise that each vessel will be covered by a separate certificate. Therefore, an owner or operator having five vessels will be issued five certificates, each certificate bearing the name of a different vessel. Thus, there will be no problems involved in the cancelling of one particular ship. Only that particular vessel's certificate need be returned, consistent with the requirements of § 542.6(b).

Section 542.6(d) requiring notice of a transfer of control of a vessel to an operator has been deleted. In its stead, and at the suggestion of Hearing Counsel, we have inserted a new section, designated § 542.6(c), which would allow a vessel owner who has transferred his vessel to an operator, to maintain continuing evidence of financial responsibility. Permitting a certificant to maintain financial coverage for his vessel while in the hands of a charterer or successive charterers, should solve the problem previously discussed relating to the frequent short term chartering of barges in the inland trade. The option allowed by § 542.6(c) can only be exercised, however, if the transferor maintains with the Commission adequate evidence of financial responsibility with respect to the transferred vessel.

Section 542.7, *Denial, revocation, suspension or modification of a Certificate*, as indicated by the title, provides for the denial, revocation, suspension, or modification of a certificate, enumerating examples of reasons for such action. Two parties state that the grounds for the Commission to deny a certificate are too broad and accordingly urge the revision of § 542.7(b). To adopt this suggestion would require the Commission to list every separate detailed reason for which a certificate might be denied, revoked, suspended, or modified. The Commission simply cannot list every conceivable infringement for which a certificate may be denied, revoked, suspended, or modified. Any attempt to do so could result in the omission of one or more actionable infringements which the Commission might later be estopped from asserting. While § 542.7 will be retained as originally proposed, except to make it clear that the provisions of that section apply with equal force to a person having been issued a certificate (certificant) as well as a person who is applying for one (applicant), the Commission can be counted upon to administer this section with fairness and reasonableness.

Section 542.8, *Notice*, states that any notice of issuance, denial, revocation, suspension, or modification of any certificate will be published in the FEDERAL REGISTER. Only one comment is directed to this particular section. That comment suggests that the effectiveness of a certificate should not be based upon the requirement that the issuance thereof be published in the FEDERAL REGISTER. It was not the intent of this rule to condition the effectiveness of a certificate upon notice of its issuance being published in the FEDERAL REGISTER. The publication of the granting of a certificate was intended for information purposes only. In order to make our intent in this matter perfectly clear, we are amending § 542.8 by inserting "to the public" after "notice."

Therefore, pursuant to sections 11(p)(1) and 11(p)(2) of the Water Quality Improvement Act of 1970 (84 Stat. 97) and section 3 of Executive Order 11548 (35 F.R. 11677), Title 46 CFR is hereby amended by the addition of a new Part 542 as follows:

Sec.
542.1 Scope.
542.2 Definitions.
542.3 Proof of financial responsibility, when required.
542.4 Procedure for establishing financial responsibility.
542.5 Methods of establishing financial responsibility; forms and requirements.
542.6 Issuance of Certificate of Financial Responsibility.
542.7 Denial, revocation, suspension, or modification of a certificate.
542.8 Notice.

AUTHORITY: The provisions of this Part 542 issued under secs. 11(p)(1) and 11(p)(2) of the Water Quality Improvement Act of 1970 (84 Stat. 97) and sec. 3 of Executive Order 11548 (35 F.R. 11677).

§ 542.1 Scope.

The regulations contained in this part set forth the procedures whereby the owner or operator of every vessel over 300 gross tons, including any barge of equivalent size, using any port or place in the United States or the navigable waters of the United States for any purpose after April 2, 1971, shall establish and maintain evidence of financial responsibility of $100 per gross ton, or $14 million, whichever is the lesser, to meet the liability to the United States to which any such vessel could be subjected pursuant to section 11, Water Quality Improvement Act of 1970, for the discharge of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone. Included also are the qualifications required by the Commission for issuance of Certificates and the basis for the denial, revocation, modification, or suspension of such Certificates. The rules of this part shall not apply to the use by vessels of ports or places in the United States or the navigable waters of the United States prior to April 3, 1971.

§ 542.2 Definitions.

As used in this part, the following terms shall have the meanings indicated:

(a) "Act" means the Water Quality Improvement Act of 1970.

(b) "Commission" means Federal Maritime Commission.

(c) "Applicant" means any owner or operator, including a potential owner or operator, who has applied for a certificate.

(d) "Certificant" means any person who has been issued, and holds, a certificate.

(e) "Certificate" means a Certificate of Financial Responsibility (Oil Pollution).

(f) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(g) "Public vessel" means a vessel owned or bare-boat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

(h) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel.

(i) "Person" includes an individual, government, firm, corporation, association, or a partnership.

(j) "Owner" means any person owning a vessel. In a case where a certificate of registry has been issued, the owner shall be deemed to be the person or persons whose name or names appear upon the vessel's certificate of registry; provided, however, that where a certificate of registry has been issued in the name of the President or Secretary of an incorporated company pursuant to 46 U.S.C. 15, such incorporated company will be deemed to be the "owner".

(k) "Operator" means a bare-boat charterer or any other person except the owner, responsible for a vessel's operation and who mans, victuals, and supplies the vessel.

(l) "Insurer" means one or more insurance companies, underwriters, corporations or associations of underwriters, shipowners' protection and indemnity associations, or other persons acceptable to the Commission.

(m) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredge spoil.

(n) "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(o) "Contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

(p) "Navigable waters of the United States" include the coastal territorial waters of the United States, the inland waters of the United States including the United States portion of the Great Lakes and the St. Lawrence Seaway, and the Panama Canal.

§ 542.3 Proof of financial responsibility, when required.

(a) No vessel over 300 gross tons, including any barge of equivalent size, shall use any port or place in the United States or the navigable waters of the United States on or after April 3, 1971, for any purpose unless a Certificate has been issued covering such vessel.

(b) Vessels subject to the provisions of this part shall be presumed to be of the gross tonnage denoted in their certificates of registry or other marine documents acceptable to the Commission; provided, however, that if such a vessel has more than one gross tonnage, the higher one will apply.

§ 542.4 Procedure for establishing financial responsibility.

(a) Either owners or operators of vessels subject to § 542.3 must file an application on Form FMC–224 for a Certificate of Financial Responsibility (Oil Pollution).[2] Persons who intend to become an owner or operator within the meaning of this part at a future date may file an application for a Certificate: *Provided however*, That the Certificate will be issued only upon receipt by the Commission of advice that the vessel or vessels have been acquired. Copies of Form FMC–224 may be obtained from the Secretary, Federal Maritime Commission, Washington, D.C. 20573, or at the Commission's offices at New York, N.Y.; New Orleans, La.; and San Francisco, Calif.

(b) In order to facilitate the timely processing of applications by the Commission: (1) An applicant desiring to obtain a Certificate by April 3, 1971, should file a completed application Form FMC–224 with the Secretary, Federal Maritime Commission, by December 31, 1970; (2) an applicant desiring to obtain a Certificate for use after April 3, 1971, should file a completed application at least 45 days in advance of any of its vessels using any port or place in, or the navigable waters of, the United States. Applications will be processed in order of receipt. Requests for special consideration, however, will be granted where applications involve bare-boat charters or unusual situations, if good cause is shown by the applicant. All applications, evidence, documents, and other statements required to be filed with the Commission shall be in English, and any monetary terms shall be expressed in terms of U.S. currency. The Commission shall have the privilege of verifying any statements made or evidence submitted under the rules of this part.

(c) The application shall be signed by a duly authorized officer or representative of the applicant and, except in the case of a corporate officer when his title appears in the application or in the case of an individual owner or operator, be submitted with a copy of evidence of his authority. In the event of any nonmaterial change in the facts as reflected in the application, the applicant or Certificant shall notify the Commission in writing no later than fifteen (15) working days following such change. For the purpose of this part, a nonmaterial change shall be one which does not result in an increase in the amount of financial responsibility necessary to qualify for a Certificate under the provisions of this part. In addition, if for any reason including a vessel's demise, sale, or transfer to an operator, a Certificant ceases to be responsible for liabilities to which such vessel could be subjected under section 11 of the Act, the Certificant shall follow the procedure set forth in § 542.6(b).

(d) Each applicant, insurer, surety, and guarantor shall furnish a written designation of a person in the United States as legal agent for service of process for the purposes of the rules of this part. Such designation must be acknowledged, in writing, by the designee. In any instance in which the designated agent cannot be served because of his death, disability, or unavailability, the Secretary, Federal Maritime Commission, will be deemed to be the agent for service of process. When serving the Secretary in accordance with the above provision the U.S. Government must also serve the Certificant, insurer, surety, or guarantor, as the case may be, by registered mail at its last known address on file with the Commission.

§ 542.5 Methods of establishing financial responsibility; forms and requirements.

(a) Every applicant must establish acceptable evidence of financial responsibility to meet his liability to the United States under the Act in the amount of $100 per gross ton, or $14 million, whichever is the lesser: *Provided, however*, That, if an applicant is, or for purposes of the rules of this part becomes, responsible for more than one vessel subject to this part, financial responsibility need only be established in an amount necessary to meet the maximum liability to which the largest vessel of such vessels (fleet) could be subjected. Evidence of such responsibility may be established by any one, or any combination, of the following methods:

(1) Filing with the Commission on certificate of insurance form FMC–225 evidence of insurance issued by an acceptable insurer or insurance broker; or, in the alternatives, a signed copy of an acceptable cover note or signed copy of an acceptable insurance policy. When a cover note is submitted, the underlying insurance policy must be provided to the Commission as soon as possible. A deductible provision in any policy of insurance or cover note, except where the insurer agrees to be liable to the United States for the full amount of the deductible, will be unacceptable unless the applicant evidences supplemental coverage for the amount of the deductible by means of other acceptable insurance, surety bond, guaranty or self-insurance. If a policy of insurance or cover note is submitted, it must include the following uniform endorsement:

> Any other provisions of this policy (or the policy evidenced by this cover note) notwithstanding (1) said policy insures any liability the assured may incur to the United States under section 11(f) of the Water Quality Improvement Act of 1970 (Public Law 91–224): *Provided, however*, That the insurer's liability to the United States in any event shall not exceed $100 per gross ton of the tonnage of the vessel in respect of which a claim may be made, or $14 million, whichever is the lesser, subject to any deductible as specifically set forth in Clause or Article _____ of said policy (or in this cover note); (2) the Insurer agrees that any claims incurred under the aforementioned section 11(f) may be brought directly against the Insurer, provided that where a claim is brought directly against the Insurer, the Insurer shall be entitled to invoke all rights and defenses, as set forth in section 11(f)(1) of the Act, which would have been available to the assured if the action had been brought against said assured by the U.S. Government, and which would have been available to the Insurer if the action had been brought against him by the assured; and (3) termination or cancellation of said insurance including expiration by its terms, insofar as it relates to the assured's liability under section 11 of the Water Quality Improvement Act of 1970, shall not be effected until notice in writing has been given by the Insurer to the assured and to the Secretary of the Federal Maritime Commission at its office in Washington, D.C., and until after 30 days expire from the date such notice is actually received by the Commission, unless substitute evidence of financial responsibility already has been accepted by the Commission; provided, however, the Insurer shall remain liable for claims covered by said insurance arising by virtue of an event which had occurred prior to the effective date of such termination or cancellation.

(2) Filing with the Commission a surety bond on Form FMC–226 issued by a bonding company authorized to do business in the United States and acceptable to the Commission. Such surety bond shall evidence coverage for liability to the United States, in the amount specified in paragraph (a) of this section, to which a vessel could be subjected for the removal of discharges of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

(3) Filing with the Commission for qualification as self-insurer. Any such self-insurer must demonstrate financial responsibility by maintenance in the United States of working capital and net worth each in an amount calculated as in paragraph (a) of this section; provided, however, that the Commission for good cause shown may waive the requirement as to the amount of working capital. With respect to the maintenance of working capital and/or net worth, the

[2] All forms referred to in this part are filed as part of the original document.

Commission may take into consideration all current contractual requirements to which the applicant is bound. This evidence of financial responsibility shall be supported by, and subject to, the following, which are to be submitted with the initial application and on a continuing fiscal year basis while the Certificate is in effect:

(i) A current semiannual balance sheet; provided, however, the Commission for good cause shown may require only an annual balance sheet;

(ii) A current semiannual statement of income and surplus; provided, however, the Commission for good cause shown may require only an annual statement of income and surplus;

(iii) An annual current balance sheet and an annual current statement of income and surplus to be certified by appropriate certified public accountants;

(iv) An annual current credit rating report by Dun & Bradstreet or any similar concern found acceptable to the Commission;

(v) All financial statements required to be submitted under subparagraph (3) of this paragraph shall be due within 120 days after the close of each of the aforementioned pertinent accounting periods; provided that if such financial statements have been furnished to other United States Government agencies, a copy thereof may be submitted;

(vi) Such additional financial information as the Commission may deem necessary in appropriate cases;

(vii) Upon request the Commission may grant reasonable extensions of the time limits provided by this subparagraph for filing the statements required by this part: *Provided*, That the request is received 15 days before the statements are due and provided further that such request sets forth good and sufficient reasons to justify the extension requested. In no event, however, will the Commission entertain requests for extensions of more than 60 days.

(4) Filing with the Commission a guaranty on Form FMC–227 by a guarantor acceptable to the Commission. Any such guaranty shall be in an amount calculated as in paragraph (a) of this section. An acceptable guarantor must comply with the provisions of subparagraph (3) of this paragraph, relating to self-insurers, except that the amount of net worth and working capital required to be demonstrated by such guarantor shall not be less than the aggregate amount of guarantees underwritten. As in the case of self-insurers, the Commission for good cause shown may waive the requirement as to the amount of working capital.

(b) The Commission's application Form FMC–224, certificate of insurance Form FMC–225, surety bond Form FMC–226, and guaranty Form FMC–227, as set forth in and appended to this part, are hereby incorporated into the rules of this part.

(c) Any evidence of financial responsibility filed pursuant to the provisions of this section shall not prohibit the institution of claims for costs incurred by a vessel under the provisions of section 11 of the Act directly against the insurer or other person providing the evidence of financial responsibility required by this part. In the event, however, of any such claim brought directly against the insurer or other person providing the evidence of financial responsibility, such insurer or other person shall be entitled to invoke all rights and defenses, as set forth in section 11(f)(1) of the Act, which would have been available to the owner or operator if the action had been brought against said owner or operator by the U.S. Government, and which would have been available to such insurer or other person if the action had been brought against him by said owner or operator.

(d) Any financial evidence submitted to the Commission under the rules of this part shall set forth in full the correct name of the person to whom the Certificate is to be issued, and in case of a partnership, all partners shall be named.

(e) If any evidence filed with the application does not comply with the requirements of this part, or for any reason fails to provide adequate or satisfactory protection to the United States, the Commission will notify the applicant stating the deficiencies thereof.

(f) Financial data filed in connection with the rules of this part shall be confidential except in instances where such information becomes relevant in connection with hearings conducted pursuant to § 542.7.

§ 542.6 Issuance of Certificate of Financial Responsibility.

(a) Where evidence of financial responsibility has been established, a separate Certificate covering each vessel shall be issued evidencing the Commission's finding of adequate financial responsibility to meet the liability to the United States to which such vessel could be subjected under section 11 of the Act for the cost of removal of a discharge of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone. The period covered by each Certificate shall be indeterminate unless a termination date has been specified thereon. A Certificate issued pursuant to this part, or copy thereof, must be carried on board the certificated vessel.

(b) If for any reason, including a vessel's demise, sale or transfer to an operator, a Certificant ceases to be responsible for liabilities to which such vessel could be subjected under section 11 of the Act, such Certificant must within five (5) working days thereafter, complete the reverse side of the Certificate covering the involved vessel and return the Certificate to the Secretary of the Commission. If the Certificate covering a vessel subject to this paragraph has been lost or destroyed, the Certificant must, within five (5) working days, submit the following written information to the Secretary:

(1) The number of the Certificate and the name of the vessel;

(2) The date on which the Certificant ceased to be liable for the vessel;

(3) The name and mailing address of the person to whom the vessel was sold or transferred, if any;

(4) The location of the vessel on the date indicated in subparagraph (2) of this paragraph.

(c) In the event of the transfer of a vessel certificated pursuant to this part to an operator where the Certificant, transferring such vessel, continues to be responsible for liabilities to which such vessel could be subjected under section 11 of the Act, and continues to maintain on file with the Commission adequate evidence of financial responsibility with respect to such vessel, the existing Certificate will remain in effect and the new operator shall not be required to obtain an additional Certificate.

§ 542.7 Denial, revocation, suspension, or modification of a Certificate.

(a) Prior to the denial, revocation, suspension, or modification of a Certificate, the Commission shall advise the applicant or Certificant of its intention to deny, revoke, suspend, or modify, and shall state the reasons therefor. If the applicant or Certificant within 20 days after the receipt of such advice requests a hearing, such hearing shall be granted by the Commission and conducted in accordance with the Commission's rules of practice and procedure (Part 502 of this chapter); provided, however, that a Certificate shall become null and void upon cancellation or termination of evidence of insurance, surety bond or guaranty. The procedural provisions of the Shipping Act, 1916 (46 U.S.C. 801), shall apply to all proceedings conducted under this part.

(b) A Certificate may be denied, revoked, suspended, or modified for any of, but not limited to, the following reasons:

(1) Making any willfully false statement to the Commission in connection with an application for a Certificate, or its continuance in effect;

(2) Circumstances whereby the applicant or Certificant does not qualify as financially responsible in accordance with the requirements of the Commission;

(3) Failure to comply with or respond to lawful inquiries, rules, regulations, or orders of the Commission pursuant to the rules of this part.

§ 542.8 Notice.

Notice to the public of the issuance, denial, revocation, suspension, or modification of any Certificate shall be published in the FEDERAL REGISTER.

Effective date. To enable the Commission to process applications and accomplish certification of financial responsibility for oil pollution cleanup by April 3, 1971, as required by section 11(p)(2) of the Act, the Commission is of the opinion that good cause exists for the filing procedures herein above provided, to become effective on less than 30 days notice. Accordingly, these rules shall become effective on October 3, 1970.

By order of the Federal Maritime Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13062; Filed, Sept. 29, 1970; 8:52 a.m.]

Title 49—TRANSPORTATION

Chapter V—National Highway Safety Bureau, Department of Transportation

[Docket No. 2-13; Notice 3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Seatbelt Installations; Passenger Cars, Multipurpose Passenger Vehicles, Trucks and Buses

The purpose of this amendment to Motor Vehicle Safety Standard No. 208 is to extend its application to multipurpose passenger vehicles, trucks, and buses, to require the installation of seatbelts on rear-facing and side-facing seats, and to clarify the language of the Standard. It also amends § 571.3, *Definitions*, of Title 49, Code of Federal Regulations, by adding definitions of "open-body type vehicle" and "outboard designated seating position" and by amending the definition of "designated seating position". Notices of proposed rulemaking on these subjects were published on October 14, 1967 (32 F.R. 14281) and September 20, 1969 (34 F.R. 14660).

The extension of Standard No. 208 is based on the proposition that, so far as practicable, drivers and passengers in all types of vehicles should be afforded the means of protecting themselves from personal injury that seatbelts provide. The proposition draws support from numerous sources, including a recent compilation of truck accident data by the Bureau of Motor Carrier Safety that indicates a higher injury rate among occupants not using seatbelts. Although it was stated in one comment that the benefits of seatbelts in trucks have not been established, the preponderance of the evidence indicates otherwise. The specific benefits include the prevention of ejection from the vehicle and the prevention of injury resulting from contact with the windshield and interior surfaces of the vehicle. The belts will also enable a driver to stay behind the wheel despite abrupt motions of the vehicle, thereby increasing his chances of avoiding serious accidents.

It was also stated that the suspension-type seats used in some heavy-duty trucks should be excluded from the requirements because of the difficulty in providing belts for seats that travel freely with the motion of the vehicle. However, it appears that satisfactory application of the Type 1 belt to suspension seats is within the present state of the art and therefore vehicles equipped with suspension seats are not excluded from the requirement.

Another comment stated that the installation of seatbelts would not be appropriate for many of the types of seats used in multipurpose passenger vehicles, such as seats that convert into beds or seats that can be reversed. If the seats in question are intended to provide seating accomodations while the vehicle is in motion, the inconvenience of seatbelt installation is far outweighed by the safety benefits that the belts afford the occupants. It should be noted that the amended definition of "designated seating position" in § 571.3 does not include seats that are not intended for use while the vehicle is in motion.

The only substantive change in Standard No. 208 that was proposed with respect to passenger cars is the requirement that seatbelts be installed for rear-facing and side-facing seats. It is clear that occupants of these seats are subject to considerable stress during a crash and the availability of seatbelts will afford them a means of self-protection. Installation of belts appears to present no significant technical problems. The standard is therefore amended to require these installations.

The amendments and additions to the definitions of § 571.3 received no significant adverse comment. For the sake of clarity, the definition of an "open-body type vehicle" has been changed slightly by substituting for "top" the phrase "occupant compartment top." The amended definition of "designated seating position" is unchanged from that proposed in the notice.

The extension of Standard No. 208 to classes of vehicles having diverse configurations makes necessary a definition of "outboard designated seating position," a term used in describing the designated seating position for which Type 2 seatbelt assemblies must be installed. The use of the word "outboard" would create no problems if the standard dealt only with passenger cars. Several comments pointed out, however, that in some trucks the passenger seat nearest the passenger side door is separated from the door by a passageway used for access to the cargo area. To avoid uncertainties that might arise under the general meaning of "outboard," the term "outboard designated seating position" has been defined in § 571.3, *Definitions*. Since the definition imposes no additional burden on any person, and clarifies a term that has already been subject to comment, additional notice and public procedure thereon are unnecessary.

Effective date. Several comments stated that the special configuration of many types of trucks and multipurpose passenger vehicles would present difficulties in installing seatbelts and seatbelt anchorages. In consideration of these difficulties, the effective date for the extension of Standard No. 208 to multipurpose passenger vehicles, trucks and buses is July 1, 1971. It should be noted that seatbelts and seatbelt anchorages will be required to be retrofitted on many commercial vehicles manufactured prior to July 1, 1971, by reason of a recent rulemaking action by the Bureau of Motor Carrier Safety (35 F.R. 10859, July 3, 1970). The effective date of the amendments to § 571.3, *Definitions*, and of the application of the amended Standard No. 208 to passenger cars is January 1, 1971. The installation of seatbelts for side-facing and rear-facing seats provides a potentially significant increase in the safety of occupants in such seats, and the docket comments did not indicate that such an effective date would be unreasonable for passenger car manufacturers. For these reasons there is good cause for finding that an earlier effective date than 180 days after issuance of these amendments is in the public interest.

In consideration of the above, Part 571 of Title 49, Code of Federal Regulations is amended as follows:

(a) Section 571.3, *Definitions*, is amended by inserting the following definitions at the proper alphabetical locations:

"Open-body type vehicle" means a vehicle having no occupant compartment top or an occupant compartment top that can be installed or removed by the user at his convenience.

"Outboard designated seating position" means a designated seating position where a longitudinal vertical plane tangent to the outboard side of the seat cushion is less than 12 inches from the innermost point on the inside surface of the vehicle at a height between the seating reference point and the shoulder reference point (as shown in fig. 1 of Federal Motor Vehicle Safety Standard No. 210) and longitudinally between the front and rear edges of the seat cushion.

(b) Section 571.3, *Definitions*, is further amended by amending the definition of "designated seating position" to read as follows:

"Designated seating position" means any plan view location intended by the manufacturer to provide seating accommodation while the vehicle is in motion, for a person at least as large as a fifth percentile adult female, except auxiliary seating accommodations such as temporary or folding jump seats.

(c) Motor Vehicle Safety Standard No. 208 in § 571.21 of Title 49, Code of Federal Regulations, is amended to read as set forth below.

(Secs. 103 and 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407; delegation of authority by Secretary of Transportation to Director of National Highway Safety Bureau, 49 CFR 1.51)

Issued on September 23, 1970.

CHARLES H. HARTMAN,
Acting Director.

MOTOR VEHICLE SAFETY STANDARD NO. 208

SEAT BELT INSTALLATIONS—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS AND BUSES

S1. *Purpose and scope.* This standard establishes requirements for seat belt installations to reduce deaths and injuries to occupants of vehicles caused by ejection from the vehicle or contact with its interior.

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

S3. *Requirements.* Seat belt assemblies that conform to Motor Vehicle Safety Standard No. 209 shall be installed as follows:

S3.1 A Type 1 seat belt assembly shall be installed for each designated seating

position in convertibles, open-body type vehicles, walk-in van-type trucks, and trucks that have a gross vehicle weight rating of more than 10,000 pounds, and for the driver's seating position in buses.

S3.2 In all vehicles except those for which requirements are specified in S3.1, a Type 2 seat belt assembly shall be installed for each outboard designated seating position that includes the windshield header within the head impact area, and a Type 1 seat belt assembly shall be installed for each other designated seating position.

S3.3 A type 2 seat belt assembly may be installed for any position where a Type 1 seat belt assembly is specified by S3.1 or S3.2. A combination of a Type 2a shoulder belt and a Type 1 seat belt assembly may be installed for any position where a Type 1 or Type 2 seat belt assembly is specified by S3.1 or S3.2.

[F.R. Doc. 70-12976; Filed, Sept. 29, 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

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Kenai National Moose Range, Alaska

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

§ 28.28 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

ALASKA

KENAI NATIONAL MOOSE RANGE

The use of lightweight, motorized vehicles commonly identified by the general term "snow-traveler" is permitted on areas of the Kenai National Moose Range that are closed to travel by conventional vehicles, subject to the following special conditions:

1. The use of "snow-travelers" will be permitted only during the period December 1, 1970, through March 31, 1971, provided snow depth is sufficient to protect underlying vegetation and terrain along the route of travel.

2. Only "snow-travelers" with an overall width of 46 inches or less will be permitted.

3. The use of "snow-travelers" as an aid in big-game hunting or for transporting big game is prohibited.

4. The use of "snow-travelers" on roads within the Range open to conventional vehicle travel are subject to regulations applicable to conventional vehicles.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through March 31, 1971.

GORDON W. WATSON,
Area Director, Bureau of Sport Fisheries and Wildlife, Anchorage, Alaska.

SEPTEMBER 23, 1970.

[F.R. Doc. 70-13001; Filed, Sept. 29, 1970; 8:47 a.m.]

PART 32—HUNTING

Certain National Wildlife Refuges in California; Correction

In F.R. Doc. 70-12022, appearing at page 14318 of the issue for Friday, September 11, 1970, the following addition, change and deletion should be made:

1. Under § 32.12 *Special regulations; migratory game birds; for individual wildlife refuge areas,* between Delevan and Lower Klamath, add "Kesterson National Wildlife Refuge, Post Office Box 2176, Los Banos, Calif. 93635."

2. Under § 32.22 *Special regulations; upland game; for individual wildlife refuge areas,* change "Upland game may be hunted" to read "Ring-necked pheasant may be hunted." Delete between Sutter National Wildlife Refuge and Lower Klamath National Wildlife Refuge "Ring-necked pheasant may be hunted on the following refuge areas."

TRAVIS S. ROBERTS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 17, 1970.

[F.R. Doc. 70-13002; Filed, Sept. 29, 1970; 8:47 a.m.]

PART 32—HUNTING

Pungo National Wildlife Refuge, N.C.

On page 13582 of the FEDERAL REGISTER of August 26, 1970, there was published a notice of a proposed amendment to 50 CFR 32.31. The purpose of this amendment is to provide public hunting of big game on certain areas of the National Wildlife Refuge System, as legislatively permitted.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received. The proposed amendment is hereby adopted without change.

Since this amendment benefits the public by relieving existing restrictions on hunting of big game, it shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 7, 80 Stat. 929, 16 U.S.C. 715i; sec. 4, 80 Stat. 927, 16 U.S.C. 668dd(c) (d))

Section 32.31 is amended by the following addition:

§ 32.31 List of open areas; big game.

* * * * *

NORTH CAROLINA

Pungo National Wildlife Refuge.

* * * * *

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 25, 1970.

[F.R. Doc. 70-13013; Filed, Sept. 29, 1970; 8:48 a.m.]

PART 32—HUNTING

Laguna Atascosa National Wildlife Refuge, Tex.

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.

TEXAS

LAGUNA ATASCOSA NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Laguna Atascosa National Wildlife Refuge, Tex., is permitted only on the area designated by signs as open to hunting. This open area, comprising 19,240 acres, is delineated on maps available at refuge headquarters, San Benito, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the archery hunt of deer subject to the following special conditions:

(1) Hunting with, or possession of, weapons other than long bow is not permitted.

(2) The open season for hunting deer on the refuge is from 12 noon October 8 through October 22, 1970, inclusive.

(3) Target and field arrows are not permitted.

(4) Hunters must check in and out each day of the hunt at the Laguna Atascosa Field Office, which will be open 1½ hours before sunrise to 1½ hours after sunset. Permits will be issued and collected at this point. Every deer must be checked out at this point.

(5) Vehicles will not be permitted off refuge roads or beyond blocked off gates.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 22, 1970.

ROBERT F. STEPHENS,
Acting Regional Director, Albuquerque, N. Mex.

SEPTEMBER 23, 1970.

[F.R. Doc. 70-13003; Filed, Sept. 29, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 524]

COMPETITIVE EMPLOYMENT OF HANDICAPPED WORKERS AT LESS THAN 50 PER CENTUM OF MINIMUM WAGE

Notice of Proposed Rule Making

It is proposed to revise Part 524 of Title 29, Code of Federal Regulations in the manner indicated below. The changes would expand provisions for certificates authorizing the employment of severely handicapped workers so as to make them available for competitive employment in addition to the sheltered workshop employment of such workers presently authorized by 29 CFR Part 525. Opportunities were afforded to interested persons to comment upon the changes previously proposed on October 10, 1967 (32 F.R. 14334), the comments of which have been carefully considered. But in view of the lapse of time since the submission, interested persons are hereby afforded 15 days after the publication of this notice in the FEDERAL REGISTER to comment in writing upon the proposal. Comments should be addressed to the Administrator, Wage and Hour Division, U.S. Department of Labor Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20210.

Part 524 would be revised to read as follows:

PART 524—SPECIAL MINIMUM WAGES FOR HANDICAPPED WORKERS IN COMPETITIVE EMPLOYMENT

Sec.

AUTHORITY: The provisions of this Part 524 issued under sec. 14, 52 Stat. 1068, as amended; 29 U.S.C. 214. Interpret or apply sec. 11, 52 Stat. 1066, as amended; 29 U.S.C. 211.

§ 524.1 Applicability of this part.

(a) The Fair Labor Standards Amendments of 1966 (Public Law 89-601, 80 Stat. 830), among other things, revise the provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201) for the competitive employment of handicapped persons at special minimum wages. The provision is now codified at section 14(d) of that Act. It reads in part as follows:

(d) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment under special certificates of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, at wages which are lower than the minimum wage applicable under section 6 of this Act but not less than 50 per centum of such wage and which are commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work.

(2) The Secretary, pursuant to such regulations as he shall prescribe and upon certification of the State agency administering or supervising the administration of vocational rehabilitation services, may issue special certificates for the employment of—

(A) handicapped workers engaged in work which is incidental to training or evaluation programs, and

(B) multihandicapped individuals and other individuals whose earning capacity is so severely impaired that they are unable to engage in competitive employment, at wages which are less than those required by this subsection and which are related to the worker's productivity.

(3) (A) The Secretary may by regulation or order provide for the employment of handicapped clients in work activities centers under special certificates at wages which are less than the minimums applicable under section 6 of this Act or prescribed by paragraph (1) of this subsection and which constitute equitable compensation for such clients in work activities centers.

(B) For purposes of this section, the term "work activities centers" shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

(b) Paragraphs (2)(A) and (3) (A) and (B) of section 14(d) of the Act quoted above make provision for the employment of individuals whose work is incidental to State agency certified training or evaluation programs or whose productive capacity is inconsequential. Special minimum wages for such persons, which may, when appropriate, be less than 50 per centum of the minimum wage applicable under section 6 of the Act, apply only when they are employed in sheltered workshops under certificates authorized in Part 525 of this chapter.

(c) Under this Part 524, certificates are not issued for less than 75 per centum of the statutory minimum, unless a lower rate is clearly justified, in which case the lowest rate generally that may be authorized is 50 per centum of that minimum. For the multihandicapped and other workers whose earning capacity is severely impaired (referred to in section 14(d)(2)(B) of the Act), a wage lower than 50 per centum of the statutory minimum (but not less than 25 per centum of that minimum) under appropriate circumstances may be authorized after certification by the State agency administering or supervising rehabilitation services. (Generally, workers with such severely impaired earning capacity are employed in sheltered workshops under certificates authorized in Part 525 of this chapter.)

§ 524.2 Definitions, as used in this part.

(a) "Handicapped worker" or "worker" means an individual whose earning capacity is impaired by age or physical or mental deficiency or injury for the work he is to perform.

(b) "Handicapped trainee" or "trainee" means an individual whose earning capacity is impaired by age or physical or mental deficiency or injury, and who is receiving or is scheduled to receive on-the-job training in industry under any vocational rehabilitation program administered by the Veterans' Administration or an authorized vocational rehabilitation agency operating pursuant to the Vocational Rehabilitation Act, as amended.

(c) "State agency" shall mean the State agency which administers or supervises the administration of vocational rehabilitation services in any State of the United States, the District of Columbia, Puerto Rico, or the territory or possession of the United States in which the employment at special minimum wages is to occur.

(d) "Competitive employment" is employment of a handicapped worker whose earning or productive capacity would yield wages equal to at least 50 per centum of the minimum wage applicable under section 6 of the Act at wage rates which are commensurate with those for nonhandicapped workers in the industry in the vicinity for essentially the same type, quality, and quantity of work.

§ 524.3 Application for a certificate.

(a) Application shall be made to the Regional Director of the administrative region of the Wage and Hour Division, U.S. Department of Labor, in which the handicapped worker or handicapped trainee is to be employed. For Puerto Rico, the Virgin Islands, and the Canal Zone, application shall be made to the Caribbean Director in Puerto Rico. Application forms may be obtained from the appropriate Director.

(b) The application shall set forth, among other things, the nature of the disability, a description of the occupation at which the worker is to be employed, and the wage the firm proposes to guarantee the worker per hour. The nature of the disability must be set out in

detail. Vague statements such as "nervous condition", "physically incapacitated", "slow worker", etc., are not sufficient.

(c) When a wage is requested which is less than 50 per centum of the minimum wage applicable under section 6 of the Act, the application shall also contain—

(1) Evidence that the individual is multihandicapped or so severely impaired that he is unable to engage in competitive employment as defined in § 524.2(d). For such workers the rate shall be not less than 25 per centum of the statutory minimum.

(2) Such application shall also be certified by the State agency defined in § 524.2(c) that the individual is a multihandicapped individual or other individual whose earning capacity is so severely impaired that he is unable to engage in competitive employment.

(d) The application shall be signed jointly by the employer and worker and be returned to the Regional or District Director by the employer.

(e) No application is required for a temporary certificate for a special minimum wage for a handicapped trainee being trained under any authorized vocational rehabilitation program. Such temporary certificates are issued in accordance with procedures set out in § 524.4.

§ 524.4 Special provisions applicable to handicapped trainees.

(a) Employment of a trainee (pursuant to the Vocational Rehabilitation Act or to a vocational rehabilitation program of the Veterans' Administration for veterans with a service-incurred disability) under a temporary certificate or a special certificate shall be governed by this part as modified by this section.

(b) Temporary certificates authorizing the employment of such trainees at wages lower than the minimum wage applicable under section 6 of the Act but not less than 50 per centum of such wage and which are commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work may be issued whenever employment at such lower rate is necessary in order to prevent curtailment of opportunities for employment. Such temporary certificates are to be issued by duly designated representatives of State vocational rehabilitation agencies and of the Veterans' Administration.

(c) When the condition as specified in paragraph (b) of this § 524.4 would require a wage less than 50 per centum of the minimum wage applicable under section 6 of the Act, such lesser wage may be authorized in a temporary certificate issued by the State agency if the State agency certifies that the handicapped worker is a multihandicapped individual or other handicapped individual whose earning capacity is so severely impaired that he is unable to engage in competitive employment. The rate provided in temporary certificates issued by representatives of the Veterans' Administration or in superseding special certificates issued pursuant to a recommendation of the Veterans' Administration may not be less than 50 per centum of the statutory minimum wage applicable under section 6 of the Act unless the State agency has certified that the handicapped worker is a multihandicapped individual or other handicapped individual whose earning capacity is so severely impaired that he is unable to engage in competitive employment. In no case may the wage be less than 25 per centum of the applicable statutory minimum.

(d) A temporary certificate will designate the employer, the trainee, and the special minimum wage rate. If the special minimum wage rate is less than 50 per centum of the statutory minimum wage applicable under section 6 of the Act as provided in paragraph (c) of this § 524.4, the minimum wage specified shall be related to the worker's productivity but in so case shall it be less than 25 per centum of the applicable statutory minimum. A temporary certificate will be valid for a period not to exceed 90 days from the date of issuance and may not be issued retroactively.

(e) Within 10 days after issuance of a temporary certificate, the supervising rehabilitation agency will forward a copy of the certificate together with a recommendation covering the special minimum rates for the balance of the training period to the appropriate Director of the Wage and Hour Division, U.S. Department of Labor. Such recommendation shall not be for a wage which is less than is authorized pursuant to this § 524.4. If the recommendation is by a State agency and the special minimum wage requested is less than 50 per centum of the statutory minimum wage, the same certification required in paragraph (c) of this § 524.4 shall appear in the recommendation. The Regional or Caribbean Director, pursuant to this part may then issue a special certificate effective upon the expiration of the temporary certificate, or may terminate the temporary certificate prior to its expiration date, with or without issuing a superseding special certificate. If a temporary certificate is terminated prior to its expiration date without the issuance of a superseding special certificate, written notice of such a termination shall be given the employer, the trainee, and the supervising rehabilitation agency.

(f) Money paid to the trainee by a State vocational rehabilitation agency or the Veterans' Administration for maintenance or other expenses shall not be considered as off-setting any part of the wage or other remuneration due the trainee by the employer.

(g) A temporary certificate shall not be issued for a trainee if a satisfactory training opportunity for the desired training is available in the community at the minimum wage applicable under section 6 of the Act or above.

§ 524.5 Conditions for granting a certificate.

If the application is in proper form and sets forth facts showing: (a) A special minimum wage is necessary to prevent curtailment of the worker's or trainee's opportunities for employment; and (b) the earning or productive capacity of the worker for the work he is to perform is impaired by age or physical or mental deficiency or injury, a certificate may be issued.

§ 524.6 Additional data when required.

To determine whether the facts justify the issuance of a certificate, the Administrator or his authorized representative may require the submission of additional information and may require the worker to take a medical examination.

§ 524.7 Issuance of a certificate.

(a) If the application and other available information indicate that the requirements of this part are satisfied, the Administrator or his authorized representative shall issue a certificate. Otherwise, he shall deny a certificate.

(b) If issued, copies of the certificate shall be transmitted to the employer and the worker or trainee, and, in the case of a certificate for a trainee, to the appropriate vocational rehabilitation agency. If a certificate is denied, the same parties shall be given written notice of the denial.

(c) A certificate may not be issued retroactively.

§ 524.8 Terms of a certificate.

(a) A certificate shall specify, among other things, the name of the worker or trainee, the occupation in which he is to be employed, the special minimum wage rate(s), and the period(s) of time during which such rate(s) may be paid.

(b) A certificate shall be effective for a period to be designated by the Administrator or his authorized representative. Workers or trainees may be paid special minimum wages only during the effective period of the certificate.

(c) The wage rate(s) set in the certificate shall be fixed at a figure designed to reflect adequately the individual worker's or trainee's earning or productive capacity. No wage rate shall be fixed at less than 75 per centum of the applicable minimum wage under section 6 of the Act unless after investigation a lower rate appears to be clearly justified. Such lower rate shall not be less than 50 per centum of the minimum wage applicable under section 6 of the Act, except for individuals certified by the State agency as having earning capacity so impaired that they are unable to engage in competitive employment, but in no event shall such wage rate be less than 25 per centum of the applicable minimum wage under section 6 of the Act nor less than is commensurate with wages paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work.

(d) In an establishment or a vicinity where nonhandicapped employees are employed at piece rates in the same occupation, the handicapped worker or trainee shall be paid at least the same piece rates. The worker or trainee must be paid his full piece rate earnings or the

earnings at the hourly rate specified in the certificate, whichever is the greater.

(e) The worker or trainee shall be paid not less than one and one-half times the regular rate at which he is employed for all hours worked in excess of the maximum workweek applicable to him under section 7 of the Act.

(f) No provision of this part, or of any certificate issued under this part, shall excuse noncompliance with any other Federal or State law or municipal ordinance establishing higher standards.

(g) The terms of any certificate, including the wage rate(s) specified therein, may be amended by the Administrator or his authorized representative upon written notice to the parties concerned, if the facts justify such amendment.

§ 524.9 Renewal of a certificate.

(a) Application for renewal of any certificate shall be filed in the same manner as an original application.

(b) If an application for renewal has been properly and timely filed prior to the expiration date of a certificate, the certificate shall remain in effect until the application for renewal has been granted or denied.

§ 524.10 Records to be kept.

Every employer who employs a handicapped worker or handicapped trainee pursuant to these regulations shall keep, maintain, and have available for inspection by the Administrator or his authorized representative a copy of the certificate and all other records required under the applicable provisions of Part 516 (recordkeeping regulations) of this chapter.

§ 524.11 Review.

Any person aggrieved by an action of an authorized representative of the Administrator taken pursuant to this part may, within 15 days after such action, file with the Administrator a petition for review of the action complained of, setting forth grounds for seeking review. If such review is granted, the Administrator or an authorized representative who took no part in the action under review may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data and views.

§ 524.12 Issuance of certificates for experimental purposes.

In addition to the issuance of certificates as provided in §§ 524.1 to 524.11, the Administrator may authorize the issuance of certificates to permit employment of handicapped workers at less than the applicable minimum wage under section 6 of the Act as part of experimental programs to increase employment opportunities for such workers. Such certificates shall be issued in such types of cases and on such terms and conditions within the scope of section 14(d) of the Act as the Administrator shall determine will best further any such experimental programs.

§ 524.13 Amendment of this part.

The Administrator may at any time upon his own motion or upon written request of any interested person setting forth reasonable ground therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the terms of this part.

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

ROBERT D. MORAN,
Administrator, Wage and Hour Division, United States Department of Labor.

[F.R. Doc. 70-13036; Filed, Sept. 29, 1970; 8:49 a.m.]

[29 CFR Parts 602, 603, 608, 609, 610, 611, 612, 614, 615, 687]

[Administrative Order 614]

INDUSTRY COMMITTEES FOR VARIOUS INDUSTRIES IN PUERTO RICO

Appointment To Investigate Conditions and Recommend Minimum Wages; Notice of Hearings

1. Pursuant to section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR Part 511, I hereby appoint the following committees for the indicated industries:

Committee No.	*Industry*
99–A	Men's and Boys' Clothing and Related Products Industry in Puerto Rico.
99–B	Hosiery Industry in Puerto Rico.
100–A	Gloves and Mittens Industry in Puerto Rico [formerly Fabric and Leather Gloves Industry in Puerto Rico].
100–B	Leather, Leather Goods, and Related Products Industry in Puerto Rico.
101–A	Corsets, Brassieres, and Allied Garments Industry in Puerto Rico.
101–B	Children's Dress and Related Products Industry in Puerto Rico.
101–C	Women's Outerwear, Needlework, and Miscellaneous Fabricated Textile Products Industry in Puerto Rico [formerly Needlework and Fabricated Textile Products Industry in Puerto Rico].
101–D	Handkerchief, Scarf, and Art Linen Industry in Puerto Rico.
102–A	Women's and Children's Underwear and Women's Blouse Industry in Puerto Rico.
102–B	Sweater and Knit Swimwear Industry in Puerto Rico.

2. These industries are defined as follows:

(a) The men's and boys' clothing and related products industry in Puerto Rico is defined as follows: The manufacture from any material of men's and boys' clothing, furnishings, accessories, and related products: *Provided, however,* That the industry shall not include the manufacture of handmade straw hats, gloves, hosiery, footwear, belts (except fabric), sweaters, handkerchiefs, scarves, mufflers, or any product or activity included in the children's dress and related products industry in Puerto Rico (29 CFR Part 610) or in the women's and children's underwear and women's blouse industry in Puerto Rico (29 CFR Part 609).

(b) The hosiery industry in Puerto Rico to which this order shall apply, is defined as the manufacture and processing of full-fashioned and seamless hosiery, including, among other processes, the knitting, seaming, looping, dyeing, clocking, and all phases of finishing hosiery, but not including the manufacture or processing of yarn or thread.

(c) The gloves and mittens industry in Puerto Rico is defined as: The manufacture from any material of gloves and mittens made by knitting, crocheting, cutting, sewing, embroidering, or other processes: *Provided, however,* That the industry shall not include the manufacture of sport and athletic gloves and mitts, or the manufacture of rubber or molded plastic gloves and mittens.

(d) The leather, leather goods, and related products industry in Puerto Rico is defined as follows: The curing, tanning, or other processing of hides, skins, leather, or furs, and the manufacture of products therefrom; the manufacture from artificial leather, fabric, plastics, paper or paperboard, or similar materials of trunks, suitcases, brief cases, wallets, billfolds, coin purses, card cases, key cases, cigarette cases, watch straps, pouches, tie cases, toilet kits, checkbook covers, sport and athletic gloves and mittens, belts (except fabric belts), and like articles; and the manufacture of baseballs, softballs, footballs, and basketballs covered with leather, artificial leather, fabric, plastics, or similar materials: *Provided, however,* That the industry shall not include any product or activity included in the button, jewelry, and lapidary work industry (29 CFR Part 616), the needlework and fabricated textile products industry (29 CFR Part 612), the shoe and related products industry (29 CFR Part 601), the gloves and mittens industry (29 CFR Part 603), or the rubber products industry (29 CFR Part 720), as defined in the wage orders for those industries in Puerto Rico.

(e) The corsets, brassieres, and allied garments industry in Puerto Rico is defined as follows: The manufacture of corsets, brassieres, brassiere pads, girdles, foundation garments, sanitary belts, surgical or abdominal supports, and all similar body-supporting garments.

(f) The children's dress and related products industry in Puerto Rico is defined as follows: The manufacture from woven or knit fabric or from waterproof materials of the following garments: Dresses, blouses, shirts, and similar garments for girls, shirts and blouses for boys size 6X and under; dresses, creepers, rompers, waterproof pants, diaper covers, bibs, sportswear, and play apparel for infants 3 years of age or under; and clothing and accessories for dolls: *Provided, however,* That the industry shall not include products manu-

factured by heat sealing, cementing, vulcanizing, or any operation similar thereto; or the outlining or embroidery of lace by machine, or the embroidery of any article or trimming by a crochet beading process or with bullion thread.

(g) The women's outerwear, needlework, and miscellaneous fabricated textile products industry in Puerto Rico is defined as: The manufacture from any material of women's and girls' outerwear (except scarves, blouses and girls' dresses) and all other apparel and apparel furnishings and accessories made by knitting, crocheting, cutting, sewing, embroidering, or other processes; and the manufacture of all textile products and the manufacture of like articles in which a synthetic material in sheet form is the basic component: *Provided, however,* That the industry shall not include any product or activity included in the artificial flower, decoration, and party favor industry in Puerto Rico (29 CFR Part 688), the button, jewelry, and lapidary work industry in Puerto Rico (29 CFR Part 616), the corsets, brassieres, and allied garments industry in Puerto Rico (29 CFR Part 614), the gloves and mittens industry in Puerto Rico (29 CFR Part 603), the hosiery industry in Puerto Rico (29 CFR Part 687), the men's and boys' clothing and related products industry in Puerto Rico (29 CFR Part 615), the shoe and related products industry in Puerto Rico (29 CFR Part 601), the straw, hair, and related products industry in Puerto Rico (29 CFR Part 613), the textile and textile products industry in Puerto Rico (29 CFR Part 699), the handkerchief, scarf, and art linen industry in Puerto Rico (29 CFR Part 608), the women's and children's underwear and women's blouse industry in Puerto Rico (29 CFR Part 609), the sweater and knit swimwear industry in Puerto Rico (29 CFR Part 611), and the children's dress and related products industry in Puerto Rico (29 CFR Part 610), as defined in the wage orders for these industries.

(h) The handkerchief, scarf, and art linen industry in Puerto Rico is defined as follows: The manufacture of plain, scalloped, or ornamental handkerchiefs and scarves; the manufacture of art linen, including, but not by way of limitation, table cloths, luncheon cloths, altar cloths, napkins, bridge sets, table covers, sheets, pillow cases, and towels; and the manufacture of needlepoint on canvas or other materials: *Provided, however,* That the industry shall not include the outlining or embroidery of lace by machine or the embroidery of any article or trimming by a crochet beading process or with bullion thread.

(i) The women's and children's underwear and women's blouse industry in Puerto Rico is defined as follows: The knitting or manufacture from woven or knit fabric, of women's, misses', girls', boys' size 6X or under, and infants' underwear and nightwear, including but not by way of limitation, slips, petticoats, nightgowns, negligees, panties, undershirts, briefs, shorts, pajamas, sleepers, and similar articles; and the manufacture of women's and misses' blouses, shirts, waists, and neckwear (including collar and cuff sets but excluding scarves): *Provided, however,* That the industry shall not include any product or activity included in the corsets, brassieres, and allied garments industry in Puerto Rico (29 CFR Part 614); or the outlining or embroidery of lace by machine, or the embroidery of any article or trimming by a crochet beading process or with bullion thread.

(j) The sweater and knit swimwear industry in Puerto Rico is defined as follows: The manufacture of men's, women's, misses', boys', and girls' knit sweaters, sport shirts, shrugs, shoulderettes, boleros, and similar knitwear, and women's, misses', and girls' knit swimwear: *Provided, however,* That the industry shall not include the embroidery of any article or trimming by a crochet beading process or with bullion thread.

3. Pursuant to section 8 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203), Reorganization Plan No. 6 of 1950 (3 CFR 1949–1953 Comp., p. 1004), and 29 CFR Part 511, I hereby:

(a) Convene the above-appointed industry committees;

(b) Refer to the industry committees the question of the minimum rates of wages to be fixed for the above-mentioned industries in Puerto Rico as these industries are herein defined; except that Industry Committees Nos. 99–A, 100–B, 101–B, and 101–C shall limit their considerations in their respective industries to those activities to which the Fair Labor Standards Act of 1938, as amended, would have applied prior to the Fair Labor Standards Amendments of 1966, thus excluding those areas which have been considered by Industry Committee 95–D specified in Administrative Order 613, printed on April 22, 1970, in 35 F.R. 6436.

(c) Give notice of the hearings to be held by the several committees at the times and place indicated below. The committees shall investigate conditions in the industries, and the committees, or any authorized subcommittee thereof, shall hear witnesses and receive such evidence as may be necessary or appropriate to enable the committees to perform their duties and functions under the aforementioned Act.

(1) Industry Committee No. 99–A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Monday, April 19, 1971. Following this hearing, Industry Committee No. 99–B will immediately convene to conduct its investigation and to hold its hearing.

(2) Industry Committee No. 100–A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Monday, April 26, 1971. Following this hearing, Industry Committee No. 100–B will immediately convene to conduct its investigation and to hold its hearing.

(3) Industry Committee No. 101–A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Monday, June 7, 1971. Following this hearing, Industry Committee No. 101–B will immediately convene to conduct its investigation and to hold its hearing, following in seriatum by Industry Committees No. 101–C and No. 101–D in meeting to conduct their investigations and hold their hearings.

(4) Industry Committee No. 102–A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Monday, June 21, 1971. Following this hearing, Industry Committee No. 102–B will immediately convene to conduct its investigation and to hold its hearing.

4. The hearings will take place in the offices of the Wage and Hour Division on the seventh floor of the Condominio San Alberto Building, 1200 Ponce De Leon Avenue, Santurce, P.R.

5. Each industry committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, or American Samoa. However, no industry committee shall recommend minimum wage rates in excess of $1.60 an hour. In addition, rates for work which may have been added by amendments to the definitions herein, shall not be at less than the rate or rates provided in current regulations.

6. Whenever an industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities in the industry than may be determined for other employees in that industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10 which will not give a competitve advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications, each industry shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

7. The Administrator shall prepare an economic report for each industry committee containing such data as he is able to assemble pertinent to the matters referred to them. Copies of such reports may be obtained at the national and Puerto Rican offices of the Wage and Hour Division of the U.S. Department of Labor as soon as they are completed and prior to the hearings. The industry committees shall take official notice of the facts stated in the economic reports to the extent that they are not refuted at the hearing.

8. The procedure of industry committees shall be governed by 29 CFR Part 511. Interested persons wishing to participate in any of the hearings shall file prehearing statements, as provided in 29 CFR 511.8 containing the data specified in that section not later than 10 days before the first hearing date set for each committee as set forth in this notice of hearing i.e., April 9, 1971, for matters to be considered by Industry Committee Nos. 99–A or B; April 16, 1971, for matters to be considered by Industry Committee Nos. 100–A, B, C, or D; May 28, 1971, for matters to be considered by Industry Committee Nos. 101–A or B; and June 11, 1971, for matters to be considered by Industry Committees Nos. 102–A or B.

Signed at Washington, D.C., this 25th day of September 1970.

J. D. HODGSON,
Secretary of Labor.

[F.R. Doc. 70–13025; Filed, Sept. 29, 1970; 8:49 a.m.]

[29 CFR Parts 602, 610, 612, 615, 619, 661, 672, 722, 726]

[Administrative Order 615]

INDUSTRY COMMITTEES FOR VARIOUS INDUSTRIES IN PUERTO RICO

Revision of Schedules of Certain Meetings

Administrative Order No. 613, 35 F.R. 6436, provided for the appointment of various industry committees for various defined industries in Puerto Rico, including Industry Committees Nos. 95–A, 95–B, 95–C, and 95–D, and gave notice of dates for investigations and hearings.

At the request of interested parties and pursuant to the authority given me under section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004) and 29 CFR Part 511, the times of investigations and hearings of Industry Committees Nos. 95–A, 95–B, 95–C, and 95–D set forth in section 3(c)(1) of Administrative Order 613, are changed, as follows:

Industry Committee No. 95–D will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Tuesday, October 13, 1970. Following this hearing, Industry Committee No. 95–A will immediately convene to conduct its investigation and holds its hearing followed in seriatum by Industry Committees Nos. 95–B and 95–C in meeting to conduct their investigations and hold their meetings.

Signed at Washington, D.C., this 25th day of September 1970.

J. D. HODGSON,
Secretary of Labor.

[F.R. Doc. 70–13026; Filed, Sept. 29, 1970; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10606]

BRITISH AIRCRAFT CORP. MODEL BAC 1–11 200 AND 400 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to British Aircraft Corp. Model BAC 1–11 200 and 400 series airplanes. There have been reports of cracks and distortions of the APU air delivery duct nonreturn valve on the airplanes that could result in a valve malfunction and subsequent APU fire. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require periodic inspections of the nonreturn valve and replacement of valves found to be cracked on British Aircraft Corporation Model BAC 1–11 200 and 400 series airplanes.

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 docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before October 30, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORP. Applies to Model BAC 1–11 200 and 400 series airplanes.

Compliance is required as indicated.

To prevent malfunction of the auxiliary power unit (APU) air delivery duct nonreturn valve, accomplish the following:

(a) For airplanes having nonreturn valve P/N 525180 installed—

(1) Within the next 100 hours' time in service after the effective date of this AD, unless already accomplished within the last 60 hours' time in service, and thereafter at intervals not to exceed 160 hours' time in service from the last inspection until a P/N 1398B000 or 3031B000 nonreturn valve is installed, visually inspect the APU air intake including the fiberglass surround for evidence of overheat discoloration.

(2) If evidence of overheat discoloration is found during the inspection required by subparagraph (1) of this paragraph, before further APU operation, replace the nonreturn valve with a serviceable valve P/N 525180, 1398B000, or 3031B000; replace or repair the overheated structural parts; and refinish the air intake area.

(3) Within the next 320 hours' time in service after the effective date of this AD, unless already accomplished within the last 320 hours' time in service, and thereafter at intervals not to exceed 640 hours' time in service from the last replacement until a nonreturn valve P/N 1398B000 or 3031B000 is installed, replace the nonreturn valve P/N 525180 with a serviceable valve of the same part number which has been inspected in accordance with British Aircraft Corp. Model BAC 1–11 Alert Service Bulletin No. 49–A–PM 3122, Issue 2, dated September 25, 1969, or later ARB-approved issue or an FAA-approved equivalent, or replace the nonreturn valve with a serviceable P/N 1398B000 or 3031B000 nonreturn valve.

(b) For airplanes having nonreturn valve P/N 1398B000 or 3031B000 installed, within the next 500 hours' time in service after the effective date of this AD, unless already accomplished within the last 1,000 hours' time in service, and thereafter at intervals not to exceed 1,500 hours' time in service from the last inspection, remove the APU air delivery duct nonreturn valve and clean and inspect the valve for cracks and dimensional nonconformity in accordance with British Aircraft Corp. Model BAC 1–11 Alert Service Bulletin No. 49–A–PM 3122, Issue 2, dated September 25, 1969, or later ARB-approved issue or an FAA-approved equivalent. If a crack or dimensional nonconformity is found, before further APU operation, replace the nonreturn valve with a serviceable nonreturn valve P/N 1398B000, 3031B000, or 525180.

(c) If a nonreturn valve P/N 525180 is installed in accordance with paragraphs (a) or (b), before further flight, unless already accomplished, install a placard adjacent to the APU control panel in clear view of the pilot, or amend the Airplane Flight Manual limitations Section 2, to read as follows:

"Closed APU air delivery valve when starting engine from an external supply or by cross-feeding air from an operating engine. Close APU air delivery valve and shut down APU for takeoff and flight operation. Operational use of the APU in flight is prohibited."

The placard may be removed, or the amendment to the Airplane Flight Manual may be deleted, upon replacement of APU air delivery duct nonreturn valve P/N 525180 with nonreturn valve P/N 1398B000 or 3031B000.

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

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70–13027; Filed, Sept. 29, 1970; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-64]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Nashville, Tenn., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Area Manager, Memphis Area Office, Air Traffic Branch, Post Office Box 18097, Memphis, Tenn. 38118. 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 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 Branch. 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 Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Nashville transition area described in § 71.181 (35 F.R. 2134) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Nashville Metropolitan Airport (lat. 36°07'36" N., long. 86°40'58" W.); within 9.5 miles east and 4.5 miles west of Nashville ILS localizer north course, extending from the 14-mile-radius area to 18.5 miles north of Nashville VORTAC 344° radial; within 9.5 miles northeast and 4.5 miles southwest of Nashville VORTAC 135° radial, extending from the 14-mile-radius area to 18.5 miles southeast of the VORTAC; within 9.5 miles east and 4.5 miles west of Nashville ILS localizer south course, extending from the 14-mile-radius area to 18.5 miles south of the LOM; within an 8-mile radius of Gallatin Municipal Airport, Tenn. (lat. 36°22'-45" N., long. 86°24'30" W.); within an 8.5-mile radius of Smyrna Airport, Tenn. (lat. 36°00'27" N., long. 86°31'21" W.).

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to the Nashville terminal area complex requires the following actions:

1. Revoke the extension predicated on the Nashville VORTAC 115° radial and redesignate it predicated on the Nashville VORTAC 135° radial.

2. Designate an 8.5-mile-basic-radius circle predicated on the Smyrna Airport.

The proposed alterations are required to provide controlled airspace protection for IFR operations in climb from 700 to 1,200 feet above the surface. Aircraft executing the VOR/DME RWY 32 approach to Smyrna Airport will be contained within the current transition area. A prescribed instrument approach procedure to Smyrna Airport, utilizing the Nashville VORTAC, is proposed in conjunction with the alteration of this transition area.

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

Issued in East Point, Ga., on September 18, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-13028; Filed, Sept. 29, 1970; 8:49 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 70-23; Notice 1]

MOTOR VEHICLE BRAKE FLUIDS

Proposed Federal Motor Vehicle Safety Standard

Federal Motor Vehicle Safety Standard No. 116 (34 F.R. 113) specifies requirements for hydraulic brake fluids used in motor vehicles. The National Highway Safety Bureau proposes amending this standard in order to provide more stringent requirements for the physical and chemical properties of brake fluids, and to specify requirements for brake fluid containers and brake fluid container labeling.

The proposed amendment would restrict the manufacture of motor vehicle brake fluid to one type, Type DOT. This type of brake fluid would be suitable for use in motor vehicle brake systems fitted with rubber cups and seals made from natural rubber, styrene-butadiene rubber, or a terpolymer of ethylene propylene and a diene. Type DOT would replace SAE Type 70R1, SAE Type 70R1 Arctic, and SAE Type 70R3 brake fluids presently required by Standard No. 116.

Three grades of Type DOT brake fluid are proposed: DOT 2, DOT 3, and DOT 4. Grade DOT 1 is not specified and would be reserved for an ultralow temperature grade of brake fluid should such a fluid become necessary in the future.

Grade DOT 2 brake fluid would be similar to that specified by SAE Standard J1702a, "Motor Vehicle Brake Fluid—Arctic," except that the minimum dry equilibrium reflux boiling point would be increased from 302° F. to 374° F. There would also be a minimum wet equilibrium reflux boiling point requirement of 266° F. Grade DOT 3 brake fluid would be similar to that specified by SAE Standard J1703a, "Motor Vehicle Brake Fluid," except that the minimum dry equilibrium reflux boiling point would be increased from 374° F. to 401° F., a requirement for a minimum wet equilibrium reflux boiling point of 284° F. would be added, and the viscosity requirement at −40° F. would be changed from 1,800 centistokes to 1,500 centistokes. Grade DOT 4 brake fluid would have a minimum dry equilibrium reflux boiling point of 446° F. and a minimum wet equilibrium reflux boiling point of 320° F. This fluid would be particularly suitable for use in vehicles whose brake systems are subjected to high temperature service.

Brake fluid temperature on cars equipped with disc brakes or drum brakes with metallic friction material can exceed the boiling point of SAE Type 70R1 fluid. The proposal therefore does not include a DOT grade similar to SAE Type 70R1 because of the low equilibrium reflux boiling point of that fluid. DOT brake fluids would provide a greater margin of safety against vapor locks by specifying minimum dry equilibrium reflux boiling points which are at least 72° F. higher than the minimum specified for SAE Type 70R1 and wet boiling point performance which should nearly simulate actual use conditions.

Test procedures proposed are, in general, similar to current ASTM Methods with SAE Standards J1702a and J1703a as reference points. ASTM Methods consulted in developing the proposed test procedures include: D91-61 "Test for Precipitation Number of Lubricating Oils," D92-66 "Test for Flash and Fire Points by Cleveland Open Cup," D97-66 "Test for Pour Point," D445-65 "Test for Viscosity of Transparent and Opaque Liquids (Kinematic and Dynamic Viscosities)," D1120-65 "Test for Boiling Point of Engine Antifreezes," D1123-59 "Test for Water in Concentrated Engine Antifreezes by the Iodine Reagent Method," D1415-68 "Test for International Hardness of Vulcanized National and Synthetic Rubbers," and E70-68 "Test for pH of Aqueous Solutions with the Glass Electrode." The test equipment and reference materials contained in the proposed test procedures are generally those included in these SAE and ASTM standards and methods.

Natural rubber wheel cylinder cups are eliminated from the proposed test procedure to make the tests more representative of current practices since manufacturers of domestic braking systems have discontinued use of those cups. This change would not prohibit vehicles from using natural rubber cups as the performance capabilities and compatibility of the natural rubber cups with SAE type brake fluids is well documented. The proposed revision also covers brake fluid packaging and specifies requirements intended to protect brake fluids from exposure to moisture and other contaminants during its shelf life. The reusable cap proposed for containers of six or more fluid ounces should provide protection from contamination during storage after a container has been initially opened but only partially emptied.

In addition, requirements are proposed for labeling brake fluid containers. The labels would provide pertinent information about the fluids and would warn of the dangers of contaminated brake fluids. There is also a proposed requirement for indelibly marking the containers with a batch or production lot identification number to facilitate determination of the extent of defective brake fluid should such be discovered.

The proposed effective date is October 1, 1971.

Interested persons are invited to submit written data, views, or arguments on this proposal. Comments are specifically requested on the method of test for the wet reflux boiling point. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested but not required that 10 copies be submitted. All comments received on or before the close of business on December 28, 1970, will be considered, and will be available in room 4223 for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

In consideration of the foregoing, it is proposed to amend 49 CFR 571.21, Motor Vehicle Safety Standard No. 116, Motor Vehicle Brake Fluids as set forth below.

This notice of proposed rulemaking is issued under the authority of sections 103, 112, 114, 117(c), and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1401, 1403, 1405(c), and 1407) and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on September 22, 1970.

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

MOTOR VEHICLE SAFETY STANDARD NO. 116

MOTOR VEHICLE BRAKE FLUIDS

S1. *Purpose and scope.* This standard prescribes minimum safety specifications for motor vehicle brake fluids, brake fluid containers, and brake fluid container labeling.

S2. *Application.* This standard applies to all motor vehicle brake fluid and to all containers in which those fluids are sold.

S3. *Definitions.*

"Blister" means a cavity or sac on a rubber brake cup that deforms the surface of the cup.

"Chipping" means the loss of small pieces of the edge of the base of a rubber brake cup.

"Duplicate samples" means samples of brake fluid taken from a single production lot and then tested simultaneously.

"Packager" means any person, other than a manufacturer, who packages motor vehicle brake fluid in containers and distributes packaged fluid to distributors or dealers for retail sale.

"Scuffing" means a visible erosion of any part of the outer rubber brake cup surface.

"Sloughing" means degradation of a rubber brake cup as evidenced by the presence of carbon black loosely held on the rubber brake cup surface, so that a visible black streak is produced on a sheet of white bond paper when the cup is drawn with a 500±10 gram deadweight on the cup, base down over a sheet of that paper placed on a firm flat surface.

"Stickiness" means a condition on the surface of a rubber brake cup in which fibers are pulled from a wad of absorbent cotton when the cotton is drawn across the surface of the cup.

S4. *Requirements.* This section specifies requirements for type DOT (grades DOT 2, DOT 3, and DOT 4) brake fluids, brake fluid containers, and brake fluid container labeling.

S4.1 *Motor vehicle brake fluids.* Motor vehicle brake fluids when tested in accordance with S5 shall meet the following requirements:

S4.1.1 *Original equilibrium reflux boiling point (ERBP).* When brake fluid is tested according to S5.1 the original ERBP shall not be less than the following value for the grade indicated:

(i) DOT 2: 190° C. (374° F.).
(ii) DOT 3: 205° C. (401° F.).
(iii) DOT 4: 230° C. (446° F.).

S4.1.2 *Wet ERBP.* When brake fluid is tested according to S5.2 the wet ERBP shall not be less than the following value for the grade indicated:

(i) DOT 2: 130° C. (266° F.).
(ii) DOT 3: 140° C. (284° F.).
(iii) DOT 4: 160° C. (320° F.).

S4.1.3 *Flash point.* When brake fluid is tested according to S5.3 the flash point shall not be less than the following value for the grade indicated:

(i) DOT 2: 82° C. (180° F.).
(ii) DOT 3: 82° C. (180° F.).
(iii) DOT 4: 100° C. (212° F.).

S4.1.4 *Kinematic viscosities.* When brake fluid is tested according to S5.4 the kinematic viscosities in centistokes (cSt) at stated temperatures shall be neither more than the following maximum value nor less than the minimum value for the grade indicated:

(a) Maximum values:

(i) DOT 2: 1500 cSt at −55° C. (−67° F.).
(ii) DOT 3: 1500 cSt at −40° C. (−40° F.).
(iii) DOT 4: 1800 cSt at −40° C. (−40° F.).

(b) Minimum values:

(i) DOT 2: 3.5 cSt at 50° C. (122° F.); 1.3 cSt at 100° C. (212° F.).
(ii) DOT 3: 4.2 cSt at 50° C. (122° F.); 1.5 cSt at 100° C. (212° F.).
(iii) DOT 4: 4.2 cSt at 50° C. (122° F.); 1.5 cSt at 100° C. (212° F.).

S4.1.5 *pH value.* When brake fluid is tested according to S5.5 the pH value shall not be less than 7.0 or more than 11.0.

S4.1.6 *Brake fluid stability.*

S4.1.6.1 *High temperature stability.* When brake fluid is tested according to S5.6.1 the ERBP shall not change by more than 3.0° C. (5.4° F.) plus 0.05° for each degree that the original ERBP of the fluid exceeds 225° C. (437° F.).

S4.1.6.2 *Chemical stability.* When brake fluid is tested according to S5.6.2 the change in temperature of the refluxing fluid mixture shall not be more than 3.0° C. (5.4° F.) plus 0.05° for each degree that the original ERBP of the fluid exceeds 225° C. (437° F.).

S4.1.7 *Corrosion.* When brake fluid is tested according to S5.7—

(a) The metal test strips shall not show weight changes over the following limits:

Test Strip Material:	*Maximum permissible weight change, mg./sq. cm. of surface*
Steel, tinned iron, cast iron	0.2
Aluminum	0.1
Brass, copper	0.4

(b) The metal test strips shall not show pitting or etching to an extent discernible without magnification;

(c) The brake fluid-water mixture at the end of the test shall show no jelling at 23°±5° C. (73.4°±9° F.);

(d) No crystalline deposit shall form and adhere to either the glass jar walls or the surface of the metal strips;

(e) At the end of the test, sedimentation of the fluid-water mixture shall not be more than 0.10 percent by volume;

(f) The fluid-water mixture at the end of the test shall have a pH value of not less than 7.0 nor more than 11.0;

(g) The rubber cups at the end of the test shall show no disintegration, as evidenced by stickiness, blisters, or sloughing;

(h) The hardness of the rubber cup shall not decrease by more than 15 International Rubber Hardness Degrees (IRHD); and

(i) The base diameter of the rubber cups shall not increase by more than 1.4 mm. (0.55 in.).

S4.1.8 *Fluidity and appearance at low temperature.* When brake fluid is tested according to S5.8 at the storage temperature and for the storage times given in table 1—

(a) The black contrast lines on the hiding power chart shall be clearly discernible when viewed through any part of the fluid in sample bottle;

(b) The fluid shall show no crystallization, clouding, stratification, or sedimentation; and

(c) Upon inversion of the sample bottle, the time required for the air bubble to travel to the top of the fluid shall not exceed the bubble flow times shown in table 1.

TABLE 1

FLUIDITY AND APPEARANCE AT LOW TEMPERATURES

DOT grade	Storage temperature	Storage time (hours)	Max bubble flow time (seconds)
2	−50°±2° C. (−58°±3.6° F.):	144±4.0	10
	−55°±2° C. (−67°±3.6° F.):	6±0.2	15
3 and 4	−40°±2° C. (−40°±3.6° F.):	144±4.0	10
	−50°±2° C. (−58°±3.6° F.):	6±0.2	35

S4.1.9 *Evaporation.* When brake fluid is tested according to S5.9—

(a) Loss by evaporation shall not be more than 80 percent by weight;

(b) Residue from the brake fluid after evaporation shall contain no precipitate that remains gritty or abrasive when rubbed with the fingertip; and

(c) Residue shall have a pour point below −5° C. (+23° F.).

S4.1.10 *Water tolerance.*

(a) *At low temperature.* When brake fluid is tested according to S5.10(a)—

(1) The black contrast lines on a hiding power test chart shall be clearly discernible when viewed through any part of the fluid in the centrifuge tube;

(2) The fluid shall show no stratification or sedimentation; and

(3) Upon inversion of the centrifuge tube, the air bubble shall travel to the top of the fluid in not more than 10 seconds; and

(b) *At 60° C. (140° F.).* When brake fluid is tested according to S5.10(b)—

(1) The fluid shall show no stratification; and

(2) Sedimentation shall not be more than 0.5 percent by volume, after centrifuging.

S4.1.11 *Compatibility.*

(a) *At low temperature.* When brake fluid is tested according to S5.11(a)—

(1) The black contrast lines on a hiding power test chart shall be clearly discernible when viewed through any part of the fluid in the centrifuge tube; and

(2) The fluid shall show no stratification or sedimentation; and

(b) *At 60° C. (140° F.).* When brake fluid is tested according to S5.11(b)—

(1) The fluid shall show no stratification; and

(2) Sedimentation shall not be more than 0.5 percent by volume, after centrifuging.

S4.1.12 *Resistance to oxidation.* When brake fluid is tested according to S5.12—

(a) The metal test strips outside the areas in contact with the tinfoil shall not show pitting or etching to an extent discernible by eye without magnification;

(b) No more than a trace of gum shall be deposited on the test strips outside the areas in contact with the tinfoil;

(c) The aluminum strips shall not change in weight by more than 0.05 mg. per sq. cm.; and

(d) The cast iron strips shall not change in weight by more than 0.3 mg. per sq. cm.

S4.1.13 *Effects on rubber.* When rubber brake cups are subjected to brake fluid in accordance with S5.13 (a) and (b)—

(a) The increase in the diameter of the base of the cups shall be not less than 0.15 mm. (0.006 in.) or more than 1.40 mm. (0.055 in.);

(b) The decrease in hardness of the rubber cups shall be not more than 10 IRHD at 70° C. (158° F.) or more than 15 IRHD at 120° C. (248° F.). There shall be no increase in hardness of the cups; and

(c) The rubber cups shall show no disintegration as evidenced by stickiness, blisters, or sloughing.

S4.1.14 *Stroking properties.* When brake fluid is tested according to S5.14—

(a) Metal parts of the test system shall show no pitting or etching to an extent discernible without magnification.

(b) The change in diameter of any cylinder or piston shall not exceed 0.13 mm. (0.005 in.);

(c) The average decrease in hardness of nine of the 10 rubber cups tested (eight-wheel cylinder (WC) plus master cylinder (MC) primary) shall not exceed 10 IRHD when a DOT 2 fluid is tested, or 13 IRHD when a DOT 3 or DOT 4 fluid is tested. No more than one of the nine cups shall have a decrease in hardness greater than 12 IRHD when a DOT 2 fluid is tested, or greater than 15 IRHD when a DOT 3 or DOT 4 fluid is tested;

(d) None of the 10 rubber cups shall be in an unsatisfactory operating condition as evidenced by stickiness, scuffing, blisters, cracking, chipping, or other abnormal change in shape from original appearance;

(e) None of the 10 rubber cups shall show an increase in base diameter greater than 0.90 mm. (0.035 in.);

(f) The average lip diameter set of the 10 rubber cups shall not be greater than 65 percent;

(g) During any period of 24,000 strokes the volume loss of fluid shall not exceed 36 ml.;

(h) The cylinder pistons shall not freeze or function improperly throughout the test;

(i) The total loss of fluid during the 100 strokes at the end of the test shall not be more than 3 ml.;

(j) The fluid at the end of the test shall show no formation of gells or abrasive grittiness;

(k) At the end of the test the amount of sediment shall not be more than 1.0 percent by volume after centrifuging a DOT 2 fluid, or 1.5 percent by volume for DOT 3 and DOT 4 fluids; and

(l) Brake cylinders shall be free of deposits which are abrasive or which cannot be removed when rubbed moderately with a nonabrasive cloth wetted with ethanol.

S4.2 *Packaging and labeling requirements for motor vehicle brake fluids.*

S4.2.1 *Container sealing.* Containers having a capacity of six or more fluid ounces shall be provided with a resealable closure. The container closure shall include a tamper-proof feature that will either be destroyed or substantially altered when the container closure is initially opened.

S4.2.2 *Certification, marking, and labeling.*

S4.2.2.1 Each manufacturer of motor vehicle brake fluid shall furnish the following information, clearly and indelibly marked on each brake fluid container, to each packager, distributor, or dealer to whom he sells brake fluid;

(a) A certification that the brake fluid conforms to Federal Motor Vehicle Safety Standard No. 116.

(b) The name and complete mailing address of the manufacturer.

(c) The serial number identifying manufacturer's production lot and date of manufacture of the brake fluid.

(d) Designation of the contents as "DOT ____ Motor Vehicle Brake Fluid" (Fill in "2," "3," or "4" as applicable).

(e) Required minimum wet boiling point in Fahrenheit (° F.) of the brake fluid in the container.

(f) The following safety warnings in capital and lower case letters as indicated:

1. Use Only Grade or Grades of Brake Fluid Recommended by Vehicle Manufacturer. Use DOT 3 or DOT 4 in vehicles for which a DOT grade is not specified. Use DOT 2 where ambient temperatures may fall to −40° F. and below.

2. Keep Brake Fluid Clean and Free of Water and Oil. Dirt may cause brake failure. Water, even one drop, may lower the brake fluid boiling point and cause corrosion in the brake system. Petroleum products and organic solvents will seriously damage the brake seals causing brake failures.

3. Store Brake Fluid in its Original Container. Keep Tightly Closed. Brake fluid will absorb moisture from the air. Do not use container for any other purpose—Destroy when empty.

S4.2.2.2 Each packager of brake fluid shall furnish to each distributor or dealer to whom he sells brake fluid, the following information clearly and indelibly marked on each brake fluid container, or on a label or tag firmly attached to each such container, in numerals and in block capital letters not less than three thirty-seconds of an inch high:

(a) The information which the manufacturer furnished the packager pursuant to S4.2.2.1.

(b) Name and complete mailing address of packager.

(c) Serial number identifying the packaging lot and date of packaging.

S5. *Test procedures.*

S5.1 *Equilibrium reflux boiling point.* Determine the ERBP of a brake fluid by running duplicate samples according to the following procedure and averaging the results.

S5.1.1 *Summary of procedure.* Sixty milliliters (ml.) of brake fluid are boiled under specified equilibrium conditions (reflux) at atmospheric pressure in a 100-ml. flask. The average temperature of the boiling fluid at the end of the reflux period, corrected for variations in barometric pressure if necessary, is the ERBP.

S5.1.2 *Apparatus.* (Fig. 1) The test apparatus shall consist of—

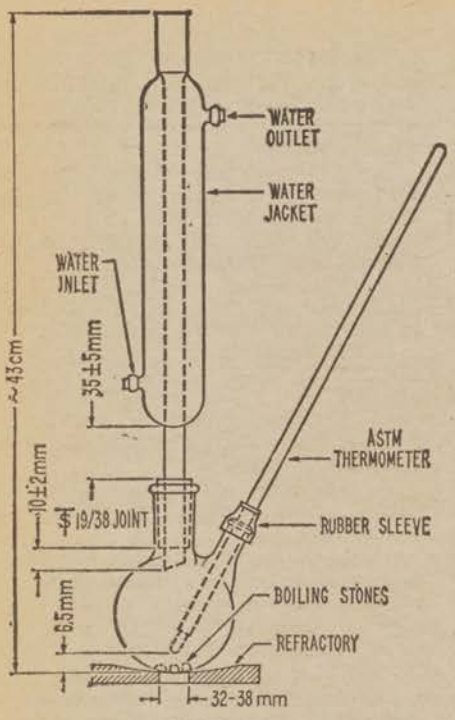

FIG. 1
BOILING POINT TEST APPARATUS

(a) *Flask.* (Fig. 2) a 100-ml. round-bottom, short-neck heat resistant glass flask having a neck with a 19/38 standard taper, female ground-glass joint and a 10 mm. outside diameter side-entering tube, which centers the thermometer bulb in the flask 6.5 mm. from the bottom;

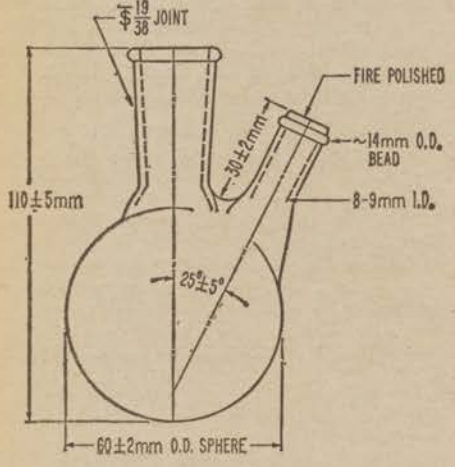

FIG. 2
DETAIL OF 100ml SHORT-NECK FLASK

(b) *Condenser.* A water-cooled, reflux, glass-tube type, condenser having a jacket 200 mm. in length, the bottom end of which has a 19/38 standard-taper, drip-tip, male ground-glass joint;

(c) *Boiling stones.* Three clean, unused silicon carbide grains (approximately 2 mm. (0.08 in.) in diameter, grit No. 8);

(d) *Thermometer.* Standardized calibrated partial immersion (76 mm.), solid stem, thermometers conforming to the requirements for an ASTM 2C or 2F, and an ASTM 3C or 3F thermometer; and

(e) *Heat source.* Variable autotransformer-controlled heating mantle designed to fit the flask, or an electric heater with rheostat heat control.

S5.1.3 *Preparation of apparatus.*

(a) Thoroughly clean and dry all glassware.

(b) Insert thermometer through the side tube until the tip of the bulb is 6.5 mm. (¼ in.) from the bottom center of the flask. Seal with a short piece of natural rubber, EPDM, SBR, or butyl tubing.

(c) Place 60±1 ml. of brake fluid and silicon carbide grains into the flask.

(d) Attach the flask to the condenser. When using a heating mantle, place the mantle under the flask and support it with ring clamp and laboratory type stand, holding the entire assembly in place by a clamp. When using a rheostat-controlled heater, center a standard porcelain or hard asbestos refractory, having a diameter opening 32–38 mm., over the heating element and mount the flask so that direct heat is applied only through the opening in the refractory. Place assembly in an area free from drafts or other types of sudden temperature changes. Connect the cooling water inlet and outlet tubes to the condenser. Turn on the cooling water. The water supply temperature shall be 23°±5° C. (73.4°±9° F.), and the temperature rise through the condenser shall not exceed 2° C. (3.6° F.).

S5.1.4 *Procedure.* Apply heat to flask so that within 10±2 minutes the fluid is refluxing in excess of 1 drop per second. Immediately adjust the heating rate to obtain an equilibrium reflux rate of 1 to 2 drops per second over the next 5±2 minutes. Maintain this rate for an additional 2 minutes, taking four temperature readings at 30-second intervals. Record the average of these as the observed ERBP. The reflux rate must not exceed 5 drops per second at any time.

S5.1.5 *Calculation.*

(a) *Thermometer inaccuracy.* Correct the observed ERBP by applying any correction factor obtained in standardizing the thermometer.

(b) *Variation from standard barometric pressure.* Apply this correction (Table 2) for inaccuracy of the thermometer.

TABLE 2

CORRECTION FOR BAROMETRIC PRESSURE

Observed ERBP corrected for thermometer inaccuracy	Correction per 1 mm. difference in pressure [1]	
	° C.	(° F.)
100° C. (212° F.) to 190° C. (374° F.)	0.039	(0.07)
Over 190° C. (374° F.)	0.04	(0.08)

[1] To be added in case barometric pressure is below 760 mm.; to be subtracted in case barometric pressure is above 760 mm.

(c) If the two corrected observed ERBP's agree within 2.0° C. (4.0° C. for brake fluids having an ERBP over 230° C./446° F.) average the duplicate runs as the ERBP; otherwise repeat, average the four corrected observed ERBP's, and determine the original ERBP.

S5.2 *Wet ERBP.* Determine the wet ERBP of a brake fluid by running duplicate samples according to the following procedure.

S5.2.1 *Summary of the procedure.* A 100 ml. sample of the brake fluid is humidified under controlled conditions; 100 ml. of SAE RM–1 Compatibility Fluid is used to establish the end point for humidification. After humidification the water content and ERBP of the brake fluid are determined.

S5.2.2 *Apparatus for humidification.* (Fig. 3) Test apparatus shall consist of:

(a) *Glass jars.* Four SAE RM–49 corrosion test jars or equivalent screw-top, straight-sided, round glass jars each having a capacity of about 475 ml. and approximate inner dimensions of 100 mm. high by 75 mm. in diameter, with matching lids having new, clean inserts providing water-vapor-proof seals.

(b) *Desiccator and cover.* Four bowl-form glass desiccators, 250-mm. I.D., having matching tubulated covers fitted with No. 8 rubber stoppers.

(c) *Desiccator plate.* Four 230-mm. diameter, perforated porcelain desiccator plates, without feet, glazed one side.

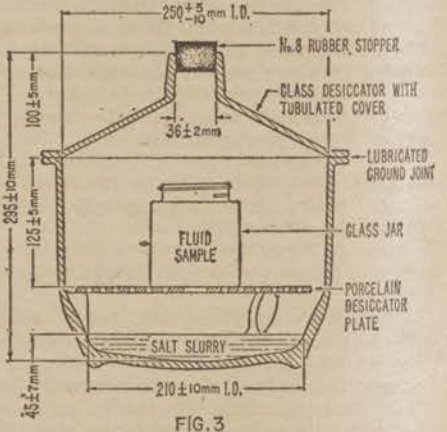

FIG. 3
HUMIDIFICATION APPARATUS

S5.2.3 *Reagents and materials.*

(a) Ammonium sulfate, $(NH_4)_2SO_4$ Reagent or A.C.S. grade.

(b) Distilled water. Same as S6.1.

(c) SAE RM–1 compatibility fluid.

S5.2.4 *Preparation of apparatus.* Lubricate the ground-glass joint of the desiccator. Load each desiccator with 450±25 grams of the ammonium sulfate and add 125±10 ml. of distilled water. The surface of the salt slurry shall lie within 45±7 mm. of the top surface of the desiccator plate. Place the desiccators in an area with temperature controlled at 23°±2° C. (73.4°±3.6° F.) throughout the humidification procedure. Load dessicators with slurry and allow to condition with covers on and stoppers in place at least 12 hours before use. Use a fresh charge of salt slurry for each test.

S5.2.5 *Procedure.* Pour 100±1 ml. of the brake fluid into a corrosion test jar. Promptly place the jar into a desiccator. Prepare a duplicate test setup, with two

specimens of the SAE RM–1 compatibility fluid. Water content of the SAE RM–1 fluid shall be adjusted to 0:50±0.05 percent by weight at the start of the test in accordance with S6.2.

At intervals remove a sample of not more than 2 ml. from each SAE fluid specimen and determine its water content. Remove no more than 10 ml. of fluid from each SAE RM–1 sample during the humidification procedure. When the water content of the SAE fluid reaches 3.50±0.05 percent by weight (average of the duplicates), remove the two test fluid specimens from their desiccators and promptly cap each jar tightly. Measure the water contents of the test fluid specimens in accordance with S6.2 and determine their ERBP's in accordance with S5.1 through S5.1.5.

If the two ERBP's agree within 4° C., average them to determine the ERBP; otherwise repeat and average the four individual ERBP's as the ERBP of the brake fluid.

S5.3 *Flash point.* Determine the flash point of a brake fluid by running duplicate samples according to the following procedure.

S5.3.1 *Summary of the procedure.* The test cup is filled to a specified level with brake fluid. The fluid temperature is increased rapidly and then at a slow constant rate as the flash point is approached. At specified intervals a small test flame is passed across the cup. The lowest temperature at which application of the test flame causes the vapors above the fluid surface to ignite is the flash point.

S5.3.2 *Apparatus.*

(a) *Cleveland open cup apparatus.* Test cup, heating plate, test flame applicator, heater, and supports. See ASTM D92–66, Standard Method of Test for Flash and Fire Points by Cleveland Open Cup.

(b) *Shield.* A shield 46 cm. (18 in.) square and 61 cm. (24 in.) high and having an open front is recommended.

(c) *Thermometer.* A thermometer having a range as shown in Table 3 and conforming to the requirements as prescribed in ASTM E1–68 Standard Specification for ASTM Thermometers, and in IP requirements for IP Standard Thermometers.

TABLE 3

Temperature range	Thermometer number	
	ASTM	IP
−6 to +400° C	11° C.	28° C.
20 to 760° F	11° F.	28° F.

S5.3.3 *Preparation of apparatus.*

(a) Support the apparatus on a level steady table in a draft-free room or compartment. Shield the top of the apparatus from strong light by any suitable means to permit ready detection of the flash point. Tests shall not be made in a laboratory hood or any location where drafts occur. The apparatus may be placed with shield in a hood, with adjustable draft so that vapors may be withdrawn without causing air currents over the test cup during the final 56° C. (100° F.) rise in temperature before the flash point. During the last 17° C. (30° F.) rise in temperature before the flash point, do not disturb the vapors in the cup by drafts, careless movements, or breathing near the cup.

(b) Wash the test cup to remove any fluid or traces of residue remaining from a previous test. If any deposits of carbon are present, remove with steel wool. Flush the cup with cold water and dry for a few minutes over an open flame or a hot plate. Cool the cup to at least 56° C. (100° F.) below the expected flash point before using.

(c) Support the thermometer in a vertical position with the bottom of the bulb 6.4 mm. (¼ in.) from the bottom of the cup and locate at a point halfway between the center and side of the cup on a diameter perpendicular to the arc (or line) of the sweep of the test flame and on the side opposite to the test flame burner arm.

The immersion line of the thermometer shall be 2 mm. (5/64 in.) below the level of the rim of the cup when the thermometer is properly positioned.

S5.3.4 *Procedure.*

(a) Fill the cup with the test brake fluid at room temperature, so that the top of the meniscus is exactly at the filling line. Destroy any air bubbles on the surface of the sample.

(b) Light flame and adjust it to a diameter of 3.2 to 4.8 mm. (⅛ to 3/16 in.) the size of the comparison bead if one is mounted on the apparatus.

(c) Apply heat so that temperature of the fluid rises 14° to 16° C. (25° to 30° F.) per minute. When the fluid temperature is approximately 56° C. (100° F.) below the anticipated flash point, decrease the heat so that temperature rise for the last 28° C. (50° F.) before the flash point is 5° to 6° C. (9° to 11° F.) per minute.

(d) At least 28° C. (50° F.) below the anticipated flash point, apply the test flame at each successive 2° C. (5° F.) mark. Pass the test flame across the center of the cup, at right angles to the diameter passing through the thermometer. With a smooth, continuous motion apply the flame for about 1 second either in a straight line or along the circumference of a circle having a radius of at least 150 mm. (6 in.). The center of the test flame must move in a plane not more than 2 mm. (5/64 in.) above the plane of the upper edge of the cup passing in an opposite direction each time. The time consumed in passing the test flame across the cup shall be about 1 second.

(e) The observed flash point is the temperature a flash appears on the surface of the fluid. Do not confuse the true flash with a flame halo.

S5.3.5 *Calculations.*

(a) Correct the observed flash point for the effect of barometric pressure if necessary, by adding the appropriate correction from Table 4.

TABLE 4

Barometric pressure, mm. of mercury	Correction	
	° C.	° F.
Above 715	0	0
715 to 665	2	
715 to 635		5
664 to 610	4	
635 to 550		10
609 to 505	6	

(b) If the two corrected flash points of the duplicates are within 8° C., average the two to determine the flash point; otherwise repeat the procedure and average the four individual corrected flash points as the flash point of the brake fluid.

S5.4 *Kinematic viscosity.* Determine the kinematic viscosity of a brake fluid in centistokes (cSt) by the following procedure. Duplicate samples are run at each of the specified temperatures. Two timed runs are made on each sample.

S5.4.1 *Summary of the procedure.* The time is measured for a fixed volume of the brake fluid to flow through a calibrated glass capillary viscometer under an accurately reproducible head and at a closely controlled temperature. The kinematic viscosity is then calculated from the measured flow time and the calibration constant of the viscometer.

S5.4.2 *Apparatus.*

(a) *Viscometers.* Calibrated glass capillary type viscometers, ASTM D2515–66, Standard Specification for Kinematic Glass Viscometers, measuring viscosity within the precision limits of S5.4.7.

Use suspended level viscometers for viscosity measurements at low temperatures. Cannon-Fenske routine or other modified Ostwald viscometers shall be used at ambient temperatures and above.

(b) *Viscometer holders and frames.* Mount a viscometer in the constant-temperature bath so that the mounting tube is held within 1° of the vertical.

(c) *Viscometer bath.* A transparent liquid bath of sufficient depth so that at no time during the measurement will any part of the sample in the viscometer be less than 2 cm. below the surface or less than 2 cm. above the bottom. The bath shall be cylindrical in shape, with turbulent agitation sufficient to meet the temperature control requirements. For measurements within 15° to 100° C. (60° to 212° F.) the temperature of the bath medium shall not vary by more than 0.01° C. (0.02° F.) over the length of the viscometers, or between the positions of the viscometers, or at the locations of the thermometers. Outside this range, the variation must not exceed 0.03° C. (0.05° F.).

(d) *Thermometers.* Liquid-in-glass Kinematic Viscosity Test Thermometers, covering the range of test temperatures indicated in Table 5 and conforming to ASTM E1–68, Specifications for ASTM Thermometers, and in the IP requirements for IP Standard Thermometers. Standardize before use (see S5.4.3(b)). Use two standardized thermometers in the bath.

TABLE 5

KINEMATIC VISCOSITY THERMOMETERS

Temperature range		For tests at		Subdivisions		Thermometer Number	
°C.	°F.	°C.	°F.	°C.	°F.	ASTM	IP
−55.3 to −52.5	−67.5 to −62.5	−55	−67	0.05	0.1	74° F.	69° F. or C.
−41.4 to −38.6	−42.5 to −37.5	−40	−40	0.05	0.1	73° F.	68° F. or C.
48.6 to 51.4	119.5 to 124.5	50	122	0.05	0.1	46° F.	66° F. or C.
98.6 to 101.4	207.5 to 212.5	100	212	0.05	0.1	30° F.	32° F. or C.

(e) *Timing device.* Stop watch or other timing device graduated in divisions representing not more than 0.2 second, with an accuracy of at least ±0.05 percent when tested over intervals of 15 minutes. Electrical timing devices may be used when the current frequency is controlled to an accuracy of 0.01 percent or better.

S5.4.3 *Standardization.*

(a) *Viscometers.* Use viscometers calibrated in accordance with Appendix 1 of ASTM D445–65. The calibration constant, *C*, is dependent upon the gravitational acceleration at the place of calibration. This must, therefore, be supplied by the standardization laboratory together with the instrument constant. Where the acceleration of gravity, *g*, in the two locations differs by more than 0.1 percent, correct the calibration constant as follows:

$$C_2 = \frac{g_2}{g_1} \times C_1$$

where the subscripts 1 and 2 indicate respectively the standardization laboratory and the testing laboratory.

(b) *Thermometers.* Check liquid-in-glass thermometers to the nearest 0.01° C. (0.02° F.) by direct comparison with a standardized thermometer. Kinematic Viscosity Test Thermometers shall be standardized at "total immersion". Ice point of standardized thermometers shall be determined before use and the official corrections be adjusted to conform to the changes in ice points. (See ASTM E77–68.)

(c) *Timers.* Time signals are broadcast by the National Bureau of Standards, Station WWV, Washington, D.C., at 2.5, 5, 10, 15, 20, 25, 30, and 35 Mc./sec. (MHz). Time signals also broadcast by Station CHU from Ottawa, Canada, at 3.330, 7.335, and 14.670 Mc./sec. and Station MSF at Rugby, United Kingdom, at 2.5, 5, and 10 Mc./sec.

S5.4.4 *Procedure.*

(a) Set and maintain the bath at the appropriate test temperature (see S4.14) within the limits specified in S5.4.2(c). Apply the necessary corrections, if any, to all thermometer readings.

(b) Select a clean, dry, calibrated viscometer giving a flow time not less than its specified minimum, or 200 seconds, whichever is the greater.

(c) Charge the viscometer in the manner used when the instrument was calibrated. Do not filter or dry the brake fluid, but protect it from contamination by dirt and moisture during filling and measurements.

(1) Charge the suspended level viscometers by tilting about 30° from the vertical and pouring sufficient brake fluid through the fill tube into the lower reservoir so that when the viscometer is returned to vertical position the meniscus is between the fill marks. For measurements below 0° C. (32° F.), before placing the filled viscometer into the constant temperature bath, draw the sample into the working capillary and timing bulb and insert small rubber stoppers to suspend the fluid in this position, to prevent accumulation of water condensate on the walls of the critical portions of the viscometer. Alternatively, fit loosely packed drying tubes onto the open ends of the viscometer to prevent water condensation, but do not restrict the flow of the sample under test by the pressures created in the instrument.

(2) If a Cannon-Fenske Routine viscometer is used, charge by inverting and immersing the smaller arm into the brake fluid and applying vacuum to the larger arm. Fill the tube to the upper timing mark, and return the viscometer to upright position.

(e) Mount the viscometer in the bath in a true vertical position. (See S5.4.2 (b).)

(f) The viscometer shall remain in the bath until it reaches the test temperature.

(g) At temperatures below 0° C. (32° F.) conduct an untimed preliminary run by allowing the brake fluid to drain through the capillary into the lower reservoir after test temperature has been established.

(h) Adjust the head level of the brake fluid to a position in the capillary arm about 5 mm. above the first timing mark.

(i) With brake fluid flowing freely, measure to within 0.2 seconds, the time required for the meniscus to pass from the first timing mark to the second. If this flow time is less than the minimum specified for the viscometer or 200 seconds, whichever is greater, repeat, using a viscometer with a capillary of smaller diameter.

(j) Repeat paragraph (h) and (i) of this section. If the two measurements do not agree within 0.2 percent, reject and repeat using a fresh sample of brake fluid.

S5.4.5 *Cleaning the viscometers.*

(a) Periodically clean the instrument with chromic acid to remove organic deposits, rinse thoroughly with distilled water and acetone, and dry with clean dry air.

(b) Between S5.4.4 (i) and (j) rinse the viscometer with ethanol followed by acetone or ether. Pass a slow stream of filtered dry air through the viscometer until the last trace of solvent is removed.

S5.4.6 *Calculation.*

(a) The following viscometers have a fixed volume charged at ambient temperature, and as a consequence *C* varies with test temperature: Cannon-Fenske Routine, Pinkevitch, Cannon-Manning Semi-Micro, and Cannon Fenske Opaque. To calculate C at test temperatures other than the calibration temperature for these viscometers, see ASTM D2515–66 or follow instructions given on the manufacturer's certificate of calibration.

(b) Average the duplicate kinematic viscosities.

S5.4.7 *Precision (at 95 percent confidence level).*

(a) *Repeatibility.* Results on duplicate samples by the same operator shall not differ by more than 0.5 percent of their mean. If so, reject the data and repeat the tests.

S5.5 *pH value.* Determine the pH value of a brake fluid by running one sample according to the following procedure.

S5.5.1 *Summary of the procedure.* Brake fluid is diluted with an equal volume of an ethanol-water solution. The pH of the resultant mixture is measured with a prescribed pH meter assembly at 23° C. (73.4° F.).

S5.5.2 *Apparatus.* The pH assembly, consisting of the pH meter, glass electrode, and calomel electrode, as specified in Appendices A1.1, A1.2, and A1.3 of ASTM D1121–67, Standard Method of Test for Reserve Alkalinity of Engine Antifreezes and Antirusts. The glass electrode is a full range type (pH 0–14), with low sodium error.

S5.5.3 *Reagents.* Reagent grade chemicals conforming to the specifications of the Committee on Analytical Reagents of the American Chemical Society.

(a) *Distilled water.* Distilled water (S6.1) shall be boiled for about 15 minutes to remove carbon dioxide, and protected with a soda-lime tube or its equivalent while cooling and in storage. (Take precautions to prevent contamination by the materials used for protection against carbon dioxide.) The pH of the boiled distilled water shall be between 6.2 and 7.2 at 25° C. (77° F.).

(b) *Standard buffer solutions.* Prepare buffer solutions for calibrating the pH meter and electrode pair from salts sold specifically for use, either singly or in combination, as pH standards. Dry salts for 1 hour at 110° C. (230° F.) before use except for borax which shall be used as the decahydrate. Store solutions with pH less than 9.5 in bottles of chemically resistant glass or polyethylene. Store the alkaline phosphate solution in a glass bottle coated inside with paraffin. Do not use a standard with an age exceeding 3 months.

(1) *Potassium hydrogen phthalate buffer solution (0.05 M, pH=4.01 at 25° C. (77° F.)).* Dissolve 10.21 g. of potassium hydrogen phthalate ($KHC_8H_4O_4$) in distilled water. Dilute to 1 liter.

(2) *Neutral phosphate buffer solution (0.025 M with respect to each phosphate*

salt, pH=6.86 at 25° C. (77° F.)). Dissolve 3.40 g. of potassium dihydrogen phosphate (KH_2PO_4) and 3.55 g. of anhydrous disodium hydrogen phosphate (Na_2HPO_4) in distilled water. Dilute to 1 liter.

(3) *Borax buffer solution (0.01 M, pH=9.18 at 25° C. (77° F.))*. Dissolve 3.81 g. of disodium tetraborate decahydrate ($Na_2B_4O_7 \cdot 10H_2O$) in distilled water, and dilute to 1 liter. Stopper the bottle except when actually in use.

(4) *Alkaline phosphate buffer solution (0.01 M trisodium phosphate, pH=11.72 at 25° C. (77° F.))*. Dissolve 1.42 g. of anhydrous disodium hydrogen phosphate (Na_2HPO_4) in 100 ml. of a 0.1 M carbonate-free solution of sodium hydroxide. Dilute to 1 liter with distilled water.

(5) *Potassium chloride electrolyte.* Prepare a saturated soluton of potassium chloride (KCl) in distilled water.

(c) *Ethanol-water mixture.* To 80 parts by volume of ethanol (S6.3) add 20 parts by volume of distilled water. Adjust the pH of the mixture to 7.0±0.1 using 0.1 N sodium hydroxide (NaOH) solution. If more than 4.0 ml. of NaOH solution per liter of mixture is required for neutralization, discard the mixture.

S5.5.4 *Preparation of electrode system.*

(a) *Maintenance of electrodes.* Clean the glass electrode before using by immersing in cold chromic-acid cleaning solution. Drain the calomel electrode and fill with KCl electrolyte, keeping level above that of the mixture at all times. When not in use, immerse the lower halves of the electrodes in distilled water, and do not immerse in the mixture for any appreciable period of time between determinations.

(b) *Preparation of electrodes.* Condition new glass electrodes and those that have been stored dry as recommended by the manufacturer. Before and after using, wipe the glass electrode thoroughly with a clean cloth, or a soft absorbent tissue, and rinse with distilled water. Before each pH determination, soak the prepared electrode in distilled water for at least 2 minutes. Immediately before use, remove any excess water from the tips of the electrodes.

S5.5.5 *Standardization of the pH assembly and testing of the electrodes.*

(a) Immediately before use, standardize the pH assembly with a standard buffer solution. Then use a second standard buffer solution to check the linearity of the response of the electrodes at different pH values, and to detect a faulty glass electrode or incorrect temperature compensation. The two buffer solutions must bracket the anticipated pH value of the test brake fluid.

(b) Allow instrument to warm up, and adjust according to the manufacturer's instructions. Immerse the tips of the electrodes in a standard buffer solution and allow the temperature of the buffer solution and the electrodes to equalize. Set the temperature knob at the temperature of the buffer solution. Adjust the standardization or asymmetry potential control until the meter registers a scale reading, in pH units, equal to the known pH of the standardizing buffer solution.

(c) Rinse the electrodes with distilled water and remove any excess water from the tips. Immerse the electrodes in a second standard buffer solution. The reading of the meter shall agree with the known pH of the second standard buffer solution within ±0.05 unit without changing the setting of the standardization or asymmetry potential control.

(d) A faulty electrode is indicated by failure to obtain a correct value for the pH of the second standard buffer solution after the meter has been standardized with the first.

S5.5.6 *Procedure.* To 50±1 ml. of the test brake fluid add 50±1 ml. of the ethanol-water (S5.5.3(c)) and mix thoroughly. Immerse the electrodes in the mixture. Allow the system to come to equilibrium, readjust the temperature compensation if necessary, and take the pH reading.

S5.6 *Fluid stability.* Evaluate the heat and chemical stability of a brake fluid by the following procedures, running duplicate samples for each test and averaging the results.

S5.6.1 *Summary of the procedure.* The degradation of the brake fluid at elevated temperature, alone or in a mixture with a reference fluid, is evaluated by determining the change in boiling point after a period of heating under reflux conditions.

S5.6.2 *Apparatus.* Use the apparatus and preparation specified in S5.1.2 and S5.1.3.

S5.6.3 *High temperature stability.*

S5.6.3.1 *Procedure.*

(a) Heat a new 60±1 ml. sample of the brake fluid to the following appropriate holding temperature:

DOT grade:	*Holding temperature*
2	185°±2° C.(365°±3.6° F.).
3	200°±2° C.(392°±3.6° F.).
4	225°±2° C.(437°±3.6° F.).

Maintain at the holding temperature for 120±5 minutes. Bring to a reflux rate in excess of 1 drop per second within 5 minutes. Over the next 5±2 minutes adjust the heating rate to obtain an equilibrium reflux rate of 1 to 2 drops per second. Maintain this rate for an additional 2 minutes, taking four temperature readings at 30-second intervals. Average these as the observed ERBP. The reflux rate shall not exceed 5 drops per second at any time.

S5.6.3.2. *Colculation.* Correct the observed ERBP for thermometer and barometric pressure factors according to S5.1.5 (a) and (b). Average the corrected ERBP's of the duplicate samples. The difference between this average and the original ERBP obtained in S5.1 is the change in ERBP of the fluid.

S5.5.4 *Chemical stability.*

S5.6.4.1 *Materials.*

(a) SAE RM–1 Compatibility Fluid, as described in Appendix A of SAE Standard J1703a.

S5.6.4.2 *Procedure.*

(a) Mix 30±1 ml. of the brake fluid with 30±1 ml. of SAE RM–1 Compatibility Fluid in a boiling point flask (S5.1.2 (a)). Determine the initial ERBP of the mixture by applying heat to the flask so that the fluid is refluxing in 10±2 minutes at a rate in excess of 1 drop per second, but not more than 5 drops per second. Note the maximum fluid temperature observed during the first minute after the fluid begins refluxing at a rate in excess of 1 drop per second. Over the next 15±1 minutes, adjust and maintain the reflux rate at 1 to 2 drops per second. Maintain this rate for an additional 2 minutes, recording the average value of four temperature readings taken at 30-second intervals as the final ERBP.

(b) Thermometer and barometric corrections are not required.

S5.6.4.3 *Calculation.* The difference between the initial ERBP and the final average temperature is the change in temperature of the refluxing mixture. Average the results of the duplicates to the nearest 0.5° C. (1° F.).

S5.7 *Corrosion.* Evaluate the corrosiveness of a brake fluid by running duplicate samples according to the following procedure.

S5.7.1 *Summary of the procedure.* Six specified metal corrosion test strips are polished, cleaned, and weighed, then assembled as described. Place assembly on a standard rubber wheel cylinder cup in a corrosion test jar, immersed in the water-wet brake fluid, capped and placed in an oven at 100° C. (212° F.) for 120 hours. Upon removal and cooling, the strips, fluid cup are examined and tested.

S5.7.2 *Equipment.*

(a) *Balance.* An analytical balance having a minimum capacity of 50 grams and capable of weighing to the nearest 0.1 mg.

(b) *Desiccators.* Desiccators containing silica gel or other suitable desiccant.

(c) *Oven.* Gravity convection oven capable of maintaining the desired set point within 2° C. (3.6° F.).

(d) *Micrometer.* A machinist's micrometer 25 to 50 mm. (1 to 2 in.) capacity, or an optical comparator, capable of measuring the diameter of the rubber WC cups to the nearest 0.02 mm. (0.001 in.).

S5.7.3 *Materials.* The following materials and supplies:

(a) *Corrosion test strips.* Use two sets of strips from each of the metals listed in Appendix C of SAE Standard J1703a. Each strip shall be approximately 8 cm. long, 1.3 cm. wide, not more than 0.6 cm. thick, have a surface area of 25±5 sq. cm., and a hole 4 to 5 mm. (0.16–0.20 in.) diameter on the centerline about 6 mm. from one end. Hole shall be clean and free from burrs. Tinned iron strips shall be unused. Other used strips, shall not be used if they cannot be polished to a high finish.

(b) *Rubber cups.* Two unused standard SAE SBR wheel cylinder (WC) cups, as specified in S6.7.

(c) *Corrosion test jars and lids.* Two screw-top straightsided round glass jars, each having a capacity of approximately 475 ml. and inner dimensions of approximately 100 mm. in height and 75 mm. in diameter, and a tinned steel lid (no insert or organic coating) vented with a hole 0.8±0.1 mm. (0.031±0.004) in diameter (No. 68 drill).

(d) *Machine screws and nuts.* Unused, uncoated mild steel round or fillister head machine screws, size 6 or 8–32 UNC–Class 2A, ⅝- or ¾-inch long (or equivalent

metric sizes), and matching uncoated nuts.

(e) *Supplies for polishing strips.* Waterproof silicon carbide paper, grit No. 320 A; grade 00 steel wool, lint-free polishing cloth.

(f) *Distilled water.* As specified in S6.1.

(g) *Ethanol.* As specified in S6.3.

S5.7.4 *Preparation.*

(a) *Corrosion test strips.* Except for the tinned iron strips, abrade strips on all surface areas with silicon carbide paper and ethanol until all surface scratches, cuts and pits are removed. Use a new piece of paper for each different type of metal. Polish the strips with the 00 grade steel wool.

Wash all strips, including the tinned iron and the assembly hardware, with ethanol; dry the strips and assembly hardware with a clean lint free cloth or use filtered compressed air and place the strips and hardware in a desiccator containing silica gel or other suitable desiccant and maintained at 23°±5° C. (73.4°±9° F.), for at least 1 hour. Handle the strips with forceps after polishing.

Weigh and record the weight of each strip to the nearest 0.1 mg. Assemble the strips on a clean dry machine screw, with matching plain nut, in the order tinned iron, steel, aluminum, cast iron, brass, and copper. Bend the strips, other than the cast iron, so that there is a separation of 3±½ mm. (⅛±1/64 in.) between adjacent strips for a distance of about 5 cm. (2 in.) from the free end of the strips (see figure 4). Tighten the screw on each test strip assembly so that the strips are in electrolytic contact, and can be lifted by either of the outer strips (tinned iron or copper) without any of the strips moving relative to the others when held horizontally. Immerce the strip assemblies in 90 percent ethyl alcohol. Dry with dried filtered compressed air, then desiccate at least 1 hour before use.

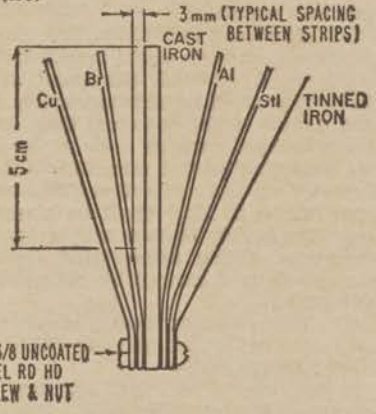

FIG. 4
CORROSION STRIP ASSEMBLY

(b) *SBR WC cups.* Measure the base diameters of the 2 standard cups using an optical comparator or micrometer to the nearest 0.02 mm. (0.001 in.) along the centerline of the SAE and rubber type identifications and at right angles to this centerline. Take the measurements at least 0.4 mm. (0.015 in.) above the bottom edge and parallel to the base of the cup. Discard any cup if the two measured diameters differ by more than 0.08 mm. (0.003 in.). Average the two readings on each cup. Determine the hardness of the cups according to S6.4.

S5.7.5 *Procedure.* Rinse the cups in ethanol for not more than 30 seconds and wipe dry with a clean lint-free cloth. Place 1 cup with lip edge facing up, in each jar. Insert a metal strip assembly inside each cup with the fastened end down and the free end extending upward (see figure 5). Mix 760 ml. of brake fluid with 40 ml. of distilled water; using this mixture, cover each strip assembly to a depth of approximately 10 mm. above the tops of the strips.

Tighten the lids and place the jars for 120±2 hours in an oven maintained at 100°±2° C. (212°±3.6° F.). Allow the jars to cool at 23°±5° C. (73.4°±9° F.) for 60 to 90 minutes. Immediately remove the strips from the jars agitating the strip assembly in the fluid to remove loose adhering sediment. Examine test strips and jars for adhering crystalline deposits. Disassemble the metal strips, remove adhering fluid by flushing with water; clean each strip by wiping with a clean cloth wetted with ethanol. Examine the strips for evidence of corrosion and pitting. Disregard staining or discoloration. Place strips in a desiccator containing silica gel or other suitable desiccant and maintained at 23°±5° C. (73.4°±9° F.), for at least 1 hour. Weigh each strip to the nearest 0.1 mg. Determine the change in weight of each metal strip. Average the results for the two strips of each type of metal.

Immediately following the cooling period, remove the rubber cups from the jars with forceps. Remove loose adhering sediment by agitation of the cup in the mixture. Rinse the cups in ethanol and dry. Examine the cups for evidence of sloughing, stickiness, blisters, and other forms of disintegration. Measure the base diameter and hardness of each cup within 15 minutes after removal from the mixture.

Examine the mixture for gelling. Agitate the mixture to suspend and uniformly disperse sediment. From each jar, transfer a 100 ml. portion of the mixture to an ASTM cone-shaped centrifuge tube. Determine the percent of sediment after centrifuging as described in S6.5. Measure the pH value of the mixture according to S5.5.6.

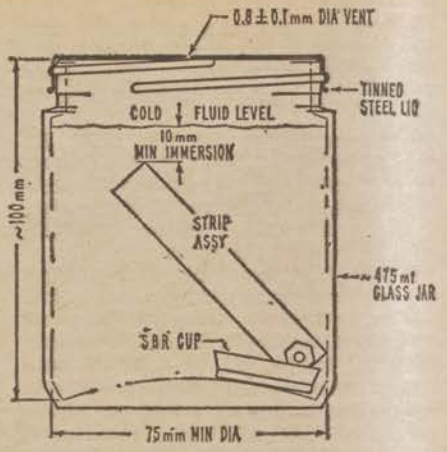

FIG. 5
CORROSION TEST APPARATUS

S5.7.6 *Calculation.*

(a) Measure the area of each type of test strip, to the nearest square centimeter. Divide the average change in weight for each type by the area of that type.

(b) Note other data and evaluations indicating compliance with S4.1.7. In the event of a marginal pass on inspection by attributes, or of a failure in only one of the duplicates, run another set of duplicate samples. Both repeat samples must meet all requirements of S4.1.7.

S5.8 *Fluidity and appearance at low temperatures.* Determine the fluidity and appearance of a sample of brake fluid at each of two selected temperatures by the following procedure.

S5.8.1 *Summary of procedure.* Brake fluid is chilled to expected minimum exposure temperatures and observed for clarity, gellation, sediment, separation of components, excessive viscosity or thixotropy.

S5.8.2 *Apparatus.*

(a) *Oil sample bottle.* Two clear flint glass four ounce bottles made especially for sampling oil and other liquids, with a capacity of approximately 125 ml., an outside diameter of 37.0±0.5 mm. and an overall height of 165±2.5 mm.

(b) *Cold chamber.* Air bath cold chamber capable of maintaining storage temperatures down to −55° C./−67° F.) with an accuracy of ±2° C. (3.6° F.).

(c) *Timing device.* See S5.4.2(e).

S5.8.3 *Procedure.*

(a) Place 100±2 ml. of brake fluid at room temperature in an oil sample bottle. Stopper the bottle with a new cork and place in the cold chamber at the higher storage temperature specified in Table 1 (S4.1.8(c)) for the DOT grade fluid being tested. After 144±4 hours remove the bottle from the chamber, quickly wipe it with a clean, lint-free

cloth saturated with ethanol or acetone. Place against a hiding power test chart and observe if the black contrast lines are clearly discernible when viewed through any part of the fluid. Examine the fluid for evidence of crystallization, clouding, stratification, or sedimentation. Invert the bottle and determine the number of seconds required for the air bubble to travel to the top of the fluid.

(b) Repeat (a) above, substituting the lower cold chamber temperature specified in Table 1, and a storage period of 6.0±0.2 hours.

NOTE: Test specimens from either storage temperature may be used for the other only after warming up to room temperature.

S5.9 *Evaporation.* The evaporation residue and pour point of the evaporation residue of brake fluid are determined by the following procedure. Four replicate samples are run.

S5.9.1 *Summary of the procedure.* The volatile diluent portion of a brake fluid is evaporated in an oven at 100° C. (212° F.). The nonvolatile lubricant portion (evaporation residue) is measured and examined for grittiness; the residues are then combined and checked to assure fluidity at −5° C. (23° F).

S5.9.2 *Apparatus.*

(a) *Petri dishes.* Four covered glass petri dishes approximately 100 mm. in diameter by 15 mm. high.

(b) *Oven.* A top-vented gravity-convection oven capable of maintaining a temperature of 100°±2° C. (212°±3.6° F.).

(c) *Balance.* A balance having a capacity of at least 100 grams, capable of weighing to the nearest 0.01 gram, and suitable for weighing the petri dishes.

(d) *Oil sample bottle.* A glass sample bottle as described in S5.8.2(a).

(e) *Cold chamber.* Air bath cold chamber capable of maintaining an oil sample bottle at −5°±1° C. (23°±2° F.).

(f) *Timing device.* A timing device as described in S5.4.2(e).

S5.9.3 *Procedure.* Obtain the tare weight of each of the four covered petri dishes to the nearest 0.01 gram. Place 25±1 ml. of brake fluid in each dish, replace proper covers and reweigh. Determine the weight of each brake fluid test specimen by difference.

Place the four dishes, each inside its inverted cover, in the oven at 100°±2° C. (212°±3.6° F.) for the 46±2 hours. (NOTE: Do not simultaneously heat more than one fluid in the same oven.)

Remove the dishes from the oven, allow to cool to 23°±5° C. (73.4°±9° F.) and weigh. Return to oven for an additional 24±2 hours. Continue this procedure either until equilibrium is reached as evidenced by an incremental weight loss of less than 0.25 gram in 24 hours on all individual dishes or for a maximum of 7 days. During the heating and weighing operation, if it is necessary to remove the dishes from the oven for a period of longer than 1 hour, the dishes shall be stored in a desiccator as soon as cooled to room temperature. Calculate the percentage of fluid evaporated from each dish.

Examine the residue in the dishes at the end of 1 hour at 23°±5° C. (73.4°±9° F.). Rub any sediment with the fingertip to determine grittiness or abrasiveness.

Combine the residues from all four dishes in a 4-ounce oil sample bottle and store vertically in a cold chamber at −5°±1° C. (23°±2° F.) for 60±10 minutes. Quickly remove the bottle and place in the horizontal position. The residue must begin to flow and move at least 5 mm. (0.2 in.) along the tube within 5 seconds.

S5.9.4 *Calculation.* Average of the percentage evaporated from all four dishes is the loss by evaporation.

S5.10 *Water tolerance.* Evaluate the water tolerance characteristics of a brake fluid by running one test specimen according to the following procedure.

S5.10.1 *Summary of the procedure.* Brake fluid is diluted with 3.5 percent water, then stored at low temperature (−40° or −50° C. (−40° or −58° F.)) for 24 hours. The cold, water-wet fluid is first examined for clarity, stratification and sedimentation, then placed in an oven at 60° C. (140° F.) for 24 hours. On removal, it is again examined for stratification, and the volume percent of sediment determined by centrifuging.

S5.10.2 *Apparatus.*

(a) *Centrifuge tube.* See S6.5.1(a).

(b) *Centrifuge.* See S6.5.1(b).

(c) *Cold chamber.* See S5.8.2(b).

(d) *Oven.* Gravity or forced convection oven capable of maintaining 60°±2° C. (140°±3.6° F.).

(e) *Timing device.* See S5.4.2(e).

S5.10.3 *Procedure.*

(a) *At low temperature.* Mix 3.5±0.1 ml. of distilled water with 100±1 ml. of brake fluid and pour into a centrifuge tube. Stopper the tube with a clean cork and place in the cold chamber maintained at −50°±2° C. (−58°±3.6° F.) for DOT 2 fluids, −40°±2° C. (−40°±3.6° F.) for DOT 3 and DOT 4 fluids. After 24±2 hours remove tube, quickly wipe with a clean lint-free cloth saturated with ethanol or acetone, and place against a hiding power test chart. Observe whether the black contrasts lines are clearly discernible when viewed through any part of the fluid. Examine the fluid for evidence of stratification or sedimentation. Invert the tube and determine the number of seconds required for the air bubble to travel to the top of the fluid. (The air bubble is considered to have reached the top of the fluid when the top of the bubble reaches the 2 ml. graduation of the centrifuge tube.)

(b) *At 60° C. (140° F.).* Place tube and brake fluid from S5.10.3(a) in an oven maintained at 60°±2° C. (140°±3.6° F.) for 24±2 hours. Remove the tube and immediately examine the contents for evidence of stratification. Determine the percent sediment by centrifuging as described in S6.5.

S5.11 *Compatibility.* The compatibility of a brake fluid with other brake fluids shall be evaluated by running one test sample according to the following procedure.

S5.11.1 *Summary of the procedure.* Brake fluid is mixed with an equal volume of SAE RM–1 Compatibility Fluid, then tested in the same way as for water tolerance (S5.10.3) except that the bubble flow time is not measured. This test is an indication of the compatibility of the test fluid with other motor vehicle brake fluids at both high and low temperatures.

S5.11.2 *Apparatus and materials.*

(a) *Centrifuge tube.* See S6.5.1(a).

(b) *Centrifuge.* See S6.5.1(b).

(c) *Cold chamber.* See S5.8.2(b).

(d) *Oven.* See S5.10.2(d).

(e) *SAE RM–1 compatibility fluid.* As described in Appendix A of SAE Standard J1703a.

S5.11.3 *Procedure.*

(a) *At low temperature.* Mix 50±0.5 ml. of brake fluid with 50±0.5 ml. of SAE RM–1 Compatibility Fluid. Pour this mixture into a centrifuge tube and stopper with a clean dry cork. Place tube in the cold chamber maintained at −50°±2° C. (−58°±3.6° F.) for DOT–2 fluids, −40°±2° C. (−40°±3.6° F.) for DOT 3 and DOT 4 fluids. After 24±2 hours, remove tube, quickly wipe with a clean lint-free cloth saturated with ethanol or acetone. Place tube against a hiding power test chart and observe whether the black contrast lines on the hiding power test chart are clearly discernible when viewed through any part of the fluid. Examine the fluid for evidence of stratification or sedimentation.

(b) *At 60° C. (140° F.).* Place tube and test fluid from paragraph (a) above for 24±2 hours in an oven maintained at 60°±2° C. (140°±3.6° F.). Remove tube and immediately examine the contents for evidence of stratification. Determine percent sediment by centrifuging as described in S6.5.

S5.12 *Resistance to oxidation.* The stability of a brake fluid under oxidative conditions shall be evaluated by running duplicate samples according to the following procedures.

S5.12.1 *Summary of the procedures.* Brake fluid is activated with approximately 0.2 percent benzoyl peroxide and 5 percent water. A corrosion test strip assembly consisting of a cast iron and an aluminum strip separated by tinfoil squares at each end is then rested on a piece of SBR WC cup positioned so that the test strip is half immersed in the fluid and oven-aged at 70° C. for 168 hours. At the end of this period the metal strips are examined for pitting, etching, and weight loss.

S5.12.2 *Equipment.*

(a) *Balance.* See S5.7.2(a).

(b) *Desiccators.* See S5.7.2(b).

(c) *Oven.* See S5.7.2(c).

(d) *Test tubes.* Three glass test tubes about 22 mm. OD by 175 mm. in length.

S5.12.3 *Reagents and materials.*

(a) *Benzoyl peroxide.* Reagent grade, 96 percent. (Benzoyl peroxide that is brownish, or dusty, or has less than 90 percent purity, must be discarded.) Reagent strength may be evaluated by ASTM E298–68, Standard Methods for Assay of Organic Peroxides.

(b) *Corrosion test strips.* Two sets of cast iron and aluminum metal test strips as described in Appendix C of SAE Standard J1703.

(c) *Tinfoil.* Four unused pieces of tinfoil approximately 12 mm. (½ in.) square and between 0.02 and 0.06 mm. (0.0008 and 0.0024 in.) in thickness. The foil shall be at least 99.9 percent tin and contain not more than 0.025 percent lead.

(d) *Rubber cup.* Two unused approximately one-eighth sections of a standard SAE SBR rubber WC cup (as described in S6.7).

(e) *Machine screw and nut.* Two of each, clean oil free, No. 6 or 8–32 x ⅜- or ½-in. long (or equivalent metric size), round or fillister head, uncoated mild steel machine screw, with matching plain nut.

S5.12.4 *Preparation.*

(a) *Corrosion test strips.* Prepare two sets of aluminum and cast iron test strips according to S5.7.4(a) except for assembly. Weigh each strip to the nearest 0.1 mg. and assemble a strip of each metal on a machine screw, separating the strips at each end with a piece of tinfoil. Tighten the nut enough to hold both pieces of foil firmly in place.

(b) *Test mixture.* Place 30±1 ml. of the brake fluid under test in a 22 by 175 mm. test tube. Add 0.060±0.002 g. of benzoyl peroxide, and 1.50±0.05 ml. of distilled water. Stopper tube loosely with a clean dry cork, shake, and place in an oven for 2 hours at 70°±2° C. (158°± 3.6° F.). Shake every 15 minutes to effect solution of the peroxide, but do not wet cork. Remove tube from the oven and allow to cool slowly to room temperature. Maintain at 23°±5° C. (73.4°±9° F.) for 22±2 hours.

S5.12.5 *Procedure.* Place a one-eighth SBR cup section in the bottom of each tube. Add 10 ml. of prepared test mixture to each test tube. Place a metal-strip assembly in each, the end of the strip without the screw resting on the rubber, and the solution covering about one-half the length of the strips. Stopper the tubes with clean dry corks and store upright for 70±2 hours at 23°±5° C. (73.4°±9° F.). Loosen the corks and place the tubes for 168±2 hours in an oven maintained at 70°±2° C. (158°±3.6° F.). Afterwards remove and disassemble strips. Examine the strips and note any gum deposits. Wipe the strips with a clean cloth wet with ethanol and note any pitting, etching or roughening of surface disregarding stain or discoloration. Place strips in a desiccator over silica gel or other suitable desiccant, at 23°±5° C. (73.4°±9° F.) for at least an hour. Again weigh each strip to the nearest 0.1 mg.

S5.12.6 *Calculation.* Determine corrosion loss by dividing the change in weight of each metal strip by the total surface area of each measured in square centimeters (to the nearest sq. cm.). Average the results for the two strips of each type of metal, rounding to the nearest 0.05 mg./sq. cm. If only one of the duplicates fails for any reason, run a second set of duplicate samples. Both repeat samples must meet all requirements of S4.1.12, for the brake fluid to comply.

S5.13 *Effect on rubber.* The effects of a brake fluid in swelling, softening, and otherwise affecting standard SBR WC cups shall be evaluated by the following procedure.

S5.13.1 *Summary of the procedures.* Four selected standard SAE SBR WC cups are measured and their hardnesses determined. The cups, two to a jar, are immersed in the test brake fluid. One jar is heated for 120 hours at 70° C. (158° F.), the other for 70 hours at 120° C. (248° F.). Afterwards, the cups are washed, examined for disintegration, remeasured, and their hardnesses redetermined.

S5.13.2 *Equipment and supplies.*

(a) *Oven.* Same as S5.7.2(c).

(b) *Glass jars and lids.* Two screw-top, straight-sided round glass jars, each having a capacity of approximately 250 ml. and inner dimensions of approximately 125 mm. in height and 50 mm. in diameter, and a tinned steel lid (no insert or organic coating).

(c) *Rubber cups.* Same as S6.6.

S5.13.3 *Preparation.* Measure the base diameters of the SBR cups as described in S5.7.4(b), and the hardness of each as described in S6.4.

S5.13.4 *Procedure.* Wash the cups in 90 percent ethanol (see S6.3), for no longer than 30 seconds and quickly dry with a clean, lint-free cloth. Using forceps, place two cups into each of the two jars; add 75 ml. of brake fluid to each jar and cap tightly. Place one jar in an oven held at 70°±2° C. (158°±3.6° F.) for 120±2 hours. Place the other jar in an oven held at 120°±2° C. (248°±3.6° F.) for 70±2 hours.

Allow each jar to cool for 60 to 90 minutes at 23°±5° C. (73.4°±9° F.). Remove cups, wash with ethanol for no longer than 30 seconds, and quickly dry. Examine the cups for disintegration as evidenced by stickiness, blisters, or sloughing. Measure the base diameter and hardness of each cup within 15 minutes after removal from the fluid.

S5.13.5 *Calculation.*

(a) Calculate the change in base diameter of each cup. Note the average value for each pair, to the nearest 0.02 mm. (0.001 inch).

(b) Calculate the change in hardness for each cup. Average the two values for each pair and report as the change in hardness, to the nearest IRHD.

(c) Note disintegration as evidenced by stickiness, blisters, or sloughing.

S5.14 *Stroking properties.* Evaluate the lubricating properties, component compatibility, resistance to leakage, and related qualities of a brake fluid by running one sample according to the following procedures.

S5.14.1 *Summary of the procedure.* Brake fluid is stroked under controlled conditions at an elevated temperature in a simulated motor vehicle hydraulic braking system consisting of four slave wheel cylinders and an actuating master cylinder connected by steel tubing. Referee standard parts are used. All parts are carefully cleaned, examined, and certain measurements made immediately prior to assembly for test.

During the test, temperature, rate of pressure rise, maximum pressure, and rate of stroking, are specified and controlled. The system is examined periodically during stroking to assure that excessive leakage of fluid is not occurring.

Afterwards, the system is torn down. Metal parts and rubber cups are examined and remeasured. The brake fluid and any resultant sludge and debris are collected, examined and tested.

S5.14.2 *Apparatus and equipment.* Either the drum and shoe type of stroking apparatus (see figure 1 of SAE Standard J1703a), or the stroking fixture type (see figure 3 of SAE J1703a) arranged as shown in figure 2 of J1703a. The following components are required.

(a) *Brake assemblies.* With the drum and shoe apparatus: four drum and shoe assembly units (SAE RM–29a) consisting of four forward brakeshoes and four reverse brakeshoes with linings and four front wheel brakedrum assemblies with assembly component parts. With stroking fixture-type apparatus: four fixture units including appropriate adapter mounting plates to hold brake wheels cylinder assemblies.

(b) *Braking pressure actuating mechanism.* An actuating mechanism for applying a force to the master cylinder pushrod without sidethrust.

The amount of force applied by the actuating mechanism shall be adjustable and capable of applying sufficient thrust to the master cylinder to create a pressure of at least 70 kg./sq. cm. (1,000 p.s.i.) in the simulated brake system. A hydraulic gage or pressure recorder, having a range of at least 0 to 70 kg./sq. cm. (0 to 1,000 p.s.i.), shall be installed between the master cylinder and the brake assemblies and shall be provided with a shutoff valve and with a bleeding valve for removing air from the connecting tubing.

The actuating mechanism shall be designed to permit adjustable stroking rates of approximately 1,000 strokes per hour. Use a mechanical or electrical counter to record the total number of strokes.

(c) *Heated air bath cabinet.* An insulated cabinet or oven having sufficient capacity to house the four mounted brake assemblies or stroking fixture assemblies, master cylinder, and necessary connections. A thermostatically controlled heating system is required to maintain a temperature of 70°±5° C. (158°±9° F.) or 120°±5° C. (248°±9° F). Heaters shall be shielded to prevent direct radiation to wheel or master cylinder.

(d) *Master cylinder (MC) assembly (SAE RM–15a).* One cast iron housing hydraulic brake system cylinder having

a diameter of approximately 28 mm. (1⅛ in.) and fitted for a filler cap and standpipe (see (e) below). The MC piston shall be made from SAE CA 360 copperbase alloy (half hard). A new MC assembly is required for each test.

(e) *Filler cap and standpipe.* MC filler cap provided with a glass or uncoated steel standpipe. Standpipe must provide adequate volume for thermal expansion, yet permit measurement and adjustment of the fluid level in the system to ±3 ml. Cap and standpipe may be cleaned and reused.

(f) *Wheel cylinder (WC) assemblies (SAE RM-14a).* Four new cast iron housing straight bore hydraulic brake WC assemblies having diameters of approximately 28 mm. (1⅛ in.) for each test. Pistons shall be made from unanodized SAE AA2024 aluminum alloy.

(g) *Micrometer.* Same as S5.7.2(d).

S5.14.3 *Materials.*

(a) *Standard SBR brake cups.* Four standard SAE SBR wheel cylinder test cups, one primary MC test cup, and one secondary MC test cup, all as described in S6.6, for each test.

(b) *Steel tubing.* Double wall steel tubing meeting SAE specification J527 is required. A complete replacement of tubing is essential when visual inspection indicates any corrosion or deposits on inner surface of tubing. Tubing from master cylinder to one wheel cylinder shall be replaced for each test (minimum length 3 feet).

Uniformity in tubing size is required between master cylinder and wheel cylinders;

The standard master cylinder has two outlets for tubing both of which must be used.

S5.14.4 *Preparation of test apparatus.*

(a) *Wheel cylinder assemblies.* Use unused wheel cylinder assemblies. Disassemble cylinders and discard rubber cups. Clean all metal parts with ethanol. Inspect the working surfaces of all metal parts for scoring, galling, or pitting and cylinder bore roughness, and discard all defective parts. Remove any stains on cylinder walls with crocus cloth and ethanol. If stains cannot be removed, discard the cylinder.

Measure the internal diameter of each cylinder at location approximately 19 mm. (0.75 in.) from each end of the cylinder bore, taking measurements in line with the hydraulic inlet opening and at right angles to this centerline. Discard cylinder if any of these four readings exceeds maximum or minimum limits of 28.66–28.60 mm. (1.128–1.126 in.). Measure the outside diameter of each piston at two points approximately 90° apart. Discard any piston if either reading exceeds maximum or minimum limits of 28.55–28.52 mm. (1.124–1.123 in.). Select parts to insure that the clearance between each piston and mating cylinder is within 0.08–0.13 mm. (0.003–0.005 in.).

Use unused SBR cups. To remove dirt and debris, rinse the cups in 90 percent ethyl alcohol for not more than 30 seconds and wipe dry with a clean lint-free cloth. Discard any cups showing defects such as cuts, molding flaws, or blisters. Measure the lip and base diameters of all cups with an optical comparator or micrometer to the nearest 0.02 mm. (0.001 in.) along the centerline of the SAE and rubber type identifications and at right angles to this centerline. Determine base diameter measurements at least 0.4 mm. (0.015 in.) above the bottom edge and parallel to the base of the cup. Discard any cup if the two measured lip or base diameters differ by more than 0.08 mm. (0.003 in.). Average the lip and base diameters of each cup. Determine the hardness of all cups according to S6.4. Dip the rubber and metal parts of wheel cylinders, except housings and rubber boots, in the fluid to be tested and install them in accordance with the manufacturer's instructions. Manually stroke the cylinders to insure that they operate easily. Install cylinders in the simulated brake system.

(b) *Master cylinder assembly.* Use an unused master cylinder and unused standard SBR primary and secondary MC cups which have been inspected, measured and cleaned in the manner specified in subsection (a) of this section, omitting hardness of the secondary MC cup. However, prior to determining the lip and base diameters of the secondary cup, dip the cup in test brake fluid, assemble on the MC piston, and maintain the assembly in a vertical position at 23°±5° C. (73.4°±9° F.) for at least 12 hours. Inspect the relief and supply ports of the master cylinder; discard the cylinder if ports have burrs or wire edges. Measure the internal diameter of the cylinder at two locations (approximately midway between the relief and supply ports and approximately 19 mm. (0.75 in.) beyond the relief port toward the bottom or discharge end of the bore), taking measurements at each location on the vertical and horizontal centerline of the bore. Discard the cylinder if any reading exceeds maximum or minimum limits of 28.65–28.57 mm. (1.128–1.125 in.). Measure the outside diameter of each and of the master cylinder piston at two points approximately 90° apart. Discard the piston if any of these four readings exceed maximum or minimum limits of 28.55–28.52 mm. (1.124–1.123 in.).

Dip the rubber and metal parts of the master cylinder, except housing and push rod-boot assembly, in the brake fluid and install in accordance with manufacturer's instructions. Manually stroke the master cylinder to insure that it operates easily. Install the master cylinder in the simulated brake system.

(c) *Assembly and adjustment of test apparatus.* When using shoe and drum type apparatus, adjust the brake shoe toe clearances to 1.0±0.1 mm. (0.040±0.004 in.). Fill the system with brake fluid, bleeding all wheel cylinders and the pressure gage, to remove entrapped air.

Operate the actuator manually to apply a pressure of more than the required operating pressure and inspect the system for leaks. Adjust the actuator and/or pressure relief valve to obtain a pressure of 35±3.5 kg./sq. cm. (500±50 p.s.i.) for a DOT 2 fluid, or 70±3.5 kg./sq. cm. (1000±50 p.s.i.) for a DOT 3 or DOT 4 fluid. A smooth pressure-stroke pattern is required when using shoe and drum type apparatus. (Figure 4 of SAE J1703a illustrates the approximate pressure buildup versus the master cylinder piston movement with the stroking fixture apparatus.) The pressure is relatively low during the first part of the stroke and then builds up smoothly to the maximum stroking pressure at the end of the stroke. The stroke length is about 18 mm. (0.7 in.) for a DOT 2 fluid and about 23 mm. (0.9 in.) for a DOT 3 or DOT 4 fluid. This permits the primary cup to pass the compensating hole at a relatively low pressure. Using stroking fixtures, the WC piston travel is about 2.0±0.2 mm. (0.080±0.008 in.) when a pressure of 35 kg./sq. cm. is reached, and about 2.5±0.25 mm. (0.100±0.010 in.) when a pressure of 70 kg./sq. cm. is reached.

Adjust the stroking rate to 1,000±100 strokes per hour. Record the fluid level in the master cylinder standpipe.

S5.14.5 *Procedure.*

Operate the system for 16,000±1,000 cycles at 23°±5° C. (73.4°±9° F.). Repair any leakage, readjust the brake-shoe clearances, and add fluid to master cylinder standpipe to bring to the level originally recorded, if necessary.

Start test again and raise the temperature of the cabinet within 6±2 hours to 70°±5° C. (158°±9° F.) for a DOT 2 fluid, or to 120°±5° C. (248°±9° F.) for a DOT 3 or DOT 4 fluid. During test observe operation of wheel cylinders for improper functioning and record the amount of fluid required to replenish any loss, at intervals of 24,000 strokes. Stop the test at the end of 200,000 total recorded strokes for a DOT 2 fluid, or at the end of 85,000 total recorded strokes for a DOT 3 or DOT 4 fluid. These totals shall include the number of strokes during operation at 23°±5° C. (73.4°±9° F.) and the number of strokes required to bring the system to the operating temperature. Allow equipment to cool to room temperature. Examine the wheel cylinders for leakage. Stroke the assembly an additional 100 strokes, examine wheel cylinders for leakage and record volume loss of fluid.

Within 16 hours after stopping the test, remove the master and wheel cylinders from the system, retaining the fluid in the cylinders by immediately capping or plugging the ports. Disassemble the cylinders, collecting the fluid from the master cylinder and wheel cylinders in a glass jar. When collecting the stroked fluid, remove all residue which has deposited on rubber and metal internal parts by rinsing and agitating such parts in the stroked fluid and using a soft brush to assure that all loose adhering sediment is collected. Clean rubber cups in ethanol and dry. Inspect cups for stickiness, scuffing, blistering, cracking, chipping, and change in shape from original appearance. Within 1 hour after disassembly, measure the lip and base diameters of each cylinder cup by the procedures specified in S5.14.4 (a) and (b) with the exception that lip or base diameters of cups may now differ by more than 0.08 mm. (0.003 in.). Determine the hardness of each cup according to S6.4.

Note any sludge, gel or abrasive grit present in the test fluid. Within 1 hour after draining cylinders, agitate fluid in

glass jar to suspend and uniformly disperse sediment and transfer a 100 ml. portion of this fluid to a centrifuge tube and determine percent sediment as described in S6.5. Allow the tube and fluid to stand for 24 hours, recentrifuge and record any additional sediment recovered. Inspect cylinder parts, note any gumming or any pitting on pistons and cylinder walls. Disregard staining or discoloration. Rub any deposits adhering to cylinder walls with a clean soft cloth wetted with ethanol to determine abrasiveness and removability. Clean cylinder parts in ethanol and dry. Measure and record diameters of pistons and cylinders according to S5.14.4 (a) and (b). Repeat the test if mechanical failure occurs that may affect the evaluation of the brake fluid.

S5.14.6 *Calculations.*

(a) Calculate the changes in diameters of cylinders and pistons (see S4.1.14 (b)).

(b) Calculate the average decrease in hardness of the nine cups tested, as well as the individual values (see S4.1.14(c)).

(c) Calculate the increases in base diameters of the 10 rubber cups (see S4.1.14(e)).

(d) Calculate the lip diameter interference set for each of the 10 cups by the following formula and average the 10 values (see S4.1.14(f)):

$$\frac{D_1-D_2}{D_1-D_0}\times 100=\%\ \text{Lip Diameter Interference Set}$$

Where:

D_1=Original lip diameter.
D_2=Final lip diameter.
D_0=Original cylinder bore diameter.

S6. *Auxiliary test methods and reagent standards.*

S5.1 *Distilled water.* Nonreferee reagent water as specified in ASTM D1193–66 Standard Specifications for Reagent Water, or water of equal purity.

S6.2 *Water content of MVBF's.* Use analytical methods based on ASTM D1123–59, Standard Method of Test for Water in Concentrated Engine Antifreezes by the Iodine Reagent Method, for determining the water content of polyalkalene glycol-base brake fluids, or other methods of analysis yielding comparable results.

To be acceptable for use, such other method must measure the weight of water added to carefully prepared samples of the SAE RM–1 Compatibility Fluid within ±15 percent of the water added for additions up to 0.8 percent by weight, and within ±5 percent of the water added for additions greater than 0.8 percent by weight. The SAE RM–1 Compatibility Fluid used to prepare the samples must have an original ERBP of not less than 182° C. (360° F.) when tested in accordance with S5.1.

S6.3 *Ethanol.* 95 percent (190 proof) ethyl alcohol, USP or ACS, or Formula 3–A Specially Denatured Alcohol of the same concentration (see Part 212 of Title 26, Code of Federal Regulations—U.S. Treasury Department, I.R.S. Publication No. 368).

For pretest washings of rubber brake cups, metal corrosion test strips and the like, use approximately 90 percent ethyl alcohol, obtained by adding 5 parts of distilled water to 95 parts of ethanol (as described above).

S6.4 *Measuring the hardness of rubber brake cups.* Hardness measurements on rubber wheel cylinder cups and master cylinder primary cups shall be made by the following procedure.

S6.4.1 *Apparatus.*

(a) *Anvil.* A rubber anvil having a flat circular top 20±1 mm. ($^{13}/_{16}\pm^{1}/_{16}$ in.) in diameter, a thickness of at least 9 mm. ($^{3}/_{8}$ in.) and a hardness within five International Rubber Hardness Degrees (IRHD) of the rubber test cup.

(b) *Hardness tester.* A hardness tester meeting the requirements for the standard instrument as described in ASTM D1415–68, Standard Method of Test for International Hardness of Vulcanized Natural and Synthetic Rubbers, and graduated directly in IRHD units.

S6.4.2 *Procedure.* Hardness measurements shall be made at 23°±2° C. (73.4°±3.6° F.). The tester and anvils shall be equilibrated at this temperature prior to use.

Center brake cups lip side down on an anvil of appropriate hardness. Following the manufacturer's operating instructions for the hardness tester, make one measurement at each of four points one-fourth inch from the center of the cup and spaced 90° apart. Average the four values, round off to the nearest IRHD.

S6.5 *Sediment by centrifuging.* The amount of sediment in the test fluid shall be determined by the following procedure.

S6.5.1 *Apparatus.*

(a) *Centrifuge tube.* Cone-shaped centrifuge tubes conforming to the dimensions given in figure 6, and made of thoroughly annealed glass. The graduations shall be numbered as shown in figure 6, and shall be clear and distinct. Scale-error tolerances and smallest graduations between various calibration marks are given in Table 7 and apply to calibrations made with air-free water at 20° C. (68° F.).

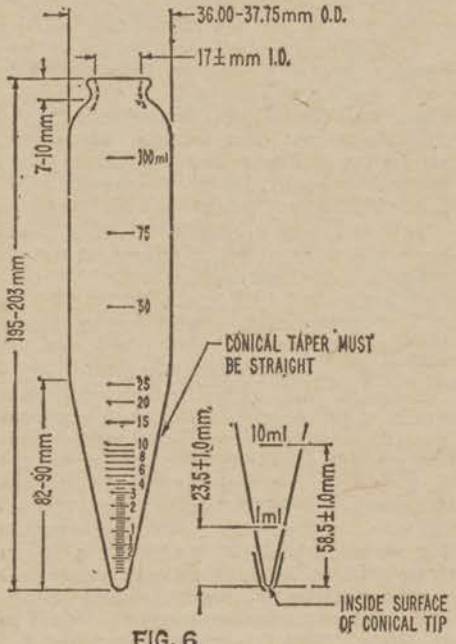

FIG. 6
ASTM 8-in CENTRIFUGE TUBE

TABLE 7

CALIBRATION TOLERANCES FOR 8-INCH CENTRIFUGE TUBE

Range, ml.	Subdivision, ml.	Volume tolerance, ml.
0 to 0.1	0.05	±0.02
Above 0.1 to 0.3	0.05	±0.03
Above 0.3 to 0.5	0.05	±0.05
Above 0.5 to 1.0	0.10	±0.05
Above 1.0 to 2.0	0.10	±0.10
Above 2.0 to 3.0	0.20	±0.10
Above 3.0 to 5.0	0.5	±0.20
Above 5.0 to 10	1.0	±0.50
Above 10 to 25	5.0	±1.00
Above 25 to 100	25.	±1.00

(b) *Centrifuge.* A centrifuge capable of whirling two or more filled centrifuge tubes at a speed which can be controlled to give a relative centrifugal force (r.c.f.) between 600 and 700 at the tip of the tubes. The revolving head, trunnion rings, and trunnion cups, including the rubber cushion, shall withstand the maximum centrifugal force capable of being delivered by the power source. The trunnion cups and cushions shall firmly support the tubes when the centrifuge is in motion. Calculate the speed of the rotating head using this equation.

$$\text{r.p.m.}=265\sqrt{\frac{\text{r.c.f.}}{\text{d}}}$$

where:

r.c.f.=Relative centrifugal force, and
d=Diameter of swing, in inches, measured between tips of opposite tubes when in rotating position.

Table 8 shows the relationship between diameter, swing, r.c.f., and revolutions per minute.

TABLE 8

ROTATION SPEEDS FOR CENTRIFUGES OF VARIOUS DIAMETERS

Diameter of swing, in [1]	R.p.m. at 600 r.c.f.	R.p.m. at 700 r.c.f.
19	1490	1610
20	1450	1570
21	1420	1530
22	1390	1500

[1] Measured in inches between tips of opposite tubes when in rotating position.

S6.5.2 *Procedure.* Balance the corked centrifuge tubes with their respective trunnion cups in pairs by weight on a scale, according to the centrifuge manufacturer's instructions, and place them on opposite sides of the centrifuge head. Use a dummy assembly when one sample is tested. Then whirl them for 10 minutes at a rate sufficient to produce a relative centrifugal force (r.c.f.) between 600 and 700 at the tips of the whirling tubes. Repeat until the volume of sediment in each tube remains constant for three consecutive readings.

S6.5.3 *Calculation.* Read the volume of the solid sediment at the bottom of the centrifuge tube and report the percent sediment by volume. Where replicate determinations are specified, report the average value.

S6.6 *Standard styrene-butadiene rubber (SBR) brake cups.* SBR brake cups for testing motor vehicle brake fluids shall be manufactured using the following formulation:

FORMULATION OF RUBBER COMPOUND

Ingredient:	Parts by weight
SBR type 1503 [a]	100
Oil furnace black (NBS 378)	40
Zinc oxide (NBS 370)	5
Sulfur (NBS 371)	0.25
Stearic Acid (NBS 372)	1
n-tertiary butyl-2-benzothiazole sulfenamide (NBS 384)	1
Symmetrical-dibetanaphthyl-phenylenediamine	1.5
Dicumyl peroxide (40% on precipitated $CaCO_3$) [b]	4.5
Total	153.25

NOTE: The ingredients labeled (NBS———) must have properties identical with those supplied by the National Bureau of Standards.

[a] Philprene 1503 has been found suitable.

[b] Use only within 90 days of manufacture and store at temperature below 27° C. (80° F.)

Compounding, vulcanization, physical properties, size of the finished rubber cups, and other details shall be as specified in Appendix B of SAE J1703a.

The cups shall be used in testing brake fluids either within 6 months from date of manufacture when stored at room temperature below 30° C. (86° F.) or within 36 months from date of manufacture when stored at temperatures below −15° C. (+5° F.). After removal of cups from refrigeration they shall be conditioned base down on a flat surface for at least 12 hours at room temperature in order to allow cups to reach their true configuration before measurement.

[F.R. Doc. 70-12903; Filed, Sept. 29, 1970; 8:45 a.m.]

[49 CFR Part 571]

[Docket No. 69-20, Notice 2]

ACCELERATOR CONTROL SYSTEMS

Proposed Motor Vehicle Safety Standard

On October 2, 1969, an advance notice of proposed rule making was issued (34 F.R. 15420) requesting comments on a motor vehicle safety standard which would specify requirements for accelerator control systems and automatic speed control systems of passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles. Comments received in response to that notice have been carefully considered, in addition to technical analysis of current driver-operated and automatic accelerator control systems and actual driver experiences reported to the Bureau. This notice proposes a new motor vehicle safety standard that would establish requirements for both driver-operated and automatic accelerator control systems.

The ability of a driver to control the speed of his automobile is dependent to a considerable extent on the proper functioning of the vehicle's accelerator control system, particularly with regard to the ability to decelerate when the driver removes the actuating force. Unexpected speed, even for a few seconds, when the driver intends to slow down may seriously hinder his ability to control the automobile. Requirements are therefore proposed to ensure the provision of accelerator control systems and automatic speed control systems having reliability and responsiveness over a wide range of ambient temperatures. Each driver-operated system is required to have at least two independent energy sources, each capable of returning the engine to idle upon release of the opposing actuating force, and at least one of which must be able to return the engine to idle in case of disconnection of any element of the system. Both of these provisions require that the redundant force return the engine to idle only after the driver removes the opposing actuating force, thus avoiding the danger of unexpected loss of power when the driver intends to accelerate. The foot pedal in driver-operated systems must be capable of continued proper functioning even after the application of a 300-pound force.

The proposed standard for automatic vehicle speed control systems would require that they be activated deliberately by the driver, and not solely by movement of the accelerator pedal. The proposed standard also establishes certain fail-safe and redundant features to be included in those vehicles equipped with an automatic vehicle speed control system. The system must be capable of automatic deactivation upon certain deliberate actions by the driver, such as depressing the service brake or clutch or deactivation with a hand control and also must automatically deactivate or be capable of manual deactivation upon certain specified failures in the system or other vehicle components that are essential to proper operation of the system. In none of these situations should deactivation automatically shut off the engine or have any other effect on the continued operation of the vehicle with the driver-operated accelerator control system. Also, in the interest of safety and control at high and low speeds, a range of permissible performance speeds for automatic vehicle speed control systems is specified, without limiting the vehicle speed attainable under the direct control of the driver.

The proposed standard would impose the additional requirement, on motorcycles having not more than two wheels in contact with the ground, of an engine stop control, situated on or near the right handgrip, operable by the driver without removing his hand from the handgrip.

Certain requirements for location of controls are included in the proposed standard. These should be considered in relation to Federal Motor Vehicle Safety Standard No. 101, including amendments proposed in Docket No. 1-18, Notice 2, dated April 8, 1970 (35 F.R. 6151).

The National Highway Safety Bureau has consulted with the Bureau of Motor Carrier Safety before issuing this notice.

Proposed effective date: October 1, 1972.

Interested persons are invited to submit data, views and arguments concerning the proposed standard. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on December 29, 1970, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rulemaking is issued under the authority of sections 103, 112, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1407), and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (34 F.R. 11126).

Issued on September 23, 1970.

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

ACCELERATOR CONTROL SYSTEMS—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, AND MOTORCYCLES

S1. *Purpose and scope.* This standard establishes requirements for driver-operated accelerator control systems to ensure that the engine will return to idle speed when the accelerator control is deactuated by the driver. It also establishes requirements for the performance of automatic vehicle speed control systems.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles.

S3. *Definitions.* "Driver-operated accelerator control system" means all vehicle components that regulate engine speed in direct response to movement of the driver-operated control.

"Automatic vehicle speed control system" means a system that is able to maintain selected vehicle speeds in the presence of changing road conditions without modulation of the accelerator control by the driver.

S4. *Requirements.*

S4.1 *Driver-operated accelerator control systems.* The vehicle shall be equipped with a driver-operated accelerator control system that meets the following requirements:

S4.1.1 The accelerator control system shall include at least two sources of energy, each of which shall, whenever the driver removes the opposing actuating force, be independently able to return the engine to idle from any accelerator position or any speed of which the engine is capable.

S4.1.2 The accelerator control system shall return the engine to idle from any speed of which it is capable whenever any element of the system becomes disconnected and the driver removes the opposing actuating force.

S4.1.3 Foot-operated systems shall be able to control the engine over its full range between idle and maximum speed before and after application of a 300-pound force depressing the accelerator pedal to the floor.

S4.2 *Automatic vehicle speed control systems.* Each vehicle equipped with an automatic vehicle speed control system shall meet the following requirements:

S4.2.1 The system shall be activated only by a hand-operated control within reach of a driver wearing a properly fastened seat belt.

S4.2.2 The system shall deactivate upon the following deliberate actions by the driver and shall not reactivate except upon deliberate actuation by the driver in accordance with S4.2.1:

(a) Manipulation of hand-operated deactivation control within reach of a driver wearing a properly fastened seat belt;

(b) Application of the service breaks or the clutch, if any; or

(c) Turning off the key-locking system that controls the vehicle's engine.

S4.2.3 In addition to deactivation under the normal conditions set out in S4.2.2, the system shall automatically deactivate or be capable of manual deactivation by the driver under the following conditions of failure:

(a) Failure of any power source to the system;

(b) Failure of the speed signal to the system;

(c) Short circuit of any electrical lead of the system to any other lead of the system or to ground; or

(d) Failure of any other vehicle component upon which the system is dependent for function.

S4.2.4 When deactivated the system shall have no effect on the operation of the vehicle.

S4.2.5 If a speed signal source other than the drive train or a driving wheel is used, there shall be no uncontrolled increase in engine speed when a driving wheel loses traction.

S4.2.6 The system shall not be operable below 20 m.p.h. or above 85 m.p.h.

S4.2.7 The system shall be incapable of causing transmission downshift on a zero percent grade.

S4.3 *Freedom of movement.* Accelerator control systems and automatic vehicle speed control systems shall avoid, throughout the full range of adjustment and operational positions, with or without the engine running, any nonessential chafing, rubbing, or other contact between any moving part of the system and any other part of the system or vehicle.

S4.4 *Operating temperature.* Accelerator control systems and automatic vehicle speed control systems shall be able to meet all requirements of this standard at ambient temperatures of −40° F. to +125° F., and with underhood temperatures, measured at the output terminal point of the accelerator control linkage, of −40° F. to +275° F.

S4.5 *Motorcycle engine stop control.* In addition to meeting all other applicable requirements of this standard, each motorcycle designed to travel with not more than two wheels in contact with the ground shall have an engine stop control situated on or near the right handgrip, operable by the driver without moving his hand from the handgrip.

S4.6 *Operating instructions.* Instructions for activating and deactivating the automatic vehicle speed control system, if any, and for shutting off the engine in emergencies, including pictures or diagrams showing the location of the controls, shall be furnished with the vehicle.

[F.R. Doc. 70-12977; Filed, Sept. 29, 1970; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 25]

[Docket No. 16495; FCC 70-1015]

ESTABLISHMENT OF DOMESTIC COMMUNICATION-SATELLITE FACILITIES BY NONGOVERNMENTAL ENTITIES

Further Notice of Inquiry and Proposed Rule Making

1. Notice is hereby given of further inquiry and proposed rule making in the above-entitled matter.

2. In the report and order released on March 24, 1970 (35 F.R. 5351) in this proceeding (22 FCC 2d 86), the Commission indicated some doubt as to whether domestic satellite operations can be fully and economically accommodated in the only frequency bands presently available for commercial domestic satellite communications services, i.e., the 4 and 6 GHz bands—3700–4200 MHz and 5925–6425 MHz (par. 11, 22 FCC 2d at 89). We recognized that there might be considerable difficulty in coordinating satellite earth station facilities with terrestrial systems in the 4 and 6 GHz bands because of the heavy existing terrestrial use of these bands (ibid.). We nevertheless directed all potential applicants to request frequencies in the 4 and 6 GHz bands pending any additional allocations for communication-satellite services that may result from the World Administrative Radio Conference for Space Telecommunications (Geneva, 1971) (22 FCC 2d at 98, footnote 9). However, we stated (22 FCC 2d at 90, footnote 3):

> In view of the imminence of the 1971 space conference, prospective applicants may now prefer to await the outcome instead of proceeding at 4 and 6 GHz. While this factor may also present a pertinent public interest question, we think it should be resolved in the context of our consideration of concrete applications for the 4 and 6 GHz bands which will contain analyses of potential interference vis-a-vis terrestrial operations and specify the length and cost of the terrestrial interconnections for earth stations.

3. Since the issuance of that report and order, we have become increasingly concerned about this aspect. It appears from the pending applications of The Western Union Telegraph Co. for a domestic system and from informal conversations with other potential applicants that systems in the 4 and 6 GHz bands may require earth station sites some 40–80 miles distant from cities like New York and Los Angeles. It further appears that such earth station sites would necessitate substantial investments in new terrestrial microwave connections between the earth stations and other existing terrestrial facilities for obtaining access to these cities or between the earth stations and the premises of the end users.

4. The location of earth stations serving major population centers is obviously a matter of considerable importance to the public interest. Such facilities and the terrestrial connecting facilities can be maintained and have a greater useful life expectancy than do the satellites envisioned for any domestic system, at least in the present state of the art. We are particularly concerned where common carrier applications are involved, since the investment in the terrestrial interconnections is included in their rate base and operating costs are computed in the price of services to the public. Once the earth stations and terrestrial connecting facilities have been constructed, it may be uneconomic or impracticable to relocate them for a number of years even though the use of different frequency bands might permit earth station sites within the city or at other desired sites without the cost of terrestrial interconnection. Thus, the public might pay a substantial penalty over a period of years for costs that might be totally or significantly avoided by the use of different, less-congested, frequency bands initially. Moreover, the use of microwave to connect earth stations to major cities may impede or adversely affect full access to such cities by terrestrial systems sharing the same frequency bands and require the latter to resort to more costly access techniques. As noted in the notice of inquiry to formulate policy, notice of proposed rule making, and order in Docket No. 18920 (FCC 70-768), the rapidly increasing demands for terrestrial use of the common carrier microwave bands make it imperative to require efficient use of the spectrum in the more congested areas. Further, the capability of locating earth stations at the optimum sites desired by applicants would further our goal of achieving a "market environment conducive to innovation and the vigorous exploration and development of the special communications service potentials of the satellite technology." Notice of proposed rule making in Docket No. 16495, 22 FCC 2d 810, 811; report and order in Docket No. 16495, 22 FCC 2d at 89, 91. This factor might also have an

important bearing on the potential viability of some proposed systems.

5. Further, since the issuance of our report and order herein, U.S. preparation for the 1971 WARC has progressed substantially. In the seventh notice of inquiry in Docket No. 18294 (FCC 70–879), it is proposed to allocate the band 11.7–12.2 GHz as follows (paragraph 46):

Broadcasting-Satellite (with the definition expanded by No. 84AP.1).
Communication-Satellite (down-no specific limitations as to traffic).
Mobile (secondary with respect to the space services named).

As there stated, there are presently no fixed operations in this band within the United States. It should therefore be possible to have access to this service through earth stations receiving in urban areas. It is further proposed to allocate the 12.75–13.25 GHz band as follows:

Communication-Satellite (up).
Fixed.
Mobile.

There is some use of this band within the United States, primarily by the Community Antenna Relay Service on the frequencies 12.7–12.95 GHz. However, in view of the number and location of these stations, the angle of elevation toward any satellite in synchronous orbit serving the United States, and the comparatively higher directivity of antennas in this area of the spectrum, it appears likely that earth stations transmitting in the 12.75–13.25 GHz band could be located in urban areas compatibly with shared use of this band by others.

6. The seventh notice of inquiry also proposes the following allocations for non-Government communication-satellite services:

17.7–19.7 GHz—non-Government Communication-Satellite (down).
Fixed.
Mobile.
19.7–20.2 GHz—non-Government Communication-Satellite (down).

* * * * *

27.5–29.5 GHz—non-Government Communication-Satellite (up).
Fixed.
Mobile.
29.5–30.0 GHz—non-Government Communication-Satellite (up).

While there are presently no regularly authorized stations in the bands above 17.7 GHz within the United States, we recognize that the technology for using this portion of the spectrum for communication-satellite services may require further experimentation and development. By contrast, we have had considerable experience with terrestrial use of the 12 GHz frequencies. We have reason to believe that the technology for using these frequencies for communication-satellite purposes could be developed within a reasonably short period, such as a year, if engineering efforts were concentrated toward this end. It might also be possible to develop equipment for use of the higher bands within a period not much longer than for 12 GHz with similar engineering efforts.

7. It may be that some of the applications for domestic systems in the 4 and 6 GHz bands, when actually filed, will propose techniques that might make it possible to locate earth station sites closer to major cities than now envisioned with minimal terrestrial interconnection costs. It may also turn out that the 4 or 6 GHz band is more suitable for some proposed communications satellite services than for others. However, in the event that the Commission is unable to find that the use of the 4 and 6 GHz bands for any or all domestic systems would serve the public interest, it would needlessly delay the commencement of domestic communications satellite services to the public if we were to defer exploration of the possible use of other frequencies until that time. We think that intensive efforts toward development of the technology for use of other bands should begin as soon as possible, in order that this alternative may be available within a reasonably short time to the extent that we should determine that the use of the 4 and 6 GHz bands would not best serve the public interest. We do not mean to discourage the preparation and filing of applications for the 4 and 6 GHz bands. As stated in the report and order herein, the submission of concrete proposals would substantially assist the Commission's determinations in this area. However, we are seeking to encourage the active consideration of alternative frequency bands, the development of any technology necessary to possible use of other frequencies at an early date, and the submission of concrete applications for systems utilizing such frequencies.

8. In light of the foregoing, we have decided to modify our earlier directive that applicants for domestic communications satellite systems may file only in the 4 and 6 GHz bands pending the outcome of the 1971 space conference. Applicants may request the use of any frequency bands proposed to be allocated in region 2 for non-Government communication-satellite service in the proposals of the United States (see draft proposals appended to the seventh notice and any subsequent amendments to such proposals).[1] Applicants may also submit applications for alternative systems, one proposing the use of the 4 and 6 GHz bands and the other proposing the use of other frequencies or a mixture with 4 and 6 GHz. Our consideration of proposals for the use of frequencies other than 4 and 6 GHz would, of course, be subject to the outcome of the WARC and/or any regional agreements.[2] We recognize that the technical criteria in appendix D to the report and order herein are geared to the 4 and 6 GHz bands and may not be entirely appropriate to other frequency bands. As indicated in paragraph 29 of that report (22 FCC 2d at 98), applicants may submit alternative proposals, treating the pertinent factors in full, reflecting what would be requested if there were different technical constraints, and showing how the alternative would better serve the public interest.[3] We stress again that the parties may come forward with any proposals, and the practical basis therefor, which would best serve the public interest in this important area.

9. We are also requesting comments from all applicants and other interested persons on the following questions:

(a) How soon could equipment be available for the use of other frequencies for domestic communications satellite systems and what would be the approximate estimated cost?

(b) How close to urban centers or other premises of potential end users of communications satellite services could earth stations be located if they were to use frequencies other than 4 and 6 GHz, considering any existing terrestrial use of these bands and the potential requirements of authorized terrestrial services?

(c) What are the comparative economic and technological advantages and disadvantages of using the 4 and 6 GHz bands or other proposed bands for domestic communications satellite systems, including such factors as the size and cost of the earth station antennas, the physical characteristics and cost of the satellites, launch vehicles, the number of orbital locations for satellites capable of viewing all 50 States or only those in continental United States, system reliability and redundancy, and any other pertinent factors?

It is contemplated that the Commission may adopt rules in this area if it should determine, upon consideration of the comments and the applications, that such action is necessary and desirable in the public interest.

10. Applicants and other interested persons may submit comments and reply comments on the foregoing in accordance with the time schedule prescribed in the Commission's public notice of September 3, 1970 (FCC 70–953). In other words, applicants should file comments in conjunction with their applications, other interested persons may file comments on or before January 5, 1971, and reply comments by all applicants and parties may be filed on or before February 3, 1971.

11. Authority for the further proposed rule making and inquiry instituted herein is contained in sections 1, 2, 3, 4 (i) and (j), 214, 301, 303, 307–309, and 403 of the Communications Act of 1934 and section 102(d) of the Communications Satellite Act of 1962.

12. In reaching its decision in this matter, the Commission may take into account any other relevant information before it, in addition to the comments

[1] Applicants desiring to apply for systems on other frequencies may request an extension of time within which to file such applications, if necessary.

[2] The WARC will convene on June 7, 1971, for a 6-week period. Its decisions with respect to specific frequency allocations should thus be completed by mid-July 1971. Even though it is unlikely that changes to the international Table of Frequency Allocations will become effective prior to Jan. 1, 1973, construction could be authorized earlier subject, of course, to ratification of the treaty.

[3] These alternatives may include other than the geostationary satellite orbit, such as the geosynchronous inclined orbit.

invited by this further Notice and the applications for domestic communications satellite systems.

13. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleading, briefs, or other documents filed in this proceeding shall be furnished to the Commission.

Adopted: September 23, 1970.

Released: September 25, 1970.

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

[F.R. Doc. 70-13034; Filed, Sept. 29, 1970; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release 34-8984]

SECURITIES EXCHANGE ACT OF 1934

Reports To Be Made by Certain Exchange Members, Brokers and Dealers

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to amend Rules 15c3-1 (17 CFR 240.15c3-1) and 17a-5 (17 CFR 240.17a-5) under the Securities Exchange Act of 1934 ("the Act") by adding a new paragraph (j) to 17 CFR 240.17a-5 to provide a means for assisting the Commission to obtain current financial information necessary for it to carry out its responsibilities in the public interest and for the protection of investors concerning brokers and dealers who may cease to be members in good standing of any national securities exchange specified in 17 CFR 240.15c3-1(b)(2).

A broker or dealer which is a member in good standing of one or more such national securities exchanges is exempted from the application of the net capital requirements of 17 CFR 240.15c3-1 ("net capital rule"). Instead, it is subject to the capital rules of those exchanges of which it is a member. Any broker or dealer who ceases to be a member in good standing of each of the specified exchanges of which he is a member would thereby become subject to the Commission's net capital rule.

It may be necessary in the public interest and for the protection of investors for the Commission to obtain current information on the financial status of such broker or dealer as of the time it becomes subject to the Commission's rules regarding financial responsibility, so that the Commission may ascertain whether such broker or dealer is in compliance with applicable net capital requirements and rules for the prevention of improper use of customers' securities as collateral.[1]

[1] Under the proposed rule, the Commission would be empowered to exempt a broker or dealer from the requirement, in specific instances.

The proposal would require a broker or dealer whose membership is one of the specified exchanges is terminated or suspended or which has entered into an agreement for the sale of its membership in any such exchange, which sale when consummated would terminate such membership, to file with the Commission within 48 hours after any such event a verified copy of its trial balance and computations of aggregate indebtedness and net capital. The proposal would also require such brokers and dealers to report the dollar amount of loans secured by customers' securities, analyzed to show the sources of all securities used as collateral for these loans and the aggregate amount of customers' debit balances as of the date of such event. The statement would be verified by the proprietor of the broker-dealer, a general partner, or the chief executive officer, depending on the form of organization.

In addition, the rule would require the exchanges specified in 17 CFR 240.15c3-1 to notify the Commission directly whenever a member broker or dealer ceases to be a member in good standing of such exchange.

The rules would be amended under sections 8(b), 8(c), 15(c), 17(c), and 23(a) of the Securities Exchange Act of 1934.

The text of proposed § 240.17a-5(j) of Chapter II of Title 17 of the Code of Federal Regulations is as follows:

§ 240.17a-5 Reports to be made by certain exchange members, brokers and dealers.

* * * * *

(j) (1) If a broker or dealer which holds any membership interest in a national securities exchange whose members are exempt from § 240.15c3-1 by paragraph (b)(2) thereof ceases to be a member in good standing of such exchange, such broker or dealer shall, within 48 hours after such event, file with the Commission, as of the date of such event:

(i) A proof of money balances of all its ledger accounts in the form of a trial balance;

(ii) A computation of its aggregate indebtedness and net capital made in accordance with § 240.15c3-1;

(iii) An analysis of the aggregate value of fully paid securities in customers' security accounts not segregated showing the location of such securities;

(iv) Ledger net credit balances of money borrowed from banks, trust companies and other financial institutions and from others, which are fully or partially secured by securities carried for the account of any customer, showing, for each loan, an analysis of the market value of all collateral for such borrowings by source of collateral, stating separately the value of: (*a*) Securities carried for the accounts of customers, (*b*) securities owned by the broker or dealer or by any general or special partner or any director or officer of such broker or dealer, and (*c*) any other securities, and

(v) The aggregate amount of customers' ledger debit balances.

The report shall be filed at the Commission's principal office in Washington, D.C., and in duplicate original with the Regional Office of the Commission for the region in which the broker or dealer has his or its principal place of business: *Provided, however,* That such report need not be made or filed if the Commission, upon written request or upon its own motion, exempts such broker or dealer, either unconditionally or on specified terms and conditions, from such requirement.

(2) Attached to the report required by subparagraph (1) of this paragraph shall be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the report is true and correct. The oath or affirmation shall be made before a person duly authorized to administer such oath or affirmation. If the member, broker, or dealer is a sole proprietorship, the oath or affirmation shall be made by the proprietor; if a partnership, by a general partner, or if a corporation, by the chief executive officer.

(3) For the purposes of this § 240.17a-5(j), "membership interest" shall include the following: Full membership, allied membership, associated membership, floor privileges, and any other interest that entitles a broker or dealer to the exercise of any privilege on an exchange.

(i) For the purposes of this section and § 240.15c3-1(b)(2), any broker or dealer shall be deemed to have ceased to be a member in good standing of such exchange when it has resigned, withdrawn, or been suspended or expelled from a membership interest in such exchange or has directly or through any associated person sold or entered into an agreement for the sale of a membership interest which would on consummation thereof result in the termination of the broker or dealer's membership interest in such exchange.

(4) Whenever any national securities exchange whose members are exempt from § 240.15c3-1 by paragraph (b)(2) thereof takes any action which causes any broker or dealer which is a member of such exchange to cease to be a member in good standing of such exchange learns of any action by such member or any other person which causes such broker or dealer to cease to be a member in good standing of such exchange, such exchange shall report such action promptly to the Commission, giving the circumstances surrounding the event.

All interested persons are invited to submit their views and comments on the above proposal, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before October 23, 1970. All such communications will be considered available for public inspection.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

SEPTEMBER 23, 1970.

[F.R. Doc. 70-13005; Filed, Sept. 29, 1970; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 148t]

VIOMYCIN SULFATE

Proposed Crystallinity Requirement for Certification

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that § 148t.1 be amended to make crystallinity a certification requirement for viomycin sulfate by adding a new subdivision to paragraph (a)(1), by revising paragraph (a)(4)(i), and by adding a new subparagraph to paragraph (b), as follows:

§ 148t.1 Viomycin sulfate.

(a) * * *

(1) * * *

(ix) It is crystalline.

* * * * *

(4) * * *

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, toxicity, histamine, moisture, pH, identity, and crystallinity.

* * * * *

(b) * * *

(9) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: September 18, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12990; Filed, Sept. 29, 1970; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 70-208]

WHITE OR IRISH POTATOES, OTHER THAN CERTIFIED SEED

Tariff-Rate Quota

SEPTEMBER 23, 1970.

The tariff-rate quota for white or Irish potatoes, other than certified seed, pursuant to item 137.25, Tariff Schedules of the United States, for the 12-month period beginning September 15, 1970, is 45 million pounds.

The estimate of the production of white or Irish potatoes, including seed potatoes, in the United States for the calendar year 1970, made by the U.S. Department of Agriculture as of September 1, 1970, was 31,375,100,000 pounds.

In accordance with headnote 2, part 8A, of schedule 1, Tariff Schedules of the United States, the quantity is not increased because the estimated production is greater than 21 billion pounds.

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

[F.R. Doc. 70-13065; Filed, Sept. 29, 1970; 8:52 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[R 2231; S 2576]

CALIFORNIA

Notice of Classification of Public Lands for Multiple Use Management

SEPTEMBER 22, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2420 and 2460, the public lands described below are hereby classified for multiple-use management. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C. sec 334), and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws.

3. No adverse comments were received following publication of the notice of proposed classification (35 F.R. 7314-15) on May 9, 1970. The record showing comments received and other information is available for inspection at the Bakersfield District Office, Bakersfield, Calif.

4. The public lands located within the following described areas are shown on maps designated 2412-04-01-34 (R 2231, S 2576) on file in the District Office, Bureau of Land Management, Room 311, Federal Building, 800 Truxtun, Bakersfield, Calif.

The overall description of the areas is as follows:

KERN, SAN LUIS OBISPO, AND SANTA BARBARA COUNTIES

MOUNT DIABLO MERIDIAN

Block No. 1

All public land in:

T. 30 S., R. 17 E.,
Secs. 2 and 3;
Secs. 10 to 14, inclusive.
T. 31 S., R. 17 E.,
Secs. 11 and 13.
T. 30 S., R. 18 E.,
Sec. 7;
Secs. 17 to 21, inclusive;
Secs. 28, 29, 30, 32, and 33.
T. 31 S., R. 19 E.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive.
T. 31 S., R. 20 E.,
Secs. 17 to 20, inclusive.

Block No. 2

All public land in:

T. 32 S., R. 19 E.,
Sec. 28.

Block No. 3

All public land in:

T. 30 S., R. 21 E.,
Sec. 33.
T. 31 S., R. 21 E.,
Sec. 1, 2, 12, 13, and 24.
T. 31 S., R. 22 E.,
Sec. 7;
Secs. 18 and 19.

Block No. 5

All public land in:

T. 29 S., R. 19 E.,
Secs. 1 and 12.
T. 29 S., R. 20 E.,
Secs. 1 to 4, inclusive;
Secs. 6 and 7;
Secs. 9 to 15, inclusive;
Secs. 17 to 22, inclusive;
Secs. 25 to 27, inclusive;
Secs. 29 and 35.
T. 30 S., R. 20 E.,
Sec. 1.
T. 29 S., R. 21 E.,
Sec. 7;
Secs. 29 to 31, inclusive;
Sec. 33.
T. 30 S., R. 21 E.,
Secs. 1 to 11, inclusive;
Secs. 16 and 24.
T. 29 S., R. 22 E.,
Secs. 30 and 32.
T. 30 S., R. 22 E.,
Secs. 2, 4, 6, 8, 10, 18, 22, and 26;
Secs. 29 to 33, inclusive; and sec. 34.
T. 31 S., R. 22 E.,
Secs. 2, 4, 5, 6, 8, 9, 10, and 12;
Secs. 21 to 23, inclusive;
Secs. 24, 27, and 35.
T. 31 S., R. 23 E.,
Secs. 6 and 32.
T. 32 S., R. 23 E.,
Secs. 4, 5, 7, 9, 10, 15, and 27.
T. 32 S., R. 24 E.,
Secs. 20, 24, 28, and 30.

SAN BERNARDINO MERIDIAN

Block No. 2

All public land in:

T. 9 N., R. 24 W.,
Secs. 5 and 6.
T. 10 N., R. 24 W.,
Secs. 30, 31, and 32.
T. 10 N., R. 25 W.,
Sec. 25.
T. 11 N., R. 26 W.,
Sec. 36.
T. 11 N., R. 27 W.,
Secs. 16 and 36.
T. 12 N., R. 28 W.,
Sec. 36.
T. 12 N., R. 29 W.,
Sec. 36.

Block No. 3

All public land in:

T. 10 N., R. 23 W.,
Secs. 4 and 5.
T. 11 N., R. 23 W.,
Secs. 21, 22, and 23;
Secs. 25 to 29, inclusive;
Secs. 31, 32, and 33.
T. 10 N., R. 24 W.,
Secs. 4 and 5.
T. 11 N., R. 24 W.,
Sec. 16.
T. 11 N., R. 25 W.,
Secs. 22 to 26, inclusive.

Block No. 5

All public land in:

T. 11 N., R. 23 W.,
Secs. 6, 17, and 18.
T. 12 N., R. 23 W.,
Sec. 32.

The area described aggregates approximately 40,000 acres.

4. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240.

J. R. PENNY,
State Director.

[F.R. Doc. 70-13037; Filed, Sept. 29, 1970; 8:50 a.m.]

[C–11542]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

SEPTEMBER 22, 1970.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial No. C–11542, for the withdrawal of the lands described below, from prospecting, location and entry under the general mining laws only, subject to valid existing rights.

The applicant desires the lands for public recreation areas.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado Land Office, Room 15019, Federal Building, 1961 Stout Street, Denver, Colo. 80202.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

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

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

SIXTH PRINCIPAL MERIDIAN

PIKE NATIONAL FOREST

South Platte River Recreation Site and Streamside Zone a strip of land 330 feet on each side of the center of the South Fork of the South Platte River and Tarryall Creek within the following subdivisions:

T. 10 S., R. 71 W., Protraction Diagram dated May 17, 1968,
Sec. 22, SE¼SE¼;
Secs. 27 and 34.
T. 11 S., R. 71 W.,
Sec. 4, lots 5, 12;
Sec. 16, S½;
Sec. 17, SE¼NE¼, NE¼SE¼;
Sec. 21, N½NE¼.

Also a strip of land 660 feet each side of the South Fork of the South Platte River and Tarryall Creek within the following subdivisions:

T. 11 S., R. 71 W.,
Sec. 3, W½;
Sec. 4, lot 13, SE¼SW¼, SE¼;
Sec. 9;
Sec. 16, N½.

Eleven-Mile Canyon Recreation Area Addition

T. 12 S., R. 71 W.,
Sec. 31, SE¼NW¼.

NEW MEXICO PRINCIPAL MERIDIAN

UNCOMPAHGRE NATIONAL FOREST

Palmer Roadside Rest

T. 43 N., R. 7 W., Protraction 24A, dated May 5, 1965
Sec. 20, SE¼, description by metes and bounds as M.S. 1909.

Beginning at corner No. 1 an iron rod 1 inch in diameter, 2 feet long set in a hole drilled in a rock marked 1/1909. Whence U.S.L.M. E. bears S. 8°42' E., 74 feet. Point on Hayden Mountain bears S. 79° W.; thence S. 35° W., 40 feet to intersection with county road, 70 feet to south bank of Red Moutain Creek, 264.5 feet to intersection with line 3–4 of survey No. 1910, 540 feet leave east bank of Red Mountain Creek, 564.1 feet to intersection of line 1–2 survey No. 1910, 1,150 feet to center of Red Mountain Creek, 1,310 feet to witness corner No. 2 a post 4 feet long set on hard rock in a large mount of stones marked witness corner 2/1909, 1,500 feet to corner No. 2 which is inaccessible; thence S. 55° E., 120 feet to center of Red Mountain Creek, 300 feet to corner No. 3 which lies in center of county road from whence Mount Elizabeth bears N. 21°18' E., point of rock on Mount Abrams bears S. 67°50' E., thence N. 35° E., 29 feet to witness corner No. 3 a post 4 feet long set in ground as far as rock would permit with mount of stones marked witness corner 3/1909, 950.2 feet to intersection of line 1–2 survey No. 1910, 1,249.8 feet to intersection of line 3–4 survey No. 1910, 1,500 feet to corner No. 4 a post 4 feet long with mount of stones marked 4/1909; thence N. 55° W., 85 feet to intersection with Curran Creek, 110.7 feet to intersection with line 4–1 survey No. 304A., 130.9 feet to intersection with line 1–2 of Henderson Lode, survey No. 302, 213.1 feet to intersection with line 4–1 of survey No. 302, 287 feet to intersection with Curran Creek, 292.4 feet to intersection with line 1–2 of survey No. 304A., 300 feet to corner No. 1 the place of beginning containing 10.27 acres, more or less.

Emma Lode Roadside Rest

T. 42 N., R. 8 W., Protraction 24B, dated May 5, 1965
Sec. 11, SE¼, description by metes and bounds as M.S. 20141.

Beginning at corner No. 1 from which U.S.M.M. Carbon Lake bears S. 17°59' E., 3,927.45 feet; thence N. 36°49' E., 317.3 feet to intersection with line 5–8 of Snowflake mineral survey No. 4508, 1,497.48 feet to intersection with line 5–8 of O.P.P. mineral survey 6998, 1,500 feet to corner No. 2, from whence corner No. 8 of Snowflake mineral survey No. 4507 bears S. 46°37' W., 1,214.2 feet; thence N. 53°11' W., 92.92 feet to intersection with line 7–8 of O.P.P. mineral survey 6998, 206.67 feet to intersection with line 7–8 of Snowflake mineral survey No. 4507, 600 feet to corner No. 3, from whence corner No. 4 of Swampangel mineral survey No. 15342 bears S. 78°42'40" E., 545.22 feet; thence S. 36°49' W., 112 feet to intersection with Unnamed Creek, 820 feet to intersection with Unnamed Creek, 1,500 feet with corner No. 4; thence S. 53°11' E., 560 feet to intersection with Silverton R.R., 600 feet to corner No. 1 the place of beginning, containing 13.95 acres, more or less.

The areas described aggregate approximately 1,024 acres.

J. ELLIOTT HALL,
Land Office Manager.

[F.R. Doc. 70–12993; Filed, Sept. 29, 1970; 8:46 a.m.]

[Montana 15568]

MONTANA

Notice of Classification of Public Lands for Multiple-Use Management

SEPTEMBER 22, 1970.

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

2. No adverse comments were received following issuance of a notice of proposed classification on June 3, 1970. The record of this case is on file and can be examined in the Malta District Office, Malta, Mont.

The public lands located within the following described areas are shown on maps on file in the Malta District Office, Bureau of Land Management, Malta, Mont. 59538, and the Land Office, Bureau of Land Management, 316 North 26th Street, Billings, Mont. 59101.

3. The following described public lands were either acquired by exchange for the benefit of multiple-use management programs or are public lands intermingled with the lands acquired by exchange.

PRINCIPAL MERIDIAN, MONTANA

BLAINE COUNTY

T. 37 N., R. 18 E.,
Sec. 25, NE¼.
T. 36 N., R. 20 E.,
Sec. 13, W½;
Sec. 23, SW¼;
Sec. 25, E½ and SW¼;
Sec. 26, SE¼.
T. 33 N., R. 21 E.,
Sec. 24, W½.
T. 37 N., R. 21 E.,
Sec. 29, N½N½, SW¼NE¼, and SE¼NW¼;
Sec. 30, N½NE¼.
T. 32 N., R. 24 E.,
Sec. 13, all;
Sec. 14, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 23, NE¼;
Sec. 24, N½.
T. 32 N., R. 25 E.,
Sec. 3, SW¼NW¼;
Sec. 5, lots 3 and 4, SW¼NW¼, W½SW¼, and SE¼SW¼;

Sec. 6, lots 2 and 3, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 7, lots 1, 2, 3, and 4, SW¼NE¼, E½NW¼, E½SW¼, and NW¼SE¼;
Sec. 8, S½NE¼, W½, and SE¼;
Sec. 9, W½SW¼, and SE¼SW¼;
Sec. 11, NE¼;
Sec. 12, W½;
Sec. 17, N½NE¼, NE¼NW¼, S½N½, and S½;
Sec. 18, lots 1, 2, 3, and 4, SE¼NE¼, W½NE¼, E½NW¼, E½SW¼, and SE¼;
Sec. 19, lots 1, 2, and 3, NE¼, E½NW¼, and N½N½SE¼;
Sec. 20, N½ and N½SW¼.

Total public lands within the areas described aggregate approximately 7,509.29 acres.

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

EUGENE H. NEWELL,
Acting State Director.

[F.R. Doc. 70-12994; Filed, Sept. 29, 1970; 8:46 a.m.]

[Serial No. N-3861]

NEVADA

Notice of Public Sale

SEPTEMBER 23, 1970.

Under the provisions of the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-1427), 43 CFR Subpart 2720, a parcel of land will be offered for sale to the highest bidder at a sale to be held at 10 a.m., local time, on Wednesday, November 4, 1970, at the Carson City District Office, Bureau of Land Management, 801 North Plaza Street, Carson City, Nev. 89701. The land is described as follows:

MOUNT DIABLO MERIDIAN, NEVADA

T. 1 N., R. 32 E.,
Sec. 22, S½SE¼NW¼SW¼, NW¼SW¼SW¼.

The area described contains 15 acres. The appraised value of the parcel is $2,625 and the publication costs to be assessed are estimated at $12.

The land will be sold subject to all valid existing rights. Reservations will be made to the United States for rights-of-way for ditches and canals in accordance with the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). All minerals are to be reserved to the United States and withdrawn from appropriation under the public land laws, including the general mining laws.

Bids may be made by a principal or his agent, either at the sale, or by mail. An agent must be prepared to establish the eligibility of his principal. Eligible purchasers are: (1) Any individual (other than an employee, or the spouse of an employee, of the Department of the Interior) who is a citizen or otherwise a national of the United States, or who has declared his intention to become a citizen, aged 21 years or more; (2) any partnership or association, each of the members of which is an eligible purchaser; or (3) any corporation organized under the laws of the United States or any State thereof, authorized to hold title to real property in Nevada.

Bids must be for all the land in the parcel. A bid for less than the appraised value of the land is unacceptable. Bids sent by mail will be considered only if received by the Carson City District Office, Bureau of Land Management, 801 North Plaza Street, Carson City, Nev. 89701, prior to 4 p.m., on Tuesday, November 3, 1970. Bids made prior to the public auction must be in sealed envelopes, and accompanied by certified checks, postal money orders, bank drafts, or cashier's checks, payable to the Bureau of Land Management, for the full amount of the bid plus estimated publication costs, and by a certification of eligibility, defined in the preceding paragraph. The envelope must show the sale number and date of sale in the lower left-hand corner: "Public Sale Bid, Sale N-3861, November 4, 1970."

The authorized officer shall publicly declare the highest qualifying sealed bid received. Oral bids shall then be invited in specified increments. After oral bids, if any, are received, the authorized officer shall declare the high bid. A successful oral bidder must submit a guaranteed remittance, in full payment for the parcel and cost of publication, before 3:30 p.m., of the day of the sale.

If no bids are received for the sale parcel on Wednesday, November 4, 1970, the parcel will be reoffered on the first Wednesday of subsequent months at 10 a.m., beginning December 2, 1970.

Any adverse claimants to the above described land should file their claims, or objections, with the undersigned before the time designated for sale.

The land described in this notice has been segregated from all forms of appropriation, including locations under the general mining laws, except for sale under this Act, from the date of the proposed classification decision. Inquiries concerning this sale should be addressed to the Land Office Manager, Bureau of Land Management, Room 3008 Federal Building, 300 Booth Street, Reno, Nev. 89502, or to the District Manager, Bureau of Land Management, 801 North Plaza Street, Carson City, Nev. 89701.

ROBERT T. WEBB,
Acting Manager,
Nevada Land Office.

[F.R. Doc. 70-13038; Filed, Sept. 29, 1970; 8:50 a.m.]

[Serial Nos. N-2650, N-3263, N-3357, N-3499, N-3503]

NEVADA

Notice of Public Sale

SEPTEMBER 23, 1970.

Under the provisions of the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-1427), 43 CFR Subpart 2710, five parcels of land will be offered for sale to the highest bidder on Wednesday, November 4, 1970, at the Battle Mountain District Office, Bureau of Land Management, Second and Scott Streets, Battle Mountain, Nev. 89820. The lands are more particularly described below (all township and range references are to Mount Diablo Base and Meridian, Nev.):

Sale N-2650—T. 24 N., R. 41 E., sec. 3: lot 3, SE¼NW¼. 80.62 acres.
Appraised value: $1,290; estimated cost of publication: $4.
Time of sale: 10 a.m.

Sale N-3263—T. 25 N., R. 43 E., sec. 18: lot 1. 34.57 acres.
Appraised value: $580; estimated cost of publication: $4.
Time of sale: 10:15 a.m.

Sale N-3357—T. 26 N., R. 43 E., sec. 30: NE¼NE¼. 40 acres.
Appraised value: $640; estimated cost of publication: $4.
Time of sale: 10:30 a.m.

Sale N-3400—T. 25 N., R. 41 E., sec. 32: NE¼NW¼. 40 acres.
Appraised value: $640; estimated cost of publication: $4.
Time of sale: 10:45 a.m.

Sale N-3503—T. 26 N., R. 43 E., sec. 15: NW¼NE¼. 40 acres.
Appraised value: $640; estimated cost of publication: $4.
Time of sale: 11 a.m.

The lands will be sold subject to all valid existing rights. Reservations will be made to the United States of rights-of-way for ditches and canals in accordance with the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). All minerals are to be reserved to the United States and withdrawn from appropriation under the public land laws, including the general mining laws.

Bids may be made by a principal or his agent, either at the sale, or by mail. An agent must be prepared to establish the eligibility of his principal. Eligible purchasers are: (1) Any individual (other than an employee, or the spouse of an employee, of the Department of the Interior) who is a citizen or otherwise a national of the United States, or who has declared his intention to become a citizen, aged 21 years or more; (2) any partnership or association, each of the members of which is an eligible purchaser; or (3) any corporation organized under the laws of the United States, or of any State thereof, authorized to hold title to real property in Nevada.

Bids must be for all the land in a parcel. A bid for less than the appraised value of the land is unacceptable. Bids sent by mail will be considered only if received by the Battle Mountain District Office, Bureau of Land Management, Post Office Box 194, Battle Mountain, Nev. 89820, prior to 4 p.m. on Tuesday, November 3, 1970. Bids made prior to the public auction must be in sealed envelopes, and accompanied by certified checks, postal money orders, bank drafts, or cashier's checks, payable to the Bureau of Land Management, for the full amount of the bid plus estimated publication costs, and by a certification of eligibility, defined in the preceding

paragraph. The envelopes must show the sale number and date of sale in the lower left-hand corner: "Public Sale Bid, Sale N- ----------, ------ a.m., November 4, 1970."

The authorized officer shall publicly declare the highest qualifying sealed bid received. Oral bids shall then be invited in specified increments. After oral bids, if any, are received the authorized officer shall declare the high bid. A successful oral bidder must submit a guaranteed remittance, in full payment for the tract and cost of publication, before 4:30 p.m. of the day of the sale.

Any parcel not sold on Wednesday, November 4, 1970, shall be reoffered on the first Wednesday of subsequent months at 10 a.m., beginning December 2, 1970.

Any adverse claimants to the above described lands should file their claims, or objections, with the undersigned before the time designated for sale.

The lands described in this notice have been segregated from all forms of appropriation, including locations under the general mining laws, except for sale under this Act, from the date of notation of the proposed classification decision. Inquiries concerning this sale should be addressed to the Land Office Manager, Bureau of Land Management, Room 3008 Federal Building, 300 Booth Street, Reno, Nev. 89502, or to the District Manager, Bureau of Land Management, Post Office Box 194, Battle Mountain, Nev. 89820.

ROBERT T. WEBB,
Acting Manager Nevada Land Office.

[F.R. Doc. 70-13039; Filed, Sept. 29, 1970; 8:50 a.m.]

Fish and Wildlife Service

[Docket No. B-491]

PETER EDSON SPRAGUE

Notice of Loan Application

SEPTEMBER 24, 1970.

Peter Edson Sprague, Tern Road, Narragansett, R.I. 02882, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 56.9-foot registered length steel vessel to engage in the fishery for herring, scup, flounders, and whiting.

Notice is hereby given pursuant to the provisions of Public Law 91-387 and Fisheries Loan Fund procedures (50 CFR Part 250, as revised) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[F.R. Doc. 70-13000; Filed, Sept. 29, 1970; 8:46 a.m.]

National Park Service

COLORADO NATIONAL MONUMENT AND BLACK CANYON OF THE GUNNISON NATIONAL MONUMENT, COLO.

Notice of Public Hearing Regarding Wilderness Proposals

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), that public hearings will be held for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness within the Colorado National Monument and Black Canyon of the Gunnison National Monument, Colo.

A public hearing will be held beginning at 9 a.m. on December 1, 1970, at City Auditorium, Fifth and Rood Avenue, Grand Junction, Colo., concerning a proposal to establish a wilderness comprising about 7,700 acres within the Colorado National Monument. The lands proposed as wilderness are located in Mesa County, Colo.

A public hearing will be held beginning at 9 a.m. on December 3, 1970, at Colorado-Ute Electric Association Auditorium, Woodgate Road (at South City Limits on U.S. 550), Montrose, Colo., and at 9 a.m. on December 5, 1970, at Quigley Hall Recital Auditorium, East Georgia Avenue, Western State College, Gunnison, Colo., concerning a proposal to establish a wilderness of about 9,600 acres within the Black Canyon of the Gunnison National Monument. The lands proposed as wilderness are located in Montrose County, Colo.

Packets containing maps depicting the preliminary boundaries of the areas proposed as wilderness and providing additional information about the proposals may be obtained from the Superintendent, Curecanti National Recreation Area, 334 South 10th Street, Montrose, Colo. 81401, or from the Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102.

A description of the preliminary boundaries and a map of the areas proposed for establishment as wilderness are available for review in the above offices; at the Colorado National Monument Office; and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, D.C. The draft master plans for the two monuments likewise may be inspected at these locations.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer, in care of the Superintendent, Curecanti National Recreation Area, 334 South 10th Street, Montrose, Colo. 81401, no later than 2 days in advance of the date announced for the hearing, of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposals to the Hearing Officer at the address for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer insofar as possible will adhere to the following order in calling for the presentation of oral statements.

1. Governor of the State or his representative.
2. Members of Congress.
3. Members of the State Legislature.
4. Official representatives of the counties in which the proposed wilderness is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in alphabetical order.
8. Others not giving advance notice, to the extent there is remaining time.

Dated: September 21, 1970.

THOMAS FLYNN,
Deputy Director,
National Park Service.

[F.R. Doc. 70-12995; Filed, Sept. 29, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Forest Service

ALDO LEOPOLD WILDERNESS PROPOSAL

Notice of Public Hearing

Notice is hereby given in accordance with the provisions of the Wilderness Act of September 3, 1964 (78 Stat. 890-892; 16 U.S.C. 1131-1132), that public hearings will be held, beginning at 9 a.m. on December 4, 1970, in the Fine Arts Auditorium on the campus of Western New Mexico University, Silver City

N. Mex., and at 9 a.m. on December 5, 1970, in the Convention Center at Truth or Consequences, N. Mex., on a proposal for a recommendation to be made by the Secretary of Agriculture to the President of the United States that a recommendation be submitted to the Congress for the establishment of the Aldo Leopold Wilderness, comprised of approximately 181,967 acres within and contiguous to the Black Range Primitive Area. The proposed Aldo Leopold Wilderness is located on the Gila National Forest in the counties of Catron, Grant, and Sierra in the State of New Mexico.

A brochure containing a map and information about the proposed Wilderness may be obtained from the Forest Supervisor, Gila National Forest, 301 West College Avenue, Silver City, N. Mex. 88061, or the Regional Forester, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

Individuals and organizations may express their views by appearing at these hearings or may submit written comments for inclusion in the official record to the Regional Forester, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101, until January 4, 1971.

EDWARD P. CLIFF,
Chief, Forest Service.

[F.R. Doc. 70-13060; Filed, Sept. 29, 1970; 8:51 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

AMERICAN HEALTH FOUNDATION, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00621-33-79850. Applicant: American Health Foundation, Inc., 180 East End Avenue, New York, N.Y. 10028. Article: "Dosimat" automatic tar applicator. Manufacturer: Albert Dargatz, West Germany.

Intended use of article: The article will be used for research in tobacco carcinogenesis. Tar is applied directly to the animal's skin while it is still fresh, and in accurately measured doses, rather than collecting and storing the tar products for later application. It is extremely important to apply the tar promptly, as the tar constituents are relatively unstable.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for direct application of accurately measured doses of tar ranging from 10 microliters to 1 milliliter. We find that the ability to directly apply the "tar" to the skin of the test animal in such accurately measured doses is pertinent to the purposes for which the article is intended to be used. We are advised by the Department of Health, Education, and Welfare in a memorandum dated August 12, 1970, that it knows no comparable domestic apparatus being produced in the United States with the capability of the foreign article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

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

[F.R. Doc. 70-13014; Filed, Sept. 29, 1970; 8:48 a.m.]

BAYLOR COLLEGE OF MEDICINE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00577-33-43400. Applicant: Baylor College of Medicine, 1200 Moursund Avenue, Houston, Tex. 77025. Article: Micromanipulator, Model MM-3. Manufacturer: Narishige Scientific Instrument Lab., Japan.

Intended use of article: The article will be used to study nerve cell action potentials from nerve cells in the "feeding area" of the brain of mammals, which will be recorded during electrical activation of the cells within this area.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article consists of a miniature micromanipulator and accessories designed to operate as complementary parts of a system and also to be compatible with a stereotaxic frame already in possession of the applicant. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated June 18, 1970, that the features described above are pertinent to the applicant's research studies. HEW further advises that it knows of no domestic miniature micromanipulator system which provides the pertinent features of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, is being manufactured in the United States.

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

[F.R. Doc. 70-13015; Filed, Sept. 29, 1970; 8:48 a.m.]

EMMANUEL COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00746-01-04030. Applicant: Emmanuel College, 400 The Fenway, Boston, Mass. 02115. Article: Gouy balance assembly. Manufacturer: Newport Instruments, Ltd., United Kingdom.

Intended use of article: The article will be used for magnetic susceptibility measurements by students in physical chemistry and advanced inorganic chemistry laboratories, and by those engaged in undergraduate research problems. Measurements and observations will be made of the regular increase in molar magnetic moment for the trivalent metal ions of the first transition series; the difference in the two types of coordination complexes (inner or outer orbital complexes) that ions may form; and the effect on magnetic moment of the two different oxidation states of a single element, such as manganese in Mn(II) SO_4 and KMn (VII) O_4.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended

to be used, was being manufactured in the United States at the time the foreign article was ordered August 22, 1969.

Reasons: The applicant requires a guoy balance assembly which is suitable for instruction in certain basic principles of physical and advanced inorganic chemistry. The foreign article is a relatively simple guoy balance assembly incorporating a 1½-inch electromagnet, designed for confident use by students with a minimum of instruction. The most closely comparable domestic instrument is the Model 155 Guoy Balance Assembly Magnetometer which is manufactured by the Princeton Applied Research Corp. The Model 155 is a highly sophisticated research instrument which requires a skilled operator.

We, therefore, find that simplicity of design and ease of operation is pertinent to the purposes for which the foreign article is intended to be used.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 29, 1970, that it knows of no simple instructional domestically manufactured guoy balance assemblies presently available in the United States.

We, therefore, find that the Model 155 was not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

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

[F.R. Doc. 70-13018; Filed, Sept. 29, 1970; 8:48 a.m.]

NATIONAL BUREAU OF STANDARDS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00654-01-77030. Applicant: National Bureau of Standards, Washington, D.C. 20234. Article: NMR spectrometer, Model HFX-11. Manufacturer: Bruker Physik A.G., West Germany.

Intended use of article: The article will be used for investigation of the potential of the magnetic resonance parameters of nuclei other than protons in the structural and conformational analysis of carbohydrates, clinical standard reference materials, and proteins, including the dependence of chemical shift and coupling-constant parameters on molecular conformation. One program concerns the synthesis and spectroscopic characterization of ^{15}N-labeled amino sugar derivates; another, involves investigation of 6-deoxy sugars by proton magnetic resonance.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (April 25, 1969).

Reasons: Captioned application is a resubmission of Docket No. 70-00012-01-77030 which was received July 3, 1969, and which was denied without prejudice to resubmission due to informational deficiencies in the original application. The foreign article provides a hetero nuclear field frequency stabilization system which can lock on either protons or 19-fluorine. Effective September 1969, the Model XL-100-15 manufactured by Varian Associates (Varian), which provides a hetero nuclear field frequency stabilization system which can lock on either proton or 19-fluorine became available. However, at the time the foreign article, was ordered, the most closely comparable domestic instrument was the Varian Model HA-100-15 which did not provide a hetero nuclear field frequency stabilization system which can lock on either protons or 19-fluorine.

We are advised by the Department of Health, Education, and Welfare in its memorandum dated July 30, 1970, that a hetero nuclear field frequency stabilization system which can lock on either proton or 19-fluorine is pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model HA-100-15 was not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

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

[F.R. Doc. 70-13017; Filed, Sept. 29, 1970; 8:48 a.m.]

ST. OLAF COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00708-01-77030. Applicant: St. Olaf College, Northfield, Minn. 55057. Article: NMR spectrometer, Model JNM-C-60HL. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan.

Intended use of article: The article will be used in a variety of undergraduate student and faculty research projects in chemistry. One study concerns alkyldiazonium cation intermediates in the reactions of aliphatic amines with nitrous acid and reactions of aliphatic diazocompounds which require H^1 and F^{19} spectra at very low temperatures since alkyl-diazonium cations are very instable species. Also, the article will be used in undergraduate chemistry courses.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the initial application for duty-free entry was received (July 24, 1968).

Reasons: Captioned application is a resubmission of Docket No. 69-00059-01-77030, which was received on July 24, 1968 and, which was denied without prejudice to resubmission due to informational deficiencies in the original application. The foreign article provides a combined internal-external lock in one instrument. Varian Associates (Varian) have introduced two nuclear magnetic resonance spectrometers which provide combined internal-external locking in the same instrument, the Model XL-100-15 which became available September 1969 and the Model XL-60-15 which became available October 1969. However, at the time the original application for the foreign article was received the most closely comparable domestic instrument was the Varian Model HA 60 which provided either an internal or external locking capability, but not both locking facilities in the same instrument.

We are advised by the National Bureau of Standards (NBS) in a memorandum dated August 4, 1970, that the availability of both the internal and external locking capability in the same instrument is pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Varian Model HA 60 with either internal or external locking capability is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign

article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the original application for duty-free entry was received.

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

[F.R. Doc. 70-13020; Filed, Sept. 29, 1970; 8:48 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00613-01-77030. Applicant: University of California, Santa Barbara, Calif. 93106. Article: NMR spectrometer, Model JNM-C-60H. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan.

Intended use of article: The articles will be used by the Department of Chemistry in its undergraduate and graduate teaching and research program. Educational purposes include six chemistry courses, Laboratory Methods in Organic Chemistry, Physical Chemistry and Instrumental Analysis Laboratory, Qualitative Organic Analysis, Independent Studies in Chemistry, Modern Instrumental Techniques in Organic Chemistry, and Research in Chemistry. Research projects concern conformational equilibrations in organic molecules; enzyme-substrate and enzyme-inhibitor interactions; and work with other nuclei, such as experiments with the phosphorus nuclei of biologically important materials.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the initial application for duty-free entry was received August 3, 1967.

Reasons: Captioned application is a resubmission of Docket No. 68-00059-01-77030 which was received on August 3, 1967, and which was denied without prejudice to resubmission due to informational deficiencies in the original application. The foreign article provides a combined internal-external lock in one instrument. Varian Associates (Varian) have introduced two nuclear magnetic resonance spectrometers which provide combined internal-external locking in the same instrument, the Model XL-100-15 which became available September 1969, and the Model XL-60-15 which became available October 1969. However, at the time the original application for the foreign article was received the most closely comparable domestic instrument was the Varian Model HA 60 which provided either an internal or external locking capability, but not both locking facilities in the same instrument.

We are advised by the Department of Health, Education, and Welfare (HEW) in a memorandum dated July 6, 1970, and the National Bureau of Standards (NBS) in a memorandum dated August 10, 1970, that the availability of both the internal and external locking capability in the same instrument is pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Varian Model HA 60 with either internal or external locking capability is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the original application for duty-free entry was received.

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

[F.R. Doc. 70-13016; Filed, Sept. 29, 1970; 8:48 a.m.]

UNIVERSITY OF OKLAHOMA

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The consolidated notice of decision as published in Volume 35, No. 156 (pages 12785-12786) of the FEDERAL REGISTER dated Wednesday, August 12, 1970, pursuant to section 6(c) of the Educational Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) is hereby amended to delete the following:

Docket No. 69-00614-33-46070. Applicant: University of Oklahoma, 830 South Oval, Norman, Okla. 73069. Article: Scanning electron microscope, Model JSM-2 and vacuum evaporator JEE-4C. Date of denial without prejudice to resubmission: January 6, 1970.

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

[F.R. Doc. 70-13019; Filed, Sept. 29, 1970; 8:48 a.m.]

VALPARAISO UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00716-01-77030. Applicant: Valparaiso University, Valparaiso, Ind. 46383. Article: NMR spectrometer, Model JNM-C-60HL. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan.

Intended use of article: The article will be used for research by faculty and by faculty directed students. Relative strengths of Lewis acids and bases will be determined by NMR measurements. In this approach the strengths of acids and bases are measured by changes in chemical shift upon interaction. The article will also be used in two courses in Organic Chemistry and in Physical Chemistry for professional chemistry majors.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the initial application for duty-free entry was received August 14, 1968.

Reasons: Captioned application is a resubmission of Docket No. 69-00109-01-77030, which was received on August 14, 1968, and which was denied without prejudice to resubmission due to informational deficiencies in the original application. The foreign article provides a combined internal-external lock in one instrument. Varian Associates (Varian) have introduced two nuclear magnetic resonance spectrometers which provide combined internal-external locking in the same instrument, the Model XL-100-15 which became available September 1969, and the Model XL-60-15 which became available October 1969. However, at the time the original application for the foreign article was received the most closely comparable domestic instrument was the Varian Model HA 60 which provided either an internal or external locking capability, but not both locking facilities in the same instrument.

We are advised by the National Bureau of Standards (NBS) in a memorandum dated August 4, 1970, that the availability of both the internal and external locking capability in the same instrument is pertinent to the purposes for

which the foreign article is intended to be used.

We, therefore, find that the Varian Model HA 60 with either internal or external locking capability is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the original application for duty-free entry was received.

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

[F.R. Doc. 70-13021; Filed, Sept. 29, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ARMOUR INDUSTRIAL CHEMICALS

Notice of Filing of Petitions for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that petitions (FAPs 0H2563 and 0H2564) have been filed by Armour Industrial Chemicals, 8401 West 47th Street, McCook, Ill. 60525, proposing that § 121.1225 *Adjuvants for pesticide use dilutions* (21 CFR 121.1225) be amended to provide for the safe use of *n*-alkyl (C_8–C_{18}) amine acetate and di-*n*-alkyl (C_8–C_{18}) dimethyl ammonium chloride as surfactants in emulsifier blends that are added to herbicides by a grower or applicator prior to application to corn and sorghum.

Dated: September 17, 1970.

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

[F.R. Doc. 70-12981; Filed, Sept. 29, 1970; 8:45 a.m.]

[Docket No. FDC-D-207; NDA No. 11-591]

CIBA PHARMACEUTICAL CO.

Ritonic Capsules; Notice of Withdrawal of Approval of New-Drug Application

On August 5, 1970, there was published in the FEDERAL REGISTER, 35 F.R. 12495, a notice of opportunity for hearing in which the Commissioner of Food and Drugs proposed to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application No. 11-591 for Ritonic Capsules and all amendments and supplements thereto on the ground that there is a lack of substantial evidence that Ritonic Capsules have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

CIBA Pharmaceutical Co., a division of CIBA Corp., Summit, N.J. 07901, holder of NDA No. 11-591 for Ritonic Capsules, filed a letter requesting a hearing pursuant to the August 5, 1970 publication, but did not file any data to support such request and provided no reasons why approval of NDA No. 11-591 should not be withdrawn, as required by the August 5, 1970, publication. The Commissioner of Food and Drugs concludes there are no genuine substantial issues of fact to justify a hearing (35 F.R. 7250; May 8, 1970).

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Section 505(e), 52 Stat. 1052, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to said drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of the above new-drug application, and all amendments and supplements thereto, is withdrawn effective on the date of the signature of this document.

Dated: September 21, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12989; Filed, Sept. 29, 1970; 8:46 a.m.]

DIAMOND SHAMROCK CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1024) has been filed by the Diamond Shamrock Chemical Co., 300 Union Commerce Building, Cleveland, Ohio 44115, proposing the establishment of tolerances (21 CFR Part 120) for combined residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodities peanut vine hay, sugarbeet tops, and sweet corn forage at 20 parts per million; celery at 15 parts per million; snap beans, broccoli, brussels sprouts, cabbage, carrots, cauliflower, cucumbers, melons, pumpkins, squash (summer and winter), and tomatoes at 5 parts per million; lima beans (pods removed), and sweet corn (kernels plus cob with husks removed) at 1 part per million; and peanuts and sugarbeets at 0.1 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the fungicide is a microcoulometric gas chromatographic procedure.

Dated: September 17, 1970.

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

[F.R. Doc. 70-12982; Filed, Sept. 29, 1970; 8:45 a.m.]

GEIGY CHEMICAL CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2585) has been filed by Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the additional safe use of 2(2'-hydroxy-5'-methylphenyl) benzotriazole as an antioxidant and/or stabilizer in polystyrene and rubber-modified polystyrene intended for use in contact with food.

Dated: September 21, 1970.

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

[F.R. Doc. 70-12983; Filed, Sept. 29, 1970; 8:45 a.m.]

GEIGY INDUSTRIAL CHEMICALS

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2587) has been filed by Geigy Industrial Chemicals, Division of Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of tetrakis[methylene (3,5-di-tert-butyl-4-hydroxyhydrocinnamate)] methane, as an antioxidant and/or stabilizer at levels not to exceed 0.5 percent by weight in all polymers permitted for use in the manufacture of articles or components of articles intended for food-contact use.

Dated: September 17, 1970.

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

[F.R. Doc. 70-12984; Filed, Sept. 29, 1970; 8:45 a.m.]

PHILLIPS PETROLEUM CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1013) has been filed by Phillips Petroleum Co., Bartlesville, Okla. 74004, proposing the establishment of tolerances (21 CFR Part 120) for residues of the bird repellent 4-aminopyridine in or on the raw agricultural commodities corn grain and corn fodder and forage at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the pesticide is a gas chromatographic procedure using a microcoulometric detector for nitrogen.

Dated: September 17, 1970.

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

[F.R. Doc. 70-12985; Filed, Sept. 29, 1970; 8:45 a.m.]

STAUFFER CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1027) has been filed by the Stauffer Chemical Co., 1200 South 47th Street, Richmond, Calif. 94804, proposing the establishment of tolerances (21 CFR Part 120) for combined residues of the insecticide *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl) phthalmide *S*-(*O,O*-dimethyl phosphorothioate) in or on the raw agricultural commodities, plums and prunes at 7 parts per million and in or on apricots and nectarines at 5 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas-liquid chromatographic technique using a phosphorus-specific thermionic detector.

Dated: September 21, 1970.

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

[F.R. Doc. 70-12986; Filed, Sept. 29, 1970; 8:45 a.m.]

STAUFFER CHEMICAL CO.

Notice of Amended Filing of Petition Regarding Pesticide Chemicals

Notice was given in the FEDERAL REGISTER of February 6, 1970 (32 F.R. 2697), that a petition (PP 0F0937) had been filed by the Stauffer Chemical Co., 1200 South 47th Street, Richmond, Calif. 94804, proposing the establishment of tolerances (21 CFR Part 120) for the combined residues of the insecticide *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl) phthalimide S-(*O,O*-dimethyl phosphorothioate) in or on the raw agricultural commodities apricots and nectarines at 5 parts per million; cherries, plums, and prunes at 7 parts per million; and grapes at 10 parts per million.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that said petition has been amended by withdrawing the request for tolerances regarding apricots, nectarines, plums, and prunes.

Dated: September 21, 1970.

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

[F.R. Doc. 70-12987; Filed, Sept. 29, 1970; 8:45 a.m.]

O,O - DIETHYL S - (2 - CHLORO - 1 - PHTHALIMIDOETHYL PHOSPHORODITHIOATE

Notice of Extension of Temporary Tolerances

At the request of Hercules, Inc., Wilmington, Del. 19899, temporary tolerances were established for residues of the insecticide *O,O*-diethyl *S*-(2-chloro-1-phthalimidoethyl) phosphorodithioate and its oxygen analog *O,O*-diethyl *S*-(2-chloro-1-phthalimidoethyl) phosphorothioate in or on the raw agricultural commodities apples at 3 parts per million, citrus fruits at 1.5 parts per million, and cottonseed at 0.1 part per million on July 1, 1969 for a period of 1 year. (Notice was published in FEDERAL REGISTER of July 9, 1969; 34 F.R. 11386.)

The firm has requested that the temporary tolerances for residues in or on apples and citrus fruits be extended to obtain additional data on the performance of the insecticide under various field conditons. The Commissioner of Food and Drugs concludes that such extension will protect the public health. A condition under which these temporary tolerances are extended is that the insecticide will be used in accordance with the temporary permits issued by the U.S. Department of Agriculture. Distribution will be under the Hercules Corp. name.

As extended, these temporary tolerances expire July 1, 1971.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: September 22, 1970.

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

[F.R. Doc. 70-12988; Filed, Sept. 29, 1970; 8:46 a.m.]

Office of the Secretary

INPATIENT HOSPITAL DEDUCTIBLE FOR 1971

Determination and Announcement

Notice of inpatient hospital deductible for 1971 under Part A of Title XVIII of the Social Security Act.

Pursuant to authority contained in section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)), as amended, I hereby determine and announce that the dollar amount which shall be applicable for the inpatient hospital deductible, for purposes of section 1813(a) of the Act, as amended, shall be $60 in the case of any spell of illness beginning during 1971.

There follows a statement of the actuarial bases employed in arriving at the amount of $60 for the inpatient hospital deductible for the calendar year 1971 (as contrasted with the figures of $40 applicable for the period from July 1966 through December 1968, $44 for calendar year 1969, and $52 for calendar year 1970). Certain other cost-sharing provisions under the Hospital Insurance program are also affected by changes in the amount of the inpatient hospital deductible.

The law provides that, for calendar years after 1968, the inpatient hospital deductible shall be equal to $40 multiplied by the ratio of (1) the current average per diem rate for inpatient hospital services for the calendar year preceding the year in which the promulgation is made (in this case, 1969) to (2) the current average per diem rate for such services for 1966. The law further provides that, if the amount so determined is not an even multiple of $4, it shall be rounded to the nearest multiple of $4. Further, it is provided that the current average per diem rates referred to shall be determined by the Secretary of Health, Education, and Welfare from the best available information as to the amounts paid under the program for inpatient hospital services furnished during the year by hospitals who are qualified to participate in the program, and for whom there is an agreement to do so, for individuals who are entitled to benefits as a result of insured status under the Old-Age, Survivors, and Disability Insurance program or the Railroad Retirement program.

The data available to make the necessary computations of the current average per diem rates for calendar years 1966 and 1969 are derived from individual inpatient hospital bills that are recorded on a 100 percent basis in the records of the program. These records show, for each bill, the total inpatient days of care, the interim reimbursement amount, and the total cost (the sum of interim reimbursement, deductible, and coinsurance). With respect to reimbursements to the hospitals by the program, no allowance is made for adjustments with the providers of services that may be made after their fiscal years

are ended. There is currently no significant information available to modify the data for the effect of such adjustments. When such information becomes available in the future, it will be taken into account in determining the inpatient hospital deductible.

Each individual bill is assigned both an initial month and a terminal month, as determined from the first day covered by the bill and the last day so covered. Insofar as the initial month and the terminal month fall in the same calendar year, no problems of classification occur.

Two tabulations are prepared, one summarizing the bills with each assigned to the year in which the period it covers begins, and the other summarizing the same bills with each assigned to the year in which the period it covers ends. The true value with respect to the costs for a given year on an accurate accrual basis should fall between the amount of total costs shown for bills beginning in that year and the amount shown for bills ending in that year.

The current average per diem rate for inpatient hospital services for calendar year 1966, on the basis described, is $37.94, while the corresponding figure for calendar year 1969 is $55.70. It may be noted that these averages are based on about 30 million days of hospitalization in 1966 and 67 million days of hospitalization in 1969. Accordingly, the ratio of the 1969 rate to the 1966 rate is 1.468. When this ratio is multiplied by $40, it produces an amount of $58.72, which must be rounded to $60. Accordingly, the inpatient hospital deductible for spells of illness beginning during calendar year 1971 is $60.

Dated: September 28, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70-13104; Filed, Sept. 29, 1970; 8:52 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 21322, 21866; Order 70-9-123]

DOMESTIC TRUNKLINE CARRIERS

Order Regarding Passenger-Fare Investigation

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C., on the 24th day of September 1970.

In response to the decision of the Court of Appeals for the District of Columbia in Moss et al. v. Civil Aeronautics Board (No. 23,627, filed July 9, 1970), the Board, by Order 70-7-128, dated July 28, 1970, ordered the domestic trunkline and local-service air carriers to file new tariffs on or before August 14, 1970, for effectiveness October 15, 1970, setting forth fares for passenger transportation within the 48 contiguous States and the District of Columbia, and establishing an expiration date of October 14, 1970, for tariffs filed on July 16, 1970, which extended beyond August 31, 1970, fares that became effective July 1, 1970. The new tariffs have now been filed.[1]

TARIFFS FILED

Four different types of proposed tariffs have been filed by the carriers for October 15 effectiveness: Reestablishment of present fares, increases based on present fares, increases in present fares based on new structure formulas, and increases in present fares resulting from the application of a percentage increase to the fares that were in effect prior to October 1, 1969. A brief description of each carrier's proposal, including a general fare revision proposed by United Air Lines, Inc. (United), for effectiveness October 1, 1970, is set forth in appendix A.[1a]

SUMMARY OF CARRIER JUSTIFICATIONS

Fare level. In support of the proposed fare increases, the carriers generally contend that additional revenue is needed to bolster declining profits, which allegedly have resulted from escalating inflationary costs and poor traffic growth. The carriers state that they have sustained substantial increases in virtually all areas of expense. Labor costs, which account for roughly 40 to 50 percent of each carrier's total operating expenses, are stated by some carriers to have increased more than 10 percent above 1969 labor costs, and other carriers cite labor contracts providing for a 40-percent cost increase over 3 years. The carriers also report that they have sustained severe increases in landing fees, fuel, communication, travel-agent commissions, insurance, terminal facility rentals, and in virtually all other areas of operating expense, and assert that these inflationary increases will continue. The carriers also point to continuing capital requirements and high interest rates, and assert that additional funds required to finance the purchase of flight and ground equipment on order cannot be attracted at a realistic cost unless earnings are improved.

The carriers state that they have attempted to curb costs, citing reduced labor forces in many instances, termination of lease agreements, the sale of older aircraft, and in one instance the sale of B-747 aircraft, to avoid further capital investment, removal of aircraft from service, cutbacks in advertising and promotional expenses, management reorganizations, and other efforts. The carriers also claim that unit cost savings from the introduction of new jet aircraft are no longer sufficient to stem the pressures of wage and price increases.

Finally, carriers contend that opportunities for profit improvement by reduction of capacity in the present competitive environment are quite limited, and that the immediate cost reductions that can be achieved in this manner are not nearly sufficient to offset the adverse effects of escalating costs in general.

Fare structure. In support of their fare-structure proposals, the carriers proposing uniform percentage increases over the pre-October 1969 fares generally contend that such an approach is more equitable since all carriers would obtain the same revenue increase, whereas a formula approach results in varying increases that are not necessarily related to need. On the other hand, carriers proposing to base their fares on a terminal-charge/linehaul rate structure assert that radical changes should not now be undertaken in view of the pending Domestic Passenger-Fare Investigation, that this approach will result in a minimum amount of confusion, and that it prevents unjust differences in fares for markets of equal distance. Several carriers propose to revise upward the relationship of first-class fares to coach fares in recognition of costs.

Discount fares. Most carriers propose no revisions in the percentage relationship of discount fares to normal fares. Generally, the carriers assert that they are not adjusting their discount fares since the Discount Fares phase of the Domestic Passenger-Fare Investigation is well in process. However, several carriers propose to cancel Discover America excursion fares, and United Air Lines, Inc., would introduce alternative excursion fares varying for peak and off-peak periods.

SUMMARY OF COMPLAINTS

Certain Members of Congress, the State of Wisconsin, and the Air Travelers Association have filed complaints against all of the October 15 traffic proposals.[2] The complaints generally allege that the carriers have not justified their proposals on a coat basis, that the Board cannot lawfully choose which of the proposals should be suspended or permitted to become effective without investigation, that the tariffs are unlawful because they are tainted by the Board's order found invalid in the Moss case and because they are discriminatory and preferential. The complainants urge that the fares in effect prior to October 1969 should be reestablished.

The Department of Defense and the Department of Transportation generally oppose carrier proposals to increase fares on October 15.[3] They contend that no substantial fare increase should be permitted pending final decision in the Domestic Passenger-Fare Investigation unless such an increase is shown to be absolutely necessary.

Continental Air Lines, Inc., and National Airlines, Inc., filed complaints against the proposals that maintain the current fare-structure formula or use a new formula approach for fare construction.[4] They contend that the decision in

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[1] Airline Tariff Publishers, Inc., Agent, Tariff C.A.B. Nos. 65, 136, and 142.

[1a] Filed as part of the original document.

[2] Dockets 22511, 22494, and 22510, respectively.

[3] Dockets 22476 and 21322, respectively. DOT's complaint was accompanied by a motion to file 1 day late. The motion will be granted.

[4] Dockets 22512 and 21322, respectively.

the Moss case requires that the Board suspend all such tariffs and permit only those proposing a percentage increase over the pre-October 1969 fares to become effective pending investigation.

Northwest Airlines, Inc., filed a complaint against the tariffs of the carriers proposing October 15 fare increases based on a percentage increase over the pre-October 1969 fares.[5] Northwest contends that these tariffs would restore the serious discrepancies that prevailed prior to October 1969 between fares in markets of similar distance and that the carriers have not justified such discrimination. Northwest also filed a complaint against the excursion-fare proposals of United Air Lines, Inc.,[6] claiming that such radical charges are untimely and would increase dilution of revenues.

In addition to the complaints against the October 15 fare proposals, complaints were filed by certain Members of Congress and by Messrs. Rose, Tepper, and Brosilow against extension of the fares that became effective on July 1, 1970,[7] and by the Members of Congress against the fares proposed by United to become effective on October 1, 1970.[8] The latter complaint asserts that United's tariff is unlawful because it is based on the Board order found invalid in the Moss case. With respect to the July 1 fares, the complainants make this same argument and also contend that the Board's procedures in permitting those fares to become effective were improper in that the public was not given an opportunity to participate and that the process of rounding fares to the next highest dollar creates undue preferences. Rose et al. also contend that the fares are illegal because based on illegal and unconstitutional taxes imposed by the Airport and Airways Revenue Act of 1970 and because the carriers refuse to break down the ticket price to show the tax and the fare separately; and they request that the carriers be required to make an accounting and refund the full amount of the fares collected.

The answers to the various complaints generally reiterate allegations and arguments set forth in the carrier justifications and in the complaints.

Findings and Conclusions

At the outset it is important to note the unique circumstances under which the carriers filed these tariffs and the Board is considering them. The Court of Appeals in the Moss case held that tariffs based on the Board's Order 69–9–68 are unlawful and has remanded the case to the Board for further proceedings. The Court found that the Board's order compelled the filing of tariffs and hence was ratemaking by the Board which was unlawful since the ratemaking requirements of the statute were not observed. The tariffs were thus found unlawful because of defects in the manner of their adoption rather than because they were unjust or unreasonable, a point on which the Court voiced no opinion.

The tariffs presently before us were filed pursuant to Board Order 70–7–128 which was intended to establish a procedure for putting into effect lawful tariffs to replace those the Court of Appeals found unlawful. The Court of Appeals, in response to the Board's request, has stayed its mandate against the existing tariffs to permit time for this replacement to be accomplished.

Under the Federal Aviation Act new lawful tariffs may be placed into effect either by the carriers, subject to the power of the Board to suspend those tariffs for a period up to 180 days and investigate them, or by the Board, after notice and hearing and a determination that existing fares are unlawful. As noted in Order 70–7–128, the Board has under way in Docket 21866, Domestic Passenger-Fare Investigation, the general investigation of the level and structure of fares between points in the 48 contiguous States and the District of Columbia. It was our tentative conclusion in Order 70–7–128 that the Board could not conduct an investigation to prescribe new fares properly under the standards of the Act without duplicating Docket 21866 and thus probably could not resolve the unsettled tariff situation with sufficient promptness. Hence we directed the carriers to propose tariffs, in accordance with their statutory right, free of any Board compulsion, as the quickest, fairest, and most effective way of putting new lawful tariffs into effect. We made those tariff filings subject, of course, to public and carrier participation through complaint and reply, and we gave publicity to the tariff filings by press release dated August 19, 1970. We reserved the right to suspend any and all tariff filings and conduct such further procedure, including holding a hearing, as we thought appropriate and lawful in the circumstances. We again conclude that any attempt on our part to prescribe fares would result in a duplication of Docket 21866,[9] that time would not permit such action, and that a hearing on the question of what action we should take with respect to suspending the tariffs now before us is neither required nor would serve any useful purpose since the parties have been afforded a full opportunity to submit written contentions in support of their various positions with respect to suspension.

Accordingly, the tariffs now before us (except for United's Oct. 1 tariff, which was filed before Order 70–7–128 was issued) were filed under Order 70–7–128, free of any compulsion which may have been inherent in the invalid Order 69–9–68 and hence are carrier-made rates within the meaning of the Moss decision. It is now our duty to consider the merits of the various proposals in light of the facts before us and the criteria of the Act, particularly sections 404 and 1002, in order to determine whether any or all of the proposals present such questions of reasonableness, discrimination, or prejudice as to require that we exercise our power of suspension.

Upon consideration of the tariff filings, the justifications, the complaints and answers thereto, and all other relevant matters, the Board has determined that the tariff of United marked to become effective on October 1, 1970, and all tariffs marked to become effective on October 15, 1970, except those of Northwest Airlines, Inc., North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., and Texas International Airlines, Inc., may be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be suspended. These tariff proposals, including those we are not suspending, are automatically under investigation in the Domestic Passenger-Fare Investigation, Docket 21866, by the terms of Order 70–1–147, dated January 29, 1970.[10]

The tariffs we are permitting to take effect on October 15 are the same as those which were established on July 1, 1970, which resulted from a rounding-up of fares in effect on June 30, in conjunction with the increase in transportation taxes under the Airport and Airways Revenue Act of 1970. The Board granted special tariff permission applications on June 18, 1970, permitting those fares to become effective for a 2-month period on July 1, the effective date of the tax act, but required that any extension of the fares beyond August 31, 1970, be filed on 45 days' notice. The reasons for this procedure were explained in the letter granting special tariff permission:[11]

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[5] Docket 22513. The Seattle Traffic Association filed a complaint against Continental's proposal 8 days after the date for filing complaints (Docket 22538). No motion to accept the late complaint was filed, and the complaint will be dismissed.

[6] Docket 22499.

[7] Dockets 22395 and 22411, respectively.

[8] Docket 22399.

[9] For example, the substantive contentions advanced in opposition to the various tariffs by the Members of Congress are matters at issue in Docket 21866.

[10] Four of the six public hearings in the investigation have been completed, two of the three rulemaking phases are in progress, and the hearing on the Fare Level phase will commence on Sept. 29. The proceeding is progressing expeditiously on schedule, and we expect that all of the issues relating to fare level will be submitted to us for decision by the early part of 1971.

[11] Special Tariff Permission Nos. 26800, 26836, and 26843, June 18, 1970. In permitting those fares to go into effect on an interim basis, we noted that the rounding-up would produce an average increase of 43 cents per ticket and would result in an overall increase in revenues of less than 1 percent for the domestic trunkline and local-service carriers. We stated at that time:

"In considering this proposal, the Board noted the industry's continuing marginal earnings position and persisting inflationary cost increases. The Board further noted that the new aircraft registration tax enacted concurrently with the ticket tax would consume as much as 25 percent of the annual revenue expected from the fare increase produced by rounding off to the next higher whole dollar. The Board was of the opinion that the proposal would assist the industry in meeting these problems without prejudice to the Domestic Passenger-Fare Investigation which is underway and without significant impact on individual members of the traveling public."

The Board recognized that the public had no notice of the carriers' proposal to increase fares on July 1st or opportunity to file comments and that the Board accordingly did not have the benefit of these comments. However, denial of the request to file on less than the statutory 30 days' notice would, in all likelihood, entail two proposed price changes in rapid succession. The first would flow from the tax increase on July 1st and the second from a filing to round fares, shortly thereafter, which might become effective within 3 weeks after the July 1st increase. The Board recognized that this would cause unnecessary confusion and misunderstanding for the travelling public as well as additional expense to the carriers without significant countervailing benefits during the period involved. Therefore, in the unique circumstances here present, the Board determined that it was in the public interest to approve the request to file on short notice on condition that such tariffs expire in 2 months. The requirement that the tariffs bear an expiration date of August 31, 1970, and that any proposals to extend these fares beyond that date be filed on 45 days' notice, will provide an opportunity for interested persons to be heard before these fares are extended for any significant period.

The carriers filed tariffs on July 16 proposing to extend the July 1 fares indefinitely beyond August 31. In the meantime, the court filed its decision in the Moss case on July 9, and the Board subsequently issued Order 70–7–128 in compliance therewith on July 28. In order to maintain the temporary nature of the July 1 fares, the Board's order required that the carriers establish an expiration date of October 14 for those fares in conjunction with the filing of new tariffs for effectiveness October 15. Consistent with our action in Order 70–7–128, by Order 70–8–119, dated August 31, 1970, we dismissed complaints filed on July 28 and July 31 insofar as they requested suspension of the extension of the July 1 fares and stated that we would treat those complaints as directed against the tariffs filed to become effective in October.[12] We have now considered those complaints as well as others filed in opposition to these fare proposals.

On the basis of all the information presently before us, the proposals to extend present fares do not appear to be prima facie unreasonable, and we will permit them to become effective on an interim basis pending completion of the Domestic Passenger-Fare Investigation. Our conclusion in this regard is based upon the current economic condition of the industry. The trunkline rate of return on investment for 1969 was 4.7 percent, and earnings continue to be submarginal in 1970.[13] The most recent data indicate the possibility that operations of the trunklines as a group may result in a loss this year after interest charges. The local-service carriers continue in a loss position before subsidy. Further, as the carriers allege, increases persist in virtually all areas of expense, particularly labor costs, which comprise a substantial part of the carriers' operating expenses. Although the carriers' available unit costs of operation continue to show a downward trend, the rate of decline fell sharply in 1969 and appears to be bottoming out.[14] In these circumstances, we have no reason to believe that earnings will improve to any appreciable extent in the immediate future. Moreover, to the extent that excess capacity may be a factor in the carriers' poor earnings, this problem cannot be remedied overnight. In view of these factors, we do not find that the overall fare level resulting from the tariffs of the carriers proposing extension of current fares, which include the small July 1 increase, is unreasonable, and we will not suspend those tariffs pending investigation.[15] There have been objections to the manner in which those fares are constructed, on the ground that in some instances a double rounding upward resulted. However, this type of fare-construction issue must ultimately be resolved in the Domestic Passenger-Fare Investigation. In any event, the amounts involved for individual passengers are minimal. Our decision to permit these fares to continue in effect at this time is based upon our conclusion that the resulting overall fare level does not appear to be unjust or unreasonable, unjustly discriminatory, or unduly preferential or prejudicial.[16]

All the other tariffs filed, which we are suspending, propose a further increase in fares over those in effect since July 1. Of the ten trunkline carriers proposing increases over current fares, six estimated resulting increases in revenue for the industry as a whole ranging from 3.4 to 6.5 percent. Our estimates of the industry revenue increases resulting from the proposals of the remaining four trunklines range from about 2 to 8 percent. While we believe the poor economic condition of the industry discussed previously justifies continuation of the current fares, we do not believe that an additional increase in the overall level of normal fares is presently warranted. The carriers have not demonstrated, nor even alleged, that their financial situation is presently such that a further fare increase is essential to preserve the economic viability of the industry.

As noted previously, we do not question that 1970 will be a poor year for the air carriers in terms of financial results. So far, however, 1970 has been particularly influenced by such short-term factors as the most unsatisfactory traffic experience in the first half, the air traffic controllers' strike, and employee strikes against certain carriers. These circumstances would inevitably result in a substantial reduction in earnings regardless of fare level. Further, the carriers have not yet felt the benefit of the July 1,

[12] Dockets 22395 and 22411. The complaint in Docket 22411 also requested that the carriers be ordered to account for the allegedly illegal fares that became effective July 1, 1970. The reasons stated herein for finding the extension of those fares not unreasonable apply also to the complaints directed against those fares, and the request is denied. To the extent that the complaint challenges the legality of the transportation tax act, including the requirement of that act that the carriers may not state the tax separately on their tickets or in their advertising, such matters are of course beyond our jurisdiction. The complaint also alleges that complainants were denied the opportunity to participate in the ratemaking process. They have been given that opportunity and may continue to participate in the investigation now in progress if they so desire.

[13] See the following table.

Domestic trunkline carriers	Net income, year ending			Return on investment (excluding investment tax credits)		
	12–31–69 (000)	3–31–70 (000)	*6–30–70 (000)	12–31–69	3–31–70	*6–30–70
				Percent	*Percent*	*Percent*
American	$33,778	$41,277	$30,226	6.38	6.66	5.6
Braniff	1,945	−396	−2,874	5.89	5.10	4.0
Continental	3,207	3,110	4,267	4.36	4.19	4.8
Delta	41,481	43,381	44,380	12.77	13.03	13.1
Eastern	−5,353	2,046	5,244	2.99	4.14	4.6
National	15,052	12,337	5,240	9.12	7.54	3.2
Northeast	−28,843	−29,774	−27,053	−66.85	−82.51	−92.3
Northwest	21,747	30,866	----------	7.68	8.48	----------
TWA	−17,371	−34,273	−42,977	1.11	−0.49	−1.1
United	37,098	35,128	13,271	5.77	5.81	3.4
Western	−12,150	−13,487	−14,631	−0.35	0.06	−0.2
Total	90,592	90,216	----------	4.72	4.82	----------

*June 30 figures are preliminary. Data not available for Northwest.

[14] Operating expenses per available ton-mile decreased more than 4 percent in calendar years 1967 and 1968, but the decline was less than 1 percent in calendar 1969.

[15] By the same token, any attempt to require an immediate decrease in fare level to the pre-October 1969 level, assuming that we had the authority to do so, would in our judgment be disastrous to the industry. We have previously estimated the revenue impact of the October 1969 fare increases to be about $300 million annually and that of the July 1, 1970, fares to be an additional $50 million annually for the industry. Considering the amounts involved in relation to the industry's current net profit level, a loss in revenues of this magnitude would clearly place the industry in a loss position. We think that to require a rollback under these circumstances would be totally at odds with our statutory responsibility.

[16] The contention in the complaint in Docket 22511 that the carriers violated the antitrust laws by exchange of letters of intention to their tariff agent is without merit. As the carriers' answers point out, such voluntary exchange has long been a part of agreements approved by the Board. See, e.g., Air Freight Tariff Agreement Case, 14 C.A.B. 424 (1951), and 41 C.A.B. 726 and 729 (1963, 1964).

1970, fare revision. The approximately $50 million expected annually from that change (although partially offset by the aircraft registration tax), along with hopefully improved traffic growth, should tend to strengthen the carriers' earnings somewhat. Finally, the Board presently believes that the carriers would be in much better financial condition were capacity more in line with demand.[17]

The many factors affecting airline profits are not easy to interpret and are always subject to change. A fare increase may ultimately prove to be warranted, but we now believe it should be granted only on the basis of the record in the Domestic Passenger-Fare Investigation, unless an increase becomes necessary to enable the carriers to continue normal operations. However, no carrier appears to be in jeopardy at present, and we find no grounds sufficient to justify an overall increase in normal fares at this time.

We note that the tariffs we are suspending include increases in various discount fares because of their percentage relationship to normal fares, and we are also suspending those proposals in toto because of the anomalous relationships that would result from permitting such changes to take effect while suspending the normal-fare proposals. We have not considered these increases in discount fares nor the proposed changes in excursion fares apart from the carriers' entire tariff filings, and our action herein is without prejudice to any subsequent proposals with respect to such fares. Carrier managements clearly have the right to determine what type, if any, discount fares are suitable to their operations, so long as such fares are not unreasonable nor unjustly discriminatory.

We would also note that at least one carrier has proposed fare changes limited to specific markets which are also included in its suspended overall tariff proposal.[18] Again, our action herein is without prejudice to requests with respect to individual tariff filings not effecting an overall increase in normal fares, which will be judged on their merits.

We recognize that the fares we are permitting to continue in effect beyond October 15, 1970, utilize the same fare structure embodied in the Board's order that the court in the Moss case found invalid for procedural reasons. We cannot accept the contention, however, that these fares are unlawful for that reason. As noted previously, our Order 70–7–128 expressly freed the carriers of any compulsion of the invalid order. The carriers were free to file tariffs based upon any fare structure they saw fit, and did so. It is true that, with a few exceptions, the tariffs filed embodied fare structures bearing some similarity to the current structure. However, this reflects the carriers' own choice in the matter, rather than the Board's. We also cannot accept the contention that the Board cannot lawfully permit new fares, freely proposed by the carriers, embodying the current structure, simply because the Board at a previous time followed an invalid procedure in putting the current fares into effect. All the tariffs we are suspending, moreover, propose overall increases in normal fares that we find not economically justified; and, in addition, both the suspended tariffs proposing across-the-board increases over fares in effect prior to October 1969; and those proposing increases based on new formula approaches would result in fare changes of substantial magnitude in numerous markets that have not been economically justified. By our action herein, we are not passing upon the ultimate question of the appropriate domestic passenger-fare structure. That question is under investigation and will be decided in Phase 9 of the Domestic Passenger-Fare Investigation, in which the parties are currently preparing and exchanging exhibits.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof:

It is ordered, That:

1. Pending hearing and decision by the Board, the fares and provisions described in appendix B hereto[19] are suspended and their use deferred to and including December 29, 1970, unless otherwise ordered by the Board, and the fares and provisions described in appendix C hereto[19] are suspended and their use deferred to and including January 13, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

2. A copy of this order will be filed with the aforesaid tariffs and be served upon all parties in Dockets 21322, 21866, and the complainants herein.

3. The motion of the Department of Transportation to file a late-filed document in Docket 21322 is granted.

4. Except to the extent granted herein, the complaints in Docket 21322 related to tariffs marked to become effective in October 1970, and in Dockets 22395, 22399, 22411, 22476, 22494, 22499, 22510, 22511, 22512, 22513, and 22538 are hereby dismissed.

This order will will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[20]

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–13054; Filed, Sept. 29, 1970; 8:51 a.m.]

[17] We note that in Docket 21866 both the Bureau of Economics and the carriers predict that passenger traffic and load factors will improve to some extent in 1971 and 1972.

[18] See also Order 70–9–24, dated Sept. 3, 1970, suspending these proposals.

[19] Filed as part of the original document.

[20] Browne, Chairman, and Gillilland, Vice Chairman, concurred in the above order. Minetti and Murphy, members, filed concurring statements and Adams, member, filed a dissent which are filed as part of the original document.

[Dockets Nos. 22387, 22544, 22545; Order 70–9–134]

RAILWAY EXPRESS AGENCY, INC., ET AL.

Order Regarding Proposed Revisions in Air Express Rates and Charges

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of September 1970.

On September 18, 1970, the Board issued Order 70–9–98 in which it initiated an investigation of a tariff proposal filed on behalf of Railway Express Agency, Inc. (REA) and participating air carriers, marked to become effective September 25, 1970. This investigation was consolidated into a pending investigation instituted in Docket 22387 which is an investigation of tariff revisions proposed by REA and participating carriers which had previously been suspended by Order 70–7–109 dated July 23, 1970, reconsideration denied by Order 70–8–48 dated August 13, 1970.

In its Order 70–9–98, the Board denied requests of the Air Freight Forwarders Association in Docket 22544 and Muzak, a division of Wrather Corporation in Docket 22545 to suspend the September 25 proposal.

By motion filed this date, the Air Freight Forwarders Association requests expedited decision without receiving answers from other interested parties with respect to a petition it concurrently filed requesting reconsideration of Order 70–9–98 or request for attachment of conditions.[1] The thrust of the forwarders' petition is that:

1. The Board's actions are alleged to grant REA new operating authority presumably stemming from the revisions in the rate structure which has been permitted to become effective pending investigation by reason of the Board's denial of requests for suspension;

2. The Board's order was in disregard of its regulations requiring justification by the airlines for the tariff filing;

3. The Board's order failed to include findings with respect to the impact of the tariff on the forwarders in terms of both the rates and priority accorded express service; and

4. The Board's order contains inadequate findings as to the legality of negotiated rates for a service in competition with the forwarders.

The Board has concluded to grant the forwarders' motion for expedited decision on its petition for reconsideration herein. The Board has considered the petition of the Air Freight Forwarders Association and all relevant matters before it and the petition is denied herein.

The forwarders' contentions are considered seriatim, below.

Firstly, there was no basis for the contention that REA is being granted new

[1] The motion and petition are accompanied by a certificate of service reciting service by mail on September 24, together with telephonic advice to REA and the airlines.

operating authority through the tariff revisions. While the new tariff will make REA more competitive at the higher weight breaks, REA's basic operating authority has never been subject to any weight limitation.[2]

Secondly, REA submitted justification in support of its tariff filing. While it is true that direct air carriers did not submit such a justification initially, the filing by REA amounted to substantial compliance with the regulation specifically in view of the fact that the main purpose of the tariff revisions was to provide relief to REA. Moreover, the matter of suspension for absence of initial justification is solely within the discretion of the Board.

Thirdly, the Board considered the impact of the tariff on the forwarders in terms of the rates and the priorities afforded express service, and finds the forwarders have not made a prima facie showing of sufficient facts to justify suspension on this ground. Finally, REA has always been considered to have a special relationship with the air carriers which permits the establishment of rates under the procedure followed here. Unlike the freight forwarders, REA has never been regarded as a shipper in relation to the direct air carriers.

The Board reaffirms its conclusions that the competitive impact of the interim proposal is not a basis for suspension in the present circumstances, and the Board has considered, as it did in the prior order, the allegations of the forwarders as to alleged diversion resulting from rates and priority and finds no basis for reconsideration. It is further noted in this regard that the forwarders have not made any showing that the competitive rates against which they complain are prima facie unlawfully low.

We also dismiss the contention that negotiated rates are precluded by law. The procedures between REA and the participating direct carriers for the offering of air express service have not been revised, and while the ageement between REA and the carriers contains revisions as to terms for the division of revenues, this fact provides no basis to suspend the proposed rates.

Finally, the forwarders request in the alternative that, if the Board finds that its action is now legal, it condition any order allowing the interim tariff to remain in effect on an agreement being executed by the airlines whereby the air-freight forwarders are accorded the same treatment under the Airlines Air Express Tariff as is now being accorded REA. This request for conditional approval raises new matters not previously proposed, and the Board will not attach such condition to this order. The Board cannot, by an ex parte condition, require the consummation of such an agreement, although the Board would consider any such agreement, if filed. Our action herein is without prejudice to a request that such issue be considered in pending investigations of REA's operation.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958:

It is ordered, That:

1. The motion of the Air Freight Forwarders for expedited decision on its petition requesting reconsideration of Order 70-9-98 is granted,

2. The petition of the Air Freight Forwarders Association for Reconsideration of Order 70-9-98 and its alternative request is hereby denied, and

3. A copy of this order shall be served upon all parties in Dockets 22387, 22544, and 22545.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-13053; Filed, Sept. 29, 1970; 8:51 a.m.]

[2] It should be noted that acceptance of the tariff does not purport to confer any additional authority on REA.

CIVIL SERVICE COMMISSION

INHALATION THERAPY TECHNICIAN, WEST HAVEN, CONN.

Notice of Establishment of Minimum Rates and Rate Changes

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates as follows:

GS-649 INHALATION THERAPY TECHNICIAN

Geographic Coverage: West Haven, Conn.
Effective Date: First day of the first pay period beginning on or after September 20, 1970

PER ANNUM RATES

Grade	1	2	3	4	5	6	7	8	9	10
GS-4	$6,243	$6,438	$6,633	$6,828	$7,023	$7,218	$7,413	$7,608	$7,803	$7,998
GS-5	7,420	7,638	7,846	8,074	8,292	8,510	8,728	8,946	9,164	9,382
GS-6	8,023	8,266	8,509	8,752	8,995	9,238	9,481	9,724	9,967	10,210
GS-7	8,638	8,908	9,178	9,448	9,718	9,988	10,258	10,528	10,798	11,068

All new employees in the specified occupational level will be hired at the new minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3-2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723 of new appointees to positions cited.

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

[F.R. Doc. 70-13022; Filed, Sept. 29, 1970; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

DANIEL F. YOUNG, INC., AND CALDWELL & CO., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202, or may inspect agreements at the offices of the District Directors, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate this has been done.

Notice of agreement filed for approval by:

Herman Brauner, The Firm of Herman Goldman, Attorneys & Counselors at Law, Equitable Building, 120 Broadway, New York, N.Y. 10005.

Agreement No. FF 70-10 between Daniel F. Young, Inc., Independent Ocean Freight Forwarder License No. 656 and Caldwell & Company, Inc., Independent Ocean Freight Forwarder License No. 451, is intended to secure Federal Maritime Commission approval of an agreement whereby Caldwell will discontinue its forwarding and shipping business and surrender its license. Young will seek the association of certain officers and employees of Caldwell who will then be absorbed into the Young organization. No other consideration in money, stock or any other form of property or thing of value will pass from Young to Caldwell or Caldwell's stockholders.

Caldwell operates branch offices in New York City, Philadelphia, and New Orleans. It is intended that Young may seek to operate such branch offices and employ some or all of those employees.

Dated: September 24, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13063; Filed, Sept. 29, 1970; 8:52 a.m.]

HOLLAND-AMERICA LINE

Order of Revocation

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 "S.S. Dinteldyk"; 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 S.S. Dinteldyk be and are hereby revoked effective September 23, 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.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13064; Filed, Sept. 29, 1970; 8:52 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Report 511]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

SEPTEMBER 28, 1970.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign and nature of application

1527-C2-P-71—Consolidated Telephone Co. (KQZ710), C.P. to add frequency 152.66 MHz. Station location: 1.2 miles north of Highway No. 18 on County Road No. 8, 9.5 miles east of Brainerd, Minn.

1528-C2-P-71—Longview Mobilfone Service (KKN282), C.P. to add frequency 152.06 MHz. Station location: East Mountain, 8 miles northwest of Longview, Tex.

1532-C2-P-(2)71—RAM Broadcasting of Michigan, Inc. (New), C.P. for a new 1-way station to operate on frequency 43.22 MHz at location No. 1: Penobscot Building, Griswold and Fort Streets, Detroit, Mich., and location No. 2: 16500 North Park Drive, Southfield, Mich.

1533-C2-P-(2)71—Communication Equipment & Service Co. (New), C.P. for a new air-ground station to be located at 1010 College Road, Fairbanks, Alaska, to operate on frequencies 454.700 and 454.750 MHz base and 454.675 MHz signaling.

1534-C2-P-71—George E. Kitchen & Associates (KLF591), C.P. to change the antenna system operating on 152.15 MHz located at 163 Pipestone, Benton Harbor, Mich.

1538-C2-P-71—RAM Broadcasting of Georgia, Inc. (New), C.P. for a new air-ground station to be located at 520 Oak Street, Waycross, Ga., to operate on frequency 454.950 MHz base and 454.675 MHz signaling.

1539-C2-P-71—RAM Broadcasting of North Carolina, Inc. (New), C.P. for a new air-ground station to be located at the Planter's National Bank Building, 100 Southwest Main Street, Rocky Mount, N.C.

1540-C2-P-71—Rome Communications (KFL516), C.P. to replace the base transmitter operating on 152.15 MHz at location No. 2: 1432 Big Horn Avenue, Sheridan, Wyo.

1576-C2-P-71—Ilwaco Telephone Co. (New), C.P. for a new 2-way station to be located at 1.7 miles northeast of Chinook Point, Wash., to operate on frequency 152.66 MHz.

1577-C2-P-71—Answer Iowa, Inc. (New), C.P. for a new 1-way station to be located at KWNT-FM Tower, Davenport, Iowa, to operate on frequency 158.70 MHz.

1578-C2-P-71—Answer Iowa, Inc. (New), C.P. for a new 2-way station to be located at KWNT-FM Tower, Davenport, Iowa, to operate on frequency 152.06 MHz.

1579-C2-P-71—Citizens Utilities Co. of California (New), C.P. for a new 2-way station to be located on Highway 299E, 1 mile northeast of Fall River Mills, Calif.

1580-C2-P-71—George E. Kitchen & Associates (New), C.P. for a new 1-way station to be located at 1001 Pipstone, Benton Harbor, Mich., to operate on 158.70 MHz.

1581-C2-P-71—Mobilfone of Monouth & Ocean (KEJ886), C.P. to change the base transmitter operating on 454.10 MHz to standby. Station location: 1104 Ocean Road, Point Pleasant, N.J.

1582-C2-P-71—The Mountain States Telephone & Telegraph Co. (KOK341), C.P. to add frequency 152.63 MHz and change the antenna system located at 11.5 miles south-southeast of Rock Springs, Wyo.

1660-C2-P-71—Indiana Bell Telephone (KSA629), C.P. to add frequencies 454.500 and 454.525 MHz base and 459.375, 459.400, 459.425, 459.475, 459.500, and 459.525 MHz test at station located at 240 North Meridian Street, Indianapolis, Ind.

1661-C2-P-71—Hereford Communications (KOP327), C.P. to add frequency 152.15 MHz at station located on State Highway No. 51, 0.5 mile north of Hereford, Tex.

1922-C2-R-71—New York Telephone Co. (KC5161), Renewal of developmental station license expiring Nov. 23, 1970. Terms Nov. 23, 1970 to Nov. 23, 1971.

Major Amendment

2255-C2-P-70—Mobilfone Corp. (New), Amended to change frequency to 454.250 MHz. All other particulars to remain same as reported on Public Notice dated Feb. 16, 1970, Report No. 479.

Corrections

Informative entries appearing in PN dated Sept. 14, 1970, Report No. 509, corrected as follows;

ARIZONA, Grand Canyon:

Arizona Mobile Telephone Co., File No. should be: 7323-C2-P-(2)70.

CALIFORNIA, San Francisco:

California Mobile Telephone Co. (New), 4741-C2-P-(2)-70 (inadvertently omitted).

COLORADO, Denver:

RAM Broadcasting of Colorado, Inc., File No. should be: 6013-C2-P-70.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

IOWA, Waterloo:
Northwestern Bell Telephone Co., File No. should be: 560–C2–P–71.
Texas Mobile Telephone Co., File No. should be: 566–C2–P–71.
MINNESOTA, Duluth:
Northwestern Bell Telephone Co., File No. should be: 8432–C2–P–70.

Rural Radio Service

1541–C1–P–71—Cameron Telephone Co. (KLR59), C.P. to replace the transmitter operating on 157.95 MHz communicating with Station KKO357, Cameron, La. Station location: Gulf of Mexico, Block 45 West Cameron area.
1542–C1–P–71—Cameron Telephone Co. (KLO86), Same as above, except, Station location: Approximately 17 miles southeast of Grand Chenier, La.
1543–C2–P–71—Cameron Telephone Co. (KOA94), Same, except, Station location: Approximately 25 miles south-southwest of Cameron, La.
1544–C1–P–71—The Eagle Valley Telephone Co. (New), C.P. for a new rural subscriber station to be located 21 miles north of Glenwood Springs, Colo., to operate on frequency 157.95 MHz communicating with station KDT221 Castle Peak, Colo.
1545–C1–P–71—Robert P. Buford (New), C.P. for a new rural subscriber station to be located at crest of Buck's Elbow Mountain, 3 miles northwest of Crozet, Va., to operate on frequencies 157.95 and 157.98 MHz communicating with station KIY771, Charlottesville, Va.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

1529–C1–P–71—Northwestern Bell Telephone Co. (KYO61), C.P. to add frequency 6390.0 and 11,605 MHz toward Sunol, Nebr. Location: 1100 Jackson Street, Sidney, Nebr.
1530–C1–P–71—Northwestern Bell Telephone Co. (KYO62), C.P. to add frequency 6108.3 and 11,155 MHz toward Sidney, Nebr. Location: 3.4 miles southwest of Sunol, Nebr.
1535–C1–P–71—United Telephone Co. of Florida (KJG59), C.P. to add frequency 6197.2 MHz toward Fort Myers, Fla. Location: 790 South Access Road, Port Charlotte, Fla.
1536–C1–P–71—United Telephone Co. of Florida (KIP60), C.P. to add frequency 5945.2 MHz toward Port Charlotte, Fla. Location: 1517 Jackson Street, Fort Myers, Fla.
1662–C1–MP–71—Siskiyou Telephone Co. (KMZ86), Modification of C.P. to delete frequency 6115.7 MHz and add 6100.9 MHz toward Fort Jones, Calif., via passive reflector. Location: 220 Pine Street, Yreka, Calif.
1663–C1–MP–71—Siskiyou Telephone Co. (WAY34), Modification of C.P. to delete frequency 6115.7 MHz and add 6100.9 MHz toward Hamburg, Calif., via passive reflector. Location: Oak Knoll, 14 miles northwest of Yreka, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

1642–C1–P–71—Mountain Microwave Corp. (KKA81), C.P. to change location of station to Cornudo Hills, 2 miles east of Wagon Mound, N. Mex., at latitude 36°00'17" N., longitude 104°39'36" W. Frequencies: 5989.7, 6049.0, and 6108.3 MHz on azimuths 9°18'; 11°11'; 341°17', frequencies are being changed and 1 channel added toward Ratan, N. Mex.

(Informative: Applicant proposes to provide the television signal of station KGGM–TV of Albuquerque, N. Mex., to Ratan TV Network, Inc., in Ratan, N. Mex.)

1664–C1–MP–71—United Video, Inc. (WBO89), Modification of C.P. to change transmitters and change frequencies to 11,385 and 11,625 MHz on azimuth 352°06'. Location: 1.2 miles southwest of Mountain Springs, Tex., at latitude 33°28'30" N., longitude 97°03'46" W.
1665–C1–MP–71—United Video, Inc. (WBO90), Modification of C.P. to change transmitters and change frequencies to 10,775 and 11,015 MHz on azimuth 354°54'. Location: 3.6 miles north-northeast of Thackerville, Okla., at latitude 33°50'22" N., longitude 97°07'24" W.

(Informative: Applicant is replacing transmitters and receivers with Raytheon, KTR–3A–11 equipment.)

1027–C1–R–71—East Texas Transmission Co. (KLH73), Renewal of License expiring Aug. 1, 1970. Term: Aug. 1, 1970 to Feb. 1, 1971.
1028–C1–R–71—East Texas Transmission Co. (KLH74), Renewal of License expiring Aug. 1, 1970. Term: Aug. 1, 1970 to Feb. 1, 1971.
1029–C1–R–71—East Texas Transmission Co. (KLH75), Renewal of License expiring Aug. 1, 1970. Term: Aug. 1, 1970 to Feb. 1, 1971.
351–C1–R–71—East Texas Transmission Co. (KLU31), Renewal of License expiring Aug. 1, 1970. Term: Aug. 1, 1970 to Feb. 1, 1971.

[F.R. Doc. 70–13035; Filed, Sept. 29, 1970; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI71–281 etc.]

GEORGE H. COATES ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

SEPTEMBER 23, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 16, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf [1]		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-281	George H. Coates	5	4	South Texas Natural Gas Gathering Co. (Shepherd Field, Hidalgo County, Tex., RR. District No. 4).	$3,614	8-28-70	9-28-70	2-28-71	15.05625	18.06750	RI70-443.
	do	6	4	South Texas Natural Gas Gathering Co. (Jay Simmons Field, Starr County, Tex., RR. District No. 4).	16,261	8-28-70	9-28-70	2-28-71	15.05625	18.06750	RI70-443.
	do	7	2	South Texas Natural Gas Gathering Co. (Kelsey Area, Brooks County, Tex., RR. District No. 4).	3,774	8-28-70	9-28-70	2-28-71	15.05625	17.06375	RI70-443.
	do	8	3	South Texas Natural Gas Gathering Co. (Northeast Thompsonville Area, Jim Hogg County, Tex., RR. District No. 4).	90,338	8-28-70	9-28-70	2-28-71	16.06	19.07125	RI70-443.
RI71-282	Grampian Co., Ltd	3	12	Natural Gas Pipeline Co. of America (La Glorida Area, Jim Wells and Brooks Counties, Tex., RR. District No. 4).	4,776	9- 1-70	10- 2-70	3- 2-71	14.05001	16.72945	RI70-632.
RI71-283	Ruth Phillips Bisiker	3	11	Natural Gas Pipeliue Co. of America (Jim Wells and Brooks Counties, Tex. RR. District No. 4).	14,514	9- 1-70	10- 2-70	3- 2-71	14.05001	16.72945	RI70-631.
RI71-284	Terra Resources, Inc	16	14	Florida Gas Transmission Co. (Jones Creek Field, Wharton County, Tex., RR. District No. 3).	7,200	8-31-70	10- 1-70	3- 1-71	17.0	18.5	
RI71-285	Placid Oil Co	23	7	Natural Gas Pipeline Co. of America (Alta Loma Area, Galveston County, Tex., RR. District No. 3).	75,280	8-27-70	10- 1-70	3- 1-71	19.0713	24.09	RI64-735.
RI71-286	Mobil Oil Corp	45	17	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (North Government Wells Field, Duval County, Tex., RR. District No. 4).	8,704	8-31-70	10- 1-70	3- 1-71	16.6623	25.0	RI70-498.
RI71-287	Bright & Schiff	7	7	South Texas Natural Gas Gathering Co. (Northeast Thompsonville Field, Webb & Jim Hogg Counties, Tex., RR. District No. 4).	20,075	9- 3-70	10- 4-70	3- 4-71	16.06	20.075	RI71-93.
RI71-288	Union Texas Petroleum, a division of Allied Chemical Corp.	80	14	Transwestern Pipeline Co. (Atoka Field, Eddy County, N. Mex., Permian Basin Area).	22,405	8-26-70	9-26-70	2-26-71	21.80	[1a] 27.8069	RI69-488.
RI71-289	Shell Oil Co	327	3	El Paso Natural Gas Co. (West Waha Field; Reeves County, Tex., RR. District No. 8-Permian Basin).	27,173	9- 1-70	10- 2-70	3- 2-71	17.0656	17.5656	RI68-412.
RI71-290	Amerada Hess Corp	159	2	Panhandle Eastern P/L Co. (North Avard Area, Woods County, Okla., Other Area).	1,533	8-26-70	9-26-70	2-26-71	[2] 15.0	[2] 20.0	
RI71-291	Texaco, Inc	444	1	Panhandle Eastern P/L Co. (Northwest Midwell Field, Cimarron County, Okla., Panhandle Area).	4,270	8-27-70	9-27-70	2-27-71	[2] 17.0	[2] 20.0	
RI71-292	Sidwell Oil & Gas, Inc	12	2	Northern Natural Gas Co. (Unnamed Field, Texas County, Okla., Panhandle Area).	8,064	8-24-70	9-24-70	2-24-71	[2] [3] 19.04	[2] [3] 22.4	

[1] Pressure base is 14.65 p.s.i.a.
[1a] Includes partial reimbursement for full 2.55 percent New Mexico Emergency School Tax.
[2] Subject to upward and downward B.t.u. adjustment.
[3] Includes 2.04-cent upward B.t.u. adjustment before increase and 2.4-cent upward B.t.u. adjustment after increase (1,120 B.t.u. gas).

Bright & Schiff, Amerada, and Texaco request effective dates for which adequate notice has not been given. Good cause has not been shown for waiving, in whole or in part, the 30-day statutory notice period, and these requests are therefore denied.

All of the proposed increased rates and charges exceed the applicable area increased rate ceilings set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 70-12906; Filed, Sept. 29, 1970; 8:45 a.m.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

INTERIM MANDATORY DUST STANDARD

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. 10844, Eastern Coal Corp., Alma No. 1 Mine, USBM ID No. 15 02163 0, Stone, Pike County, Ky., Section ID No. 001 (Alma Mains).

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 25, 1970.

[F.R. Doc. 70-13011; Filed, Sept. 29, 1970; 8:47 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

ARIZONA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); and by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g); notice is hereby given that on September 22, 1970, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Arizona adversely affected by heavy rains and flash flooding beginning on or about September 5, 1970, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 81-875. I therefore declare that such

a major disaster exists in the State of Arizona. Areas eligible for Federal assistance will be determined by the Director of the Office of Emergency Preparedness.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11495, November 18, 1969 (34 F.R. 18447, November 20, 1969) to administer the Disaster Relief Act of 1969 (Public Law 91–79, 83 Stat. 125), I hereby appoint Mr. Ralph D. Burns, Regional Director, OEP Region 7, to act as the Federal Coordinating Officer to perform the duties specified by section 9 of that act for this disaster.

I do hereby determine the following areas in the State of Arizona to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 22, 1970:

The counties of:

Apache.	Maricopa.
Coconino.	Navajo.
Gila.	Yavapai.

Dated: September 24, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70–12996; Filed, Sept. 29, 1970; 8:46 a.m.]

COLORADO

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); and by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855–1855g); notice is hereby given that on September 22, 1970, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Colorado, adversely affected by heavy rains and flooding beginning on or about September 4, 1970, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 81–875. I therefore declare that such a major disaster exists in the State of Colorado. Areas eligible for Federal assistance will be determined by the Director of the Office of Emergency Preparedness.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11495, November 18, 1969 (34 F.R. 18447, Nov. 20, 1969) to administer the Disaster Relief Act of 1969 (Public Law 91–79, 83 Stat. 125), I hereby appoint Mr. Donald G. Eddy, Regional Director, OEP Region 6 to act as the Federal Coordinating Officer to perform the duties specified by section 9 of that act for this disaster.

I do hereby determine the following areas in the State of Colorado to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 22, 1970:

The counties of:

Archuleta.	Montezuma.
Conejos.	Montrose.
Delta.	Ouray.
Dolores.	Rio Grande.
Hinsdale.	Saguache.
La Plata.	San Juan.
Mineral.	

Dated: September 24, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70–12997; Filed, Sept. 29, 1970; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70–4921]

LOUISIANA POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Bonds at Competitive Bidding and Increase in Authorized Shares of Preferred Stock and Issue and Sale Thereof at Competitive Bidding

SEPTEMBER 23, 1970.

Notice is hereby given that Louisiana Power & Light Co. (Louisiana), 142 Delaronde Street, New Orleans, La. 70114, a registered holding company and an electric utility subsidiary company of Middle South Utilities, Inc., also a registered holding company, has filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Louisiana proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $20 million principal amount of First Mortgage Bonds, ____ percent Series due 2000. The interest rate of the bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Louisiana (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by competitive bidding. The bonds will be issued under Louisiana's Mortgage and Deed of Trust dated as of April 1, 1944, to The Chase Manhattan Bank (National Association), successor to The Chase National Bank of the City of New York and Charles F. Ruge, successor to Carl E. Buckley, as Trustees, as heretofore supplemented by various indentures and as to be further supplemented by a Ninth Supplemental Indenture to be dated November 1, 1970, and which contains a prohibition until November 1, 1975, against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost.

Louisiana also proposes to amend its Certificate of Incorporation so as to authorize 70,000 shares of a new series of cumulative preferred stock, $100 par value, and to issue and sell shares subject to the competitive bidding requirements of Rule 50 under the Act. The dividend rate of the preferred stock (which will be a multiple of one twenty-fifth of 1 percent) and the price to be paid to Louisiana (which will be not less than $100 nor more than $102.75 per share) will be determined by competitive bidding. The terms of the preferred stock will include a prohibition until November 1, 1975, against refunding the stock, directly or indirectly, with the proceeds of funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with the preferred stock as to dividends or assets, at a lower effective dividend cost.

Louisiana will apply the net proceeds derived from the issue and sale of the bonds and preferred stock to the payment of short-term bank loans outstanding prior to the issue and sale of such bond and preferred stock and to the 1970 construction program of Louisiana and its subsidiary company. Louisiana expects such bank loan indebtedness to aggregate approximately $18 million and such construction expenditures to be about $75,700,000.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred by Louisiana in connection with the bonds are estimated at $70,000, including legal fees of $23,000 and auditor's fees of $4,000. Fees and expenses in connection with the preferred stock are estimated at $30,000, including legal fees of $15,000 and auditor's fees $1,500. The fees of counsel for the underwriters are estimated at $7,000 in connection with the bonds and at $5,000 in connection with the preferred stock and are to be paid by the successful bidders.

Notice is further given that any interested person may, not later than October 20, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations

promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-13006; Filed, Sept. 29, 1970; 8:47 a.m.]

[70-4919]

MICHIGAN WISCONSIN PIPE LINE CO. AND AMERICAN NATURAL GAS CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding and Increase in Authorized Shares of Common Stock and Sale Thereof to Holding Company

SEPTEMBER 18, 1970.

Notice is hereby given that American Natural Gas Co. (American Natural), 30 Rockefeller Plaza, Suite 4950, New York, N.Y. 10020, a registered holding company, and one of its subsidiary companies, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, 10, and 12(f) of the Act and Rules 43 and 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Wisconsin proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $40 million principal amount of First Mortgage Pipe Line Bonds, ------ percent Series due November 1, 1990. The interest rate on the bonds (which shall be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be received by Michigan Wisconsin (which shall be not less than 98½ percent nor more than 101½ percent of the principal amount thereof) are to be determined by the competitive bidding. The bonds are to be issued under Michigan Wisconsin's Mortgage and Deed of Trust dated as of September 1, 1948, between Michigan Wisconsin and First National City Bank, Trustee, as heretofore supplemented and as to be further supplemented by a Twenty-second Supplemental Indenture to be dated as of October 15, 1970, and which includes a prohibition until November 1, 1975, against refunding the issue with the proceeds of funds borrowed at lower interest cost.

Michigan Wisconsin also proposes to increase its authorized shares of common stock, par value $100 per share (all of which are owned by American Natural), from 1,465,000 to 1,495,000 shares. Michigan Wisconsin further proposes to issue and sell, and American Natural proposes to acquire, the 30,000 additional shares of common stock of Michigan Wisconsin at a price of $100 per share, or for an aggregate price of $3 million. Prior to or concurrenty with the sale of stock, Michigan Wisconsin will pay to American Natural a special cash dividend in the amount of $3 million. The effect of the special dividend and its concurrent reinvestment, taken together, will be to convert $3 million of Michigan Wisconsin's existing retained earnings into common stock.

Michigan Wisconsin will have outstanding an estimated $30 million of notes payable to banks for temporary financing of construction. The net proceeds from the sale of the bonds and common stock will be applied to the retirement of said notes and to pay in part its 1970 construction program estimated at $95 million.

The fees and expenses to be paid in connection with the proposed transactions are to be filed by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 14, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-12834; Filed, Sept. 29, 1970; 8:45 a.m.]

[70-4920]

NORTHEAST UTILITIES

Notice of Proposed Issue and Sale of Common Shares by Holding Company

SEPTEMBER 23, 1970.

Notice is hereby given that Northeast Utilities (Northeast), 174 Brush Hill Road, West Springfield, Mass. 01089, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Northeast proposes to issue and sell 3 million additional shares of its authorized but unissued common shares, par value $5 per share. The proceeds of the sale of the common shares are to be used to reduce short-term borrowings incurred by Northeast to make investments in its subsidiary companies and to pay $15 million of 2.8 percent secured notes of Northeast which matured in 1969. It is estimated that short-term borrowings will total $70 million at the time of the proposed sale of the common shares. The application-declaration states that such common shares will be sold under competitive bidding to be carried out in accordance with the requirements of Rule 50.

The application-declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses incident to the proposed transaction are to be filed by amendment.

Notice is further given that any interested person may, not later than October 14, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Northeast at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the

request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-13007; Filed, Sept. 29, 1970; 8:47 a.m.]

TARIFF COMMISSION

[TEA-F-12]

ARISTA MILLS CO.

Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation and Hearing

Investigation instituted. Upon petition under section 301(a)(2) of the Trade Expansion Act of 1962, filed by Arista Mills Co., Winston-Salem 1, N.C., the U.S. Tariff Commission, on September 25, 1970, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with the plain-woven fabrics, wholly or in chief value of cotton or manmade yarns, produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

Public hearing ordered. A public hearing, which has been requested by the petitioner in connection with this investigation, will be held at 10 a.m., e.d.s.t., on October 13, 1970, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure (19 CFR 201.13).

Inspection of petition. The petition filed in this case is available for inspection at the office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: September 25, 1970.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[F.R. Doc. 70-13040; Filed, Sept. 29, 1970; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 25, 1970.

Protests to the granting of an application must be prepared in accordance with § 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. 42052—*Newsprint paper, newsprint paper winding cores, returned, from points in southern territory.* Filed by Southwestern Freight Bureau, agent (No. B-187), for interested rail carriers. Rates on newsprint paper, also returned newsprint paper winding cores, in carloads, as described in the application, from Sheldon, Tex., to points in southern territory; also from points in Louisiana, Texas, and Arkansas, to specified points in Florida; also returned shipments.

Grounds for relief—Revision of rate structure directed by general increases and increased delivery costs.

Tariff—Supplement 17 to Southwestern Freight Bureau, agent, tariff ICC 4891.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Acting Secretary.*

[F.R. Doc. 70-13042; Filed, Sept. 29, 1970; 8:50 a.m.]

[S.O. 994; ICC Order 26, Amdt. 6]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 26 (Atchison, Topeka and Santa Fe Railway Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 26 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., September 30, 1970, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 25, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 70-13043; Filed, Sept. 29, 1970; 8:50 a.m.]

[S.O. 994; ICC Order 12, Amdt. 10]

NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 12 (New York, Susquehanna and Western Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 12 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., September 30, 1970, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 25, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 70-13044; Filed, Sept. 29, 1970; 8:50 a.m.]

[No. 35269]

ORDER NOTIFY BILLS OF LADING

Restrictions or Discontinuance; Petition for Investigation

At a session of the Interstate Commerce Commission, Division 2, held at its office on Washington, D.C., on the 15th day of September 1970.

Upon consideration of a petition filed April 23, 1970, by Outboard Marine Corp., seeking an investigation of tariff provisions limiting motor common carriers handling of shipments on Order Bills of Lading, and urging the issuance of a declaratory order requiring the restoration of such service; of replies to the petition filed June 15, 1970, filed jointly by Central Transport, Inc., and Mohawk Motor Inc., and June 17, 1970, filed jointly by Natonal Motor Freight Traffic Association, Inc., National Classification Committee, and Consolidated Freightways Corporation of Delaware;

It appearing, that restrictive provisions are contained in schedules designated as follows:

Central States Motor Freight Bureau, Agent:
MC-ICC No. 1392, Supplement No. 6, Item 220-B;
Consolidated Freightways Corp.:
MF-ICC No. A-326, Supplement No. 52, Item 2870-M;
MF-ICC No. A-330, Supplement No. 55, Item 3440-B;
MF-ICC No. A-328, Supplement No. 64, Item 2400-G;
MF-ICC No. 384, Supplement No. 31, Item 44-E;

MF–ICC No. 1520, Supplement No. 23, Item 666–40–A;
MF–ICC No. 530, Supplement No. 88, Item 13–G(b);
MF–ICC No. 569, Supplement No. 36, Item 13–B(a);
MF–ICC No. 564, Supplement No. 42, Item 13–C; and
MF–ICC No. 502, Supplement No. 26, Item 10–D;

And all other schedules contained in each of the tariffs and supplements thereto named in this order, as well as all other tariffs, supplements, and schedules not designated in this order, insofar as they contain the same provisions or provisions of the same import as those set forth in the aforementioned schedules.

And it further appearing, that the tariff provisions specified or referred to in this order provide for the restriction or discontinuance of motor common carrier service in transporting shipments moving on Order Bills of Lading, which shipments the carriers are authorized to transport, and which curtailment of service may result in undue preference and prejudice and unjust discrimination, in violation of section 216(d) of the Interstate Commerce Act;

Wherefore, and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted to determine whether the schedule provisions refered to herein restricting or discontinuing motor carrier service in transporting shipments on Order Bills of Lading, violate the Interstate Commerce Act, or the Commission's rules and regulations thereunder.

It is further ordered, That motor common carriers referred to herein or parties to schedules referred to herein be, and they are hereby, made respondents to this proceeding.

It is further ordered, That all persons who wish actively to participate in this proceeding and to file and to receive copies of pleadings shall make known that fact by notifying the Commission in writing on or before November 2, 1970. To conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentation to the greatest extent possible. Individual participation is not precluded.

It is further ordered, That, as soon as practicable after the date for indicating a desire to participate in the proceeding has past, the Secretary will serve a list of the names and addresses of the interested parties on all persons upon whom service of all pleadings must be made.

It is further ordered, That further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

And it is further ordered, That this proceeding be assigned for hearing as may hereafter be designated.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70–13045; Filed, Sept. 29, 1970; 8:50 a.m.]

[Notice 22]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 25, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)), and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 561), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed September 15, 1970. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From New Orleans, La., over Interstate Highway 10 to junction Mississippi Highway 607, thence over Mississippi Highway 607 to junction U.S. Highway 90 near Waveland, Miss., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Mobile, Ala., over U.S. Highway 90 to junction Mississippi Highway 63 near Moss Point, Miss., thence over Mississippi Highway 63 via Moss Point to junction U.S. Highway 90 south of Moss Point, thence over U.S. Highway 90 to New Orleans, La., and return over the same route.

No. MC 61599 (Deviation No. 5), QUEEN CITY COACH COMPANY, Post Office Box 2387, Charlotte, N.C. 28201, filed September 8, 1970. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: (1) From Dillon, S.C., over South Carolina Highway 34 (an access route) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction South Carolina Highway 261, thence over South Carolina Highway 261 (an access route) to Manning, S.C.; (2) from Dillon, S.C., over South Carolina Highway 34 (an access route) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 52, thence over U.S. Highway 52 (an access route) to Florence, S.C.; and (3) from Florence, S.C., over U.S. Highway 76 (an access route) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction South Carolina Highway 261, thence over South Carolina Highway 261 (an access route) to Manning, S.C., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Wadesboro, N.C., over U.S. Highway 52 via Cheraw and Florence, S.C., to Charleston, S.C.; (2) from Chadbourn, N.C., over U.S. Highway 76 to Florence, S.C.; (3) from Fayetteville, N.C., over U.S. Highway 301 to Peedee Junction, S.C.; and (4) from Florence, S.C., over U.S. Highway 301 to junction South Carolina Highway 6, and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70–13048; Filed, Sept. 29, 1970; 8:50 a.m.]

[Notice 32]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 25, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2136 (Deviation No. 4), CLEMANS TRUCK LINE, INC., 815 West

Sample Street, South Bend, Ind. 46621, filed September 10, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Kokomo, Ind., and Logansport, Ind., over U.S. Highway 35, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Grand Rapids, Mich., over U.S. Highway 131 to Michigan-Indiana State line, thence over Indiana Highway 15 to Bristol, Ind., thence over Indiana Highway 120 to Elkhart, Ind., thence over U.S. Highway 33 to South Bend, Ind., thence over U.S. Highway 31 to Indianapolis, Ind., and (2) from Logansport, Ind., over U.S. Highway 24 to Peru, Ind., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-13049; Filed, Sept. 29, 1970; 8:50 a.m.]

[Notice 89]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

SEPTEMBER 25, 1970.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 59059 (Sub-No. 5) (Republication), filed November 29, 1968, published in the FEDERAL REGISTER issue of December 28, 1968, and republished this issue. Applicant: ARROW FREIGHT LINES, INC., Post Office Box 1665, Grand Island, Nebr. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. A decision and order of the Commission, Review Board No. 1, dated August 10, 1970, and served August 18, 1970, upon consideration of the application, as amended, and the record in the above-entitled proceeding, including the report and recommended order of the joint board, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, of general commodities, except those requiring special equipment (1) between Kearney and Omaha, Nebr., from Kearney over U.S. Highway 30 to junction U.S. Highway 275, thence over U.S. Highway 275 to Omaha, and return over the same routes, serving all intermediate points and serving the Cornhusker Ordnance Plant as an off-route point; (2) (a) between Grand Island and Beatrice, Nebr., from Grand Island over Nebraska Highway 2 to Lincoln, Nebr., thence over U.S. Highway 77 to Beatrice, Nebr., and return over the same routes, and (b) between the junction of U.S. Highway 77 and Nebraska Highway 33, and the junction of Nebraska Highway 2 and U.S. Highway 81 north of York, Nebr., from the junction of U.S. Highway 77 and Nebraska Highway 33 over Nebraska Highway 33 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 81, thence over U.S. Highway 81 to junction Nebraska Highway 2, and return over the same routes, serving in (a) and (b) above all intermediate points, those off-route points within 10 miles of such routes, and the off-route points of Harvard and Henderson, Nebr.;

(3) Over irregular routes, between points in Hall County, Nebr., those in that part of Hamilton County, Nebr., west of Nebraska Highway 14 and those in that part of Howard and Merrick Counties, Nebr., south of Nebraska Highway 92; and (4) over irregular routes, between points in the territory described in (3) above, on the one hand, and, on the other, those points in Nebraska east of Nebraska Highway 61 (except Omaha, points on U.S. Highway 30 between Omaha and Grand Island, and points in Sherman, Valley, Howard, and Custer Counties, Nebr. Restrictions: (A) operations authorized herein are restricted to the performance of service solely within the State of Nebraska; and (B) to transport Classes A and B explosives is limited, in point of time, to a period expiring 5 years from the date of issuance of a certificate herein. Because it is possible that other persons, who relied upon the notice of the application as publication as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order a notice of authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in the proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133182 (Republication), filed September 23, 1968, published in the FEDERAL REGISTER issue of October 17, 1968, and republished this issue. Applicant: JOSEPH H. IRBY AND LEON E. CROENNE, a partnership, doing business as MISSISSIPPI COAST LIMOUSINE SERVICE, 808 Courthouse Road, Gulfport, Miss. 39501. Applicant's representative: David Cottrell, Jr., 2300-14th Street, Gulfport, Miss. 39501. An order of the Commission, Division 1, Acting as an Appellate Division, dated September 10, 1970, and served September 17, 1970, modifying the previous report and order of the Commission, Review Board Number 1, decided March 27, 1970, finds; that the present and future public convenience and necessity require operation by applicants, in interstate or foreign commerce, as a common carrier by motor vehicle, of passengers and their baggage having a prior or subsequent movement by air, between Biloxi, Miss., and Moisant International Airport, Kenner, La., as follows: From Biloxi, Miss., over U.S. Highway 90 to junction U.S. Highway 190 approximately 8 miles southeast of Slidell, La., thence over U.S. Highway 190 junction Interstate Highway 10, thence over Interstate Highway 10 to New Orleans, La. (also from junction U.S. Highway 90 and U.S. Highway 190 over U.S. Highway 90 to New Orleans), and thence over U.S. Highway 61 to Moisant International Airport, Kenner, La., and return over the same routes, serving the intermediate points of Gulfport, Long Beach, Pass Christian, and Bay St. Louis, Miss. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition for leave to reopen the proceeding of for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134301 (Sub-No. 3) (Republication), filed March 27, 1970, published in the FEDERAL REGISTER issue of April 30, 1970, and republished this issue. Applicant: AIRLINE SERVICES (CANADA) LTD., Indian Line and Elm Bank, Malton, Ontario, Canada. Applicant's representative: William J. Hirsch, 43 Niagara Street, Buffalo, N.Y. 14202. The modified procedure has been followed in this proceeding, and an order of the Commission, Operating Rights Board, dated August 31, 1970, and served September 22, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes of machinery and equipment parts, between those ports of entry on the international boundary line between the United States and Canada located on the Niagara River, on the one hand, and, on the other, points in New York and Pennsylvania; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder and that an appropriate certificate should be issued subject to the following conditions; (1) that the person or persons who control the operations both of applicant and any other carrier operating in interstate or foreign commerce shall first obtain approval of such control under the provisions of section 5(2) of

the Act; and (2) because it is possible that other persons, who relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order a notice of authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in the proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134573 (Republication), filed May 1, 1970, published in the FEDERAL REGISTER issue of May 21, 1970, and republished this issue. Applicant: JIM G. SHAFFER, 3 Eubanks Drive, Dayton, Ohio 45431. Applicant's representative: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio 43215. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated August 31, 1970, and served September 17, 1970, finds; that operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, of used upholstered furniture, between Dayton, Ohio, on the one hand, and, on the other, points in Kentucky, under a continuing contract with Kenny Lounge Co., Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in the proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 95540 Sub 761 (Notice of Filing of Petition To Modify), filed August 26, 1970. Petitioner: WATKINS MOTOR LINES, INC., Lakeland, Fla. Petitioner's representative: Clyde W. Carver, 1776 Peachtree Street NW., Suite 527, Atlanta, Ga. 30309. Petitioner holds authority in No. MC 95540 Sub 761 to transport *cream or liquid cream substitutes*, sterilized, plain, sweetened or flavored, in hermetically sealed containers; *sauces, dressing and salad*, other than dry in boxes, from Washington Court House, Ohio to points in Arkansas, Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, North Carolina, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, and West Virginia. By the instant petition, petitioner requests the Commission modify the above-referred to Certificate by substituting the commodity description "Foodstuffs" for the commodity description now contained in said certificate. The terms of the certificate in all other respects are requested to remain unchanged. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 114332 (Sub-No. 4) and No. MC 114332 (Sub-No. 5) (Notice of Filing of Petition To Modify Permits By Adding Linden, N.J., as an Origin Point), filed August 14, 1970. Petitioner: RAYBURN TRUCKING, INC., 550 Broadway, Elizabeth, N.J. 07206. Petitioner's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Permit No. MC 114332 Sub 4 reads as follows: Irregular routes: Sugar, from Edgewater, N.J., to points in New York and New Jersey within 40 miles of Edgewater, with no transportation for compensation on return except as otherwise authorized. Sugar and sugar products, including liquid sugar, in containers, from New York, N.Y., to points in New Jersey and New York within 40 miles of Columbus Circle, New York, N.Y., except those in Westchester County, N.Y.; and rejected shipments, from the above-specified destination points to New York, N.Y. Permit No. MC 114332 Sub 5 reads as follows: Irregular routes; groceries, from New York, N.Y., to Philadelphia, Pa., and points in New Jersey and Connecticut with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks to modify the above-described authority by adding Linden, N.J., as an origin point. In that portion of the Sub 4 Permit authorizing the transportation of rejected shipments, it also seeks to add Linden, N.J., as a destination point. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 118288 Sub 30 (Notice of Filing of Petition To Modify Certificate), filed September 15, 1970. Petitioner: STEPHEN F. FROST, Post Office Box 28, Billings, Mont. 59103. Petitioner holds authority in No. MC 118288 (Sub-No. 30) to operate as a motor common carrier, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses (except fertilizer and salt), and *equipment, materials, and supplies* used in the conduct of such business; and (2) *fertilizer and salt*, when moving in mixed loads with the commodities described in (1) above; (a) from Burley, Idaho, Salina, Utah, and points in California and Washington, to points in Carbon and Valley Counties, Mont., and points in Big Horn, Campbell, Fremont, Hot Springs, Johnson, Sheridan, Park, and Washakie Counties, Wyo., with no transportation for compensation on return except as otherwise authorized; and (b) from points in Idaho (except Burley), Utah (except Salina), and Oregon, to Glasgow, Mont., with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized herein is subject to the following conditions: Said operations are restricted to the transportation of shipments destined to the above-specified destination territory in Montana and Wyoming. The authority granted herein to the extent it duplicates any other authority now held by carrier, shall be construed as conferring a single operating right only, not severable by sale or otherwise. By the instant petition, petitioner seeks to remove the condition: "Said operations are restricted to transportation of shipments destined to the above-specified destination territory in Montana and Wyoming". Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 124190 (Notice of Filing of Petition To Add Additional Contracting Shipper), filed August 19, 1970. Petitioner: GRIFFIN MOBILE HOME TRANSPORTING COMPANY, a corporation, Oklahoma City, Okla. Petitioner's representative: David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Petitioner holds a permit in No. MC 124190 authorizing it to conduct operations as a motor contract carrier, over irregular routes, transporting: *House trailers*, between points in Oklahoma, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming. This service is limited to a transportation operation to be performed under continuing contracts with five named Oklahoma companies. By the instant petition, petitioner requests that Atkinson Enterprises of Midwest City, Okla., be added as a contracting shipper. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 124373 (Sub-No. 3), (Notice of Filing of Petition To Add Name of Shipper), filed September 4, 1970. Petitioner: NELMAR TRUCKING CO., a corporation, Perth Amboy, N.J. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds authority in No. MC 124373

Sub 3 to transport *carbonated beverages* (except in bulk), *advertising materials and displays*, from Union, N.J., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts with Custom Canners of Baltimore, Inc., headquartered at Columbus, Ga. By the instant petition, petitioner seeks to add the name of Shasta Beverages, a division of Consolidated Foods, Inc., as a contracting shipper. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 125763 (Notice of Filing of Petition for Modification of Permit to Substitute Shipper and Add Additional Contracting Shipper), filed September 8, 1970. Petitioner: SCHRANK HARVESTORE, INC., Wisconsin Rapids, Wis. Petitioner's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, Wis. 53705. Petitioner was issued a Permit in No. MC 125763 authorizing the transportation over irregular routes by motor contract carrier of: Iron and steel silos, glass lined, iron and steel grain storage bins, glass lined, and materials and accessories used in the construction and erection of iron and steel silos and iron and steel grain storage bins, animal waste storage tanks, knocked down, glass lined steel, livestock scales steel, knocked down, with weighing attachments, livestock feed bunker, glass lined steel, knocked down, forage meter device, animal waste spreader tanks, steel, spreader tanks, glass lined, and soil saver, steel glass lined, knocked down, between Kankakee, Ill., on the one hand, and, on the other, points in the Upper Peninsula of Michigan and points in that part of Wisconsin located north of the northern boundaries of Crawford, Richland, Sauk, Columbia, Dodge, Washington, and Ozaukee Counties, Wis., under a continuing contract, or contracts, with the following shippers: Fox Valley Harvestore, Inc., and West Wisconsin Harvestore, Inc. Being filed concurrently with this petition for modification is an application for transfer of Permit No. MC 125763 under section 212(b) of the Interstate Commerce Act naming Schrank Harvestore, Inc., as transferor and Gritz Transport, Inc., as transferee. By the instant petition, petitioner requests that the Permit in No. MC 125763 to be issued to Gritz Transport, Inc., be modified to the extent that it would be authorized to enter into a continuing contract, or contracts with Fox Valley Harvestore, Brave Harvestore, Inc., and Gritz Harvestore, Inc. No other modification of such permit is being requested. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 69833 (Sub-No. 98), filed July 29, 1970. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Rex Eames, 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities requiring special equipment, and household goods as defined by the Commission), between points in that area in the State of Illinois beginning at the Illinois-Wisconsin State line and junction Illinois Highway 83, thence via Illinois Highway 83 to junction Illinois Highway 59, thence via Illinois Highway 59 to junction U.S. Highway 12, thence via U.S. Highway 12 to junction Illinois Highway 60, thence via Illinois Highway 60 to junction Illinois Highway 31, thence via Illinois Highway 31 to junction Illinois Highway 176, thence via Illinois Highway 176 to junction Illinois Highway 47 to junction Illinois Highway 72, thence via Illinois Highway 72 to junction unnumbered highway, thence via unnumbered highway serving Burlington, Virgil, and Kaneville to junction Illinois Highway 30, thence via Illinois Highway 30 to junction unnumbered highway at Big Rock, thence via unnumbered highway serving Little Rock and Plano to junction U.S. Highway 34, thence via U.S. Highway 34 to junction Illinois Highway 47, thence via Illinois Highway 47 to junction Kendall and Grundy County line, thence easterly to junction Kendall-Grundy and Will County line to junction unnumbered highway at Diamond, thence via unnumbered highway to junction unnumbered highway and Illinois Highway 53, thence via unnumbered highway to junction Illinois Highway 113, thence via Illinois Highway 113 to junction Illinois Highway 17, thence via Illinois Highway 17 to junction Illinois Highway 114, thence via Illinois Highway 114 to Illinois-Indiana State line serving points on and within said boundary, and the off-route points of Hampshire, Fox, Helmar, and Minooka. NOTE: This application is directly related to MC-F-10882, published in the FEDERAL REGISTER issue of July 15, 1970, wherein Associated Truck Lines, Inc., seeks authority to purchase the operating rights of Canal Motor Service, Inc., a certificate of registration under MC 121411 (Sub-No. 1). Applicant intends to tack the requested authority at Chicago, Ill., and its commercial zone. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 74164 (Sub-No. 5) (Correction), filed August 6, 1970, published in the FEDERAL REGISTER, issue of August 27, 1970, and republished as corrected, this issue. Applicant: WEST FARMS EXPRESS, INC., 1062 Close Avenue, Bronx, N.Y. 10472. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities and explosives*, between points in the New York City, N.Y., commercial zone as fixed by the Interstate Commerce Commission, which transportation is under a common control management or arrangement for a continuous carriage or shipment by motor vehicle to or from a point without such zone; (2) *General commodities*, from New York City, N.Y., to points in Nassau County; (3) *empty drums and returned shipments*, on return; (4) *bowling alleys and billiard tables, parts, and supplies*, from points in Nassau County, N.Y. to New York City, N.Y. NOTE: Applicant states it intends to tack at New York, N.Y., with its other authorities. Applicant further states that the above authority is stated as set forth in Case MT 6376 of the New York Public Service Commission. The purpose of this republication is to show that this case is directly related to MC-F-10662. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 11207 (Sub-No. 299), filed September 9, 1970. Applicant: DEATON, INC., 317 Avenue W, Post Office Box 1271, Birmingham, Ala. 35201. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Atlanta, Ga., and Austell, Ga., from Atlanta over combined U.S. Highways 78 and 278 to Austell, serving no intermediate points and serving Austell for purposes of joinder only; and (2) between Gadsden, Ala., and junction U.S. Highways 278 and 231, from Gadsden over U.S. Highway 278 to junction U.S. Highway 231, serving all intermediate points within 65 miles of Birmingham, as off-route points. Restriction: Routes (1) and (2) above may not be tacked or combined with any regular-route authority presently held by Deaton to provide through service (a) between points in Alabama; or (b) between Atlanta, Ga., and Birmingham, Ala., or points within 65 miles of Birmingham, Ala., except Anniston, Curry, Jacksonville, Merrellton, Munford, Oxford, and Talladega, Ala. NOTE: This application is a matter directly related to MC-F-10945, published in the FEDERAL REGISTER issue of September 23, 1970. Applicant requests hearing on a consolidated record with the related application. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Los Angeles, Calif.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of application by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10071. (Supplemental Agreement) (MERCHANTS FAST MOTOR LINES INC.—PURCHASE (PORTION)—HERRIN TRANSPORTATION CO.), published in the March 20, 1968 issue of the FEDERAL REGISTER, on page 4769. By supplemental agreement filed September 14, 1970, applicants' have supplemented their petition for reconsideration of decision and order of November 12, 1969, by Division 3, by proposing an amendment to the application by which the authority of transferor sought to be purchased would be described as follows, in lieu of that described in notice published in FEDERAL REGISTER of March 20, 1968, applicants seek to include the following authority sought to be transferred: *Classes A and B explosives, general commodities*, except those of unusual value, baled cotton, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, and *government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquefied petroleum gases, as a *common carrier*, over regular routes, between Houston-Dallas-Fort Worth, Tex., via Hempstead, Waco, and Hillsboro, Tex., serving the intermediate point of Waco, Tex.: From Houston over U.S. Highway 290 to Hempstead, thence over Texas Highway 6 via Courtney, Navasota Bryan, Hearne, Calvert, Bremond, and Marlin, Tex., to Waco, Tex., thence over U.S. Highway 81 via Hillsboro, Tex., to Fort Worth, and return over the same route; and from Houston to Hillsboro, as specified above, thence over U.S. Highway 77 to Dallas, and return over the same route.

No. MC-F-10939. (MISSOURI TRANSIT LINES, INC.—Purchase—(Portion)—JEFFERSON LINES, INC.), published September 16, 1970, issue of the FEDERAL REGISTER on page 14525. Application filed September 17, 1970, for temporary authority under section 210a(b).

No. MC-F-10955. Authority sought for purchase by GILPIN COUNTY EXPESS & TRUCK LINE, INC., Post Office Box 303, Central City, Colo. 80427, of a portion of the operating rights of DENVER-CLIMAX TRUCK LINE, INC., 4250 Oneida Street, Denver, Colo. 80216, and for acquisition by EDWARD J. MONAHAN, LAVINIA R. MONAHAN, and PATRICK E. MONAHAN, all of Central City, Colo., of control of such rights through the purchase. Applicants' attorney: Herbert M. Boyle, 946 Metropolitan Building, Denver, Colo. 80202. Operating rights sought to be transferred: *General commodities*, except commodities in bulk in tank vehicles, commodities requiring special equipment and household goods as defined by the Commission, as a *common carrier* over regular routes, between Denver, Colo., and Leadville, Colo., serving all intermediate points west of the Continental Divide and the off-route points of Breckenridge and Montezuma, Colo., with restriction; *general commodities*, excepting, among others, classes A and B explosives, household goods and commodities in bulk, between Denver, Colo., and Idaho Springs, Colo., serving no intermediate points, between Denver, Colo., and Silver Plume, Colo., serving all intermediate points; *general commodities*, excepting, among others, dangerous explosives, commodities in bulk, but not excepting, household goods, serving the hydroelectric dam project of Public Service Co. of Colorado, located on Cabin Creek off U.S. Highway 6, approximately 5 miles south of Georgetown, Colo., as an off-route point in connection with carrier's presently authorized regular route operations between Denver, and Leadville, Colo., with restriction. Vendee holds no authority from this Commission. However, it is affiliated with PATRICK E. MONAHAN and LAVINIA R. MONAHAN, doing business as GILPIN COUNTY EXPRESS LINE, Post Office Box 303, Central City, Colo. 80427, which is authorized to operate as a *common carrier* in Colorado. Application has been filed for temporary authority under section 210a(b). NOTE: Outstanding certificate shows Leadville, Colo., and authority sought to purchase shows Frisco, Colo.

No. MC-F-10956. Authority sought for purchase by COLUMBIA RIVER TRUCK COMPANY, INC., Post Office Box 1001, Camas, Wash. 98607, of the operating rights and property of LAWRENCE E. WILSON, doing business as BLOOMQUIST TRUCK SERVICE, Post Office Box 823, Carson, Wash. 98610, and for acquisition by NATIONAL BANK OF COMMERCE OF SEATTLE (TRUSTEE), Post Office Box 3966, Seattle, Wash. 98124, and in turn GLENN BLAKE and MARJORIE BLAKE both of 502 Northwest Seventh, Camas, Wash. 98607, of control of such rights and property through the purchase. Applicants' attorney: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, Oreg. 97210. Operating rights sought to be transferred: *General commodities*, excepting, among other, dangerous explosives, household goods, but not excepting, commodities in bulk, as a *common carrier* over regular routes, between Portland, Oreg., and Home Valley, Wash. Vendee is authorized to operate as a *common carrier* in Oregon and Washington. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10957. Authority sought for purchase by ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901, a portion of the operating rights of COOK TRUCKING COMPANY, INC., Benton, Ark. 72015, and for acquisition by ARKANSAS BEST CORPORATION and in turn by J. B. SPEED, both of 301 South 11th Street, Fort Smith, Ark. 72901, of control of such rights through the purchase. Applicants' attorney: Tom Harper, Jr., Post Office Box 43, Kelley Building, Fort Smith, Ark. 72901. Operating rights sought to be transferred: *Lumber*, as a *common carrier*, over irregular routes, from Morrilton, Clarksville, and Searcy, Ark., to points in Oklahoma, Missouri, Kansas, Iowa, Wisconsin, Illinois, Indiana, and Ohio, and points in Texas on and east of U.S. Highway 83. Vendee is authorized to operate as a *common carrier* in Ohio, Texas, Indiana, Missouri, Illinois, Arkansas, Louisiana, Mississippi, Tennessee, Oklahoma, Wisconsin, Kansas, Iowa, New York, Pennsylvania, West Virginia, and Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10958. Authority sought for purchase by SAMMONS TRUCKING, Post Office Box 933, Missoula, Mont. 59801, of the operating rights and property of HENRY LAMBERT TRUCKING COMPANY, INC., 101 First Avenue NE., Minneapolis, Minn., and for acquisition by MYRON G. SAMMONS also of Missoula, Mont., of control of such rights and property through the purchase. Applicants' attorney: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Operating rights sought to be transferred: *Heavy industrial machinery and contractor's equipment, materials, and supplies*, as a *common carrier*, over irregular routes, between points and places in Minnesota, South Dakota, North Dakota, and Wisconsin. Vendee is authorized to operate as a *common carrier* in Washington, Idaho, Montana, North Dakota, South Dakota, Nebraska, Minnesota, Oregon, Iowa, Illinois, Wyoming, Utah, Wisconsin, Michigan, Colorado, Nevada, and California. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10959. Authority sought for purchase by THE AETNA FREIGHT LINES, INC., Post Office Box 350, 2507 Youngstown Road SE., Warren, Ohio 44482, of a portion of the operating rights and property of YATES TRUCK LINES, INC., Maud, Ky. 40042, and for acquisition by J. PHIL FELBURN, Post Office Box 427, Middletown, Ohio, of control of such rights and property through the purchase. Applicants' attorney: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods, but not excepting, commodities in bulk, as a *common carrier* over regular routes, between Valley Hill, Ky., and Louisville, Ky., serving all intermediate points and serving off-route points within 3 miles of the indicated portions of the highways specified, between Bloomfield, Ky., and Hickory Grove, Ky., serving all intermediate points and serving off-route points within 3 miles of U.S. Highway 62 between said points, between Chaplin, Ky., and junction Kentucky Highways 458 (formerly Kentucky Highway 431)

and 55, serving all intermediate points and serving off-route points within three miles of Kentucky Highway 458 between the described termini, between Louisville, Ky., and Bloomfield, Ky., serving all intermediate points and serving off-route points within 3 miles of the indicated portion of the highways specified, between junction Kentucky Highway 44 and U.S. Highway 31E and junction Kentucky Highway 44 and 55, serving all intermediate points and serving off-route points within 3 miles of Kentucky Highway 44 between the described termini. Vendee is authorized to operate as a *common carrier* in Michigan, Pennsylvania, West Virginia, Ohio, New York, Indiana, Illinois, Wisconsin, Kentucky, Alabama, Arkansas, Louisiana, Mississippi, and Tennessee. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10960. Authority sought for purchase by BRIGGS TRANSPORTATION CO., 2360 West County Road C, St. Paul, Minn. 55113, of a portion of the operating rights and certain property of RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver, Colo. 80216, and for acquisition by GEORGE E. BRIGGS and MICHAEL P. WARDWELL, both also of St. Paul, Minn., of control of such rights and certain property through the purchase. Applicants' attorneys: David Axelrod, 39 South La Salle Street, Chicago, Ill. 60603, Winston W. Hurd, 2360 West County Road C, St. Paul, Minn. 55113 and John F. Mueller, 3201 Ringsby Court, Denver, Colo. 80216. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Scottsbluff, Nebr., and Gordon, Nebr., serving all intermediate points, between Torrington, Wyo., and Gering, Nebr., serving all intermediate points, and the off-route points within 1 mile of Nebraska Highway 29 between Gering, and Scottsbluff, Nebr., between Lingle, Wyo., and Lusk, Wyo., serving the intermediate point of Jay Em, Wyo.; *general commodities*, excepting among others dangerous explosives, commodities in bulk, but not excepting household goods, between Lusk, Wyo., and Lance Creek, Wyo.; *general commodities*, between Denver, Colo., and Wyoming points, serving all intermediate points, and the off-route points of Yoder, Lagrange, and Huntley, Wyo.; and *general commodities*, between Guernsey, Wyo., and Sunrise, Wyo., serving all intermediate points, with restriction. Vendee is authorized to operate as a *common carrier* in Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Indiana, and Missouri. Application has been filed for temporary authority under section 210a (b).

No. MC–F–10961. Authority sought for purchase by BUANNO TRANSPORTATION CO., INC., Rural Delivery No. 1, Fort Johnson, N.Y. 12070, of the operating rights of BELLINGER TRANSPORTATION, INC., 20 Akin Street, Johnstown, N.Y. 12095, and for acquisition by HENRY BUANNO, also of Fort Johnson, N.Y., of control of such rights through the purchase. Applicants' representative: Julius Braun, 29 Nancy Drive, Troy, N.Y. 12180. Operating rights sought to be transferred: *Malt beverages*, as a *contract carrier* over irregular routes, from Philadelphia, Pa., and New York, N.Y., to Gloversville, N.Y.; *malt beverages*, in containers, from Baltimore, Md., to Gloversville, N.Y.; and *malt beverages*, in containers, and *advertising material* relating to malt beverages, from Williamanset, Mass., to Gloversville, N.Y., with restriction. Vendee is authorized to operate as a *common carrier in* New York, New Jersey, and Massachusetts. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10962. Authority sought for purchase by PEAKE TRANSPORT SERVICE, INC., Chester, Nebr. 68327, of the operating rights of DALE E. WEINER, doing business as WEINER TRUCK LINE, Post Office Box 156, Humboldt, Kans. 66748, and for acquisition by RAY PEAKE and DOROTHY A. PEAKE, also of Chester, Nebr., of control of such rights through the purchase. Applicants' attorney: Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. Operating rights sought to be transferred: *Livestock*, as a *common carrier*, over regular routes, from Kincaid, Kans., to Kansas City, Mo., serving the intermediate and off-route points of Kansas City, Kans., and those within 15 miles of Kincaid; *feed, agricultural implements and parts, hardware, twine, building material, fencing material, furniture, petroleum products* in containers, and *livestock*, from Kansas City, Mo., to Kincaid, Kans., serving the intermediate and off-route points of Kansas City, Kans., and those within 15 miles of Kincaid; *emigrant movables*, as a *common carrier* over irregular routes, between Kincaid, Kans., and points within 15 miles of Kincaid, on the one hand, and, on the other, points in Iowa, Missouri, and Nebraska; *livestock, grain, and hay*, from Blue Mound, Kans., and points within 15 miles thereof, to Kansas City, Kans., and Kansas City and North Kansas City, Mo.; *general commodities*, except those of unusual value, classes A and B explosives, groceries, food, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading, from Kansas City and North Kansas City, Mo., and Kansas City, Kans., to Blue Mound, Kans., and points within 15 miles thereof. Vendee is authorized to operate as a common carrier in Kansas, Nebraska, South Dakota, Iowa, Missouri, Illinois, North Dakota, Wisconsin, Minnesota, Colorado, Wyoming, Arkansas, Indiana, Michigan, Oklahoma, Texas, Kentucky, and Tennessee. Application has not been filed for temporary authority under section 210a(b). NOTE: This authority was transferred to DALE E. WEINER, doing business as WEINER TRUCK LINE, pursuant to order in MC–FC–70783 entered September 30, 1968, and consummated November 5, 1968.

No. MC–F–10963. Authority sought for purchase by OVERNITE TRANSPORTATION COMPANY, 1100 Commerce Road, Richmond, Va. 23224, of the operating rights and property of GEORGE MEADE TRANSFER COMPANY, Post Office Box 152, Neon, Ky., and for acquisition by J. HARWOOD COCHRANE, also of Richmond, Va., of control of such rights and property through the purchase. Applicants' attorneys: Eugene T. Liipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036 and Rudy Yessin, McClure Building, Frankfort, Ky. 40601. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–120744 Sub 1, covering the transportation of general commodities, as a *common carrier*, in interstate commerce within the State of Kentucky. Vendee is authorized to operate as a *common carrier* in North Carolina, Tennessee, South Carolina, Georgia, Virginia, West Virginia, Kentucky, Minnesota, Mississippi, Pennsylvania, New York, and Alabama. Application has been filed for temporary authority under section 210a(b). NOTE: MC–109533 Sub 42, is a matter directly related.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70–13050; Filed, Sept. 29, 1970; 8:51 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

SEPTEMBER 25, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by § 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. A–1632, filed September 4, 1970. Applicant: RED ARROW FREIGHT LINES, INC., P.O. Box 1897, 3901 Seguin Road, San Antonio, Tex. 78206. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202. Certificate of public convenience and necessity sought to operate a freight service, applicant seeks to purchase from Illinois-California Express, Inc. as follows: (Old Certificate 20005.) To operate: From Lubbock to Lorenzo via Idalou, Tex. (Old Certificate 2163.) To operate: From Lubbock to Ralls via Idalou. (Old Certificate

2156.) To operate: From Dallas and Fort Worth to Amarillo via all intermediate points; Dallas to Fort Worth over State Highway 1 (U.S. Highway 80), and over State Highway 183 as an alternate: Dallas to Rhome over State Highway 114; Fort Worth to Rhome and from Rhome to Bowie over State Highway 2 (U.S. Highway 81); from Bowie to Henrietta over State Highway 5 (U.S. Highway 287); Henrietta to Amarillo over State Highway 5 (U.S. Highway 287) via Wichita Falls, Tex.: Fort Worth to Jacksboro over State Highway 199, 34, and 66, and U.S. Highway 281; Jacksboro to Wichita Falls over State Highway 66 and U.S. Highway 281; serving all intermediate points except as specifically restricted herein, coordinating such service with the service rendered under other certificates shown in the application. The applicant is restricted from rendering any common carrier service to the towns of Scotland, Winthorst, Antelope, Jacksboro, Azle, Springtown and other intermediate points between Wichita Falls and Fort Worth via Jacksboro, Henrietta, Jolly, Bellvue, Bowie, Alvord, Decatur, Rhome, Saginaw and other intermediate points between Wichita Falls and Fort Worth via Decatur, Rhome, Grapevine and other intermediate points between Rhome and Dallas via Grapevine. Between Fort Worth and Dallas over State Highway 183 serving all intermediate points including the sites of Dallas Airmotive plant and the Menasco manufacturing plants by using any access or approach roads to such plants which intersect State Highway 183 and coordinating the service over the proposed route with schedules and services over existing routes of applicant. To transport: Property for hire over the toll road between Dallas and Fort Worth (Texas Turnpike Authority) serving all points which it is presently authorized to serve and to use all access roads to and from such turnpike; This is an alternate route and cannot be transferred except with the primary authority;

Alternate route: From Dallas to Denton over U.S. Highway 77, thence to Decatur over State Highway 24, serving no intermediate points on said routes located between Dallas and Wichita Falls. To transport: General commodities between: (A) Dallas, Tex., and the following points: (1) University Park and (2) Highland Park over Texas Highway 289; (3) Richardson over U.S. Highway 75; (4) Garland over Texas State Highway 78; (5) Mesquite over U.S. Highway 80; (6) Grand Prairie over U.S. Highway 80; (7) Duncanville over U.S. Highway 67 to its intersection with Camp Wisdom Road, thence over Camp Wisdom Road to Duncanville; (8) Woodland Hills over U.S. Highway 67; (9) Rylie over U.S. Highway 175; (10) Alta Mesa over Texas State Highway 342; (11) Farmers' Branch over U.S. Highway 77; (12) Carrollton over U.S. Highway 77; (13) Addison over Texas State Highway 289; (14) Buckingham over U.S. Highway 75 to Municipal Streets, thence over Municipal Streets to Buckingham; (15) Irving over Texas State Highways 183 and 356 and over Loop 12; (16) Cockrell Hill over U.S. Highway 80 and Municipal Streets; (17) Balch Springs over U.S. Highway 175 to Elam Road, thence over Elam Road to Balch Springs; (18) Fruit Dale over U.S. Highway 75 and Loop 12; (19) Arcadia Park over U.S. Highway 80; (B) Fort Worth, Tex., and the following points: (1) Bendrook over U.S. Highway 377; (2) Edgecliff over Texas State Highway 731 and James Street; (3) Forest Hill over U.S. Highway 287; (4) Urban Compact No. 3 over U.S. Highway 287 to Wrey Crest, thence over Wrey Crest to Urban Compact No. 3; (5) Urban Compact No. 2 over U.S. Highway 87 to Forest Hill Road, thence over Forest Hill Road to Urban Compact No. 2; (6) Urban Compact No. 4 over U.S. Highway 287 to Forest Hill-Everman Road, thence over Forest Hill-Everman Road to Urban Company No. 4; (7) Kennedale over U.S. Highway 287.

(8) Lake Worth Village over Texas State Highway 199; (9) North Richland Hills over U.S. Highway 377 and Texas State Highway 121; (10) Richland Hills over U.S. Highway 377, Texas State Highways 121 and 183; (11) Haltom City over U.S. Highway 377; (12) West Richland Hills over U.S. Highway 377; (13) Saginaw over U.S. Highway 81; (14) Urban Compact No. 1 over Texas State Highway 183 to its intersection with Watauga Road, thence over Watauga Road to Urban Compact No. 1; (15) Westover Hills over U.S. Highway 377 and Municipal Streets; (16) Sansom Park Village over Texas State Highway 199; (17) River Oaks over Texas State Highways 199 and 183; (18) Westworth over White Settlement Road and Texas State Highway 183; (19) White Settlement over Texas State Highways 550 and 183; (20) Everman over U.S. Highway 287 to its intersection with Forest Hill-Everman Road, thence over Forest Hill-Everman Road to Everman. Applicant proposes to coordinate its operations over the above routes with the service presently being rendered by the applicant under existing certificates, and to serve intermediate points and industries over such routes and to operate between all points named on above routes, using all streets and highways necessary to perform such operations.

(Old Cert. 2147) to operate: from Lubbock to Crosbyton via Ralls and Lorenzo. (Old Cert. 2391) to operate: from Childress to Quitaque via Turkey and Estelline, and from Childress to Amarillo via Memphis and Estelline. (Old Cert. 2462) to operate: Between Stamford and Knox City over U.S. Highway No. 380 to its intersection with State Highway No. 283, serving Rule, Rochester and all intermediate points. (Old Cert. 2598) to operate: Between Stamford and Wichita Falls, Tex., over U.S. Highway 277, via Haskell and Seymour. The holder of this certificate is restricted from picking up and delivering property between Haskell and Stamford, but it is authorized to carry through these points from Wichita Falls and intermediate points. (Old Cert. 2665) to operate: from Lubbock to Wichita Falls via Lorenzo, Ralls, Floydada, Matador, Paducah, and Vernon. From Ralls to Matador via Roaring Springs and Dickens—serving only Dickens and Roaring Springs. This certificate holder is also authorized to operate from Wichita Falls to Lubbock over an alternate route between Wichita Falls and Dickens via Seymour, Benjamine, and Guthrie, but is prohibited from rendering any service to Seymour and intermediate points between Seymour and Wichita Falls on freight originating in Wichita Falls or originating in Lubbock or originating in Seymour and intermediate points between Seymour and Wichita Falls. *Restrictions:* From Wichita Falls to Lubbock serving all intermediate points out of Wichita Falls, on the route via Vernon, Paducah and Matador, but restricted from serving any points between Floydada and Lubbock except in the transportation of shipments originating at or being destined to points east of Floydada. The object of this restriction is to prohibit the carrier from transporting local shipments from Floydada to Lubbock or any of the intermediate points.

From Lubbock to Wichita Falls on the route via Matador, Paducah and Vernon, but restricted from serving any points out of Lubbock to Floydada, and from Floydada to Lubbock. These restrictions, however, do not apply to Cert. No. 2665 purchased from J. A. Allred. (Old Cert. 2671) to operate: Over U.S. Highway 87 between Amarillo, Tex., and Plainview, Tex., as an alternative route, for the purpose of serving the towns of Lockney, Floydada, Matador, Paducah, Crowell, Thalia, Ralls, Crosbyton, Dickens, Guthrie, Benjamin, and Seymour from Amarillo, Tex., and vice versa, coordinating the service with the service now being rendered over other routes of the applicant. The carrier is prohibited from using U.S. Highway No. 87 between Amarillo and Plainview in transporting either in intrastate or interstate commerce, commodities between Amarillo and Plainview or between Amarillo and Lubbock. (Old Cert. 2756) to operate: From Wichita Falls to Breckenridge via Archer City, Olney, New Castle, Graham, South Bend, and Ivan over State Highways 79, 251, 24 and 67; and from New Castle to Throckmorton over State Highway 24; and from Olney to Graham over an unnumbered county road via Jean, serving all intermediate points, but prohibited from serving Jean; and from Olney to Throckmorton via Elbert and Padgett; and from Breckenridge to South Bend via Eliasville over State Highway 67 and a county road. The carrier is restricted from serving Breckenridge by interchange or otherwise on shipments originating at Forth Worth or Dallas; and the carrier is also restricted from soliciting, picking up, and transporting shipments originating at Breckenridge destined to Forth Worth and Dallas.

Between Abilene and Throckmorton via Albany over State Highway No. 351 from Abilene to Albany, and U.S. Highway 183 from Albany to Throckmorton, rendering a daily overnight service, and coordinating this service with the other services of applicant, but prohibited from

serving Breckenridge out of Abilene and Albany, and Albany out of Abilene and Breckenridge; and further prohibited from serving Abilene on freight originating at Wichita Falls. An alternate route from the intersection of U.S. Highway 281, at a point south of Windthorst, Tex., with Farm-to-Market Road 61, thence to Graham, Tex., over Farm-to-Market Road 61 via Loving, serving Loving on said alternate route, which point applicant is already authorized to serve, but serving no points not now authorized to be served by existing certificates, and coordinating the alternate route with services now being rendered under existing certificates. (Old Cert. 2780) over Highway 4 from Childress to Paducah and from Quanah to Paducah, via County Road. (Old Cert. 2841) from Wichita Falls to Memphis via Quitaque, Childress, and Estelline. (Old Cert. 2853) from the Texas-New Mexico State line at Farwell to Amarillo, Tex., over Federal Highway 60, and return. (Old Cert. 3061) between Wichita Falls and Stamford over U.S. Highway 277. (Old Cert. 3108) to operate from: Jacksboro to Seymour via Olney, serving all intermediate points, but the applicant is restricted from rendering any common carrier service to the town of Jacksboro, over State Highway No. 199 and U.S. Highway No. 281, with authority to coordinate service authorized hereunder with the service being rendered under its other certificates.

An alternate route between Jacksboro and Graham over State Highway 24, serving no points not now authorized to be served under existing certificates, but proposing to coordinate the service over this alternate route with the services being operated under existing certificates. (Old Cert. 3180) from Wichita Falls, Tex., to Sheppard Field and the Wichita Falls Airport, and/or Kell Field over U.S. Highways Nos. 277 and 281 to their intersection with an unnumbered county road, thence over said unnumbered county road to Sheppard Field and the Wichita Falls Airport and/or Kell Field. (Old Cert. 3180–B) from Vernon, Tex., to the Texas-Oklahoma State line, via Fargo and North-Side School, over U.S. Highway No. 283. (Old Cert. 3262) to operate from Vernon to Victory Field, approximately 5.5 miles south of Vernon next to and adjoining State and U.S. Highways 183 and 283, using such highways from Vernon, also, such unnumbered and county highways that run from the above highways to Victory Field, as well as all county highways running through such field, or connecting the field with State and U.S. Highways 183 and 283; also from Vernon to the Vernon Airport, approximately 5 miles north of Vernon on State Highway 23, using such highway as well as county highways serving Vernon Airport located within or without the boundries of such airport, and which connect with, or over which it is required to connect with State Highway 23; and also from Lubbock, over U.S. Highway 290 an extension of Fourth Street running from the city of Lubbock and all unnumbered State highways or county highways surrounding Twin Engine School, located approximately 11 miles from the city of Lubbock, as well as those highways located within the boundries of such school, coordinating this service with the service now being rendered by the applicant under its existing certificates. The applicant is prohibited, under this authority, from serving the town of Hurlwood, Tex.

(Old Cert. 3513) to transport: General commodities, from Plainview to Olton over U.S. Highway 70; from Olton to Hart over unnumbered county road; from Plainview to Dimmitt via Hart over State Highway 194; from Plainview to Petersburg over paved county road; from Floydada to Silverton over State Highway 207; from Silverton to Quitaque over State Highway 86; from Plainview to Matador via Lockney and Floydada over U.S. Highway 70; from Matador to Roaring Springs over U.S. Highway 62. (Old Cert. 3588) to operate: From Throckmorton to Breckenridge via Woodson. The carrier is restricted from serving Breckenridge by interchange or otherwise on shipments originating in Fort Worth or Dallas. The carrier is also restricted from soliciting, picking up, or transporting shipments originating at Breckenridge destined to Fort Worth and Dallas. (Old Cert. 3599) between Abilene and Stamford over U.S. Highway 277, serving no intermediate points. (Old Cert. 3611) to operate: Between Seymour and Haskell via Throckmorton, serving Throckmorton, using U.S. Highway 183 from Seymour to Throckmorton, and Texas Highway 24 from Throckmorton to Haskell, and coordinating said service with existing services between Haskell and Seymour on the one hand, and, on the other, points reached by existing routes and services of the holder of this certificate. (Old Cert. 3630) to operate: From Benjamin, Tex., to Knox City, Tex., and return over State Highway No. 283 with authority to use Highway No. 222 between Munday, Tex., and Knox City, Tex., as an alternate route; coordinating the proposed service with existing service now authorized under its several common carrier motor carrier certificates.

(Old Cert. 3695) To transport: General commodities tendered to the holder of this certificate by consignors in Abilene, Tex., destined to consignees in Rule, Rochester, O'Brien, or Knox City, Tex., over U.S. Highway No. 277 from Abilene to Stamford; or general commodities tendered to the holder of this certificate by consignors in Rule, Rochester, O'Brien, or Knox City, Tex., destined to consignees in Abilene, Tex., over U.S. Highway No. 277 from Stamford to Abilene. The holder of this certificate is prohibited from transporting any freight tendered to it through interchange with another carrier at any named point over U.S. Highway No. 277 between Abilene and Stamford. (Old Cert. 3745) to transport: General commodities from Dimmit, Tex., over State Highway 51 to Hereford, Tex., and vice versa, but the carrier is prohibited from transporting any freight originating in Amarillo or received by interline arrangement in Amarillo, Tex., destined to Hereford, Tex., or to pick up any freight in Hereford, Tex., destined to Amarillo, Tex., or to points beyond Amarillo through interline; to operate an alternate route between Hereford and Amarillo over U.S. Highway 60 to Canyon, thence over U.S. Highway 87 to Amarillo, authorizing transportation of only fresh produce and/or unprocessed agricultural commodities moving in intrastate commerce over this route to Amarillo, thence over U.S. Highway 287 from Amarillo to Wichita Falls, Dallas and Fort Worth, and coordinating said service at Wichita Falls with existing service, rendering no service to Amarillo from Hereford over said route and serving no new points.

(Old Cert. 3754) to operate: Between Abilene and Stamford over U.S. Highway No. 277, serving no intermediate points and coordinating with all service of the carrier by connections at Stamford, but restricted: (1) From transporting any freight originated or received at Dallas or Fort Worth destined to or through Abilene, or at Abilene destined to or through Dallas or Fort Worth over this route; (2) from picking up freight at Abilene or receiving connecting line freight destined to consignees in Stamford; (3) from originating freight at Stamford destined to consignees in Abilene or for interline to move beyond Abilene; and (4) from originating freight in Wichita Falls to Abilene. (Old Cert. 3811) to operate empty trucks only between Amarillo and Hereford, Tex., over U.S. Highways Numbers 87 and 60. (Old Cert. 4127) to operate: Over U.S. Highway 66 west of the Amarillo city limits, serving the U.S. helium plant. (Old Cert. 4157) to transport: General commodities (1) From Abilene over Texas Highway 351 to its intersection with Farm-to-Market Road 1082, thence over Farm-to-Market Road 1082 to area of Intercontinental Ballistic Missile Site 1, commonly referred to as "Fort Phantom Lake Site." (2) From Abilene over U.S. Highway 80 to its intersection with Farm-to-Market Road 604 near Clyde, thence over Farm-to-Market Road 604 to its intersection with Farm-to-Market Road 18, thence over Farm-to-Market Road 18 to Intercontinental Ballistic Missile Site 2 at a point southwest of Baird;

(3) From Abilene over Farm to Market Road 36 to Denton community, thence over Farm to Market Road 604 (and also from intersection of unnumbered road with Farm to Market Road 36 over unnumbered road) to Intercontinental Ballistic Missile Site 3, north of Denton community; (4) from Abilene over U.S. Highway 83 to its intersection with U.S. Highway 84, thence over U.S Highway 84 to its intersection with Farm to Market Road 604, thence over Farm to Market Road 604 to Intercontinental Ballistic Missile Site 4, east of Lawn; (5) from Abilene over U.S. Highway 83 to Intercontinental Ballistic Missile Site 5, known as the "Bradshaw Site"; (6) from Abilene over U.S. Highway 277 to Intercontinental Ballistic Missile Site 6, known as the "Shep Site"; (7) from Abilene over U.S. Highway 277 to its intersection with Farm to Market Road 53, thence

over Farm to Market Road 53 to its intersection with Farm to Market Road 126, thence over Farm to Market Road 126 (also from Abilene over U.S. Highway 80 to Merkel, thence over Farm to Market Road 126) to Intercontinental Ballistic Missile Site 7, northeast of Nolan; (8) from Abilene over U.S. Highway 80 to its intersection with Farm to Market Road 707, thence over Farm to Market Road 707 (also from Abilene over U.S. Highway 83 to its intersection with unnumbered road, thence over unnumbered road in a westerly direction) to Intercontinental Ballistic Missile Site 8, south of Anson; (9) from Abilene over U.S. Highway 277 to Corinth, thence over Farm to Market Road 1636 to Intercontinental Ballistic Missile Site 9, near Corinth; (10) from Abilene over U.S. Highway 80 to Baird, thence over U.S. Highway 283 to intersection with unnumbered county road at a point south of Albany, thence over unnumbered county road to Intercontinental Ballistic Missile Site 10, located at a point south of Albany; (11) from Abilene over Texas Highway 36 to its intersection with Farm to Market Road 1178, thence over Farm to Market Road 1178 to intersection with Farm to Market Road 604 (also from Abilene over Texas Highway 36 to intersection with Farm to Market Road 604) thence over Farm to Market Road 604 to Intercontinental Ballistic Missile Site 11 at a point northeast of Oplin;

(12) From Abilene over U.S. Highway 83 to Winters, thence over Farm-to-Market Road 1770 to unnumbered county road, thence over unnumbered county road (also from Abilene over U.S. Highway 83 to its intersection with unnumbered county road or roads, thence over unnumbered county roads to intersection with Farm-to-Market Road 1770 to intersection with unnumbered road, thence over unnumbered road) to Intercontinental Ballistic Missile Site 12 located adjacent to Lake Winters at a point east of Winters; coordinating the service with all service of applicant and other carriers, and serving no intermediate points, but tacking such authority at points of joinder or common points with other authority of applicant, so as to render a fully coordinated service in conjunction with all other routes of applicant on a coordinated basis, effecting a network of operations from the aforementioned routes, returning over the same routes. (Old Cert. 4172) General commodities between the junction of U.S. Highways 82–62 and Ranch Road 400 near Idalou, Tex., and the junction of Ranch Road 54 and Ranch Road 400, approximately 6 miles west of Petersburg, as follows: From the junction of U.S. Highways 82–62 and Ranch Road 400, over Ranch Road 400 to intersection with Ranch Road 54, and return over the same route, serving all intermediate points, tacking such authority at points of joinder with other authority of applicant so as to render a fully coordinated service in conjunction with all other routes of applicant. Amendment to Consolidated Certificate 2005:

General commodities between Amarillo, Tex., and Hereford, Tex.: From Amarillo over U.S. Highway 60 to Hereford and return over the same route, serving no intermediate points, and restricted against serving Hereford proper on traffic originating at or destined to points on U.S. Highway 287 west of Wichita Falls to and including Amarillo, and tacking, joining and combining this authority with other existing authority for rendering a coordinated and through service both by tacking and by interchange with other authorized carriers, except no interchange with other authorized carriers is authorized at Amarillo. Both intrastate and interstate authority sought.

HEARING: Approximately 30 days after publication in the FEDERAL REGISTER. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Railroad Commission of Texas, Ernest O. Thompson Building, Austin, Tex. 78711, and should not be directed to the Interstate Commerce Commission.

State Docket No. 3908, filed September 11, 1970. Applicant: OAKLEY TRANSFER & STORAGE CO., 1011 Sawmill Road NW., Albuquerque, N. Mex. Applicant's representative: Smith & Piper, Simms Building, Albuquerque, N. Mex. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Interstate Commerce Commission, commodities in bulk and those requiring special equipment), (1) between points and places in San Juan, Colfax, Mora, Quay, Curry, Union, De Baca, Harding, and Roosevelt Counties, N. Mex., and (2) between points and places in Bernalillo, McKinley, Valencia, Socorro, Guadalupe, San Miguel, Santa Fe, Taos, Rio Arriba, Los Alamos, Sandoval, and Torrance Counties, N. Mex., on the one hand, and, on the other, points and places in San Juan, Colfax, Mora, Quay, Curry, Union, De Baca, Harding, and Roosevelt Counties, N. Mex. Both intrastate and interstate authority sought.

HEARING: Tuesday December 1, 1970, at 9:30 a.m. at the New Mexico Motor Carrier Association Building, 1500 Hannett NE., Albuquerque, N. Mex. Written notice of intent to protest this application must reach the office of the State Corporation Commission, Motor Carrier Division, Post Office Drawer 1269, Santa Fe, N. Mex. 87501, at least 5 days prior to the hearing date, and should not be directed to the Interstate Commerce Commission. Copy of such protest shall also be mailed to the applicant.

State Docket No. 8085, filed September 11, 1970. Applicant: OAKLEY TRANSFER & STORAGE CO., 1011 Sawmill Road NW., Albuquerque, N. Mex. Applicant's representative: Smith & Piper, Simms Building, Albuquerque, N. Mex. Applicant applies for an amendment to its existing Certificate of Public Commerce and Necessity No. 8085 which now authorizes a common motor carrier service, over irregular routes and under nonscheduled service, for the transportation of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Interstate Commerce Commission, commodities in bulk and those requiring special equipment) between points in Bernalillo, McKinley, Valencia, Socorro, Guadalupe, San Miguel, Santa Fe, Taos, Rio Arriba, Los Alamos, Sandoval, and Torrance Counties, N. Mex., restricted to the transportation of package or articles each weighing not more than 100 pounds and restricted against service between Belen and Albuquerque unless otherwise authorized, which certificate is restricted with the Interstate Commerce Commission pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended, under Certificate of Registration No. 129035 (Sub-No. 3); and the amendment to said certificate hereby applied for is to eliminate any and all restrictions to package or articles each weighing not more than 100 pounds and so as to now authorize transportation of general commodities with the States exceptions between the designated points without any restrictions as to size or weight. Both intrastate and interstate authority sought.

HEARING: Tuesday, December 1, 1970 at 9:30 a.m. at the New Mexico Motor Carrier Association Building, 1500 Hannett NE., Albuquerque, N. Mex. Written notice of intent to protest this application must reach the office of the State Corporation Commission, Motor Carrier Division, Post Office Drawer 1269, Santa Fe, N. Mex. 87501, at least 5 days prior to the hearing date, and should not be directed to the Interstate Commerce Commission. Copy of such protest shall also be mailed to the applicant.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-13047; Filed, Sept. 29, 1970; 8:50 a.m.]

[Notice 595]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 25, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72343. By order of September 21, 1970, the Motor Carrier Board approved the transfer to Litchfield's Express, Inc., Cohasset, Mass., of certificate of registration No. MC-99527 (Sub-No.

1) issued January 15, 1964, to Louis E. Salvador, doing business as Litchfield's Express, Cohasset, Mass., evidencing a right to engage in interstate or foreign commerce in the transportation of: General commodities, solely within the State of Massachusetts. George W. McLaughlin, 19 Milk St., Boston, Mass. 02109, attorney for applicants.

No. MC-FC-72361. By order of September 18, 1970, the Motor Carrier Board approved the transfer to Donald K. Leedom, doing business as Larry's Delivery Service, Twin Falls, Idaho, of certificate of registration No. MC-121394 (Sub-No. 1) issued May 10, 1968, to Ruby Matson, doing business as Larry's Delivery Service, Twin Falls, Idaho, evidencing a right to engage in interstate or foreign commerce, transporting packages, limited as to size and weight, between specified points in Idaho. H. N. Jewell, 214 Shoshone Street, East Twin Falls, Idaho 83301, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-13046; Filed, Sept. 29, 1970; 8:50 a.m.]

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