

FEDERAL REGISTER

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Agency for International Development
Agricultural Research Service
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Civil Aeronautics Board
Civil Service Commission
Coast Guard
Commodity Credit Corporation
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Presidential Proclamations and Executive Orders 1936-1969

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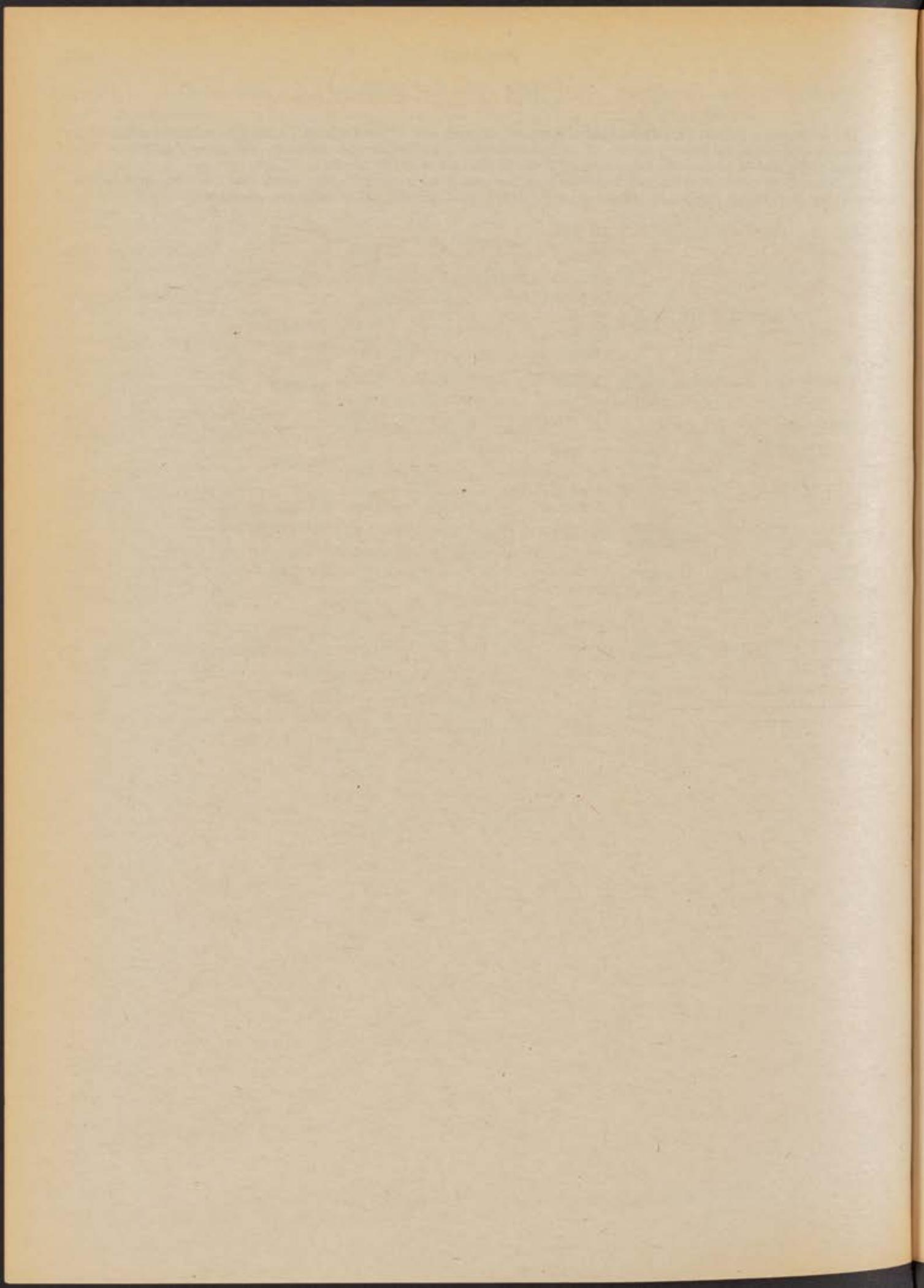
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NATIONAL FOREST PRODUCTS WEEK, 1970

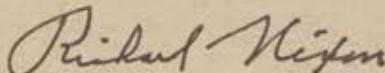
By the President of the United States of America

A Proclamation

In order to recognize and emphasize the importance of forest resources and forest products to the nation, the Congress has by the joint resolution of September 13, 1960 (74 Stat. 898) designated the seven-day period beginning on the third Sunday of October in each year as National Forest Products Week, and has requested the President to issue an annual proclamation calling for the observance of that week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby call upon the people of the United States to observe the week beginning October 18, 1970, as National Forest Products Week, with activities and ceremonies designed to direct public attention toward, and demonstrate our gratitude for, the forest resources with which we have been so abundantly blessed and for their contributions to our material, emotional and spiritual advantages.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of October, in the year of our Lord nineteen hundred seventy, and of the Independence of the United States of America the one hundred ninety-fifth.



[F.R. Doc. 70-13654; Filed, Oct. 7, 1970; 2:00 p.m.]

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Chapter I—Civil Service Commission

PART 870—REGULAR LIFE INSURANCE

PART 871—OPTIONAL LIFE INSURANCE

Correction of Error, Mistake, or Omission

Parts 870 and 871 are hereby amended to provide authority for the Bureau of Retirement, Insurance and Occupational Health to correct certain types of errors or omissions when appropriate.

1. Effective on publication in the FEDERAL REGISTER § 870.102 is added as set out below:

§ 870.102 Correction of an error, mistake, or omission.

The Bureau of Retirement, Insurance, and Occupational Health may order correction of an error, mistake, or omission upon a showing satisfactory to the Bureau that it would be against equity and good conscience not to do so.

2. Effective on publication in the FEDERAL REGISTER § 871.103 is added as set out below:

§ 871.103 Correction of an error, mistake, or omission.

The Bureau of Retirement, Insurance, and Occupational Health may order correction of an error, mistake, or omission upon a showing satisfactory to the Bureau that it would be against equity and good conscience not to do so.

(5 U.S.C. 8716)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[P.R. Doc. 70-13582; Filed, Oct. 8, 1970;
8:50 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Imported Fire Ant

QUARANTINE RESTRICTION ON INTERSTATE MOVEMENT OF SPECIFIC ARTICLES

Pursuant to sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162,

150ee), § 301.81(a) of Notice of Quarantine No. 81 relating to the imported fire ant (7 CFR 301.81(a)) is hereby revised to read as follows:

§ 301.81 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the Secretary of Agriculture has determined, after public hearings, that it is necessary to quarantine the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas, in order to prevent the spread of the imported fire ant (*Solenopsis saevissima richteri* Forel), a dangerous insect injurious to cultivated crops, not theretofore widely prevalent or distributed within and throughout the United States. Under the authority of said provisions, the Secretary hereby quarantines the State of North Carolina and continues to quarantine the other specified States with respect to the interstate movement from the quarantined States of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 P.R. 16210, as amended, 33 P.R. 15485)

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

Pursuant to a notice of hearing and rulemaking published in the FEDERAL REGISTER on July 9, 1970 (35 P.R. 11027), a public hearing was held in Beaufort, N.C., regarding quarantining the State of North Carolina on account of the imported fire ant. After due consideration of all relevant material including that presented at the hearing and responses to the notice, it has been decided to add North Carolina to the list of States quarantined because of the imported fire ant.

This revision imposes restrictions that are necessary in order to prevent the dissemination of the imported fire ant and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that further notice and other public procedure with respect to this 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 at Washington, D.C., this 6th day of October 1970.

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

[P.R. Doc. 70-13583; Filed, Oct. 8, 1970;
8:50 a.m.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Imported Fire Ant

REGULATED AREAS

Under the authority of § 301.81-2 of the Imported Fire Ant Quarantine regulations (7 CFR 301.81-2, as amended), a supplemental regulation designating regulated areas is hereby issued to appear in 7 CFR 301.81-2a as follows:

§ 301.81-2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as imported fire ant regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

FLORIDA

(1) *Generally infested areas—Alachua County.* That portion of the county lying north of the north line of T. 8 S., except the corporate limits of the city of High Springs; and T. 10 S., R. 20 E.

Bradford County. That portion of the county lying north of the north line of T. 8 S.

Charlotte County. That portion of the county lying west of the west line of R. 25 E.

Citrus County. The entire county.

Clay County. That portion of the county lying north of the north line of T. 8 S.

Columbia County. That portion of the county lying between the south line of T. 1 S. and the north line of T. 5 S.

Flagler County. That portion of the county lying east of U.S. Highway 1 south to its intersection with the north line of T. 12 S., thence east along the north line of T. 12 S. to the east line of R. 30 E., thence south to the north line of T. 13 S., thence east along said line to the Volusia County line.

Hardee County. The entire county.

Hillsborough County. The entire county.

Lake County. That portion of the county lying south of the north line of T. 20 S.; and that portion of the county beginning at the southwest corner of sec. 35, T. 19 S., R. 27 E., thence north along the west line of sec. 35 to its intersection with State Highway

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46, thence generally east along said highway to the east line of R. 27 E., thence north along said line to the south line of T. 17 S., thence east along said line to its intersection with the west line of R. 29 E., thence north to the south line of T. 16 S., thence east to the Volusia County line.

Manatee County. The entire county.

Marion County. S $\frac{1}{2}$, T. 12 S., and all of T. 13 S., R. 20 E.; SW $\frac{1}{4}$, T. 12 S., W $\frac{1}{2}$ and SE $\frac{1}{4}$, T. 13 S.; Tps. 14 and 15 S., R. 21 E.; and S $\frac{1}{2}$, T. 13 S., and T. 14 S., R. 22 E., including the city of Reddick; and that portion of the county lying within T. 17 S., west of the east line of R. 20 E.

Osceola County. That portion of the county lying west of the east line of R. 30 E., south to the north line of T. 28 S., thence east along said township line to the east line of R. 31 E., thence south along said line to the south line of T. 29 S., thence west along said line to the Osceola-Polk County line.

Pinellas County. The entire county.

St. Johns County. The entire county except that portion lying within Tps. 8, 9, and 10 S., R. 28 E.

Union County. The entire county.

Volusia County. That portion of the county lying west of the east line of R. 33 E., north to its intersection with the north line of T. 19 S., thence west along said line to its intersection with the west line of R. 33 E., thence north to its intersection with the south line of T. 17 S., thence east to the west line of R. 33 E., thence north to the south line of T. 15 S., thence west to the east line of R. 30 E., thence south to the southeast corner of sec. 13, T. 16 S., R. 30 E., thence west along the south line of secs. 13, 14, 15, 16, 17, and 18, T. 16 S., R. 30 E., to the east line of T. 29 E., thence south to the north line of T. 17 S., thence west to the Lake County line.

GEORGIA

(1) *Generally infested areas.* * * *

Butts County. That portion of the county lying within Buttrill Georgia Militia District 615, Jackson Georgia Militia District 612, Towaliga Georgia Militia District 610, and Goodys Georgia Militia District 613.

Clayton County. The entire county.

Coweta County. That portion of the county lying within Georgia Militia Districts 1711, 693, 1139, 806, 1358, 1393, and 691.

De Kalb County. The entire county.

Fayette County. The entire county, except Georgia Militia District 624.

Fulton County. That portion of the county lying in the corporate limits of Hapeville, College Park, East Point, and Atlanta; that portion of the county lying north of the corporate limits of Atlanta to the Chattahoochee River; and that portion of the county lying within Georgia Militia Districts 1204, 1725, 499, 479, and 1762.

Gwinnett County. That portion of the county lying south and west of Georgia Highway 120 and Georgia Highway 124, including all of the area in the corporate limits of Snellville, Lawrenceville, and Duluth.

Henry County. The entire county.

Lanier County. That portion of the county lying west of State Highway 135, including the town of Lakeland.

Lowndes County. The entire county.

Rockdale County. The entire county, except Georgia Militia District 475.

Spalding County. The entire county, except Georgia Militia District 490.

Talbot County. The entire county.

(2) *Suppressive areas.—Applying County.* That portion of the county lying north of Georgia Highway 144 and west of Georgia Highway 15, including the town of Baxley and all of Georgia Militia District 583.

Atkinson County. The entire county.

Bacon County. That portion of the county lying west of Georgia Militia District 1731 and Ten Mile Creek.

Berrien County. The entire county.

Camden County. The entire county.

Charlton County. The entire county.

Clinch County. That portion of the county lying within Georgia Militia Districts 1389 and 1141.

Columbia County. That portion of the county lying within Georgia Militia District 129.

Glynn County. The entire county.

Jasper County. That portion of the county lying within Georgia Militia District 364.

Johnson County. That portion of the county lying within Georgia Militia Districts 1301, 1202, and 1405.

Long County. The entire county.

McIntosh County. That portion of the county lying within Georgia Militia Districts 1480, 1514, 1771, 271, and 1515.

Montgomery County. The entire county.

Newton County. That portion of the county lying west of Georgia Highways 81 and 36, including the town of Covington.

Putnam County. That portion of the county lying within Georgia Militia Districts 311, 314, and 312.

Screven County. That portion of the county lying within Georgia Militia Districts 1653, 35, and 259.

Tattall County. That portion of the county lying east of U.S. Highway 301, including the town of Glennville.

Toombs County. That portion of the county lying within Georgia Militia Districts 51, 1823, and 43.

Treuten County. The entire county, except Georgia Militia Districts 1763 and 1764.

Walton County. That portion of the county lying within Georgia Militia District 419.

Ware County. The entire county, except that portion of Georgia Militia District 1082 lying within the Okefenokee Wildlife Refuge.

Wayne County. The entire county, except Georgia Militia Districts 1519 and 583.

LOUISIANA

(1) *Generally infested areas.* * * *
East Carroll Parish. The entire parish.

Jackson Parish. The entire parish.

Madison Parish. The entire parish.
Morehouse Parish. The entire parish.

Ouachita Parish. The entire parish.

Richland Parish. The entire parish.
Sabine Parish. The entire parish.

West Carroll Parish. The entire parish.

Winn Parish. The entire parish.

(2) *Suppressive areas.—Bienville Parish.* That portion of the parish in T. 14 N., lying west of the east line of R. 7 W.; all of the parish lying west of the east line of R. 9 W.; that portion of the parish within T. 15 N., R. 4 W.; and that portion of the parish lying east of State Road 9 within Tps. 16 and 17 N., Rs. 4, 5, and 6 W., including the area in the corporate limits of Bienville and Bryceland.

De Soto Parish. All of the parish lying east of the west line of R. 13 W.; that portion of the parish within Tps. 14 and 15 N., Rs. 14 and 15 W.; and that portion of the parish within T. 16 N., R. 14 W.

Natchitoches Parish. That portion of the parish lying south of the south line of T. 8 N.; that portion of the parish lying within T. 8 N., Rs. 5 and 6 W.; that portion of the parish lying within T. 9 N., R. 6 W.; that portion of the parish lying within Tps. 10 and 11 N., Rs. 6, 7, and 8 W.; and that portion of the parish lying within Tps. 12 and 13 N., Rs. 7 and 8 W.

Webster Parish. The entire parish.

MISSISSIPPI

(1) *Generally infested areas.* * * *
Montgomery County. The entire county.

(2) *Suppressive areas.* * * *
Grenada County. E $\frac{1}{2}$ R. 6 E., and all of R. 7 E. lying within the county.

Prentiss County. All of R. 9 E. lying within the county.

Union County. N $\frac{1}{2}$ T. 8 S., R. 3 E., and SE $\frac{1}{4}$ T. 6 S., R. 5 E., lying within the county.
Yalobusha County. All of Tps. 23 and 24 N., Rs. 6 and 7 E., lying within the county.

NORTH CAROLINA

(1) *Generally infested areas.* None.
(2) *Suppressive areas.—Brunswick County.* That portion of the county bounded by a line beginning at a point where North Carolina State Highway 130 intersects the Brunswick-Columbus County line, thence southeast along said highway to its junction with U.S. Highway 17, thence southwest along said highway to its junction with State Secondary Road 1153, thence south along said road to its junction with State Secondary Road 1184, thence south along said road to its junction with North Carolina State

Highway 904, thence south along said highway to the Atlantic Ocean, thence west along said ocean to the North Carolina-South Carolina State line, thence northwest along said State line to the Brunswick-Columbus County line, thence northeast along said county line to the point of beginning.

Carteret County. The entire county.

Columbus County. That portion of the county bounded by a line beginning at a point where State Secondary Road 1006 junctions with North Carolina State Highway 130, thence southeast along said highway to its intersection with the Columbus-Brunswick County line, thence southwest along said county line to the North Carolina-South Carolina State line, thence northwest along said State line to its intersection with North Carolina State Highway 904, thence east along said highway to its junction with State Secondary Road 1006, thence east and northeast along said road to the point of beginning.

Craven County. That portion of the county bounded by a line beginning at the junction of State Secondary Road 1107 with the Neuse River, thence east along said river to the Craven-Carteret County line, thence southeast and west along said county line to its junction with the Craven-Jones County line, thence west and north along said county line to its junction with State Secondary Road 1100, thence east along said road to its junction with U.S. Highway 70, thence southeast along said highway to its junction with State Secondary Road 1107, thence northeast along said road to the point of beginning.

Jones County. That area bounded by a line beginning at the junction of North Carolina Highway 58 and State Secondary Road 1105, thence east along said road to the Jones-Craven County line, thence south and east along said county line to the Jones-Carteret County line, thence south and west along said county line to the White Oak River, thence northwest along said river to its junction with Black Swamp Creek, thence northeast along said creek to its intersection with North Carolina Highway 58, thence northwest along said highway to the point of beginning.

Onslow County. That area bounded by a line beginning at the intersection of U.S. Highway 17 and the White Oak River, thence southeast along said river to Bogue Inlet, thence south along said inlet to the Atlantic Ocean, thence southwest along said ocean to its junction with New River Inlet, thence northwest along said inlet to its junction with New River, thence northwest along said river to its junction with North Carolina Highway 172, thence southwest and west along said highway to its junction with U.S. Highway 17, thence north and northeast along said highway to the point of beginning.

SOUTH CAROLINA

(1) *Generally infested areas.* * * *

Lexington County. That portion of the county lying east of Interstate Highway 26.

(2) *Suppressive areas—Bamberg County.* That portion of the county lying east of U.S. Highway 301.

Beaufort County. That portion of the county bounded by a line beginning at a point where U.S. Highway 17 intersects the Beaufort-Jasper County line, thence southeast along said highway to its junction with U.S. Highway 21, thence in a southerly direction along said highway to its junction with State Primary Highway 170, thence southwest along said highway to its intersection with Broad River, thence in a southeasterly and southwesterly direction along said river

to its intersection with the Beaufort-Jasper County line, thence in a northerly direction along said county line to the point of beginning.

Charleston County. The entire county.

Clarendon County. That portion of the county lying west of a line beginning at a point where Lake Marion Dam intersects the Berkeley-Clarendon County line, thence north along said dam to its junction with State Primary Highway 260, thence north along said highway to its junction with State Secondary Highway 63, thence north along said highway to its junction with State Secondary Highway 126, thence north along said highway to its intersection with Interstate Highway 95, thence northeast along said highway to its intersection with State Secondary Highway 50, thence north along said highway and ending at a point where said highway intersects with the Clarendon-Sumter County line.

Colleton County. That portion of the county bounded by a line beginning at a point where State Primary Highway 64 intersects the Bamberg-Colleton County line, thence in a northeasterly direction along said county line to its junction with the Edisto River, thence in an easterly and southerly direction along said river to its intersection with U.S. Highway 17, thence west along said highway to its junction with State Primary Highway 303, thence north along said highway to its junction with State Primary Highway 64, thence in a northwesterly direction along said highway to the point of beginning.

Florence County. That portion of the county bounded by a line beginning at a point where State Secondary Highway 594 intersects the Darlington-Florence County line and extending easterly and southerly along the Florence County line to its intersection with U.S. Highway 301, thence west along said highway to its intersection with State Primary Highway 327, thence southeast along said highway to its junction with State Secondary Highway 57, thence northwest along said highway to its junction with State Secondary Highway 551, thence southwesterly along said highway to its intersection with State Secondary Highway 552, thence northwesterly along said highway to its junction with a dirt road, thence northwest along said road to its junction with U.S. Highway 301, thence northwest along said highway to its junction with State Primary Highway 100, thence southwest along said highway to its junction with State Primary Highway 136, thence northwest along said highway to its intersection with State Secondary Highway 35, thence southwest along said highway to its junction with State Secondary Highway 848, thence northwest along said highway to its junction with State Secondary Highway 45, thence north along said highway to its junction with State Secondary Highway 594, thence northwest along said highway to the point of beginning.

Jasper County. The entire county.

Orangeburg County. That portion of the county lying east of a line beginning at a point where U.S. Highway 301 intersects with the Bamberg-Orangeburg County line, thence extending northeast along said highway to its intersection with State Secondary Highway 376, thence northwest along said highway to its junction with State Secondary Highway 74, thence in a northeasterly direction along said highway to its junction with U.S. Highway 178, thence in a southeasterly direction along said highway to its junction with State Secondary Highway 61, thence

in a northerly direction along said highway and ending at a point where said highway intersects with the Calhoun-Orangeburg County line.

(Secs. 8 and 9, 37 Stat. 318, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended; 7 CFR 301.81-2)

These amendments shall become effective upon publication in the FEDERAL REGISTER.

The Director of the Plant Protection Division has determined that infestations of the imported fire ant exist or are likely to exist in the civil divisions and parts of civil divisions listed above, or that it is necessary to regulate such areas because of their proximity to imported fire ant infestations or their inseparability for quarantine enforcement purposes from imported fire ant infested localities. The Director has further determined that each of the quarantined States is enforcing a quarantine or regulation with restrictions on intrastate movement of the regulated articles substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the imported fire ant. Accordingly, such civil divisions and parts of civil divisions listed above are designated as imported fire ant regulated areas.

This amendment places six counties—Brunswick, Carteret, Columbus, Craven, Jones, and Onslow—under Federal regulation in the newly quarantined State of North Carolina. It also adds to the regulated area all or parts of the following previously nonregulated counties: Flager County in Florida; Appling, Atkinson, Bacon, Berrien, Camden, Charlton, Clinch, Columbia, Coweta, Glynn, Jasper, Johnson, Lanier, Long, McIntosh, Montgomery, Newton, Putnam, Screven, Tattnall, Toombs, Treutlen, Walton, and Wayne Counties in Georgia; Montgomery, Prentiss, and Yalobusha Counties in Mississippi; and Bamberg, Clarendon, Florence, and Lexington Counties in South Carolina. The regulated area in some previously regulated counties has also been extended. Several counties in the States of Florida, Georgia, and Louisiana were changed from suppressive areas to generally infested areas.

This document imposes restrictions that are necessary in order to prevent the dissemination of the imported fire ant and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing regulations 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 at Hyattsville, Md., this 6th day of October 1970.

D. R. SHEPHERD,
Director,
Plant Protection Division.

[F.R. Doc. 70-13584; Filed, Oct. 8, 1970;
8:50 a.m.]

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

PART 981—HANDLING OF ALMONDS GROWN IN CALIFORNIA

Subpart—Administrative Rules and Regulations

Notice was published in the September 4, 1970, issue of the FEDERAL REGISTER (35 F.R. 14085) of a proposal, unanimously recommended by the Almond Control Board, to amend certain provisions of the Subpart—Administrative Rules and Regulations. The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 35 F.R. 11372), regulating the handling of almonds grown in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment would make conforming changes necessitated by recent order amendments; substitute the word "reserve" for "surplus" whenever appearing; require handlers to report shipments of salable almonds; and add two new reporting periods applicable to handler receipts.

The notice afforded interested persons opportunity to submit written comments with respect to the proposal. None were submitted within the prescribed time.

After consideration of all relevant matter presented, including those in the notice, the information and recommendations submitted by the Board, and other available information, it is found that to amend the administrative rules and regulations, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, Subpart—Administrative Rules and Regulations is amended as follows:

1. Section 981.450 is amended by revising the title of said section, revising present provisions of paragraph (a), and deleting paragraph (b). The amended § 981.450 reads as follows:

§ 981.450 Reserve obligation.

(a) *Exemption from program obligations.* Any handler who, pursuant to § 981.50, intends to dispose of almonds (other than those withheld to meet a reserve obligation) for crushing into oil, or for producing poultry or animal feed, may have the kernel weight of such almonds excluded from such handler's receipts and exempted from program obligations to the extent provided in this part if the almonds are so disposed of no

later than 30 days after the close of the current crop year, and he complies with the following measures to assure accountability to the Board:

(1) Notifies the Board of his intention to use or ship such almonds at least 48 hours in advance of so using or loading for shipment, and certifies to the Board and to the Secretary of Agriculture that such almonds were received during such crop year.

(2) Prior to shipment of such almonds, obtains from the receiver thereof and submits to the Board a proposed schedule of processing and a written authorization to permit Board employees to enter the premises and observe the storage and processing or other disposition of such almonds.

(3) Ships directly to the location where disposition is to take place, and upon shipment, the handler shall submit to the Board a copy of the sales invoice, bill of lading, or such other instruments acceptable to the Board as shall verify the shipment.

(4) Upon completion of disposition, the handler shall submit to the Board ACB Form 8 wherein the user of almonds certifies to the Board and the Secretary that the almonds have been crushed, fed, or so commingled with other feed products or otherwise processed that they have lost their identity as almonds.

§ 981.451 [Deleted]

2. Section 981.451 is deleted.

§ 981.452 [Deleted]

3. Section 981.452 is deleted.

4. Section 981.453 is amended by revising the title of said section, deleting paragraph (b), redesignating paragraph (c) as paragraph (b) and revising such paragraph. The amended § 981.453 reads as follows:

§ 981.453 Deferment of reserve withholding requirements.

(a) *Undertaking.* The written undertaking to be delivered pursuant to § 981.53(a) shall be on the form provided by the Board.

(b) *Bonds as security.* (1) Prior to August 15 of any crop year, the manager of the Board shall notify the handler or handlers whose price lists are to be used in computing the bonding rate pursuant to § 981.53(b). Handlers so notified shall immediately furnish the manager with their then current price lists and shall inform the manager immediately of all subsequent changes thereof.

(2) Within 48 hours from the receipt by the manager of any price list which effects a change in the bonding rate, the manager shall announce such new bonding rate to all handlers, and the handlers shall adjust the amounts of their bonds accordingly.

(3) In the event that the price lists used in computing the bonding rate do not quote prices for all of the sizes specified in § 981.53(b), the bonding rate shall be computed on the basis of the prices which are quoted and a calculated price for any size not quoted. Such calculated price for the absent size shall be computed by applying its recent differ-

entials to the prices of the sizes quoted unless the manager has knowledge that such differentials do not reflect the current market price, whereupon he shall request from each handler, whose prices are used in the computation, a price indicative of the current market price of the absent size.

§ 981.455 [Amended]

5. In paragraphs (a) and (b) of § 981.455, the word "surplus" is deleted whenever appearing and the word "reserve" is substituted therefor.

§ 981.459 [Deleted]

6. Section 981.459 is deleted.

§ 981.467 [Amended]

7. Section 981.467 is revised to read:

§ 981.467 Disposition in reserve outlets by handlers.

(a) *Agents of Board.* Beginning with July 1 of any crop year a handler may become an agent of the Board pursuant to § 981.67 for the purpose of disposing of reserve almonds of such crop year either by export or by diversion from domestic normal channels of trade. The applicable agency shall be established upon a handler executing a reserve export agreement (ACB Form 12-A) or reserve diversion agreement (ACB Form 12-B) containing terms and conditions specified by the Board. During the period of such agency, such handlers may obtain loans on reserve almonds by hypothecating such almonds as security for the loans; *Provided*, That, the lender shall have no recourse against the Board and, in cases where the lender is not provided a warehouse receipt, the handler shall inform the lender, in the hypothecation agreement, that the disposition of the pledged reserve almonds is controlled under this part and the lender has no recourse against the Board. Each loan on reserve almonds shall be repaid by the handler prior to the termination of the agency, except loans obtained from the Commodity Credit Corporation which recognize the disposition requirements of this part and loans on almonds sold but held for delivery during the time permitted by the Board, in which case the loan shall be repaid upon shipment or at the end of the permitted period, whichever occurs first.

(b) *Forms.* Intentions to divert almonds shall be reported to the Board on ACB Form 13, shipment for diversion on ACB Form 14, and consummation of diversion on ACB Form 15. Intentions to export shall be reported on ACB Form 18, shipment into export on ACB Form 19, and consummation of export sales on ACB Form 20. On ACB Form 14 and 19, the handler shall report whether the shipment is a disposition of reserve almonds withheld in satisfaction of reserve obligation or a disposition of salable almonds in a reserve outlet pursuant to paragraph (c) of this section.

(c) *Reserve withholding credit.* Credit in satisfaction of a reserve withholding obligation shall not exceed the accrued

reserve obligation derived by applying the reserve percentage to the quantity of almonds received by a handler for his own account during the crop year. Dispositions by agents of the Board in eligible reserve outlets within a crop year in excess of said obligations shall be held to be dispositions of salable almonds. Where such dispositions have been inspected and certified as meeting the requirements for reserve pursuant to § 981.51 and have complied with the terms, conditions and documentation applicable to disposition of reserve almonds as determined by the Board, they may be credited against unsatisfied reserve obligations of the agent-handler or may be transferred to apply against the reserve obligation of another handler. Crediting of said transfers shall be subject to Board approval upon its receiving a jointly executed agreement of transfer (ACB Form 11).

(d) *Reserve almonds withheld.* (1) Inspection of almonds shall be limited to any plant, storage facility, or shipping point located in California where facilities acceptable to the inspection agency are available for weighing, sampling, and inspection of almonds.

(2) When almonds are offered for inspection, the handler shall furnish the inspection agency with public weighmaster's certificates of weight or other evidence of weight satisfactory to the Board.

(3) The handler offering almonds for inspection shall furnish necessary labor and pay costs incurred in moving and emptying containers for sampling and weighing and shall also furnish necessary labor for affixing the identification to containers of inspected almonds under direct supervision of the inspector.

(4) The handler shall furnish or cause to be furnished to the Board a copy of each required inspection certificate issued by the inspection agency within 48 hours after issuance, covering each lot of almonds withheld, exported or diverted. Each inspection certificate for shelled almonds shall show the highest grade which such almonds meet as set forth in the effective U.S. Standards for Grades of Shelled Almonds and, if such almonds grade at least U.S. No. 1, the kernel size in terms of the average number of kernels per ounce.

(e) *Salable almonds for subsequent reserve credit.* Almonds not withheld as reserve, but which are intended to be disposed of in reserve outlets and for which the handler intends to subsequently request reserve disposition credit, shall be inspected, certified, and identified in the same manner as reserve, and such almonds shall not be handled in domestic markets for almonds unless the identification has been removed under the direction of the Board.

8. Section 981.472 is revised to read:

§ 981.472 Report of almonds received.

Each handler shall report to the Board on ACB Form 1 the total pounds of almonds, unshelled and shelled, by varieties, received by him for his own account within any of the hereinafter prescribed

reporting periods. Each such report shall be filed with the Board within 5 business days after the close of the applicable one of the following reporting periods:

July 1 to August 31;
September 1 to September 15;
September 16 to September 30;
October 1 to October 15;
October 16 to October 31;
November 1 to November 15;
November 16 to November 30;
December 1 to December 31;
January 1 to March 31;
April 1 to June 30.

9. Section 981.473 is revised to read:

§ 981.473 Redetermination reports.

Each handler shall furnish for use by the Board in redetermination of the kernel weight of almonds received for his own account and marketing policy considerations the information listed and described in this section. Such information shall be reported within the applicable times specified in § 981.73 on forms provided by the Board.

(a) *Handler carryover.* A report of the weight of all almonds by variety, whether unshelled or shelled, wherever located, held by the handler for his own account, whether or not sold.

(b) *Reserve.* A report of all almonds by variety, net weight, and certified kernel weight which are withheld in satisfaction of a reserve obligation and those which have been disposed of in the manner provided in §§ 981.66 and 981.67.

(c) *Delivered sales.* A report of salable almonds sold and delivered, showing the weight, variety, and whether unshelled or shelled, except those disposed of pursuant to the requirements for reserve disposition, or used in almond products.

(d) *Almond products.* A report of all almonds used by the handler in the manufacture of any almond product as defined in § 981.15, showing a description of each such product, the weight of almonds used therein, and the finished weight of such product.

(e) *Transfers.* A report listing each transfer of almonds to another handler showing the weight of each lot transferred, the variety of almonds in the lot, whether unshelled or shelled, the name of the receiving handler, and by whom the assessment and withholding obligations for such almonds were assumed.

(f) *Undelivered sales.* A report of all undelivered salable almonds sold in normal domestic trade channels for delivery prior to September 1 of the following crop year, showing the weight of such almonds, the variety and whether they are shelled or unshelled.

10. A new section, § 981.474 is added to read:

§ 981.474 Report of salable shipments.

Each handler shall report all shipments of salable almonds, shelled and unshelled and by classification, on ACB Form 25. This report shall be supported with copies of all invoices evidencing sale or such other documentation as may be acceptable to the Board. Each such report shall be filed with the Board 5 busi-

ness days after the close of each month within the crop year.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Recent further amendment of the marketing agreement and order requires these changes to conform the administrative rules and regulations to the amendment; (2) the 1970 crop is being harvested, and this amendment should become effective immediately so as to be applicable to as much of the crop as practicable so as to provide for improved control relative to the handling and disposition of the crop; (3) the industry has been aware of this recommendation and needs no additional time to conform its operations thereto; and (4) no useful purpose would be served by delaying the effective time thereof.

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

Dated October 5, 1970, to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 70-13546; Filed, Oct. 8, 1970;
8:47 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Cotton Loan Program Regs., Amdt. 6]

PART 1427—COTTON

Subpart—Cotton Loan Program Regulations

SUBORDINATED LIENS

In order to make it clear that warehouse receipts which show liens for inbound freight or other unauthorized charges will be acceptable if such liens are subordinated to the rights of CCC, § 1427.1364 of the regulations issued by Commodity Credit Corporation published in 33 F.R. 8802 as Cotton Loan Program Regulations and containing the terms and conditions with respect to the Cotton Loan Program, as amended, is hereby further amended to read as follows:

§ 1427.1364 Liens.

Except as otherwise provided in this section, cotton tendered for loan must be free and clear of all liens (except the warehouseman's lien [including a warehouseman's lien held by a cooperative warehouse for its producer-patrons] for those charges which are authorized in the storage agreement with CCC). The signatures of the holders of all such existing liens on cotton tendered as security for a loan, such as landlords, laborers, or mortgagees, must be obtained on the lienholder's waiver on each Form A, except that in lieu of signing the lienholder's waiver on each Form A, the lienholder may waive his lien on all cotton of that crop produced by a producer on a farm (or on all farms) or

pledged on one Form A by use of Form 679, or by use of another form approved by CCC. In lieu of waiving his prior lien on cotton tendered as security for a loan, a lienholder may execute a Lienholder's Subordination Agreement (Form CCC-864) with CCC in which he subordinates his security interests to the rights of CCC in the cotton. If cotton is subject to a warehouseman's lien for advances or charges not authorized in the storage agreement, the cotton will be acceptable hereunder if such liens are subordinated to the rights of CCC in the cotton. A fraudulent representation as to prior liens or otherwise will render the producer personally liable and subject him, and any other person who causes the fraudulent representation to be made to criminal prosecution under the provisions of the Commodity Credit Corporation Charter Act.

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 103, 401, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1444, 1421)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 5, 1970.

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

[F.R. Doc. 70-13567; Filed, Oct. 8, 1970;
8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 71—GENERAL PROVISIONS

Identification for Interstate Movement of Cattle

Correction

In F.R. Doc. 70-11915 appearing at page 14197 in the issue for Wednesday, September 9, 1970, the word "designation" in the second line of § 71.18(a)(1) (i) should read "destination".

[Docket No. 70-275]

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, 1963 (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 (c)(9) relating to the State of North Carolina, a new subdivision (vi) relating to Washington County is added to read:

(c) * * *

(9) *North Carolina.* * * *

(vi) That portion of Washington County bounded by a line beginning at the junction of State Highway 32 and the south bank of the Albemarle Sound; thence, following State Highway 32 in a southerly direction to Secondary Road 1315; thence, following Secondary Road 1315 in an easterly and then southerly direction to Secondary Road 1302; thence, following Secondary Road 1302 in a southeasterly and then southerly direction to Secondary Road 1303; thence, following Secondary Road 1303 in a southwesterly direction to Secondary Road 1304; thence, following Secondary Road 1304 in a southerly direction to U.S. Highway 64; thence, following U.S. Highway 64 in a southeasterly direction to Secondary Road 1141; thence, following Secondary Road 1141 in a southeasterly direction to Secondary Road 1142; thence, following Secondary Road 1142 in a generally westerly direction to Secondary Road 1143; thence, following Secondary Road 1143 in a southerly direction to the southwestern junction of Secondary Road 1146 at Secondary Road 1146; thence, following Secondary Road 1146 in a generally northeasterly and thence southeasterly direction to Secondary Road 1155; thence, following Secondary Road 1155 in a southwesterly direction to Secondary Road 1149; thence, following Secondary Road 1149 in a generally westerly and thence southerly direction to the northern bank of the Main Canal; thence, following the northern bank of the Main Canal in a generally northwesterly direction to U.S. Highway 64 (also State Highway 32); thence, following U.S. Highway 64 (also State Highway 32) in a generally northeasterly direction to Secondary Road 1300; thence, following Secondary Road 1300 in a northwesterly direction to the east bank of Mackeys Creek; thence, following the east bank of Mackeys Creek in a northerly direction to the south bank of the Albemarle Sound; thence, following the south bank of the Albemarle Sound in a generally northeasterly direction to its junction with State Highway 32.

* * *

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

(e) * * *

(13) *Texas.* * * *

(xix) That portion of Grayson County bounded by a line beginning at the junction of U.S. Highway 75 and U.S. Highway 69; thence, following U.S. Highway 69 in a southeasterly direction to the Penland-Antioch Road; thence, following the Denison-Antioch Road at Penland in a southwesterly, then easterly

and then southwesterly direction to U.S. Highway 82; thence, following U.S. Highway 82 in a generally westerly direction to U.S. Highway 75; thence, following U.S. Highway 75 in a generally northeasterly direction to its junction with U.S. Highway 69.

3. In § 76.2, in paragraph (e)(1) relating to the State of Alabama, subdivision (ii) relating to Crenshaw, Coffee, and Covington 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 a portion of Washington County, N.C., and a portion of Grayson 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 Coffee, Crenshaw, and Covington Counties in Alabama 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 6th day of October 1970.

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

[F.R. Doc. 70-13585; Filed, Oct. 8, 1970;
8:50 a.m.]

[Docket No. 70-276]

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, in paragraph (e) (9) relating to the State of North Carolina, a new subdivision (vii) relating to Chatham, Moore and Randolph Counties is added to read:

(e) * * *

(9) *North Carolina.* * * *

(vii) The adjacent portions of Chatham, Moore, and Randolph Counties bounded by a line beginning at the junction of State Highway 902 and Secondary Roads 1100 and 1006 in Chatham County; thence, following Secondary Road 1100 in a northwesterly direction to Secondary Road 1145; thence, following Secondary Road 1145 in a westerly direction to Secondary Road 2646 in Randolph County; thence, following Secondary Road 2646 in a southwesterly direction to State Highway 22 and 42; thence, following State Highway 22 and 42 in a northwesterly direction to the south bank of Brush Creek; thence, following the south bank of Brush Creek in a southwesterly direction to the east bank of Deep River; thence, following the east bank of the Deep River in a generally southeasterly direction to State Highway 22 in Moore County; thence, following State Highway 22 in a northwesterly direction to Secondary Road 1600; thence, following Secondary Road 1600 in a northeasterly direction to Secondary Road 1614; thence, following Secondary Road 1614 in a northerly direction to Secondary Road 1615; thence, following Secondary Road 1615 in a southeasterly direction to Secondary Road 1616; thence, following Secondary Road 1616 in a northerly direction and continuing in a northerly direction along Secondary Road 2321 in Chatham County to State Highway 42; thence, following State Highway 42 in a northwesterly direction to Secondary Road 2319; thence, following Secondary Road 2319 in a northerly direction to Secondary Road 2314; thence, following Secondary Road 2314 in a northeasterly direction to Secondary Road 1006; thence, following Secondary Road 1006 in a northwesterly direction to its junction with State Highway 902 and Secondary Highway 1100.

2. In § 76.2, in paragraph (e) (6) relating to the State of Massachusetts, subdivision (i) relating to Bristol County is amended to read:

(e) * * *

(6) *Massachusetts.* (i) That portion of Bristol County comprised of Fairhaven and New Bedford Townships, and Norton Town, Raynham Town, and Taunton Town.

(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 Chatham, Moore and Randolph Counties in North Carolina 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 a portion of Bristol County, Mass., 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 non-quarantined areas contained in said Part 76 will apply to the area 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 6th day of October 1970.

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

[P.R. Doc. 70-13586; Filed, Oct. 8, 1970; 8:50 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. D]

PART 204—RESERVES OF MEMBER BANKS

Transfers From Savings Deposits to Cover Checks

1. Effective November 9, 1970, § 204.1 (e) (1) is amended to read as follows:

§ 204.1 Definitions.

(e) *Savings deposits.* The term "savings deposit" means a deposit—

(1) Which consists of funds deposited to the credit of one or more individuals, or of a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and not operated for profit; or in which the entire beneficial interest is held by one or more individuals or by such a corporation, association, or other organization, except where the deposit is to the credit of the bank's own trust department and the funds involved are utilized to cover checks; and

2a. By notice of proposed rule making published in the FEDERAL REGISTER of April 1, 1970 (35 F.R. 5416), the Board proposed to amend § 204.1(b) so as to prevent the use of a time deposit in tandem with a checking account for the purpose of avoiding the higher demand deposit reserve requirements properly applicable to such funds.

b. In view of comments received, the amendment adopted is narrower in scope than the version proposed for comment. The amendment as adopted is designed to prevent the use of funds deposited by a trust department of a member bank in a savings deposit in the commercial department of that bank in tandem with a checking account so as to avoid the higher demand deposit reserve requirements. In confining the amendment to savings deposits of a trust department, it is intended that the trust department of a member bank may continue to classify a certain portion of the funds on deposit in its commercial department as a time deposit in accordance with the

* Deposits in joint accounts of two or more individuals may be classified as savings deposits if they meet the other requirements of the above definition, but deposits of a partnership operated for profit may not be so classified. Deposits to the credit of an individual of funds in which any beneficial interest is held by a corporation, partnership, association, or other organization operated for profit or not operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes may not be classified as savings deposits.

interpretation set forth at § 204.102 (1959 Federal Reserve Bulletin 1475).

c. The amendment was adopted by the Board after consideration of all relevant material, including communications received from interested persons.

By order of the Board of Governors, October 1, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-13513; Filed, Oct. 8, 1970;
8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-SO-80]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Anniston, Ala., control zone.

The Anniston control zone is described in § 71.171 (35 F.R. 2054). In the description, reference is made to a 1.5-mile radius of Lee Brothers Airport. The Lee Brothers Airport is scheduled to be permanently deactivated on October 1, 1970; therefore, it is necessary to alter the description accordingly. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 1, 1970, as hereinafter set forth.

In § 71.171 (35 F.R. 2054), the Anniston, Ala. control zone is amended as follows: " * * * within a 1.5-mile radius of Lee Brothers Airport (lat. 33°37'30" N., long. 85°47'20" W.) * * * " is deleted.

(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 October 1, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-13522; Filed, Oct. 8, 1970;
8:46 a.m.]

[Airspace Docket No. 70-WE-61]

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

Alteration of Control Zone

On August 20, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 13293) stating

that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Renton, Wash., and Seattle, Wash. (Boeing Field International), control zones.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received, and the proposed amendments are hereby adopted subject to the following change:

In the fourth line of the description of the Seattle, Wash. (Boeing Field International) control zone after "thence" insert the word "clockwise."

Effective date. These amendments 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 30, 1970.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (35 F.R. 2054) the description of the Renton, Wash., control zone is amended to read as follows:

RENTON, WASH.

That airspace bounded by a line beginning at latitude 47°32'10" N., longitude 122°12'40" W.; thence clockwise along an arc of a 3-mile radius circle centered on the Renton Municipal Airport (latitude 47°29'35" N., longitude 122°12'50" W.) to latitude 47°27'59" N., longitude 122°09'48" W., to latitude 47°27'38" N., longitude 122°09'24" W., to latitude 47°26'24" N., longitude 122°12'06" W.; thence counterclockwise via an arc of a 5-mile radius circle centered on Seattle-Tacoma International Airport (latitude 47°26'50" N., longitude 122°18'30" W.) to latitude 47°27'00" N., longitude 122°11'50" W., to latitude 47°28'09" N., longitude 122°13'33" W., to latitude 47°31'27" N., longitude 122°13'33" W., thence to point of beginning. This control zone is effective from 0700 to 2300 hours local time daily.

In § 71.171 (35 F.R. 2054) the description of the Seattle, Wash. (Boeing Field International), control zone is amended to read as follows:

SEATTLE, WASH. (BOEING FIELD INTERNATIONAL)

That airspace bounded by a line beginning at latitude 47°34'10" N., longitude 122°12'40" W.; to latitude 47°32'10" N., longitude 122°12'40" W.; thence clockwise via an arc of a 3-mile radius circle centered on Renton Municipal Airport (latitude 47°29'35" N., longitude 122°12'50" W.) to latitude 47°27'59" N., longitude 122°09'48" W., to latitude 47°27'38" N., longitude 122°09'24" W., to latitude 47°26'24" N., longitude 122°12'06" W.; thence counterclockwise via an arc of a 5-mile radius circle centered on Seattle-Tacoma International Airport (latitude 47°26'50" N., longitude 122°18'30" W.) to latitude 47°27'00" N., longitude 122°11'50" W., to latitude 47°28'09" N., longitude 122°13'33" W., to latitude 49°29'20" N., longitude 122°23'10" W.; thence clockwise along an arc of a 5-mile radius circle centered on Boeing Field International Airport (latitude 47°31'45" N., longitude 122°18'00" W.) to point of beginning; within 2 miles each side of the 150° bearing from the Magnolia LOM, extending from the 5-mile radius arc to 2

miles southeast of the Magnolia LOM, excluding the portion within the Seattle, Wash. (Seattle-Tacoma International Airport), control zone, and the portion within the Renton, Wash., control zone when the Renton control zone is effective.

[F.R. Doc. 70-13523; Filed, Oct. 8, 1970;
8:46 a.m.]

[Airspace Docket No. 70-WE-65]

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

Alteration of Control Zone and Transition Area

On August 20, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 13293) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Eugene, Ore., control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments 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 30, 1970.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (35 F.R. 2054) the description of the Eugene, Ore. control zone is amended to read as follows:

EUGENE, OREG.

Within a 5-mile radius of Mahlon-Sweet Field (latitude 44°07'25" N., longitude 123°13'05" W.), within 3 miles each side of the Eugene VORTAC 008° radial, extending from the 5-mile radius zone to 8 miles north of the VORTAC, and within 2.5 miles each side of the Eugene VORTAC 172° radial, extending from the 5-mile radius zone to 3 miles south of the VORTAC.

In § 71.181 (35 F.R. 2134) the description of the Eugene, Ore., transition area is amended as follows: In the fifth and sixth lines of the text delete " * * * 2 miles east of and parallel to the Eugene VORTAC 172° radial, * * * " and substitute therefor " * * * 4.5 miles east of and parallel to the Eugene VORTAC 172° radial * * * ". At the end of the description of the transition area delete " * * * radial." and add the following " * * * radial and that airspace Northeast of Eugene bounded on the north by the south edge of V-536, on the south by the north edge of V-121, and on the northwest by the southeast edge of V-23E.

[F.R. Doc. 70-13524; Filed, Oct. 8, 1970;
8:46 a.m.]

[Airspace Docket No. 70-CE-45]

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

Alteration of Control Zone and Transition Area and Revocation of Transition Area

On page 11519 of the FEDERAL REGISTER dated July 17, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Hibbing, Minn., and revoke the transition area at Eveleth, Minn.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendments.

No objections have been received and the amendment as so proposed are hereby adopted, subject to the following change:

Place a period after the word "airport" in Line 30 of the Hibbing, Minn., transition area redesignation and delete Lines 31 and 32 from the redesignation.

These amendments become effective 0901 G.m.t., December 10, 1970.

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

Issued in Kansas City, Mo., on September 30, 1970.

DANIEL E. BARROW,
Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

HIBBING, MINN.

That airspace within a 5-mile radius of Chisholm-Hibbing Airport (latitude 47°23'10" N., longitude 92°50'15" W.); within 2 miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone to 15 miles northwest of the VORTAC; within 1½ miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone to the VORTAC; and within 2½ miles each side of a 210° bearing from the Chisholm-Hibbing Airport extending from the 5-mile radius zone to 6½ miles southwest of the airport.

(2) In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

HIBBING, MINN.

That airspace extending upward from 700 feet above the surface within an 11½-mile radius of Chisholm-Hibbing Airport (latitude 47°23'10" N., longitude 92°50'15" W.); within 3 miles each side of the Hibbing VORTAC 313° radial, extending from the 11½-mile radius area to 23 miles northwest of the VORTAC; within an 11-mile radius of Eveleth-Virginia Airport (latitude 47°23'40" N., longitude 92°29'50" W.); and within 9½ miles north and 4½ miles south of the Eveleth VOR 097° radial, extending from the 11-mile radius area to 18½ miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 27-mile radius of the Hibbing VORTAC, extending from the Hibbing VORTAC 256° radial clockwise to the Hib-

bing VORTAC 340° radial; within a 13-mile radius of Hibbing VORTAC, extending from the Hibbing VORTAC 095° radial clockwise to the Hibbing VORTAC 256° radial; within 4½ miles northeast and 9½ miles southwest of the Hibbing VORTAC 313° radial, extending from the 27-mile radius area to 33½ miles northwest of the VORTAC; and within 4½ miles northwest and 9½ miles southeast of the 210° bearing from Chisholm-Hibbing Airport, extending from the airport to 18½ miles southwest of the airport.

(3) § 71.181 (35 F.R. 234), the following transition area is revoked: Eveleth, Minn.

[F.R. Doc. 70-13525; Filed, Oct. 8, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-54]

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

Alteration of Control Zone and Transition Area

On page 11520 of the FEDERAL REGISTER dated July 17, 1970, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Grand Rapids, Mich.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendments.

No objections have been received and the amendments as so proposed are hereby adopted, subject to the following change:

The Kent County Airport coordinates recited in the Grand Rapids, Mich., control zone and transition area alteration as "latitude 42°53'00" N., longitude 85°31'35" W." are changed to read "latitude 42°52'50" N., longitude 85°31'25" W."

These amendments shall be effective 0901 G.m.t., December 10, 1970.

(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 Kansas City, Mo., on September 22, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

GRAND RAPIDS, MICH.

Within a 5-mile radius of Kent County Airport (latitude 42°52'50" N., longitude 85°31'25" W.).

(2) In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

GRAND RAPIDS, MICH.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Kent County Airport (latitude 42°52'50" N., longitude 85°31'25" W.); within 2 miles each side of the 261° bearing from the Kent County Airport extending from the 9-

mile radius area to 15½ miles west of the airport; and that airspace extending upward from 1,200 feet above the surface bounded on the north by a line 8 miles north of and parallel to the centerline of V-216 east of the Muskegon, Mich., VORTAC and on the west, south, and east by the arc of an 18-mile radius circle centered on the Muskegon County Airport (latitude 43°10'18" N., longitude 86°14'09" W.); and a line beginning at latitude 42°54'35" N., longitude 86°13'00" W., extending to latitude 42°45'25" N., longitude 86°23'40" W.; to latitude 42°35'00" N., longitude 86°17'30" W.; to latitude 42°35'00" N., longitude 86°00'00" W.; to latitude 42°38'00" N., longitude 86°00'00" W.; to latitude 42°38'00" N., longitude 85°15'00" W.; to latitude 43°16'00" N., longitude 85°15'00" W.; to latitude 43°16'00" N., longitude 85°02'00" W.; to latitude 43°27'00" N., longitude 85°02'00" W.

[F.R. Doc. 70-13526; Filed, Oct. 8, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-56]

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

Alteration of Control Zone and Transition Area

On Pages 11637 and 11638 of the FEDERAL REGISTER dated July 21, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Eau Claire, Wis.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., December 10, 1970.

(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 Kansas City, Mo., on September 22, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

EAU CLAIRE, WIS.

Within a 5-mile radius of Eau Claire Municipal Airport (latitude 44°51'50" N., longitude 91°29'10" W.); within 2½ miles each side of the 304° bearing from Eau Claire Municipal Airport extending from the 5-mile radius zone to 5½ miles northwest of the airport; within 2½ miles each side of the 041° bearing from the Eau Claire Municipal Airport, extending from the 5-mile radius zone to 5½ miles northeast of the airport; and within 2½ miles each side of the 274° bearing from the Eau Claire Municipal Airport, extending from the 5-mile radius zone to 5½ miles west of the airport.

(2) In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

EAU CLAIRE, WIS.

That airspace extending upward from 700 feet above the surface within 11½-mile radius of Eau Claire Municipal Airport (latitude 44°51'50" N., longitude 91°29'10" W.); and within 2 miles each side of the 202° radial of the Eau Claire VORTAC extending from the 11½-mile radius area to 14 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Eau Claire VORTAC; and that airspace extending upward from 4,000 feet MSL southwest of Eau Claire bounded on the east by V-129, on the southwest by V-2N, and on the north by V-26S.

[F.R. Doc. 70-13527; Filed, Oct. 8, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-57]

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

Alteration of Transition Area

On Page 11638 of the FEDERAL REGISTER dated July 21, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Newton, Kans.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

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

(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 Kansas City, Mo., on September 22, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

NEWTON, KANS.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Newton Municipal Airport (latitude 38°03'20" N., longitude 97°16'35" W.).

[F.R. Doc. 70-13528; Filed, Oct. 8, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-96]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Gaylord, Mich.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued

only after extensive consideration and discussion with Government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the Gaylord, Mich., transition area. Action is taken herein to reflect this change.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

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 amended to read:

GAYLORD, MICH.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Otsego County Airport (latitude 45°00'50" N., longitude 84°41'45" W.) and that airspace extending upward from 1,200 feet above the surface within 9½ miles north and 4½ miles south of the 085° bearing from the Otsego County Airport; extending from the airport to 18½ miles east of the airport and within 5 miles each side of the 265° bearing from the Otsego County Airport extending from the airport to 12 miles west of the airport; that airspace extending upward from 5,000 feet MSL within the area east of Gaylord bounded on the northeast by V-45 on the southeast by V-45W and on the west by V-297; and within the area west and north of Gaylord bounded on the east by V-297 on the south by V-430 and on the northwest by V-193.

(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 Kansas City, Mo., on September 22, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-13529; Filed, Oct. 8, 1970; 8:46 a.m.]

[Airspace Docket No. 69-CE-105]

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

Alteration of Control Zone and Transition Area

On Page 4264 of the FEDERAL REGISTER dated March 7, 1970, the Federal Aviation Administration published a Supplemental notice of proposed rulemaking which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Houghton, Mich.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., December 10, 1970.

(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 Kansas City, Mo., on September 25, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

HOUGHTON, MICH.

Within a 5-mile radius of Houghton County Memorial Airport (latitude 47°10'10" N., longitude 88°29'20" W.); within 3 miles each side of the 020° bearing from the Houghton RBN, extending from the 5-mile radius zone to 6½ miles north of the RBN; within 3 miles each side of the Houghton VOR 308° radial, extending from the 5-mile radius zone to 9½ miles northwest of the VOR; and within 3½ miles each side of the Houghton VOR 141° radial, extending from the 5-mile radius zone to 10 miles southeast of the VOR; and within 3 miles each side of the Houghton VOR 060° radial, extending from the 5-mile radius zone to 8 miles northeast of the VOR.

(2) In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

HOUGHTON, MICH.

That airspace extending upward from 700 feet above the surface within a 17-mile radius of the Houghton VOR; and that airspace extending upward from 1,200 feet above the surface within 4½ miles east and 9½ miles west of the 020° bearing from the Houghton RBN, extending from the RBN to 18½ miles north of the RBN; within 4½ miles northeast and 9½ miles southwest of the Houghton VOR 308° radial, extending from the VOR to 18½ miles northwest of the VOR; within 4½ miles southeast and 9½ miles northwest of the Houghton VOR 060° radial, extending from the VOR to 18½ miles northeast of the VOR; and within 4½ miles southwest and 9½ miles northeast of the Houghton VOR 141° radial, extending from the VOR to 18½ miles southeast of the VOR.

[F.R. Doc. 70-13530; Filed, Oct. 8, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-66]

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

Designation of Transition Area

On page 12286 of the FEDERAL REGISTER dated July 31, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Pekin, Ill.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

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

(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 Kansas City, Mo., on September 25, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

PEKIN, ILL.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Pekin Municipal Airport (latitude 40°29'25" N., longitude 89°40'20" W.); excluding the portion which overlies the Peoria, Ill., 700-foot floor transition area.

[F.R. Doc. 70-13531; Filed, Oct. 8, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-67]

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

Designation of Transition Area

On pages 12286 and 12287 of the FEDERAL REGISTER dated July 31, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Valentine, Nebr.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

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

(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 Kansas City, Mo., on September 25, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

VALENTINE, NEBR.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Miller Field Airport (latitude 42°51'25" N., longitude 100°32'50" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 145° bearing from the Miller Field Airport extending from the airport to 18½ miles

southeast of the airport; and within 5 miles each side of the 325° bearing from the Miller Field Airport extending from the airport to 12 miles northwest of the airport; excluding the portion which overlies the Ainsworth, Nebr., 1,200-foot floor transition area.

[F.R. Doc. 70-13532; Filed, Oct. 8, 1970; 8:46 a.m.]

[Airspace Docket No. 70-CE-68]

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

Designation of Transition Area

On page 12287 of the FEDERAL REGISTER dated July 31, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Lambertville, Mich.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change:

The Wagon Wheel Airport coordinates recited in the Lambertville, Mich., transition area designation as "latitude 41°44'00" N., longitude 83°39'00" W." are changed to read "latitude 41°43'45" N., longitude 83°39'45" W."

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

(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 Kansas City, Mo., on September 25, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

LAMBERTVILLE, MICH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wagon Wheel Airport (latitude 41°43'45" N., longitude 83°39'45" W.) and within 2 miles each side of the 357° radial of the Waterville, Ohio, VORTAC, extending from the 5-mile radius area to 14 miles north of the VORTAC; excluding the portion which overlies the Toledo, Ohio, 700-foot floor transition area.

[F.R. Doc. 70-13533; Filed, Oct. 8, 1970; 8:46 a.m.]

[Airspace Docket No. 70-EA-54]

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

Alteration of Control Zone and Transition Area

On page 12558 of the FEDERAL REGISTER for August 6, 1970, the Federal Aviation Administration published proposed regulations which would alter the Du Bois,

Pa., control zone (35 F.R. 2073) and transition area (35 F.R. 2172).

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

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., December 10, 1970.

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

Issued in Jamaica, N.Y., on September 22, 1970.

LOUIS CARDINALI,
Acting Director, Eastern Region.

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

Within a 5-mile radius of the center, 41°10'45" N., 78°53'45" W. of Du Bois-Jefferson County Airport and within 3 miles each side of the Du Bois ILS localizer northeast course, extending from the 5-mile radius zone to 8.5 miles northeast of the OM.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Du Bois, Pa., transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 11.5 mile radius of the center, 41°10'45" N., 78°53'45" W. of Du Bois-Jefferson County Airport and within 3.5 miles each side of the Du Bois ILS localizer northeast course extending from the 11.5-mile radius area to 11.5 miles northeast of the OM.

[F.R. Doc. 70-13534; Filed, Oct. 8, 1970; 8:47 a.m.]

[Airspace Docket No. 70-EA-59]

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

Alteration of Control Zone and Transition Area

On page 12559 of the FEDERAL REGISTER for August 6, 1970, the Federal Aviation Administration published proposed regulations which would alter the Portland, Maine, control zone (35 F.R. 2133) and transition area (35 F.R. 2246).

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

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., December 10, 1970.

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

Issued in Jamaica, N.Y. on September 22, 1970.

GEORGE M. GARY,
Director, Eastern Region.

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

Within a 5-mile radius of the center (43°38'50" N., 70°18'30" W.) of Portland International Jetport, excluding the portion within a 1-mile radius of Oak Knoll Airport, Scarborough, Maine (43°35'21" N., 70°22'03" W.).

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Portland, Maine, 700-foot transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (43°38'50" N., 70°18'30" W.) of Portland International Jetport; within 4.5 miles south and 9.5 miles north of the Portland ILS localizer west course, extending from the OM to 18.5 miles west of the OM.

[F.R. Doc. 70-13535; Filed, Oct. 8, 1970; 8:47 a.m.]

[Airspace Docket No. 70-EA-81]

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

Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Endicott, N.Y., transition area (35 F.R. 2175).

A runway redesignation requires a change in the present description of the transition area to reflect the change.

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

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

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Endicott, N.Y., transition area the words "runway 22" and "runway 4" and insert in lieu thereof, "runway 21" and "runway 3", respectively.

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

Issued in Jamaica, N.Y., on September 23, 1970.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[F.R. Doc. 70-13536; Filed, Oct. 8, 1970; 8:47 a.m.]

[Airspace Docket No. 70-WE-62]

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

Designation of Control Zone

On August 20, 1970 a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 13292) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a control zone for El Monte, Calif., airport.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. The State of California, Department of Aeronautics objected to the proposed 5-mile radius zone and suggested that a 3-mile zone be considered. A review of the airspace requirements for El Monte Airport revealed that a 3-mile radius zone with a 2-mile extension on the final approach radial would contain the prescribed instrument procedure. Action is taken herein to alter the proposed control zone accordingly.

Since this amendment is less restrictive than the original proposal, additional notice and public procedure are unnecessary.

In consideration of the foregoing in § 71.171 (35 F.R. 2054) the following control zone is added.

EL MONTE, CALIF.

Within a 3-mile radius of El Monte Airport (latitude 34°05'05" N., longitude 118°02'00" W.) and within 2 miles each side of the Pomona VORTAC 271° radial, extending from the 3-mile radius zone to 8 miles west of the VORTAC.

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 29, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-13537; Filed, Oct. 8, 1970; 8:47 a.m.]

[Airspace Docket No. 70-EA-76]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segment

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to redesignate the segment of Jet Route No. 109 between Front Royal, Va., and Buffalo, N.Y.

J-109 segment between Front Royal and Buffalo is presently designated via Phillipsburg, Pa. Action is taken herein

to redesignate this jet route segment direct between Front Royal and Buffalo. This direct alignment would reduce the route mileage and would provide operational advantages for the movement of en route traffic by air traffic control.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

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.

In § 75.100 (35 F.R. 2359) Jet Route No. 109 text is amended by deleting "Phillipsburg, Pa.,".

(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 October 2, 1970.

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

[F.R. Doc. 70-13538; Filed, Oct. 8, 1970; 8:47 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-380; Order No. 410]

PART 154—RATE SCHEDULES AND TARIFFS

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS A AND CLASS B)

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Accounting and Rate Treatment of Advance Payments to Suppliers for Gas and Amending of Form

OCTOBER 2, 1970.

On January 23, 1970, the Commission issued a notice of proposed rulemaking in this proceeding (35 F.R. 4008, Mar. 3, 1970) proposing to amend its regulations under the Natural Gas Act so as to provide for accounting and rate treatment of advance payments made to suppliers by pipelines for gas to be delivered at a future date; and to amend its Uniform System of Accounts for Class A and Class B Natural Gas Companies and FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and B) consistent with amendments to such regulations.

Comments were invited from interested persons to be submitted by February 27, 1970,¹ on the alternatives therein proposed or any other appropriate alternative thereto. Responses to submittals were allowed to be filed by March 20, 1970.² An additional period of time until June 1, 1970, was granted to allow filing responses to late submittals. In response to this notice, the Commission received comments from 34 respondents.³

The notice of proposed rulemaking provided three alternative methods for treatment of advance payments, and proposed amendments to the Commission's regulations under the Natural Gas Act contingent on the treatment for advance payments adopted. These alternative methods were:

A. Advance payments for gas would be recorded as prepayments and unrecovered advance payments would be included in the rate base as part of working capital;

B. Advance payments would be recorded as prepayments and carrying charges capitalized until recovery of the advances commenced, the unrecovered advances and related carrying charges to be included in the rate base as working capital and carrying charges on recovered advances to be included as a cost of purchased gas; or

C. Advance payments would be excluded from the rate base.

The changes to the Uniform System of Accounts consist of revisions to account 165, Prepayments, and the addition of a new account 166, Advance Payments for Gas, to provide uniform accounting harmonious with the rate treatment adopted.

The Commission's basic purpose in revising FPC Form No. 2 as ordered herein is to extend the same concepts to reporting as are being ordered for accounting in the Uniform System of Accounts.

Upon consideration of the comments, the Commission concludes that alternative method A should be adopted because of its accounting soundness and the encouraging effects it would have on gas

supply. The principal objection to alternative A was that pipeline companies would have to bear the cost of carrying such advances until a rate base was filed. The general support of alternative B was based on the assumption that the inclusion of carrying charges on advance payments was proper; in some instances its similarity to interest during construction was cited. The principal objection to alternative B was that it would allow advance payments in the rate base, while allowing carrying charges to be computed at the same time. Both alternative methods A and B were opposed by some respondents on the grounds that advances would be diverted mainly to pipeline affiliated producers, giving them an unfair advantage over independent producers.

Those who supported alternative C did so generally because of the adverse cost effects that alternatives A and B would have on consumers. On the other hand, several respondents opposed alternative method C because it was believed that if it were adopted, it would be a depressant to development of future sources of supply of natural gas, and therefore not in the public interest. The Commission agrees with the comments in opposition.

It is the Commission's view that, particularly at the present time when there are indications of a natural gas shortage, it is not in the public interest for pipeline companies to bear the cost of assuring themselves and their customers of a future supply of natural gas. We believe that, when it is necessary for pipeline companies to make advance payments in order to contract for gas supplies, it is equitable that the companies should earn on the amounts advanced. Therefore, the Commission is rejecting alternative method C.

While alternative A or B, both of which were supported by respondents to the rule making, would enable the companies to include advance payments in the rate base, the Commission favors the adoption of alternative method A. Alternative method A is more consistent with our regulatory policy in that amounts included in the rate base should not continue to accrue interest.

As a result of comments received on the proposed text of new Account 166, Advance Payments for Gas, several modifications have been made. Paragraph A has been modified as follows:

1. The definition of "exploration" has been expanded to include lease acquisition costs.

2. The phrase "or otherwise" in the first sentence of the paragraph referring to the repayment of advance payments has been deleted and a note added to the account specifying the procedures concerning repayment of advances by other than the receipt of natural gas.

3. The criteria for recording amounts in the account has been clarified by providing that advances shall pertain to "each agreement" with a natural gas producer.

4. Noncurrent advance payments have been defined as payments not to be repaid within 2 years.

5. The text has been revised to exclude amounts advanced which entitle the pipeline company to obtain an interest in a lease, operations, or findings of any producer.

As proposed in the notice of proposed rulemaking, the Commission is adopting, in modified form, in account 166 the proposition that:

Outstanding advance payments should be reduced within a reasonable period of time following commencement of deliveries (5 years at the maximum). A portion of all gas taken should be credited to outstanding advance payments; the reduction of the outstanding advance payments should not be dependent on a buyer purchasing more than 100 percent of the minimum take or pay quantity provided in the contract.

To clarify the amount to be recovered and to provide for recovery of advance payments over periods extending more than 5 years, the revisions are being included to allow Commission authorization of variant periods, under unusual circumstances, and to state that advances must be fully recovered within 5 years, unless such authorization is obtained.

In response to comments, the Commission has included provisions for treatment of unrecoverable advance payments to be included in paragraph C of Account 166. In addition, paragraph D has been added to specify accounting treatment for recovered advance payments.

Consistent with the amendments to § 154.63 of the regulations under the Natural Gas Act adopted herein, the Commission plans to consider those amounts recorded in Account 166, Advance Payments for Gas, as rate base items, where found reasonable and appropriate.

The Commission finds:

(1) The notice and opportunity to participate in this proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments, and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed in section 553 of title 5 of the United States Code.

(2) The amendments of the Commission's Uniform System of Accounts, regulations under the Natural Gas Act and Annual Report Form No. 2 schedules herein prescribed are necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the revised schedules of FPC Form No. 2 are being prescribed for the reporting year 1970, good cause exists for making the amendments adopted herein effective immediately.

(4) The changes prescribed herein which were not included in the notice in this proceeding are of a minor nature, and further notice thereof is therefore unnecessary.

The Commission acting pursuant to the authority granted by the Natural Gas Act, as amended, particularly by sections 4, 5, 7, 15, and 16 (52 Stat. 822, 823, 824, 825, 829, and 830 (1938); 56 Stat. 83, 84 (1942); 61 Stat. 459 (1947);

¹ Extension of time granted to Mar. 31, 1970 (35 F.R. 4080, Mar. 4, 1970).

² Extensions of time granted to Apr. 21, 1970 (35 F.R. 4141, Mar. 5, 1970).

³ Cincinnati Gas & Electric Co., Pacific Gas and Electric, Pacific Lighting Cos., Philadelphia Electric Co., Southern California Edison Co., United Gas Illuminating Corp., Colorado Interstate Gas Co., Columbia Gas System Service Corp., Consolidated Natural Gas Co., Natural Gas Pipeline Company of America, Northern Illinois Gas Co., Northern Natural Gas Co., Pacific Gas Transmission Co., Panhandle Eastern Pipe Line Co., Texas Eastern Transmission Corp., Transcontinental Gas Pipeline Corp., United Gas Pipe Line Co., Arthur Andersen and Co., Haskins and Sells, Troupe Kehoe Whitaker and Kent, Van Scoyoc & Wiskup, Inc., American Gas Association, Independent Natural Gas Association of America, Ronald Seymour, California Co. (a division of Chevron Oil Co.), Glover Hefner Kennedy Oil Co., Mobil Oil Corp., Pan American Petroleum Corp., Shell Oil Co., Texaco, Inc., California Public Utilities Commission, Illinois Commerce Commission, New Hampshire Public Utilities Commission, and New York Public Service Commission.

76 Stat. 72 (1962); 15 U.S.C. 717c, 717d, 717f, 717n, and 717o), orders:

(A) The Commission's Uniform System of Accounts for Class A and Class B Natural Gas Companies, prescribed by Part 201, Chapter 1, Title 18 of the Code of Federal Regulations is amended as follows:

1. The Chart of Balance Sheet Accounts is amended by adding a new account title "166, Advance Payments for Gas," immediately following account title "165, Prepayments," as follows:

Balance Sheet Accounts
(Chart of Accounts)

ASSETS AND OTHER DEBITS

3. CURRENT AND ACCRUED ASSETS

166 Advance Payments for Gas.

2. The text of Balance Sheet Accounts is amended by revising account "165, Prepayments," and adding a new account "166, Advance Payments for Gas," as follows:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

3. CURRENT AND ACCRUED ASSETS

165 Prepayments.

A. This account shall include payments for undelivered gas and other prepayments of rents, taxes, insurance, interest, and like disbursements made prior to the period to which they apply. Prepayments for gas are those amounts paid to a seller of gas under "take or pay" provisions of a gas purchase contract for a sale certificated by the Commission where future makeup of the gas not taken in the current period is provided for by the contract.

B. As the periods covered by such prepayments expire, credit this account and charge the proper operating expense or other appropriate account with the amount applicable to the period.

C. This account shall be kept or supported in such a manner as to disclose the amount of each class of prepayments.

166 Advance payments for gas.

A. This account shall include all advance payments made for gas (whether called "advance payments," "contribution," or otherwise) to others, including affiliated companies, for exploration (including lease acquisition costs), development, or production of natural gas, when such advance payments are to be repaid by delivery of gas. Under each agreement with payee, such payments must be made prior to initial gas deliveries by the payee, or prior to Federal and/or State authorization, as appropriate. Noncurrent advance payments not to be repaid in gas within a 2-year period shall be reclassified and transferred to account 124, Other Investments, for balance sheet purposes. Under no circumstances shall this account in-

clude any amounts where a company shall obtain an interest in a lease, operations or findings of a producer, including an affiliate producer, other than to receive deliveries of gas.

B. Unless otherwise authorized by the Commission outstanding advance payments should be fully reduced within a reasonable period of time following commencement of deliveries. A sufficient portion of all gas taken should be credited to outstanding advance payments so as to eliminate the advance within a 5-year period. The reduction of the outstanding advance payments should not be dependent on a buyer purchasing more than 100 percent of the minimum take or pay quantity provided in the contract.

C. This account must be credited by the amount of advances which become nonrecoverable at the time such amounts are recognized as nonrecoverable. Nonrecoverable advance payments significant in amount may be charged to Account 435, Extraordinary Deductions, or when authorized by the Commission, charged to Account 186, Miscellaneous Deferred Debits, and Amortized to Account 813, Other Gas Supply Expenses. Nonrecoverable advance payments insignificant in amount should be charged directly to Account 813 in the year recognized as nonrecoverable.

D. Recovered advance payments shall be credited to this account and charged to the appropriate gas purchase account.

E. This account shall be maintained in such a manner as to allow full disclosure of each advance payment.

NOTE: If circumstances should cause the repayment of the advance in other than gas, the company must submit the full details involved as soon as such change becomes known.

(B) Statement E—Working Capital, in paragraph (f) Description of Statements, of § 154.63 in Part 154, Rate Schedules and Tariffs, Subchapter E—Regulations Under Natural Gas Act, Chapter 1, Title 18 of the Code of Federal Regulations is amended as follows: Item (b) in the first sentence of the second paragraph of Statement E is amended by adding immediately following the word "prepayments" the words "the unrecovered portion of advance payments to suppliers." Schedules E-1 and E-2 are revised. As amended, these portions of Statement E read as follows:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

(f) Description of statements. * * *

Statement E—Working Capital. * * *

The components of working capital may include (a) * * * (b) an allowance for the average of 13 monthly balances of materials and supplies, prepayments, the unrecovered portion of advance payments to suppliers, and gas for current delivery from underground storage. * * *

Schedule E-1 setting forth monthly balances for materials and supplies, prepayments, and advance payments in such detail as to disclose, either by subaccounts regularly maintained on the books or by analysis of the principal items included in

the main account, the nature of the charges included therein.

Schedule E-2 setting forth monthly balances of material and supplies, prepayments, and advance payments on purchased gas for 2 years immediately preceding the 12 months of actual experience used in the filing. * * *

(C) Effective for the reporting year 1970, Schedule pages 110, 202, 210, 210A, and 210B of FPC Form No. 2, Annual Report for Natural Gas Companies, Class A and Class B, prescribed by § 260.1, Chapter 1, Title 18 of the Code of Federal Regulations are amended as follows, all as set out in the Attachments hereto:

(1) Schedule page 110, Comparative Balance Sheet, is amended by inserting item "23, Advance Payments for Gas (166)" immediately following item "22, Prepayments (165)."

(2) Schedule page 202, Investments (accounts 123, 124, 136), is amended by adding a final sentence to instruction "4, Investment Advances" which reads "Include amounts reported in schedule 210B."

(3) Schedule page 210, Prepayments (Account 165) is amended by revising the title for item 6 to read "6, Miscellaneous prepayments" and by deleting line items 7, 8, and 9.

(4) Schedule page 210A, Gas Prepayments Under Purchase Agreements is amended by deleting instruction 6.

(5) Schedule page 210B, Advance Payments for Gas Prior to Initial Deliveries or Commission Certification is amended by adding the words "(Accounts 124 and 166)" at the end of the schedule title, and by revising instruction 1.

(D) This order is effective immediately upon issuance.

(E) The Secretary of the Commission shall cause prompt publication of this order.

By the Commission.

[SEAL]

GORDON M. GRANT,
Secretary.

[P.R. Doc. 70-13562; Filed, Oct. 8, 1970;
8:49 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-217]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Coastwise Transportation; Israel

On the basis of information obtained and furnished by the Department of State, it is found that the Government of Israel extends to vessels of the United States, in ports of Israel, privileges reciprocal to those provided in § 4.93(a)(1), Customs Regulations, with respect to equipment for use with cargo vans, lift vans, or shipping tanks; empty barges

* Filed as part of the original document.

specifically designed for carriage aboard a vessel; empty instruments of international traffic exempted from application of the customs laws by the Secretary of the Treasury pursuant to the provisions of section 322(a), Tariff Act of 1930 (19 U.S.C. 1322(a)) and stevedoring equipment and material provided in § 4.93(a) (2), Customs Regulations, under the conditions specified in the applicable proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883).

Accordingly, paragraph (b) (2) of § 4.93, Customs Regulations, is amended by the insertion of "Israel" in appropriate alphabetical order in the list of countries under that paragraph.

(80 Stat. 379, sec. 27, 41 Stat. 999, as amended; 6 U.S.C. 301, 46 U.S.C. 883)

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

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: September 29, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[F.R. Doc. 70-13592; Filed, Oct. 8, 1970;
8:51 a.m.]

[T.D. 70-218]

**PART 8—LIABILITY FOR DUTIES;
ENTRY OF IMPORTED MERCHANDISE**
**Cancellation of Claims for Liquidated
Damages**

Section 8.59(j) provides for the cancellation under certain conditions of liquidated damages assessed for failure to file a timely entry for merchandise (other than quota merchandise) released under a special permit. Upon application of the importer, the district director is presently authorized to cancel such liquidated damages upon payment of an appropriate sum which shall not exceed 10 percent of the duty assessed.

A sum which shall not exceed 10 percent of the duty assessed does not constitute a sufficient deterrent to prevent delays in the filing of entries in many cases, and there are cases in which greater relief is warranted.

Accordingly, § 8.59(j) is amended to read as follows:

§ 8.59 Applications; entry; procedure.

(j) When liquidated damages have been assessed for failure to file a timely entry for merchandise not subject to a quota which has been released under a special permit and the importer files an application for relief, the district director may act upon such application as follows:

(1) If he is satisfied that the delay was not deliberate, cancel such liquidated damages upon the payment of an appropriate sum which shall not exceed 10 percent of the duty assessed but not less than \$25. In determining the appropriate amount the district director shall take

into consideration the circumstances causing the delay, the extent of the lateness, and the amount of duty involved, and the importer's past record with respect to the timeliness of filing entries. In general, the district director shall not cancel a claim for liquidated damages upon payment of an amount in the lower range of his discretion, if the entry is late by more than 3 working days.

(2) If he is satisfied that the violation was incurred solely because of a delay in the return by Customs to the importer of documents necessary to make entry, he may cancel such liquidated damages without payment.

(3) If collection of an amount greater than that provided by this paragraph appears warranted, the case shall be forwarded to the Bureau for disposition. The district director may refuse the privilege of immediate delivery under paragraph (a) of this section to any person who repeatedly files entries untimely.

(Secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 1623, 1624)

The amendment to § 8.59(j) shall be effective as to claims for liquidated damages arising 30 days after the date of publication of this decision in the FEDERAL REGISTER.

MYLES J. AMBROSE,
Commissioner of Customs.

Approved: October 1, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[F.R. Doc. 70-13593; Filed, Oct. 8, 1970;
8:51 a.m.]

[T.D. 70-219]

PART 153—ANTIDUMPING
Withholding of Appraisalment

It has been decided to provide that withholding of appraisalment notices in dumping cases as now issued by the Commissioner of Customs under § 153.34, Customs Regulations, will in the future be prepared for the approval of the Secretary of the Treasury in addition to signature by the Commissioner. To accomplish this, the phrase "with the approval of the Secretary" is added, in the appropriate places, to paragraphs (a) and (b) of § 153.34.

Section 153.34 accordingly is amended as follows:

That portion of paragraph (a) which precedes subparagraphs (1) and (2), and paragraph (b) thereof are amended to read:

§ 153.34 Withholding of appraisalment.

(a) *Three-month period.* If the Commissioner determines during the course of his investigations that there are reasonable grounds to believe or suspect that any merchandise is being, or is likely to be, sold at less than its foreign market value (or, in the absence of such value, then its constructed value) under the Antidumping Act, and if there is evidence on record concerning injury or likelihood of injury to or prevention of

establishment of an industry of the United States, he shall, with the approval of the Secretary, publish notice of these facts in the FEDERAL REGISTER in a "Withholding of Appraisalment Notice," indicating:

(b) *Six-month period.* At any time prior to the issuance of the withholding of appraisalment notice referred to in paragraph (a) of this section, importers and exporters concerned may request that the period of withholding of appraisalment extend for a period longer than 3 months, but in no case longer than 6 months. Upon receipt of such a request from importers and exporters concerned the Commissioner will decide whether appraisalment should be withheld for a period longer than 3 months. If the Commissioner decides that a period of withholding of appraisalment longer than 3 months is justified, he will, with the approval of the Secretary, publish a withholding or appraisalment notice upon the same basis and containing information of the same type as is required by paragraph (a) of this section, except that the expiration date of the notice may be 6 months from the date of publication of the notice in the FEDERAL REGISTER.

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

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

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: October 1, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[F.R. Doc. 70-13594; Filed, Oct. 8, 1970;
8:51 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

REDELEGATIONS OF AUTHORITY FROM COMMISSIONER TO OTHER OFFICERS OF THE ADMINISTRATION

Under authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 2.121 is amended to update and add delegations of authority. Delegations formerly appearing in paragraphs (b) and (c) are revised and those that were in subparagraphs (2), (3), and (4) of

paragraph (b) are set forth, as revised, in new paragraph (p). A new delegation regarding issuance of certificates of sanitation is set forth in new paragraph (q).

Accordingly, § 2.121 is amended by revising paragraphs (b) and (c) and by adding paragraphs (p) and (q), as follows:

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

(b) *Delegations regarding authorization to hold informal hearings.* The Directors of Bureaus, Regional Food and Drug Directors, and Deputy Regional Food and Drug Directors are authorized to designate officials to hold informal hearings under sections 305, 404(b), and 801(a) of the Federal Food, Drug, and Cosmetic Act, sections 7 and 14 of the Federal Hazardous Substances Act, and section 5 of the Federal Import Milk Act. Officials so designated are delegated authority contemplated by section 1 of the Act of January 31, 1925 (Ch. 124, 43 Stat. 803); sections 12 to 15 of Reorganization Plan No. IV, effective June 30, 1940; Reorganization Plan No. 1 of 1953, effective April 11, 1953; and section 556(c) of Title 5 U.S.C. (80 Stat. 386), to administer to or take from any person an oath, affirmation, affidavit, or deposition for use in any prosecution or proceeding under or in enforcement of any law as cited in this section.

(c) *Delegations regarding authorization to request samples of imports.* The Regional Food and Drug Directors and Deputy Regional food and Drug Directors are authorized to designate officials who may request, pursuant to section 801(a) of the Federal Food, Drug, and Cosmetic Act and section 14 of the Federal Hazardous Substances Act, from the Secretary of the Treasury samples of foods, drugs, devices, cosmetics, or hazardous substances imported, or offered for import, in order to determine whether such articles are in compliance with those acts.

(p) *Delegations regarding enforcement activities.* (1) Duly appointed and authorized inspectors, officers, and employees of the Food and Drug Administration who have been issued the Food and Drug Administration official credentials consisting of FD Form 200a entitled "Identification Record" and FD Form 200b entitled "Specification of General Authority" are designated by the Commissioner of Food and Drugs:

(i) To conduct examinations, inspections, and investigations; to collect and obtain samples; to have access to and to copy and verify records; and to supervise compliance operations, for the enforcement of the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, the Federal Caustic Poison Act, the Federal Hazardous Substances Act, the Import Milk Act, the Filled Milk Act, the Tea Importation Act, and section 361 of the Public Health Service Act.

(ii) To administer oaths and affirmations under section 1 of the Act of Jan-

uary 31, 1925 (Ch. 124, 43 Stat. 803); sections 12 to 15 of Reorganization Plan No. IV, effective June 30, 1940; and Reorganization Plan No. 1 of 1953, effective April 11, 1953.

(2) Duly appointed and authorized inspectors, officers, and employees of the Food and Drug Administration who have been issued the Food and Drug Administration official credentials consisting of FD Form 200a entitled "Identification Record" and FD Form 200c entitled "Specification of General and Special Authority" are designated by the Commissioner of Food and Drugs:

(i) To perform the duties enumerated in subparagraph (1) (i) and (ii) of this paragraph.

(ii) As officers and employees having the authority to request and the authority to have access to and copy and verify records and reports required by sections 505 (i) and (j), 507 (d) and (g), and 512 (l) and (m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (i) and (j), 357 (d) and (g), and 360b (l) and (m)).

(3) The Food and Drug Administration official credentials referred to in subparagraphs (1) and (2) of this paragraph are described as follows:

(i) FD Form 200a entitled "Identification Record" bears a color photograph, description, and signature of the bearer, an identification number, an expiration date, the Department of Health, Education, and Welfare seal with blue imprint centered to the left of the photograph and the Food and Drug Administration symbol centered to the right of the photograph.

(ii) FD Form 200b entitled "Specification of General Authority" bears the holder's name, his general authority, an identification number, an expiration date, and the Commissioner's signature.

(iii) FD Form 200c entitled "Specification of General and Special Authority" bears the holder's name, his general and special authority, an identification number, an expiration date, and the Commissioner's signature and is superimposed in the lower right corner with a red, white, and blue stripe imprint.

(iv) Both FD Form 200b and FD Form 200c bear the name of the Department of Health, Education, and Welfare, Public Health Service, and Food and Drug Administration and are superimposed with the Department seal with blue imprint.

(q) *Delegations regarding certification following inspections.* Regional Food and Drug Directors and Deputy Regional Food and Drug Directors are authorized to issue certificates of sanitation pursuant to § 72.181 (42 CFR 72.181).

Effective date. This order is effective as of July 1, 1970.

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

Dated: September 28, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[P.R. Doc. 70-13516; Filed, Oct. 8, 1970; 8:45 a.m.]

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

GRANTS AND FELLOWSHIPS

Pursuant to provisions of the Public Health Service Act (secs. 301, 311, 314, 58 Stat. 691-95, as amended; 42 U.S.C. 241, 243, 246) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the following new paragraph is added to § 2.121 to establish the described delegation of authority:

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

(r) *Delegations regarding awarding grants and fellowships.* The Associate and Deputy Associate Commissioner for Science are authorized to award grants and fellowships pursuant to sections 301, 311, and 314 of the Public Health Service Act.

Effective date. This order is effective on its date of signature.

(Secs. 301, 311, 314, 58 Stat. 691-95, as amended; 42 U.S.C. 241, 243, 246)

Dated: September 28, 1970.

CHARLES C. EDWARDS,
Commissioner of Foods and Drugs.

[P.R. Doc. 70-13516; Filed, Oct. 8, 1970; 8:45 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. 108.626]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Refusal and Revocation of Nonimmigrant Visas

Part 41, Chapter I, title 22 of the Code of Federal Regulations is being amended to conform to changes already made in Part 42, § 42.134 concerning revocation of visas.

Section 41.134 is amended as follows:

§ 41.134 **Revocation and invalidation of visas.**

(h) *Reconsideration of revocation or invalidation.* (1) The consular officer shall consider any evidence which may be submitted by the alien, his attorney, or representative in connection with a request that the revocation or invalidation of the visa be reconsidered. If the evidence is sufficient to overcome the basis for the revocation or invalidation, a new visa shall be issued. A memorandum regarding the action taken and the reasons therefor shall be placed in the consular files and appropriate notification shall be forwarded promptly to the carriers concerned, to the Department, and to the

issuing office if notice of revocation or invalidation has been given in accordance with paragraphs (e), (f), and (g) of this section. (2) In view of the provisions of § 41.121 which provide for the refund of fees when the visa has not been used as a result of action by the United States Government, no fees should be collected in connection with the application for or issuance of such a reinstated visa.

Effective date. The amendments to the regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER.

The provisions of section 4 of the Administrative Procedure Act (80 Stat. 393, 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

BARBARA M. WATSON,
Administrator, Bureau of
Security and Consular Affairs.

SEPTEMBER 28, 1970.

[P.R. Doc. 70-12569; Filed, Oct. 8, 1970;
8:49 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7063]

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX RE- FORM ACT OF 1969

Termination of Private Foundation Status by Transfer to, or Operation as, Public Charity

The following regulations relate to the application of section 507(b) of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 492) to the requirements for termination of private foundation status by transfer to, or operation as, a public charity.

The regulations set forth herein are temporary and are designed to provide rules governing the manner in which private foundations, which attempt to terminate their status as such by transferring their net assets to public charities or by becoming "public", may satisfy the requirements of section 507(b)(1)(A) or (B). The procedure for giving notification of termination required under section 507(b)(1)(B)(ii) is also set forth. The regulations are effective until the issuance of final regulations to be prescribed by the Commissioner and approved by the Secretary or his delegate.

In order to provide such temporary regulations under section 507(b) of the Internal Revenue Code of 1954, the following regulations are adopted:

§ 13.12 Termination of private foundation status by transfer to, or operation as, public charity.

(a) **Transfer to public charities—(1) General rule.** Under section 507(b)(1)(A) of the Internal Revenue Code of 1954, a private foundation can terminate its status as such without incurring the tax imposed by section 507(c), provided there have not been either willful repeated acts (or failures to act) or a willful and flagrant act (or failure to act) giving rise to liability for tax under Chapter 42, if such organization distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months immediately preceding such distribution.

(2) **Effect of current ruling.** An organization to which a distribution of net assets is made will qualify as an organization "described in section 170(b)(1)(A) (other than clauses (vii) and (viii))" for purposes of meeting the requirements of section 507(b)(1)(A) without a further showing if such organization:

(i) Has been in existence for a continuous period of at least 60 calendar months preceding the distribution described in subparagraph (1) of this paragraph;

(ii) Has received a ruling that it is an organization described in clause (i), (ii), (iii), (iv), (v), or (vi) of section 170(b)(1)(A);

(iii) The facts and circumstances forming the basis for the issuance of the ruling have not substantially changed during the 60-month period referred to in subdivision (i) of this subparagraph; and

(iv) The ruling referred to in subdivision (i) of this subparagraph has not been revoked expressly or by a subsequent change of the law or regulations under which the ruling was issued.

(3) **Organizations described in more than one clause in section 170(b)(1)(A).** For purposes of section 507(b)(1)(A), the parenthetical term "other than in clauses (vii) and (viii)" shall be treated as referring only to an organization which is described only in section 170(b)(1)(A) (vii) or (viii). If an organization is described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), it will not be precluded from being a distributee described in section 507(b)(1)(A) merely because it also appears to meet the description of an organization described in section 170(b)(1)(A) (viii).

(4) **Special transitional rule.** Section 4940(a) imposes a tax upon private foundations with respect to the carrying on of activities for each taxable year. For purposes of section 4940, an organization which terminates its private foundation status under section 507(b)(1)(A) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969, will not be considered

as carrying on activities within the meaning of section 4940 during such 12-month period. Such organization will therefore not be subject to the tax imposed under section 4940(a) for such 12-month period. For purposes of this subparagraph, if an organization establishes to the satisfaction of the Commissioner that it has taken affirmative action to distribute all of its net assets pursuant to section 507(b)(1)(A) during the 12-month period beginning with its first taxable year which begins after December 31, 1969, but has not completed such distribution by the end of such 12-month period, such organization will not be subject to the tax imposed under section 4940(a) if such distribution becomes final by the date upon which the Form 990, Annual Information Return, of such organization is due (including any extensions) for such first taxable year. For example, if the trustees of a charitable trust have made application to the appropriate state court for approval of the distribution of all of such trust's net assets pursuant to section 507(b)(1)(A) by the end of such 12-month period, but such approval is not granted by the end of such period, such trust will not be subject to the tax imposed under section 4940(a) if its application receives final approval by the court before the date upon which its Annual Information Return is due and such distribution is made by such date.

(5) **Return required from organizations terminating private foundation status under section 507(b)(1)(A).** An organization which terminates its private foundation status under section 507(b)(1)(A) is required to file a return under the provisions of section 6043(b), rather than under the provisions of section 6050.

(6) **Inapplicability of sections 507(a), (c), and (g) to section 507(b)(1)(A) transactions.** A private foundation which terminates its status as such by distributing all of its net assets in compliance with the requirements of section 507(b)(1)(A) is not required to give the notification described under section 507(c). The tax imposed under section 507(c) on organizations described in section 507(a) is not, therefore, applicable and no abatement of such tax under section 507(g) is required.

(7) **Distribution of net assets.** In order to terminate its private foundation status under section 507(b)(1)(A), an organization is required to distribute all of its net assets. An organization will meet this requirement if it transfers all of its right, title, and interest in and to all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)). The fact that the transferor organization, at the time of transfer, designates the general exempt purpose or purposes for which such assets are to be used will not, in and of itself, result in the transferor's failing to meet this requirement. Likewise, the mere use of the name of the transferor foundation, or its creator, by the transferee in connection with the

use of the assets by the transferee will not, in and of itself, constitute a failure to meet this requirement.

(b) *Operation as public charity*—(1) *General rule.* Under section 507(b)(1)(B) a private foundation can terminate its status as such without incurring the tax imposed by section 507(c) if the organization:

(i) Meets the requirements of section 509(a)(1), (2), or (3) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969, or for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969;

(ii) Properly notifies the Commissioner before the commencement of such 12-month or 60-month period (or before the 90th day after the day on which the regulations under section 507(b) become final) that it is terminating its private foundation status; and

(iii) Properly establishes to the satisfaction of the Commissioner immediately after the expiration of such 12-month or 60-month period that such organization has complied with the requirements of section 509(a)(1), (2), or (3) within the prescribed period.

(2) *Requirements which certain public charities must meet.* Section 509(a) defines the term "private foundation" to mean any domestic or foreign organization described in section 501(c)(3) of the Code other than an organization described in section 509(a)(1), (2), (3), or (4). Section 509(a)(1) describes organizations which are described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) and, thus, includes organizations described in section 170(b)(1)(A)(vi) of the Code. Section 170(b)(1)(A)(vi) deals with organizations referred to in section 170(c)(2) which "normally" receive a substantial part of their support (exclusive of income received from related activities) from a governmental unit or from direct or indirect contributions from the general public. Section 509(a)(2) includes an organization which "normally" receives more than one-third of its support in each taxable year from gifts, grants, contributions, membership fees, or gross receipts (subject to the limitations of section 509(a)(2)(A)(ii)) from persons other than disqualified persons (as defined in section 4946), from governmental units, or from organizations described in section 170(b)(1)(A)(i) through (vi), and "normally" receives not more than one-third of its support in each taxable year from gross investment income. Section 509(a)(3) includes an organization which, in addition to other requirements, "is organized, and at all times thereafter is operated" exclusively for the purposes specified in section 509(a)(3)(A).

(c) *Method of determining normal sources of support*—(1) *General rules.* (i) Section 1.170-2(b)(5)(iii)(b) of this chapter sets forth a mechanical test to determine whether, for purposes of section 170(b)(1)(A)(vi), an organization "normally" receives a substantial part of its support from governmental units or the general public. Under this me-

chanical test, an organization will be considered to be publicly supported for its current taxable year if, for the four immediately preceding taxable years, the total amount of public support equals one-third or more of the total support for such 4-year period. In addition, § 1.170-2(b)(5)(iii)(c) of this chapter provides a facts and circumstances test for organizations which fail to qualify as publicly supported under the mechanical test, including organizations which have not been in existence for a sufficient length of time to make such test applicable.

(ii) For the general rule applicable to determining whether an organization "normally" meets the tests prescribed under section 509(a)(2), see the regulations under that section.

(2) *Twelve-month termination rule—In general.* The 12-month termination provisions of section 507(b)(1)(B) permit a private foundation to terminate its status as such, by changing its organizational structure, its operations, the sources of its support, or any combination thereof, during the 12-month period in order to conform to the requirements of section 509(a)(1), (2), or (3) by the end of the 12-month period. For the purpose of determining whether such organization "normally" receives a substantial part of its support from governmental units or the general public for purposes of section 170(b)(1)(A)(vi), neither the mechanical test set forth in § 1.170-2(b)(5)(iii)(b) of this chapter which is based on the 4 immediately preceding years, nor a facts and circumstances test which is based exclusively on data from periods preceding the 12-month period, shall be applied.

(3) *Twelve-month termination rule under section 170(b)(1)(A)(iv) or (vi).* (i) A private foundation attempting to meet the requirements of section 509(a)(1) as an organization described in section 170(b)(1)(A)(vi) will be considered "normally" to receive a substantial part of its support from governmental units or direct or indirect contributions from the general public if it can establish to the satisfaction of the Commissioner that it has changed the sources of its support before the close of the 12-month period to those of an organization described in section 170(b)(1)(A)(vi) and it can reasonably be expected to maintain its status as such for subsequent years. In order to establish these facts, an organization shall submit all information sufficient to make a determination under § 1.170-2(b)(5)(iii)(c) of this chapter as if such provisions applied, including a description of all organizational and operational changes which have occurred during the 12-month period. It shall also submit detailed information with respect to its sources of support for the 12-month period, as well as for the 4 taxable years immediately preceding the 12-month period. Such information shall be considered as part of the facts and circumstances in determining whether the organization has effectively changed its sources of support and whether it can reasonably be expected to maintain such publicly supported status for subsequent years.

(ii) Section 170(b)(1)(A)(iv) describes an organization which "normally" receives a substantial part of its support (exclusive of income from related activities) from the United States or any state or political subdivision thereof, or from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of certain colleges or universities. For purposes of the 12-month termination period, the rule set forth in subdivision (i) of this subparagraph with respect to section 170(b)(1)(A)(vi) organizations shall be applicable in determining whether an organization "normally" receives a substantial part of its support from the sources required under section 170(b)(1)(A)(iv).

(4) *Twelve-month termination rule under section 509(a)(2).* An organization attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 509(a)(2) by the end of the 12-month period will be considered as "normally" receiving its support in compliance with the one-third support requirements of section 509(a)(2) if:

(i) For the 12-month period under section 507(b)(1)(B), the organization receives more than one-third of its support from gifts, grants, contributions, membership fees, and gross receipts from related activities (as limited by section 509(a)(2)(A)(ii)) and not more than one-third of its support from gross investment income, and

(ii) The organization can establish to the satisfaction of the Commissioner that it can reasonably be expected to maintain its continued public support for subsequent years. In order to establish a reasonable expectation of continued public support, an organization shall submit a detailed statement describing its past and current operations, any organizational or operational changes and when such changes have occurred, and any changes in its foundation managers (as defined in section 4946(b)(1)). Duplicate copies of its governing instrument and bylaws, with an indication of any amendments made, and detailed information with respect to its sources of support for the 4 taxable years immediately preceding the 12-month period shall also be submitted as part of the evidence that the organization can reasonably be expected to maintain its publicly supported status.

(5) *Sixty-month termination rule.* (i) In order to meet the requirements of section 507(b)(1)(B) for the 60-month termination period as a section 509(a)(1) or (2) organization, an organization must meet the requirements of section 509(a)(1) or (2), as the case may be, for a continuous period of at least 60 calendar months.

(ii) For purposes of section 507(b)(1)(B), an organization will be considered to be a section 509(a)(1) organization described in section 170(b)(1)(A)(vi) for a continuous period of 60 calendar months only if the total amount of sup-

port received from governmental units or from direct or indirect contributions from the general public during such period equals one-third or more of the total support for such period or if such organization meets the facts and circumstances test set forth in § 1.170-2(b)(5)(iii)(c) of this chapter for such period.

(iii) For purposes of section 507(b)(1)(B), an organization will be considered to be a section 509(a)(2) organization only if such organization meets the support requirements set forth in section 509(a)(2)(A) and (B) for the continuous period of 60 calendar months prescribed under section 507(b)(1)(B), rather than for any shorter period set forth in the regulations under section 509(a)(2). Except for the substitution of such 60-month period for the shorter periods described in the regulations under section 509(a)(2), all other provisions of such regulations pertinent to determining an organization's normal sources of support shall remain applicable.

(d) *Organizational and operational tests*—(1) *Section 509(a)(3) organizations; 12-month terminations.* An organization attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 509(a)(3) by the end of the 12-month period is required to meet the organizational and operational test of section 509(a)(3)(A), in addition to the requirements of section 509(a)(3)(B) and (C), by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969. An organization may qualify under section 509(a)(3)(A) even though its original governing instrument did not limit its purposes to those set forth in section 509(a)(3)(A) and even though it operated for some other purpose before the end of the 12-month period, provided it has amended its governing instrument and changed its operations to conform to the requirements of section 509(a)(3) by the end of the 12-month period.

(2) *Proof of changed status.* In order to establish that an organization described in subparagraph (1) of this paragraph will continue to be operated exclusively for the required purposes in years subsequent to the end of the 12-month period, such organization shall submit a detailed statement describing its past and current operations, any organizational or operational changes and when such changes have occurred, any changes in its foundation managers (as defined in section 4946(b)(1)), and duplicate copies of its governing instrument and bylaws, with an indication of any amendments made. A detailed statement of the relationship between such organization and the specified organizations described in section 509(a)(1) or (2) (as required by section 509(a)(3)(A) and (B)), and all pertinent information to establish that the organization does not violate the control requirements of section 509(a)(3)(C) shall also be submitted.

(3) *Section 509(a)(1) organizations other than those described in section 170(b)(1)(A)(vi); 12-month terminations.* An organization attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) by the end of the 12-month period is required to be operated as an organization described in clause (i), (ii), (iii), (iv), or (v) of section 170(b)(1)(A) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969. An organization may qualify under section 509(a)(1) even though it did not operate as an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) at all times before the end of the 12-month period, provided it has changed its operations to conform to the requirements of an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) by the end of the 12-month period. In order to establish that it will continue to be operated as an organization described in section 509(a)(1) in years subsequent to the end of the 12-month period, the organization shall submit a detailed statement describing its past and current operations, any organizational or operational changes and when such changes have occurred, and any changes in its foundation managers (as defined in section 4946(b)(1)). Duplicate copies of its governing instrument and bylaws, with an indication of any amendments made, and its financial statements for the four taxable years immediately preceding the 12-month period shall also be submitted as evidence that the organization can reasonably be expected to maintain its status as an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v).

(4) *Sixty-month termination rule.* In order to meet the requirements of section 507(b)(1)(B) for the 60-month termination period as an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) or section 509(a)(3), as the case may be, an organization must meet the requirements of the applicable provision for a continuous period of at least 60 calendar months. For purposes of section 507(b)(1)(B), an organization will be considered to be such an organization only if it satisfies the requirements of the applicable provision (including, with respect to section 509(a)(3), the organizational and operational test set forth in subparagraph (A) thereof) at the commencement of such 60-month period, and continuously thereafter during such period.

(e) *Effect on grantors or contributors and on the organization itself.* In the event that an organization satisfies the requirements of section 507(b)(1)(B) for termination of its private foundation status by the end of the 12-month period or during the continuous 60-month period, such organization shall be treated for such entire 12-month or 60-month period in the same manner as an organization described in section 509(a)(1), (2), or (3).

(f) *Status of organization subsequent to the 12-month period.* For purposes of part II of subchapter F of this chapter, an organization, the status of which as a private foundation is terminated under section 507(b)(1), shall (except as provided in paragraph (h)(2) of this section) be treated as an organization created on the day after the date of such termination. However, termination of private foundation status under the provisions of section 507(b)(1)(B) is based upon an organization's submission of information establishing compliance by the end of the 12-month period with the requirements of paragraph (c) or (d) of this section. Therefore, if in the 4 taxable years immediately following the end of the 12-month period, the sources of support or the methods of operation of the organization are materially different from the facts and circumstances presented during the 12-month period upon which the determination under section 507(b)(1)(B)(iii) was made, the organization will be deemed not to have satisfied the requirements of section 507(b)(1)(B). Under such circumstances, section 509(c) will not apply and the organization will continue to remain subject to the provisions of section 507. However, the status of grants and contributions under sections 170, 4942, and 4945 will not be affected until the Internal Revenue Service makes notice to the public (such as by publication in the Internal Revenue Bulletin) that the organization has been deleted from classification as an organization described in section 509(a)(1), (2), or (3) unless the donor:

(1) Was in part responsible for, or was aware of, the act or failure to act that resulted in the organization's inability to satisfy the requirements of section 507(b)(1)(B), or

(2) Had knowledge that such organization would be deleted from classification as an organization described in section 509(a)(1), (2), or (3).

(g) *Notification of termination.* In order to comply with the requirements under section 507(b)(1)(B)(ii), an organization shall before the commencement of the 12-month or 60-month period under section 507(b)(1)(B)(i) (or before the 90th day after the day on which regulations, other than these temporary regulations, first prescribed under this subsection become final, notify the district director that it is terminating its private foundation status. Such notification shall be filed with the district director for the internal revenue district in which the principal place of business or principal office of the organization is located, and shall contain the following information:

(1) The name and address of the private foundation;

(2) Its intention to terminate its private foundation status;

(3) Whether the 12-month or 60-month period shall apply;

(4) The Code section under which it seeks classification (section 509(a)(1), (2), or (3));

(5) If section 509(a)(1) is applicable, the clause of section 170(b)(1)(A) involved;

(6) The date its regular taxable year begins; and

(7) The date of commencement of the 12-month or 60-month period.

(h) *Establishment of termination.* (1) In order to comply with the requirements under section 507(b)(1)(B)(iii), an organization shall within 90 days after the expiration of the 12-month or 60-month period, file such information with the district director for the internal revenue district in which the principal place of business or principal office of the organization is located as is necessary to make a determination as to the organization's status as an organization described under section 509(a)(1), (2), or (3) and the regulations promulgated thereunder.

(2) An organization which has terminated its private foundation status under section 507(b)(1)(B) is not required to comply with the special rules set forth in section 508(a) and (b). Such organization is also not required to file a return under the provisions of section 6043(b) or 6050 by reason of termination of its private foundation status under the provisions of section 507(b)(1)(B).

(i) *Failure to meet section 507(b)(1)(B) requirements.* If an organization gives the notification, described in paragraph (g) of this section, of the commencement of a 60-month termination period and such organization fails to meet the requirements of section 509(a)(1), (2), or (3) for the entire 60-month period, sections 507 through 509 and chapter 42 shall not apply to such organization for any taxable year within such 60-month period for which it does meet such requirements. For purposes of section 507(d), the aggregate tax benefit resulting from the organization's section 501(c)(3) status shall continue to be computed from the date from which such computation would have been made, but for the notice filed under section 507(b)(1)(B)(ii), except that any taxable year within such 60-month period for which such organization meets the requirements of section 509(a)(1), (2), or (3) shall be excluded from such computations.

(j) *Extension of time.* (1) For purposes of this section, the 12-month period referred to in section 507(b)(1)(B) shall not be treated as having expired before the 90th day after the day on which regulations (other than these temporary regulations) first prescribed under section 507(b) become final.

(2) The failure to supply, within the required time, all of the information required by paragraph (g) or (h) of this section is not alone sufficient to constitute a failure to satisfy the requirements of section 507(b)(1)(B). If the information which is submitted within the required time is incomplete, and the organization supplies the necessary additional information at the request of the Commissioner or his delegate within the additional time period allowed by him, the original submission will be considered timely.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it

is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

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

Approved: October 5, 1970.

EDWIN S. COHEN,
Assistant Secretary
of the Treasury.

[F.R. Doc. 70-13554; Filed, Oct. 8, 1970;
8:48 a.m.]

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments

This part as filed with the FEDERAL REGISTER on June 29, 1955, was last amended on May 6, 1970 (35 F.R. 7111). The following amendments are made to Part 601:

PARAGRAPH 1. Section 601.103 is amended by revising paragraph (c)(2) to read as follows:

§ 601.103 Summary of general tax procedure.

(c) *Disputed liability.* * * *

(2) *Petition to the U.S. Tax Court.* In the case of income, profits, estate, gift, and excise taxes, imposed by subtitles A and B, and excise taxes under chapter 42 of the 1954 Code, before a deficiency may be assessed a statutory notice of deficiency (commonly called a "90-day letter") must be sent to the taxpayer by certified mail or registered mail unless the taxpayer waives this restriction on assessment. See, however, §§ 601.105(h) and 601.109 for exceptions. The taxpayer may then file a petition for a redetermination of the proposed deficiency with the U.S. Tax Court within 90 days from the date of the mailing of the statutory notice. If the notice is addressed to a person outside the States of the Union and the District of Columbia, the period within which a petition may be filed in the Tax Court is 150 days in lieu of 90 days. In other words, the taxpayer has the right in respect of these taxes to contest any proposed deficiency before an independent tribunal prior to assessment or payment of the deficiency. Unless the taxpayer waives the restrictions on assessment and collection after the date of the mailing of the statutory notice, no assessment or collection of a deficiency (not including the correction of a mathematical error) may be made in respect of these taxes until the expiration of the applicable period or, if a petition is filed with the Tax Court, until the decision of the Court has become final. If, however, the taxpayer makes a payment with respect to a deficiency, the amount of such payment may be as-

essed. See, however, § 601.105(h). If the taxpayer fails to file a petition with the Tax Court within the applicable period, the deficiency will be assessed upon the expiration of such period and notice and demand for payment of the amount thereof will be mailed to the taxpayer. If the taxpayer files a petition with the Tax Court, the entire amount redetermined as the deficiency by a final decision of the Tax Court will be assessed and is payable upon notice and demand. There are no restrictions on the timely assessment and collection of the amount of any deficiency determined by the Tax Court, and a notice of appeal of the Court's decision will not stay the assessment and collection of the deficiency so determined, unless on or before the time the notice of appeal is filed the taxpayer files with the Tax Court a bond in a sum fixed by the Court not exceeding twice the portion of the deficiency in respect of which the notice of appeal is filed. No part of an amount determined as a deficiency but disallowed as such by a decision of the Tax Court which has become final may be assessed or collected by levy or by proceeding in court with or without assessment.

PAR. 2. Section 601.105 is amended by revising subparagraphs (1), (2), (3), and 5(i)(d) of paragraph (b) and by revising subparagraph (1)(ii) of paragraph (c). These revised provisions read as follows:

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

(b) *Examination of returns.*—(1) *General.* The original examination of income, profits, estate, gift, excise, and employment tax returns is a primary function of examining officers in the Audit Division of the office of each district director of internal revenue. Such examining officers are organized in groups, each of which is under the immediate supervision of a group supervisor designated by the district director. Revenue agents (and such other officers or employees of the Internal Revenue Service as may be designated for this purpose by the Commissioner) are authorized to examine any books, papers, records, or memoranda bearing upon matters required to be included in Federal tax returns and to take testimony relative thereto and to administer oaths. See section 7602 of the Code and the regulations thereunder. There are two general types of audit. These are commonly called "office audit" and "field audit". During the audit of a return a taxpayer may be represented before the examining officer by an attorney, certified public accountant, or other representative. See Subpart E of this part for conference and practice requirements.

(2) *Office audit.* Certain returns are examined by office audit techniques. These returns include some business returns, besides the full range of nonbusiness individual income tax returns. Office

audits are conducted primarily by the interview method. Audits are conducted by correspondence only when warranted by the nature of the questionable items and by the convenience and characteristics of the taxpayer. In a correspondence audit, the taxpayer is asked to explain or send supporting evidence by mail. In an office interview audit the taxpayer is asked to come to the district director's office for an interview and to bring certain records with him in support of his return. During the interview audit, the taxpayer has the right to point out to the examining officer any amounts included in his return which are not taxable, or any deductions which he failed to claim on his return. If it develops that a field audit is necessary, the examining officer may conduct such audit.

(3) *Field audit.* Certain returns are examined by field audit which involves an examination of the taxpayer's books and records on the taxpayer's premises. An examining officer will check the entire return filed by the taxpayer and will examine all books, papers, records, and memoranda dealing with matters required to be included in the return. If the return presents an engineering or appraisal problem (e.g., depreciation or depletion deductions, gains or losses upon the sale or exchange of property, or losses on account of abandonment, exhaustion, or obsolescence), it may be investigated by an engineer agent who makes a separate report.

(5) *Technical advice from the National Office—(i) Definition and nature of technical advice.*

(d) The provisions of this subparagraph apply only to a case under the jurisdiction of a district director. They do not apply to a case under the jurisdiction of Alcohol, Tobacco, and Firearms Division or to a case under the jurisdiction of a regional Appellate Division, including cases previously considered by Appellate. A case remains under the jurisdiction of the district director even though a Regional Appellate Division has the identical issue under consideration in the case of another taxpayer (not related within the meaning of section 267 of the Code) in an entirely different of transaction. Technical advice may not be requested with respect to a taxable period if a prior Appellate disposition of the same taxable period of the same taxpayer's case was based on mutual concessions (ordinarily with an 870-AD type agreement). Technical advice may not be requested by a district office on issues previously considered in a prior Appellate disposition, not based on mutual concessions, of the same taxable periods of the same taxpayer unless Appellate concurs in the request.

(c) *District conference procedure—(1) Office audit.*

(ii) If, at the conclusion of an office interview audit, the taxpayer does not agree with the adjustments proposed, the examining officer will fully explain the adjustments and the available appeal procedures. If the taxpayer desires

an immediate conference it will be granted if practicable. If an immediate conference is not requested by the taxpayer, the examination report will be mailed to him under cover of an appropriate transmittal letter. This letter provides him with a detailed explanation of the available appeal procedures and requests him to inform the district, within the specified time, of his choice of action. The taxpayer will be granted a district Audit Division conference on request, and will not be required to file a protest. However, business returns examined by office audit techniques are processed after examination in the same manner as returns examined by field audit techniques.

PAR. 3. Section 601.106 is amended by revising paragraph (a)(1) to read as follows:

§ 601.106 Appellate functions.

(a) *General.* (1) There is provided in each region an Appellate Division with office facilities within the region. Unless they otherwise specify, taxpayers residing outside the territorial limits of the regional Appellate Divisions use the facilities of the Washington, D.C., branch office of the Appellate Division of the Mid-Atlantic Region. Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph, the Commissioner has delegated to certain officers of the Appellate Division of each region authority to represent the regional commissioner in his exclusive and final authority for the determination of Federal income, profits, estate, or gift tax liability (whether before or after the issuance of a statutory notice of deficiency) and for the determination of employment or certain Federal excise tax liability, in any case originating in the office of any district director situated in the region or in any case in which jurisdiction has been transferred to the region, in which the taxpayer requests Appellate consideration and submits a written protest, when required, to the determination of liability made by that officer. A written protest is required if the total amount of proposed additional tax, proposed over-assessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest) exceeds \$2,500 for any taxable period. A written protest is also required if no district conference is held regardless of the amount involved. The Appellate Division has complete jurisdiction of every income, profits, estate, or gift tax case after the issuance of the statutory notice of deficiency, subject to the limitations provided in subparagraph (2) of this paragraph. If the statutory notice of deficiency was issued by a district director or the Director of International Operations, the Appellate Division may waive jurisdiction to the director who issued the statutory notice during the 90-day (or 150-day) period for filing petition with the Tax Court, except where criminal prosecution has been recommended and not finally disposed of or the statutory notice includes

the ad valorem fraud penalty. After the filing of a petition in the Tax Court the Appellate Division continues to have exclusive jurisdiction of the case, subject to the provisions of subparagraph (2) of this paragraph. Subject to the exceptions and limitations set forth in subparagraph (2) of this paragraph, there is also vested in the Appellate Division of the region authority to represent the regional commissioner in his exclusive authority to settle (i) all cases docketed in the U.S. Tax Court, and designated for trial at any place within the territory comprising the region and (ii) all docketed cases originating in the office of any district director situated within the region or in which jurisdiction has been transferred to the region, which are designated for trial at Washington, D.C., unless the petitioner resides in and his books and records are located (or can be made available) in the region which includes Washington, D.C.

PAR. 4. Section 601.109 is amended by revising paragraphs (b) and (c) to read as follows:

§ 601.109 Bankruptcy and receivership cases.

(b) *Procedure in office of district director.* (1) While the district director is required by section 6871 of the Code to make immediate assessment of any deficiency in income, estate, or gift taxes, such assessment is not made as a jeopardy assessment (see paragraph (h) of § 601.105), and the provisions of section 6861 of the Code do not apply to any assessment made under section 6871. Therefore, the notice of deficiency provided for in section 6361(b) will not be mailed to the taxpayer. Nevertheless, a letter (Form L-296) will be prepared and addressed in the name of the taxpayer, immediately followed by the name of the trustee, receiver, debtor in possession, or other person designated to be in control of the assets or affairs of the debtor by the court in which the bankruptcy or receivership proceeding is pending. Such letter will state how the deficiency was computed, advise that within 30 days a written protest under penalties of perjury may be filed with the district director showing wherein the deficiency is claimed to be incorrect, and advise that upon request a district conference will be granted with respect to such deficiency. If, after protest is filed and a district conference is held, adjustment appears necessary in the deficiency, appropriate action will be taken. Except where the interests of the Government require otherwise, Form L-296 letters are issued by the office of the district director. If at the time of the adjudication of bankruptcy in a liquidating proceeding, the approval of a petition in any other proceeding under the Bankruptcy Act, or appointment of a receiver, a case was pending before the Tax Court, the prescribed Form L-296 letter will not advise the addressee of any right to request a conference in the office of the district director. Protests

must be filed in triplicate. The district conference procedures described in paragraph (c) of § 601.105 are generally applicable to a district conference held after the issuance of a Form L-296 letter.

(2) The immediate assessment required by section 6871 of the Code represents an exception to the usual restrictions on the assessment of Federal income, estate, and gift taxes. Since there are no restrictions on the assessment of Federal excise or employment taxes, immediate assessment of such taxes will be made in any case where section 6871 of the Code would require immediate assessment of income, estate, or gift taxes.

(3) If after such assessment a claim for abatement is filed and such claim is accompanied by a request in writing for a conference, a district conference in the office of the district director of internal revenue will be granted. Ordinarily, only one conference will be held, unless it develops that additional information can be furnished which has a material bearing upon the tax liability, in which event the conference will be continued to a later date.

(c) *Procedure before the Appellate Division restricted.* (1) Except as provided in subparagraph (2) of this paragraph, a case involving an immediate assessment under section 6871 of the Code or an assessment of excise or employment taxes will not be referred by a district director to a field office of the Appellate Division after (i) the adjudication of bankruptcy of any taxpayer in any liquidating proceeding; (ii) the filing with a court of competent jurisdiction or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under the Bankruptcy Act; or (iii) the appointment of any receiver. Therefore, the taxpayer, or the trustee, receiver, or debtor in possession or other person designated by the court as in control of the assets or affairs of the debtor, may not request consideration of the case by the Appellate Division. If at the time of the adjudication of bankruptcy, or the filing of the approval of a petition or the appointment of a receiver, an income, estate, or gift tax case is under consideration by a field office of the Appellate Division, whether before or after issuance of a statutory notice of deficiency, the case will be returned to the district director for assessment (if not previously made), and for issuance of the Form L-296 letter, and filing proof of claim in the proceeding. Excise and employment tax cases pending in the Appellate Division at such time will likewise be returned to the district director for assessment (if not previously made) and for filing proof of claim in the proceeding. Thereafter, such cases will not be referred by the district director to the Appellate Division except as provided in subparagraph (2) of this paragraph. A petition for redetermination of a deficiency may not be filed in the Tax Court after the adjudication of bankruptcy, the filing or (where ap-

proval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver. See section 6871(b) of the Code. However, the Tax Court is not deprived of jurisdiction where the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver, occurred after the filing of the petition. In such a case, the jurisdiction of the bankruptcy or receivership court and the Tax Court is concurrent.

(2) If a petition for redetermination of the deficiency has been filed in the Tax Court prior to the adjudication of bankruptcy or the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, the taxpayer in any other bankruptcy proceeding, or the appointment of a receiver, the proceeding may be prosecuted in the Tax Court. All such docketed cases will be referred to the Appellate Division promptly after issuance of the Form L-296 letter. If a case not docketed in the Tax Court is under Appellate Division consideration at the time that circumstances require the issuance of a Form L-296 letter, that Division may request return of the file in order to continue its consideration and arrive at a determination.

PAR. 5. Section 601.201 is amended by revising paragraph (c) (4), by revising subparagraphs (1) (i), (2) (i) and (ii), (4), (5) (i), (ii), and (iii), (6) (ii), (iii), (iv), and (v), and (7) (iv) (b) of paragraph (n), and by revising paragraph (o) (2) to read as follows:

§ 601.201 Rulings and determination letters.

(c) *Determination letters issued by district directors.*

(4) Notwithstanding the provisions of subparagraphs (1), (2), (3), (5), and (6) of this paragraph, a district director may not issue a determination letter in response to an inquiry, although the inquiry presents a question covered specifically by statute, regulations, rulings, etc., published in the Internal Revenue Bulletin, where (i) it appears that the taxpayer has directed a similar inquiry to the National Office, (ii) the identical issue, involving the same taxpayer is pending in a case before the Appellate Division, (iii) the determination letter is requested by an industry, trade association, or similar group, or (iv) the request involves an industrywide problem. Under no circumstances will a district director issue a determination letter unless it is clearly indicated that the inquiry is with regard to a taxpayer or taxpayers who have filed or are required to file returns over which his office has or will have audit jurisdiction. Notwithstanding the provisions of subparagraph (3) of this

paragraph, a district director may not issue a determination letter on an employment tax question when the specific question involved has been or is being considered by the national office of the Social Security Administration. Nor may district directors issue determination letters on excise tax questions of a request is for a determination of a constructive sales price under sections 4216(b) and 4218(e) of the Code. However, the National Office will issue rulings in this area. See paragraph (d) (2) of this section.

(n) *Organization claiming exemption under section 501 or 521 of the Code—*

(1) *Filing applications for exemption.* (i) An organization seeking a ruling or determination letter of exemption under section 501 or section 521 of the Code is required to file an application (in duplicate, if under section 501) with the district director of internal revenue for the district in which is located its principal place of business or principal office. Any application received by the National Office or by a district director other than as provided above will be forwarded, without any action thereon, to the appropriate district director. The exemption applications will be forwarded for processing to 16 key districts. These districts and the area to be covered by each are as follows:

Key district	Area covered
San Francisco	Northern California, Utah, Nevada.
Los Angeles	Southern California, Arizona, Hawaii.
Seattle	Washington, Oregon, Alaska, Idaho, Montana.
Dallas	Northern Texas, Oklahoma, Arkansas, Kansas.
Austin	Southern Texas, Louisiana, New Mexico, Colorado, Wyoming.
Detroit	Michigan.
Cincinnati	Southern Ohio, Kentucky, Indiana.
Cleveland	Northern Ohio, West Virginia.
Atlanta	Georgia, North Carolina, South Carolina, Florida, Tennessee, Mississippi, Alabama.
Manhattan	New York State.
Boston	Massachusetts, Maine, Vermont, Rhode Island, Connecticut, New Hampshire, (all New England States).
Philadelphia	Eastern Pennsylvania, New Jersey, Delaware.
Baltimore	Maryland, Western Pennsylvania, Virginia, District of Columbia.
Chicago	Northern Illinois.
St. Paul	Minnesota, North Dakota, South Dakota, Nebraska, Wisconsin.
St. Louis	Missouri, Southern Illinois, Iowa.

(2) *Processing applications.* (i) Under the general procedures outlined in paragraphs (a) through (m) of this section, key district directors are authorized to

issue determination letters involving applications for exemption under sections 501 and 521 of the Code.

(ii) A key district director will refer applications which present questions not covered by established precedents to the National Office for ruling. The National Office will consider each such application, issue a ruling directly to the organization, and send a copy of the ruling to the key district director. In the event of a conclusion unfavorable to the applicant, it will be informed of the basis for the conclusion and of its rights to file a protest and to a conference in the National Office. If a conference is requested, the conference procedures outlined in subdivision (vi) of paragraph (b)(5) of § 601.105 will be followed. After reconsideration of the application in the light of the protest and any information developed in conference, the National Office will affirm, modify, or reverse the original conclusion, issue a ruling to the organization, and send a copy of the ruling to the key district director.

(4) *National Office review of determination letters.* The National Office will review determination letters to assure uniformity in the application of the established principles and precedents of the Service. Where the National Office takes exception to a determination letter the key district director will be advised. If the organization protests the exception taken, the file and protests will be returned to the National Office. The referral will be treated as a request for technical advice and the procedures of paragraph (b)(5) of § 601.105 will be followed.

(5) *Protest of adverse determination letters.* (i) Upon the issuance of a determination letter adverse to the applicant the key district director will advise the organization of its right to protest the determination by submitting a statement of the facts, law, and arguments in support of its application for exemption, and of its right to a conference in the key district office.

(ii) The organization may waive its right to a key district office conference and request referral of the matter directly to the National Office. The key district director will advise the organization in writing that the matter will be referred to the National Office in accordance with its request only after a statement is filed setting forth the facts, law, and arguments in support of its application for exemption. In addition, the organization will be requested to specify whether it desires a conference in the National Office in the event an adverse decision is indicated.

(iii) If, after considering the organization's protest and any information developed in conference, the key district director maintains his position and the organization does not agree, the case will be referred to the National Office. The referral will be considered a request for technical advice and the procedures of paragraph (b)(5) of § 601.105 will be followed.

(6) *Revocation or modification of exemption rulings or determination letters.* * * *

(i) If a key district director concludes, as a result of examining an information return or considering information from any other source, that a ruling or determination letter should be revoked or modified, the organization will be advised in writing of the proposed action and the reasons therefor. The key district director will also advise the organization of its right to protest the proposed action by submitting a statement of the facts, law, and arguments in support of its continued exemption, and of its right to a conference in the key district office.

(ii) The organization may waive its right to a key district office conference and request referral of the matter directly to the National Office. The key district director will advise the organization in writing that the matter will be referred to the National Office in accordance with its request only after it files a statement setting forth the facts, law, and arguments in support of continued exemption. In addition, the organization shall be requested to specify whether it desires a conference in the National Office in the event an adverse decision is indicated.

(iv) If the organization agrees with the proposed action, either before or after a key district office conference, or if no protest is filed, the key district director will issue a determination letter revoking or modifying the organization's exemption.

(v) If, after considering the organization's protest and any information developed in conference, the key district director maintains his position and the organization does not agree, the file and protest will be referred to the National Office. The referral will be considered a request for technical advice and the procedures of paragraph (b)(5) of § 601.105 will be followed.

(7) *Group exemption letters.* * * *

(iv) *Information required annually to maintain a group exemption letter.* * * *

(b) Submission of the information required by this subdivision does not relieve the central organization or any of its subordinates of the duty to submit such additional information as a key district director may require to enable him to determine whether the conditions for continued exemption are being met. See sections 6001 and 6033 of the Code and the regulations thereunder.

(c) *Employees' trusts or plans.* * * *

(2) *Instructions to taxpayers.* (i) All of the provisions of paragraph (e) of this section are applicable to requests for determination letters of the type discussed in this paragraph. In addition, an employer requesting a determination letter should file with the appropriate district director specified in subdivision (vi) of this subparagraph the application form required by subdivisions (ii) through (vi) of this subparagraph. The filing of such application, when accompanied by

copies of all documents, including the plan and trust or custodial agreement and specimen insurance contracts, if applicable, will generally serve to provide the Service with the information required by § 1.404(a)-2 of this chapter of the Income Tax Regulations. However, in making the determination, the Service may require the submission of additional information as appropriate.

(ii) If the request relates to the initial qualification of an individually designed plan, a subsequent amendment thereto, or compliance with the requirements for a foreign situs trust, the employer should (a) if the plan does not include self-employed individuals, file Form 4573, or (b) if the plan includes self-employed individuals, file Form 4574, except that where a bond purchase plan includes a self-employed individual, file Form 4578, Application for Approval of Bond Purchase Plan.

(iii) If the request involves an investment of trust funds in the stock or securities of the employer, the employer or trustee should file Form 4575.

(iv) If the request involves a curtailment or termination of the plan (or complete discontinuance of contributions), the employer should file Form 4576. This form will also be applicable to the termination of a plan that includes self-employed individuals.

(v) An association of employers or a board of trustees should file Form 4577, if the request relates to the initial qualification or subsequent amendment of an industry-wide or area-wide union-negotiated plan.

(vi) When, in connection with an application for a determination on the qualification of the plan, it is necessary to determine whether an organization (including a professional service organization) is a corporation or an association classified as a corporation under § 301.7701-2 of this chapter of the Regulations on Procedure and Administration, and whether an employer-employee relationship exists between it and its associates, the district director will make such determination. In such cases, the application with respect to the qualification of the plan should be filed in accordance with the provisions herein set forth and should contain the information and documents specified in the application. It should also be accompanied by such information and copies of documents as the organization deems appropriate to establish its status. The Service may, in addition, require any further information that is considered necessary to determine the status of the organization, the employment status of the individuals involved, or the qualification of the plan. After the taxable status of the organization and the employer-employee relationship have been determined, the district director may issue a determination letter as to the qualification of the plan.

(vii) Requests for determination letters on matters authorized by subparagraph (1) of this paragraph, and the necessary supporting data, are to be addressed to the district director specified below:

(a) A single employer will address his request to the district director for the district in which his principal place of business is located.

(b) If a parent company and its subsidiaries have a single plan, the request will be addressed to the district director for the district in which the principal place of business of the parent company is located, whether separate or consolidated returns are filed.

(c) If the plan is established or proposed for an industry by all subscribing employers whose principal places of business are located within the jurisdiction of more than one district director, the request will be addressed to the district director for the district in which is located the principal place of business of the trustee, or if more than one trustee, the usual meeting place of the trustees.

(d) In the case of a pooled fund arrangement (individual trusts under separate plans pooling their funds for investment purposes through a master trust), the request on behalf of the master trust will be addressed to the district director for the district where the principal place of business of such trust is located. Requests on behalf of the participating trusts and related plans will be addressed as otherwise provided in (a) through (c) of this subdivision.

(e) In the case of a plan of multiple employers (other than a master or prototype plan) not otherwise provided for in (a) through (f) of this subdivision, the request will be addressed to the district director for the district in which is located the principal place of business of the trustee, or if not trustee or if more than one trustee, the principal or usual meeting place of the trustees or plan supervisors.

(f) If the plan is for an organization of the type described in subdivision (vi) of this subparagraph, the organization will address its request to the district director with whom it is required to file its tax returns.

PAR. 6. Section 601.202 is amended by revising paragraph (c) (3) and (6) to read as follows:

§ 601.202 Closing agreements.

(c) Approval.

(3) Closing agreements for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods (including those covering competent authority determinations in the administration of the operating provisions of the tax conventions of the United States) may be entered into and approved by the Assistant Commissioner (Compliance).

(6) Closing agreements providing for the mitigation of economic double taxation under section 3 of Revenue Procedure 64-54, C.B. 1964-2, 1008, or under Revenue Procedure 69-13, C.B. 1969-1, 402 or for such mitigation and relief under Revenue Procedure 65-17, C.B. 1965-1, 833, may be entered into and

approved by the Director of International Operations.

PAR. 7. Section 601.203 is amended by revising paragraphs (b) and (d) to read as follows:

§ 601.203 Offers in compromise.

(b) *Use of prescribed form.* Offers in compromise are required to be submitted on Form 656 (Rev. 2-69), properly executed, and accompanied by a financial statement on Form 433 (if based on inability to pay). Form 656 is used in all cases regardless of whether the amount of the offer is tendered in full at the time the offer is filed or the amount of the offer is to be paid by deferred payment or payments. Copies of Form 656 and Form 433 may be obtained from district directors. An offer in compromise, should be filed with the district director or service center director.

(d) *Conferences.* Before filing a formal offer in compromise, a taxpayer may request a meeting in the office which would have jurisdiction over his offer to explore the possibilities of compromising unpaid tax liability. After all investigations have been made, the taxpayer may also request a meeting in the office having jurisdiction of his offer to determine the amount which may be accepted as a compromise. If agreement is not reached at such meeting and the district director has processing jurisdiction over the offer, the taxpayer will be informed that he may request a district conference. A written protest is required if the tax, penalty, and assessed (but not accrued) interest exceeds \$2,500 for any return, taxable year, or taxable period. If agreement is not reached at the district conference, the taxpayer will be offered an opportunity to request consideration of his case by the regional office of the Appellate Division. Such request may be in writing or oral. If the tax, penalty, and assessed (but not accrued) interest exceeds \$2,500 for any return, taxable year, or taxable period, a written protest is required. The procedure in the three preceding sentences does not apply if the offer relates to a tax over which Appellate Division has no authority (see § 601.106(a)(3)). Taxpayers and their representatives are required to fulfill and comply with the applicable conference and practice requirements. See Subpart E of this part.

PAR. 8. Section 601.319 is revised to read as follows:

§ 601.319 Applicable laws.

Chapter 53 of the Internal Revenue Code (26 U.S.C. 5801-5872), the provisions of which are chiefly derived from the National Firearms Act amendments of 1968 (82 Stat. 1227), imposes a tax on the manufacture and transfer in the United States, of machine guns, destructive devices, and certain other types of firearms, and an occupational tax upon every importer and manufacturer of, and dealer in, such firearms. Section 1(b)(2) of the act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. 781-788) makes provision

for the seizure and forfeiture of vessels, vehicles, and aircraft which are used to transport, carry, or possess, or to facilitate the same, any firearm with respect to which there has been committed any violation of the National Firearms Act or any regulations issued pursuant thereto. Title 1, State Firearms Control Assistance (18 U.S.C., chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213), provides for the licensing of importers and manufacturers of, and dealers in, firearms and ammunition, and of collectors of firearms and ammunition curios and relics, and establishes controls for firearms and ammunition acquisitions and dispositions. Title VII, Unlawful Possession or Receipt of Firearms (82 Stat. 236; 18 U.S.C., Appendix), of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 197), as amended by Title III of the Gun Control Act of 1968 (82 Stat. 1236), prohibits the receipt, possession, or transportation of firearms by felons (as that term is defined in that Title), veterans who are discharged under dishonorable conditions, mental incompetents, aliens who are illegally in the country, and former citizens of the United States who have renounced such citizenship; and also prohibits the same by any employee of such persons in the course of his employment. Executive Order 11432, dated October 22, 1968, transferred from the Secretary of State to the Secretary of the Treasury control over the importation of arms, ammunition, and implements of war pursuant to Section 414 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1934). The order authorizes the Secretary of the Treasury to control, in furtherance of world peace and the security and foreign policy of the United States, the import of articles enumerated on the United States Munitions Import List.

PAR. 9. The following new section is added immediately after § 601.321.

§ 601.321a Importation of arms, ammunition, and implements of war.

Part 180 of this chapter implements Executive Order 11432 and supplements the import provisions contained in Parts 178 and 179 of this chapter. Part 180 establishes the U.S. Munitions Import List and contains the regulations relative to (a) the registration of importers in arms, ammunition, and implements of war, (b) import permit requirements, (c) import certification and verification, (d) import restrictions applicable to certain countries, and (e) the forfeiture of seized arms, ammunition, and implements of war under the Mutual Security Act of 1954.

PAR. 10. Section 601.328 is amended by revising paragraph (a) to read as follows:

§ 601.328 Rulings.

(a) *Requests for rulings.* Any person who is in doubt as to any matter arising in connection with (1) operations or transactions in the alcohol tax area or under the Federal Alcohol Administration Act, (2) operations or transactions in the tobacco tax area, or (3) the taxes

relating to machine guns, destructive devices, and certain other firearms imposed by chapter 53 of the Code; the registration by importers and manufacturers of, and dealers in, such firearms; the registration of such firearms; the licensing of importers and manufacturers of, and dealers in, firearms and ammunition, and collectors of firearms and ammunition curios and relics, under chapter 44 of title 18 of the United States Code; and registration of importers of, and permits to import, arms, ammunition, and implements of war, under section 414 of the Mutual Security Act of 1954, may request a ruling thereon by addressing a letter to the Director, Alcohol, Tobacco, and Firearms Division, Internal Revenue Service, Washington, D.C. 20224, or to the assistant regional commissioner (alcohol, tobacco, and firearms) of the region in which the inquirer's business is located. Since a ruling as defined in paragraph (a) (2) of § 601.201 can issue only from the National Office, any such request made to an assistant regional commissioner will be referred by him to the Director, Alcohol, Tobacco, and Firearms Division, for reply unless the issues involved are clearly covered by currently effective rulings or come within the plain intent of the statutes or regulations. If a request for a ruling is signed by a representative, or if the representative is to appear before the Internal Revenue Service, such representative must present a tax information authorization or a power of attorney, signed by the taxpayer, authorizing him to receive or inspect confidential information in the matter (see subpart E of this part).

PAR. 11. Section 601.402 is amended by revising paragraph (a) (1), by revising subparagraph (3) of and adding subparagraphs (4) and (5) to paragraph (c), and by redesignating paragraph (d) as paragraph (e) and inserting a new paragraph (d). These revised provisions read as follows:

§ 601.402 Sales taxes collected by return.

(a) *General.* Sales taxes collected by return include the following:

(1) The retailers excise taxes, imposed by chapter 31 of the Code, with respect to:

- Diesel fuel;
- Special motor fuels;
- Noncommercial aviation fuel.

(c) *Returns, refunds, and credits.* * * *

(3) *Payments to certain ultimate purchasers of gasoline, other aviation fuel, and lubricating oil.* Section 6420 of the Code provides for certain payments to ultimate purchasers of gasoline used on a farm for farming purposes. Section 6421 of the Code provides for certain payments to ultimate purchasers of gasoline used for nonhighway purposes, used in commercial aircraft, or used by local transit systems. Section 6424 of the Code provides for certain payments to ultimate purchasers of lubricating oil used otherwise than in a highway motor vehicle. Section 6427 of the

Code provides for certain payments to purchasers of special fuels used for nonhighway purposes or by local transit systems or of aviation fuel used in other than noncommercial aircraft. Payments allowable under sections 6420, 6421, 6424, and 6427 of the Code may be claimed by an income-taxpayer as a credit under section 39 of the Code against the tax due on his income tax return. Governmental agencies and certain exempt organizations may file claims for allowable payments on Form 843. In the case of gasoline used for certain nonhighway purposes or used by local transit systems, other aviation fuel used in commercial aircraft, and lubricating oil used otherwise than in a highway motor vehicle, the ultimate purchaser may file a claim for payment in lieu of such income tax credit, with respect to any of the first three quarters of his taxable year for which he is entitled to a payment of \$1,000 or more. Applicable regulations and instructions accompanying the prescribed forms provide detailed procedures.

(4) *Aircraft use tax refunds.* Section 6426 of the Code provides for refund of aircraft use tax if plane transports for hire in foreign air commerce.

(5) *Fuels not used for taxable purposes.* Section 6427 provides for certain payments to ultimate purchasers of diesel fuel, special motor fuels, and aviation fuels not used for taxable purposes.

(d) *Registration requirements under Chapter 31 of the Code.* (1) (i) Under temporary regulations effective August 1, 1970, aviation fuel delivered into the supply tank of an aircraft may be sold tax free under Chapter 31 of the Code by any person provided the seller and certain purchasers are registered. The requirements for registration apply to tax-free sales of fuel delivered into the fuel supply tanks of aircraft used in other than noncommercial aviation (including foreign trade), on a farm for farming purposes, or by nonprofit educational organizations.

(ii) Any person desiring to be registered in order to sell or purchase aviation fuel free of the tax shall file Form 637A with the district director of internal revenue for the district in which his principal place of business is located. Such person shall be considered to be registered for purposes of making such tax-free sales or purchases upon receipt of a validated Form 637A from his district director.

(2) A State government purchasing fuel delivered into a fuel supply tank of its aircraft for its exclusive use may, but is not required to, register.

(3) The requirements for registration do not apply to tax-free sales of aviation fuel to (i) any person who purchases fuel from any customs bonded warehouse or from continuous customs custody elsewhere than in a bonded warehouse or (ii) any person who purchases fuel for use in an aircraft owned by the United States or any foreign country and constituting a part of the armed forces of such countries.

(e) *Registration and bonding requirements.* (1) Under temporary regulations effective January 1, 1959, an article may, in general, be sold tax free under chapter 32 of the Code by the manufacturer for certain uses, provided the seller, first purchaser, and second purchaser, as the case may be, have been registered. In the case of State governments, registration is optional. Also, the requirements for registration do not apply to sales or purchases by the United States, or to a purchaser located in a foreign country or a possession of the United States where an article is sold for export. Any person who has been issued a certificate of registry prior to January 1, 1959, which has not been revoked, is registered for purposes of the temporary regulations. Any other person entitled to sell or purchase articles tax free under such regulations who has not previously registered, may register by completing Form 637 setting forth the prescribed information and forwarding it to his district director. Such person shall be considered to be registered for purposes of making such tax-free sales or purchases upon receipt of a validated Form 637 from his district director.

(2) If not previously registered, producers and importers of gasoline and manufacturers of lubricating oil (including wholesale distributors of gasoline who qualify as producers under applicable regulations) must, before incurring any liability for tax under section 4081 or 4091 of the Code, make application for registration on Form 637. Detailed instructions as to the filing of applications for registration by producers and importers of gasoline and manufacturers of lubricating oil are prescribed in applicable regulations.

PAR. 12. Section 601.403(a) is amended by revising subparagraphs (1) through (5), redesignating subparagraphs (6), (7), (8), and (9) as subparagraphs (7), (8), (9), and (10), and by inserting a new subparagraph (6). These revised provisions read as follows:

§ 601.403 Miscellaneous excise taxes collected by return.

(a) *General.* Miscellaneous excise taxes collected by return include the following:

(1) *Communications.* Subchapter B of chapter 33 of the Code imposes a tax on amounts paid for local telephone service, toll telephone service, and teletypewriter exchange service.

(2) *Transportation of persons and property by air.* Subchapter C of chapter 33 of the Code imposes taxes upon amounts paid for:

(i) Transportation of persons by air, including seating or sleeping accommodations furnished in connection with such transportation.

(ii) Use of international travel facilities.

(iii) Transportation of property by air.

(3) *Foreign insurance policies.* Under chapter 34 of the Code a tax is imposed on premiums paid for foreign insurance policies.

(4) *Wagers*. Subchapter A of chapter 35 of the Code imposes a tax on wagers as defined therein.

(5) *Highway motor vehicle use*. Subchapter D of chapter 36 of the Code imposes a tax for each taxable year (commencing after June 30, 1956, and ending before October 1, 1972) upon the use, at any time during the taxable year, on the public highways in the United States of any highway motor vehicle which (together with certain semitrailers and trailers) has a taxable gross weight in excess of 26,000 pounds.

(6) *Civil aircraft use*. Subchapter E of chapter 36 of the Code imposes a minimum annual tax for each taxable year (commencing after June 30, 1970, and ending before July 1, 1980) upon the use, at any time during the taxable year, in the navigable airspace of the United States of any taxable civil aircraft. An additional tax based upon weight is imposed on turbine engine powered aircraft and on those nonturbine engine powered aircraft having a maximum certificated takeoff weight of more than 2,500 pounds.

(7) *Sugar*. Chapter 37 of the Code also imposes a tax upon manufactured sugar manufactured in the United States.

(8) *Circulation other than of national banks*. Subchapter E of chapter 39 of the Code imposes a tax with respect to (i) the average circulation outstanding of any bank, association, corporation, company or person, and (ii) the circulation paid out by every person, firm, association other than national bank associations, and every corporation, State bank, or State banking association.

(9) *Interest equalization*. Chapter 41 of the Code imposes (subject to specified exemptions) a tax on the acquisition by United States persons of foreign securities from a foreign person. The tax became effective July 19, 1963.

(10) *Hydraulic mining*. The act entitled "An Act to create the California Debris Commission and regulate hydraulic mining in the State of California," approved March 1, 1893, as amended (33 U.S.C. 661-687), imposes a tax with respect to certain hydraulic gold mining in the State of California.

PAR. 13. Section 601.404 is amended by revising subparagraphs (4), (5), and (6) of paragraph (c) to read as follows:

§ 601.404 Miscellaneous excise taxes collected by sale of revenue stamps.

(c) *Commodity stamp taxes*.

(4) *Opium, isonipocaine, opiates, and coca leaves*. Part I of subchapter A of chapter 39 of the Code imposes a tax upon narcotic drugs produced in or imported into the United States, and sold, or removed for consumption or sale and also imposes an occupational tax on (i) importers, manufacturers, producers or compounders of such drugs; (ii) wholesale or retail dealers in such drugs; (iii) physicians, dentists, veterinary surgeons or other practitioners dispensing such drugs; (iv) persons engaged in research, instruction or analysis using such drugs; and (v) persons not otherwise taxed dis-

persing preparations containing such drugs. The responsibility for the administration and enforcement of these taxes is jointly shared by the Internal Revenue Service and the Bureau of Narcotics and Dangerous Drugs.

(5) *Opium for smoking purposes*. Subpart B of part I of subchapter A of chapter 39 of the Code imposes a tax upon all opium manufactured in the United States for smoking purposes. The responsibility for the administration and enforcement of this tax is jointly shared by the Internal Revenue Service and the Bureau of Narcotics and Dangerous Drugs.

(6) *Marihuana*. Part II of subchapter A of chapter 39 of the Code imposes a tax upon all transfers of marihuana and also imposes an occupational tax with respect to marihuana on similar classes of persons as those enumerated in subparagraph (4) of this paragraph and in addition imposes a tax on millers of marihuana. The responsibility for the administration and enforcement of this tax is jointly shared by the Internal Revenue Service and the Bureau of Narcotics and Dangerous Drugs.

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

[P.R. Doc. 70-13553; Filed, Oct. 8, 1970;
8:48 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 90—TABLE OF CHARGES AND REGULATIONS OF MINTS AND ASSAY OFFICES OF THE UNITED STATES FOR PROCESSING GOLD AND SILVER AND ASSAYING BULLION, METALS, AND ORES

PART 92—BUREAU OF THE MINT OPERATIONS AND PROCEDURES

PART 93—OFFICE OF DOMESTIC GOLD AND SILVER OPERATIONS PROCEDURES AND DESCRIPTIONS OF FORMS

Silver Deposits at Mints for Exchange; Notice of Termination

Effective November 10, 1970, the U.S. Mints and Assay Offices will no longer accept deposits of silver for exchange into bars. Accordingly, Parts 90, 92, and 93 of Title 31 of the Code of Federal Regulations will be amended to delete the specifications and conditions for the receipt of such deposits. These amendments will be effective as of the close of business November 10, 1970. Deposits received at the U.S. Mints and Assay Offices prior to this time will be accepted for exchange in accordance with the regulations governing such exchanges.

Dated: October 5, 1970.

[SEAL] WILLIAM L. DICKEY,
Acting Assistant Secretary
of the Treasury.

[P.R. Doc. 70-13641; Filed, Oct. 8, 1970;
8:51 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGFR 70-115]

PART I—GENERAL PROVISIONS

SUBCHAPTER J—BRIDGES

PART 114—GENERAL

Redelegation of Authority

1. It is the policy of the Department of Transportation to decentralize authority to the maximum extent compatible with effective direction and control. In consonance with this policy, the Commandant by this document redelegates to the Chief, Office of Operations, U.S. Coast Guard Headquarters the authority to issue rules and regulations pertaining to the operation of drawbridges as authorized by section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499). This authority is vested in the Secretary of Transportation by section 6(g) (2) of the Department of Transportation Act and has been delegated to the Commandant with the further authority to redelegate it within the Coast Guard by 49 CFR 1.45(b) and 1.46(c) (5) (35 F.R. 4959). In recent months the number of documents involving these regulations has increased substantially. This redelegation is consistent with the effective direction and control of this function.

2. By a document published in the FEDERAL REGISTER of May 27, 1970 (35 F.R. 8279), 33 CFR 1.05-1(c) was revised to redelegate to the Chief, Office of Operations, the authority to issue rules and regulations pertaining to: (1) The establishment and disestablishment of anchorage grounds and special anchorage areas, (2) changes to the anchorage regulations, and (3) the affirmation of the actions of the Coast Guard District Commanders concerning security zones. This document further revises this paragraph by adding the authority pertaining to the operation of drawbridges. Minor amendments are made to §§ 114.01 and 114.05 to reflect this redelegation and the current citations of authority. Since this amendment relates only to the internal management of the Coast Guard, notice and public procedure thereon are not required and the amendment can be made effective in less than 30 days.

3. In consideration of the foregoing, paragraph (c) of § 1.05-1 is revised to read as follows:

§ 1.05-1 General.

[CGFR 70-128]

**PART 117—DRAWBRIDGE
OPERATION REGULATIONS**

**Closure of Draw for Emergency
Vehicles**

(c) The Commandant redelegates to the Chief, Office of Operations, U.S. Coast Guard Headquarters with the reservation that this authority shall not be further redelegated the authority to issue rules and regulations pertaining to the following:

- (1) The establishment and disestablishment of anchorage grounds and special anchorage areas.
- (2) Changes to the anchorage regulations.
- (3) The affirmance of the actions of the Coast Guard District Commanders concerning security zones.
- (4) The operation of drawbridges.

4. Section 114.01 is amended by revising the introductory text of paragraph (c) and by adding paragraph (d) to read as follows:

§ 114.01 Purpose.

(c) Subsection 6(g) of the Department of Transportation Act (Sec. 6(g), 80 Stat. 937, 49 U.S.C. 1655(g)) transferred and vested in the Secretary of Transportation all functions, powers and duties of the Secretary of the Army and other officers and offices of the Department of the Army under specified laws. The Secretary of Transportation by 49 CFR 1.45(b) and 1.46(c) (5), (6), (8), (9), and (10) delegated to the Commandant, U.S. Coast Guard, with the authority to redelegate within the Coast Guard, the authority to exercise the functions, powers, and duties of the Secretary with respect to the following provisions of law:

(d) The Commandant by 33 CFR 1.05-1(c)(4) delegated to the Chief, Office of Operations, U.S. Coast Guard Headquarters the authority to issue rules and regulations pertaining to the operation of drawbridges. This authority shall not be further redelegated.

5. Section 114.05 is amended by adding a new paragraph (k) to read as follows:

§ 114.05 Definitions.

(k) *Chief, Office of Operations.* The term "Chief, Office of Operations" means the officer of the Coast Guard designated by the Commandant as his staff officer in charge of the Office of Operations, U.S. Coast Guard Headquarters.

(Sec. 1, 63 Stat. 545, Sec. 6(g)(2), 80 Stat. 937, Sec. 5, 28 Stat. 362; 14 U.S.C. 632, 49 U.S.C. 1655(g)(2), 33 U.S.C. 499; 49 CFR 1.45(b), 1.46(c)(5) (35 F.R. 4959))

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

Dated: September 30, 1970.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 70-13556; Filed, Oct. 8, 1970; 8:48 a.m.]

1. The Commandant has received a number of complaints to the effect that emergency vehicles are encountering unreasonable delays in crossing over drawbridges. It appears that even when advance notice of the vehicle's arrival has been given to the drawtender that on occasions the draw has been opened on the arrival of the emergency vehicle. This situation causes delay to these vehicles and jeopardizes the public interest, health or safety.

2. The provisions set forth in 33 CFR 117.1a(a) provide that the draw of a bridge may be temporarily closed notwithstanding the existence of regulations requiring it to open on signal "when the public interest, health or safety so requires." Although this provision is in general terms, it is intended to apply to and to expedite the crossing of drawbridges by emergency vehicles. However, the fact that this problem arises from time to time indicates the need for a more specific requirement than the present one.

3. The amendment in this document merely reiterates in specific terms the present requirements of § 117.1a(a) as it relates to emergency vehicles. In view of this fact, notice and public procedures thereon are not required and the amendment can be made effective in less than 30 days.

4. Section 117.1a is amended by adding paragraph (e) to read as follows:

§ 117.1a Temporary departures from regulations in this part.

(e) *Closure of draw for emergency vehicles.* When a drawtender is informed by a reliable source that an emergency vehicle is due to cross the draw, he shall take all reasonable measures necessary to have the draw closed at the time the emergency vehicle arrives at the bridge.

(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) (35 F.R. 4959))

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

Dated: October 2, 1970.

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

[F.R. Doc. 70-13557; Filed, Oct. 8, 1970; 8:48 a.m.]

[CGFR 70-77a]

**PART 117—DRAWBRIDGE
OPERATION REGULATIONS**

Patapsco River, Baltimore, Md.

1. The Western Maryland Railroad Co. requested the Commander, Fifth

Coast Guard District to establish special operation regulations for its bridge across the Middle Branch of the Patapsco River (Spring Garden Channel), Baltimore, Md. A public notice dated November 25, 1969 setting forth the proposed revision of the regulations governing this drawbridge was issued by the Commander, Fifth Coast Guard District and was 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 4, 1970 (35 F.R. 8664).

2. Interested persons were afforded an opportunity to participate in this rule making procedure through the submission of comments. The Baltimore City Fire Department's Marine Units at first objected but withdrew the objection after the inclusion of a provision that would permit the passage of marine fire fighting equipment within 15 minutes after notification at any time. The Baltimore Gas and Electric objected on the grounds that fire fighting equipment might be delayed, however this objection is not considered valid in view of the above. The American Dredging Co. which provides dredging services for the Maryland Port Authority on a 24 hour, 7-day-week basis objected but because of the limited dredging done above the bridge it is felt that this objection has little validity. After consideration of all known factors in this case, the proposal is accepted. Accordingly 33 CFR 117.245(5-b), 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.

(5-b) Middle Branch, Patapsco River (Spring Garden Channel) Baltimore, Md., Western Maryland Railway Bridge. The draw shall be opened promptly on signal between the hours of 7 a.m. to 12 noon and 1 p.m. to 4 p.m. Monday through Friday. At all other times at least 6 hours' advance notice required except for marine firefighting equipment which shall be passed as soon as possible but in no event more than 15 minutes after notification that such an opening is required.

(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: October 2, 1970.

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

[F.R. Doc. 70-13559; Filed, Oct. 8, 1970; 8:48 a.m.]

[CGFR 70-33a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

East Pascagoula River, Pascagoula, Miss.

1. The Mississippi State Highway Department requested the Commander, Eighth Coast Guard District to issue special operation regulations for the U.S. 90 Highway bridge across the East Pascagoula River at Pascagoula, Miss. Present regulations require the draw to open on signal. The proposed regulations would allow closed periods in the morning and evening, Monday through Friday. A public notice dated February 17, 1970, setting forth the proposed revision of the regulations governing this drawbridge was issued by the Commander, Eighth Coast Guard District and was made available to all persons known to have an interest in this subject. The Commandant also published these proposals in the FEDERAL REGISTER of April 15, 1970 (35 F.R. 6150).

2. No comments were received in response to the FEDERAL REGISTER publication. However, in response to the public notice issued February 17, 1970, objections were received from 7 waterway oriented industries or organizations representing waterway users in the vicinity of the bridge.

3. Four of the objectors suggested that one closed period in the morning from 6:15 a.m. to 7:50 a.m. and one closed period in the afternoon from 3 p.m. to 4:15 p.m. would be preferable to the four periods as proposed by the Mississippi Highway Department. Three objectors who own fish processing plants upstream from the bridge, stated through their spokesman that two split periods morning and afternoon with some modifications of the original proposal would be better for their operations.

4. On June 3, 1970, representatives of Commander, Eighth Coast Guard District met informally in Pascagoula, Miss., with the principals. As a result of this meeting, it was agreed that two closed periods during the morning, 6:15 a.m. to 6:45 a.m. and 7:15 a.m. to 8 a.m., and two closed periods during the afternoon, 3 p.m. to 4 p.m. and 5 p.m. to 5:30 p.m., would be to the best advantage of all concerned.

5. In consideration of the foregoing, 33 CFR 117.495 is added to read as follows:

§ 117.495 East Pascagoula River at Pascagoula, Miss., U.S. 90 Highway Bridge.

The draw shall be opened promptly on signal for the passage of vessels except that it need not be opened between the hours of 6:15 a.m. and 6:45 a.m., 7:15 a.m. and 8 a.m., 3 p.m. and 4 p.m., and 5 p.m. and 5:30 p.m., Monday through Friday, except on holidays when the draw shall be opened promptly on signal.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 90 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: October 2, 1970.

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

[F.R. Doc. 70-13558; Filed, Oct. 8, 1970;
8:48 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 17—MEDICAL

Considerations Applicable in Determining Eligibility for Hospital or Domiciliary Care

In § 17.48, paragraphs (b) and (d) are amended to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital or domiciliary care.

(b) Under paragraph (c)(3) of § 17.47:

(1) "No adequate means of support." When an applicant is receiving an income of \$265 or more per month from any source for his own use, this fact will be considered prima facie evidence that he has adequate means of support. This is subject to rebuttal by a showing that his income is not adequate to provide the care required by reason of his disability or that the income is not available for his use because of other obligations such as contributions in whole or in part to the support of a spouse, child, mother, or father. In all such cases of alleged inadequate means of support, the circumstances will be submitted to the Director for decision.

(d) Persons hospitalized pursuant to paragraph (c) (1) or (d) of § 17.47, who it is believed may be entitled to hospital care or medical or surgical treatment or to reimbursement for all or part of the cost thereof by reason of any one or more of the following:

(i) (i) Membership in a union, fraternal or other organization;

(ii) Rights under a group hospitalization plan, or under any of the prepay medical care or insurance contracts or plans which provide for payment or reimbursement in whole or in part, for the cost of medical or hospital care, and conditions the obligation of the insurer to pay upon payment or incurrence of liability by the person covered;

(iii) "Workmen's Compensation" or "employer's liability" statutes, State or Federal; and

(iv) Right to maintenance and cure in admiralty, or

(2) By reason of statutory or other relationships with third parties, including those liable for damages because of

negligence or other legal wrong; will not be furnished hospital care, medical or surgical treatment, without charge therefor to the extent of the amount for which such parties, referred to in subparagraph (1) or (2) of this paragraph, are, or will become liable. Such patients will be requested to execute an appropriate assignment as prescribed in this paragraph. Patients who, it is believed, may be entitled to care under any one of the plans in subparagraph (1) of this paragraph will be requested to execute VA Form 10-2381, Power of Attorney and Agreement. Those patients who, it is believed, may be entitled to hospital care under the circumstances prescribed in subparagraph (2) of this paragraph will be requested to complete VA Form 2-4763. Notice of this assignment will be mailed promptly to the party or parties believed to be liable. When the amount of charges is ascertained, bill therefor will be mailed such party or parties.

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective the date of approval.

Approved: October 2, 1970.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[F.R. Doc. 70-13561; Filed, Oct. 8, 1970;
8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35 and 36

LAW COURSES

In § 21.4274(a), subparagraph (2) is amended to read as follows:

§ 21.4274 Law courses.

(a) Accredited. * * *

(2) An evening law course will be assessed as full time if pursued for credit of at least 14 semester hours or the equivalent; or if pursued for at least 12 hours or the equivalent and the law school charges full-time tuition or considers it to be full-time attendance for other administrative purposes; otherwise it will be measured as not more than three-fourths time.

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective March 26, 1970.

Approved: October 2, 1970.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[F.R. Doc. 70-13560; Filed, Oct. 8, 1970;
8:49 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4013]

[Colorado 3830]

COLORADO

Partial Revocation of Air Navigation Site Withdrawal No. 233; Withdrawal for Protection of Public Values

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and the authority contained in section 4 of the Act of May 24, 1928, 45 Stat. 729, 49 U.S.C. § 214 (1964), it is ordered as follows:

1. The departmental order of August 18, 1947, so far as it withdrew the following described land as Air Navigation Site No. 233, is hereby revoked:

SIXTH PRINCIPAL MERIDIAN

T. 11 S., R. 102 W.,
Sec. 25, SW¼SW¼.

The area described aggregates 40 acres in Mesa County.

2. Subject to valid existing rights, this land which is under the jurisdiction of the Secretary of the Interior is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, for protection of its public values as a communications facilities site.

The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 5, 1970.

[P.R. Doc. 70-13550; Filed, Oct. 8, 1970;
8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter II—Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER G—PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

PART 260—INSPECTION AND CERTIFICATION

Changes in Fees and Charges

The regulations governing Part 260, Inspection and Certification, of Subchap-

ter G, Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products, relating to Fees and Charges (50 CFR 260.70 to 260.81) are hereby amended pursuant to the authority contained in section 6(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742e(a)), as amended. The amendment as hereinafter set forth revises the schedule of fees and charges for inspection services.

As a result of the Federal pay increases, the rates of which became effective July 1, 1970, and was retroactive to December 28, 1969, and increased operating expenses, the cost of maintaining the inspection service for processed fishery products and other products has increased since the present fees for fishery inspection services became effective September 18, 1969. The basic change is the increase in the hourly rates for continuous inspection from \$8.10 to \$9.25 and for lot inspection and related inspection services from \$10.50 to \$12.50.

The amendment is as follows:

1. Section 260.70 is hereby revised to read as follows:

§ 260.70 Schedule of fees.

(a) Unless otherwise provided in a written agreement between the applicant and the Secretary, the fees to be charged and collected for any inspection service performed under the regulations in this part at the request of the United States, or any other agency or instrumentality thereof, shall be in accordance with the applicable provisions of §§ 260.70 to 260.81.

(b) Unless otherwise provided in the regulations in this part, the fees to be charged and collected for any inspection service performed under the regulations in this part shall be based on the applicable rates specified in the section for the type of service performed.

(1) Continuous inspection.

	Per hour
Regular time.....	\$9.25
Overtime.....	10.50

Applicants shall be charged at an hourly rate of \$9.25 per hour for regular time and \$10.50 per hour for overtime in excess of 40 hours per week for services performed by inspectors assigned to plants operating under continuous inspection. Applicants shall be billed monthly at a minimum charge of 8 hours per working day plus overtime, when appropriate, for each inspector. A minimum yearly charge of 260 days will be made for each inspector permanently assigned to each plant.

(2) Lot inspection. Officially and unofficially drawn samples.

For lot inspection services performed between the hours of 7 a.m. and 5 p.m. of any regular workday—\$12.50 per hour.

For lot inspection services performed between the hours of 5 p.m. and 7 a.m. of any regular workday—\$16 per hour.

For lot inspection services performed on Saturday, Sunday, and national legal holidays—\$20 per hour.

The minimum service fee to be charged and collected for inspection of any lot or

lots of product requiring less than 1 hour shall be \$8.50.

(c) Fees to be charged and collected for lot inspection services furnished on an hourly basis shall be based on the actual time required to render such service including, but not limited to, the travel, sampling, and waiting time required of the inspector, or inspectors, in connection therewith, at the rate of \$12.50 per hour for each inspector, except as provided in paragraph (b)(2) of this section.

2. Section 260.71(c) is hereby revised to read as follows:

§ 260.71 Inspection services performed on a resident basis.

(c) A charge of \$12.50 per hour plus actual costs to the Bureau of Commercial Fisheries for per diem and travel costs incurred in rendering service not specifically covered in this section; such as, but not limited to, initial plant surveys.

3. Section 260.76 is hereby revised to read as follows:

§ 260.76 Charges based on hourly rates not otherwise provided for in this part.

When the Director determines that any inspection or related service rendered is such that charges based upon the foregoing sections are clearly inapplicable, charges may be based on the time consumed by the inspector in performance of such inspection service at the rate of \$12.50 per hour.

4. Section 260.81 is hereby revised to read as follows:

§ 260.81 Readjustment and increase in hourly rates of fees.

(a) When Federal pay act increases occur, the hourly rates for inspection fees will automatically be increased on the effective date of the pay act by an amount equal to the increase received by the average GS grade level of fishery product inspectors receiving such pay increases.

(b) The hourly rates of fees to be charged for inspection services will be subject to review and reevaluation for possible readjustment not less than every 3 years; *Provided*, That, the hourly rates of fees to be charged for inspection services will be immediately reevaluated as to need for readjustment with each Federal pay act increase.

The postponement of the effective date of this revision later than the date published in the FEDERAL REGISTER (5 U.S.C. 1003), is impracticable, unnecessary, and contrary to the public interest in that:

- (1) The Agricultural Marketing Act of 1946, as amended, provides that the fees charged shall, as nearly as possible, cover the cost of the service rendered;
- (2) the increases set forth herein are necessary to more nearly cover such cost, including but not limited to, increased salaries to Federal employees required by recent legislation;
- (3) it is imperative that the increase in fees becomes effective in time to meet such increased costs;
- (4) users of the inspection service were notified that the rates of fees be charged

RULES AND REGULATIONS

for inspection service would be reevaluated as to need for readjustment with each Federal Pay Act increase by inclusion of § 260.81 into Part 260 Inspection and Certification and published in the FEDERAL REGISTER (27 F.R. 4781); and (5) additional time is not required by users of the inspection service to comply with this revision.

(Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1622 and 1624)

Dated October 2, 1970, to become effective upon publication in the FEDERAL REGISTER.

PHILIP M. ROEDEL,
Director.

[F.R. Doc. 70-13549; Filed, Oct. 8, 1970;
8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1001, 1002, 1004, 1015]

[Docket Nos. AO-14-A47-R02 etc.]

MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE AND CERTAIN OTHER MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

7 CFR Part	Marketing area	Docket No.
1001	Massachusetts-Rhode Island-New Hampshire.	AO-14-A47-R02.
1002	New York-New Jersey.	AO-71-A09.
1003	Washington, D.C. ¹	AO-256-A23-R03.
1004	Delaware Valley ²	AO-160-A43-R03.
1015	Connecticut	AO-305-A25.
1016	Upper Chesapeake Bay ³	AO-312-A20-R03.

¹ This decision is applicable to the merged order designated as the Middle Atlantic order (Order No. 4, part 1004) which is a consolidation of the Washington, D.C., Delaware Valley, and Upper Chesapeake Bay orders (Parts 1003, 1004, and 1016, respectively). The Middle Atlantic order was issued by the Assistant Secretary on June 19, 1970 (35 F.R. 10273) and became effective Aug. 1, 1970. Since this decision involves no change in the three predecessor orders which are now incorporated in the Middle Atlantic order, no further considerations are necessary as regards to the said Middle Atlantic order.

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid specified marketing areas.³ The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at New York City on April 6-14, 1970, pursuant to notice thereof issued on March 25, 1970 (35 F.R. 5180).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on July 7, 1970 (35 F.R. 11129) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, and rulings of the recommended decision are hereby approved and adopted and are set forth in full herein subject to the following modifications:

1. Under issue No. 1 of the findings (Reduction of the Order 2 Class II price level * * *) the first and the last two paragraphs of the discussion are revised.

2. Discussions of issue No. 2 (Adjustment of Class II price * * *) and issue No. 4 (Classification of cream * * *) are revised.

3. "General Findings" have been added following the "Rulings on Proposed Findings and Conclusions".

The material issues on the record of the hearing relate to:

1. An 18-cent reduction in Class II price level under the New York-New Jersey order and removal from the order of the provision permitting a handler in making payment to each producer to deduct a service charge (up to 10 cents per hundredweight) authorized in writing by such producer with respect to bulk tank milk received from such producer.

2. Adjustment of the Class II price level under each of the other five northeastern orders by the amount of any adjustment made to the New York-New Jersey (Order 2) Class II price.

3. Adjustment of the Order 2 Class I price level to provide alignment with respect to handlers' costs for milk for Class I use on an f.o.b. market basis as between Order 2 and Order 4 (Delaware Valley).

4. A Class II classification of cream under Order 2.

5. Need for emergency action with respect to any or all issues under consideration.

FINDINGS AND CONCLUSIONS.

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Reduction of the Order 2 Class II price level and removal of the provision permitting the deduction of a bulk tank service charge when authorized by the producer.*

No change should be made in the Class II price level under Order 2 on the basis of this record. However, provision should be made whereby any handler as the operator of a bulk tank unit, purchasing milk from producers will receive a 10-cent credit from the pool for each hundredweight of pool unit milk so purchased which is disposed of for Class II use. The order provision under which a handler, in paying his bulk tank producers, may deduct a bulk tank service [hauling] charge (up to 10 cents per hundredweight) when transportation is provided by the handler or at his expense, should be retained. The handler's use of such provision, however, should be limited in the case of Class II milk to that amount by which actual hauling cost from farm to plant of first receipt exceeds 10 cents and in all other circumstances to actual hauling cost from farm to plant of first receipt.

The four principal cooperative associations representing producers in the Order 2 market proposed amendment of the order to (1) eliminate the provision au-

thorizing handlers to make a negotiated bulk tank service charge, (2) reduce the Class II price level by 18 cents, and (3) announce the class prices and the uniform price as f.o.b. farm prices in the 201-210-mile zone.

The immediate circumstances prompting the proposals were the alleged diminishing processing capacity of the market as a result of plant closings, and the increasing pressure on the part of proprietary handlers to invoke the order provision permitting the deduction, in making payment to producers, of a bulk tank service charge (up to 10 cents per hundredweight) when authorized by the individual producer. These developments, proponents suggest, reflect handlers' generally unsatisfactory financial positions, and are the outgrowth of an inappropriate Class II price level under Order 2.

The basic objective sought by proponents is a reduction in the Class II price level to compensate handlers for their out-of-pocket costs for hauling Class II milk from farm to plant and to thus better equate handler costs for Class II milk under the several northeastern orders while at the same time preserving the concept of "pricing at the farm" under Order 2. A secondary objective is to provide price relief to handlers still operating can receiving decks to offset the mounting per hundredweight cost of receiving diminishing volumes of can milk, now only 25 percent of the total volume of milk pooled.

In support of their proposal, proponents pointed out that under all other Federal orders milk is priced f.o.b. plant of first receipt, and the cost of moving milk from farm to plant is the responsibility of the producer. When the receiving handler is also the hauler, the other orders permit the handler in making payments to each producer to deduct hauling costs up to the full amount authorized in writing by such producer. This, proponents said, is in contrast to the unique pricing procedure prescribed by the New York-New Jersey order whereby milk is priced at the zone (distance from market computed from the nearer of the basing points) of the township in which the producer's milkhouse is located. This, they contend, is in fact pricing at the farm and, since the handler picking up the milk necessarily takes title at the time and point of pickup, there appropriately should be no adjustment in payments to producers to cover any part of the cost of pickup or hauling in moving such milk to the handler's plant. Accordingly, the Order 2 Class II price is not appropriately aligned with Class II prices under the adjacent Federal orders.

Proponents also pointed out that the continuing operation of can receiving decks in the face of a declining volume of can milk is becoming an increasingly

more costly operation for handlers. They held that their proposed decrease of 18 cents in the Class II price level should be applicable also to can milk to offset handlers' mounting costs of receiving can milk, presumably to insure the continuing operation of such facilities in order that can producers would have a continuing outlet for their milk.

Representatives of cooperatives in the adjacent Orders 1, 3, 4, and 16 markets opposed any adjustment of the Order 2 Class II price. It was their position that the real problem in the market is the Order 2 handlers' inability to use the permissive hauling deduction provision of the order. They held that adoption of proponents' proposal would, in fact, cement into the order the concept of "free hauling" which the proponent cooperatives have long supported. Such a concept they stated can have no substantive foundation and in the last analysis can only be embarrassing to the cooperatives which, if handlers do not, are forced to handle the milk and bear the transportation costs. The concept of "free hauling", they said, obviously has appeal to producers and if guaranteed under Order 2 would necessarily spread to their markets. Cooperatives in the adjacent markets are not financially able to bear the costs of transporting their members' milk, they stated.

The system of accounting for and pricing bulk tank milk under Order 2 was initially adopted in recognition of the fact that the order did not accommodate diversions, but pooled only milk physically received at pool plants. This procedure of pooling presented no substantial problems under can handling since all milk associated with any particular plant generally of necessity was moved to such plant on a regular basis for assembly and cooling, and ultimate use or transfer. However, with the advent of bulk tank handling, it was no longer essential that bulk milk be moved to a particular plant unless it was to be used there. With the flexibility of bulk tank handling, milk most efficiently could be moved directly from the farm to plant of final disposition.

In the interest of marketing efficiency it was essential that the order be revised to accommodate diversions or, in the alternative, to accommodate the pooling of bulk tank milk associated with the market under circumstances where it did not move through a pool plant in the same manner as previously when handled in cans, but rather moved directly to nonpool plants for final disposition. The system of pooling bulk tank units, and pricing at the zone of the minor civil division (township) in which the producer's milkhouse is located, was adopted as an appropriate means of accommodating the pooling problem.

The proponent cooperatives strongly opposed the Department's initial recommendations with respect to bulk tank provisions which would have provided flexibility in the pricing of bulk tank milk by permitting adjustment in producer payments by the amount of producer authority deductions for hauling costs. In its final decision the Department

gave recognition to the fact that handlers were not then charging for bulk tank pickup and hauling but were, in fact, paying premiums for bulk tank milk. Accordingly, no provision was made for any hauling deduction.

The current bulk tank milk pricing provisions were adopted by the Assistant Secretary in his decision of October 31, 1963 (28 F.R. 11956), official notice of which is taken. It was there found that since the initial adoption of the bulk tank amendments effective December 1, 1961, " * * * there have been significant changes in marketing conditions which must be evaluated in relation to these provisions. Such changes in conditions include: (1) The reduction in premiums to bulk tank producers generally, (2) the reluctance of proprietary handlers to receive bulk tank milk from individual producers in order to avoid the hauling function, (3) differences in prices applicable on can and bulk tank milk, and (4) a slowdown in the trend toward conversion to bulk tank handling. Moreover, the highly desirable objective of price alignment among regulated markets of the Northeast, particularly as to milk in manufacturing uses under the several Federal orders, is not achieved by the present provisions."

In response to exceptions to the recommended decision to adopt the present authorization for a bulk tank service charge, the Assistant Secretary extended his conclusions as follows:

As stated earlier the bulk tank pooling and pricing provisions establish a single point in each township at which the minimum prices (including transportation adjustments) apply for each farm within such township. Therefore, it follows that this single point in each township is the point at which bulk tank milk should be considered as received by the handler for pricing purposes. Accordingly, it is appropriate to allow a limited authorized service charge for hauling bulk tank milk from the farm to this point.

The important matter to be resolved in order to maintain orderly marketing in this market is how best to achieve uniform pricing to handlers on all milk priced and pooled under the order. If there is a conflict between this objective and manner of application of bulk tank pricing, where the handler assumes responsibility for receipt of the bulk tank milk, such conflict must be resolved in favor of application of prices in a manner which provides a reasonable standard of uniformity. The bulk tank pooling provisions and township pricing were adopted in the New York-New Jersey market to accommodate certain marketing problems which had developed because of the particular characteristics of bulk tank milk. The price which attaches to such milk is not determined at the location of the individual farms but is determined at the township pricing point. It is not until the milk is delivered to this point that the price is actually earned by producers. Permitting an authorized service charge will provide the means to achieve uniformity in the pricing provisions while at the same time preserving the principle of bulk tank unit pooling.

From these findings it could be construed that the permissible service charge was intended to be limited to the costs of delivery to the township pricing point.

However, other findings of such decision as set forth both prior to and subsequently to the above findings clearly substantiate that the permissive authorized service charge, in conjunction with the applicable location differentials, was intended to provide sufficient flexibility in pricing to cover hauling from farm to plant. For example, it was found: "There is also indication in the record that contract hauling service on delivery of bulk tank milk (directly) to bottling plants is available at rates approximately 10 cents per hundredweight per producer above the rate charged on hauls to bottling plants from receiving plants at similar distances."

Later it was stated as follows: "The recommended decision contained a provision which would have permitted a handler to negotiate only for hauling charges with respect to delivery of the bulk tank milk to his plant nearest the farm. It was urged in the exceptions that such provision not be included in the amended order since, in many cases there would be no practical way to determine appropriate charges for moving milk to the handler's nearest plant if the milk were not actually received at such plant. It also was pointed out that many handlers operate separate can and bulk receiving stations and that such provision might well mean determining a hauling charge for the delivery of bulk milk to a plant not having the physical facilities to receive such milk. In view of the foregoing, the provision is not included in the amended order."

In those cases where a handler contracts with an independent hauler for delivery of bulk tank milk, the amount deducted from the producer's payment may not exceed that charged by and paid to the hauler. Any amount deducted from the producer in excess of that paid to the hauler as an appropriate offset to bona fide hauling service would be considered an underpayment, in violation of the order's minimum pricing provisions.

In his recommended decision the Deputy Administrator stated that the Department does not take issue with proponents in their contention that the costs to Order 2 handlers for Class II milk, under existing circumstances in which handlers have not generally utilized the permissive authorized 10-cent bulk tank service deduction, exceeds that of handlers in other northeastern Federal order markets where Class II milk is priced under an identical pricing formula. He further pointed out that the Department has stressed this point in several recent decisions on the matter of surplus pricing under the six northeastern orders.

The present order provisions provide the means whereby pickup costs (up to 10 cents per hundredweight) on bulk milk could be authorized and paid by the producer, thus minimizing any Class II price disparity between Order 2 and the other northeastern orders. The basic issue is whether the Department shall lower the f.o.b. township Class II price level by 18 cents and accept proponents' position that there should be no adjustment from the announced class prices in payment to producers, or rather

shall retain in the order pricing provisions the flexibility presently provided and necessary to insure equity of pricing under the order as among handlers in the face of the varying conditions of bulk tank pickup.

The conditions of pickup of farm bulk tank milk do vary greatly. Consequently, there can be no equity in pricing among handlers without an appropriate means for adjusting handlers' obligations to compensate for these variations. The deduction of an authorized charge, if used as now permitted, could provide the needed flexibility to this end and result in greater parity of costs for milk among New-York-New Jersey order handlers.

Proponents hold this position to be fallacious and suggest that this is substantiated by the fact that no handler has attempted to make an adjustment other than the maximum allowable 10 cents. This, they conclude, demonstrates an intent to compromise the class prices rather than an intent to adjust such prices only to the extent necessary to offset the difference in costs reflected in the varying conditions of pickup.

The latter position must be examined in relation to the record testimony on the hauling problem faced by handlers. A witness from Cornell University presented the results of his study of hauling rates for milk delivered to 29 specialized manufacturing plants which showed that such hauling rates varied from an average of 15.4 cents for seven plants with 30.6 percent of the milk volume, to 25.8 cents for six plants with 36.6 percent of the milk volume. Such witness also indicated that the locations (township zones) of the farms involved in his study were on the average two zones nearer the market than the plants to which their milk moved.

Since the maximum deduction permitted under the order is obviously, in most circumstances, well below actual transportation costs, it is not surprising that any handlers seeking to use the permissive deduction would seek the full allowable 10 cents. The median group of six plants in the 20-plant study showed an average hauling cost of 18.6 cents. However, the average hauling cost for the 20 plants was 20.3 cents per hundredweight, not 18 cents. Further, while the spokesman for one of the proponent cooperative groups testified that for his organization the farm-to-plant hauling costs on bulk tank milk averaged slightly over 18 cents, the witness for another of the proponent cooperative groups testified that his organization's hauling costs on bulk tank milk from farm to manufacturing plant exceeded 18 cents.

The latter quoted figures of 23.96 cents, 26 cents, 21 cents, 22.1 cents, and 18.5 cents for various member cooperatives. He also stated that he had computed an estimated 21.8 cents per hundredweight as the cost of hauling bulk milk direct from farms of the organization's member cooperatives to their largest manufacturing plant, based on moving the nearest milk first and on the actual daily volume received each day for the months of March, June, and September 1969 (a total of 51.4 million pounds of milk).

The order modifications which proponents support would provide at best only an "average equity" for Order 2 handlers in relation to other northeastern handlers in their costs for Class II milk, and then only if the 18 cents at issue is the true average hauling cost which does not appear to be the case. It would not reduce inequity, however, among Order 2 handlers in their relative costs of Class II milk under the order.

Proponents detailed a lengthy list of plant closings over the past several years to support their position of an increasing problem with respect to the handling of Class II milk. They also established that some substantial facilities were not being operated at capacity and urged favorable emergency action on their proposals as a means of encouraging handlers to process all of the prospective reserve milk supply in the current flush. Proponents made clear, however, that their proposals were not intended for temporary adoption only.

While the list of plant closings was substantial, the closed plants were primarily receiving stations or small fluid milk or manufacturing plants. The preponderance of these closings undoubtedly were the direct result of the continuing transition of the market to bulk tank handling. Except for the recent closings of several Borden plants, the closings did not substantially affect the overall processing capacity of the market.

It may not reasonably be concluded that there is inadequate processing capacity in the area to handle all of the prospective market reserve. Even though it is possible that there may be some dislocated supplies which may have some difficulty in finding an outlet, there is no immediate emergency in this respect. On the basis of this record it must be concluded that a price adjustment could have little impact on the availability of outlets during the current flush production period which peaks in May.

It cannot be concluded that the claimed deterioration in the financial position of some handlers emanates directly from the Class II price level under the order. The New York-New Jersey order pools a far greater volume of milk than any other Federal order. The volume of Class II milk handled under the New York-New Jersey order is about 33 percent more than that under the Chicago Regional order. Also, based on 1969 data, the Order 2 weighted average Class II price has been 19 cents less than the corresponding class price under the Chicago order.

The slow conversion to bulk tank handling in the New York-New Jersey market unquestionably has been a significant impediment to maximizing operating efficiency in Class II milk operations. It seems clear that the final stage of the transition to bulk tank handling must be expedited if Order 2 handlers are to hold down their operating costs. A reduction in the order Class II price level applicable to can milk at this time could only encourage the continuing operation of can decks, which have been eliminated entirely in most other markets.

A class price adjustment in the manner proponents support would leave the order completely inflexible to accommodate the varying conditions and costs of bulk tank pickup. In addition, such proposition implies that it would be proper to adjust the class prices each time there was a change in hauling rates in order to maintain continuing price alignment with adjacent markets. We cannot agree that this is a proper basis under the act for adjusting class prices.

A further problem with respect to the proposal is that the deletion of the existing provision permitting a bulk tank service deduction of up to 10 cents, in fact, would have the effect of increasing the minimum order Class I price by 10 cents. Proponents contend, however, that this is not the case, stating that since handlers have not used the provision to any significant degree (only 333 producers delivering to cooperatives and 24 producers delivering to proprietary handlers had a bulk tank service deduction in August 1969), the removal of the provision would have no substantive effect on handlers' cost for Class I milk.

To the extent that handlers have not used the authorized deduction provision, they have paid a premium over the prescribed order minimum prices. The effect of deleting the provision would be to incorporate this premium in the minimum order prices. In addition, as cooperatives in adjacent markets contend, removal of the permissive bulk tank service deduction provision with respect to Class I milk would cement into the minimum price structure the concept of "free hauling" to the producer, unlike the other markets.

To the extent that Order 2 handlers (including cooperatives) have borne the transportation costs associated with the pickup and movement of bulk tank milk from farm to plant, their milk costs admittedly have exceeded the order class prices which the Secretary has found to be in proper alignment with the Order 1 class prices.

The Deputy Administrator pointed out that proponents held that their three-pronged proposal must be adopted in full as proposed or that no action should be taken. He concluded, in light of all the above findings and conclusions, that no amendatory action should be taken on this record. He indicated, however, that the situation would be substantially ameliorated if the present provision, permitting authorized hauling deductions up to 10 cents, actually were used.

Exceptors to the recommended decision were unanimous in their position that the present provision, limiting any authorized hauling deduction to 10 cents, could under no circumstances accommodate the existing situation in which average hauling rates for moving bulk milk from farms to manufacturing plants are at least 18 cents.

After a careful review of the record evidence in light of exceptions filed, it is concluded that some relief appropriately should be provided handlers on farm bulk tank milk disposed of for Class II uses. Clearly, as previously

pointed out, to the extent that Order 2 handlers have borne the transportation costs associated with the pickup and movement of Class II bulk tank milk from farm to plant, their Class II milk costs have exceeded the price which handlers in adjacent order markets are required to pay for Class II milk. While the situation could be fully ameliorated by open-ending the present limited permissive authorized hauling deduction, nevertheless the needed flexibility with respect to Class II milk also can be provided through a limited pool credit to handlers purchasing bulk unit milk from producers for Class II use. This, in conjunction with the permissive authorized hauling deduction, would substantially cover the range of hauling costs.

It cannot be determined with certainty on the basis of this record what the possible minimum hauling costs from farm to manufacturing plant could be. Nevertheless, it can reasonably be concluded that under no circumstance could such costs be less than 10 cents per hundredweight. Thus, providing a 10 cent per hundredweight pool credit to any handler buying bulk unit milk for Class II use directly from producers would, in conjunction with the existing 10-cent permissive deduction when authorized by the producers, offset hauling costs under usual circumstances. In order to protect the integrity of regulation and insure equity among handlers in their cost of Class II under the terms of the order, the use of the permissive deduction, or any portion thereof, should be conditional on the handler's substantiation, to the satisfaction of the market administrator, that the deduction in conjunction with the 10-cent pool credit did not exceed the actual cost of hauling the milk involved. Under this procedure, handlers can be compensated up to 20 cents per hundredweight for their costs of hauling Class II milk. If subsequent market experience demonstrates a further problem in this regard, then consideration can be given through public hearing to increasing the limit of the permissive, when authorized, deduction.

2. Adjustment of the Class II price level under the other northeastern orders. The proposal of cooperatives in the other northeastern markets to modify the Class II price level under Orders 1, 4 (previously 3, 4, and 16), and 15 was conditioned on modification of the Class II price level to Order 2.

As previously indicated, these cooperatives opposed any change in the Class II price level of Order 2. The amendments of that order herein adopted do not modify the basic Class II price level. Notwithstanding the fact that the existing Class II prices among the several orders previously have been concluded to be appropriately aligned, the transportation credit adjustment is provided in recognition that Order 2 handlers' costs for Class II milk were above those of handlers in adjacent markets because Order 2 handlers generally were burdened with the cost of transporting milk from farm to plant.

While it was further recognized that this situation in substantial measure (up to 10 cents per hundredweight) could be ameliorated by the use of existing order provisions, the needed price flexibility can appropriately be provided through the amendments adopted and in conjunction with the present permissive deduction when authorized.

Under the circumstances, the inter-order price alignment contemplated by the existing order provisions has not been disturbed. Accordingly, no change in the Class II price level under the adjacent orders is needed or could appropriately be made on the basis of this record. The proposal for such a price adjustment, therefore, is denied.

3. Class I price level under Order 2. No change should be made in the Order 2 Class I price level on the basis of this hearing.

The Order 2 Class I price f.o.b. market is presently fixed at a level 20 cents below the Order 4 Class I price level f.o.b. market with a 5-cent direct-delivery differential applicable on all milk received at a plant or on pool unit milk received from farms within the 61- to 70-mile zone. For the month of April, for example, the applicable Order 2 Class I price was \$7.22 plus the direct-delivery differential and the applicable Order 4 Class I price was \$7.42.

A proposal, set forth in the hearing notice, made on behalf of three New Jersey-based Order 2 handlers, would amend the Order 2 Class I price to improve alignment of such price with the Order 4 Class I price. Proponents alleged that prevailing handling costs over and above the minimum Order 2 price resulted in a Class I milk cost to Order 2 handlers substantially in excess of the cost of Class I milk to handlers regulated under Order 4.

At the hearing, the principal witness on behalf of the proponent handlers and eight other New Jersey-based Order 2 handlers modified the proposal to provide that the Order 2 Class I price be reduced 24 cents but only with respect to milk sold in the State of New Jersey.

In support of the modified proposal, proponents' witness introduced certain cost data developed from a survey made among 11 Order 2 handlers located in and doing business in New Jersey. Such data purported to show that the weighted average cost of Class I milk to such Order 2 handlers, for an average of 68 million pounds of milk, monthly, was the Order 2 Class I price in the 201-210-mile zone plus \$0.68 cents. Thus, proponents contend, New Jersey-based Order 2 handlers have an average Class I milk cost 24 cents per hundredweight higher than competing Order 4 handlers who, they contend, secure their Class I milk supplies at the f.o.b. market Order 4 Class I price without handling charges.

Proponents' problem is not related to the Class I price alignment as between Orders 2 and 4, per se, but rather to the differences in handling methods customary under the respective orders and

the handling charges over order prices which generally prevail under Order 2.

The Order 4 market is essentially a direct-delivery market; i.e., milk needed for Class I use is collected in bulk tankers from the farms and is moved directly to handlers' city bottling plants for processing. The receiving handler under the order is held accountable for the milk at the order prices applicable at the location of the receiving plant and the producer generally pays the transportation costs, either through authorized deductions from his payments for milk where the handler is also the hauler or, in other circumstances, through negotiation when the hauling is by a contract hauler. Milk not needed at the city for Class I use is moved by diversion directly to nearby country manufacturing plants and, in usual circumstances, is priced at the location of the plant of physical receipt. Prior to the transition to bulk tank handling, however, most of the market's milk supply was initially received at country plants for assembly, cooling and transshipment.

In contrast, the New York-New Jersey market is still largely a country plant receiving market. While the greater size of the market and distance from the farm to the central market have been obvious factors in this regard, the continuing operation of country receiving plants is in large measure due to the fact that can handling is still common (25 percent of the milk supply) and the market has not taken full advantage of the efficiencies of bulk tank handling.

There is no apparent reason why a bottling plant in northern New Jersey could not receive all of its needed milk supplies direct-shipped in bulk tankers from farms in the supply area in the identical manner of Order 4 handlers. Nevertheless, proponents contend that they can acquire only about 25 percent of their supply in this manner; the remainder must be obtained through country plants. It is this facet of procurement which is the root of the problem; i.e., increased costs incurred in country plant receiving and transshipment. These costs allegedly include: 18 cents hauling from farm to receiving plant, 24 cents hauling from receiving plant to processing plant, 6 cents plant handling, 3 cents administrative assessment, 5 cents premium, 5 cents service charge and a plus 7 cents location differential. The total costs over and above the 201-210-mile zone farm point price, proponents contend, is on the average 68 cents, resulting in an actual cost to the New Jersey handler, 24 cents above the f.o.b. market Order 4 price.

To the extent that the added costs reflect hauling from farm to plant of initial receipt, the problem is identical with the Class II problem discussed under the preceding issue and the appropriate solution is the same. To the extent that procurement costs involve country plant operation and transfer costs, the logical solution is improved efficiency and reduced costs through direct receipt. An administrative assessment obviously is applicable under both orders and is a necessary handler cost. The remaining

extra cost items reflect service charges over and above the minimum order price.

The costs from which proponents seek relief are not a result of the order prices and appropriately may not be alleviated through an adjustment of the Order 2 Class I price level. The proposal for a Class I price adjustment must be denied for the reasons stated above.

4. *Classification of cream for fluid use.* The New York-New Jersey order should be amended to provide a Class II classification of cream (for fluid use) in lieu of the Class I classification presently provided.

Cream (except storage, plastic or sour cream) is designated a fluid milk product under Order 2 and, with respect to its disposition in packaged form on routes and to plants, is classified as Class I milk. Cream disposed of in bulk to other plants (including an other order plant) is classified in accordance with its use as either Class I or Class II milk.

Seven handlers doing business in the market jointly proposed the reclassification of cream as here adopted. Principal reasons cited in support of their request were: (1) Cream is Class II in other Northeast markets and, therefore, should be Class II in Order 2 if price alignment is to be maintained; (2) there is a declining trend in cream utilization in the New York Metropolitan District, brought on in large part by competitive difficulties arising from the use of imitation cream products manufactured from non-dairy product substitutes; (3) handler margins relating to the processing and sale of cream for fluid use are too low; and (4) handlers in the nearby Class II cream markets have a competitive advantage over Order 2 handlers in seeking packaged cream sales outlets among supermarket and restaurant chains in overlapping sales areas.

The proposed change in the classification of cream was supported by other handlers and was not opposed at the hearing by the cooperatives. However, the New York State National Farmers Organization, in its posthearing brief, opposed any change in the classification of cream.

The present classification of cream was effected with the adoption of the skim milk and butterfat accounting procedure on July 1, 1968.

The Deputy Administrator in his recommended decision concluded that the evidence introduced by proponents in support of a Class II classification was not substantially different from that presented on the prior record on which the present Class I classification was made. Under the circumstances he concluded that no change should be made in the classification of cream on the basis of this record.

In so concluding, he pointed out that half-and-half and other mixtures of cream and milk or skim milk testing less than 18 percent but above the normal limits of milk are also Class I products and to a considerable degree compete directly with cream for fluid outlets. The proposals at the hearing were not sufficiently broad to permit consideration of a change in the classification

of such products. The presiding officer so ruled and his ruling in this regard is supported and reaffirmed.

Handlers generally and one substantial cooperative excepted to the decision that no change be made in the classification of cream for fluid use on the basis of this record. They reemphasized that Order 2 alone among the northeastern orders provides a Class I classification for cream and that this necessarily places Order 2 handlers at a disadvantage in competition in overlapping sales areas with handlers in the adjacent markets.

While the record fails to demonstrate that Order 2 handlers have yet lost cream route sales to competing handlers from adjacent markets, it is apparent that their costs for cream under the terms of the order are higher than those of handlers in adjacent markets because of the present Class I classification. While this higher cost is not substantial since a common butterfat differential is applicable to both Class I and Class II milk, it is equally true that a change in the classification of cream from Class I to Class II will not substantially affect the level of producer returns.

A Class II classification for fluid cream will promote uniformity of regulation among the northeastern Federal orders and thus remove the possibility of competitive disadvantage due to minimum order prices. Cream for fluid uses is a minor portion of present Class I disposition in all of the northeastern orders. Since a Class II classification is desired by a major segment of the market, there is no compelling reason for denying such classification. Accordingly, the order is amended to provide a Class II classification for cream for fluid use. The fluid milk product definition of the order has been modified to accommodate this change and necessary corollary changes have been made in other provisions of the order to implement such change in classification.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

On the record of the hearing an offer of proof was made with respect to a ruling of the Presiding Officer that a certain proposal and evidence relating thereto (concerning the classification of certain fluid milk products) were not within the scope of the hearing and that such proposal and evidence relating thereto, therefore, be excluded.

In a post-hearing brief filed jointly on behalf of seven handlers doing business in the New York-New Jersey market, it was requested that consideration be given to a reversal of this ruling.

The Presiding Officer's ruling has been reviewed in light of the arguments presented. This ruling, for the reasons stated by the Presiding Officer on the record, is hereby affirmed.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the New York-New Jersey marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

**DETERMINATION OF PRODUCER APPROVAL
AND REPRESENTATIVE PERIOD**

February 1970 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the New York-New Jersey marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 5, 1970.

RICHARD E. LYG, *Assistant Secretary.*

*Order Amending the Order, Regulating
the Handling of Milk in the New
York-New Jersey Marketing Area*

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Massachusetts-Rhode Island-New Hampshire, New York-New Jersey, Washington, D.C., Delaware Valley, Connecticut, and Upper Chesapeake Bay marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The New York-New Jersey order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the New York-New Jersey marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

**PART 1002—MILK IN THE NEW YORK-
NEW JERSEY MARKETING AREA**

§ 1002.12 [Amended]

1. In paragraph (c)(4) of § 1002.12 *Producer-handler*, the provision "or cream," where it appears in the proviso is revoked.

2. Section 1002.15 is revised as follows:

§ 1002.15 Fluid milk product.

"Fluid milk product" means all skim milk and butterfat in the form of milk, fluid skim milk, filled milk, cultured or flavored milk drinks (except eggnog and yogurt), concentrated fluid milk disposed of in consumer packages, half and half (except sour) and any other mixture of cream, milk or skim milk containing less than 18 percent butterfat (other than frozen desserts, frozen dessert mixes, whipped topping mixtures, evaporated milk, plain or sweetened condensed milk or skim milk, sterilized milk or milk products in hermetically sealed containers, and any product which contains 6 percent or more nonmilk fat (or oil)); *Provided*, That when any fluid milk product is fortified with nonfat milk solids the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of an unmodified product of the same nature and butter fat content.

§ 1002.41 [Amended]

3. Section 1002.41 *Classes of utilization* is amended by revoking subparagraph (3) of paragraph (c). The designation subparagraph "(3)" is reserved for future assignment.

§ 1002.45 [Amended]

4. Section 1002.45 *Allocation of skim milk and butterfat classified* is amended as follows:

A. Paragraph (a)(2) is revised as follows:

(2) Subtract from the remaining pounds of skim milk in Class I-A milk the pounds of skim milk in packaged fluid milk products received from other order plants;

B. Paragraph (a)(9) is revised as follows:

(9) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in receipts of bulk fluid milk products pooled and priced under Part 1015 of this chapter which are not in excess of the pounds of skim milk remaining in such class;

5. Section 1002.52 is revised as follows:

§ 1002.52 Connecticut order differential.

For skim milk and butterfat which is classified in Class II under Part 1015 of this chapter and is received in the form of a bulk fluid milk product at a pool plant and is classified as Class I-A, the handler shall pay a differential equal to the difference between the Class II price under Part 1015 of this chapter and the Class I-A price appropriately adjusted for differentials pursuant to §§ 1002.51, 1002.81, and 1002.82(b).

6. A new § 1002.55 is added as follows:

§ 1002.55 Transportation credit on bulk unit pool milk disposed of for Class II use.

For pool milk received by a handler in a pool or partial pool unit and disposed of for Class II use, a transportation credit at the rate of 10 cents per hundredweight shall be computed. For this purpose the handler's bulk unit pool milk shall be assigned to Class II milk in the identical proportion that total pool milk in all plants and units of such handler is classified as Class II milk.

§ 1002.70 [Amended]

7. Section 1002.70 *Net pool obligation of handlers* is amended as follows:

A. The introductory text preceding paragraph (a) is revised as follows:

Each handler's net pool obligation for milk received at each plant and unit shall be computed separately pursuant to paragraphs (a) through (d) of this section and then combined into one total to be adjusted by any credit applicable pursuant to paragraph (e) of this section to determine the handler's total net pool obligation.

B. In paragraph (d), subparagraph (6) is revoked and subparagraph (5) is revised as follows:

(5) Multiply the Connecticut order price differential by the pounds of skim milk and butterfat in bulk receipts of fluid milk products which have been priced and pooled under Part 1015 of this chapter and subtracted from Class I-A milk pursuant to § 1002.45(a)(12) and the corresponding step of § 1002.45(b).

C. A new paragraph (e) is added as follows:

(e) Deduct any credit applicable pursuant to § 1002.55.

8. In § 1002.80, the introductory text preceding paragraph (a) is revised as follows:

§ 1002.80 Time and rate of payment.

On or before the 25th day of each month each handler shall make payment, pursuant to paragraphs (a), (b), (c), and (d) of this section, to each producer for all pool milk delivered by such producer during the preceding month at not less than the uniform price, subject to appropriate differentials set forth in §§ 1002.81 and 1002.82. For milk received in a bulk tank unit, there may be deducted, as proper and as authorized in writing by the producer, or by a cooperative association authorized to act on behalf of such producer, a tank truck service

(transportation) charge up to 10 cents per hundredweight, in no event to exceed in the case of Class II milk on which a transportation credit is applicable pursuant to § 1002.55, actual transportation costs in excess of 10 cents and otherwise actual transportation costs, in either circumstance only to the extent transportation was actually provided by the handler or at his expense. Any such deduction with respect to bulk tank milk must be made by the handler not later than the date on which the producer is required to be paid for the milk involved. If authorization for such deduction is canceled by the producer or by the cooperative by notifying the handler in writing, such cancellation shall be effective on the first day of the month following its receipt by the handler.

[P.R. Doc. 70-13545; Filed, Oct. 8, 1970; 8:47 a.m.]

DEPARTMENT OF LABOR

Bureau of Labor Standards

[29 CFR Part 1520]

CRITERIA FOR DETERMINING WHETHER STATE WORKMEN'S COMPENSATION LAWS PROVIDE ADEQUATE COVERAGE FOR PNEUMOCONIOSIS

Notice of Proposed Rule Making

Pursuant to authority contained in Part C of Title IV of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 795), it is proposed to amend 29 CFR Chapter XIII by adding thereto a new Part 1520, to read as set forth below.

Interested persons are invited to submit written data, views, or arguments concerning the proposed regulation to the Bureau of Labor Standards, U.S. Department of Labor, Washington, D.C. 20210, within 30 days after the publication of this notice in the FEDERAL REGISTER.

The proposed Part 1520 reads as follows:

PART 1520—CRITERIA FOR DETERMINING WHETHER STATE WORKMEN'S COMPENSATION LAWS PROVIDE ADEQUATE COVERAGE FOR PNEUMOCONIOSIS

- Sec.
1520.1 Purpose and scope.
1520.2 Definitions.
1520.3 Provisions of State workmen's compensation laws necessary to provide adequate coverage for pneumoconiosis.

AUTHORITY: The provisions of this Part 1520 issued under secs. 421, 426, 83 Stat. 795, 798.

§ 1520.1 Purpose and scope.

(a) Section 421(a) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 795) provides that on and after January 1, 1973, any claim for benefits for death or total disability due to pneumoconiosis shall be filed pur-

suant to the applicable State workmen's compensation law, except that during any period when miners or their surviving widows are not covered by a State workmen's compensation law which provides adequate coverage for pneumoconiosis they shall be entitled to claim benefits under the Act. Section 421(b)(1) provides that a State workmen's compensation law shall not be deemed to provide adequate coverage for pneumoconiosis during any period unless it is included in the list of State laws found by the Secretary of Labor to provide adequate coverage for pneumoconiosis during such period. Section 421(b)(2) provides that the Secretary of Labor shall include a State workmen's compensation law in such list during any period only if he finds that during such period there are in effect under such law certain provisions specified in the Act, and other provisions as may be prescribed by the Secretary of Labor.

(b) The purpose of this part is to set forth the criteria which the Secretary of Labor and his delegates will use in determining whether a State workmen's compensation law will be included in the list of State workmen's compensation laws which provide adequate coverage for pneumoconiosis during any period.

§ 1520.2 Definitions.

For purposes of this part, except where the context clearly indicates otherwise:

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742);

(b) "Benefit" means benefits for death or total disability of a miner, due to pneumoconiosis;

(c) "Miner" or "coal miner" means any individual who is working or has worked as an employee in an underground coal mine, whether he works under the surface performing functions in extracting the coal or above the surface at the mine preparing the coal so extracted;

(d) "Widow" means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion, who has not remarried;

(e) "Dependent" means—

(1) A wife, if—

(i) She is a member of the same household as the employee; or

(ii) She is receiving regular contributions from the employee for her support; or

(iii) The employee has been ordered by a court to contribute to her support; and

(2) An unmarried child, while living with the employee or receiving regular contributions from the employee toward his support, and who is—

(i) Under 18 years of age; or

(ii) Over 18 years of age and incapable of self-support because of physical or mental disability; or

(iii) If he is a student as defined by 5 U.S.C. 8101 (and as applied in 20 CFR 1.14(c)) at the time he reaches 18 years of age, for so long as he continues to be such a student;

(f) "Coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities.

(g) "Underground coal mine" means a coal mine in which the earth and other materials which lie above the natural deposit of coal (overburden) is not removed in mining, including the natural deposits of coal in the earth and all lands, buildings, and equipment appurtenant thereto;

(h) "The Nation's underground coal mines" means all underground coal mines as defined in paragraph (g) of this section, located in a State as defined in paragraph (k) of this section;

(i) "Employee" means every person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, express or implied, and any helper or assistant of an employee whether paid by the employer or employee, if employed with the knowledge, actual or constructive, of the employer;

(j) "Pneumoconiosis" means a chronic dust disease of the lung arising out of employment in the Nation's underground coal mines, and includes anthracosis, silicosis, or anthracosilicosis arising out of such employment;

(k) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(l) "State agency" means the agency or officer designated by the workmen's compensation law of a State to administer such law;

(m) "Workmen's compensation law" means a law providing for payment of compensation by employers to employees and their dependents for injury, occupational disease, or death, suffered in connection with employment.

(n) The definitions contained in this section shall not be considered to derogate from the terms of the Coal Mine Health and Safety Act of 1969.

§ 1520.3 Provisions of State workmen's compensation laws necessary to provide adequate coverage for pneumoconiosis.

The Secretary of Labor will find that a State workmen's compensation law provides adequate coverage for pneumoconiosis during any period, and will include the State law in the list of State workmen's compensation laws found to provide such coverage, only if he finds that during such period under such law:

(a) Benefits are paid for total disability or death of a miner, due to pneumoconiosis, in a cash amount equal to,

or greater than, the amount of benefits prescribed by section 412(a) of the Act. Thus:

(1) In the case of total disability of a miner, due to pneumoconiosis, the disabled miner must be paid benefits during the period of the disability at a rate equal to or greater than 50 percent of the minimum monthly payment to which a Federal employee in Grade GS-2, who is totally disabled, is entitled at the time of payment under 5 U.S.C. Chapter 81;

(2) In the case of death of a miner, due to pneumoconiosis, or of a miner receiving benefits under the Act, benefits must be paid to his widow, if any, at least at the rate the diseased miner would receive such benefits if he were totally disabled;

(3) If, in a case described in subparagraphs (1) or (2) of this paragraph, the individual entitled to benefit payments has one or more dependents, the benefit payments must be increased at least at the rate of 50 percent of such benefit payments, if the individual has only one dependent, 75 percent if the individual has only two dependents, and 100 percent if the individual has three or more dependents;

(b) There are in effect provisions for the appointment, for any person who is mentally incompetent, of a guardian, conservator, or similar representative to receive compensation payable to such person under the law;

(c) Payment of benefits is required to be made periodically, promptly, and directly to the person entitled thereto, unless controverted, and penalties are provided for failure to pay compensation with or without an award within 15 days after it becomes due;

(d) In any case in which payments of benefits are being made without an award, and in any case where the right to compensation is controverted or payments of compensation have been stopped or suspended, the State agency is required to make such investigations, to cause such medical examinations to be made, to hold such hearings, and to take such further actions as will adequately protect the rights of all parties concerned;

(e) (1) Any assignment or release of compensation or benefits due and payable under the law is prohibited and declared invalid;

(2) Such compensation or benefits are exempt from all claims of creditors and from levy, execution, attachment, garnishment, or any other remedy for recovery or collection of a debt, which exemption may not be waived; and

(3) Any person entitled to compensation has a lien against the assets of the insurer or employer for such compensation, and, upon insolvency, bankruptcy, or reorganization in bankruptcy, of the insurer or employer, or both, is entitled to preference and priority in the distribution of the assets of the insurer or employer, or both;

(f) The standards for determining death or total disability due to pneumoconiosis are substantially equivalent to those established by section 411 of the Act, and by regulations of the Secretary

of Health, Education, and Welfare promulgated thereunder (see 35 F.R. 5623);

(g) A claim for benefits on account of total disability or death of a miner, due to pneumoconiosis, is deemed to be timely filed if such claim is filed within 3 years of the discovery of the total disability or the date of such death, as the case may be;

(h) A coal mine operator who has acquired such mine, or substantially all of the assets thereof, from a person (prior operator) who was an operator of such mine on or after December 30, 1969, is liable for, and must secure the payment of, all benefits which would have been payable by that person with respect to miners previously employed in such mine if the acquisition had not occurred and that person had continued to operate such mine; and that person is not relieved of any liability under the law;

(i) If compensation liability may be discharged by payment of a lump sum, such discharge is subject to the following conditions:

(1) The lump sum is equal to or greater than, the present value of future compensation payments otherwise payable under the law, computed at no more than 4 percent true discount compounded annually. The probabilities of the death of a disabled worker or of the remarriage of a widow must be determined in accordance with the American Experience Tables of Mortality and the Remarriage Tables of the Dutch Royal Insurance Institution respectively; and

(2) The lump sum settlement is approved by the State agency on the basis of a finding that the settlement is in the interests of the claimant;

(j) Any agreement by an employee to pay any portion of the workmen's compensation insurance premium to be paid by his employer to an insurer, or to contribute to a fund maintained for the purpose of providing compensation or other benefits required by the law, or to waive his right to compensation and other benefits is prohibited and declared invalid;

(k) Provisions are made for such methods of administration as are found by the Secretary of Labor, or his designee, to be reasonably calculated to insure full payment of compensation when due, including provisions—

(1) For the administration of the law by a State agency, with powers to make or cause to be made all necessary investigations, inquiries, and examinations, and to conduct hearings, in connection with claims for compensation for death or total disability due to pneumoconiosis;

(2) Affording an opportunity for a fair hearing for all individuals whose claims for such compensation are denied, and opportunity for judicial review of final administrative decisions on such claims;

(3) Requiring the State agency and State courts to regulate fees for legal services rendered to a claimant in connection with such a claim;

(4) Requiring the substitution of the insurer for any coal mine operator who is not a self-insurer in order that liability for compensation be discharged, and regulating the cancellation of insurance

with respect to total disability or death due to pneumoconiosis;

(5) Requiring the posting by the employer of conspicuous notices showing compliance with the provisions of the law; and

(6) Requiring that coal mine employees with pneumoconiosis be offered vocational rehabilitation in all cases, where it is feasible;

(l) In any proceeding for the enforcement of a claim for compensation under the law, it is presumed, in the absence of substantial evidence to the contrary, that the claim comes within the provisions of the law; and

(m) If a proper court determines that proceedings in respect of a claim for compensation or a compensation order have been instituted or continued without reasonable grounds, the costs of the proceedings must be assessed against the party who has instituted or continued the proceedings.

Signed at Washington, D.C., this 30th day of September 1970.

J. D. HOBSON,
Secretary of Labor.

[F.R. Doc. 70-13546; Filed, Oct. 8, 1970;
8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

PRODUCTS SUBJECT TO FEDERAL FOOD, DRUG, AND COSMETIC ACT AND FEDERAL INSECTICIDE, FUNGI- CIDE, AND RODENTICIDE ACT

Extension of Time for Filing Comments on Proposed Statement of Policy and Interpretation

The notice published in the FEDERAL REGISTER of August 5, 1970 (35 F.R. 12479), proposing § 3.79 *Products subject to the Federal Food, Drug, and Cosmetic Act and the Federal Insecticide, Fungicide and Rodenticide Act* (and the same section as 7 CFR 362.150) provided for the filing of comments within 30 days after said publication date.

The Commissioner of Food and Drugs has received a request to extend such time and, good reason therefor appearing and Administrator of the Agricultural Research Service (USDA) concurring, the time for filing comments regarding the subject proposal is extended to October 4, 1970.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 357, 360b, 371(a)) and the Federal Insecticide, Fungicide, Rodenticide Act (7 U.S.C. 135-135k) and pursuant to authority delegated under said statutes.

Dated: September 28, 1970.

SAM D. FINE,
Associate Commissioner
for Compliance.

[F.R. Doc. 70-13517; Filed, Oct. 8, 1970;
8:45 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

BONDS AND OTHER EVIDENCES OF INDEBTEDNESS

Notice of Proposed Rule Making

The proposed amendment to the regulations under section 1232 of the Internal Revenue Code of 1954, relating to bonds and other evidences of indebtedness, was published in the FEDERAL REGISTER of August 25, 1970.

A public hearing on the provisions of this proposed amendment to the regulations will be held on Monday, October 26, 1970, at 9:30 a.m., in Room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C.

Persons who plan to attend the hearing are requested to notify the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by October 22, 1970. Notification of intention to attend or comment at the hearing may be given by telephone, 202-964-3935.

JAMES F. DRING,
Director, Legislation and Regulations Division.

[F.R. Doc. 70-13713; Filed, Oct. 8, 1970; 10:58 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

ESCATAWPA RIVER, MISSISSIPPI

[CGFR 70-123]

Proposed Drawbridge Operation Regulations

1. The Commandant, U.S. Coast Guard is considering a request by the City of Moss Point in Jackson County, Miss., to establish special operation regulations for the Mississippi State Highway Department Route 63 bridge across Escatawpa River, mile 1.0. Present regulations governing this bridge require that the draw be opened promptly on signal. The proposed regulations would permit the draw to remain closed to navigation from 6:15 a.m. to 6:45 a.m., 7:45 a.m. to 8 a.m. and 3:15 p.m. to 4:15 p.m., Monday through Friday, excluding national holidays. The draw would be required to open on signal at all other times. Authority for this action is set forth in section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g) (2) of the Department of Transportation Act (49 U.S.C. 1655 (g) (2) and 49 CFR 1.46(c) (5)).

2. Accordingly, it is proposed to add 33 CFR 117.485 to read as follows:

§ 117.485 Escatawpa River, Mississippi. Mississippi State Highway 63 Bridge. Mile 1.0.

The draw need not be opened for the passage of vessels, from 6:15 a.m. to 6:45

a.m., 7:15 a.m. to 8 a.m. and 3:15 p.m. to 4:15 p.m., Monday through Friday, excluding national holidays. At all other times the draw shall be opened promptly on signal.

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before November 13, 1970. All submissions should be made in writing to the Commander, Eighth Coast Guard District, Customhouse, New Orleans, La. 70130.

4. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address, and firm or organization, if any, of the person making the submission.

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

6. After the time set for the submission of comments by the interested parties, the Commander, Eighth Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: September 30, 1970.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 70-13555; Filed, Oct. 8, 1970; 8:48 a.m.]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-WE-68]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Spokane, Wash. (Felts Field), control zone.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Program Standards Branch, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal

Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. 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.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

Two new VOR instrument approach procedures for Felts Field have been proposed from the northeast and southwest both utilizing the 060° T (039° M) radial of the Spokane VORTAC. The application of the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS) to these and the current NDB (ADF)-1 instrument approach procedure has revealed the requirement for designation of additional control zone and 700-foot transition area. The control zone will provide controlled airspace protection for aircraft executing the prescribed instrument procedures while operating below 1,000 feet above the surface. The 700-foot transition area will be processed as an amendment to the Spokane, Wash., transition area under Airspace Docket 70-WE-75.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.171 (35 F.R. 2054) the description of the Spokane, Wash. (Felts Field), control zone is amended to read as follows:

SPOKANE, WASH. (FELTS FIELD)

That airspace within a 5-mile radius of Felts Field (latitude 47°41'00" N., longitude 117°19'20" W.); within 2 miles northwest and 4.5 miles southeast of the Spokane VORTAC 060° radial, extending from the 5-mile radius zone to 11 miles northeast of the VORTAC, and within 2 miles each side of the 086° bearing from the Fort LOM, extending from the 5-mile radius zone to the LOM, excluding the portion within the Spokane, Wash. (International) control zone.

This amendment is proposed under the authority of section 307(a), of the Federal Aviation Act of 1958, as amended (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 Los Angeles, Calif., on September 28, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-13539; Filed, Oct. 8, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-92]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Kennett, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. 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.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure has been developed for the Kennett, Mo., Memorial Airport utilizing the Blytheville, Ark., VOR and Blytheville Approach Control Radar as navigational aids. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot floor transition area at Kennett, Mo. The new procedure will become effective concurrently with the designation of the transition area. IFR air traffic at this location will be controlled by the Memphis Air Route Traffic Control Center and Blytheville Approach Control.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

KENNETT, Mo.

The airspace extending upward from 700 feet above the surface within a 5-mile radius of the Kennett Memorial Airport (latitude 36°14'00" N., longitude 90°02'00" W.); and within 2 miles each side of the 346° radial of the Blytheville VOR extending from the 5-mile radius area to 13½ miles north of the VOR.

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

Issued in Kansas City, Mo., on September 4, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-13540; Filed, Oct. 8, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-88]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Iron Mountain, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. 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 proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at Iron Mountain, Mich., a new instrument approach procedure has been developed for the Ford Airport. This procedure will become effective concurrently with the designation of additional controlled airspace and the commissioning of the Iron Mountain VORTAC. Accordingly, it is necessary to alter the Iron Mountain, Mich., control zone and transition area to adequately protect aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

IRON MOUNTAIN, MICH.

Within a 5-mile radius of Ford Airport (latitude 45°48'55" N., longitude 88°06'55" W.); within 2½ miles each side of the Iron Mountain VORTAC 141° radial extending from the 5-mile radius zone to 6½ miles southeast of the VORTAC, within 3 miles each side of the Iron Mountain VORTAC 193° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC; within 3 miles each side of the 182° bearing from Ford Airport, extending from the 5-mile radius zone to 7½ miles south of the airport; within 3 miles each side of the 276° bearing from Ford Airport extending from

the 5-mile radius zone to 7½ miles west of the airport; and within 3 miles each side of the Iron Mountain VORTAC 004° radial, extending from the 5-mile radius zone to 7½ miles north of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

IRON MOUNTAIN, MICH.

That airspace extending upward from 700 feet above the surface within a 13-mile radius of Iron Mountain VORTAC; with 4½ miles west and 9½ miles east of the Iron Mountain VORTAC 193° radial, extending from the 13-mile radius area to 18½ miles south of the VORTAC; within 4½ miles west and 9½ miles east of the 182° bearing from Ford Airport (latitude 45°48'55" N., longitude 88°06'55" W.) extending from the 13-mile radius area to 18½ miles south of the airport; and within 4½ miles north and 9½ miles south of the 276° bearing from Ford Airport, extending from the 13-mile radius area to 18½ miles west of the airport; and that airspace extending upward from 1,200 feet above the surface within a 15½-mile radius of the Iron Mountain VORTAC; within 4½ miles southwest and 9½ miles northeast of the Iron Mountain VORTAC 141° radial; extending from the VORTAC to 18½ miles southeast of the VORTAC; and within 4½ miles east and 9½ miles west of the Iron Mountain VORTAC 004° radial, extending from the VORTAC to 18½ miles north of the VORTAC, excluding the portion which overlies the Marquette, Mich., 1,200-foot transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on September 4, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-13541; Filed, Oct. 8, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-75]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Valdosta, Ga. (Moody AFB and Valdosta Municipal Airport), control zones and the Valdosta, Ga. (Moody AFB and Valdosta), transition areas.

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, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within

30 days after publication of this notice in the FEDERAL REGISTER will be considered before final 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, Airspace and Procedures 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 following control zones described in § 71.171 (35 F.R. 2054) would be redesignated as:

VALDOSTA, GA. (MOODY AFB)

Within a 5-mile radius of Moody AFB (lat. 30°58'01" N., long. 83°11'27" W.); within 1.5 miles each side of Moody TACAN 180° radial, extending from the 5-mile radius zone to 4.5 miles south of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

VALDOSTA, GA. (VALDOSTA MUNICIPAL AIRPORT)

Within a 5-mile radius of Valdosta Municipal Airport (lat. 30°46'58" N., long. 83°16'44" W.).

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

VALDOSTA, GA. (MOODY AFB)

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Moody AFB (lat. 30°58'01" N., long. 83°11'27" W.); within 3 miles each side of Moody AFB ILS localizer north course, extending from the 8.5-mile radius area to 8.5 miles north of the OM; within 3 miles each side of Moody VOR 007° radial, extending from the 8.5-mile radius area to 12.5 miles north of the VOR. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

VALDOSTA, GA. (VALDOSTA MUNICIPAL AIRPORT)

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Valdosta Municipal Airport (lat. 30°46'58" N., long. 83°16'44" W.).

The application of Terminal Instrument Procedures (TERPs), current airspace criteria and revised instrument approach procedures in the Valdosta terminal area requires the following actions:

CONTROL ZONES

1. Moody AFB:

a. Revoke the extensions predicated on Moody VOR 007° and 173° radials, Valdosta 016° radial and Moody TACAN 360° radial.

b. Reduce the extension predicated on Moody TACAN 180° radial 1 mile in width and 5 miles in length.

2. Valdosta Municipal Airport:

Revoke the extension predicated on Valdosta VOR 007° radial.

TRANSITION AREAS

1. Moody AFB:

a. Increase the basic radius circle predicated on the Moody AFB from 7 to 8.5 miles.

b. Increase the extension predicated on the Moody ILS localizer N course 2 miles in width and 3.5 miles in length.

c. Revoke the extension predicated on the Moody VOR 180° radial.

d. Designate an extension predicated on the Moody VOR 007° radial 6 miles in width and 12.5 miles in length.

2. Valdosta:

a. Revoke the transition area.

b. Designate an 8.5-mile basic radius circle predicated on the Valdosta Municipal Airport.

The proposed alterations are required to provide controlled airspace protection for IFR operations in the Valdosta terminal 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 October 1, 1970.

GORDON A. WILLIAMS, Jr.,

Acting Director, Southern Region.

[F.R. Doc. 70-13543; Filed, Oct. 8, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-51]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Roosevelt Roads, P.R., control zone.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. 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. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examina-

tion at the office of the Regional Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex II apply in those parts of the airspace under the jurisdiction of a contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting State accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, State aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its State aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The FAA proposes to redesignate the Roosevelt Roads control zone as follows:

Within a 5-mile radius of NS Roosevelt Roads (lat. 18°15'05" N., long. 65°38'35" W.); within 3 miles each side of the 054° bearing from Roosevelt Roads RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN; within 1.5 miles each side of Roosevelt Roads TACAN 234° radial, extending from the 5-mile radius zone to 5 miles southwest of the TACAN.

This redesignated control zone would facilitate the movement and control of air traffic utilizing the terminal instrument procedures designed for the Roosevelt Roads terminal area.

This amendment is proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958, 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565, and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 30, 1970.

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

[P.R. Doc. 70-13544; Filed, Oct. 8, 1970;
8:47 a.m.]

[14 CFR Part 73]

[Airspace Docket No. 70-AL-9]

RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering amending Part 73 of the Federal Aviation Regulations to designate a joint-use restricted area at Eielson AFB, Alaska.

Interested person may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. 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 amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The U.S. Army (USARL) has a requirement to conduct annual practice firings of Nike Hercules missiles in the interest of national defense. These firings have been conducted in previous years under a controlled firing concept and a waiver to Federal Aviation Regulations (FAR) § 101.23 (b), (c), (d), (e), (f), and (h). Effective surveillance of the entire area is difficult to maintain and timely notice to pilots located in remote areas is not always assured. Therefore, the proposed restricted area would enhance safety by being depicted on aeronautical charts and by listing the time of use. Under the joint-use provision, the airspace area would be available to the public when not actually in use by the using agency.

The time of use would be December 15 to March 15 annually, with activation of the area by Notice to Airmen during this time frame. Normally, seven to 10 missile firings will occur annually.

This proposed part-time restricted area would encompass and overlie the Yukon, Alaska, Restricted Area R-2205. Therefore, to simplify the administration of these two restricted areas, the FAA also proposes to redesignate R-2205 as R-2205A and designate the new restricted area as R-2205B.

The Nike Hercules missiles are controlled electronically by ground based equipment. The missile is so constructed that it can be destroyed from the ground at any time, or if control is lost, it has a self-destruct capability.

The practice missile firings will be conducted by various Army units from the lower 48 States as well as local Alaskan units. The firings will consist of several surface-to-surface operations as well as surface-to-air launchings which employ an electronic target.

The proposed restricted area overlies a remote area and would have a minimal impact on aeronautical operations. It would overlie a small portion of Amber Airway 2-15 which is subject to a very light traffic flow.

If action is taken to adopt this proposal, Restricted Area R-2205 would be redesignated as R-2205A and Restricted Area R-2205B would be designated as follows:

R-2205B

Boundaries: Beginning at latitude 65°22'35" N., longitude 143°31'54" W., to latitude 64°56'10" N., longitude 143°13'42" W., to latitude 64°36'50" N., longitude 146°11'15" W., to latitude 64°35'18" N., longitude 146°11'15" W., to latitude 64°33'24" N., longitude 146°18'30" W., to latitude 64°33'25" N., longitude 146°25'00" W., to latitude 64°33'25" N., longitude 146°38'00" W., to latitude 64°36'45" N., longitude 146°50'00" W., thence clockwise via the arc of 4-nautical mile radius circle centered on: latitude 64°39'54" N., longitude 146°44'07" W., to latitude 64°43'02" N., longitude 146°50'00" W., thence to latitude 64°46'53" N., longitude 146°50'00" W., to latitude 64°55'36" N., longitude 145°48'00" W., thence to point of beginning.

Designated altitudes: Surface to unlimited.
Time of designation: December 15 to March 15 annually. Activation of area for actual firing periods by Notice to Airmen.

Controlling agency: Federal Aviation Administration, Fairbanks ARTC Center.

Using agency: Commanding General U.S. Army Alaska, Fort Richardson, Alaska.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 30, 1970.

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

[P.R. Doc. 70-13542; Filed, Oct. 8, 1970;
8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 206]

[Docket No. 22627]

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Special Authorizations

OCTOBER 6, 1970.

Notice is hereby given that the Civil Aeronautics Board is proposing to amend

Part 206 of the regulations by the addition of a new § 206.3, which would establish a blanket exemption from the requirements of sections 401 and 403 of the Federal Aviation Act in order to permit all-cargo carriers to provide transportation to accredited newsmen at the lowest fare in effect by passenger air carriers between the same points, without the necessity of applying to the Board for an exemption pursuant to section 416 (b) (1) of the Act in each individual case. The proposed amendment and a statement explaining its principal features are attached. The rules are proposed under the authority of sections 204(a) and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743 and 771; 49 U.S.C. 1324 and 1386).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before November 6, 1970, will be considered by the Board before taking final action on the proposed rule. Copies of such communications, upon receipt thereof, will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL]

HARRY J. ZINK,
Secretary.

Explanatory statement. An all-cargo carrier must presently file an exemption application each time it wishes to carry newsmen and thereafter the Board processes the application and issues an order, if approved.¹ Such an exemption is necessary, since all-cargo carriers are not authorized to carry persons under their 401 certificates and also since fares for such transportation are required to be set forth in tariffs under 403 of the Act. If the exemption is granted, the all-cargo air carrier is required to assess each person so transported not less than the lowest fare in effect by carriers authorized to transport persons in regularly scheduled passenger service between the same points.

Flying Tiger has requested that the Board grant a blanket exemption from the necessity of filing the above-described application for exemption in each case. It submits in support thereof that the current procedure is more costly to the applicant and to the agency than is warranted. Airlift has filed a letter in support of Flying Tiger's request.

Upon consideration the Board tentatively finds that Flying Tiger's request should be granted, and it proposes here-

¹ The Chief, Tariffs Section, Passenger and Cargo Rates Division, Bureau of Economics, presently has delegated authority to grant or deny such an exemption (§ 385.15 (1) of Part 385 of this chapter). This delegation will be deleted upon finalization of the proposed rule.

in to amend Part 206 to permit all-cargo carriers to provide transportation to accredited newsmen at the lowest fare in effect by carriers authorized to transport persons in regularly scheduled passenger service.

The Bureau of Economics has received only 15 requests for transportation of newsmen on all-cargo flights during the past 3 years, all of which have been granted, and there has therefore been no substantial workload burden on the Board in processing these applications. Nevertheless, the Board believes that the burden on the all-cargo carriers in filing requests for individual exemptions is not warranted or commensurate with the minimal nature of what is involved. Requests for transportation of newsmen by all-cargo carriers have been infrequent, and it would appear that competitive considerations in granting a blanket exemption would be negligible. The Board therefore tentatively finds that enforcement of sections 401 and 403 of the Act and Part 221 of the Economic Regulations to the extent that they would otherwise prevent certificated all-cargo carriers from providing transportation to persons between points in their certificates on regularly scheduled cargo flights for the purpose of collecting data for preparation of feature news, pictorial or like articles would be an undue burden on this class of carrier by reason of the limited extent of or unusual circumstances affecting their operations and is not in the public interest.

In addition to the fare provision previously mentioned, the proposed rule will provide that the transportation be limited to the writer, journalist or photographer engaged in the preparation of data for use in feature news, pictorial, or like articles which are to appear in newspapers or trade magazines and which will publicize the regularly scheduled cargo operations of the carrier. In addition, the proposal will include a requirement that the all-cargo carrier file with the Bureau of Economics, at least 10 days before commencement of the transportation, a notice setting forth the name and affiliation of the writer, journalist, or photographer, the routing to be followed, and the amount of the fare to be collected. This provision will enable proper and adequate policing by the Board of the carrier's activities in this area.

It is proposed to amend Part 206 of the Economic Regulations (14 CFR Part 206) as follows:

1. Amend the Table of Contents to add a title for new § 206.3 as follows:

Sec.
206.3 Transportation of newsmen by all-cargo carriers.

2. Add a new § 206.3 to read as follows:
§ 206.3 Transportation of newsmen by all-cargo carriers.

Notwithstanding the provisions of sections 401(a) and 403 of the Act and Part 221 of this chapter (Board's Economic Regulations), an air carrier holding a

certificate of public convenience and necessity for the transportation of property and mail only may provide transportation to persons between points in its certificate on regularly scheduled cargo flights for the purpose of collecting data for preparation of feature news, pictorial or like articles provided that:

(a) The transportation is limited to the writer, journalist, or photographer engaged in the preparation of data for use in feature news, pictorial, or like articles which are to appear in newspapers or trade magazines and which will publicize the regularly scheduled cargo operations of the carrier;

(b) The air carrier shall collect from each person transported not less than the lowest fare in effect by carriers authorized to transport persons in regularly scheduled passenger service between the points involved;

(c) The air carrier shall file with the Board's Bureau of Economics, at least 10 days before commencement of the transportation, a notice setting forth the name and affiliation of the writer, journalist or photographer, the routing to be followed, and the amount of fare to be collected.

[P.R. Doc. 70-13574; Filed, Oct. 8, 1970; 8:50 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 201, 204, 205, 260]

[Docket No. R-403]

UNIFORM SYSTEMS OF ACCOUNTS, FOR NATURAL GAS COMPANIES AND ANNUAL REPORT FORM

Notice of Proposed Rule Making

OCTOBER 5, 1970.

Pursuant to 5 U.S.C. 553, the Commission gives notice it proposes to amend, effective for the reporting year 1970:

A. Certain accounts in the Uniform System of Accounts for Class A and Class B Natural Gas Companies, prescribed by Part 201, Chapter 1, Title 18, CFR.

B. Certain accounts in the Uniform System of Accounts for Class C Natural Gas Companies, prescribed by Part 204, Chapter 1, Title 18, CFR.

C. Certain accounts in the Uniform System of Accounts for Class D Natural Gas Companies, prescribed by Part 205, Chapter 1, Title 18, CFR.

D. Gas Plant in Service Schedule in FPC Form No. 2, Annual Report for Class A and Class B Natural Gas Companies, prescribed by section 260.1, Chapter 1, Title 18, CFR.

In Opinion No. 568, Pipeline Production Area Rate Proceeding (Phase I) issued October 7, 1969 (42 FPC 738; 34 P.R. 17803, Nov. 5, 1969), and Opinion No. 568-A issued December 5, 1969 (42 FPC 1089), the Commission concluded that the applicable area rate determined for gas produced by independent producers should also be applied to natural gas produced by pipelines and pipeline affiliates from leases acquired on or after

October 7, 1969. On January 16, 1970, Arthur Andersen & Co., Certified Public Accountants, petitioned the Commission to amend the Uniform Systems of Accounts to provide "full-cost accounting" for all exploration and development expenditures incurred on leases acquired on or after October 7, 1969 (Docket RP70-23).

The petitioner believes that full-cost accounting, which capitalizes all exploration and development costs with provision for future writeoff against revenues from producing natural gas wells, is superior to the current expensing of nonproductive well drilling costs, costs of abandoned leases and other similar costs, as now required by the Uniform Systems of Accounts for Natural Gas Companies; and alleges that

The existing basis of accounting will act as a deterrent to pipelines to conduct aggressive exploration programs because a substantial portion of the capital costs associated with the discovery of the new gas reserves will have to be charged to expense currently with no offsetting revenues. The result obviously is a mismatching of costs and revenues and a resultant reduction in reported earnings. The capital investment in discovering and developing new gas reserves will undoubtedly involve many millions of dollars. The effect on the earnings of a pipeline company—particularly one not previously engaged in production activities—could be so material as to substantially reduce the incentive to pursue "an aggressive pipeline exploration program." (Footnote omitted.)

Pipelines simply cannot be expected to undertake the vast expenditures required for exploration if current earnings are to be penalized by expensing exploration costs which are really applicable to future production. Thus, from a very real and practical standpoint, the existing provisions of the Uniform System of Accounts, will retard if not altogether nullify the Commission's announced policy of "encouraging intensified exploration by the pipeline producers." (FPC Docket No. RP70-23, Petition to Amend the Uniform System of Accounts to Provide for Full-Cost Accounting of all Exploration Costs Incurred by Pipeline Companies on Leases Acquired After the Date of Opinion No. 568, Jan. 16, 1970. At pp. 7 and 8.)

We expressed our concern in Opinion No. 568 arising from indications of a present shortage of natural gas and the threat of a greater shortage in the future. We also therein stated that the pipeline producers are capable of making a significant contribution to new gas supplies.

At the present time, indications are stronger that the nation is faced with a natural gas shortage and we are willing to explore new avenues to alleviate this situation. Full-cost accounting may provide some stimulus to pipeline companies to intensify their search for new gas supplies. In proposing the amendments to the Uniform Systems of Accounts to adopt full-cost accounting, however, we are aware that we are dealing with a controversial accounting matter on which the accounting profession is not united and which was concluded to be inappropriate accounting in a study recently issued by the American Institute of Certified Public Accountants (ARS 11,

Financial Reporting in the Extractive Industries). Consequently, we are requesting comments and views on the merits of such accounting as well as comments on whether the accounting will provide the desired stimulus for the search for and development of new gas supplies and comments on the specific changes proposed to the Uniform Systems of Accounts and Annual Report Form No. 2.

A. The proposed changes to the Uniform System of Accounts for Class A and Class B Natural Gas Companies are:

1. Addition of definitions for "Exploration and Development Costs," "Full-Cost Accounting," and "Unassigned Exploration and Development Costs."

2. Revision of accounts "105, Gas Plant Held for Future Use," "107, Construction Work in Progress," "183.1, Preliminary Natural Gas Survey and Investigation Charges," "283, Accumulated Deferred Income Taxes—Other," "796, Nonproductive Well Drilling," "797, Abandoned Leases," and "798, Other Exploration."

3. Addition of new account "338, Unassigned Exploration and Development Costs."

B. The proposed changes to the Uniform System of Accounts for Class C Natural Gas Companies are:

1. Revision of accounts "105, Gas Plant Held for Future Use," "107, Construction Work in Progress—Gas," "183, Other Deferred Debits," "283, Accumulated Deferred Income Taxes—Other," "721, Nonproductive Well Drilling," "722, Abandoned Leases," and "723, Other Exploration."

2. The addition of new account "338, Unassigned Exploration and Development Costs."

C. The proposed changes to the Uniform System of Accounts for Class D Natural Gas Companies are:

1. Revision of accounts "183, Other Deferred Debits," "394, Gas Plant Held for Future Use," "395, Construction Work in Progress—Gas," "721, Nonproductive Well Drilling," "722, Abandoned Leases," and "723, Other Exploration."

2. Addition of new account "327, Unassigned Exploration and Development Costs," to the Class D.

D. The proposed change to the Gas Plant in Service schedule of FPC Annual Report Form No. 2 (schedule page 501) is the addition of a new line item entitled "338, Unassigned Exploration and Development Costs."

The proposed amendments to the Commission's Uniform Systems of Accounts under the Natural Gas Act and to FPC Form No. 2 would be issued under the authority granted the Federal Power Commission by the Natural Gas Act, particularly sections 8, 10 and 16 (52 Stat. 825, 826, 830 (1938); 15 U.S.C. 717g, 717i, 717o).

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than November 19, 1970 data, views, comments, or suggestions, in writing, concerning the proposed revised report forms and regulations. An original and 14 conformed copies should be filed with the

Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed revisions in the report forms under the provisions of the Federal Reports Act of 1942 (44 U.S.C. 3501-3511) may, at the same time, submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Policy, Office of Management and Budget, Washington, D.C. 20503. Submissions to the Commission should indicate the name, address, and telephone number of the person to whom correspondence in regard to the proposal should be addressed, and whether the person filing them requests a conference at the Federal Power Commission to discuss the proposed revisions in the report forms and regulations. The Commission will consider all written submissions before acting on the matters herein proposed.

A. The following are proposed amendments and revisions to the Uniform System of Accounts for Class A and Class B Natural Gas Companies, in Part 201, Chapter 1, Title 18 of the Code of Federal Regulations:

1. In the Definitions section of Part 201, immediately following definition "12. Discount," add new definitions "13. Exploration and development costs" and "14. Full-cost accounting for exploration and development costs," and renumber definitions 13 through 29 as 15 through 31. Immediately following renumbered definition "31. Service value," add a new definition "32. Unassigned exploration and development costs" and renumber definition "30. Utility," as definition 33. New definitions 13, 14 and 32 will read:

Definitions

13. "Exploration and development costs" are costs such as preliminary survey costs, well drilling costs, lease costs and other like costs incurred in the search for natural gas.

14. "Full-cost accounting for exploration and development costs" means the capitalization of all exploration and development costs incurred in the search for natural gas.

32. "Unassigned exploration and development costs" are exploration and development costs which do not directly result in the discovery of natural gas.

2. In the text of Balance Sheet Accounts, amend account "105, Gas Plant Held for Future Use" by adding a new note "C." In account "107, Construction Work in Progress—Gas" designate the present note as "A," and add a new note designated as "B." In account "183.1, Preliminary Natural Gas Survey and Investigation Charges" revise paragraph "A." In account "283, Accumulated Deferred Income Taxes—Other" revise paragraphs "A" and "B," add new paragraph "C," and redesignate present paragraphs "C" and "D" as "D" and "E," respectively. The amended portions of Balance Sheet accounts 105, 107, 183.1 and 283 will read:

Balance Sheet Accounts ASSETS AND OTHER DEBITS

1. UTILITY PLANT

105 Gas plant held for future use.

NOTE C: The loss on abandonment of natural gas leases acquired on or after October 7, 1969, shall be charged to account 338, Unassigned Exploration and Development Costs.

107 Construction work in progress—Gas.

NOTE A: This account to include certificate application fees paid to the Federal Power Commission as provided for in gas plant instruction 16.

NOTE B: Exploration and development costs incurred on leases acquired on or after October 7, 1969, which do not directly result in the discovery of natural gas shall be transferred to account 338, Unassigned Exploration and Development Costs.

4. DEFERRED DEBITS

183.1 Preliminary natural gas survey and investigation charges.

A. This account shall be charged with all expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas.

If such land or land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 7-G) charged with the amount of the expenditures related to such acquisition. If a project is abandoned involving a natural gas lease acquired on or prior to October 6, 1969, the expenditures related thereto shall be charged to account 798, Other Exploration. If a project is abandoned involving a lease acquired on or after October 7, 1969, the expenditures related thereto shall be charged to account 338, Unassigned Exploration and Development Costs.

LIABILITIES AND OTHER CREDITS

11. ACCUMULATED DEFERRED INCOME TAXES

283 Accumulated deferred income taxes—Other.

A. This account shall be used for income tax deferrals resulting from the current use of exploration and development costs incurred on leases acquired on or after October 7, 1969, in the computation of income taxes and for other specific types of income tax deferrals when its use has been authorized by the Commission.

B. This account, when used for income tax deferrals resulting from the current use of exploration and development costs incurred on leases acquired on or after October 7, 1969, in the computation of income taxes and when authorized by the Commission for other specific tax deferrals, shall be credited and account 410, Provision for Deferred Income

Taxes, shall be debited with an amount equal to that by which taxes on income payable for the year are lower because of the current use of deductions other than accelerated amortization or liberalized depreciation in the computation of income taxes, which deductions for general accounting purposes will not be fully reflected in the utility's determination of annual net income until subsequent years.

C. This account, when used for income tax deferrals resulting from the current use of exploration and development costs, incurred on leases acquired on or after October 7, 1969, in the computation of income taxes and when authorized by the Commission for other specific tax deferrals, shall be debited and Account 411, Income Taxes Deferred in Prior Years—Credit, shall be credited with an amount equal to that by which taxes on income payable for the year are greater because of deferral of taxes on income in previous years, as provided by paragraph B, above, because of difference in timing for tax purposes of particular income deductions from that recognized by the utility for general accounting purposes, other than with respect to accelerated amortization or liberalized depreciation. Such debit to this account and credit to account 411 shall, in general, represent the effect on income taxes payable in the current year of the smaller deduction permitted for tax purposes as compared to the amount recognized in the utility's general accounts with respect to the item or class of items for which deferred tax accounting by the utility was authorized by the Commission.

D. * * *
E. * * *

3. In the chart of Gas Plant accounts, add new account title "338, Unassigned Exploration and Development Costs," immediately following account title "337, Other Equipment." As so revised, the chart of Gas Plant Accounts will read:

Gas Plant Accounts (Chart of Accounts)
2. PRODUCTION PLANT
B. NATURAL GAS PRODUCTION PLANT
B. 1. Natural Gas Production and Gathering Plant
338 Unassigned exploration and development costs.

4. In the text of Gas Plant accounts, immediately following account "337, Other Equipment," add new account "338, Unassigned Exploration and Development Costs." New account 338 will read:

Gas Plant Accounts
2. PRODUCTION PLANT
B. NATURAL GAS PRODUCTION PLANT

B.1. Natural Gas Production and Gathering Plant

338 Unassigned exploration and development costs.

A. This account shall include preliminary natural gas survey and investigation costs, loss on abandoned leases, non-productive well drilling costs and other like costs incurred on or related to leases acquired on or after October 7, 1969, and which do not contribute to or result in the discovery of natural gas. The total of the costs included in this account less amounts amortized shall not exceed the fair value of the recoverable gas reserves in the Commission defined Area in which such costs are incurred.

B. The costs in this account shall be amortized by debiting Account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights, and crediting account 111.1, Accumulated Provision for Amortization and Depletion of Producing Natural Gas Land and Land Rights, based upon the exhaustion of natural gas deposits in the Commission defined Area in which the unsuccessful costs were incurred, or as otherwise authorized by the Commission.

C. The costs therein shall be maintained by natural gas lease and upon the amortization of the costs related to each lease shall be retired by crediting this account and debiting account 111.1.

5. In the text of Operation and Maintenance Expense Accounts, revise Exploration and Development Expense accounts "796, Nonproductive Well Drilling," "797, Abandoned Leases," and "798, Other Exploration." As so revised, accounts 796, 797 and 798 will read:

Operation and Maintenance Expense Accounts

1. PRODUCTION EXPENSES

C. EXPLORATION AND DEVELOPMENT EXPENSES

796 Nonproductive well drilling.

This account shall include the net cost of drilling nonproductive wells on natural gas leases acquired on or prior to October 6, 1969.

NOTE A: Records in support of the charges to this account shall conform, as appropriate, to Note B of general instruction 12, Records for Each Plant.

NOTE B: The net cost of drilling nonproductive wells on natural gas leases acquired on or after October 7, 1969, shall be charged to account 338, Unassigned Exploration and Development Costs.

797 Abandoned leases.

A. This account shall be charged with amounts credited to account 113.1, Accumulated Provision for Abandonment of Leases, to cover the probable loss on abandonment of natural gas leases acquired on or prior to October 6, 1969, included in account 105, Gas Plant Held for Future Use, which have never been productive.

B. When natural gas leaseholds which were acquired on or prior to October 6, 1969, and which have never been productive are abandoned, and the amounts provided in account 113.1, Accumulated Provision for Abandonment of Leases, are not sufficient to cover the cost thereof, the deficiency shall be charged to this account unless otherwise authorized or directed by the Commission. (See account 182.)

NOTE: Losses on abandonment of natural gas leases acquired on or after October 7, 1969, shall be charged to account 338, Unassigned Exploration and Development Costs.

798 Other exploration.

This account shall be charged with the cost of abandoned projects involving natural gas leases acquired on or prior to October 6, 1969, on which preliminary expenditures were made for the purpose of determining the feasibility of acquiring acreage to provide a future supply of natural gas (see account 183.1, Preliminary Natural Gas Survey and Investigation Charges).

NOTE: Preliminary expenditures on abandoned projects involving natural gas leases acquired on or after October 7, 1969, shall be charged to account 338, Unassigned Exploration and Development Costs.

B. The following are proposed amendments and revisions to the Uniform System of Accounts for Class C Natural Gas Companies, in Part 204, Chapter 1, Title 18 of the Code of Federal Regulations:

1. In the text of Blanche Sheet accounts, amend account "105, Gas Plant Held for Future Use" by adding a new note "C." In account "107, Construction Work in Progress—Gas" designate the present note as "A," and add new note designated "B." In account "183, Other Deferred Debits" revise subparagraph "A(2)", and in account "283, Accumulated Deferred Income Taxes—Other" revise paragraphs "A" and "B," add a new paragraph "C" and redesignate present paragraphs "C" and "D" as "D" and "E," respectively. The amended portions of these Balance Sheet accounts will read:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

1. UTILITY PLANT

105 Gas plant held for future use.

NOTE C: The loss on abandonment of natural gas leases acquired on or after October 7, 1969, shall be charged to account 338, Unassigned Exploration and Development Costs.

107 Construction work in progress—Gas.

NOTE A: This account to include certificate application fees paid to the Federal Power Commission as provided for in gas plant instruction 14.

NOTE B: Exploration and development costs incurred on leases acquired on or after October 7, 1969, which do not directly result in the discovery of natural gas shall be transferred to account 338, Unassigned Exploration and Development Costs.

4. DEFERRED DEBITS

183 Other deferred debits.

A. This account shall include the following classes of items:

(1) * * *

(2) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas. If such land or land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 6G) charged with the amount of expenditures related to such acquisition. Such preliminary survey and investigation charges transferred to gas plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to gas plant.

If a project is abandoned involving a natural gas lease acquired on or prior to October 6, 1969, the expenditures related thereto shall be charged to account 723, Other Exploration. If a project is abandoned involving a lease acquired on or after October 7, 1969, the expenditures related thereto shall be charged to account 338, Unassigned Exploration and Development Costs.

LIABILITIES AND OTHER CREDITS

11. ACCUMULATED DEFERRED INCOME TAXES

283 Accumulated deferred income taxes—Other.

A. This account shall be used for income tax deferrals resulting from the current use of exploration and development costs incurred on leases acquired on or after October 7, 1969, in the computation of income taxes and for other specific types of income tax deferrals when its use has been authorized by the Commission.

B. This account, when used for income tax deferrals resulting from the current use of exploration and development costs incurred on leases acquired on or after October 7, 1969, in the computation of income taxes and when authorized by the Commission for other specific income tax deferrals, shall be credited and account 410, Provision for Deferred Income Taxes, shall be debited with an amount equal to that by which taxes on income payable for the year are lower because of the current use of deductions other than accelerated amortization or liberalized depreciation in the computation of income taxes, which deductions for general accounting purposes will not be fully reflected in the utility's determination of annual net income until subsequent years.

C. This account, when used for income tax deferrals resulting from the current use of exploration and development costs incurred on leases acquired on or after October 7, 1969, in the computation of income taxes and when authorized by the Commission for other specific income tax

deferrals, shall be debited and Account 411, Income Taxes Deferred in Prior Years—Credit, shall be credited with an amount equal to that by which taxes on income payable for the year are greater because of deferral of taxes on income in previous years, as provided by paragraph B, above, because of difference in timing for tax purposes of particular income deductions from that recognized by the utility for general accounting purposes, other than with respect to accelerated amortization or liberalized depreciation. Such debit to this account and credit to account 411 shall, in general, represent the effect on taxes payable in the current year of the smaller deduction permitted for tax purposes as compared to the amount recognized in the utility's general accounts with respect to the item or class of items for which deferred tax accounting by the utility was authorized by the Commission.

D. * * *

E. * * *

2. In the chart of Gas Plant Accounts, add new account title "338, Unassigned Exploration and Development Costs," immediately following account title "337, Other Equipment." As so revised, the chart of Gas Plant Accounts will read:

Gas Plant Accounts

(Chart of Accounts)

2. PRODUCTION PLANT

B. NATURAL GAS PRODUCTION PLANT

B. 1. Natural Gas Production and Gathering Plant

338 Unassigned exploration and development costs.

3. In the text of Gas Plant accounts, immediately following account "337, Other Equipment," add new account "338, Unassigned Exploration and Development Costs." New account 338 will read:

Gas Plant Accounts

2. PRODUCTION PLANT

B. NATURAL GAS PRODUCTION PLANT

B. 1. Natural Gas Production and Gathering Plant

338 Unassigned exploration and development costs.

A. This account shall include preliminary natural gas survey and investigation costs, loss on abandoned leases, nonproductive well drilling costs and other like costs incurred on or related to leases acquired on or after October 7, 1969, and which do not contribute to or result in the discovery of natural gas.

B. The costs in this account shall be amortized by debiting account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights,

and crediting account 111.1, Accumulated Provision for Amortization and Depletion of Producing Natural Gas Land and Land Rights, based upon the exhaustion of natural gas deposits in the Commission defined Area in which the unsuccessful costs were incurred.

C. The costs therein shall be maintained by natural gas lease and upon the amortization of the costs related to each lease shall be retired by crediting this account and debiting account 111.1.

4. In the text of Operation and Maintenance Expense Accounts, revise Exploration and Development Expense accounts "721, Nonproductive Well Drilling," "722, Abandoned Leases," and "723, Other Exploration." As so revised, accounts 721, 722, and 723 will read:

Operation and Maintenance Expense Accounts

3. EXPLORATION AND DEVELOPMENT EXPENSES

721 Nonproductive well drilling.

This account shall include the net cost of drilling nonproductive wells on natural gas leases acquired on or prior to October 6, 1969.

NOTE A: Records in support of the charges to this account shall conform, as appropriate, to General Instruction 12, Gas Well Records.

NOTE B: The net cost of drilling nonproductive wells on natural gas leases acquired on or after October 7, 1969, shall be charged to account 338, Unassigned Exploration and Development Costs.

722 Abandoned leases.

This account shall be charged with losses on abandonment of natural gas leases acquired on or prior to October 6, 1969, included in Account 105, Gas Plant Held for Future Use, which have never been productive, unless otherwise authorized or directed by the Commission. (See account 182.) Losses on abandonment of natural gas leases acquired on or after October 7, 1969, shall be charged to account 338, Unassigned Exploration and Development Costs.

723 Other exploration.

This account shall be charged with the cost of abandoned projects involving natural gas leases acquired on or prior to October 6, 1969, on which preliminary expenditures were made for the purpose of determining the feasibility of acquiring acreage to provide a future supply of natural gas (see account 183, Other Deferred Debits).

NOTE: Preliminary expenditures on abandoned projects involving natural gas leases acquired on or after October 7, 1969, shall be charged to account 338, Unassigned Exploration and Development Costs.

C. The following are proposed amendments and revisions to the Uniform System of Accounts, for Class D Natural Gas Companies, in Part 205, Chapter I, Title 18 of the Code of Federal Regulations:

1. In the text of Balance Sheet accounts, revise subparagraph "A(2)" of account "183, Other Deferred Debits." This portion of account 183 will read:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

4. DEFERRED DEBITS

183 Other deferred debits.

A. This account shall include the following classes of items:

- (1) * * *
- (2) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas. If such land or land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 3) charged with the amount of expenditures related to such acquisition.

Such preliminary survey and investigation charges transferred to gas plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to gas plant. If a project is abandoned involving a natural gas lease acquired on or prior to October 6, 1969, the expenditures related thereto shall be charged to account 723, Other Exploration. If a project is abandoned involving a lease acquired on or after October 7, 1969, the expenditures related thereto shall be charged to account 327, Unassigned Exploration and Development Costs.

2. In the chart of Gas Plant Accounts, add new account title "327, Unassigned Exploration and Development Costs," immediately following account title "326, Other Production Equipment." As so revised, the chart of Gas Plant Accounts will read:

**Gas Plant Accounts
(Chart of Accounts)**

3. NATURAL GAS PRODUCTION AND GATHERING

327 Unassigned exploration and development costs.

3. In the text of Gas Plant accounts, immediately following account "326, Other Production Equipment," add new account "327, Unassigned Exploration and Development Costs." New account 327 will read:

Gas Plant Accounts

3. NATURAL GAS PRODUCTION AND GATHERING

327 Unassigned exploration and development costs.

A. This account shall include preliminary natural gas survey and investigation costs, loss on abandoned leases, non-productive well drilling costs and other like costs incurred on or related to leases acquired on or after October 7, 1969, and which do not contribute to or result in the discovery of natural gas.

B. The costs in this account shall be amortized by debiting account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights, and crediting account 111.1, Accumulated Provision for Amortization and Depletion of Producing Natural Gas Land and Land Rights, based upon the exhaustion of natural gas deposits in the Commission defined Area in which the unsuccessful costs were incurred.

C. The costs therein shall be maintained by natural gas lease and upon the amortization of the costs related to each lease shall be retired by crediting this account and debiting account 111.1.

4. In the text of Gas Plant accounts, amend account "394, Gas Plant Held for Future Use," by adding note "C." Amend account "395, Construction Work in Progress—Gas" by adding a note following the account text. The amended portions of accounts 394 and 395 will read:

Gas Plant Accounts

6. OTHER GAS PLANT

394 Gas plant held for future use.

NOTE C: The loss on abandonment of natural gas leases acquired on or after October 7, 1969, shall be charged to account 327, Unassigned Exploration and Development Costs.

395 Construction work in progress—Gas.

NOTE: Exploration and development costs incurred on leases acquired on or after October 7, 1969, which do not directly result in the discovery of natural gas shall be transferred to account 327, Unassigned Exploration and Development Costs.

5. In the text of Operation and Maintenance Expense Accounts, revise accounts, "721, Nonproductive Well Drilling," "722, Abandoned Leases," and "723, Other Exploration." As so revised, these accounts will read:

Operation and Maintenance Expense Accounts

2. NATURAL GAS PRODUCTION AND GATHERING

721 Nonproductive well drilling.

This account shall include the net cost of drilling nonproductive wells on natural gas leases acquired on or prior to October 6, 1969.

NOTE A: Records in support of the charges to this account shall conform, as appropriate, to note of general instruction 5, Gas Well Records.

NOTE B: The net cost of drilling nonproductive wells on natural gas leases acquired on or after October 7, 1969, shall be charged to account 327, Unassigned Exploration and Development Costs.

722 Abandoned leases.

This account shall be charged with losses on abandonment of natural gas leases acquired on or prior to October 6, 1969, included in account 394, Gas Plant Held for Future Use, which have never been productive, unless otherwise authorized or directed by the Commission. Losses on abandonment of natural gas leases acquired on or after October 7, 1969, shall be charged to account 327, Unassigned Exploration and Development Costs.

723 Other exploration.

This account shall be charged with the cost of abandoned projects involving natural gas leases acquired on or prior to October 6, 1969, on which preliminary expenditures were made for the purpose of determining the feasibility of acquiring acreage to provide a future supply of natural gas (see account 183, Other Deferred Debits).

NOTE: Preliminary expenditures on abandoned projects involving natural gas leases acquired on or after October 7, 1969, shall be charged to account 327, Unassigned Exploration and Development Costs.

D. Effective for the reporting year 1971, it is proposed to revise the Gas Plant in Service Schedule (schedule page 501) of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter 1, Title 18 of the Code of Federal Regulations, all as set forth in Attachment A hereto.¹

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13568; Filed, Oct. 8, 1970; 8:49 a.m.]

¹ Filed as part of original document.

Notices

DEPARTMENT OF STATE

Agency for International Development

DIRECTOR, OFFICE OF PROCUREMENT ET AL.

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me by Delegation of Authority No. 17, as amended, from the Administrator of the Agency for International Development and by Subpart 7-30.4 of the A.I.D. Procurement Regulations, as amended, I hereby redelegate to the Director, and Deputy Director of the Office of Procurement, and to the Chief, Contract Services Division, Chief, Overhead and Special Cost Negotiation Branch, Chief, Contract Operations Branch, and to the Senior Contract Specialists, Contract Operations Branch, authority to sign or approve:

1. (a) Contracts and amendments to contracts financed in whole or in part by A.I.D., other than contracts exclusively for the supply of commodities; and grants, other than to foreign governments, or agencies of foreign governments;

(b) Letters of commitment, and notices of approval for financing of co-operating country contracts, for contracts described in (a) above;

(c) Project implementation orders—technical services (PIO/T);

(d) Amendments or modifications (pursuant to Executive Order 11223) of A.I.D.-financed contracts entered into with nonprofit institutions under which no fee is charged or paid, where the amendment or modification is requested by the contractor and does not involve a consideration for the United States: *Provided*, That all such amendments or modifications are requested prior to final payment under the contract: *And provided further*, That all such amendments or modifications involving \$25,000 or more have my specific approval.

2. I hereby redelegate to the Director and Deputy Director of the Office of Procurement and to the Chief of the Contract Services Division and the Chief of the Contract Operations Branch authority to sign or approve advance payments and the required determinations and findings for such payments under A.I.D.-financed nonprofit contracts with nonprofit educational or research institutions.

3. The authority herein delegated to the officers named above may not be further redelegated by such officers, but may be exercised by duly authorized persons who are performing the functions of such officers in an acting capacity.

4. The authorities delegated herein are to be exercised in accordance with regulations, procedures and policies now

or hereafter established or modified and promulgated within the Agency for International Development.

5. Actions within the scope of this redelegation heretofore taken by the officials designated herein are hereby ratified and confirmed.

6. This redelegation of authority shall be effective immediately.

7. The redelegation of authority, dated April 2, 1969 (34 F.R. 6446), relating to contracting functions in the Office of Procurement, is hereby superseded.

Dated: September 30, 1970.

LANE DWINELL,
Assistant Administrator
for Administration.

[P.R. Doc. 70-13551; Filed, Oct. 8, 1970;
8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 16454]

MONTANA

Order Providing for the Opening of Public Lands

OCTOBER 2, 1970.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following described lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONT.

T. 7 S., R. 42 E.,
Sec. 18, Lots 5, 6, and 7, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 19, Lots 1, 2, 3, and 4, E $\frac{1}{2}$ W $\frac{1}{2}$ and NE $\frac{1}{4}$;
Sec. 28, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 29, All;
Sec. 30, E $\frac{1}{4}$;
Sec. 31, NE $\frac{1}{4}$;
Sec. 32, W $\frac{1}{2}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$.

The area described contains 2,429.02 acres.

2. The lands are situated in Rosebud County and presently are used for grazing of livestock. The topography of the lands vary from gently rolling to steep and rough. The vegetative aspects is grassland-low shrub with scattered stands of ponderosa pine.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location, and selection. All valid applications received at or prior to 10 a.m., November 6, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged and their status is not affected by this order.

5. Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals Program Management and Land Office, Bureau of Land Management, 316 North 26th Street, Billings, Mont. 59101.

EUGENE H. NEWELL,
Land Office Manager.

[P.R. Doc. 70-13518; Filed, Oct. 8, 1970;
8:45 a.m.]

[OR 6929]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

OCTOBER 2, 1970.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 6929, for the withdrawal of the national forest land described below, from all forms of appropriation under the mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for use as the Union Creek Campground Water System Site.

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

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. 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 land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the land and its resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the 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 it, a public hearing will be held at a convenient time and place which will be announced.

The land involved in the application is:

WHITMAN NATIONAL FOREST
WILLAMETTE MERIDIAN

Union Creek Campground Water System Site
T. 10 S., R. 38 E.,
Sec. 14, E½NW¼.

The area described contains approximately 80 acres.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[P.R. Doc. 70-13519; Filed, Oct. 8, 1970;
8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 4]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1971)

The CCC Monthly Sales List for the fiscal year ending June 30, 1971, published in 35 P.R. 10922, is amended as follows:

1. Section 1 entitled General is amended by the addition of subsections (f) and (g) as follows:

(f) CCC will entertain offers to buy warehouse stocks of grains other than rice and oilseeds other than peanuts for deferred delivery up to 120 days from the date of sale. Prices of such sales will be in accordance with the CCC Monthly Sales List in effect at the time of sale plus storage and interest beginning 10 days after the date of sale. Storage charges will be in accordance with UGSA rates, and interest to date of payment will be at 8 percent. No cash advance will be required from responsible buyers, but buyers will be required to furnish CCC an irrevocable letter of credit covering the purchase price plus estimated storage and interest to the end of the delivery period.

(g) Points of delivery, determined by CCC, may be other than the positions used herein to describe minimum prices. On deliveries made in other than an in-store position, the minimum price at the point of delivery will apply.

2. Section 16 entitled *Corn—Unrestricted Use Sales (Bulk-Storable-Basis Grade 2 YC 15.1—15.5 Percent Moisture—In-Store)* is revised to read as follows:

(a) In port positions the minimum price is the market price but not less than \$1.34 per bushel at Milwaukee/Chicago/Toledo; \$1.31 Duluth/Superior; \$1.42 Gulf; and \$1.43 Atlantic plus markups for each month as follows:

MONTHLY MARKUPS—CENTS PER BUSHEL			
1970		1971	
Oct	0	Jan	4½
Nov	1½	Feb	6
Dec	3	Mar	7½
		Apr	9
		May	10½
		June	12

Loan differentials will be applied in determining the formula price of other grades or qualities.

(b) At interior positions the minimum price is the market price but not less than the formula price which is the 1970 county loan rate where stored plus transit value, if any, plus markups for each month as follows:

MONTHLY MARKUPS—CENTS PER BUSHEL			
1970		1971	
Oct	16¼	Jan	20¼
Nov	17¼	Feb	22¼
Dec	19¼	Mar	23¼
		Apr	25¼
		May	26¼
		June	28¼

Loan differentials will be applied in determining the formula price of other grades and qualities. Sales will be applied to the Domestic Payment-In-Kind Feed Grain Program Pool.

3. A section 18 is inserted and reads as follows:

18. *Grain Sorghum—Unrestricted Use Sales (Bulk-Storable-Basis Grade 2 or Better In-Store)*. The minimum price is the market price but not less than the formula price.

At designated terminals the formula price is the 1970 county loan rate where stored plus the monthly markup shown in this section plus 7 cents per hundred-weight or the transit value, whichever is higher.

Outside of designated terminals the formula price is the 1970 county loan rate where stored plus the monthly markup shown in this section plus the transit value, if any.

Loan differentials will be applied in determining the formula price of other grades and qualities.

Sales will be applied to the Domestic Payment-in-Kind Feed Grain Program Pool.

MONTHLY MARKUPS—CENTS PER CWT.			
Oct	31¼	Jan	38¼
Nov	33¼	Feb	41¼
Dec	36¼	Mar	43¼
		Apr	46¼
		May	48¼
		June	51¼

4. The provisions of section 19 entitled *Grain Sorghum—Export Sales (Bulk-Basis Grade 2 or Better)* are deleted.

5. Section 3 entitled *Linseed Oil (Raw) Unrestricted Use Sales* is amended by the insertion of the following sentence after the first sentence:

For October the price will be \$0.1160 per pound.

6. The second sentence of section 43 entitled *Peanuts, Shelled or Farmers Stock—Restricted Use* is revised to read as follows:

Terms and conditions of sale are set forth in Announcement OC-10 effective October 1, 1970, and the applicable lot list.

7. A section 23 is inserted which reads as follows:

23. *Oats—Export Sales (Bulk) CCC* will sell oats at the export market price for cash under Announcement GR-212.

Signed at Washington, D.C., on October 5, 1970.

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

[P.R. Doc. 70-13547; Filed, Oct. 8, 1970;
8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

NEW YORK STATE MUSEUM AND SCIENCE SERVICES-GEOLOGICAL SURVEY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

Correction

In P.R. Doc. 70-13165 appearing at page 15324 in the issue for Thursday, October 1, 1970, the docket number in the first line of the third paragraph, now reading "Docket No. 70-0047-88-74000", should read "Docket No. 70-00475-88-74000".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Promulgation of Federal Percentages Under Title IV of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963

Notice of proposed rule making, public rule making procedures and delay of effective date have been omitted as unnecessary in the following issuance which relates solely to grants for the construction of community mental health facilities.

Pursuant to section 401 (i) and (j) of title IV of the Mental Retardation Facilities and Community Mental Health Centers Act, as amended, the following Federal percentages are hereby promulgated for the fiscal year beginning July 1, 1971, and the succeeding fiscal year. It is also determined that the Federal percentages for construction grants for alcoholism, narcotics addiction, and children's facilities shall be the same as provided for community mental health facilities.

These percentages have been determined in the manner specified by the Act and are based on the per capita income of the several States and the United States for 1967, 1968, and 1969, the three most recent consecutive years for which satisfactory data is available from the Department of Commerce.

Alabama	65.39	North Dakota	60.06
Alaska	40.15	Ohio	49.26
Arizona	55.37	Oklahoma	58.51
Arkansas	66.19	Oregon	51.34
California	41.66	Pennsylvania	50.25
Colorado	51.47	Rhode Island	47.43
Connecticut	37.12	South Carolina	65.04
Delaware	44.00	South Dakota	58.96
Florida	53.26	Tennessee	62.25
Georgia	58.95	Texas	56.01
Hawaii	47.74	Utah	59.09
Idaho	60.25	Vermont	55.72
Illinois	41.56	Virginia	55.30
Indiana	50.03	Washington	46.77
Iowa	51.74	West Virginia	64.23
Kansas	52.31	Wisconsin	50.72
Kentucky	61.62	Wyoming	54.50
Louisiana	61.62	District of Columbia	35.69
Maine	58.79	Trust Territory of the Pacific	66.66
Maryland	45.08	American Samoa	66.66
Massachusetts	43.46	Guam	66.66
Michigan	46.03	Puerto Rico	66.66
Minnesota	51.02	Virgin Islands	66.66
Mississippi	66.66		
Missouri	52.58		
Montana	57.28		
Nebraska	51.97		
Nevada	41.30		
New Hampshire	52.48		
New Jersey	42.13		
New Mexico	61.01		
New York	39.66		
North Carolina	61.15		

Dated: October 1, 1970.

VERNON E. WILSON,
Administrator.

[F.R. Doc. 70-13514; Filed, Oct. 8, 1970;
8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-322]

LONG ISLAND LIGHTING CO.

Schedule for Hearing

The hearing in the captioned matter will be continued on Monday, October 26, 1970, at 10 a.m., local time, in the Auditorium, Planning Building, Suffolk County Center, Veterans Memorial Highway, Hauppauge, Long Island, N.Y. 11787.

Dated: October 5, 1970.

ATOMIC SAFETY AND LICENSING BOARD,

JACK M. CAMPBELL,
Chairman.

[F.R. Doc. 70-13598; Filed, Oct. 8, 1970;
8:51 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18608, etc.; Order 70-10-23]

ALITALIA-LINEE AEREE ITALIANE-S.p.A.

Order Severing and Consolidating Deferred Renewal Application and Dismissing Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of October 1970.

By Order E-25823, October 11, 1967, the Board directed Alitalia-Linee Aeree

Italiane, S.p.A. (Alitalia) to show cause why the Board should not amend Alitalia's foreign air carrier permits¹ so as to include certain conditions allowing the Board to require Alitalia to file with the Board for approval its existing and proposed schedules involving service to U.S. points (Docket 19103).

Alitalia has filed a Motion requesting dismissal of the proceeding in Docket 19103. We agree that this proceeding should be dismissed since the amendment of Alitalia's permits in the Foreign Air Carrier Permit Terms Investigation, Order 70-6-33, approved by the President on June 3, 1970, has the effect for all practical purposes of achieving the objective of the proposed schedule-filing amendments in this proceeding.

Consolidated with this proceeding was Alitalia's application in Docket 18608 for renewal of its permit issued pursuant to Order E-20667, approved April 8, 1964. The Board deferred consideration of this renewal application in Order E-26156 in order to expedite the matter of the proposed schedule-filing conditions. Alitalia has also requested severance of its deferred renewal application from the Docket 19103 proceeding and consolidation of the renewal application with Alitalia's permit amendment application in Docket 22496. In view of our decision to dismiss the proceeding in Docket 19103, we will grant Alitalia's severance and consolidation requests.

Accordingly, it is ordered, That:

1. Alitalia's Motions to Sever and Dismiss in Part and for Consolidation or Other Relief be and they hereby are granted;

2. Alitalia's deferred application for renewal of its foreign air carrier permit in Docket 18608 be and it hereby is severed from Docket 19103 and consolidated with Alitalia's application for amendment of its foreign air carrier permit in Docket 22496; and

3. The proceeding in Docket 19103 concerning amendments to Alitalia's foreign air carrier permits be and it hereby is dismissed.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-13572; Filed, Oct. 8, 1970;
8:49 a.m.]

[Docket No. 22329]

MARTIN'S LUCHTVERVOER MAATSCHAPPIJ N.V.

Notice of Further Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of

¹ Issued pursuant to Order E-20667, approved Apr. 8, 1964; and Order E-23820, approved June 14, 1966. The foreign air carrier permit issued pursuant to the latter order was renewed for a period of 2 years by order 70-1-98, approved Jan. 19, 1970.

1958, as amended, that a hearing in the above-entitled proceeding now assigned to be held on October 13, 1970, is hereby postponed to October 27, 1970, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C., October 5, 1970.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[F.R. Doc. 70-13570; Filed, Oct. 8, 1970;
8:49 a.m.]

[Docket No. 21617; Order 70-10-24]

PHILIPPINE AIR LINES, INC.

Order Dismissing Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of October 1970.

By Order 69-11-61, November 14, 1969, the Board directed Philippine Air Lines, Inc. (PAL), to show cause why the Board should not amend PAL's foreign air carrier permit issued pursuant to Order E-17953, approved January 22, 1962, so as to include conditions allowing the Board to require PAL to file with the Board for approval its existing and proposed schedules involving service to U.S. points. PAL filed an answer in opposition to the show cause order.

The Board believes that this proceeding should be dismissed since the amendment of PAL's permit in the Foreign Air Carrier Permit Terms Investigation, Order 70-6-33, approved by the President on June 3, 1970, has the effect for all practical purposes of achieving the objective of the proposed schedule-filing amendments in this proceeding.

Accordingly, it is ordered, That: The proceeding in Docket 21617 concerning amendments to PAL's foreign air carrier permit be and it hereby is dismissed.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-13573; Filed, Oct. 8, 1970;
8:49 a.m.]

[Docket No. 22354]

SURF AIR, INC., AND GEORGIA HIGHWAY EXPRESS, INC.

Notice of Proposed Approval

Joint application of Surf Air, Inc., and Georgia Highway Express, Inc., for disclaimer of jurisdiction, or approval of acquisition under section 408 of the Federal Aviation Act of 1958, as amended, Docket 22354.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are

hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., October 5, 1970.

Issued under delegated authority.

ORDER OF APPROVAL

By joint application filed July 10, 1970, Georgia Highway Express, Inc. (Express), and its wholly owned subsidiary, Surf Air, Inc. (Surf), request the Board to disclaim jurisdiction over, or in the alternative, to approve or exempt, pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act), the acquisition by Express from Tim's Motor Service, Inc. (Tim's), of Interstate Commerce Commission (ICC) Certificate of Public Convenience and Necessity No. MC-52535 (ICC MC-52535) issued to Tim's on July 28, 1960.

Express is a short-haul motor common carrier of general commodities operating in the States of Alabama, Florida, Georgia, and Tennessee. By Order 70-4-85, April 17, 1970, Docket 22015, the Board exempted, pursuant to section 408(a)(5) of the Act, the establishment by Express of Surf as an independent corporation for the purpose of engaging in activity as a domestic and international air freight forwarder under Parts 296 and 297 of the Board's Economic Regulations.¹ In the instant transaction, Express will acquire from Tim's, subject to approval by the Board and the ICC, Certificate ICC MC-52535, covering the transportation of general commodities over intrastate Illinois routes to and from Chicago, Ill.²

Express contemplates the use of such acquired intrastate transportation rights to establish joint motor-rail-motor service, in conjunction with the Louisville and Nashville Railroad Co. (L&N), for the transportation of goods in trailer loads from certain points in Illinois to Chicago and thence, via rail, to a point in the South connecting with the motor carrier services of Express.³

The application contends that the substance of the transaction will have no effect on air transportation but that, to the extent that Express will be strengthened, the parent corporation will be in an even better position to assist Surf. It is further asserted that the acquisition of certificate ICC MC-52535 will have no adverse effect on the operations of Surf. In this connection, the application recites that Surf depends on the gathering and distribution facilities of Express into

¹ At the time of the application in Docket 22015, Express held operating authorizations as a domestic and international air freight forwarder. Since issuance of Order 70-4-85, such authorizations have been revoked and new authorizations issued to Surf.

² The acquisition agreement between Tim's and Express indicates that the purchase price to be paid by Express for the certificate of Tim's is \$50,000, \$5,000 of which was deposited with an escrow agent upon signing; the balance shall be paid in cash upon approval of the ICC.

³ The application indicates that the contemplated arrangement with L&N will enable Express to establish joint routes and rates and, thus, the performance of a through motor-rail-motor joint line service. In this connection, the application also indicates that Express contemplates the establishment of joint routes with other motor carriers operating into and out of Chicago. The traffic so generated will move out of Chicago as part of the motor-rail-motor service to connect with the existing authority of Express in the South.

major airports such as Atlanta, and, in light of daily service by Express to Atlanta, a substantial volume of air freight will be generated out of Atlanta.⁴ In view of the foregoing, the applicants contend there would be no incentive for Express to move shipments to Chicago by rail.

No comments or requests for a hearing have been received.

Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished to the Attorney General, not later than the day following such publication, both in accordance with section 408(b) of the Act.

Upon consideration of the application, it is concluded that the transaction involves the acquisition by a person (Express) controlling an air carrier (Surf) of the operating rights of a common carrier (Tim's) within the meaning of section 408 of the Act, and that Board approval of the transaction may be required.⁵ Further, the transaction does not affect or modify the control by Express of Surf, does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in the creation of a monopoly and does not restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is found that the public interest does not require a hearing. It appears that certificate ICC MC-52535 being acquired by Express will provide motor common carrier rights only within the State of Illinois and the routes operated under such rights will remain short-haul in nature and will not tie in with the existing routes of Express. In this light, it does not appear that the motor carrier operations of Express, upon consummation of the acquisition of Tim's ICC certificate, will assume significantly different proportions and thus, result in a conflict of interest between such operations and the air freight activities of Surf.⁶ However, should Express further expand its operating authority in any manner, new issues would be raised which could only be resolved upon the filing of a further application for prior Board approval. In view of the foregoing, it is not found that approval of the control relationships, to the extent that such approval is necessary, pursuant to section 408 of the Act, would be inconsistent with the public interest provided that such approval is made effective only as long as the operation of motor vehicles by Express, pursuant to the Tim's certificate, is limited to the area defined in certificate ICC MC-52535 as in effect on the date hereof. In addition, it is not found that the conditions of section 408 will be unfulfilled. The Board has approved similar transactions in the past. The application under review presents no substantive issues which would warrant disapproval at this time.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR

⁵ It appears that Express will remain a short-haul motor common carrier and will not qualify as a long-haul motor carrier as defined in §§ 296.1(d) and 297.1(e) of the Board's Economic Regulations, inasmuch as it will not, in the case of either its present rights or those rights to be acquired from Tim's, hold ICC authority to haul general commodities between any pairs of points which are over 500 air miles apart.

⁶ Cf. Air Freight Forwarder Case, 9 CAB 473 (1948).

⁷ Cf. Order E-23810, June 13, 1966 (Drake Motor Lines, Inc., and Shulman, Inc.). Also see Order 70-7-31, July 7, 1970 (Airborne Freight Corp. and Awawego Delivery, Inc.).

385.13 and 385.3, it is found that the foregoing control relationships should be approved without hearing, under section 408(b) of the Act, and that the application to the extent it requests a disclaimer of jurisdiction or exemption with respect to such control relationships should be denied and dismissed.

Accordingly, it is ordered, That:

1. The proposed purchase by Express of certificate ICC MC-52535 from Tim's be and it hereby is approved;

2. The approval herein shall be effective only as long as the operation of motor vehicles by Express pursuant to the Tim's certificate is confined to the area defined in certificate ICC MC-52535 as in effect on the date hereof; and

3. To the extent not granted herein, the application in Docket 22354 be and it hereby is denied and dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL]

HARRY J. ZINK,
Secretary.

[P.R. Doc. 70-13571; Filed, Oct. 8, 1970; 8:49 a.m.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

MAVERICK MINING CORP. ET AL.

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 accepted for consideration as follows:

(1) ICP Docket No. 10126, Maverick Mining Corp. Mine No. 1, USBM ID No. 44 01586 0, Harman, Buchanan County, Va., section ID No. 001 (Mains).

(2) ICP Docket No. 10123, Maverick Mining Corp. Mine No. 3, USBM ID No. 44 01586 0, Harman, Buchanan County, Va., section ID No. 001 (Mains).

(3) ICP Docket No. 10156, Ed Potter Coal Co. No. 2 Mine, USBM ID No. 44 01516 0, Hurley, Buchanan County, Va., section ID No. 001 (South West Mains).

(4) ICP Docket No. 10316, Winding Gulf Coals, Inc., Clifftop No. 1 Mine, USBM ID No. 46 01306 0, Clifftop, Fayette County, W. Va., section ID No. 001 (Mains Retreat).

(5) ICP Docket No. 10323, Winding Gulf Coals, Inc., Winding Gulf No. 4 Mine, USBM ID No. 43 01515 0, East Gulf, Raleigh County, W. Va., section ID No. 001 (1st Left off 1 Main).

(6) ICP Docket No. 10529, R & W Coal Co., USBM ID No. 44 01498 0, Hurley, Buchanan County, Va., section ID No. 001 (Main Headings).

(7) ICP Docket No. 10753, Bethlehem Mines Corp. Mine No. 117 UG Mine, USBM ID No. 46 01497 0, Kayford, Raleigh County, W. Va., section ID No. 001 (South Mains).

(8) ICP Docket No. 10784, Peabody Coal Co., River King Underground No. 1 Mine, USBM ID No. 11 00725 0, Freeburg, St. Clair County, Ill., section ID No. 001 (Main Bottom).

(9) ICP Docket No. 10813, Harman Mining Corp., Mine No. 3, USBM ID No. 44 01519 0, Harman, Buchanan County, Va., section ID No. 003 (1st South), 001 (2d Left), and 002 (3d Left).

(10) ICP Docket No. 10857, Harman Mining Corp., Mine No. 2, USBM ID No. 44 01518 0, Harman, Buchanan County, Va., section ID No. 004 (2d Right).

(11) ICP Docket No. 10891, Harrisburg Coal Co., Inc., No. 1 Mine, USBM ID No. 11 00629 0, Marion, Williamson County, Ill., section ID No. 001 (1st East off Main South).

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.

OCTOBER 5, 1970.

[F.R. Doc. 70-13520; Filed, Oct. 8, 1970;
8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 512]

COMMON CARRIER SERVICES INFORMATION¹

Domestic Public Radio Services Applications Accepted for Filing²

OCTOBER 5, 1970.

Pursuant to §§ 1.227(b) (3) and 21.30 (b) of the Commission's Rules, an appli-

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).

cation, 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 Communication 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

4789-C2-P-70—Marsh Media, Ltd. (New), C.P. for a new 2-way station to be located at 2.7 miles west of U.S. Route 87, 10.4 miles north of Amarillo, Tex., to operate on frequency 454.025 MHz.

1674-C2-P-71—Am-Tex Dispatch Service (New), C.P. for a new 1-way station to be located at 1800 West Second Street, Amarillo, Tex., to operate on frequency 152.24 MHz.

1675-C2-MP-71—Delta Valley Radiotelephone Co., Inc. (KMA743), Modification of C.P. to replace the base transmitter operating on 454.325 MHz and change the antenna system located at 3502 Kroy Way, Sacramento, Calif.

1676-C2-P-71—South Central Bell Telephone Co. (KQK779), C.P. to add frequency 152.57 MHz at station located at 243 East Second Street, Pass Christian, Miss.

1681-C2-P-71—Area-Wide Paging System, Inc. (New), C.P. for a new 2-way station to be located at the Terminal Tower Building, Cleveland, Ohio, to operate on frequency 454.325 MHz.

1702-C2-P-71—Liberty Communications, Inc. (KCI310), C.P. for additional 1-way facilities to operate on frequency 35.58 MHz, at a new location described as location No. 3: 1 Strawberry Hill Court, Stamford, Conn.

1703-C2-P-71—Industrial Communications, doing business as Morgan City Mobilephone (KPFJ896), C.P. for additional 2-way facilities to operate on frequency 152.21 MHz at a new site described as location No. 2: 0.75 mile north of Highway No. 90, on River Road, Berwick, La.

1704-C2-P-71—Industrial Communications, doing business as Morgan City Mobilephone (KPFJ896), C.P. to relocate the 2-way facilities operating on 152.12 MHz to 0.75 mile north of Highway No. 90, on River Road, Berwick, La.

1732-C2-P-71—RAM Broadcasting of the Caribbean, Inc. (New), C.P. for a new air-ground station to be located at Edificio Darlington, No. 10 Hostos Avenue, Ponce, P.R., to operate on frequency 454.925 MHz base and 454.675 MHz signaling.

1733-C2-P-71—RAM Broadcasting of the Caribbean, Inc. (New), C.P. for a new air-ground station to be located at Edificio Darlington, 165 Mendez Vigo Street, Mayaguez, P.R., to operate on frequency 454.975 MHz base and 454.675 MHz signaling.

1734-C2-P-(3)-71—RAM Broadcasting of the Caribbean, Inc. (New), C.P. for a new air-ground station to be located at Aqueduct Hill Road, northeast of Plantade Purification, Fralles, P.R., to operate on frequencies 454.775, 454.825, and 454.875 MHz base and 454.675 MHz signaling.

1735-C2-P-71—Massachusetts-Connecticut Mobile Telephone Co. (KQZ747), C.P. to add standby facilities on 158.70 MHz. Station location: 750 Main Street, Hartford, Conn.

1747-C2-P-71—Texas Telephone & Telegraph Co. (KLB517), C.P. to replace the base transmitter operating on 152.78 MHz and change the antenna system located near Davy Crockett Memorial Park, Crockett, Tex.

1783-C2-P-71—Marsh Media, Ltd. (New), C.P. for a new 1-way station to be located at 2.7 miles west of U.S. Route 87, 10.4 miles north of Amarillo, Tex.

1787-C2-MP-(8)71—Radio Relay Corp. (KEC745), Modification of C.P. to retain the existing transmitters now operating on 43.22 MHz at locations Nos. 1 through 8, in addition to those added under (C.P. 6383-C2-P-(9)-69), on Public Notice dated May 5, 1969, to replace same. All other particulars to remain the same.

Major Amendment

5143-C2-P-(2)-70—Page Boy, Inc. (KAA285), Amended to change frequency to 152.12 MHz. All other particulars remain the same as reported on Public Notice dated Mar. 23, 1970. Report No. 484.

Correction

7520-C2-P-70—Tel-Car, Inc. (KLF590), Correct Call Sign to read: KLF490. All other particulars same as reported on Public Notice dated May 25, 1970. Report No. 493.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—Continued

- 1742-C1-P-71—New England Telephone & Telegraph Co. (KCL88), C.P. to change frequencies to 11,225, 11,265, 11,305, 11,465, 11,505, 11,545, 11,585, and 11,625 MHz toward Tiverton, Mass. Station location: 326 North Main Street, Fall River, Mass.
- 1743-C1-P-71—New England Telephone & Telegraph Co. (KCL59), C.P. to change frequencies 10,855, 10,915, 11,075 and 11,185 MHz to: 10,815, 10,855, 11,055 and 11,175 MHz and add 10,795, 10,895, 11,065 and 11,135 MHz toward Fall River, Mass., and change frequencies 5989.7 and 6049.0 MHz to 5997.1 and 6056.4 MHz and add 5987.4, 6145.3, 10,715, and 10,875 MHz toward Acushnet, Mass. Station location: Pocasset Avenue, Tiverton, R.I.
- 1744-C1-P-71—New England Telephone & Telegraph Co. (KCL60), C.P. to change frequencies 6271.4 and 6307.0 MHz to: 6249.1 and 6308.4 MHz and add 6219.5, 6397.4, 11,325, and 11,645 MHz toward Tiverton, R.I., and change 6241.7, 6301.0, 11,285, and 11,525 MHz to 6234.3, 6283.6, 11,505, and 11,665 MHz and add 6204.7, 6264.0, 11,265, and 11,345 MHz toward Falmouth, Mass. Station location: Mendall Road, Acushnet, Mass.
- 1745-C1-P-71—New England Telephone & Telegraph Co. (KCL61), C.P. to change frequencies 6019.3, 6072.6, 10,895, and 11,070 MHz to: 5932.3, 6041.6, 10,775, and 11,095 MHz and add 5932.6, 6011.9, 10,855, and 10,935 MHz toward Acushnet, Mass., and change 10,765, and 11,095 MHz to: 10,915, and 11,075 MHz and add 6026.7, 6145.3, 10,895, and 11,155 MHz toward Hyannis, Mass. Station location: Blacksmith Shop Road, Falmouth, Mass.
- 1746-C1-P-71—New England Telephone & Telegraph Co. (KCL62), C.P. to change frequencies 11,245, and 11,485 MHz to: 11,265, and 11,535 and add 6278.8, 6397.4, 11,285, and 11,605 MHz toward Falmouth, Mass. Station location: 50 Ocean Street, Hyannis, Mass.
- 1748-C1-P-71—Florida Telephone Corp. (New), C.P. for a new station to be located at 300 feet south of the north gate on country road of Walt Disney World, Fla. Frequencies: 6286.19 and 10,835 MHz toward Winter Garden, Fla.
- 1749-C1-P-71—Florida Telephone Corp. (KIO44), C.P. to add frequencies 6063.8 and 11,605 MHz toward Walt Disney World, Fla. Station location: Winter Garden, Fla.
- 1750-C1-P-71—New England Telephone & Telegraph Co. (KCL54), C.P. to add frequency 6366.5 MHz toward Marshfield, Mass. Station location: 185 Franklin Street, Boston, Mass.
- 1751-C1-P-71—New England Telephone & Telegraph Co. (KVH81), C.P. to add frequency 6004.5 MHz toward Boston and Berkley, Mass. Station location: 0.9 mile south-southeast of Marshfield, Mass.
- 1752-C1-P-71—New England Telephone & Telegraph Co. (KVH82), C.P. to add frequency 6386.5 MHz toward Marshfield and Fall River, Mass. Station location: Green Street, 1 mile south of Berkley, Mass.
- 1753-C1-P-71—New England Telephone & Telegraph Co. (KCL58), C.P. to add 6004.5 MHz toward Berkley, Mass. Station location: 326 North Main Street, Fall River, Mass.
- American Telephone & Telegraph Co. Twenty-nine C.P. applications to provide Type TD-2 radio relay channels and Raytheon Manufacturing Co., Type KTR-3A11 plant mainline-narrow channels on existing radio relay routes.
- 1755-C1-P-71—American Telephone & Telegraph Co. (KRB69), Add frequency 11,225 and 11,465 MHz toward Salt Lake City Junction, Utah. Station location: 70 South State Street, Salt Lake City, Utah.
- 1756-C1-P-71—American Telephone & Telegraph Co. (KOB26), C.P. to add 4030 MHz toward Stansbury and 10,815 and 11,055 MHz toward Salt Lake City, Utah. Station location: 3100 Kennedy Drive, Salt Lake City Junction, Utah.
- 1757-C1-P-71—American Telephone & Telegraph Co. (KOB35), Add frequency 4070 MHz toward Salt Lake City Junction and Cedar Mountain, Utah. Station location: 7 miles east of Timpe, Utah (Stansbury Island).
- 1758-C1-P-71—American Telephone & Telegraph Co. (KOB94), Add frequency 4030 MHz toward Stansbury Island and Barro, Utah. Station location: 5 miles northeast of Low, Utah (Cedar Mountain).
- 1759-C1-P-71—American Telephone & Telegraph Co. (KOB23), Add frequency 4070 MHz toward Cedar Mountain, Utah and Wendover, Nev. Station location: 4.5 miles west of Barro, Utah.
- 1760-C1-P-71—American Telephone & Telegraph Co. (KOB91), Add frequency 4030 MHz toward Barro, Utah, and Rocky Point, Nev. Station location: 3 miles west-northwest of Wendover, Nev.
- 1761-C1-P-71—American Telephone & Telegraph Co. (KOB70), Add frequency 4070 MHz toward Wendover and Ruby, Nev. Station location: Rocky Point, near Wells, Nev.

In formation

- 1669-C2-P/L-71—Aero-Mayflower Transit Co., Inc. Applicant has filed an application for 2,500 individual mobile units using facilities of Wireline Common Carriers throughout the continental United States.
- 1670-C2-P/L-71—North American Van Lines, Inc. Same as above, except, requested authority to use 200 mobile units.
- 1671-C2-P/L-71—Burnham Van Service, Inc. Same, except, requested authority to use 100 mobile units.

RURAL RADIO SERVICE

- 1677-C1-P/L-71—The Mountain States Telephone & Telegraph Co. (New), C.P. and license for a new rural subscriber station to be located at 36 miles west of Midwest, Wyo. Subscriber: Buffalo Creek Ranch, to operate on frequency 157.77 MHz.
- 1679-C1-P/L-71—The Mountain States Telephone & Telegraph Co. (New), C.P. and license for a new rural subscriber station to be located at 2.25 miles southeast of Eureka, Utah, to operate on frequency 157.86 MHz, communicating with station KONS213, Payson, Utah.
- 1736-C1-P/L-71—South Central Bell Telephone Co. (New), C.P. and license for a new rural subscriber station to be located at approximately 9 miles northeast of Lake Charles, La. Subscriber: Silas Pierce Booth, to operate on 157.37 MHz communicating with station KKI448, Lake Charles, La.
- 1737-C2-P-71—The Mountain States Telephone & Telegraph Co. (KPL21), C.P. to replace transmitter operating on frequency 157.77 MHz, located at 69.5 miles northeast of Casper, Wyo., communicating with station KPQ30, Casper, Wyo. Subscriber: Hal Mathiason Ranch.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)

- 1705-C1-P-71—South Central Bell Telephone Co. (KVH85), C.P. to add frequency 10,795 MHz toward Jackson, Miss. Station location: 201-9 East Capitol Street, Jackson, Miss.
- 1708-C1-P-71—The Pacific Telephone & Telegraph Co. (KME46), C.P. to add frequencies 6189.8 and 6308.4 MHz toward Black Mountain, Calif. Station location: 3943 Seventh Avenue, San Diego, Calif.
- 1707-C1-P-71—The Pacific Telephone & Telegraph Co. (KME47), C.P. to change frequencies to: 5960.0, 11,385, and 11,545 MHz toward Corona, Calif. and 11,385 and 11,625 MHz toward Olinde, Calif. Station location: 217 North Lemon Street, Anaheim, Calif.
- 1708-C1-P-71—The Pacific Telephone & Telegraph Co. (KML78), C.P. to add frequencies 10,755 and 10,915 MHz toward San Clemente, Calif., and add 6271.4, 10,975, and 11,135 MHz toward Anaheim and delete frequency 11,155 MHz toward Anaheim, Calif. Station location: 3.5 miles east of Corona Del Mar, Calif.
- 1709-C1-P-71—The Pacific Telephone & Telegraph Co. (KML79), C.P. to add frequencies 11,245 and 11,685 MHz toward San Marcos, Calif., and 11,395 and 11,685 MHz toward Corona Del Mar, Calif. Station location: 2 miles northeast of San Clemente, Calif.
- 1710-C1-P-71—The Pacific Telephone & Telegraph Co. (KML80), C.P. to add frequencies 6241.7 and 11,075 MHz toward Eisek Mountain, Calif., and 10,775 and 10,955 MHz toward San Clemente, Calif. Station location: 3.5 miles northeast of San Marcos, Calif.
- 1711-C1-P-71—The Pacific Telephone & Telegraph Co. (KML94), C.P. to add frequencies 6297.8 and 6056.4 MHz toward San Diego, Calif., and 6049.0 and 11,445 MHz toward San Marcos, Calif. Station location: Black Mountain, 5.4 miles west-northwest of Poway, Calif.
- 1712-C1-P-71—The Pacific Telephone & Telegraph Co. (KNN43), C.P. to change frequencies to 10,735 and 10,975 MHz toward Anaheim, Calif. Station location: 2 miles north-northeast of Olinde, Calif.
- 1738-C1-P-71—Southern Bell Telephone & Telegraph Co. (KJA69), C.P. to add frequencies 11,265 and 11,605 MHz toward Charlotte, N.C. Station location: 208 North Caldwell Street, Charlotte, N.C.
- 1739-C1-P-71—Southern Bell Telephone & Telegraph Co. (KIF62), C.P. to add frequencies 10,915 and 11,155 MHz toward Charlotte, N.C. Station location: 1 Teostar Lane, Charlotte, N.C.
- 1740-C1-P-71—The Mountain States Telephone & Telegraph Co. (KPR61), C.P. to change frequency 6293.6 MHz to 6412.3 MHz toward South Pass, Wyo. Station location: 602 East Washington Street, Riverton, Wyo.
- 1741-C1-P-71—The Mountain States Telephone & Telegraph Co. (KP267), C.P. to change frequency 6041.6 MHz to 6160.2 MHz toward Riverton, Wyo. Station location: 3.1 miles north-northeast of Atlantic City, Wyo.

Correction

Renewal of License filed by Southwestern Bell Telephone Co. for Station KKW28 was erroneously omitted from Public Notice dated June 29, 1970.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

1701-CI-TC-(10)-71—Micro-Relay, Inc. Consent to transfer of control of Micro-Relay, Inc. from: Group W. Program Sales, Inc. (formerly named WBC Program Sales, Inc.). Transfer to: Westinghouse Broadcasting Co., Inc. Transfers: KJL89, Monticello, Ga.; KJL 91, Milledgeville, Ga.; KJL92, McIntyre, Ga.; KJL93, Dublin, Ga.; KJL94, Helena, Ga.; KJL95, Lott, Ga.; KJL96, Nashville, Ga.; KVU75, Valdosta, Ga.; KVU76, Pavo, Ga.; KEW93, Pine Park, Ga.

1754-CI-AL-(2)-71—Electronics, Inc. Consent to assignment of licenses from: Electronics, Inc. Assignor to: Southeastern Microwave Co. Assignee, Stations: KJ551, near Stuart, Fla.; KJ552, near Fort Pierce, Fla.

1786-CI-P-71—Western Tele-Communications, Inc. (KPT21), C.P. to add frequencies 11,325, 11,325 MHz toward Salt Lake City, Utah (latitude 40°43'25" N., longitude 111°51'17" W.), on azimuth of 63°31'. Station location: Nelson Peak, 18 miles southwest of Salt Lake City, Utah.

(Informative: Applicant proposes to provide two channels of nonbroadcast video programming to Community Television of Utah, Inc., in Salt Lake City, Utah. This service is an extension of the proposed nonbroadcast service to be transmitted by Sierra Microwave Inc., between Mount Vaca, Calif., and Nelson Peak, Utah, as proposed in Applications Files Nos. 7173 through 7183-CI-P-66. See amendment to applications files Nos. 7173 through 7183-CI-P-66, this Public Notice.)

1788-CI-MP-71—New York-Penn Microwave Corp. (WDD76), Modification of C.P. to add point of communications at WITF-TV in Hershey using frequency 10,775 MHz on azimuth 90°00'. Location: 169 West Chocolate Avenue, Hershey, Pa., at latitude 40°17'07" N., longitude 76°39'15" W.

1789-CI-P-71—New York-Penn. Microwave Corp. (New), C.P. for a new station at Chocolate and Cocoa Avenues in Hershey, Pa., at latitude 40°17'07" N., longitude 76°38'55" W. Frequency 1,335 MHz on azimuth 270°00'.

1790-CI-MP-71—New York-Penn. Microwave Corp. (WDD71), Modification of C.P. to change station location to Fruit Rock, 3 miles northeast of Hamburg at latitude 40°35'50" N., longitude 75°56'04" W. Frequencies: 10,935 and 11,015 MHz on azimuth 124°14', and 10,735 and 11,135 MHz on azimuth 251°57'.

1791-CI-MP-71—New York-Penn Microwave Corp. (WDD83), Modification of C.P. to change station location to Forbes, Biegelow and Fifth Avenue, Pittsburgh, Pa., at latitude 40°26'39" N., longitude 79°57'12" W. Frequencies 8019.3 MHz on azimuth 74°08', and 11,265 MHz on azimuth 77°38'.

1792-CI-MP-71—New York-Penn Microwave Corp. (WDD88), Modification of C.P. to change station near Cobham, Pa., to latitude 41°44'09" N., longitude 79°15'14" W. Frequencies: 6004.5 MHz on azimuth 176°34', and frequency 6123.1 MHz on azimuth 311°14'.

Major Amendment

5093-CI-P-70—New York-Penn Microwave Corp. (KGP87), Major amendment: Change location of Clearfield, Pa., receiving site to latitude 41°03'51" N., longitude 78°31'02" W., and change azimuth to 230°42'. Frequencies: 6212.1 and 6271.4 MHz. All other particulars same as reported in Public Notice dated Mar. 16, 1970.

Major Amendment

7173 through 7183-CI-P-66—Sierra Microwave, Inc. Applications, file Nos. 7173 through 7183-CI-P-66, filed on May 25, 1968, for purpose of relaying two San Francisco, Calif., television signals (KTUV-TV and KNEW-TV) to Nelson Peak, Utah, are amended to change the nature of the intelligence to be transmitted to two channels of nonbroadcast video programming that would originate in the San Francisco area. Note: Applicant proposes to extend this service via interconnection, to Salt Lake City (CATV), Utah. For full particulars, see also Western Tele-Communications, Inc. file No. 1786-CI-P-71, this Public Notice.

[P.R. Doc. 70-13591; Filed, Oct. 8, 1970; 8:51 a.m.]

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—Continued

1762-CI-P-71—American Telephone & Telegraph Co. (KOB81), Add frequency 4030 MHz toward Rocky Point and Adobe Hill, Nev. Station location: Ruby, near Wells, Nev.

1763-CI-P-71—American Telephone & Telegraph Co. (KOB82), Add frequency 4070 MHz toward Ruby and Tuscarora, Nev. Station location: Adobe Hill, near Elko, Nev.

1764-CI-P-71—American Telephone & Telegraph Co. (KOB83), Add frequency 4030 MHz toward Adobe Hill and Argenta, Nev. Station location: Tuscarora, near Carlin, Nev.

1765-CI-P-71—American Telephone & Telegraph Co. (KOB84), Add frequency 4070 MHz toward Tuscarora and Fish Creek, Nev. Station location: Argenta, near Battle Mountain, Nev.

1766-CI-P-71—American Telephone & Telegraph Co. (KOB85), Add frequency 4030 MHz toward Argenta, and Stillwater Range, Nev. Station location: Fish Creek, near Battle Mountain, Nev.

1767-CI-P-71—American Telephone & Telegraph Co. (KOB86), Add frequency 4070 MHz toward Fish Creek and Wild Horse, Nev. Station location: Stillwater Range, near Lovelock, Nev.

1768-CI-P-71—American Telephone & Telegraph Co. (KOB87), Add frequency 4030 MHz toward Stillwater Range and Hot Springs, Nev. Station location: Wild Horse, near Lovelock, Nev.

1769-CI-P-71—American Telephone & Telegraph Co. (KOB88), Add frequency 4070 MHz toward Wild Horse and Churchill Butte, Nev. Station location: Hot Springs, near Carson Sink, Nev.

1770-CI-P-71—American Telephone & Telegraph Co. (KOB89), Add frequency 4030 MHz toward Hot Springs, Nev. Station location: Churchill Butte, 6.5 miles southwest of Silver Springs, Nev.

1771-CI-P-71—American Telephone & Telegraph Co. (KMC34), Add frequency 3910 MHz toward Sacramento, Calif. Station location: Wolf Creek, 6 miles southwest of Grass Valley, Calif.

1772-CI-P-71—American Telephone & Telegraph Co. (KMC33), Add frequency 3870 MHz toward Wolf Creek, Calif. Station location: 1407 J Street, Sacramento, Calif.

1773-CI-P-71—American Telephone & Telegraph Co. (KAB24), Add frequency 4010 MHz toward Critchell, Colo. Station location: 931 14th Street, Denver, Colo.

1774-CI-P-71—American Telephone & Telegraph Co. (KAY83), Add frequency 3890 MHz toward Denver, Colo., and 3970 MHz toward West Creek, Colo. Station location: Critchell, 4.1 miles north-northwest of South Platte, Colo.

1775-CI-P-71—American Telephone & Telegraph Co. (KAY69), Add frequency 3930 MHz toward Critchell, Colo., and 4090 MHz toward Calhan, Colo. Station location: 6.9 miles east-west of West Creek, Colo.

1776-CI-P-71—American Telephone & Telegraph Co. (KAV54), Add frequency 3970 MHz toward West Creek, Colo., and 4050 MHz toward Truckton, Colo. Station location: 2.5 miles south-southwest of Calhan, Colo.

1777-CI-P-71—American Telephone & Telegraph Co. (KAV53), Add frequency 4010 MHz toward Calhan, Colo., and 4090 MHz toward Boone, Colo. Station location: 3.3 miles southwest of Truckton, Colo.

1778-CI-P-71—American Telephone & Telegraph Co. (KAU62), Add frequency 3970 MHz toward Truckton, Colo., and 4050 MHz toward Cedarwood, Colo. Station location: 10.7 miles northeast of Boone, Colo.

1779-CI-P-71—American Telephone & Telegraph Co. (KAS85), Add frequency 4010 MHz toward Boone, Colo. Station location: 8.9 miles northeast of Cedarwood, Colo.

1780-CI-P-71—American Telephone & Telegraph Co. (KAC30), Add frequency 3830 MHz toward Peetz, Colo. Station location: 4.5 miles southeast of Julesburg, Colo.

1781-CI-P-71—American Telephone & Telegraph Co. (KAB29), Add frequency 3790 MHz toward Atwood, Colo. Station location: 10 miles east of Peetz, Colo.

1782-CI-P-71—American Telephone & Telegraph Co. (KAB28), Add frequency 3830 MHz toward Fort Morgan, Colo. Station location: 5.5 miles southeast of Atwood, Colo.

1783-CI-P-71—American Telephone & Telegraph Co. (KAB27), Add frequency 3790 MHz toward Prospect Valley, Colo. Station location: Fort Morgan, 6.5 miles northwest of Snyder, Colo.

[Docket No. 19031; FCC 70-1055]

USE OF COMMUNICATION FACILITIES IN U.S. BY FOREIGN ENTITIES

Notice of Inquiry

In the matter of establishment of regulatory policies pursuant to the Communications Act of 1934 with respect to use of communication facilities in the United States by foreign entities for communication traffic transiting the United States.

1. On May 13, 1970, the Commission adopted its Memorandum Opinion and Statement of Policy, 23 FCC 2d 9 (May 13, 1970) (35 F.R. 7908), regarding the acquisition of certain communication facilities by U.S. carriers for transit purposes at foreign points. To the extent not covered by such decision, the Commission is also concerned with the terms and conditions under which U.S. carriers may make facilities available to foreign entities for the handling of communications transiting the United States. The Commission recognizes that there presently exist a number of arrangements between certain of the U.S. carriers and their respective foreign correspondents in this respect. Under the responsibility entrusted to it by the Congress, the Commission is accordingly interested in the nature of such arrangements and their effect on the industry and the public.

2. Accordingly, there is instituted herewith, pursuant to sections 2(a), 4(i), 201, 202, 203, 214, and 403 of the Communications Act of 1934, an inquiry into the nature and extent of all arrangements that have been entered into by the U.S. carriers with any foreign entity involving the use of U.S. communications facilities for the transiting of traffic, to determine what policies the Commission should adopt in this regard. Comments in reply to this inquiry shall be filed with the Commission by November 2, 1970, and reply comments by December 1, 1970, and should be addressed to all matters deemed relevant, including:

(a) An itemized list of all agreements, written or oral, with foreign entities under which facilities are made available to such entities for the handling of transiting traffic, and for each such agreement, its terms and conditions, including:

- (i) The name of the foreign entity;
- (ii) The date of the agreement;
- (iii) The charges made to or other consideration received from the foreign entity;
- (iv) Description and identification (including the number and type) of circuit or circuits involved;
- (v) The duration of the agreement; and
- (vi) The reciprocal rights, if any, granted therewith by the foreign entity in the agreement.

¹Subsequent to review of comments and replies, the Commission may set down for evidentiary hearing or oral argument, or both, any matters raised in this inquiry which it feels can best be treated in the context of such hearing or argument.

(b) The method used to arrive at the consideration received for such facilities, including:

- (i) A statement of how such consideration was determined;
- (ii) A statement setting forth the differences, if any, between such charges or the value of other consideration, and the charges made to the public for similar facilities, i.e., leased voice grade circuits;
- (iii) To the extent that there are differences, the justification therefor and the relationship of such differences to the prohibitions in section 202 of the Communications Act of 1934 against undue discrimination; and
- (iv) The extent to which the standard of section 201(b) of the Communications Act of 1934, that all charges be just and reasonable, is applicable to such charges, and the manner in which such standard should be applied.

(c) Whether the charges, classifications, regulations, or practices governing the lease to foreign entities for transiting traffic should be included in tariffs filed with this Commission under section 203 of the Act and, if not, the reasons for such a conclusion supported by appropriate briefs.

(d) The anticipated future need for additional transiting facilities by year through 1980; and

(e) An itemized list of all agreements, written or oral, with foreign entities under which facilities are made available to the responding carrier for the handling of transiting traffic, and for each such agreement, its terms, and conditions, including:

- (i) The name of the foreign entity;
- (ii) The date of the agreement;
- (iii) The charges or other consideration paid to the foreign entity, and the method used to arrive at such consideration;
- (iv) The number and type of circuits involved in each case;
- (v) The duration of the agreement; and
- (vi) The reciprocal rights, if any, granted therewith to the foreign entity in the agreement.

3. In reaching a decision on this matter, the Commission may also take into account any other relevant information before it, in addition to the comments invited by this notice.

4. In addition to any comments which may be received from any party interested in this matter, the following carriers are specifically requested to respond to this inquiry:

American Telephone & Telegraph Co.
ITT World Communications Inc.
RCA Global Communications, Inc.
Western Union International, Inc.
Hawaiian Telephone Co.
Tropical Radio Telegraph Co.
ITT Communications Inc.—Virgin Islands,
All America Cables & Radio, Inc.
French Cable Co.
Cable & Wireless/Western Union International, Inc.

5. In accordance with § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments,

replies, briefs, pleadings, or other statements filed in this proceeding shall be furnished to the Commission.

Adopted: September 30, 1970.

Released: October 6, 1970.

FEDERAL COMMUNICATIONS

COMMISSION,*

[SEAL] BEN F. WAPLE,

Secretary.

[F.R. Doc. 70-13587; Filed, Oct. 8, 1970; 8:50 a.m.]

[Docket No. 19012; FCC 70-1028]

MACON COUNTY BROADCASTING CO.

Order and Notice of Apparent Liability Designating Application for Hearing on Stated Issues

In regard application of William E. Blizzard, Jr., trading as Macon County Broadcasting Co., for broadcast license for station WMNZ, Montezuma, Ga., Docket No. 19012, File No. BL-12,604.

1. The Commission has before it for consideration the above-captioned application of William E. Blizzard, Jr., trading as Macon County Broadcasting Co., for a broadcast license for Station WMNZ, Montezuma, Ga.

2. Station WMNZ, a 250 watt daytime only station, is licensed to serve Montezuma, Ga., and is the only station located in Macon County, Ga. The station was first licensed in May 1962 to William E. Blizzard, Jr. and Lewis H. McKenzie, trading as Macon County Broadcasting Co. In June 1963 the Commission consented to the assignment of WMNZ's license to William E. Blizzard, Jr., trading as Macon County Broadcasting Co. (Applicant) who has operated the station since that time. In view of the matters discussed below, and taking into account applicant's long record of failure to comply with the Commission's rules, we are of the opinion that the above-captioned application for broadcast license should be designated for hearing to determine whether applicant is qualified to be a broadcast licensee.

3. Pursuant to § 1.539(a) of the Commission's rules, an application for license renewal must be filed at least 90 days prior to the license expiration date. In this respect, it is observed that WMNZ's broadcast license was scheduled to expire on April 1, 1970. Hence, pursuant to § 1.539(a), WMNZ's license renewal application should have been filed on or about January 2, 1970. The Commission's records disclose, however, that WMNZ's license renewal application was not filed until one day after the station's license expiration date—i.e., April 2, 1970, in violation of § 1.539(a) of the Commission's rules. Since licensee's application was filed after WMNZ's licensed term had expired, said application was assigned a file number for a license to cover a construction permit. The application, however, has been processed as a license renewal application.

* Commissioner Wells absent.

4. With regard to the foregoing, the Commission notes that applicant's failure timely to file the license renewal application for Station WMNZ represents but another instance in a history of dilatory practices. That is, a review of the Commission's files indicates a pattern by applicant of failure timely to file reports and documents required by the Commission's rules, and failure to respond to official requests for information. In this regard, it is observed that by letter dated April 6, 1966, the Commission notified applicant of apparent liability for forfeiture in the amount of \$150 for willful or repeated violation of section 1.611 of the rules, in that applicant failed to file annual financial reports for the years 1963 and 1964. This forfeiture was subsequently affirmed by memorandum opinion and order adopted June 30, 1966. The Commission's records also disclose that applicant filed his license renewal application, less the required filing fee and balance sheet, on March 31, 1967, the day before the license expiration date, although it was due to have been filed by January 3, 1967, in violation of § 1.539(a) of the rules. Although the filing fee and balance sheet were subsequently received on April 8, 1967, it is noted that by letters dated May 12 and June 22, 1967, applicant was notified that the station had not complied with the publication requirements of § 1.580 of the Commission's rules. The Commission's records disclose, however, that applicant failed to reply to the May 12 and June 22, 1967 letters. Consequently, on August 16, 1967, a "Certified-Return Receipt Requested" letter was mailed to applicant requesting, among other things, a statement of proof of publication as required by section 1.580, and an explanation of the repeated failures to respond to the Commission's correspondence. Applicant was also advised that failure to respond within 15 days would subject WMNZ's license renewal application to dismissal pursuant to § 1.568(b) of the Commission's rules. Accordingly, having received no reply, by letter dated October 5, 1967, applicant was notified that WMNZ's license renewal application was being dismissed and that applicant's authorization to operate WMNZ was terminated as of October 15, 1967. However, applicant's authority to operate WMNZ was extended pending consideration of his assertions set forth in a letter received from applicant on October 7, 1967, that he was working 14 to 15 hours a day, 7 days a week, and was having a "nerve" problem.

5. In addition to the above, it is observed that on August 20, 1965, the Commission requested applicant to submit a written statement regarding a complaint received wherein it was alleged that, based on a questionable telephone survey, WMNZ had advertised itself as "No. 4 in Middle Georgia" and "No. 1 in Macon County." Followup letters requesting applicant's comments were sent on November 19, 1965, and January 27, 1966. The Commission's records also disclose that a telegram dated March 17, 1966, was directed to applicant requesting the in-

formation regarding the telephone survey complaint. Having received no reply to the November 19, 1965, and January 27, 1966, letters, or the March 17, 1966, telegram, the Commission, by "Certified-Return Receipt Requested" letter dated May 17, 1967, notified applicant that failure to submit the requested information concerning the telephone survey complaint within 20 days would result in dismissal of WMNZ's pending renewal application. On June 6, 1967, applicant finally submitted comments on the survey complaint.

6. In view of the explanations contained in applicant's letter of October 7, 1967, and in view of the fact that all the requested information had been filed, the Commission, on February 7, 1968, rescinded its action of October 5, 1967, dismissing WMNZ's license renewal application. However, because of applicant's lack of diligence in replying to Commission inquiries, and because he had used an inaccurate and misleading survey, the Commission advised applicant that the public interest would best be served by the renewal of WMNZ's license for a period of 1 year rather than for the full license term. Accordingly, WMNZ's application for renewal was granted for a period ending February 1, 1969, to enable the Commission to reexamine applicant's operations and determine the degree of responsibility which applicant exhibited during the 1-year license term.

7. As noted, WMNZ's broadcast license was scheduled to expire on February 1, 1969. Consequently, applicant's renewal application was due to have been filed with the Commission on or about November 4, 1968. The Commission's records disclose, however, that this renewal application was not filed with the Commission until February 3, 1969, or 91 days beyond the due date, in violation of § 1.539(a) of the Commission's rules. On June 11, 1969, applicant was notified of apparent liability for forfeiture for \$200 for willful or repeated violation of § 1.539(a) of the rules. In reply to the notice of apparent liability, applicant did not deny the violation but stated, in mitigation, that WMNZ's staff is very small, and that " * * * every effort will be made to have the next report filed early and on time." Thereafter, by memorandum opinion and order adopted November 7, 1969, released November 12, 1969, the Commission affirmed the forfeiture, holding:

" * * * As we have stated, we do not intend to reduce forfeitures such as these, absent evidence of extraordinary, mitigating circumstances. WPRY Radio Broadcasters, Inc. 10 FCC 549 (1967). After careful consideration of this case we do not find that such circumstances exist. Licensee does not deny the violations, and we find that the violations were repeated each day beyond the due date and until the application was filed. See Paul A. Stewart, 63-411, 25 RR 375. It is further noted that the Commission, in its letter of February 7, 1968, informed the licensee that in view of its failure to reply to Commission correspondence and its pattern of failures to file reports and documents on time as required by the Commission's rules, the Commission believed it would be in the public interest to renew the license for a

period of 1 year ending on February 1, 1969, rather than for the full license term. Upon the expiration of that term, the Commission again had to remind the licensee on February 6, 1969, that exhibits referred to in its most recent renewal application (for which it is now being assessed a forfeiture for late filing) had not been received. On March 11, 1969, the Commission reminded the licensee the exhibits still had not been received. On March 26, 1969, the licensee was contacted personally in an effort to obtain the required exhibits. These exhibits were not complete when finally received, and on April 17, 1969, the Commission requested additional information regarding the same renewal application.

Following adoption of the above, applicant filed a petition for mitigation or remission which the Commission subsequently denied by memorandum opinion and order.

8. Although applicant had previously been fined for failure timely to file a renewal application, and although applicant asserted that " * * * every effort will be made to have the next report filed early and on time," as previously noted applicant again has failed to file WMNZ's license renewal application prior to the expiration date of the station's license. In view of licensee's history of failure timely to file reports and documents required by the Commission's rules, and failure to respond to official requests for information, the Commission is unable to make the statutory finding that a grant of applicant's license application for WMNZ would serve the public interest. Therefore: *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing on the following issues:

(1) To determine the facts and circumstances surrounding applicant's failure timely to file Commission reports and applications, and to respond to official Commission correspondence, during the period of 1963 to the present;

(2) To determine whether applicant has been so careless or has evidenced such disregard for the Commission's rules and reporting requirements that applicant cannot be relied upon to fulfill the responsibilities imposed upon him as a licensee of this Commission, and

(3) To determine whether, in light of the evidence adduced pursuant to the foregoing issues, a grant of applicant's application for a license for WMNZ would serve the public interest, convenience and necessity.

9. *It is further ordered*, That the burden of the initial introduction of evidence and the burden of proof shall be on the applicant on all the issues set forth above.

10. *It is further ordered*, That the place of hearing shall be in Montezuma, Ga., at a place and time to be specified in a subsequent order.

11. *It is further ordered*, That this document shall also constitute a notice of apparent liability for forfeiture for apparent willful or repeated violation of § 1.539(a) of the Commission's rules as more fully set forth in paragraph 3 above. The Commission has determined

that in every case designated for hearing involving revocation or denial of renewal for alleged violations which also come within the purview of section 503 (b) of the Communications Act of 1934, as amended, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since this procedure is thus a routine or standard one, we stress that inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment, of course, is to be made on the facts of each case.

12. *It is further ordered.* That to avail himself of the opportunity to be heard, applicant, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

13. *It is further ordered.* That applicant shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission thereof as required by § 1.594 of the Commission's rules.

14. *It is further ordered.* That the Secretary of the Commission send copies of this Order and Notice of Apparent Liability by Certified Mail—Return Receipt Requested to William E. Blizzard, Jr., trading as Macon County Broadcasting Co.

Adopted: September 23, 1970.

Released: October 2, 1970.

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

[F.R. Doc. 70-13590; Filed, Oct. 8, 1970;
8:51 a.m.]

[Docket No. 19011; FCC 70-1027]

WALTON BROADCASTING CO.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of Walton Broadcasting Co. for renewal of license of station WMRE, Monroe, Ga., Docket No. 19011, File No. BR-2938.

1. The Commission has before it for consideration: (1) A petition to deny filed on February 24, 1970, by Community Broadcasting Co. (hereinafter Community) against the renewal application of Walton Broadcasting Co. (hereinafter Walton) for Station WMRE, Monroe,

Ga.; and (2) pleadings in opposition and reply thereto.¹

2. Community sets forth three general allegations upon which it bases its petition to deny. The charges and a summary of the pleadings relating to each of them are set out below.

3. *Background.* Three separate entities, or the principals thereof, are involved in the submission of pleadings in this matter. A brief history of the interrelationship of the parties is included to facilitate an understanding of the situation.

a. *Walton Broadcasting Co.* On December 17, 1953, Walton Broadcasting Co. was transferred to Warren G. Gilpin and Mrs. Clarice Prichard pursuant to Commission action. (BTC-1622), each party holding a 50 percent interest in the corporation. Mrs. Prichard resided out of the State and her interest in the station was for investment purposes. Mr. Gilpin has been president of the corporation since 1953. Various people have held directorships and been officers of the corporation, including Mrs. Prichard. Mr. Gilpin is also the sole proprietor of Gamaliel Enterprises. Walton has pending before the Commission, in addition to the renewal application for WMRE, an application for voluntary transfer of control of Mrs. Prichard's² 50 percent interest to Mr. Gilpin (BTC-6165).

b. *Community Broadcasting Co.* Community Broadcasting Co., a partnership composed of Frank Deral Morris, Sr., and George Bernard Peters is a pending applicant for a new standard broadcast station in Monroe, Ga. (File No. BP-18123). Frank Deral Morris, Sr., is a former manager of Station WMRE and former director of Walton Broadcasting Co. Community's application for a CP has been contested by Walton which has submitted a petition to deny the application, contending that Community is not financially qualified, does not have the requisite character qualifications, and has failed to comply with § 1.580 of the rules in regard to publication requirements. Walton's petition is currently pending Commission action.

¹ Walton filed an application for voluntary transfer of control (File No. BTC-6165) simultaneously with its application for renewal of license. The petition to deny was originally directed against both the renewal and transfer applications, but Community subsequently conceded that the petition does not lie against the transfer application. Therefore, the petition shall be treated as an informal complaint to the extent that it is directed against the transfer application and action on the transfer application shall be held in abeyance pending resolution of the petition as directed against the renewal application.

² The application for voluntary transfer of control was amended on Apr. 24, 1970, the name of the transferee being changed from Mrs. Clarice Prichard to Mrs. Charles Graham Buchanan. Transferee shall be referred to by her former name as that is the name used throughout the pleadings by the parties.

c. *Carmichael Radio-TV Industries, Inc.* Clifford K. Lowery is president, a director and 57.14 percent shareholder in Carmichael. Mr. Lowery was an employee of Walton from March to September 1968 in the capacity of news director. Carmichael filed an application for a new station in Conyers, Ga., on December 9, 1968. This application, the alleged "strike" application, was mutually exclusive to Community's application. The Carmichael application was withdrawn on March 27, 1970, the reason being given that Clifford Lowery, the only experienced broadcaster, had obtained more suitable employment.

Strike issue. 4. Community Broadcasting Co. (the petitioner) applied for a new AM station to be operated at 1580 kHz and to be located in Monroe, Ga. The application was submitted on March 25, 1968 (File No. BP-18123). Carmichael Radio-TV Industries, Inc. (the alleged "strike" applicant) applied for a new AM station on the same frequency to be located in Conyers, Ga. This application was submitted on December 9, 1968 (File No. BP-18412). The two applications were mutually exclusive and Community contends that Walton Broadcasting Co. instigated the filing of the Carmichael application.

5. *Petition to deny.* Community contends in its petition to deny that Clifford Lowery, while in the employ of Walton, became involved with Warren Gilpin in a plan to file an application for Conyers. In addition to the employer-employee relationship that existed between these two men, Community points out that Lowery guaranteed payment of a judgment rendered against Gilpin. Community also submits two affidavits in support of its "strike" allegation (Exhibits I and J). One affiant, Mr. John Johnson, a former employee of Walton, states that conversations between himself and Gilpin regarding the filing of a Conyers application began in February 1968, after it was learned that Morris (Community) had applied for a station in Monroe.³ According to Johnson, Mr. Gilpin was going to furnish the money for all preliminaries, the land and the equipment, but would remain in the background. He also states that Lowery was brought into the Conyers plan and was instructed by Gilpin to secure banking and legal connections in Conyers. Johnson states that Lowery had shown him evidence of the establishment of these connections and that an option on a parcel of land had been secured. Johnson's employment at Walton was terminated on July 15, 1968, by Gilpin. The second affiant, Mr. Aycock, was a candidate for county clerk in 1968 and states that while at WMRE to buy political time Lowery told him, " * * * Mr. Gilpin and I are going to put a stop to Mr. Morris building a station." Aycock further states that although he did not

³ The Community application for a Monroe station was filed on Mar. 25, 1968, by Mr. Morris.

understand the legal terms Lowery was using, Lowery definitely said they (Gilpin and Lowery) were planning to block Mr. Morris from going into business in Monroe.

6. *Opposition to petition to deny.* Walton, in its opposition, states, initially, that since the Carmichael application for Conyers was dismissed on March 27, 1970, determination of whether this application was a "strike" application is foreclosed. Warren Gilpin, Walton's president, admits that he was aware of the effect of filing an application which would be mutually exclusive to Community's. He states, however, that, although he was approached by a former employee (Mr. Johnson) regarding the subject and participated in conversations relating to a Conyers application, he never actively took part in filing the application. Gilpin states that his attorney advised him not to participate in the Conyers application and submits affidavits to the effect that the Carmichael application was solely the result of the efforts of Clifford Lowery. Gilpin submits in Exhibit 11 five checks written to Lowery during the period of his employment and not representing payments of salary. Three of the checks, according to Gilpin, represent reimbursements to Lowery for out-of-pocket expenses. The other two checks represent two loans of three hundred dollars (\$300) each, one of which was paid back within a week, the other was the subject of a settlement of a lawsuit brought by Lowery against Gilpin (see paragraph 7). Walton also submits the affidavit of the Chairman of the Board of the local bank stating that any loan commitments to Clifford Lowery or Carmichael were granted solely on the lender's knowledge of Lowery and his family and no collateral was ever pledged by Warren Gilpin (Exhibit 9). Another affidavit contains the statement of J. E. Briscoe, Jr., Gilpin's local attorney, to the effect that Briscoe had discussed with Lowery the possibility of participating in the Conyers plan (Exhibit 10). Briscoe states that he was prepared to loan Lowery three hundred (\$300) or three hundred and fifty (\$350) dollars when Lowery requested it, but the money was never delivered because Lowery refused to sign a receipt. Shortly after this incident, Briscoe contends, the discussions with Lowery were terminated and Briscoe had no further connection with the Conyers application. In addition to the foregoing affidavits, Walton includes a copy of a bond executed 3 days after Lowery's resignation (Exhibit 12 dated Sept. 27, 1968) by which Lowery was replaced as Gilpin's surety. Exhibit 13 is a copy of a suit filed by Lowery against Gilpin for services rendered in remodeling the WMRE studio.

7. *Lowery's affidavit.* In an affidavit submitted independently by Clifford Lowery and also attached to Community's reply, Lowery states that he had been interested in filing for a radio station in Conyers since 1963. He further states that Johnson and Gilpin had discussed filing for such a station in order to block Community's application, but

that they were unaware of his previously formulated intention of filing for the construction permit himself. He also asserts that the idea to file for Conyers was pursued by Johnson and Gilpin and Gilpin gave Lowery three hundred dollars (\$300) in May of 1968 "to check out Conyers for him." The money was allegedly returned to Gilpin in June when Lowery and Gilpin discussed the impropriety and illegality of their plan. Lowery states that an additional three hundred dollars (\$300) was given to him to remodel the station, but he later discovered that it was to be used in "another study of Conyers." He was also told to visit Mr. Briscoe, who, he states, offered him three hundred and fifty dollars (\$350) "to act as front man in an elaborate scheme of hidden partners in an effort to block the Morris application." Lowery states that he refused the offer and resigned from WMRE on September 5, 1968. With regard to statements credited to him in the Aycock affidavit (Exhibit J of the Petition to Deny), Lowery states that they were false and that he, Lowery, never sold Aycock any political time. In conclusion, Lowery states that, after leaving WMRE, he sued Gilpin for services rendered by him in remodeling the station and in settlement of the suit Gilpin agreed to forego repayment of the three hundred dollars (\$300) paid to Lowery at the commencement of the remodeling. Lowery asserts that the Carmichael application was not the result of any collusion or conspiracy between himself and Warren Gilpin or any other person or group.

8. *Reply to the opposition.* In its reply to the opposition, Community reasserts its contention that Walton instigated the filing of a "strike" application. Community states that inconsistencies exist between Gilpin's statement and Lowery's statement concerning the source of the three hundred dollar (\$300) settlement of the suit brought by Lowery against Gilpin. The circumstances surrounding the payment of funds by Gilpin to Lowery at a time when Lowery, at least, was contemplating the filing of a Conyers application requires, in Community's opinion, an evidentiary hearing. Attached to the reply are the affidavits of Aycock and Johnson confirming their earlier statements. Aycock also includes a copy of a canceled check allegedly used to pay for the political time he purchased on WMRE. Johnson also reaffirms his earlier statement.

9. Upon careful consideration of the foregoing, the Commission concludes that serious implications flow from the allegations of the petitioner and the apparent conflicts in the statements set forth in the several pleadings and affidavits which warrant an evidentiary hearing with respect to the preparation and filing of the Carmichael application. Therefore, an issue is being designated to determine the facts and circumstances surrounding the filing of the Carmichael application for a standard broadcast station in Conyers, Ga.

Unauthorized transfer of control. 10. On December 17, 1953, the Commission granted an application for transfer of

control of Walton to Warren Gilpin and Mrs. Clarice Prichard, each to hold 50 percent of the stock (File No. BTC-1622). In reply to section I, Page 5, Question 2 of that application the transferees gave their reasons for requesting the transfer as follows: "Clarice Prichard may return to home State of Georgia and would like to have investment. Warren Gilpin wishes to invest in the broadcast field."

11. *Petition to deny.* In its petition to deny, Community raises several questions regarding the ownership and control of Station WMRE. These questions center on the relationship of Mrs. Clarice Prichard to Walton. Mrs. Prichard has been reported as 50 percent owner on the seven ownership reports (Form 323) that have been submitted since 1953. She was also shown at various times to be a director and/or an officer of the corporation. However, Community submits affidavits of three former employees and officers⁴ of the corporation (Exhibits C, D, and E) who state they have never seen Mrs. Clarice Prichard. One former employee had never heard of her although the others were familiar with the name. Community also submits copies of certified transcripts of Mr. Gilpin's testimony at two trials before the Superior Court for Walton County, Ga., held in 1968, wherein Gilpin states that he was at that time the sole stockholder in Walton Broadcasting Co. (Exhibits F and G). On December 30, 1969, Walton submitted, simultaneously with its renewal application, an application for transfer of control of Mrs. Clarice Prichard's 50 percent interest to Warren Gilpin. Community questions the dissimilarity between Mrs. Clarice Prichard's signature on the 1953 documents and her signature on the 1969 documents.

12. *Opposition to the petition to deny.* Walton states that Mrs. Clarice Prichard did not, in fact, sign the 1969 documents (the transfer application and contract of sale), but those documents were signed by her father and she ratified and affirmed her father's action under oath. Walton also states that the transcripts of Mr. Gilpin's testimony which were attached to the petition to deny were inaccurate. It is contended that Gilpin testified that he was a 50 percent shareholder in Walton and three affidavits are attached in support of this contention.⁵ All three affiants state that the transcript does not accurately and/or completely reflect Gilpin's testimony. Gilpin's attorney states that the transcripts are incomplete and they were not corrected since the cases were tried before a jury and no appeals were taken. Mr. Gilpin also states that in 1956 an agreement was reached whereby he was to purchase Mrs. Clarice Prichard's 50 percent interest, the purchase price of \$11,000 to be paid to Mrs. Clarice Prichard's father, who acted as escrow agent, over a 2-year period.

⁴ The three affiants are Frank Deral Morris, Sr., John Johnson and June G. Carr.

⁵ The three affiants are Warren G. Gilpin, his attorney J. E. Briscoe, Jr., and Mr. Briscoe's associate Henry P. Austin.

This contract of sale is attached as Exhibit 6 to the Opposition and provides in part that Mrs. Clarice Prichard would keep possession of her stock until the full amount of the purchase price was paid and would retain all voting rights connected therewith. The contract was conditioned on the approval of this Commission. If the Commission approved the sale and transfer and when Mrs. Clarice Prichard was furnished with proof thereof, she was then obligated to endorse the certificates and deliver them to Warren Gilpin. Mrs. Clarice Prichard states in an affidavit (Exhibit 7) that she entered into the 1956 agreement and subsequently endorsed the stock certificates and delivered them to her father. She also states that she later found out that the stock certificates had been lost and that a new agreement had to be prepared which she instructed her father to sign. In an undated document attached as Exhibit 8, John Stanbery, Mrs. Clarice Prichard's father and escrow agent under the terms of the 1956 contract of sale, states that he has received the \$11,000 from Gilpin and further states that the money will be held until final approval is given by the Commission, at which time the stock certificates will be endorsed and turned over to the buyer.

13. *Reply to the opposition.* Community in its reply to the opposition asserts that an appeal was taken from one of the proceedings involving the contested transcripts thus controverting Briscoe's affidavit. As proof of this, Community submits a copy of a notice of appeal (Attachment A). Community also submits the affidavits of the court reporter and the presiding judge of the Superior Court of Walton County reaffirming the correctness of the transcripts (Attachments B and C). The court reporter also states that she has in her possession tape recordings of the testimony at the two trials.

14. The pleadings raise serious questions as to whether or not an unauthorized transfer of control has taken place at WMRE especially with regard to the 1956 contract of sale. An issue is therefore being designated to determine the facts and circumstances surrounding the execution and performance of the 1956 contract and the general relationship of Mrs. Clarice Prichard to Walton over the years.

Misrepresentations and related rule violations. 15. The pleadings submitted in this case have given rise to various questions regarding Walton's compliance with several of the Commission's rules dealing with reporting requirements. Section 1.613(b) requires that all contracts relating to the ownership and control of a licensee be filed with the Commission. There is no record of Walton having filed a copy of its 1956 contract of sale of Mrs. Clarice Prichard's 50 percent interest to Warren Gilpin. Questions are also raised regarding Walton's compliance with § 1.615(a) (1) (i), (a) (1) (iv), and (e) of the Commission's rules which require that certain information be submitted in the Commission's Ownership Reports (Form 323).

Therefore issues will be specified to determine whether Walton has complied with these rules and whether Walton has misrepresented facts regarding the ownership and control of the licensee to the Commission.

16. Accordingly, *It is ordered*, That, pursuant to section 309(e) of the Communications Act, the above-captioned renewal application is designated for consolidated hearing to be held at Monroe, Ga., at a time and place to be specified in a subsequent order, on the following issues:

(1) To determine the facts and circumstances relating to the filing of the application of Carmichael Radio-TV Industries for a standard broadcast facility in Conyers, Ga., with particular reference to the participation of Walton Broadcasting Co. and any of its principals and whether said application was filed for the principal or incidental purpose of delaying or obstructing the application of Community Broadcasting Co. for a standard broadcast facility in Monroe, Ga.

(2) To determine the facts and circumstances surrounding the execution and performance of a contract of sale dated June 11, 1956, wherein Clarice Prichard (presently Mrs. Graham Buchanan) agreed to sell her 50 percent interest in Walton Broadcasting Co. to Warren Gilpin with particular reference to whether an unauthorized transfer of control of Station WMRE has taken place in violation of section 310(b) of the Communications Act.

(3) To determine whether false and misleading information regarding the ownership and control of Walton Broadcasting Co. has been submitted to the Commission.

(4) To determine whether Walton Broadcasting Co. has violated § 1.613(b) of the Commission's rules in failing to file copies of contracts relating to ownership and control.

(5) To determine whether Walton Broadcasting Co. has violated § 1.615(a) (1) (i), (a) (1) (iv), (a) (4) (i), and (c) of the Commission's rules in its submission of Ownership Reports (Form 323).

(6) To determine in light of the evidence adduced under the foregoing issues, whether a grant of the above-captioned application would serve the public interest, convenience and necessity.

17. *It is further ordered*, That Community Broadcasting Co. be made a party to this proceeding, and that with respect to Issues 1 through 5 above, the burden of proceeding with the introduction of evidence shall be upon Community, the Broadcast Bureau introducing any evidence it may have, and the burden of proof with respect to all issues is on Walton Broadcasting Co.

18. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the renewal applicant and the petitioner, pursuant to § 1.221 of the Commission's rules and regulations, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for

hearing and present evidence on the issues specified in this order.

19. *It is further ordered*, That the renewal applicant herein shall, pursuant to section 311(a) (2) of the Communications Act and § 1.594 of the Commission's rules and regulations, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission thereof as required by § 1.594 of the Commission's rules and regulations.

Adopted: September 23, 1970.

Released: October 2, 1970.

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

[F.R. Doc. 70-13589; Filed, Oct. 8, 1970;
8:51 a.m.]

[Docket No. 19036; FCC 70-1079]

WESTERN UNION TELEGRAPH CO.

Filing of International Telegraph Messages by Telex Subscribers

Order to show cause. 1. The Commission has under consideration Tariff FCC No. 240 of the Western Union Telegraph Co., governing Telex services and also its memorandum opinion and order issued concurrently herewith in Docket No. 18519 disposing of a motion for stay by Western Union to stay the effectiveness of the following conditions imposed in our decision of July 29, 1970, permitting Western Union to acquire TWX:

It is further ordered, That the Commission's authorization and approval of the TWX acquisition by Western Union is expressly conditioned upon the continuation by Western Union after transfer of TWX and until permitted by the Commission to do otherwise the practice set forth in current A.T. & T. tariffs for TWX service of allowing TWX customers, at their own expense, to have direct access to the international record carriers, U.S. offices which are also TWX customers for the transmission and receipt of international telegrams;

It is further ordered, That, as an express condition of our approval herein, Western Union also make such changes in its tariffs for Telex service as will be necessary to conform to the practice set forth above with regard to TWX customers.

2. For reasons discussed in our above-mentioned memorandum opinion and order and pursuant to section 205(a) of the Communications Act of 1934, as amended: *It is ordered*, That the Western Union Telegraph Co. shall appear and show cause why the Commission should not require that Western Union amend its tariffs to permit Telex customers, at their own expense, to have direct access to the international record carriers' U.S. offices, which are also Telex customers, for the transmission and receipt of international telegrams.

3. *It is further ordered*, That a hearing be held in this proceeding at the Commission's offices in Washington, D.C., at a time to be specified, that the examiner to be designated to preside at the hearing shall certify the record,

without preparation of an initial or recommended decision, and that the Chief, Common Carrier Bureau, shall thereafter issue a recommended decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282; and

4. *It is further ordered*, That the Western Union International, Inc., ITT World Communications, Inc., RCA Global Communications, Inc., and Tropical Radio Telegraph Co. may intervene herein by filing a notice of intention to appear and participate within 30 days from the date of release of this order; and

5. *It is further ordered*, That the Secretary of the Commission shall send copies of this order by certified mail, return receipt requested, to the Western Union Telegraph Co., Western Union International, Inc., ITT World Communications, Inc., RCA Global Communications, Inc., and Tropical Radio Telegraph Co., and shall cause a copy to be published in the FEDERAL REGISTER.

Adopted: September 30, 1970.

Released: October 6, 1970.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN P. WAPLE,
Secretary.

[P.R. Doc. 70-13588; Filed, Oct. 8, 1970;
8:51 a.m.]

FEDERAL MARITIME COMMISSION

COMPAGNIE GENERALE TRANSATLANTIQUE AND HAPAG-LLOYD AKTIENGESELLSCHAFT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to ad-

duce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John P. Meade, Esq., Graham & James, 310 Sansome Street, San Francisco, Calif. 94104.

Agreement No. 9902 between Compagnie Generale Transatlantique (French Line) and Hapag-Lloyd Aktiengesellschaft (Hapag-Lloyd) provides for a joint service to operate between U.S. Pacific coast ports and ports in Northern Europe, the United Kingdom, and Scandinavia under terms and conditions as set forth in the agreement.

Dated: October 5, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[P.R. Doc. 70-13576; Filed, Oct. 8, 1970;
8:50 a.m.]

[Independent Ocean Freight Forwarder License 599]

JUAN B. FIGUEROA

Revocation of License

By letter dated September 4, 1970, The Firm of Juan B. Figueroa, Post Office Box 2826, San Juan, P.R. 00903, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 599 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before September 28, 1970.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid surety bond on file.

The Firm of Juan B. Figueroa has failed to file the required bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order 201.1, section 6.03,

It is ordered, That the Independent Ocean Freight Forwarder License of Juan B. Figueroa, doing business as The Firm of Juan B. Figueroa, be and is hereby revoked effective September 28, 1970.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon The Firm of Juan B. Figueroa.

JOHN F. GILSON,
Deputy Director, Bureau of
Certification and Licensing.

[P.R. Doc. 70-13575; Filed, Oct. 8, 1970;
8:50 a.m.]

HARLAN H. HOSTETTER AND E. L. MOBLEY

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Harlan H. Hostetter, President, Trans-Port International, Inc., 18 Broad Street, Charleston, S.C. 29401.

Agreement No. FF 70-11 provides for the sale of the name, goodwill, and assets of the Charleston, S.C. branch office of E. L. Mobley, a licensed ocean freight forwarder (FMC No. 1064) whose principal office is located in Savannah, Ga. The branch office is being sold to Harlan H. Hostetter, president of Trans-Port International, Inc., who will apply for a new forwarder's license in the name of his firm.

Mr. Mobley will continue to operate his own business in Savannah, independent of Trans-Port International, Inc.'s,

¹ Commissioner Johnson concurring in the result; Commissioner Wells absent.

Charleston operations; he is a vice president of the latter corporation.

Dated: October 6, 1970.

By order of the Federal Maritime Commission,

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13577; Filed, Oct. 8, 1970;
8:50 a.m.]

PACIFIC FAR EAST LINE, INC.

Notice of Application for Casualty Certificate

Security for the protection of the public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Pacific Far East Line, Inc., 141 Battery Street, San Francisco, Calif. 94111.

Dated: October 6, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13578; Filed, Oct. 8, 1970;
8:50 a.m.]

PACIFIC FAR EAST LINE, INC.

Notice of Application for Performance Certificate

Security for the protection of the public; Indemnification of Passengers for Nonperformance of Transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Pacific Far East Line, Inc., 141 Battery Street, San Francisco, Calif. 94111.

Dated: October 6, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13579; Filed, Oct. 8, 1970;
8:50 a.m.]

POLSKIE LINIE OCEANICZNE

Notice of Application for Casualty Certificate

Security for the protection of the public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Polskie Linie Oceaniczne (Polish Ocean Lines), Ul. Lutego 24, Gdynia 1, Poland.

Dated: October 6, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13580; Filed, Oct. 8, 1970;
8:50 a.m.]

POLSKIE LINIE OCEANICZNE

Notice of Application for Performance Certificate

Security for the protection of the public; Indemnification of Passengers for Nonperformance of Transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Polskie Linie Oceaniczne (Polish Ocean Lines), Ul. Lutego 24, Gdynia 1, Poland.

Dated: October 6, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-13581; Filed, Oct. 8, 1970;
8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RP71-3]

CAROLINA PIPELINE CO. AND SOUTHERN NATURAL GAS CO.

Order Instituting Investigation and Prescribing Hearing Procedures

OCTOBER 2, 1970.

On August 6, 1970, Carolina Pipeline Co. (Carolina) filed a complaint requesting that the Commission institute an investigation to determine whether Southern Natural Gas Co. (Southern), is granting unduly preferential treatment to steam electric generating plants in the allocation of available gas supplies. Carolina further requests the Commission to prescribe tariff provisions to provide a fair and equitable allocation of gas delivered by Southern both directly and for resale to industrial customers.

Carolina states that on July 27, 1970, Southern began curtailing gas deliveries to Carolina under Rate Schedule AO-3 (Authorized Overrun Service). Carolina asserts that on that date Carolina's required volume of gas of 57,000 Mcf/d was reduced by 19,100 Mcf/d to 37,900 Mcf/d

and that such curtailments are expected to continue through the remainder of the year. Carolina states that because of these curtailments by Southern, Carolina has had to either reduce or discontinue deliveries to its customers including Celanese Corp., Spring Mills, Greenwood Mills, and Kendall Co. Carolina notes that at the same time curtailments to Carolina are being made, Southern has made deliveries, directly and indirectly to steam electric generating plants in the range of 350,000 Mcf to 400,000 Mcf per day. Carolina suggests that a solution to the problem would be to prohibit the sale directly or indirectly, to steam electric generating plants having a capacity of 50,000 kw. or more until the requirements of other manufacturing concerns have been met. Carolina does not challenge the validity of Southern's claimed need to curtail its deliveries to maintain sufficient deliverability to meet the 1970-71 winter demands of its customers but requests the Commission to resolve whether the curtailments are being made in a fair and equitable manner and whether Carolina is being subjected to undue prejudice and disadvantage.

In its answer filed September 8, 1970, Southern asserts that its curtailments of interruptible gas are being made in a fair and equitable manner. Southern states that Carolina's motion raises the broader question of the Commission jurisdiction over the end-use of natural gas. Southern submits that an investigation into the matter of end-use control of gas should be in the nature of rule-making on a nationwide basis where all aspects of the problem could be considered.¹ Southern states that it would be difficult to formulate end-use control rules without a clear definition of the extent of the current gas shortage and its probable duration. Southern urges the Commission to deny the complaint or in the alternative to enlarge its investigation directed toward the promulgation of curtailment rules of general applicability. If the investigation is to be restricted to Southern's curtailment practices then Southern requests that Carolina be required to furnish proof of its allegations and that all resale and direct customers of Southern, cities and States in Southern's market area, and affected Federal and State agencies and consumers of gas be afforded an opportunity to participate as parties.

Upon analysis of the pleadings, it is our view that an investigation should be instituted into the claim by Carolina that a higher priority should be assigned to the rendering of service to industrial consumers over service to steam electric generating plants. Accordingly, a public hearing should be held in order to afford all parties an opportunity to present evidence on the issues raised.

¹ On Sept. 17, 1970, Carolina filed a reply in opposition to Southern's contention that a nationwide investigation would be required. Carolina asserts that the allocation of AO gas supplies is a question separate and distinct from the question of a nationwide gas shortage.

There appears to be no basis at this time for enlarging this proceeding to constitute a nationwide investigation of interstate pipeline curtailment practices.

In the Southern rate increase proceeding pending at Docket No. RP70-5 certain evidence has been adduced which relates to the question of whether service rendered to industrial customers should have priority over service to steam electric generating plants. Since we are instituting this separate proceeding to consider this question, it appears appropriate that this issue of the apportionment of Southern's AO gas raised in Docket No. RP70-5 be severed therefrom and heard in this proceeding. The other tariff related issues in Docket No. RP70-5 such as rate level, rate design, conjunctive billing, and load shedding among others, shall remain subject to the proceedings in that docket.

The Commission finds:

It is necessary and appropriate for carrying out the provisions of section 5(a) of the Natural Gas Act that an investigation and hearing be instituted on the issues raised by Carolina's complaint.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 14, 15, and 16 thereof, and the Commission's rules of practice and procedure, an investigation is hereby instituted to determine whether Southern is granting unduly preferential treatment to particular customers in the allocation and sale of available AO gas and, if necessary, to prescribe such tariff provisions as are appropriate to provide a fair and equitable allocation between customers of the available gas supply.

(B) Any person desiring to be heard or to make any protest with reference to the matters presented in this proceeding should on or before October 15, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to participate as a party in any hearing herein must file petitions to intervene in accordance with the Commission's rules.

(C) Pursuant to § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before a duly designated Presiding Examiner shall commence at 10 a.m., e.s.t., on October 26, 1970, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., for the purpose of defining the issues, and to prescribe procedure for service of evidence and hearing herein giving effect to the Commission's intent that this matter be expedited.

(D) A presiding examiner designated by the Chief Examiner for that purpose [See Delegation of Authority, 18 CFR 3.5 (d)], shall preside at the prehearing conference in this proceeding and at

hearings to be held at times he designates, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[P.R. Doc. 70-13511; Filed, Oct. 8, 1970;
8:45 a.m.]

[Docket No. CP71-69]

COLUMBIA LNG CORP.

Notice of Application

OCTOBER 1, 1970.

Take notice that on September 22, 1970, Columbia LNG Corp. (Applicant), 20 Montchanin Road, Wilmington, Del. 19807, filed in Docket No. CP71-69 an application pursuant to section 3 of the Natural Gas Act for an order of the Commission authorizing Applicant to import liquefied natural gas (LNG) from Venezuela into the United States, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to import between 168 trillion B.t.u. of LNG and 182 trillion B.t.u. of LNG per year¹ on a relatively constant and equal basis for a term of 20 years.

Applicant states that it has made arrangements with Esso LNG Inc. (Seller), a wholly owned subsidiary of Standard Oil Co. (N.J.) (Jersey), to purchase quantities of LNG which will be liquefied from natural gas produced from the Tijuana, Bachaquero, Lagunillas, Central Lake, North Lama, Punta Benitez and La Rosa Fields in the Lake Maracaibo area of Venezuela. Under these arrangements the seller will have constructed, through Creole Petroleum Corp., Jersey's Venezuelan affiliate, as a joint project with the Venezuelan government, facilities in Venezuela for producing, liquefying, storing, and terminaling LNG. At the loading port, the LNG will be delivered and sold to Applicant aboard one of three vessels owned by Esso Oceanic, Inc., a wholly owned subsidiary of Jersey, for shipment to Applicant's terminaling and regasification facilities to be built at Cove Point, Md.

Applicant states that the cost of LNG delivered shipside in Venezuela consists of a base price of 40.5 cents per million B.t.u.,² subject to various upward adjustments. The freight rate for transportation of LNG from loading point to destination consists of a base rate of 13

¹ Equivalent to approximately 149,000,000 Mcf per year and approximately 161,000,000 Mcf per year, respectively, of natural gas in vaporous state at 1,128,000 B.t.u./Mcf or an average of 425,000 Mcf per day under like conditions.

² Equivalent to approximately 45.7 cents per Mcf at 1,128,000 B.t.u./Mcf.

cents per million B.t.u.,³ subject to various upward adjustments.

Applicant states that the proposed importation is required to maintain present levels of service to existing markets since annual requirements are expected to increase and Applicant's historical sources of gas supply must be supplemented to meet demands.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[P.R. Doc. 70-13504; Filed, Oct. 8, 1970;
8:45 a.m.]

[Docket No. CP71-68]

COLUMBIA LNG CORP.

Notice of Application

OCTOBER 1, 1970.

Take notice that on September 22, 1970, Columbia LNG Corp. (Applicant), 20 Montchanin Road, Wilmington, Del. 19807, filed in Docket No. CP71-68 an application pursuant to section 3 of the Natural Gas Act for an order of the Commission authorizing Applicant to import liquefied natural gas (LNG) from Algeria into the United States, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to import an annual quantity of up to 123,187,500 million B.t.u. of LNG¹ for a term of 25 years.

Applicant states that it is advised that the natural gas proposed to be imported will be produced and gathered in the Hassi R'Mel Field in Algeria by the Societe Nationale de Recherche et d'Exploration des Petrols en Algerie. The gas will be transferred to the Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (Sonatrach), an Algerian government corporation. Sonatrach will cause the quantities of natural gas so produced and gathered to be transported and delivered to its liquefaction plant site, to be

¹ Equivalent to approximately 14.7 cents per Mcf at 1,128,000 B.t.u./Mcf.

² Equivalent to approximately 109,500,000 Mcf per year of natural gas in vaporous state at 1,125,000 B.t.u./Mcf or 300,000 Mcf per day under like conditions.

situated near the seaport of Arzew, Algeria. There, Sonatrach will liquefy such gas, store and load the LNG through its facilities into LNG tankers, at which point the LNG will be sold to El Paso Algeria Corp. (El Paso Algeria), a Delaware corporation. The LNG will then be shipped to the United States via LNG tankers owned by El Paso Marine Co., a Liberian corporation. Aboard ship, on the high seas at a point west of the 50th meridian, west longitude, the LNG will be sold by El Paso Algeria to Applicant pursuant to an agreement executed on September 8, 1970. The LNG will be delivered to a marine terminal which the Applicant plans to build at Cove Point, Md., for the receipt of the LNG.

Applicant states that the base import price which it will pay to El Paso Algeria is 58.5 cents per million B.t.u.², which includes the base cost of LNG purchased by El Paso Algeria from Sonatrach and the estimated base cost of transportation to be incurred by El Paso Algeria in causing the LNG to be shipped by El Paso Marine Co. and delivered to Applicant's LNG terminal. Such base price will be subject to various adjustments.

Applicant states that the proposed importation will be of material assistance in alleviating gas supply problems of American distributors and pipeline companies presently serving eastern market areas, and will provide a new source of natural gas presently in great demand for the reduction of air pollution.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13508; Filed, Oct. 8, 1970;
8:45 a.m.]

[Docket No. CP70-196]

DISTRIGAS CORP.

Notice of Amendment to Application OCTOBER 1, 1970.

Take notice that on September 29, 1970, Distrigas Corp. (applicant), 125 High Street, Boston, Mass. 02110, filed in Docket No. CP70-196 an amended application pursuant to section 3 of the

² Equivalent to approximately 65.8 cents per Mcf at 1,125,000 B.t.u./Mcf.

Natural Gas Act for an order of the Commission authorizing applicant to import liquefied natural gas (LNG) from Algeria, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In the amended application, applicant proposes to import annually 14 shiploads of approximately 300,000 barrels of LNG per shipload (equivalent to 1,100,000 Mcf of 1,000 B.t.u./cubic foot natural gas) beginning in 1971. The LNG will be purchased from Alocen, Ltd., under the terms of the 20-year contracts attached to the application. The LNG will be transported from Algeria in the new integrated methane carrier, the Descartes, for delivery at applicant's proposed deep-water terminals near Everett, Mass., and Staten Island, N.Y. The contract price ranges from 68 cents per million B.t.u. to 85 cents per million B.t.u. The contract price is subject to an automatic escalation of 0.6-cent per million B.t.u. beginning April 1, 1972, under the entire 20-year term of the LNG Sales Agreement.

Applicant states that the imported LNG will be marketed primarily for peak shaving or limited seasonal uses to various gas distributors in the New England and New York harbor areas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Accordingly, any person desiring to be heard or to make any protest with reference to said application who has not previously filed a protest or petition to intervene, should on or before October 15, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13505; Filed, Oct. 8, 1970;
8:45 a.m.]

[Docket No. RP71-15]

EAST TENNESSEE NATURAL GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

OCTOBER 6, 1970.

Take notice that on September 30, 1970, East Tennessee Natural Gas Co. (East Tennessee) tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective November 15, 1970. The proposed rate changes would increase charges for jurisdictional sales and serv-

ices by \$7,250,133 annually, based upon the volumes of sales for the 12-month period ending May 31, 1970, as adjusted. The proposed changes would increase the rates in East Tennessee's Rate Schedules CD, CR, G, SG, IAOS, and S.

East Tennessee's filing consists of two alternate sets of revised tariff sheets, the first of which contains a new section to be included in the general terms and conditions of the tariff, providing for monthly billing adjustments to reflect current changes in East Tennessee's unit cost of purchased gas and a provision for flow-through of gas supplier refunds. East Tennessee asks that the Commission waive the provisions of its regulations under the Natural Gas Act to the extent necessary for purposes of accepting for filing proposed tariff sheets incorporating such proposed purchased gas adjustment provisions. East Tennessee requests, in the event the Commission will not waive such regulations for such purposes, that the Commission accept for filing the alternate set of revised tariff sheets, which does not contain a purchased gas adjustment provision. East Tennessee states that in any event it proposes to raise as an issue in the above-entitled proceeding the question of whether a purchased gas adjustment provision should be incorporated into its FPC Gas Tariff.

In addition to the purchased gas adjustment provision, East Tennessee proposes the following changes to its FPC Gas Tariff: consolidation of rate schedule provisions change in format of rate provisions in rate schedule, revision of unauthorized overrun penalty section, change in interest charge for late payment of bills to current prime interest rate, provision for maximum hourly purchases, and miscellaneous changes to clarify and simplify its tariff and to state similar rate schedule provisions in a consistent manner. These changes are more fully set forth and described in the "Statement of the Nature, Reasons and Basis For Proposed Tariff Changes" of East Tennessee's filing.

East Tennessee states that it proposes to resume the use of liberalized tax depreciation with normalization for accounting purposes for all eligible property (pre-1970 and post-1969 property). East Tennessee further states that it proposes to utilize a composite 3.75 percent book depreciation rate on gas transmission and certain other plant beginning with the effective date of the revised tariff volume in lieu of the present rate of 3 percent.

The principal reasons stated by East Tennessee for the increase in rate levels requested in its filing are: (a) Increase in the cost of purchased gas resulting from the rate filing of Tennessee Gas Pipeline Co. in Docket No. RP71-6; (b) the return to normalization accounting for liberalized depreciation in determining Federal income taxes in the cost of service; (c) a required rate of return of 9.25 percent; (d) increase in its composite book depreciation from 3 percent to 3.75 percent to reflect present-day conditions, particularly the existing shortage of gas supplies; (e) increases

in cost of materials, supplies, wages, and services required to operate and maintain its pipeline system; and (f) increases in property, payroll, and State income taxes.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. East Tennessee's application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13565; Filed, Oct. 8, 1970;
8:49 a.m.]

[Docket No. CP71-67]

EL PASO ATLANTIC CO.
Notice of Application

OCTOBER 1, 1970.

Take notice that on September 22, 1970, El Paso Atlantic Co. (applicant), Post Office Box 2185, Houston, Tex. 77001, filed in Docket No. CP71-67 an application pursuant to section 3 of the Natural Gas Act for an order of the Commission authorizing applicant to import liquefied natural gas (LNG) from Algeria into the United States, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to import for an initial term of 25 years up to 205,312,500 million B.t.u. of LNG annually.¹

Applicant states that it is advised that the natural gas proposed to be imported will be produced and gathered in the Hassi R'Mel field in Algeria by the Société Nationale de Recherche et d'Exploration des Pétroles en Algérie. The gas will be transferred to the Société Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (Sonatrach), an Algerian government corporation. Sonatrach will cause the quantities of natural gas so produced and gathered to be transported and delivered to its liquefaction plant site, to be situated near the seaport of Arzew, Algeria. There Sonatrach will liquefy such gas, store and load LNG through its facilities into LNG tankers, at which point the LNG will be sold to El Paso Algeria Corp.

¹ Equivalent to approximately 182,500,000 Mcf per year of natural gas in vaporous state at 1,125,000 B.t.u./Mcf or 500,000 Mcf per day under like conditions.

(El Paso Algeria), a Delaware corporation. The LNG will then be shipped to the United States via LNG tankers owned by the El Paso Marine Co., a Liberian corporation. Aboard ship, on the high seas at a point west of the 50th meridian, west longitude, the LNG will be sold by El Paso Algeria to applicant. The LNG will be delivered to applicant's receiving terminal to be situated on the east coast of the United States.

Applicant states that the base import price which it will pay to El Paso Algeria is 58.5 cents per million B.t.u.,² which includes the base cost of LNG purchased by El Paso Algeria from Sonatrach and the estimated base cost of transportation to be incurred by El Paso Algeria in causing such LNG to be shipped by El Paso Marine Co. and delivered at ship's rail dockside in a U.S. harbor. Such base price will be subject to various adjustments.

Applicant states that the proposed importation will be of material assistance in alleviating gas supply problems of American distributors and pipeline companies presently serving eastern market areas, and will provide a new source of natural gas presently in great demand for the reduction of air pollution.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13566; Filed, Oct. 8, 1970;
8:45 a.m.]

[Docket No. CP71-66]

EL PASO EASTERN CO.
Notice of Application

OCTOBER 1, 1970.

Take notice that on September 22, 1970, El Paso Eastern Co. (Applicant), Post Office Box 2185, Houston, Tex. 77001, filed in Docket No. CP71-66 an application pursuant to section 3 of the Natural Gas Act for an order of the Commission authorizing Applicant to import liquefied natural gas (LNG) from Algeria into the United States, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

² Equivalent to approximately 65.8 cents per Mcf at 1,125,000 B.t.u./Mcf.

Applicant seeks authorization to import for an initial term of 25 years up to 82,125 billions B.t.u. of LNG annually.¹

Applicant states that it is advised that the natural gas proposed to be imported will be produced and gathered in the Hassi R'Mel field in Algeria by the Société Nationale de Recherche et d'Exploration des pétroles en Algérie. The gas will be transferred to the Société Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (Sonatrach), an Algerian government corporation. Sonatrach will cause the quantities of natural gas so produced and gathered to be transported and delivered to its liquefaction plant site to be situated near the seaport of Arzew, Algeria. There Sonatrach will liquefy such gas, store and load the LNG through its facilities into LNG tankers, at which point the LNG will be sold to El Paso Algeria Corp. (El Paso Algeria), a Delaware corporation. The LNG will then be shipped to the United States via LNG tankers owned by El Paso Marine Co., a Liberian corporation. Aboard ship, on the high seas at a point west of the 50th meridian, west longitude, the LNG will be sold by El Paso Algeria to Applicant. The LNG will be delivered to an unloading and storage terminal at Cove Point, Md., to be constructed and operated by Columbia LNG Corp.

Applicant states that the base import price which it will pay to El Paso Algeria is 58.5 cents per million B.t.u.,² which includes the base cost of LNG purchased by El Paso Algeria from Sonatrach and the estimated base cost of transportation to be incurred by El Paso Algeria in causing such LNG to be shipped by El Paso Marine Co. and delivered at ship's rail dockside at the Cove Point, Md., terminal. Such base price will be subject to various adjustments.

Applicant states that the proposed importation will be of material assistance in alleviating gas supply problems of American distributors and pipeline companies presently serving eastern market areas, and will provide a new source of natural gas presently in great demand for the reduction of air pollution.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to

¹ Equivalent to approximately 73 million Mcf per year of natural gas in vaporous state at 1,125,000 B.t.u./Mcf or 200,000 Mcf per day under like conditions.

² Equivalent to approximately 65.8 cents per Mcf at 1,125,000 B.t.u./Mcf.

participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13507; Filed, Oct. 8, 1970;
8:45 a.m.]

EL PASO NATURAL GAS CO.

[Docket No. RP71-13]

Notice of Proposed Changes in Rates and Charges

OCTOBER 6, 1970.

Take notice that El Paso Natural Gas Co., on September 30, 1970, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, to become effective on October 31, 1970. The proposed rate changes would increase charges for jurisdictional sales on its Southern Division System by \$51,975,477 annually, based upon volumes for the 12-month period ended May 31, 1970, as adjusted. The proposed increase would be applicable to El Paso's Rate Schedules A-1, A-2, A-3, B-1, B-2, B-3, D-1, D-2, D-3, G, G-X, A-1-X, and X-1. In addition there would be increases in rates under Rate Schedules X-7 and X-14 of Third Revised Volume No. 2, which are keyed to and identical with the rates in effect from time to time under Rate Schedules B-1 and X-1, respectively, and in Rate Schedules FS-13, FS-17, FS-18, FS-34, and FS-35 of Original Volume No. 2A, which are keyed to and identical with the rate in effect from time to time under Rate Schedule X-1.

El Paso states that the principal reasons for the proposed rate increases are increased costs of capital, labor, materials and supplies, purchased gas and taxes and the resumption of the use of normalized accounting for liberalized tax depreciation. The increased rates provide for an overall rate of return of 8.875 percent.

El Paso states that if the tendered revised tariff sheets are permitted to become effective on the proposed effective date of October 31, 1970, or if the Commission should suspend the proposed increased rates for any period beyond October 31, 1970, El Paso would undertake to make effective on such effective date, or to place in effect at the end of such suspension period, all increased costs claimed in the filing except that portion of purchased gas costs reflecting supplier rates not in effect at that time; *Provided*, That El Paso is permitted to increase its Southern Division System rates both before and after the end of any such suspension period (up to 0.67 cents per Mcf in the aggregate) by tracking filings made under conditions not materially different from those now permitted El Paso in Docket No. RP70-11.

Copies of the filing were served on El Paso's Southern Division System customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 19, 1970, file with the Federal Power

Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13563; Filed, Oct. 8, 1970;
8:49 a.m.]

[Docket No. RP71-14]

EL PASO NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 6, 1970.

Take notice that El Paso Natural Gas Co., on September 30, 1970, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 3, to become effective on October 31, 1970. The proposed rate changes would increase charges for jurisdictional sales on its Northwest Division System by \$17,649,389 annually, based upon volumes for the 12-month period ended May 31, 1970, as adjusted. The proposed increase would be applicable to El Paso's Rate Schedules PL-1, PL-4, PL-5, DL-1, DI-1, DS-1, I-1, S-1, IOS-1, and SGS-1. El Paso proposes to cancel Rates Schedules PL-2, PL-3, DI-2, DI-3, DI-4, DI-5, DS-4, I-2, I-3, I-4, I-5, C-1, C-2, C-3, C-4, C-5, and XS-PL-1. Service under Rate Schedules PL-2, DI-2, DI-3, DI-4, and DI-5 would continue to be rendered under Rate Schedule DI-1; services under Rate Schedules PL-3, I-2, I-5, C-1, and C-5 would continue under Rate Schedule I-1 and service under Rate Schedule DS-4 would continue under Rate Schedule DS-1.

El Paso states that the principal reasons for the proposed rate increases are increased costs of capital, labor, materials and supplies, purchased gas and taxes and the resumption of the use of normalized accounting for liberalized tax depreciation. The increased rates provide for an overall rate of return of 8.875 percent.

El Paso states that if the tendered revised tariff sheets are permitted to become effective on the proposed effective date of October 31, 1970, or if the Commission should suspend the proposed increased rates for any period beyond October 31, 1970, El Paso would undertake to make effective on such effective date, or to place in effect at the end of such suspension period, all increased costs claimed in the filing except that portion of purchased gas costs reflecting supplier rates not in effect at that time; *provided* that El Paso is permitted to increase its Northwest Division System

rates through tracking filings made upon terms and conditions not materially different from those recently and now in effect with respect to El Paso's Southern Division System rates to reflect increased purchased costs incurred after the proposed effective date, if such date is permitted, or incurred after the end of any such suspension period (up to 1.49 cents per Mcf in the aggregate).

Copies of the filing were served on El Paso's Northwest Division System customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 19, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13564; Filed, Oct. 8, 1970;
8:49 a.m.]

[Docket No. E-7565]

KENTUCKY POWER CO.

Order Suspending Proposed Rate Schedule Supplement, Denying Request for Waiver of Statutory Notice Period, and Providing for Hearing

OCTOBER 2, 1970.

This order suspends for 5 months the operation of a proposed change in a rate schedule, denies requests for waiver of statutory notice provisions, and orders a public hearing to be held on the lawfulness of the proposed change.

Kentucky Power Co. (Kentucky), a public utility subject to the jurisdiction of this Commission, on September 2, 1970, tendered for filing Supplement No. 2 to its Rate Schedule FPC No. 12 amending the procedure through which it and the City of Vanceburg, Ky. (City) would give notice for the termination of service under the subject rate schedule. No change in rate level is proposed by this filing. Kentucky requests either waiver of the 30-day statutory notice provision in order to permit its tendered change to become effective August 6, 1970, or, if the waiver request is not granted, an effective date of October 5, 1970.

Kentucky serves the entire electric requirements of the City under a 20-year agreement, which is Rate Schedule FPC No. 12 and Supplement No. 1 thereto. Under that agreement, on or after August 1, 1967, either party may give written notice of termination of the agreement, which will become effective 3 years after such notice. By letter of

August 7, 1967, City notified Kentucky of its election to discontinue receiving service under their agreement without specifying an effective date for such termination. After discussions, the City, by letter dated July 31, 1970, informed Kentucky that it wished to continue to take service on a temporary, day-to-day basis until its plans for a long range new power source were completed.

By this tender, Kentucky proposes to change the termination provision contained in the agreement to provide that (1) if within a period of 60 days immediately following the proposed date of termination (assuming written notice was delivered to the other party 3 years prior to the proposed termination) neither party disconnects its electric facilities from the other, the election and notice of termination of the agreement is deemed withdrawn and has no further force nor effect; and (2) if a notifying party, on or after August 7, 1970, fails to specify a date of proposed termination, the notice of termination is deemed to include the day which is the third anniversary of the receipt of the notice of termination by the party to be notified.

The City filed a telegram with the Commission on September 21, 1970, protesting Kentucky's filing and indicating that it is presently in negotiation with two electric cooperatives who might act as replacements for Kentucky as the City's power source. The City did not specify a date as to when those negotiations may be completed.

Kentucky, by telegram, filed September 25, 1970, replied to the City's telegram and requested the Commission to permit its Supplement No. 2 to become effective on the date assigned, so that the City can then decide whether it wants to disconnect or to continue under the contract. It appears that the City is seeking an alternate supply of power. Kentucky, on the other hand, appears willing to continue to render service to the City, but not on a temporary day-to-day basis. We believe that the interests of the public will be served best through the suspension of Kentucky's proposed change in rate schedule and a hearing thereon.

The Commission finds:

(1) Supplement No. 2 to Kentucky's Rate Schedule FPC No. 12 has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful under the Federal Power Act.

(2) Good cause exists to deny Kentucky's request for waiver of the statutory 30-day notice period.

(3) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of the proposed supplement, that said proposed supplement be suspended and the use thereof be deferred, and that a public hearing be initiated in accordance with the procedures set forth below, all as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened to commerce with a prehearing conference to be held on November 24, 1970, at 10 a.m., e.s.t., at the offices of the Federal Power Commission in Washington, D.C., concerning the lawfulness of Supplement No. 2 to Kentucky's Rate Schedule FPC No. 12.

(B) Kentucky's request for waiver of the 30-day statutory notice provision is hereby denied.

(C) Pending such hearing and decision thereon, Supplement No. 2 is hereby suspended and the use thereof deferred until March 5, 1971. On that day, that supplement shall take effect in the manner prescribed by the Federal Power Act, subject to further orders of the Commission.

(D) Unless otherwise ordered by the Commission, Kentucky shall not change the terms or provisions of Supplement No. 2 to its Rate Schedule FPC No. 12 until this proceeding has been terminated or until the period of suspension has expired.

(E) Protests and 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 or 1.10) on or before October 28, 1970.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13510; Filed, Oct. 8, 1970;
8:45 a.m.]

[Project No. 1888]

METROPOLITAN EDISON CO., ET AL.

Notice of Application for Approval To Permit Joint Use of Project Waters and Lands of a Constructed Project

OCTOBER 1, 1970.

Metropolitan Edison Co. (Licensee), Jersey Central Power & Light Co., Pennsylvania Electric Co., and York Haven Power Co.

Public notice is hereby given that application has been filed pursuant to the provisions of the license for the York Haven Project No. 1888 by Metropolitan Edison Co. (Licensee), on its own behalf and on behalf of the other above-named companies (correspondence to: J. C. Miller, Vice President, Metropolitan Edison Co., and R. D. Ley, Vice President, York Haven Power Co., Post Office Box 542, Reading, Pa. 19603) for approval of: (1) Additional joint use of project lands and waters of the York Haven Project for make-up, cooling and other related purposes for the second nuclear generating unit at the Three Mile Island Nuclear Plant, and (2) additional joint use of project lands and waters for rights-of-way and easements necessary for the construction, operation and

maintenance of the nuclear plant and transmission facilities required to deliver the electrical output of the nuclear plant to the bulk power transmission system. The York Haven Project is located on the Susquehanna River in Dauphin, Lancaster, and York Counties, Pa., in the vicinity of Harrisburg, Lancaster, and York.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 2, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13509; Filed, Oct. 8, 1970;
8:45 a.m.]

[Dockets Nos. RI71-313, etc.]

NEWMONT OIL CO., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹

OCTOBER 1, 1970.

The Respondents named herein have filed proposed changes in 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. D), 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

¹ Does not consolidate for hearing or dispose of the several matters herein.

date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however*, That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate

showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.²

³ If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

(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 23, 1970.

By the Commission.

[SEAL]

GORDON M. GRANT,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
R171-313..	Newmont Oil Company..	3	11 16	Transcontinental Gas Pipe Line Corp. (Ship Shoal Block 72 Field, Offshore Louisiana (Federal Domain)).	\$513	9-3-70	10-4-70	10-5-70	19.0	20.0	
R171-314..	Continental Oil Company.	158	11 18	do.	1,540	9-4-70	10-5-70	10-6-70	19.0	20.0	
R171-315..	Gulf Oil Corporation.....	220	11 12	Transcontinental Gas Pipe Line Corp. (Vermillion Block 131 Field, Offshore Louisiana (Federal Domain)).	18,260	9-3-70	10-4-70	10-5-70	19.0	20.0	

* Pressure base is 15.925 p.s.i.a.

¹ Includes supporting documents required by Opinion No. 567.

² Pursuant to Opinion No. 546-A based on the determinations in Opinion No. 567.

³ Not used.

* Applies only to gas well gas produced from the J-3 sand reservoir.

¹ Supporting documents required by Opinion No. 567 previously filed and accepted (Supp. No. 11).

² Applies only to gas well gas produced from the No. 15 sand reservoir.

The proposed increases involved here were submitted pursuant to Opinion No. 546-A based on the determinations in Opinion No. 567 with respect to gas well gas produced from newly discovered reservoirs. Consistent with prior Commission action on similar increases, the proposed rates are suspended for 1 day from the expiration of the Statutory notice period. Thereafter, the proposed rates may be collected subject to refund pending the outcome of Docket No. AR60-1.

[F.R. Doc. 70-13512; Filed, Oct. 8, 1970; 8:45 a.m.]

[Docket No. CP70-7 (Phase II)]

SOUTHERN NATURAL GAS CO.

Notice of Petition To Modify a Certificate of Public Convenience and Necessity

OCTOBER 7, 1970.

Take notice that on October 1, 1970, Southern Natural Gas Co. (applicant), Post Office Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP70-7 (Phase II), a petition for a modification of the certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act on October 29, 1969, in the subject docket, to authorize Applicant to sell and deliver to Chattanooga Gas Co. (Chattanooga) a contract demand of 52,000 Mcf of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by order issued August 15, 1969, in Phase I of this proceeding, the Commission authorized applicant, inter alia, to sell and deliver

to Chattanooga Gas Co. (Chattanooga) during the 1969-70 heating season a contract demand of 52,000 Mcf. However, by order issued October 29, 1969 (in Phase II, the Commission authorized applicant, inter alia, to sell and deliver to Chattanooga a contract demand of only 47,500 Mcf.

Applicant states, Chattanooga has advised applicant that, in order to permit continuance of the present level of service in its area, Chattanooga desires that its contract demand remain at 52,000 Mcf. Applicant requests that the Commission amend the certificate issued on October 29, 1969, in Phase II in this proceeding to authorize the continued delivery of 52,000 Mcf of natural gas to Chattanooga.

In this instance it appears that a shorter notice period is reasonable and consistent with the public interest. Accordingly, any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 21, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene

in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-13657; Filed, Oct. 8, 1970; 8:51 a.m.]

[Docket No. CP71-90]

WESTERN GAS INTERSTATE CO.

Notice of Application

OCTOBER 7, 1970.

Take notice that on October 1, 1970, Western Gas Interstate Co. (applicant), Fidelity Union Tower, Dallas, Tex. 75201, filed in Docket No. CP71-90 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for permission to replace approximately 10,600 feet of its existing 4-inch pipeline system in Beaver County, Okla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant requests an order authorizing it to abandon the existing section of the pipeline in place, and issuing a certificate of public convenience and necessity authorizing applicant to construct and operate approximately 10,600 feet of 4-inch pipeline parallel thereto.

Applicant states that the existing section of pipeline which it proposes to replace is 40 years old and is deteriorated. Applicant further states that the facilities should be replaced before the full capacity of the pipeline is required during the 1970-71 heating season.

Applicant proposes to abandon the existing section of 4-inch pipeline in place since the cost of reclaiming this pipe exceeds its salvage value.

Applicant states that the estimated overall capital cost of such replacement is \$14,541, which applicant plans to pay from cash on hand. Applicant states that it does not anticipate that there will be any discontinuance of service during the time required to replace the pipe.

In this instance it appears that a shorter notice period is reasonable and consistent with the public interest. Accordingly, any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[P.R. Doc. 70-13658; Filed, Oct. 8, 1970;
8:51 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 2, 1970.

It appearing to the Securities and Exchange Commission that the summary

suspension of trading in the common stock, 10-cent par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15 (c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 3, 1970, through October 12, 1970, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[P.R. Doc. 70-13552; Filed, Oct. 8, 1970;
8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

REC BUSINESS OPPORTUNITIES CORP.

Notice of Application for License as Minority Enterprise Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations Governing Small Business Investment Companies (33 F.R. 326, 13 CFR Part 107) under the name of REC Business Opportunities Corp., 316 Fifth Street, Racine, Wis. 53403, for license to operate in the State of Wisconsin as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) (Act), License No. 07/07-5081.

The proposed officers and directors are as follows:

Roger G. DeLong, 2205 Rivershore Drive, Racine, Wis. 53405, President and Director.
Thomas G. Cook, 636 Perry Avenue, Racine, Wis. 53406, Vice President of Finance, Treasurer and Director.
George R. Stinson, 440 Three Mile Road, Apt. B-6, Racine, Wis. 53402, Vice President of Operations, General Manager and Director.
LeRoy Wooley, 1338 Hamilton Street, Racine, Wis. 53404, Secretary and Director.
Dr. John Bryant, 1708 Emmertson Road, Racine, Wis. 53406, Director.
Samuel C. Johnson, 16 Vincennes Circle, Racine, Wis. 53402, Director.
William C. Kidd, 3063 Michigan Boulevard, Racine, Wis. 53402, Director.
Quincy Bryant, Apt. 30, 2800 Jacato Drive, Racine, Wis. 53404, Director.
Julian Thomas, 1818 Hillside Drive, Racine, Wis. 53403, Vice President and Director.
Joseph B. Nelson, Jr., 1032 Lathrop Avenue, Racine, Wis. 53405, Director and Senior Vice President of Operations.
Paul J. Cody, 4304 Taylor Avenue, Racine, Wis. 53405, Director.
Edward W. Larsen, 12 Raven Turn, Racine, Wis. 53403, Director.

None of the above will be salaried, nor will any one of them own, directly or indirectly, any capital stock or other securities of the Applicant. REC Non-

Profit Housing and Business Opportunities Corp., 316 Fifth Street, Racine, Wis. 53403, a nonprofit organization established under the laws of the State of Wisconsin, will be the sole stockholder of the Applicant, and proposes to commence operations with a capitalization of \$150,000. As a MESBIC, the company proposes to be licensed solely for the purpose of providing assistance which will contribute to a well-balanced national economy by facilitating the acquisition or maintenance of ownership of small business concerns by individuals whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may not later than 10 days from the date of publication of this notice, submit to SBA in writing, relevant comments on the proposed company. Any communication should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. A copy of this notice shall be published in a newspaper of general circulation in Racine, Wis.

A. H. SINGER,
Associate Administrator
for Investment.

SEPTEMBER 25, 1970.

[P.R. Doc. 70-13521; Filed, Oct. 8, 1970;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 164]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-87 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTORS CARRIERS OF PROPERTY

No. MC 30319 (Sub-No. 139 TA), filed September 28, 1970. Applicant: SOUTHERN PACIFIC TRANSPORT COMPANY OF TEXAS AND LOUISIANA, 7600 South Central Expressway, 733 South Poydras Street (75202), Post Office Box 6187 (75222), Dallas, Tex. 75216. Applicant's representative: D. Humphrey (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities*, except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; (1) between New Orleans, La., and the Louisiana-Texas State line, over U.S. Highway 90; (2) between New Orleans, La., and the Louisiana-Texas State line, over Interstate Highway 10; (3) between New Orleans and Iowa, La., over U.S. Highway 61, 190, and 165 serving no intermediate points except Port Barre, Opelousas, and Eunice, La.; (4) from New Iberia, La., over Louisiana Highway 14 to its junction with Louisiana Highway 83, thence over Louisiana Highway 83 to its junction with Louisiana Highway 85, thence over Louisiana Highway 85 to Jeanerette, La., and return over the same route, serving all intermediate points; (5) from Jeanerette, La., over Louisiana Highway 673, thence over Louisiana Highway 673 through Patoutville, La., to its junction with Louisiana Highway 85, thence over Louisiana Highway 85 to its junction with Louisiana Highway 674, thence over Louisiana Highway 674 to New Iberia, La., and return over the same route, serving all intermediate points; (6) from Jeanerette, La., over Louisiana Highway 672 to its junction with Louisiana Highway 85 and return over the same route, serving all intermediate points.

(7) From Raceland, La., over Louisiana Highway 308 to its junction with Louisiana Highway 651, thence over Louisiana Highway 651 to Bowie, La., and return over the same route, serving all intermediate points; (8) from Abbeville, La., over U.S. Highway 167 to junction with Louisiana Highway 10, thence over Louisiana Highway 10 to junction with Louisiana Highway 182, thence over Louisiana Highway 182 to junction with Louisiana Highway 29, thence over Louisiana Highway 29 to junction with U.S. Highway 71, thence over U.S. Highway 71 to Alexandria, La., and return over the same route, serving all intermediate points; (9) from Bunkie, La., over U.S. Highway 71 to Krotz Springs, La., and return over the same route, not serving any intermediate points, and not serving Krotz Springs, except for joinder purposes; (10) from Lebeau, La., over Louisiana Highway 10 to Beggs, La., and return over the same route, not serving any intermediate points, and not serving Lebeau except for joinder purposes; (11) from New

Iberia, La., over Louisiana Highway 31 to Opelousas, La., and return over the same route, serving all intermediate points and the off-route point of Cecelia; (12) from Leonville, La., over Louisiana Highway 103 to Port Barre, La., and return over the same route, serving all intermediate points; (13) from Lafayette, La., over Louisiana Highways 94 and 347 to Henderson Landing, La., and return over the same route, serving all intermediate points; (14) from New Iberia, La., over Louisiana Highway 14 to its junction with Louisiana Highway 329, thence over Louisiana Highway 329 to Avery Island, La., and return over the same route, serving all intermediate points; (15) from Baldwin, La., over Louisiana Highway 83 to junction with Louisiana Highway 85 and return over the same route, serving all intermediate points.

(16) From Gueydan, La., over Louisiana Highway 91 to Midland, La., and return over the same route, serving all intermediate points; (17) from Cade, La., over Louisiana Highway 92 to Maurice, La., and return over the same route, serving all intermediate points; (18) from Burke, La., at junction of U.S. Highway 90 and Louisiana Highway 88 over Louisiana Highways 88 and 89 to Lafayette, La., and return over the same route, serving all intermediate points; (19) from junction of Louisiana Highways 14 and 13 near Kaplan, La., thence over Louisiana Highway 13 to Eunice, La., and return over the same route, serving all intermediate points; (20) from junction of Louisiana Highways 14 and 99 (east of Lake Charles) over Louisiana Highway 99 to Welsh, La., and return over the same route, serving all intermediate points; (21) from Lake Charles, La., over U.S. Highway 171 to DeRidder, La., and return over the same route, serving all intermediate points, except Ragley; (22) from Chacahoula, La., over Louisiana Highway 309 to the plant site of Shreveport Sulphur Co. and return over the same route, serving all intermediate points; (23) from Centerville, La., over Louisiana Highway 317 to Salt Point, La., and return over the same route, serving all intermediate points; (24) from junction of Louisiana Highway 14 and unnumbered county road approximately 6 miles west of Lake Arthur, La., over such unnumbered road to the plant site of Superior Oil Co. near Lowery, La., and return over the same route, serving all intermediate points.

(25) From Lake Arthur, La., over Louisiana Highway 26 to Jennings, La., and return over the same route, serving all intermediate points; (26) from Boutte, La. (located on U.S. Highway 90 west of New Orleans) over unnumbered road to Luling, La., thence over Louisiana Highway 18 to Huey P. Long Bridge and return over the same route, serving all intermediate points; (27) from Grand Isle, La., over Highway 1 to Glenwood, La., and return over the same route, serving all intermediate points; (28) from Raceland, La., over U.S. Highway 90 to junction with Louisiana Highway 308, thence over Louisiana Highway 308 to Jay, La., and return over the same route, serving all intermediate points; (29) from Thibodeaux, La., over Louisiana

Highway 20 to junction with Louisiana Highway 24 to Houma, La., thence over Louisiana Highway 315 to Theriot, La., and return over the same route, serving all intermediate points; (30) from Schriever, La., to Gibson, La., over Louisiana Highway 20 and return over the same route, serving all intermediate points; (31) from Houma, La., over Louisiana Highway 57 to its junction with Louisiana Highway 56 and return over the same route, serving all intermediate points; (32) from Houma, La., over Louisiana Highway 56 to Cocodrie, La., and return over the same route, serving all intermediate points; (33) from junction of Louisiana Highways 56 and 55 (southeast of Houma), thence over Louisiana Highway 55 to its terminal and return over the same route, serving all intermediate points.

(34) From junction of Interstate Highway 10 and Louisiana Highway 91, over Louisiana Highway 91 to Eunice, La., and return over the same route, serving all intermediate points; (35) from Iota, La., over Highway 98 to Maxie, La., and return over the same route, serving all intermediate points; (36) from Kaplan, La., over Louisiana Highway 35 to junction of Louisiana Highway 82, thence over Louisiana Highway 82 to Pan American warehouse site (located approximately 25 miles east of Creole, La.), and return over the same route, serving all intermediate points; (37) between Holly Beach, La., and the Louisiana-Texas State line, over Louisiana Highway 82, and return over the same route, serving all intermediate points; (38) from Creole, La., over Louisiana Highway 82 to the site of the Pan American Petroleum Corp. warehouse (approximately 25 miles east of Creole, La.) and return over the same route, serving all intermediate points; (39) from Lake Charles, La., over Louisiana Highway 385 to junction of Louisiana Highway 384, thence over Louisiana Highway 384 to junction of Louisiana Highway 27, thence over Louisiana Highway 27 to Cameron, La., and return over the same route, serving all intermediate points, and the off-route points of Sweet Lake and Grand Lake, La., and the warehouse of Stanolind Oil and Gas Co.; (40) from Lake Charles, La., over U.S. Highway 90 to junction with Louisiana Highway 27, thence over Louisiana Highway 27 to Cameron, La., and return over the same route, serving all intermediate points; (41) from junction of Louisiana Highway 27 and 384 over Louisiana Highway 27 to Holmwood, La., and return over the same route, serving all intermediate points.

(42) From New Iberia, La., to Lake Charles, La., over Louisiana Highway 14, and return over the same route, serving all intermediate points. Serving all intermediate points listed above with exception of (1) Route No. 3 is a closed-door route except at points applicant is presently authorized to serve, Port Barre, Opelousas, and Eunice, La., (2) routes Nos. 9 and 10, which are for joinder purposes only, and (3) route No. 21 which prohibits serving Ragley, La.; (43) between Dallas, Tex., and the Texas-Louisiana State line, over U.S. Highway 175 to Jacksonville, Tex., thence over U.S. Highway 69 to Beaumont, Tex., thence

over U.S. Highway 90 to the Texas-Louisiana State line; (44) between Dallas, Tex., and the Texas-Louisiana State line over U.S. Highway 75 (also over Interstate Highway 45) to Houston, Tex., thence over U.S. Highway 90; (45) between Houston, Tex., and the Texas-Louisiana State line, over Interstate Highway 10 to Winnie, Tex., thence over Texas State Highway 73 to Port Arthur, Tex., thence over Texas Highway 87; (46) between Winnie, Tex., and Beaumont, Tex., over Interstate Highway 10 for joinder purposes only. Routes Nos. 43 through 46, inclusive, are closed-door through routes, to and from Dallas and Houston, Tex., on the one hand, and all Louisiana points and routes on the other hand, as described in above Routes Nos. 1 through 42, for 180 days. Supporting shippers: There are approximately 16 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 59488 (Sub-No. 35 TA), filed September 25, 1970. Applicant: SOUTHWESTERN TRANSPORTATION COMPANY, a corporation, 7600 South Central Expressway, Dallas, Tex. 75216, Post Office Box 6187, 75222. Applicant's representative: J. Humphrey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving the site of Blundell Creek Steam Electric Station in Titus County, Tex., as an off-route point in connection with applicant's authority to serve Mount Pleasant, Tex., for 180 days. Supporting shipper: Industrial Generating Co., 1506 Commerce Street, Dallas, Tex. 75201. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 107295 (Sub-No. 447 TA), filed September 28, 1970. Applicant: PREPAB TRANSIT CO., a corporation, Post Office Box 146, 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Linoleum cement, wallboard cement, acoustical tile cement, or facing cement*, in packages, cans, or pails and packaged in cartons; from New Philadelphia, Ohio, to Pittsburg, Kans., for 180 days. Supporting shipper: Wal-Lite Products Division of U.S. Gypsum Co., Pittsburg, Kans. Send protests to: Harold Joliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 110884 (Sub-No. 17 TA), filed September 29, 1970. Applicant: AUBREY FREIGHT LINES, INC., Post Office Box 503, 651 Grove Street, Elizabeth, N.J.

07202. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and products and supplies used in the manufacturing of cheese*, for the account of N. Dorman & Co., (1) from Monroe, Wis., to Landover, Md., (2) from Monroe, Wis., to points in Nassau County, N.Y., and Neptune City, N.J., for the purpose of stop-off for partial unloading with shipments destined to Landover, Md., for 150 days. Supporting shipper: N. Dorman Cheese Co., 73 Hudson Street, New York, N.Y. 10013. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 111170 (Sub-No. 149 TA), filed September 29, 1970. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2311 North West Avenue, El Dorado, Ark. 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea formaldehyde resin*, in bulk, from Malvern, Ark., to Algoma, Wis., and Albuquerque, N. Mex., for 180 days. Supporting shipper: Wright Chemical Corp., Riegelwood, N.C. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 114897 (Sub-No. 90 TA), filed September 28, 1970. Applicant: WHITFIELD TANK LINES, INC., 300-316 North Clark Road, Post Office Drawer 9897, El Paso, Tex. 79989. Applicant's representative: J. P. Rose (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium tetrachloride*, in bulk, in tank vehicles, from Henderson, Nev., to Richmond, Calif., for 180 days. Supporting shipper: P. H. Norton, Purchasing Agent, Titanium Metals Corporation of America, Post Office Box 2128, Henderson, Nev. 89015. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 119880 (Sub-No. 42 TA), filed September 29, 1970. Applicant: DRUM TRANSPORT, INC., Box 2056, 616 Chicago Street, East Peoria, Ill. 61611. Applicant's representative: B. N. Drum (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from the port of entry between United States and Canada located at or near Blaine, Wash., to Lewiston, Maine, Clifton and Nutley, N.J., and Atlanta, Ga., for 180 days. Supporting shipper: Potter Distilleries, Ltd., Langley, British Columbia, Canada. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 124078 (Sub-No. 456 TA), filed September 25, 1970. Applicant:

SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay slurry*, in bulk, from Wrens, Ga., to Franklin, Va., for 150 days. Supporting shipper: J. M. Huber Corp., Thornall Street, Edison, N.J. 08817 (H. L. Brand, Director of Traffic). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124796 (Sub-No. 73 TA), filed September 29, 1970. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, Calif. 91747. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Washing and cleaning compounds*, from Chicago, Ill., to Houston, Tex., restricted under a continuing contract with The Clorox Co., for 150 days. Supporting shipper: The Clorox Co., Post Office Box 24305, Oakland, Calif. 94623. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 128685 (Sub-No. 5 TA), filed September 28, 1970. Applicant: DIXON BROS., Post Office Box 636, Newcastle, Wyo. 82701. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood laths*, from points in Custer County, S. Dak., to points in Colorado, Iowa, Minnesota, and Nebraska, for 180 days. Supporting shipper: Custer Lumber Co., Post Office Box 191, Custer, S. Dak. 57730. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 304, Lierd Building, 259 South Center Street, Casper, Wyo. 82601.

No. MC 128862 (Sub-No. 6 TA), filed September 28, 1970. Applicant: B. J. CECIL TRUCKING, INC., Post Office Box C, Claypool, Ariz. 85532. Applicant's representative: Earl Carroll, 363 North First Avenue, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper cement*, from the Zonia Mine, located approximately 6 miles east of Kirkland, Ariz., to McGill, Nev., and El Paso, Tex., for 180 days. Supporting shipper: Aaron Ferer & Sons Co., 909 Abbott Drive, Omaha, Nebr. 68102. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 129350 (Sub-No. 10 TA), filed September 28, 1970. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, Post Office Box 212, 410 North 10th Street, 59101, Billings, Mont. 59103. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, Mont. 59103. Authority

sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Rosebud County, Mont., to points in Indiana, Kansas, Michigan, Missouri, and Ohio, for 180 days. Supporting shipper: Ashland Lumber Co., Post Office Box 78, Ashland, Mont. 59003. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 129974 (Sub-No. 2 TA), filed September 30, 1970. Applicant: THOMPSON BROS., INC., Post Office Box 457, Toronto, S. Dak. 57268. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, such as potatoes, frozen, in bulk or in boxes, in vehicles, equipped with mechanical refrigeration, from Clark, S. Dak., to points in Arkansas, California, Connecticut, Georgia, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Thomas F. McGrath, Manager-Rates, The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Com-

merce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 133755 (Sub-No. 7 TA), filed September 30, 1970. Applicant: MILLIS BROS. TRANSFER, INC., Post Office Box 112, Black River Falls, Wis. 54615. Applicant's representative: Daniel Pizzini, 104 Main Street, Black River Falls, Wis. 54615. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, (1) from St. Paul, Minn., to Wausau, Wis., and (2) from Minneapolis, Minn., to Schofield, Wis., for 180 days. Supporting shippers: Beer Distributors, Inc., Route 4, Wausau, Wis. 54401. Erdman Distributing, Inc., 144 Drott Street, Schofield, Wis. 54476. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, Wis. 53703.

No. MC 134777 (Sub-No. 2 TA), filed September 30, 1970. Applicant: SOONER EXPRESS, INC., Post Office Box 219, Sooner Building, Highway 70 South, Madill, Okla. 73446. Applicant's representative: Dale Waymire (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, from St. Joseph, Mo., to points in Massachusetts, for 180 days. Note: Carrier does not intend to tack authority. Supporting shipper: Armour

and Co., 111 East Wacker Drive, Chicago, Ill. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 134955 (Sub-No. 1 TA), filed September 30, 1970. Applicant: ROBERT WELLS, 1366 West 7900 South Street, Midvale, Utah 84047. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New houses and buildings, set up or in sections other than knocked down flat, and not including mobile homes or buildings designed for tow-away service*, from West Jordan, Utah, to points in Coconino and Apache Counties, Ariz., and McKinley County, N. Mex., for 180 days. Supporting shipper: Boise Cascade Transportation Department, Post Office Box 7747, Boise, Idaho 83707. (Forrest B. Larsen, Assistant Manager-Transportation Cost and Analysis). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, Salt Lake City, Utah, 84111.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-13498; Filed, Oct. 7, 1970; 8:51 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—OCTOBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.

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