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Agencies in this issue—

Detailed list of Contents appears inside.

FEDERAL REGISTER

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Contents

(Continued on next page)

List of CFR Parts Affected

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

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

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 4020

WORLD LAW DAY, 1970

By the President of the United States of America

A Proclamation

At a time when a few men and women in many countries are reaching beyond legal forms in pursuit of their goals, it is more important than ever for the vast majority to reaffirm their commitment to the processes of law. But it is not enough that we merely defend the law as we have known it in the past: we must also work to build up rule of law—and to extend its influence in international affairs as well as in our national life.

One way in which the rule of law in world affairs can be encouraged is through stronger efforts to improve and modernize international legal education. The designation of 1970 as International Education Year by the United Nations General Assembly underscores the importance of this effort.

By directing the attention of men and women in all parts of our planet to the need for legal procedures and to their potential for resolving conflicts, we can do much to advance the day when mankind achieves a lasting world peace.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim November 25, 1970, as World Law Day. I call on all our people to join in this Sixth International Observance of World Law Day, as sponsored by the Center for World Peace Through Law. I hope that men and women will use this occasion for reflecting on the importance of legal procedures in their daily lives, on ways in which they can enhance general respect for the law, and on methods for making the law a more effective force in international affairs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth 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.

Richard Nixon

[F.R. Doc. 70-14839; Filed, Oct. 30, 1970; 4:31 p.m.]

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current bound volumes of the Code of Federal Regulations. The rate for subscription service to all revised volumes issued as of January 1, 1970, is $175 domestic; $50 additional for foreign mailing. The subscription price for revised volumes to be issued as of January 1, 1971, will be $175 domestic, $45 additional for foreign mailing.

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

CFR unit (Rev. as of Jan. 1, 1970):

Title		Price
1		$1.00
2–3		1.75
3	1936–1938 Compilation	6.00
	1938–1943 Compilation	9.00
	1943–1948 Compilation	7.00
	1949–1953 Compilation	7.00
	1954–1958 Compilation	4.00
	1959–1963 Compilation	6.00
	1964–1965 Compilation	3.75
	1966 Compilation	1.00
	1967 Compilation	1.00
	1968 Compilation	.75
	1969 Compilation	1.00
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7	Parts:	
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	945–980	1.00
	981–999	1.00
	1000–1029	1.50
	1030–1059	1.25
	1060–1089	1.25
	1090–1119	1.25
	1120–1199	1.50
	1200–1499	2.00
	1500–end	1.50
8		1.00
9		2.00
10		1.75
11	[Reserved]	
12	Parts:	
	1–299	2.00
	300–end	2.00
13		1.25
14	Parts:	
	1–59	2.75
	60–199	2.50
	200–end	3.00
15		1.75
16	Parts:	
	0–149	$3.00
	150–end	2.00
17		2.75
18	Parts:	
	1–149	2.00
	150–end	2.00
19		2.50
20		3.75
21	Parts:	
	1–119	1.75
	120–129	1.75
	130–146e	2.75
	147–end	1.50
22		1.75
23		.35
24		2.50
25		1.75
26	Parts:	
	1 (§§ 1.0–1—1.300)	3.00
	1 (§§ 1.301–1.400)	1.00
	1 (§§ 1.401–1.500)	1.50
	1 (§§ 1.501–1.640)	1.25
	1 (§§ 1.641–1.850)	1.50
	1 (§§ 1.851–1.1200)	2.00
	1 (§ 1.1201–end)	3.25
	2–29	1.25
	30–39	1.25
	40–169	2.50
	170–299	3.50
	300–499	1.50
	500–599	1.75
	600–end	.65
27		.45
28		.75
29	Parts:	
	0–499	1.50
	500–899	3.00
	900–end	1.25
30		1.50
31		1.75
32	Parts:	
	1–8	3.25
	9–39	2.00
	40–399	2.75
	400–589	2.00
	590–699	.75
	700–799	3.50
	800–1199	2.00
	1200–1599	1.50
	1600–end	1.00
32A		1.25
33	Parts:	
	1–199	2.50
	200–end	1.75
34	[Reserved]	
35		1.75
36		1.25
37		.70
38		3.50
39		3.50
40	[Reserved]	
41	Chapters:	
	1	2.75
	2–4	1.00
	5–5D	1.25
	6–17	3.25
	18	3.25
	19–100	.75
	101–end	1.75
42		$1.75
43	Parts:	
	1–999	1.50
	1000–end	3.00
44		.45
45		4.00
46	Parts:	
	1–65	2.75
	66–145	2.75
	146–149	3.75
	150–199	2.50
	200–end	3.00
47	Parts:	
	0–19	1.75
	20–69	2.00
	70–79	1.75
	80–end	2.75
48	[Reserved]	
49	Parts:	
	1–199	3.75
	200–999	1.50
	1000–1199	1.25
	1200–1299	3.00
	1300–end	1.00
50		1.25
General Index		1.50
List of Sections Affected, 1949–1963 (Compilation)		6.75

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 of Schedule C is amended to show the following title changes: from Special Assistant to the Assistant Secretary for Fish and Wildlife, Parks, and Marine Resources to Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks; from Confidential Assistant (Administrative Assistant) to the Assistant Secretary for Fish and Wildlife, Parks, and Marine Resources to Confidential Assistant (Administrative Assistant) to the Assistant Secretary for Fish and Wildlife and Parks; and from Private Secretary to the Director, Office of Hearings and Appeals, to Confidential Assistant to the Director, Office of Hearings and Appeals. Effective on publication in the FEDERAL REGISTER, subparagraphs (5) and (22) of paragraph (a) of § 213.3312 are amended as set out below.

§ 213.3312 **Department of the Interior.**

(a) *Office of the Secretary.* * * *

(5) One Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Mineral Resources, Public Land Management,

Water and Power Development, and Fish and Wildlife and Parks.

* * * * *

(22) Confidential Assistant to the Director, Office of Hearings and Appeals.

* * * * *

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

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

[F.R. Doc. 70-14779; Filed, Nov. 2, 1970; 8:51 a.m.]

Title 7—AGRICULTURE

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

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—U.S. Standards for Grades of Canned Applesauce [1]

On April 23, 1970 a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 6507) regarding a proposed revision of the U.S. Standards for Grades of Canned Applesauce.

These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of such services.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the U.S. Standards for Grades of Canned Applesauce are hereby revised pursuant to the authority contained in the Agricultural Marketing Act of 1946 (sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624).

Statement of consideration leading to the revision. Interested persons were given until August 24 to study and comment on a proposed revision of the grade standards for canned applesauce. The proposal was aimed at bringing previous standards into line with Standards of Identity for canned applesauce recently promulgated under the Federal Food, Drug, and Cosmetic Act and to include various types and styles currently being marketed which were not heretofore covered. The proposal also contained an objective method for determining compliance with requirements for the factors of defects and consistency.

The following comments, suggestions and objections were received from certain members of the applesauce canning industry:

(1) An objection was raised to that portion of the "Product Description" (§ 52.331) which specifies "* * * the product prepared from comminuted or chopped apples which may or may not be peeled and cored * * *."

The reason given for the objection was that applesauce prepared from unpeeled and uncored apples would be of substandard quality.

Since such a product has been produced and marketed for some time and is permitted under the Federal Food and Drug Standards of Identity for Canned Applesauce, deletion from the USDA grade standards would not prohibit its production. Furthermore, canned applesauce purchased on the basis of the USDA grade standards would have to meet requirements for the grade specified regardless of the method of preparation.

(2) An objection was made regarding the inclusion of "artificially colored" applesauce. The reason given was that the proposed color requirements are too subjective.

The Department does not feel these subjective requirements will create a problem in applying the standards since the requirements for the natural color type are also subjective, as well as color requirements in grade standards for certain other products which have been applied meaningfully in the past.

(3) It was suggested that a standard depth of applesauce be specified for the evaluation of the factor of color. No recommendation was offered as to a specific depth.

(4) It was suggested that the allowance for free liquor under the factor of consistency in the regular or comminuted style be expressed in centimeters (cm.) instead of inches.

The Department concurs with this suggestion.

(5) A suggestion was made to make the allowance for free liquor under the factor of consistency for the chunky style more objective.

No recommendations were offered as to specific allowances.

(6) It was recommended that reference to "uniformity of size of apple particles" in the chunky style under the factor of "Finish" be omitted. The reason offered was that due to the method of chopping the apples, there is no intent to control the apple particle size for this style. It was further suggested that uniformity of size of the apple particles in this style has no real bearing on the quality level of the product. The Department concurs with this recommendation.

(7) It was recommended that an objective methodology using various sizes of sieves be included in the grade standards under the factor of finish for the chunky style to ascertain compliance with requirements for finish.

Specific sieve sizes or allowances were not offered in the recommendation.

The following comments and suggestions were received from consumers:

(1) It was suggested that artificial coloring, artificial sweeteners, flavorings, spices, and edible acids be excluded from use in canned applesauce. The principal reason given was that consumers prefer pure applesauce, and that if they want spiced applesauce they can add the spice themselves.

Artificial sweeteners are not permitted either in the USDA grade standards or the Federal Food and Drug standards of identity for canned applesauce.

Since the bulk of applesauce marketed consists only of apples, sugar, and water, the consumer is not being deprived of this applesauce. Applesauce that contains coloring, flavorings, or spices provides the consumers with a choice of the applesauce products as they desire.

(2) It was suggested that the proportion of water to fruit be standardized.

This is taken care of to a great degree in the requirements for the various grade classifications under the factor of consistency.

(3) It was suggested that the product be labeled as to grade so that the consumers will know what grade they are buying.

At the present time a grade designation on the label of processed fruits and vegetables, whether or not officially graded, is not mandatory.

Therefore, the U.S. Standards for Grades of Canned Applesauce are hereby revised as proposed, except as to certain changes as recommended and certain editorial changes that do not change any requirements.

The revision is as follows:

PRODUCT DESCRIPTION, TYPES, STYLES, GRADES

AUTHORITY: The provisions of this subpart issued under sec. 205, 60 Stat. 1090 as amended; 7 U.S.C. 1624.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

PRODUCT DESCRIPTION, STYLES, GRADES

§ 52.331 Product description.

"Canned applesauce", as defined in the Definitions and Standards of Identity for Canned Fruits and Fruit Juices (21 CFR 27.80) issued pursuant to the Federal Food, Drug, and Cosmetic Act, means the product prepared from comminuted or chopped apples, which may or may not be peeled and cored, and which may have added thereto one or more of the optional ingredients specified in the aforementioned standards of identity. The apple ingredient is heated and, in accordance with good manufacturing practices, bruised apple particles, peel, seed, core material, carpel tissue, and other coarse, hard or extraneous materials are removed. The product is sealed in containers and so processed by heat, either before or after sealing as to prevent spoilage.

§ 52.332 Color types.

(a) *Natural color.* (1) Canned applesauce in which the color of the finished product is derived wholly from the apple ingredient.

(2) When a spice or spices have been added, consideration is given to the color, if any, imparted by the added spice or spices.

(b) *Artificially colored.* Canned applesauce in which the color of the finished product is derived from an artificial coloring substance as permitted in the Federal Food and Drug Definitions and Standards of Identity mentioned in § 52.331.

§ 52.333 Flavor types.

(a) *Natural flavor.* Natural flavored canned applesauce is the product in which the flavor is derived from the apple ingredient and other permitted additives exclusive of flavorings or spices.

(b) *Flavored.* Flavored canned applesauce is the product in which the flavor is derived substantially from an added flavoring ingredient, other than artificial flavorings.

(c) *Spiced.* Spiced canned applesauce is the product in which the flavor is derived substantially from an added spice(s).

§ 52.334 Type of pack.

(a) *Unsweetened.* Canned applesauce prepared without the addition of nutritive sweeteners. The product shall test not less than 9° Brix as prescribed under § 52.345.

(b) *Sweetened.* Canned applesauce with nutritive sweeteners added.

§ 52.335 Styles.

(a) *Regular (or comminuted).* Canned applesauce in which the apple ingredient has been comminuted into granular particles.

(b) *Chunk (or chunky).* Canned applesauce in which the apple ingredient has been chopped into small pieces.

§ 52.336 Grades.

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of canned applesauce that possesses a high degree of excellence and that scores not less than 90 points when scored in accordance with the scoring system outlined in this subpart with respect to:

(1) Color,
(2) Consistency,
(3) Defects,
(4) Finish, and
(5) Flavor.

(b) "U.S. Grade B" (or "U.S. Choice") is the quality of canned applesauce that possesses a reasonably high degree of excellence and that scores not less than 80 points when scored in accordance with the scoring system outlined in this subpart with respect to:

(1) Color,
(2) Consistency,
(3) Defects,
(4) Finish, and
(5) Flavor.

(c) "Substandard" is the quality of canned applesauce that fails to meet requirements for "U.S. Grade B".

FILL OF CONTAINER

§ 52.337 Fill of container.

The fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purpose of these grades. The standard of fill of container as specified in the Standard of Fill of Container for Canned Applesauce (21 CFR 27.81) issued pursuant to the Federal Food, Drug, and Cosmetic Act, is a fill not less than 90 percent of the total capacity of the container, as determined by the general method for fill of containers prescribed in 21 CFR 10.6(b); except that in the case of glass containers having a total capacity of 6½ fluid ounces or less, the fill is not less than 85 percent.

FACTORS OF QUALITY

§ 52.338 Ascertaining the grade.

(a) The sample unit size for evaluating the factors of defects and consistency is the amount of applesauce required to fill level full a cylinder measuring 3 inches inside diameter and 3¼ inches high.

(b) The grade of canned applesauce is ascertained by considering the respective ratings for the factors of color, consistency, defects, finish, and flavor, in conjunction with other non-scoreable requirements.

(c) The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors is:

Factors:	Points
Color	20
Consistency	20
Defects	20
Finish	20
Flavor	20
Total score	100

§ 52.339 Ascertaining the rating of the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be ascertained for such factors and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means, 18, 19, or 20 points).

§ 52.340 Color.

(a) *(A) Classification.* Canned applesauce that possesses a good color may be given a score of 18 to 20 points. "Good Color" means that the color of the finished product is bright, practically uniform, and in addition has the following meanings with respect to the following types:

(1) *Natural.* (i) The color is typical for the variety or varieties used and may range from a white color that may be slightly translucent to a light golden color; such color is free from tinges of pink or gray and free from discoloration due to oxidation, scorching, or other causes.

(ii) With respect to spice flavored applesauce, the color is characteristic of the color imparted, if any, by the added spice. Such color is free from tinges of pink or gray and from discoloration due to oxidation, scorching, or other causes.

(2) *Artificially colored.* The color is bright and distinct but not saturated.

(b) *(B) Classification.* Canned applesauce that possesses a reasonably good color may be given a score of 16 or 17 points. Canned applesauce that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means that the color of the finished product may be dull, is reasonably uniform, and in addition has the following meanings with respect to the following types:

(1) *Natural.* (i) The color is typical for the variety or varieties used and may be slightly brown, slightly pink, or slightly gray, but is not off color.

(ii) With respect to spice flavored applesauce, the color imparted by the added spices may be no more than slightly affected by pink or grey color but is not off color.

(2) *Artificially colored.* The color may be fairly bright and is distinct but not saturated.

(c) *(SStd) Classification.* Canned applesauce that fails to meet the requirements of paragraph (b) of this section may be given a score of 0 to 15 points. Canned applesauce that falls into this classification shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.341 Consistency.

(a) *General.* Consistency refers to the flow characteristics of the product and to the degree of separation of free liquor when determined in accordance with the procedure prescribed under § 52.346 of this subpart.

(b) *(A) Classification.* Canned applesauce that has a good consistency may be given a score of 18 to 20 points. "Good consistency" has the following meanings with respect to the following styles:

(1) *Regular (or comminuted).* The product does not flow more than 6.5 centimeters; and there is not more than 0.7 centimeter free liquor present.

(2) *Chunk (or chunky).* The product does not flow more than 7.5 centimeters; and there may be no more than a slight amount of free liquor present.

(c) *(B) Classification.* Canned applesauce that has a reasonably good consistency may be given a score of 16 or 17 points. Canned applesauce that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good consistency" has the following meanings with respect to the following styles:

(1) *Regular (or comminuted).* The product does not flow more than 8.5 centimeters; and there is not more than 1 centimeter free liquor present.

(2) *Chunk (or chunky).* The product flows not more than 9.5 centimeters; and there may be no more than a moderate amount of free liquor present.

(d) *(SStd) Classification.* Canned applesauce that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.342 Defects.

(a) *General.* Defects refer to the degree of freedom from particles of seeds, discolored apple particles, peel, carpel tissue, stamens, and other objectionable particles. Compliance with requirements for Defects is determined by the method specified in § 52.347.

(b) *Definition of terms*—(1) *Carpel tissue.* The tough and sometimes hard and sharp tissue from the center portion (core) of the apple surrounding the seed cavity.

(2) *Stamens.* The dark hairlike substances from the blossom end of the apple.

(3) *Seed particles.* Whole seeds or any portion thereof from the core of the apple.

(4) *Discolored apple particles.* Apple particles that are discolored by bruise or other means to the extent that they do not blend well with the normal color of the product and are noticeable.

(5) *Peel.* Apple peel that does not blend well with the normal color of the product and is noticeable or that is tough whether or not it is visually noticeable.

(c) *(A) Classification.* Canned applesauce that is practically free from defects may be given a score of 18 to 20 points. "Practically free from defects" means that any carpel tissue that may be present is not noticeable upon eating the product and there is present not more than:

(1) Three dark stamens; and

(2) A total of one-half of 1 square centimeter of seed particles, peel, and/or discolored apple particles of which one-fourth of 1 square centimeter may be medium and/or dark in color.

(d) *(B) Classification.* Canned applesauce that is reasonably free from defects may be given a score of 16 or 17 points. Canned applesauce that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that any carpel tissue that may be present is no more than slightly noticeable upon eating the product and there is present not more than:

(1) Five dark stamens; and

(2) A total of one square centimeter of seed particles, peel, and/or discolored apple particles of which one-half of 1 square centimeter may be medium and/or dark in color.

(e) *(SStd) Classification.* Canned applesauce that fails to meet the requirements of paragraph (d) of this section may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.343 Finish.

(a) *General.* Finish refers to the texture and tenderness of the apple particles, and with respect to Regular (or comminuted) style, the evenness of division of the apple particles; with respect to Chunk (or chunky) style, the proportion of chunks or pieces of apple in relation to fine apple particles that may be present.

(b) *(A) Classification.* Canned applesauce that has a good finish may be given a score of 18 to 20 points. "Good finish" means that the apple particles are tender and in addition has the following meanings with respect to the following styles:

(1) *Regular (or comminuted).* The apple particles are evenly divided, granular to the extent that they are of a crisp texture upon eating; not lumpy; and the product is free from a "pasty" or "salvy" texture.

(2) *Chunk (or chunky).* There is a high proportion of apple chunks present and any fine apple particles that may be present no more than moderately affects the appearance and/or eating quality of the product.

(c) *(B) Classification.* Canned applesauce that has a fairly good finish may be given a score of 16 or 17 points. Canned applesauce that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Fairly good" finish means that the apple particles are fairly tender but not hard or mushy, and in addition has the following meanings with respect to the following styles:

(1) *Regular (or comminuted).* The apple particles are evenly divided; the product may lack granular characteristics, and the product may be slightly "salvy" or "pasty".

(2) *Chunk (or chunky).* There is a fairly high proportion of apple chunks present and any fine apple particles that may be present do not seriously affect the appearance and/or eating quality of the product.

(d) *(SStd) Classification.* Canned applesauce that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.344 Flavor.

Flavor refers to the degree of excellence of the natural flavor and aroma of the apple ingredient; to the apparent relationship of acidity to sweetness; to the freedom of undesirable flavors; and with respect to flavored and spiced types, to the flavor balance of the apple ingredient and the flavor or spice ingredients.

(a) *(A) Classification.* Canned applesauce that possesses a good flavor may be given a score of 18 to 20 points. "Good flavor" means that the product has a distinct, pleasing, and characteristic flavor that is free from flavors due to overripe apples, oxidation, fermentation, caramelization, or ground or musty flavors due to storage or other causes or any other undesirable flavor, and in addition has the following meanings with respect to the following types:

(1) *Unsweetened.* The product has a good natural sugar-acid balance in that it may be slightly tart or slightly bland but is free from astringent flavors; and it tests not less than 9° Brix, measured as prescribed in § 52.345.

(2) *Sweetened.* The product has a good sugar-acid balance in that it may range from slightly tart to sweet; is free from astringent flavors; and tests not less than 16.5° Brix, measured as prescribed in § 52.345.

(3) *Flavored; spiced.* In addition to meeting the flavor requirements for unsweetened or sweetened types, paragraph (a) of this section, as the case may be, the flavor is distinct and characteristic of the added flavoring ingredient or added spice(s) but is not strong.

(b) *(B) Classification.* Canned applesauce that possesses a reasonably good flavor may be given a score of 16 or 17 points. Canned applesauce that falls into this classification may not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good" flavor means that the product may possess flavors due to overripe apples, oxidation, caramelization, or ground or musty flavors due to storage or other causes that are not objectionable but is free from flavors due to fermentation and in addition has the following meanings with respect to the following types:

(1) *Unsweetened.* The product has a fairly good natural sugar-acid balance in that it may be moderately tart, or it may be bland, or it may be slightly astringent, but not to the extent that it is objectionable; and it tests not less than 9° Brix, measured as prescribed in § 52.345.

(2) *Sweetened.* The flavor of the product may be tart, is not excessively sweet, or it may be slightly astringent but not to the extent that it is objectionable; and it tests not less than 14.5° Brix, measured as prescribed in § 52.345.

(3) *Flavored; spiced.* In addition to meeting flavor requirements for unsweetened or sweetened types of paragraph (b) of this section, as the case may be, the flavor derived from the added flavoring ingredient or spice ingredient(s) may be slightly weak or slightly strong but is not objectionable.

(c) *(SStd) Classification.* Canned applesauce that fails to meet the requirements of paragraph (b) of this section may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

METHODS OF ANALYSIS

§ 52.345 Soluble solids determination.

The soluble solids content of canned applesuace is the soluble solids as determined by refractometric method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists", 10th edition; page 309, section 20.016, except that no correction is made for water—insoluble solids. The soluble solids is expressed as "degrees Brix".

§ 52.346 Determination of consistency.

(a) *Equipment.*

(1) USDA Flow Sheet No. 1.

(2) Cylinder—3 inches inside diameter; 3¼ inches high.

(3) Scraper.

The USDA Flow Sheet No. 1, cylinder, and scraper may be obtained from the licensed supplier:

Art and Industrial Lamination Corp., Room 202, 8425 Hilltop Road, Fairfax, Va. 22030.

(b) *Procedure.* (1) Stir contents of container thoroughly, with contents at approximately room temperature;

(2) Place the clean, dry cylinder exactly over the center of the flow sheet—placed on a flat surface under good lighting conditions—by aligning the inside of the cylinder with the periphery of the center circle;

(3a) Transfer the well-mixed sample to the cylinder so that the applesauce will fill the cylinder to level full; or

(3b) In the case of No. 10 containers, first transfer a well-mixed sample to a 600 ml. beaker or other suitable container (No. 303 or No. 2½ can) sufficient to fill the beaker or container before transferring the applesauce to the cylinder as stated in subparagraph (3a) of this paragraph;

(4) Remove any excess applesauce with a spatula or other suitable instrument, leveling off the top. (Do not remove any free liquor that accumulates around the bottom of the cylinder);

(5) With a smooth, even motion, lift the cylinder straight up, permitting the applesauce to spread freely;

(6) Permit the mound of applesauce thus formed to stand for exactly 1 minute;

(7) Determine the extent of flow by averaging the readings taken at the four quadrants of the flow sheet. (Readings are taken at the edge of the applesauce exclusive of any free liquor);

(8) In the case of Regular (or comminuted) style, determine the amount of free liquor, if any, by measuring the liquor from the edge of the applesauce at the four quadrants and averaging these measurements.

§ 52.347 Examination for defects.

(a) *Sample preparation.* (1) In the case of Regular (or comminuted) style, with the use of the spreader, spread the sample unit of applesauce used for evaluating consistency (as specified in § 52.346(b)) out over the flow sheet in an even layer holding the spreader in a vertical position in order to maintain an even, maximum depth permitted by the spreader.

(2) In the case of chunky style, spread the sample unit out in as shallow and even a layer as possible using either the notched edge or back edge of the scraper.

(b) *Appearance evaluation.* View the spread sample and evaluate the degree to which the general overall appearance is affected by any defects that may be present.

(c) *Measurable defects.* With a pair of tweezers or other suitable instrument, pick out all scoreable defects (as described in § 52.342(b)) from the sample. Remove any excess apple particles from the defects and, except for stamens, place the defects in a contiguous position on the measurement chart in the corner of the flow sheet. Pick out all noticeable specks that may be beneath the surface of the applesauce to determine whether they are scoreable.

(d) *Stamens.* Count the dark stamens that may be present in the sample unit.

LOT COMPLIANCE

§ 52.348 Ascertaining the grade of a lot.

The grade of a lot of canned applesauce covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products thereof, and certain other processed food products (§§ 52.1 through 52.87).

SCORE SHEET

§ 52.349 Score sheet for canned applesauce.

Size and kind of container.....
Container mark or identification.....
Label.....
Net weight (ounces).....
Degrees Brix (by refractometer).....
Style.....
Vacuum.....

Factors		Score points	
Color	20	(A)	18-20
		(B)	1 16-17
		(SStd)	1 0-15
Consistency	20	(A)	18-20
		(B)	1 16-17
		(SStd)	1 0-15
Defects	20	(A)	18-20
		(B)	1 16-17
		(SStd)	1 0-15
Finish	20	(A)	18-20
		(B)	1 16-17
		(SStd)	1 0-15
Flavor	20	(A)	18-20
		(B)	1 16-17
		(SStd)	1 0-15
Total score	100		

Grade.....

1 Indicates limiting rule.

The U.S. Standards for Grades of Canned Applesauce (which is the fourth issue) contained in this subpart shall become effective 30 days after the date of publication hereof in the FEDERAL REGISTER, and thereupon will supersede the United States Standards for Grades of Canned Applesauce (7 CFR Part 52) which have been in effect since September 18, 1950.

Dated: October 28, 1970.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 70-14734; Filed, Nov. 2, 1970; 8:47 a.m.]

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

[Orange Reg. 66, Amdt. 1]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Temple and Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the Growers Administrative Committee reflect its appraisal of the Florida orange crop and the current and prospective market conditions. Except for Navel oranges, more restrictive regulation requirements should be made effective no later than November 2, 1970, because the maturity of oranges is such that larger amounts are available, hence, a higher minimum grade regulation for Florida oranges for fresh shipment is needed to (1) maintain returns to producers consistent with the declared policy of the act by preventing the shipment of less desirable oranges to fresh market outlets, and (2) provide consumers with oranges of the most desirable quality.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than November 2, 1970. Domestic shipments of

Florida oranges, except Temple and Murcott Honey oranges, are currently regulated pursuant to Orange Regulation 66 (35 F.R. 14499) and determinations as to the need for, and extent of, continued regulation of Florida orange shipments must await the development of the crop and the availability of information on the demand for such fruit; the recommendations and supporting information for regulation of orange shipments subsequent to November 2, 1970, and in the manner herein provided, were promptly submitted to the Department after an assembled meeting of the Growers Administrative Committee on October 27, 1970. Such meeting was held (after giving due notice) to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views; the provisions of this amendment are identical with the aforesaid recommendations of the committee, and information concerning such provisions has been disseminated among handlers of such oranges; it is necessary in order to effectuate the declared policy of the act, to make this amendment effective as hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 905.524 (Orange Reg. 66; 35 F.R. 14499) the provisions of paragraph (a)(1)(i) and paragraph (b) are amended to read as follows:

§ 905.524 Orange Regulation 66.

(a) * * *

(1) * * *

(i) Any oranges, except Navel, Temple and Murcott Honey oranges, grown in the production area, which do not grade at least Florida No. 1 Grade for oranges;

* * * * *

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meanings as given to the respective terms in said amended marketing agreement and order; "Florida No. 1 Grade" shall have the same meaning as when used in section (1)(a) of Regulation 105–1.02, as amended, effective October 28, 1970, of the Regulations of the Florida Citrus Commission, and all other terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meanings as given to the respective terms in the U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title).

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

Dated October 30, 1970, to become effective November 2, 1970.

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

[F.R. Doc. 70–14805; Filed, Oct. 30, 1970; 1:43 p.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart—Tobacco Loan Program

Set forth below is a schedule of advance rates, by grades, for the 1970 crop of types 21, 22, 23, 31, 35, 36, and 37 tobacco, under the tobacco loan program published June 18, 1970 (35 F.R. 10000). The material previously appearing under the section numbers shown below remains applicable to the crop to which each refers.

Sec.
1464.17 1970 Crop—Virginia Fire-cured Tobacco, Type 21, Advance Schedule.
1464.18 1970 Crop—Kentucky - Tennessee Fire-cured Tobacco, Types 22 and 23, Advance Schedule.
1464.19 1970 Crop—Dark Air-cured Tobacco, Types 35 and 36, Advance Schedule.
1464.20 1970 Crop—Virginia Sun-cured Tobacco, Type 37, Advance Schedule.
1464.21 1970 Crop—Burley Tobacco, Type 31, Advance Schedule.

§ 1464.17 1970 Crop—Virginia Fire-cured Tobacco, Type 21, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44	Length 43
A1F	65.25	65.25		
A2F	60.25	61.25		
A1D	65.25	65.25		
A2D	60.25	61.25		
B1F	63.25	63.25		
B2F	58.25	58.25	51.25	
B3F	50.25	51.25	49.25	39.25
B4F	45.25	48.25	45.25	39.25
B5F	40.25	41.25	40.25	35.25
B1D	63.25	63.25		
B2D	57.25	58.25	51.25	
B3D	49.25	50.25	48.25	40.25
B4D	42.25	45.25	42.25	39.25
B5D	40.25	40.25	39.25	37.25
B3M	44.25	46.25	44.25	39.25
B4M	42.25	44.25	42.25	37.25
B5M	37.25	39.25	38.25	32.25
B3G	42.25	43.25	43.25	37.25
B4G	40.25	41.25	40.25	37.25
B5G	37.25	38.25	37.25	31.25
C1L	68.25	68.25		
C2L	65.25	65.25	56.25	
C3L	55.25	56.25	52.25	
C4L	48.25	49.25	48.25	
C5L	42.25	43.25	42.25	
C1F	68.25	68.25		
C2F	65.25	65.25	56.25	
C3F	55.25	57.25	51.25	
C4F	49.25	51.25	40.25	
C5F	43.25	46.25	44.25	
C2D	42.25	44.25	41.25	
C3D	41.25	41.25	40.25	
C4D	38.25	39.25	38.25	
C5D	32.25	33.25	32.25	
C3M	45.25	47.25	47.25	
C4M	42.25	44.25	42.25	
C5M	39.25	40.25	39.25	
C3G	39.25	41.25	39.25	
C4G	37.25	39.25	37.25	
C5G	35.25	37.25	35.25	

Grade		Grade	
X1L	50.25	X5F	43.25
X2L	49.25	X1D	46.25
X3L	48.25	X2D	43.25
X4L	45.25	X3D	41.25
X5L	42.25	X4D	39.25
X1F	51.25	X5D	35.25
X2F	49.25	X3M	45.25
X3F	48.25	X3M 45	41.25
X4F	46.25	X4M	43.25

See footnote at end of document.

Grade		Grade	
X4M 45	39.25	X5G	34.25
X5M	39.25	X5G 45	32.25
X5M 45	36.25	N1L	32.25
X3G	42.25	N1D	31.25
X3G 45	39.25	N1G	30.25
X4G	39.25	N2	22.25
X4G 45	36.25		

§ 1464.18 1970 Crop—Kentucky-Tennessee Fire-cured Tobacco, Types 22 and 23, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44	Length 43
A1F	67	67		
A2F	62	62		
A3F	54	54		
A1D	67	67		
A2D	62	62		
A3D	54	54		
B1F	58	58	54	
B2F	55	55	52	
B3F	51	51	49	43
B4F	48	48	46	39
B5F	44	44	42	36
B1D	57	57	53	
B2D	54	54	51	
B3D	53	53	51	44
B4D	47	47	45	38
B5D	43	43	40	34
B3M	49	49	46	40
B4M	45	45	42	34
B5M	39	39	35	29
B3VF	48	48	45	37
B4VF	46	46	44	36
B5VF	42	42	40	32
B3G	49	49	47	37
B4G	44	44	41	32
B5G	40	40	36	30
C1L	58	58	55	
C2L	55	55	53	
C3L	54	54	51	45
C4L	51	51	49	43
C5L	48	48	47	40
C1F	58	58	55	
C2F	55	55	53	
C3F	54	54	52	45
C4F	51	51	49	42
C5F	49	49	46	39
C1D	58	58	54	
C2D	50	50	47	
C3D	47	47	44	38
C4D	42	42	40	34
C5D	41	41	39	32
C3M	49	49	46	40
C4M	45	45	44	38
C5M	43	43	41	33
C3VF	50	50	47	41
C4VF	47	47	45	39
C5VF	45	45	43	37
C3G	45	45	42	34
C4G	42	42	38	33
C5G	38	38	35	32

Grade		Grade	
X1L	50	X5D	38
X2L	48	X3M	43
X3L	47	X4M	41
X4L	44	X5M	38
X5L	42	X3VF	45
X1F	49	X4VF	43
X2F	47	X5VF	40
X3F	46	X3G	42
X4F	44	X4G	38
X5F	42	X5G	35
X1D	48	N1L	38
X2D	46	N1D	34
X3D	43	N1G	33
X4D	41	N2	28

§ 1464.19 1970 Crop—Dark Air-cured Tobacco, Types 35 and 36, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	58	58	
A1R	58	58	
A2F	54	54	
A2R	54	54	
A3F	49	49	

See footnote at end of document.

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A3R	49	49	
B1F	54	54	51
B1R	53	53	51
B1D	53	53	51
B2F	50	50	49
B2R	49	49	48
B2D	49	49	48
B3F	48	48	46
B3R	46	46	45
B3D	46	46	45
B3M	45	45	44
B3G	44	44	43
B4F	45	45	44
B4R	44	44	43
B4D	45	45	44
B4M	41	41	40
B4G	41	41	40
B5F	41	41	40
B5R	41	41	40
B5D	40	40	39
B5M	37	37	36
B5G	37	37	36
C1L	54	54	53
C1F	54	54	53
C1R	52	52	51
C2L	53	53	52
C2F	52	52	51
C2R	50	50	49
C3L	51	51	50
C3F	50	50	48
C3R	47	47	45
C3M	45	45	44
C3G	46	46	44
C4L	47	47	46
C4F	47	47	46
C4R	42	42	41
C4M	39	39	38
C4G	40	40	39
C5L	40	40	38
C5F	41	41	40
C5R	37	37	36
C5M	36	36	35
C5G	36	36	35

Grade		Grade	
T3F	41	X3R	43
T3R	41	X3D	44
T3D	41	X3M	41
T3M	40	X3G	40
T3G	40	X4L	45
T4F	37	X4F	44
T4R	37	X4R	39
T4D	37	X4D	39
T4M	35	X4M	38
T4G	35	X4G	36
T5F	29	X5L	42
T5R	29	X5F	42
T5D	29	X5R	37
T5M	28	X5D	37
T5G	28	X5M	37
X1L	50	X5G	33
X1F	50	N1L	36
X1R	50	N2L	30
X2L	48	N1R	31
X2F	48	N2R	28
X2R	47	N1G	31
X3L	47	N2G	28
X3F	45		

§ 1464.20 1970 Crop—Virginia Sun-cured Tobacco, Type 37, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	63.25	63.25	61.22
A2F	59.25	59.25	56.25
A3F	56.25	56.25	53.25
A1R	64.25	64.25	61.25
A2R	60.25	60.25	57.25
A3R	57.25	57.25	54.25
B1F	63.25	64.25	56.25
B2F	60.25	62.25	57.25
B3F	53.25	56.25	53.25
B4F	47.25	51.25	49.25
B5F	41.25	42.25	41.25
B1R	63.25	64.25	57.25
B2R	60.25	62.25	57.25
B3R	53.25	56.25	52.25
B4R	46.25	49.25	47.25

See footnote at end of document.

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
B5R	42.25	43.25	42.25
B1D	61.25	61.25	56.25
B2D	60.25	61.25	56.25
B3D	50.25	52.25	49.25
B4D	44.25	45.25	44.25
B5D	40.25	41.25	40.25
B3M	44.25	47.25	44.25
B4M	43.25	46.25	44.25
B5M	37.25	40.25	39.25
B3G	43.25	47.25	44.25
B4G	41.25	44.25	43.25
B5G	38.25	39.25	38.25
C1L	61.25	62.25	54.25
C2L	55.25	56.25	51.25
C3L	52.25	54.25	50.25
C4L	45.25	47.25	45.25
C5L	39.25	40.25	39.25
C1F	61.25	62.25	54.25
C2F	55.25	57.25	53.25
C3F	51.25	54.25	50.25
C4F	45.25	50.25	47.25
C5F	38.25	41.25	40.25
C1R	58.25	58.25	52.25
C2R	52.25	52.25	48.25
C3R	46.25	46.25	44.25
C4R	40.25	42.25	40.25
C5R	35.25	36.25	35.25
C3M	41.25	44.25	43.25
C4M	38.25	42.25	40.25
C5M	36.25	40.25	38.25
C3G	36.25	39.25	36.25
C4G	34.25	37.25	35.25
C5G	29.25	30.25	29.25

Grade		Grade	
T3F	42.25	X4F	43.25
T4F	40.25	X5F	38.25
T5F	34.25	X1R	47.25
T3R	42.25	X2R	44.25
T4R	40.25	X3R	40.25
T5R	35.25	X4R	39.25
T3D	40.25	X5R	31.25
T4D	38.25	X3D	36.25
T5D	32.25	X4D	34.25
T3M	40.25	X5D	28.25
T4M	37.25	X3M	42.25
T5M	31.25	X4M	39.25
T3G	41.25	X5M	37.25
T4G	39.25	X3G	39.25
T5G	33.25	X4G	36.25
X1L	49.25	X5G	32.25
X2L	47.25	N1L	24.25
X3L	44.25	N2L	17.25
X4L	42.25	N1R	26.25
X5L	37.25	N2R	18.25
X1F	49.25	N1G	26.25
X2F	48.25	N2G	18.25
X3F	45.25		

§ 1464.21 1970 Crop—Burley Tobacco, Type 31, Advance Schedule.

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate	Grade	Advance rate
B1F	76.25	B5VF	63.25
B2F	74.25	B3VR	60.25
B3F	73.25	B4VR	58.25
B4F	71.25	B5VR	54.25
B5F	69.25	B3GF	62.25
B1FR	72.25	B4GF	60.25
B2FR	70.25	B5GF	55.25
B3FR	68.25	B3GR	52.25
B4FR	66.25	B4GR	49.25
B5FR	64.25	B5GR	46.25
B1R	68.25	T3F	70.25
B2R	66.25	T4F	66.25
B3R	64.25	T5F	62.25
B4R	63.25	T3FR	66.25
B5R	60.25	T4FR	63.25
B4D	50.25	T5FR	60.25
B5D	46.25	T3R	58.25
B3K	66.25	T4R	55.25
B4K	62.25	T5R	50.25
B5K	55.25	T4D	49.25
B3M	68.25	T5D	46.25
B4M	65.25	T4K	48.25
B5M	57.25	T5K	45.25
B3VF	70.25	T4VF	61.25
B4VF	67.25	T5VF	57.25

Grade	Advance Rate	Grade	Advance Rate
T4VR	52.25	X2L	78.25
T5VR	47.25	X3L	77.25
T4GF	54.25	X4L	74.25
T5GF	49.25	X5L	71.25
T4GR	46.25	X1F	79.25
T5GR	43.25	X2F	78.25
C1L	79.25	X3F	77.25
C2L	78.25	X4F	75.25
C3L	77.25	X5F	72.25
C4L	76.25	X4M	69.25
C5L	73.25	X5M	61.25
C1F	79.25	X4G	62.25
C2F	78.25	X5G	55.25
C3F	77.25	M1F	76.25
C4F	76.25	M2F	75.25
C5F	73.25	M3F	73.25
C3K	70.25	M4F	68.25
C4K	68.25	M5F	64.25
C5K	62.25	M3FR	60.25
C3M	72.25	M4FR	56.25
C4M	69.25	M5FR	51.25
C5M	64.25	N1L	67.25
C3V	74.25	N2L	58.25
C4V	71.25	N1F	60.25
C5V	65.25	N1R	46.25
C4G	59.25	N2R	40.25
C5G	53.25	N1G	44.25
X1L	79.25	N2G	40.25

Effective date. Date of filing with the Office of the Federal Register.

Signed at Washington, D.C., on October 26, 1970.

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

[F.R. Doc. 70-14657; Filed, Nov. 2, 1970; 8:45 a.m.]

Chapter XV—Foreign Agricultural Service, Department of Agriculture

PART 1520—AVAILABILITY OF INFORMATION TO THE PUBLIC

Part 1520, dealing with the availability to the public of the records of the Foreign Agricultural Service, is hereby revised. The description of the organization of the Foreign Agricultural Service is published as a notice in the FEDERAL REGISTER (currently 32 F.R. 10117). The fee schedule for copies of available documents is also published as a notice in the

[1] Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "No-G" (no grade), or scrap will not be accepted. Cooperatives for types 21, 31, and 37 are authorized to deduct 25 cents per hundred pounds to apply against overhead costs. Tobacco of types 22, 23, 35, and 36 graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Tobacco of types 21, 31, and 37 graded "W" (doubtful keeping order) will not be accepted. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Types 35 and 36 grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Types 21, 22, and 23 grades of 47 length and types 35 and 36 grades of 47 length, except grades A1F, A1R, A2F, and A2R, shall have an advance rate 5 percent below the advance rate applicable for 46 length of each grade. The advance rates for grades A1F, A1R, A2F, and A2R of types 35 and 36 in 47 length shall be the same as those for such grades in 46 length.

FEDERAL REGISTER (currently 33 F.R. 14726). Such notices are subject to revision from time to time. Part 1520, as revised, reads as follows:

Subpart A—General

Sec.
1520.1 General statement.
1520.2 Organizational description.

Subpart B—Availability of Program Information, Staff Manuals, and Related Material

1520.3 Index.
1520.4 Records available from index.
1520.5 Facilities for inspection and availability of copies.

Subpart C—Availability of Identifiable Records

1520.6 Requests.
1520.7 Exempt records.
1520.8 Denials.
1520.9 Appeals.

AUTHORITY: The provisions of this Part 1520 issued under 5 U.S.C. 301, 552(a) (2), (3) and (b); 5 U.S.C. 559.

Subpart A—General

§ 1520.1 General statement.

This part is issued in accordance with and subject to the regulations of the Secretary of Agriculture, §§ 1.1 through 1.4 of this title, and governs the availability of records of the Foreign Agricultural Service ("FAS") to the public upon request.

§ 1520.2 Organizational description.

The description of the organization of FAS is published as a notice in the FEDERAL REGISTER and may be revised from time to time in like manner. Such description contains a listing of FAS organizational units and their functions.

Subpart B—Availability of Program Information, Staff Manuals, and Related Material

§ 1520.3 Index.

The Director, Foreign Market Information Division, FAS, will maintain a current index providing identifying information with respect to records referred to in § 1520.4.

§ 1520.4 Records available from index.

Records listed in the index will include final orders and opinions, statements of policy and interpretation, and administrative staff manuals and instructions.

§ 1520.5 Facilities for inspection and availability of copies.

(a) Facilities for public inspection and copying of material listed in the index will be provided in a reading room in the office of the Director, Foreign Market Information Division, FAS, South Building, U.S. Department of Agriculture, Washington, D.C.

(b) The index, and the material listed therein, may be inspected and copied during regular working hours, or may be obtained by mail.

(c) Copies of the index, and the material listed therein, may be obtained upon payment of any applicable fees.

Subpart C—Availability of Identifiable Records

§ 1520.6 Requests.

(a) Requests for FAS records, other than those available under Subpart B, shall be made in writing to the Director, Foreign Market Information Division, FAS.

(b) Each record requested must be identified with reasonable specificity.

(c) Records so requested will be made available, except for exempt records in the categories specified in § 1520.7.

(d) Available records may be inspected and copied in the office of the Director, Foreign Market Information Division, FAS, during regular working hours, or may be obtained by mail. Copies will be provided upon payment of any applicable fees.

§ 1520.7 Exempt records.

The following records of FAS are exempt from disclosure:

(a) Matters specifically required by Executive order to be kept secret.

(b) Matters related solely to the internal personnel rules and practices.

(c) Matters specifically exempted from disclosure by statute.

(d) Matters that are trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(e) Interagency or intraagency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. See 7 CFR, Part 0, Subpart B, for the policy pertaining to lists of names of farmers, businessmen, persons, organizations, and firms.

(g) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency.

§ 1520.8 Denials.

If the Director, Foreign Market Information Division, FAS, determines that a requested record is exempt, he shall give prompt written notice of the denial, together with the reasons therefor.

§ 1520.9 Appeals.

A denial by the Director, Foreign Market Information Division, FAS, of any request may be appealed, by the person who made the request, to the Administrator, FAS. The appeal shall be made in writing within 15 days of the date of receipt of the notice of the denial from the Director, Foreign Market Information Division. Upon timely appeal, the Administrator shall make the final determination and give written notice thereof, together with the reasons therefor in the case of denials.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 28, 1970.

RAYMOND A. IOANES,
Administrator,
Foreign Agricultural Service.

[F.R. Doc. 70-14773; Filed, Nov. 2, 1970; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-286]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, paragraph (e) is amended and paragraphs (f) and (g) are reissued to read as follows:

§ 76.2 Notice relating to existence of hog cholera; prohibition of movement of any hog cholera virus, exceptions; spread of disease through raw garbage; regulations; quarantines; eradication States; and free States.

* * * * *

(e) *Notice of quarantine.* Notice is hereby given that because of the existence of hog cholera in the States of Alabama, Arizona, Indiana, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Missouri, Nebraska, New York, North Carolina, Ohio, South Carolina, Texas, and Virginia, and the nature and extent of outbreaks of this disease, the following areas are quarantined because of said disease:

(1) *Alabama.* That portion of Covington County bounded by a line beginning at the junction of the Patsaliga Creek and the Covington-Crenshaw County line; thence, following the Covington-Crenshaw County line in an easterly direction to Big Creek; thence, following Big Creek in a southeasterly direction to the south bank of the Conecuh River; thence, following the south bank of the Conecuh River in a generally northeasterly direction to the Dozier to Rose Hill Road; thence, following the Dozier to Rose Hill Road in a generally southeasterly direction to the Rose Hill to

Haygood Road; thence, following the Rose Hill to Haygood Road in a southwesterly direction to the Haygood to Heath Road; thence, following the Haygood to Heath Road in a southwesterly direction to the Heath to River Falls Road; thence, following the Heath to River Falls Road in a southwesterly direction to State Highways 12, 55; thence, following State Highways 12, 55 in a northwesterly direction to the west bank of the Conecuh River; thence, following the west bank of the Conecuh River in a generally northeasterly direction to Patsaliga Creek; thence, following Patsaliga Creek in a generally northeasterly direction to its junction with the Covington-Crenshaw County line.

(2) *Arizona.* That portion of Maricopa County bounded by a line beginning at the junction of Yuma Road and Perryville Road; thence, following Perryville Road in a southerly direction to its junction with Baseline Road and the Gila and Salt River Base Line; thence, following the Gila and Salt River Base Line in an easterly direction to the southeastern corner of sec. 31, of T. 1 N., R. 1 W.; thence, following the eastern boundaries of secs. 31, 30, and 19, of T. 1 N., R. 1 W. in a northerly direction to Reams Road; thence, following Reams Road in a northerly direction to Yuma Road; thence, following Yuma Road in a westerly direction to its junction with Perryville Road.

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

(4) *Indiana.* That portion of Hancock County comprised of Buck Creek Township.

(5) *Kansas.* That portion of Wyandotte County bounded by a line beginning at the intersection of U.S. Highway 73, 40, 24 and Secondary Road 761; thence, following Secondary Road 761 and continuing on Secondary Road 1648 in a northeasterly direction to Donohoo Road; thence, following Donohoo Road in a southeasterly direction to the southernmost end of the Wyandotte County Lake; thence, following Hurrelbrink Street and East Cerneck Street in an easterly direction to the western boundary of Kansas City limits; thence, following the western boundary of Kansas City limits in a generally southerly direction to U.S. Highway 73, 40, 24; thence, following U.S. Highway 73, 40, 24 in a westerly direction to its junction with Secondary Road 761.

(6) *Louisiana.* That portion of Madison Parish bounded by a line beginning at the junction of the east bank of Bayou Macon and the northern boundary line of sec. 21 in T. 16 N., and R. 10 E.; thence, following the east bank of Bayou Macon in a generally southwesterly direction to the Madison-Franklin Parish line; thence, following the Madison-Franklin Parish line in an easterly direction to the Madison-Tensas Parish line; thence, following the Madison-Tensas Parish line in an easterly and thence northeasterly direction to Spring Bayou; thence, following the west bank of Spring Bayou in a generally northwesterly direction to Alligator Bayou; thence, following the west bank of Alligator Bayou in a generally northwesterly direction to the Tensas River; thence, following the west bank of the Tensas River in a generally northwesterly direction to the division line between secs. 16 and 21 in T., 16 N. and R. 11 E.; thence, following the division line between secs. 16 and 21 in 16 N., and R. 11 E.; in a westerly direction and continuing west along the northern boundaries of secs. 20 and 19 in T. 16 N., and R. 11 E.; thence continuing west along the northern boundary lines of secs. 24, 23, 22, and 21 in T. 16 N., and R. 10 E. to the junction of the northern boundary line of said sec. 21 with the east bank of Bayou Macon.

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

(8) *Massachusetts.* That portion of Bristol County comprised of Norton Town, Raynhan Town, and Taunton Town.

(9) *Missouri.* (i) That portion of Stoddard County bounded by a line beginning at the junction of State Highways K and V; thence, following State Highway K in a southerly direction to State Highway M; thence, following State Highway M in a southerly direction to the Castor River; thence, following the south bank of the Castor River in a generally southeasterly direction to State Highway N; thence, following State Highway N in a generally southerly direction to U.S. Highway 60; thence, following U.S. Highway 60 in a southwesterly direction to State Highway AD; thence, following State Highway AD in a northerly direction to the division line between T. 25 N., and T. 26 N.; thence, following the division line between T. 25 N. and T. 26 N. in a westerly direction to the west boundary of sec. 35 in T. 26 N. and R. 9 E.; thence, following the west boundaries of secs. 35, 26, 23, 14, and 11, in T. 26 N., and R. 9 E. in a northerly direction to State Highway J; thence, following State Highway J in a westerly direction to the west boundary of sec. 10 in T. 26 N., and R. 9 E.; thence, following the west boundary of secs. 10 and 3 in T. 26 N., and R. 9 E. in a northerly direction and continuing north along the west boundaries of secs. 34, 27, 22, 15, 10, and 3, in T. 27 N., and R. 9 E. to State Highway K; thence, following State Highway K in an easterly direction to its junction with State Highway V.

(ii) That portion of Stoddard County bounded by a line beginning at the junction of State Highways J and WW; thence, following State Highway WW in a generally southerly direction to U.S. Highway 60; thence, following U.S. Highway 60 in a southwesterly direction to the Stoddard-Butler County line; thence, following the Stoddard-Butler County line in a generally northwesterly direction to the Stoddard-Wayne County line; thence, following the Stoddard-Wayne County line in an easterly direction to State Highway T; thence, following State Highway T in a generally easterly direction to State Highway J; thence, following State Highway J in a southerly and easterly direction to its junction with State Highway WW.

(10) *Nebraska.* That portion of Nuckolls County bounded by a line beginning at the junction of State Road 14 and the Nebraska-Kansas State line; thence, following State Road 14 in a northeasterly and then northerly direction to Sankey Road; thence, following Sankey Road in an easterly direction to Crosby Creek; thence, following the west bank of Crosby Creek in a southeasterly direction to the Nebraska-Kansas State line; thence, following the Nebraska-Kansas State line in a westerly direction to its junction with State Road 14.

(11) *New York.* That portion of Montgomery County lying south of the Mohawk River, east of County Roads 27 and 145, north of the New York State Thruway, and west of State Highway 30.

(12) *North Carolina.* (i) That portion of the State of North Carolina comprised of all of Camden, Pasquotank, Perquimans, Chowan, and Gates Counties bounded by a line beginning at the junction of the Chowan River and the North Carolina-Virginia State line; thence, following the east bank of the Chowan River in a generally southeasterly direction to the Albemarle Sound; thence, following the north coast line of the Albemarle Sound in a generally northeasterly direction to the Currituck-Camden County line (also the North River); thence, following the Currituck-Camden County line in a generally northwesterly direction to the North Carolina-Virginia State line; thence, following the North Carolina-Virginia State line in a westerly direction to its junction with the Chowan River.

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

1120; thence, following Secondary Road 1120 in a northeasterly direction to its junction with the Roquist Creek.

(iii) 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.

(iv) That portion of Greene County bounded by a line beginning at the junction of Contentnea Creek and U.S. Highway 258 (also U.S. Highway 13); thence, following U.S. Highway 258 in a northeasterly direction to State Highway 123; thence, following State Highway 123 in a southeasterly direction to Secondary Road 1335; thence, following Secondary Road 1335 in an easterly and then southerly direction to Secondary Road 1336; thence, following Secondary Road 1336 in a southeasterly direction to State Highway 102; thence, following State Highway 102 in a southeasterly direction to Secondary Road 1406; thence, following Secondary Road 1406 in a southwesterly direction to Secondary Road 1405; thence, following Secondary Road 1405 in a northeasterly direction to Secondary Road 1410; thence, following Secondary Road 1410 in a southwesterly direction to Contentnea Creek; thence, following the north bank of Contentnea Creek in a generally northwesterly direction to its junction with U.S. Highway 258 (also U.S. Highway 13).

(v) That portion of Halifax County bounded by a line beginning at the junction of Fishing Creek and U.S. Highway 301; thence, following U.S. Highway 301 in a northeasterly direction to State Highway 481; thence, following State Highway 481 in a northeasterly direction to Secondary Road 1112; thence, following Secondary Road 1112 in a southeasterly direction to Secondary Road 1003; thence, following Secondary Road 1003 in a southwesterly direction to Secondary Road 1108; thence, following Secondary Road 1108 in a southeasterly direction to Secondary Road 1100; thence, following Secondary Road 1100 in a southeasterly direction to Secondary Road 1107; thence, following Secondary Road 1107 in a southwesterly direction to Fishing Creek; thence, following the north bank of Fishing Creek in a generally northwesterly direction to its junction with U.S. Highway 301.

(vi) That portion of Northampton County bounded by a line beginning at the junction of Secondary Roads 1500 and 1505; thence, following Secondary Road 1500 in a generally southwesterly direction to U.S. Highway 158; thence, following U.S. Highway 158 in a generally southwesterly direction to Secondary Road 1126; thence, following Secondary Road 1126 in a southwesterly direction to the Gumberry Swamp Creek; thence, following the Gumberry Swamp Creek in a generally southerly direction to the Roanoke River; thence, following the north bank of the Roanoke River in a generally southeasterly direction to U.S. Highway 258 (also State Highway 561); thence, following U.S. Highway 258 in a generally northeasterly direction to North Carolina Highway 35; thence, following North Carolina Highway 35 in a northwesterly direction to Secondary Road 1502; thence, following Secondary Road 1502 in a southwesterly direction to Secondary Road 1511; thence, following Secondary Road 1511 in a westerly and then northerly direction to Secondary Road 1501; thence, following Secondary Road 1501 in a westerly direction to Secondary Road 1503; thence, following Secondary Road 1503 in a northwesterly direction to Secondary Road 1504; thence, following Secondary Road 1504 in a northeasterly direction to Secondary Road 1505; thence, following Secondary Road 1505 in a northwesterly direction to its junction with Secondary Road 1500.

(vii) That portion of Pitt County bounded by a line beginning at the junction of Secondary Road 1426 and U.S. Highway 13, North Carolina Highway 11; thence, following U.S. Highway 13, North Carolina Highway 11 in a southeasterly direction to Secondary Road 1515; thence, following Secondary Road 1515 in a southeasterly direction to Secondary Road 1514; thence, following Secondary Road 1514 in a northeasterly direction to Secondary Road 1518; thence, following Secondary Road 1518 in a generally southeasterly direction to Secondary Road 1512; thence, following Secondary Road 1512 in a generally southeasterly direction to Secondary Road 1519; thence, following Secondary Road 1519 in an easterly direction to Secondary Road 1517; thence, following Secondary Road 1517 in a generally southeasterly direction to Secondary Road 1541; thence, following Secondary Road 1541 in a southwesterly direction to Secondary Road 1529; thence, following Secondary Road 1529 in a westerly direction to Secondary Road 1523; thence, following Secondary Road 1523 in a southwesterly direction to Secondary Road 1537; thence, following Secondary Road 1537 in a southwesterly direction to North Carolina Highway 30; thence, following North Carolina Highway 30 in a northwesterly direction to U.S. Highway 13, North Carolina Highway 11; thence, following U.S. Highway 13, North Carolina Highway 11 in a southwesterly direction to the Tar River; thence, following the north bank of the Tar River in a generally northwesterly direction to Secondary Road 1400; thence, following Secondary Road 1400 in a northeasterly direction to Secondary Road 1401; thence, following Secondary Road 1401 in a southeasterly direction to Secondary Road 1402; thence, following Secondary Road 1402 in an easterly direction to Secondary Road 1001; thence, following Secondary Road 1001 in a northwesterly direction to Secondary Road 1415; thence, following Secondary Road 1415 in a northeasterly direction to Secondary Road 1416; thence, following Secondary Road 1416 in a northeasterly direction to Secondary Road 1424; thence, following Secondary Road 1424 in a northerly direction to Secondary Road 1425; thence, following Secondary Road 1425 in a northeasterly direction to Secondary Road 1426; thence, following Secondary Road 1426 in a northeasterly direction to its junction with U.S. Highway 13, North Carolina Highway 11.

(viii) 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 Secondary Road 1146; thence, following Secondary Road 1146 in a generally northeasterly and then southeasterly direction to the southwestern junction of Secondary

Road 1146 at Secondary Road 1155; thence, following Secondary Road 1155 in a southwesterly direction to Secondary Road 1149; then 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.

(13) *Ohio.* (i) That portion of Brown County comprised of Perry Township.

(ii) That portion of Clinton County bounded by a line beginning at the junction of State Highway 73 and State Highway 28; thence, following State Highway 28 in a westerly direction to Martinsville Road; thence, following Martinsville Road in a northwesterly direction to State Highway 350; thence, following State Highway 350 in a northwesterly direction to U.S. Highway 68; thence, following U.S. Highway 68 in a northeasterly direction to State Highway 134; thence, following State Highway 134 in a southeasterly direction to Farmers Road; thence, following Farmers Road in a southeasterly direction to Jenkins Road; thence, following Jenkins Road in a generally northeasterly direction to the Green-Union Township line; thence, following the Green-Union Township line in a northerly and then southeasterly direction to the junction of the Green-Union-Wayne Township lines; thence, following the Green-Wayne Township line in a southeasterly direction to State Highway 729; thence, following State Highway 729 in a southwesterly direction to State Highway 73; thence, following State Highway 73 in a southeasterly direction to its junction with State Highway 28.

(iii) That portion of Mercer County bounded by a line beginning at the junction of State Highway 49 and St. Anthony Road; thence, following St. Anthony Road in an easterly direction to Road T-47; thence, following Road T-47 in a southerly direction to St. Joseph Road; thence following St. Joseph Road in a westerly direction to State Highway 49; thence, following State Highway 49 in a northerly direction to its junction with St. Anthony Road.

(iv) That portion of Pickaway County bounded by a line beginning at the junction of Palestine-Williamsport Road and State Highway 56; thence, following State Highway 56 in a southeasterly direction to the junction of the Monroe-Muhlenberg and Jackson Township lines; thence, following the Monroe-Jackson Township line in a southerly and then westerly direction to the Deer Creek; thence, following the north bank of the Deer Creek in a generally westerly direction to Crownover Mill Road; thence, following Crownover Mill Road in a northeasterly direction to Southward Busick Road; thence, following Southward Busick Road in a northeasterly direction to Palestine-Williamsport Road; thence, following Palestine-Williamsport Road in a northwesterly direction to its junction with State Highway 56.

(14) *South Carolina.* (i) That portion of Horry County bounded by a line beginning at the junction of State Highway 9, Buck Creek and the Waccamaw River; thence, following the north bank of the Waccamaw River in a generally southwesterly direction to State Highway 31; thence, following State Highway 31 in a northerly direction to State Highway 905; thence, following State Highway 905 in an easterly direction to State Highway 348; thence, following State Highway 348 in a northerly direction to State Highway 349; thence, following State Highway 349 in an easterly direction to State Highway 347; thence, following State Highway 347 in an easterly direction to Pleasant Grove Church Road; thence, following Pleasant Grove Church Road in a northeasterly direction to Buck Creek; thence, following the west bank of Buck Creek in a generally southeasterly direction to its junction with State Highway 9 and the Waccamaw River.

(ii) That portion of Williamsburg County bounded by a line beginning at the junction of State Highway 512 and the Seaboard Coast Line Railroad; thence, following the Seaboard Coast Line Railroad in a southwesterly direction to Secondary Highway 74; thence, following Secondary Highway 74 in a northwesterly direction to the Pine Island Bay Road; thence, following the Pine Island Bay Road in a northwesterly direction to Secondary Highway 218; thence, following Secondary Highway 218 in a northeasterly direction to Secondary Highway 24; thence, following Secondary Highway 24 in a southeasterly direction to Secondary Highway 86; thence, following Secondary Highway 86 in a northeasterly direction to Secondary Highway 51; thence, following Secondary Highway 51 in a generally northerly direction to State Highway 512; thence, following State Highway 512 in a southeasterly direction to its junction with the Seaboard Coast Line Railroad.

(15) *Texas.* (i) The adjacent portions of Bosque and McLennan Counties bounded by a line beginning at the junction of State Highway 6 and Farm-to-Market Road 219; thence, following Farm-to-Market Road 219 in a northeasterly direction to Farm-to-Market Road 708; thence, following Farm-to-Market Road 708 in a generally southeasterly direction to Farm-to-Market Road 56; thence, following Farm-to-Market Road 56 in a northeasterly direction to Farm-to-Market Road 2114; thence, following Farm-to-Market Road 2114 in a generally southeasterly direction to the Brazos River; thence, following the west bank of the Brazos River in a generally southerly direction to the Bosque-McLennan County line; thence, following the Bosque-McLennan County line in a southwesterly direction to Farm-to-Market Road 2490; thence, following Farm-to-Market Road 2490 in a southeasterly direction to Farm-to-Market Road 1637; thence, following Farm-to-Market Road 1637 in a northwesterly direction to Farm-to-Market Road 185; thence, following Farm-to-Market Road 185 in a generally southwesterly direction to the McLennan-Coryell County line; thence, following the McLennan-Coryell County line in a northwesterly direction to the Bosque-Coryell County line; thence, following the Bosque-Coryell County line in a northwesterly direction to Farm-to-Market Road 217; thence, following Farm-to-Market Road 217 in a northeasterly direction to Farm-to-Market Road 2602; thence, following Farm-to-Market Road 2602 in a generally northeasterly direction to State Highway 6; thence, following State Highway 6 in a northwesterly direction to its junction with Farm-to-Market Road 219.

(ii) That portion of Comanche County bounded by a line beginning at the junction of the Comanche-Eastland County line and Farm-to-Market Road 587; thence, following Farm-to-Market Road 587 in an easterly direction to Farm-to-Market Road 2247; thence, following Farm-to-Market Road 2247 in a southerly direction to Farm-to-Market Road 588; thence, following Farm-to-Market Road 588 in a westerly and then southwesterly direction to State Highway 36; thence, following State Highway 36 in a southeasterly direction to Farm-to-Market Road 589; thence, following Farm-to-Market Road 589 in a westerly and then southerly direction to Farm-to-Market Road 1689; thence, following Farm-to-Market Road 1689 in a generally northwesterly direction to the Comanche-Brown County line; thence, following the Comanche-Brown County line in a northwesterly direction to the Comanche-Eastland County line; thence, following the Comanche-Eastland County line in a northeasterly direction to its junction with Farm-to-Market Road 587.

(iii) That portion of Denton County bounded by a line beginning at the junction of Denton-Collin County line and Farm-to-Market Road 720; thence, following Farm-to-Market Road 720 in a generally northwesterly direction to State Highway 24; thence, following State Highway 24 (also U.S. Highway 377) in a generally southwesterly direction to the Denton-Tarrant County line; thence, following the Denton-Tarrant County line in an easterly direction to the Denton-Dallas County line; thence, following the Denton-Dallas County line in a continuing easterly direction to the Denton-Collin County line; thence, following the Denton-Collin County line in a northerly direction to its junction with Farm-to-Market Road 720.

(iv) That portion of El Paso County bounded by a line beginning at the junction of Interstate Highway 10 and the

O. T. Smith Road; thence, following Interstate Highway 10 in a southeasterly direction to the El Paso-Hudspeth County line; thence, following the El-Paso-Hudspeth County line in a southwesterly direction to the Rio Grande River; thence, following the north bank of the Rio Grande River in a northwesterly direction to Farm-to-Market Road 1109; thence, following Farm-to-Market Road 1109 in a generally northeasterly direction to U.S. Highway 80; thence, following U.S. Highway 80 in a southeasterly direction to the O. T. Smith Road; thence, following the O. T. Smith Road in a northeasterly direction to its junction with Interstate Highway 10.

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

(vi) 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 Denison-Antioch Road; thence, following the Denison-Antioch Road 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.

(vii) The adjacent portions of Harris, Liberty, and Montgomery Counties bounded by a line beginning at the junction of U.S. Highway 59 and Texas Highway 321; thence following Texas Highway 321 in a southeasterly direction to Farm-to-Market Road 686; thence, following Farm-to-Market Road 686 in a generally southwesterly direction to Farm-to-Market Road 1960; thence, following Farm-to-Market 1960 in a generally southwesterly direction to U.S. Highway 59; thence, following U.S. Highway 59 in a northeasterly direction to its junction with Texas Highway 321.

(viii) That portion of Hill County bounded by a line beginning at the junction of U.S. Highway 77 and the Hill-Ellis County line; thence, following U.S. Highway 77 in a generally southwesterly direction to State Highway 171; thence, following State Highway 171 in a generally southeasterly direction to Farm-to-Market Road 308; thence, following Farm-to-Market Road 308 in a generally northerly direction to the Hill-Ellis County line; thence, following the Hill-Ellis County line in a southwesterly direction and thence a northwesterly direction to its junction with U.S. Highway 77.

(ix) That portion of McLennan County bounded by a line beginning at the junction of the McLennan-Limestone County line and U.S. Highway 84; thence, following U.S. Highway 84 in a generally southwesterly direction to U.S. Highway 77; thence, following U.S. Highway 77 in a generally southeasterly direction to the McLennan-Falls County line; thence, following the McLennan-Falls County line in a northeasterly direction to the McLennan-Limestone County line; thence, following the McLennan-Limestone County line in a northwesterly direction to its junction with U.S. Highway 84.

(x) That portion of Randall County bounded by a line beginning at the junction of the Randall-Armstrong County line and Farm-to-Market Road 1258; thence, following Farm-to-Market Road 1258 in a generally northwesterly direction to Farm-to-Market Road 1151; thence, following Farm-to-Market Road 1151 in a generally southwesterly direction to Farm-to-Market Road 1541; thence, following Farm-to-Market Road 1541 in a northerly direction to State Highway 335; thence, following State Highway 335 in a generally westerly direction to U.S. Highways 60, 87; thence, following U.S. Highways 60, 87 in a generally southwesterly direction to Farm-to-Market Road 2219; thence, following Farm-to-Market Road 2219 in a westerly direction to Farm-to-Market Road 168; thence, following Farm-to-Market Road 168 in a generally southerly direction to Jowell School Road; thence, following Jowell School Road in a generally easterly direction to Farm-to-Market Road 285; thence, following Farm-to-Market Road 285 in an easterly direction to the Randall-Armstrong County line; thence, following the Randall-Armstrong County line in a northerly direction to its junction with Farm-to-Market Road 1258.

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

(16) *Virginia.* That portion of the State of Virginia comprised of all of City of Virginia Beach, City of Chesapeake, City of Norfolk, City of Portsmouth, and Nansemond, Isle of Wight, and Southampton Counties, and bounded by a line beginning at the junction of the Isle of Wight-Surry County line and the James River; thence, following the south bank of the James River in a generally southeasterly direction along Cobham Bay, Batten Bay, the south coastline of Hampton Roads and Willoughby Bay to the City of Norfolk-Chesapeake Bay coastline; thence following the City of Norfolk-Chesapeake Bay coastline in a southeasterly direction to the City of Virginia Beach-Chesapeake Bay coastline; thence, following the City of Virginia Beach-Chesapeake Bay coastline in a generally southeasterly direction to the City of Virginia Beach-Atlantic Ocean coastline; thence, following the City of Virginia Beach-Atlantic Ocean coastline in a southeasterly direction to the Virginia-North Carolina State line; thence, following the Virginia-North Carolina State line in a westerly direction to the Southampton-Greensville County line, also the Meherrin River; thence, following the Southampton-Greensville County line in a generally northwesterly direction and thence in a northeasterly direction to the Southampton-Sussex County line; thence, following the Southampton-Sussex County line in a northeasterly direction to the Southampton-Surry County line; thence, following the Southampton-Surry County line in a northeasterly direction to the Isle of Wight-Surry County line; thence, following the Isle of Wight-Surry County line in a northeasterly direction to its junction with the James River.

(f) Notice is hereby given that there is no clinical evidence that the virus of hog cholera exists in swine in the following States, that systematic procedures are in effect to detect and eradicate the disease should it appear within any of such States, and that such States are designated as hog cholera eradication States:

Delaware.	Minnesota.
California.	New Mexico.
Connecticut.	Oklahoma.
Georgia.	Tennessee.
Iowa.	West Virginia.

(g) Notice is hereby given that a period of more than 1 year has passed since there has been clinical evidence that the virus of hog cholera exists in the following States, that more than 1 year has passed since systematic procedures were placed in effect to exclude the virus of hog cholera and to detect and eradicate the disease should it appear within any of such States, and that the virus of hog cholera has been eradicated from such States and such States are designated as hog cholera free States:

Alaska.	Oregon.
Florida.	South Dakota.
Idaho.	Utah.
Michigan.	Vermont.
Montana.	Washington.
Nevada.	Wisconsin.
North Dakota.	Wyoming.

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

Effective date. The foregoing amendment of § 76.2 shall become effective upon issuance.

The amendment excludes a portion of Mississippi County, Mo., 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 to 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(a). 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 excluded area. The description in § 76.2(e)(15)(vi) of the quarantined area in Grayson County, Tex., is corrected. Clarifying changes are also made in § 76.2(e)(6) relating to Louisiana and in the heading for § 76.2. No other changes are made in § 76.2(e), but all the presently effective provisions of § 76.2(a) are set forth above for convenient reference.

The provisions above also include without amendment the texts of § 76.2 (f) and (g) which continue in effect. In this respect, the provisions do not change the rights or duties of any person.

The amendment relieves certain restrictions presently imposed and must be made effective immediately to be of maximum benefit to affected persons. Insofar as it may be deemed to impose more stringent restrictions than heretofore applied, it should be made effective as soon as possible in order to prevent the interstates spread of hog cholera. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, 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 29th day of October 1970.

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

[F.R. Doc. 70-14774; Filed, Nov. 2, 1970; 8:50 a.m.]

[Docket No. 70-287]

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)(14) relating to the State of South Carolina, subdivision (ii) relating to Williamsburg County is amended to read:

(ii) That portion of Williamsburg County bounded by a line beginning at the junction of Secondary Highway 74 and the Seaboard Coast Line Railroad; thence, following Secondary Highway 74 in a northwesterly direction to Pine Island Bay Road; thence, following Pine Island Bay Road in a northwesterly direction to Secondary Highway 218; thence, following Secondary Highway 218 in a northeasterly direction to Secondary Highway 24; thence, following Secondary Highway 24 in a southeasterly direction to Secondary Highway 86; thence, following Secondary Highway 86 in a northeasterly direction to Secondary Highway 51; thence, following Secondary Highway 51 in a generally northerly direction to State Highway 512; thence, following State Highway 512 in a southeasterly direction to the Seaboard Coast Line Railroad; thence, following the Seaboard Coast Line Railroad in a northeasterly direction to State Highway 261; thence, following State Highway 261 in an easterly direction to Secondary Highway 242; thence, following Secondary Highway 242 in a southeasterly direction to State Highway 513; thence, following State Highway 513 in a southwesterly direction to State Highway 512; thence, following State Highway 512 in a northwesterly direction to the Seaboard Coast Line Railroad; thence, following the Seaboard Coast Line Railroad in a southwesterly direction to its junction with Secondary Highway 74.

2. In § 76.2, the reference to the State of Illinois in the introductory portion of paragraph (e) and paragraph (e)(3) relating to the State of Illinois are 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 Williamsburg County, S.C., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portion of such county.

The amendments also exclude portions of Knox, Fulton, and Warren Counties in Illinois 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. The amendments release Illinois from the list of States quarantined because of hog cholera.

Insofar as the amendments impose certain further restrictions necessary to prevent the interestate 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 29th day of October 1970.

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

[F.R. Doc. 70-14775; Filed, Nov. 2, 1970; 8:51 a.m.]

[Docket No. 70-288]

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)(12) relating to the State of North Carolina, a new subdivision (ix) relating to Jones County is added to read:

(ix) That portion of Jones County bounded by a line beginning at the junction of the Jones-Lenoir County line and Secondary Road 1306; thence, following Secondary Road 1306 in a southeasterly direction to Secondary Road 1002; thence, following Secondary Road 1002 in a southeasterly direction to Secondary Road 1315; thence, following Secondary Road 1315 in a southwesterly direction to Secondary Road 1300; thence, following Secondary Road 1300 in a southeasterly direction to Secondary Road 1129; thence, following Secondary Road 1129 in a southwesterly direction to Chinquapin Branch; thence, following the north bank of Chinquapin Branch in a northwesterly direction to State Highway 58; thence, following State Highway 58 in a northwesterly direction to the Jones-Lenoir County line; thence, following the Jones-Lenoir

County line in a northeasterly direction to its junction with Secondary Road 1306.

2. In § 76.2, in paragraph (e)(15) relating to the State of Texas, subdivision (viii) relating to Hill County is amended to read:

(viii) The adjacent portions of Hill and McLennan Counties bounded by a line beginning at the junction of U.S. Highway 77 and the Hill-Ellis County line; thence, following U.S. Highway 77 in a generally southwesterly direction to State Highway 171; thence, following State Highway 171 in a generally southeasterly direction to Farm-to-Market Road 1242; thence, following Farm-to-Market Road 1242 in a generally southwesterly direction to U.S. Highways 35, 81, 77 in a northwesterly direction to Farm-to-Market Road 1304; thence, following Farm-to-Market Road 1304 in a southwesterly direction to Farm-to-Market Road 933; thence, following Farm-to-Market Road 933 in a generally southwesterly direction to Farm-to-Market Road 308; thence, following Farm-to-Market Road 308 in a generally northeasterly direction to the Hill-Ellis County line; thence, following the Hill-Ellis County line in a southwesterly direction and then a northwesterly direction to its junction with U.S. Highway 77.

(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 Jones County, N.C., and portions of Hill and McLennan Counties in Texas because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portions of such counties.

The amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish their purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

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

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

[F.R. Doc. 70-14776; Filed, Nov. 2, 1970; 8:51 a.m.]

[Docket No. 70-289]

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, the introductory portion of paragraph (e) is amended by adding the name of the State of Tennessee; paragraph (f) is amended by deleting the name of the State of Tennessee; and a new paragraph (e)(17) relating to the State of Tennessee is added to read:

(17) *Tennessee.* That portion of Chester County bounded by a line beginning at the junction of U.S. Highway 45 and State Highway 100; thence, following State Highway 100 in a southwesterly direction to the Wilson School Road; thence, following the Wilson School Road in a northwesterly direction to the Montezuma-Antioch Church Road; thence, following the Montezuma-Antioch Church Road in a southeasterly direction to the Montezuma-Estes Church Road; thence, following the Montezuma-Estes Church Road in a southeasterly direction to U.S. Highway 45; thence, following U.S. Highway 45 in a northwesterly direction to its junction with State Highway 100.

2. In § 76.2, paragraph (e)(16) relating to the State of Virginia is amended to read:

(16) *Virginia.* That portion of the State of Virginia comprised of all of City of Virginia Beach, City of Chesapeake, City of Norfolk, City of Portsmouth, and Nansemond and Isle of Wight Counties, and bounded by a line beginning at the junction of the Isle of Wight-Surry County line and the James River; thence, following the south bank of the James River in a generally southeasterly direction along Cobham Bay, Batten Bay, the south coastline of Hampton Roads and Willoughby Bay to the City of Norfolk-Chesapeake Bay coastline; thence, following the City of Norfolk-Chesapeake Bay coastline in a southeasterly direction to the City of Virginia Beach-Chesapeake Bay coastline; thence, following the City of Virginia Beach-Chesapeake Bay coastline in a generally southeasterly direction to the City of Virginia Beach-Atlantic Ocean coastline; thence, following the City of Virginia Beach-Atlantic Ocean coastline in a southeasterly direction to the Virginia-North Carolina State line; thence, following the Virginia-North Carolina State line in a westerly direction to the Nansemond-Southampton County line (also the Blackwater River); thence, following the Nansemond-Southampton County line in a generally northerly direction to the Isle of Wight-Southampton County line; thence, following the Isle of Wight-Southampton County line in a generally northeasterly direction to the Isle of Wight-Surry County line; thence, following the Isle of Wight-Surry County line in a northeasterly direction to its junction with the James River.

3. In § 76.2, in paragraph (e)(13) relating to the State of Ohio, subdivision (ii) relating to Clinton County is amended to read:

(ii) Clinton County.

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

(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)

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

The amendments also exclude Southampton County, Va., 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(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the area excluded from quarantine.

The amendments also delete the State of Tennessee from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from and to such eradication States under Part 76 are no longer applicable to Tennessee.

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 29th day of October 1970.

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

[F.R. Doc. 70-14777; Filed, Nov. 2, 1970; 8:51 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Changes in Open End Credit Accounts

1. Effective immediately, § 226.7(e) is amended to read as follows:

§ 226.7 Open end credit accounts—specific disclosures.

* * * * *

(e) *Change in terms.* If any change is to be made in terms of an open end credit account plan previously disclosed to the customer, the creditor shall mail or deliver to the customer written disclosure of such proposed change not less than 30 days prior to the effective date of such change or 30 days prior to the beginning of the billing cycle within which such change will become effective, whichever is the earlier date. No notice is necessary if the only change is a reduction in the periodic rate or rates applicable to the account.

* * * * *

2a. The amendment consists of the addition of a sentence at the conclusion of the present paragraph (e). The purpose of this amendment is to allow creditors of open end accounts to reduce the periodic rate or rates applied to the accounts without the necessity of giving a 30-day prior notice. It would apply only when such reductions were the only changes being made to the terms of the account.

b. The amendment, which constitutes a relaxation of the present regulations of the Board, was adopted by the Board without following the procedures of section 553 of title 5, United States Code, relating to notice, public participation, and deferred effective date. In view of a situation which has arisen under the Wisconsin laws regarding usury and which requires immediate action such procedures would result in delay that would be contrary to the public interest and serve no useful purpose.

By order of the Board of Governors, October 23, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-14717; Filed, Nov. 2, 1970; 8:46 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 33-5094]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

Definitive Guide Relating to Interest of Counsel and Experts in Registrant [1]

The Securities and Exchange Commission has authorized publication of the following registration guide which sets forth the policy of the Commission's Division of Corporation Finance of requiring disclosure in prospectuses under the Securities Act of 1933 of the interests of counsel who are named in the prospectus as having passed upon the legality of the securities being registered or upon other legal matters in connection with the registration or offering of the securities. The purpose of the guide is to acquaint registrants and their legal counsel with the requirement in order that the disclosure may be contained in the initial filing of registration statements under the Act.

The guide relates to counsel for the issuer, underwriters or selling security holders. It calls for disclosure of any interest in the issuer presently held or to be acquired in connection with the registration or offering of the securities. Such interests usually consist of security holdings or acquisitions, or the holding or acquisition of options, warrants or rights to purchase securities. In some instances the interest may result from counsel's being a regular employee of the issuer. However, retainer as legal counsel is not regarded as an interest in the issuer within the meaning of the guide.

Disclosure should be made of the interests of the firm, the partners and any other attorneys participating in the matter. It is the position of the Division of Corporation Finance that where counsel are named in the prospectus as having passed upon legal matters in connection with the registration or offering of securities potential investors should be told of any interests which such counsel may have in the issuer or in the offering in order that they may judge for themselves the independence and objectivity of such counsel.

The text of the guide follows:

56. *Interests of counsel and experts in the registrant.* Where counsel for the issuer, underwriters or selling security holders are named in the prospectus as having passed upon the legality of the securities being registered or upon other legal matters in connection with the registration or offering of such securities, there should be disclosed in the prospectus the nature and amount of any direct or indirect interest of such counsel in the registrant or any such interest received or to be received in connection with the registration or offering of the securities being registered, including the ownership or receipt by the firm of counsel, or by members of the firm participating in the matter, of securities of the issuer or options, warrants or rights to purchase such securities, or employment by the issuer other than retainer as legal counsel. Where such securities, options, warrants, or rights are given for services in connection with the offering, the disclosure should be made in response to Item 1 of Form S-1 (17 CFR 239.11), and reference thereto made in answer to Item 23, or the corresponding items of other forms.

The above interests will not be deemed material and need not be disclosed, however, if the amount of the interest, including the fair market value of all securities of the issuer owned, received and to be received, or subject to options, warrants or rights received and to be received by the firm and all members of the firm participating in the matter does not exceed $30,000 in the aggregate and not more than $10,000 for any such individual member of the firm. For the purpose of this guide, the term "member" means all partners in, and all attorneys employed by, the firm.

Careful consideration should also be given to whether the interest of such counsel in the registrant, or his activities in organizing, managing or promoting the venture may not constitute him a "promoter," "finder," or "executive officer" of the registrant, as those terms are used in the forms. Where such relationships exist, the required disclosures should be made notwithstanding the absence of an official title.

Similar disclosure and consideration should be given to the interests of all experts named in the prospectus.

NOTE: See also No. 9 and No. 11—Securities Act Release No. 4936 (Dec. 9, 1968; 33 F.R. 18619) Guides for Preparation and Filing of Registration Statements.

By the Commission, October 21, 1970.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-14739; Filed, Nov. 2, 1970; 8:48 a.m.]

[1] For other Guides, see Securities Act Release No. 4936 published Dec. 9, 1968 (33 F.R. 18617); Release No. 5005 published Sept. 17, 1969 (34 F.R. 15245); and Release No. 5036 published Jan. 19, 1970 (35 F.R. 1233).

[Release No. 34-9000]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Annual Reports by Certain Companies Having Registered Securities

The Securities and Exchange Commission has adopted a revision of its Form 10-K (17 CFR 249.310) under the Securities Exchange Act of 1934. That form is

a general form for annual reports by companies having securities registered pursuant to section 12 of the Act and companies having securities registered under the Securities Act of 1933 which are required to file reports pursuant to section 15(d) of the Securities Exchange Act. The revision is a part of the program for the revision of the Commission's disclosure requirements recommended by the Disclosure Study Report submitted to the Commission in March 1969. Notice of the proposed revision was published September 15, 1969, in Securities Exchange Act Release 8682 (34 F.R. 14238).

The revised form is divided into two parts. Companies which file reports pursuant to section 13 of the Act and are subject to the Commission's proxy and information rules under section 14 of the Act will ordinarily file only Part I of the form, together with the required financial statements and exhibits. Companies which file reports pursuant to section 15(d) of the Act will file both Part I and Part II, together with the required financial statements and exhibits.

The purpose of the revision is to provide on an annual basis information which, together with that contained in the proxy or information statement sent to security holders, will furnish a reasonably complete and up-to-date statement of the business and operations of the registrant. The following is a brief summary of the principal changes in the form.

Item 1 of the revised form requires that where a registrant and its subsidiaries are engaged in more than one line of business there shall be disclosed for each of a maximum of the last 5 fiscal years the approximate amount or percentage of total sales and operating revenues and the contributing to income before income taxes and extraordinary items attributable of each line of business which contributed, during either of the last 2 fiscal years, a certain proportion to either the total of sales and revenues or income before income taxes and extraordinary items. A similar requirement has previously been added to Form 10 (17 CFR 249.210) and to certain registration forms under the Securities Act of 1933.

A new item, Item 2, has been added to the form calling for a summary of operations for the past 5 years. This summary is similar to the one included in the revised Form 10 (see 35 F.R. 16537).

The revised form contains a new item calling for a description of the properties of the registrant and its subsidiaries. The purpose of the item is to keep up to date information with respect to the plants, mines and other physical properties of the enterprise. In the draft of the revised form as published for comment, it was proposed to include instructions to this item to call for certain information in regard to the operations of companies in extractive industries. The Commission has determined not to adopt these instructions at this time.

Prior to the revision of Form 10-K, it contained an item, Item 2, which called for information with respect to increases and decreases in outstanding equity securities during the fiscal year covered by the report. This item has been retained as Item 6 in the revised form. It has been concluded that such information is useful both for security holders and investors and for administrative purposes.

The items relating to management, remuneration and transactions with insiders contained in Part II of the form, have been revised to bring them into accord with the corresponding requirements of the Commission's proxy rules. Thus the revised form included requirements for the disclosure of indebtedness of insiders to the registrant and its subsidiaries and transactions between insiders and pension, retirement, savings and similar plans provided by the registrant or its parents or subsidiaries.

The instructions as to financial statements have been revised to require comparative financial statements, including source and application of funds statements, for the last 2 fiscal years. Comparative statements for the last 2 fiscal years are also required to be included in annual reports to stockholders by Rules 14a-3 (17 CFR 240.14a-3) and 14c-3 (17 CFR 240.14c-3) of the proxy and information rules under section 14 of the Act.

Copies of revised Form 10-K have been filed as part of this document with the Office of Federal Register and may be obtained from the Securities and Exchange Commission, Washington, D.C. 20549.

The foregoing action, which was taken pursuant to the Securities Exchange Act of 1934, particularly sections 13, 15(d), and 23(a) thereof, shall be effective with respect to reports filed on Form 10-K for fiscal years ending on or after December 31, 1970.

By the Commission, October 21, 1970.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-14740; Filed, Nov. 2, 1970; 8:48 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 17—MEDICAL

Disciplinary Exclusion Periods

1. Section 17.66 is revised to read as follows:

§ 17.66 Authority for disciplinary action.

The good conduct of beneficiaries receiving hospitalization for observation and examination or for treatment, or receiving domiciliary or nursing home care in facilities under direct and exclusive jurisdiction of the Veterans Administration, will be maintained by corrective and disciplinary procedure formulated by the Veterans Administration. Such corrective and disciplinary measures, to be selectively applied in keeping with the comparative gravity of the particular offense, will consist, in respect to hospital patients, of such penalties as the withholding for a determined period of pass privileges, exclusion from entertainments, or disciplinary discharge; and, in respect to domiciled members, such penalties as confinement to sections or grounds, deprivation of privileges, enforced furlough, or disciplinary discharge.

2. In § 17.100, paragraphs (b), (g)(2), and (h) are amended to read as follows:

§ 17.100 Transportation of claimants and beneficiaries.

* * * * *

(b) *Readmissions.* Hospital readmissions, when medically determined necessary to observe progress, modify treatment or diet, etc.

* * * * *

(g) *Outpatient services.* * * *

(2) Outpatient treatment for service-connected conditions, including adjunct treatment thereof; for veterans under § 17.60(h); and for non-service-connected conditions to avoid interruption of training authorized under 38 U.S.C. ch. 31, subject to exception defined in paragraph (h) of this section.

(h) *Limitation.* No return transportation will be supplied a claimant or beneficiary who has not completed an outpatient service, unless he executes an affidavit that he is unable to defray the expense of such travel.

* * * * *

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

These VA regulations are effective the date of approval.

Approved: October 28, 1970.

By direction of the Administrator.

[SEAL] FRED B. RHODES, *Deputy Administrator.*

[F.R. Doc. 70-14751; Filed, Nov. 2, 1970; 8:49 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 3 is amended as follows:

PART 3-1—GENERAL

1. The table of contents of Part 3-1 is amended to add the following entries:

Subpart 3-1.52—Safety and Health

Sec.	
3-1.5200	Scope of subpart.
3-1.5201	General.
3-1.5202	Definition.
3-1.5203	Policy.
3-1.5204	Actions required.
3-1.5205	Contract clause.

Subpart 3–1.53—Considerations in Selecting Award Instrument—Contract or Grant

Sec.
3–1.5301 General.
3–1.5302 Applicability.
3–1.5303 Selection criteria.
3–1.5303–1 Basic selection criteria.
3–1.5303–2 Secondary selection criteria.
3–1.5304 Mandatory use of contracts.

AUTHORITY: The provisions of this Part 3–1 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

2. Subparts 3–1.52 and 3–1.53 are added to read as follows:

Subpart 3–1.52—Safety and Health

§ 3–1.5200 Scope of subpart.

This subpart prescribes (a) the use of a safety and health clause in contracts involving hazardous materials or operations, and (b) procedures for developing and administering safety and health provisions.

§ 3–1.5201 General.

Various statutes and regulations (e.g., Walsh-Healey Act; Service Contract Act) require adherence to minimum safety and health standards by contractors engaged in potentially hazardous work. Positive action to reduce accidents and conditions hazardous to health under all contracts is in the Government's interest since the cost of such accident and health hazards is borne by the Government through higher prices and sometimes by direct indemnification of contractors against liability claims.

§ 3–1.5202 Definition.

Hazardous materials or operations are those which have the potential of producing adverse environmental conditions, such as, fire, heat, acoustics, toxicity, radiation, light, acids, biologicals, etc.

§ 3–1.5203 Policy.

Whenever the performance of a contract will require use of hazardous materials or operations, the procuring activity shall require the prime contractor and subcontractors to:

(a) Provide protection for the life and health of HEW employees, contractor employees, other persons involved with work on HEW programs and projects, and the public;

(b) Avoid accidental work interruptions which could delay progress of HEW programs and projects;

(c) Maintain controls for the prevention of damage and loss to property; and

(d) Accumulate and provide data necessary for analysis of risk and loss factors relating to HEW programs and projects.

§ 3–1.5204 Actions required.

(a) *Procuring activities.* Procuring activities shall use the example set forth in § 3–1.5205(b) as a guide in developing appropriate safety and health clauses for use in prospective contracts involving the following:

(1) Services or products;

(2) Research, development, or test projects;

(3) Transportation of hazardous materials; and

(4) Construction, including construction of facilities on contractor's premises.

(b) *Safety officers.* Safety officers of operating agencies shall advise and assist initiators of procurement requests and contracting officers in:

(1) Determining whether safety and health provisions should be included in a prospective contract;

(2) Selecting or developing safety and health clause provisions for incorporation in a prospective contract;

(3) Evaluating prospective contractor's safety and health programs; and

(4) Conducting post award review and surveillance to the extent deemed necessary.

(c) *Initiators.* Initiators of procurement requests for items described in paragraph (a) of this section shall:

(1) During the preparation of a request for procurement:

(i) Ensure that hazardous materials and operations to be utilized in the performance of the contract are clearly identified, and

(ii) Coordinate with appropriate safety officer to ensure that all hazardous materials and operations are evaluated and that adequate safety requirements are established in the request for procurement.

(2) During the period of performance:

(i) Apprise the contracting officer of any noncompliance with safety and health provisions identified in the contract, and

(ii) Cooperate with the safety officer in conducting review and surveillance activities.

§ 3–1.5205 Contract clause.

(a) *Use of clause.* All contracts which require the use of hazardous materials or operations shall include a clause to provide adherance to minimum safety and health standards. The clause set forth in paragraph (b) of this section may be appropriately modified to meet the needs of the individual contract.

(b) *Contract clause.*

SAFETY AND HEALTH CLAUSE

(1) In order to provide safety controls for protection to the life and health of employees and other persons; for prevention of damage to all property; and for avoidance of work interruptions in the performance of the contract; the Contractor will comply with the following standards:

(Insert the codes, standards, and criteria (including any applicable State and local requirements) prescribed by the Safety Officer)

Further, the Contractor shall take or cause to be taken such additional safety measures as the Contracting Officer may determine to be reasonably necessary: *Provided*, That if compliance with such additional safety measures results in a material increase in the cost or time of performance of the contract, an equitable adjustment will be made in accordance with the clause of this contract entitled "Changes".

(2) Prior to commencement of work, the Contractor will submit in writing his plan for complying with the safety and health provisions of this contract, and will meet with the Contracting Officer or his designated representative to discuss and develop mutual understanding relative to administration of the overall safety program.

(3) During the performance of work under this contract, the Contractor shall comply with all procedures prescribed by the Contracting Officer for the control and safety of persons visiting the job site and will comply with such requirements to prevent accidents as may be prescribed by the Contracting Officer.

(4) The Contractor will maintain an accurate record of, and will report to the Contracting Officer in such manner as the Contracting Officer may prescribe, all accidents and incidents resulting in death, traumatic injury, occupational disease, and/or damage to all property incident to work performed under the contract.

(5) The Contracting Officer shall notify (if otherwise, confirm in writing) the Contractor of any noncompliance with the provisions of this clause and corrective action to be taken. After receipt of such notice, the Contractor shall immediately take such corrective action. (Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose.) If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop order shall be the subject of claim for extension of time or for costs or damages by the Contractor.

(6) The Contractor shall insert the substance of this clause in each subcontract involving the use of hazardous materials or operations. Compliance with the provisions of this clause by subcontractors will be the responsibility of the Contractor.

Subpart 3–1.53—Considerations in Selecting Award Instrument—Contract or Grant

§ 3–1.5301 General.

(a) The Department of Health, Education, and Welfare accomplishes its many and diverse missions to some extent through direct in-house activities but predominately through nonfederal organizations, using either the contract or grant instruments as the means for defining the terms and conditions, and the nature of the agreement between the Department and the recipient. The two instruments are intended to be different in purpose and application and, when properly employed, create different relationships between the parties.

(b) Because of these differences, the choice between using a contract or a grant in any given circumstances must be made carefully. The purpose of this Subpart 3–1.53 is to provide general guidance on the considerations which are relevant to such choices.

§ 3–1.5302 Applicability.

This subpart applies to all programs in which (a) the amount of the award, (b) the decision to make the award, and (c) the choice between using a contract or a grant as the award instrument are not specified by law, and are therefore within the administrative discretion of the awarding agency.

§ 3–1.5303 Selection criteria.

§ 3–1.5303–1 Basic selection criteria.

(a) *Contracts.* The contract is the appropriate instrument when:

(1) The objective is the acquisition of a specified service or end product for the Government; or

(2) In order to accomplish its mission, the awarding agency must exercise considerable direction and control over the manner of performance or timing of the work.

(b) *Grants.* The grant is the appropriate instrument for providing support to an activity of the applicant which is in furtherance of a statutory purpose of the awarding agency when:

(1) There is no expectation of a specific service or end product to be furnished to the Government as a quid pro quo for Federal funds; or

(2) The awarding agency does not need to exercise considerable direction and control over the manner of performance or timing of the work, and therefore extensive freedom of approach in carrying out the purpose of the award is to be reserved to the recipient.

§ 3–1.5303–2 Secondary selection criteria.

When the basic criteria in § 3–1.5303–1 do not resolve questions on the choice of instrument, the following secondary criteria shall be considered:

(a) Contracts are preferred when the initiative for undertaking the activity primarily originates within the Government. Conversely, grants are preferred when the initiative primarily originates with the applicant for support. However, this is not intended to limit or prohibit either the stimulation of grant applications by awarding agencies, or the award of contracts pursuant to unsolicited proposals in appropriate circumstances (see Subpart 3–4.52 of this chapter).

(b) Grants are the preferred instrument for support of basic research projects. (Applied research may be supported by either contracts or grants, in accordance with other criteria in this regulation.)

§ 3–1.5304 Mandatory use of contracts.

Notwithstanding the provisions set forth in § 3–1.5303, selection of contracts is mandatory whenever:

(a) An award is to be made to a commercial (i.e., profit-making) organization; or

(b) Material having a security classification is involved; or

(c) Payment of an amount in excess of actual costs (i.e., profit or fee) is intended.

PART 3–7—CONTRACT CLAUSES

3. Part 3–7 is revised to read as follows:

Subpart 3–7.50—Special Contract Clauses

AUTHORITY: The provisions of this Part 3–7 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3–7.50—Special Contract Clauses

§ 3–7.5000 Scope of subpart.

This subpart sets forth clauses for use in contracts for personal property and nonpersonal services wherein special terms and/or conditions are required to insure satisfactory performance, delivery or protection of the Government's interest.

§ 3–7.5001 Publicity and publications.

The clauses prescribed in this section shall be used in all contracts for research and development irrespective of negotiation authority, as well as contracts entered into by formal advertising.

§ 3–7.5001–1 Publicity.

PUBLICITY

The Contractor agrees to acknowledge (Name of Agency) support whenever research projects funded in whole or in part by this contract are publicized in any news media.

§ 3–7.5001–2 Publications.

PUBLICATIONS

The Contractor shall include in any publication resulting from the research performed under this contract an acknowledgement substantially as follows:

The research upon which this publication is based was performed pursuant to Contract No. ------ with the (Name of Agency), Department of Health, Education, and Welfare.

§ 3–7.5002 Reusable cylinders and containers.

The clause set forth below shall be inserted in contracts when delivery of the items may be in contractor furnished reusable gas cylinders or other containers.

DEMMURAGE CHARGE PROVISIONS

(a) Reusable gas cylinders or other containers identified below by offerors shall remain the property of the contractor (except as provided in (c) below), and will be loaned without charge to the Government for the period stipulated below by offerors. In computing the period involved, such free loan period shall commence on the first day after date of delivery of each container to the herein specified f.o.b. point(s). Offerors who specify less than ------ days (to be determined by the contracting officer in accordance with trade custom), shall have their offers increased for evaluation purposes only by an amount arrived at by multiplying the number of days less than the established free loan period by the daily rental charge. In the event the offeror does not specify a free loan period, such period shall be ------ days (insert the same number of days as the established free loan period). Beginning with the first day after expiration of the free loan period to and including the date the containers are delivered to the contractor's designated carrier, the Government shall pay the contractor demurrage (rental) in the amount specified below. No demurrage shall accrue to the contractor in excess of the herein specified containers replacement value. For each container lost or damaged beyond repair while in the Government's possession, the Government shall pay to the contractor the herein specified replacement value less allocable demurrage paid therefor. Such lost or damaged containers paid for by the Government shall become the property of the Government.

(b) Empty containers will be delivered to the offeror's designated carrier (offeror to identify applicable carrier below) FOB points of original delivery specified in this solicitation/contract.

OFFEROR SHALL FURNISH THE FOLLOWING INFORMATION, AS APPLICABLE, FOR CONTAINERS

Applicable item No.	Type and size of container	Quantity	Free loan period	Demurrage charges per day per cylinder

Replacement value for each container	Identification and location of offeror's carrier for return of empty container

(c) When the offeror indicates that containers have a replacement value of less than $10, the Government shall have the option to purchase containers and add the cost to the offered price. When purchase option is exercised, offers shall be evaluated accordingly. In this event, the containers shall become the property of the Government.

§ 3–7.5003 Safety and health.

Solicitations which may result in contracts involving hazardous materials or operations shall contain an appropriate safety and health clause as prescribed in § 3–1.5205 of this chapter.

§ 3–7.5004 [Reserved]

§ 3–7.5005 HEW contract financial report.

When financial information reporting on Form HEW 515–4/69 is required by paragraph 3–60–40G, DHEW Accounting Manual, insert the clause set forth below. Use appropriate word to specify monthly or quarterly reporting.

HEW CONTRACT FINANCIAL REPORT

Financial reports on Form HEW 515–4/69 shall be submitted by the contractor in accordance with the instructions on the reverse of the form, and in an original and 2 copies not later than the 15th of the following (month, quarter). The line entries for subdivisions of work and elements of cost (types of expense) to be reported within the total contract shall be determined by the Contracting Officer after giving consideration to the recommendations of the Contractor. Subsequent changes and/or additions in the line entries shall be similarly determined. The contracting officer shall notify the contractor of each change and addition and the reporting period to which each shall apply. Financial reporting shall commence with a report for the first calendar (month, quarter) following the date of this contract.

§ 3–7.5006 State and local taxes.

§ 3–7.5006–1 North Carolina sales and use taxes.

Insert the clause set forth in § 3–11.350–3 of this chapter under the conditions prescribed therein.

§ 3–7.5006–2 Iowa sales and use taxes.

Insert the clause set forth in § 3–11.350–4 of this chapter under the conditions prescribed therein.

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4. Part 3–11 is added to read as follows:

PART 3–11—FEDERAL, STATE, AND LOCAL TAXES

Sec.
3–11.000 Scope of part.

Subpart 3–11.3—State and Local Taxes

3–11.302 Applicability.
3–11.350 State sales and use taxes.
3–11.350–1 Illinois sales and use taxes.
3–11.350–2 Maryland sales and use taxes.
3–11.350–3 North Carolina sales and use taxes.
3–11.350–4 Iowa sales and use taxes.

AUTHORITY: The provisions of this Part 3–11 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

§ 3–11.000 Scope of part.

In any case where the contractor is required to pay State sales and use taxes and (a) there is doubt as to the Government's right to refund of such amounts or (b) questions arise as to procedure for applying for refund, assistance should be requested from the Office of General Counsel, OS (BAL), through the Division of Procurement and Materiel Management, OASA–OGS.

Subpart 3–11.3—State and Local Taxes

§ 3–11.302 Applicability.

State tax laws are not uniform; consequently, it is not possible to provide detailed instructions for claiming refunds for each tax. As problems arise with the several States concerning claims for refund guidance will be incorporated in this Subpart 3–11.3.

§ 3–11.350 State sales and use taxes.

§ 3–11.350–1 Illinois sales and use taxes.

In calendar year 1966, the Federal Government and the State of Illinois resolved the matter of sales and use taxes on Government purchases. The Government's immunity from taxation by the State of Illinois includes purchases made by a prime contractor of the Government, or by a subcontractor under a prime contract.

§ 3–11.350–2 Maryland sales and use taxes.

(a) *General.* The Maryland Sales and Use Tax Law has been amended to the effect that as of July 1, 1968, all contractors and subcontractors who bid on Federal Government construction contracts will be liable to pay Maryland sales and use taxes. Consequently, in figuring their bids the contractor or subcontractor should include an allowance for the Maryland taxes on all purchases. Since the law, prior to July 1, 1968, allowed for an exemption in similar situations, if the contract was bid before July 1, 1968, the construction contractor or subcontractor may still claim an exemption from the Maryland sales and use taxes. The recent amendments to the Act now provide for an exemption for materials which are consumed, mutilated, or tested to destruction in the performance of basic and applied research and development and all materials which become a component part of any product produced in the research and development process.

(b) *Contractor statement.* In order to claim exemption, Rule 70 of the rules and regulations of the Treasury Department, State of Maryland, Comptroller's Office, concerning the Sales and Use Tax Acts, requires that a certificate, similar to that set out below, be furnished to the supplier when items subject to the exemption are purchased.

(SAMPLE CERTIFICATE)

I hereby certify that the materials purchased on this order are for incorporation into our job with _____, Contract No. _____, dated _____.

(Signed) _____
(Contractor)

(c) *Filing of claims.* Refunds for taxes paid on contracts for which there is an exemption may be obtained. However, there is a limitation of 3 years from the date of purchase for claiming refunds. Claims for refunds should be prepared on State of Maryland, Comptroller of the Treasury Form RSTD 65, Rev. 7/60, entitled "Claim for Refund, Vendee's Form". These forms may be obtained directly from the Comptroller of the Treasury, State of Maryland, Retail Sales Tax Division, 301 West Preston Street, Baltimore, Md. 21201.

§ 3–11.350–3 North Carolina sales and use taxes.

(a) *General.* (1) The U.S. District Court for the Eastern District of North Carolina has ruled that the Federal Government is entitled to the benefit of the refund provisions of the North Carolina Sales and Use Tax Act. This statute authorizes the refund of sales and use taxes indirectly incurred by counties and other local bodies in North Carolina on building materials, supplies, fixtures, and equipment which become a part of, or an annex to, any building or structure erected or repaired for such counties or local bodies. The refund is authorized on the theory that the taxes paid or to be paid by a construction contractor on building materials, fixtures, etc., are reflected in his bid price for the construction project.

(2) As applied to the Federal Government, refunds are authorized on sales and use taxes paid by contractors on building materials, supplies, fixtures, and equipment which become a part of structures erected or repaired for the Federal Government.

(3) The location of a contractor's business, North Carolina or elsewhere, has no bearing on whether or not a claim is to be filed. If North Carolina sales or use taxes were paid by contractors in connection with the purchase of materials, supplies, equipment, and fixtures which became a part of, or were annexed to, any building or structure erected or repaired, a claim for refund of such taxes paid should be filed. There is no monetary limitation as regards the filing of claims.

(b) *Contractor statement.* Each construction contractor who has paid taxes for which refund is claimed will be required to submit to the claimant a certified statement to support such claim substantially as follows:

I hereby certify that during the period _____ to _____, (name of contractor or subcontractor) paid sales and use taxes aggregating $_____ to the North Carolina Department of Revenue with respect to building materials, supplies, fixtures, and equipment which have become a part of, or annexed to, a building or structure erected, altered or repaired by (name of contractor) for the United States of America, and that the vendors from whom the property was purchased, the date and number of the invoices covering the purchases, the total amount of the invoices of each vendor, the North Carolina sales and use taxes paid thereon, and the cost of property withdrawn from warehouse stock and North Carolina sales and use taxes paid thereon are as set forth in the attachments hereto.

(c) *Filing of claims.* (1) Each operating agency shall file refund claims, where appropriate, covering a fiscal year period to the State of North Carolina, Department of Revenue, Raleigh, N.C. 27602. Each organizational element of an operating agency, such as bureau or office, may prepare and submit a separate claim direct to the Department of Revenue. As an alternative, operating agencies may submit consolidated claims covering all of their organizational elements.

(2) Claims of operating agencies or separate organizational elements must be filed within 6 months of the close of the fiscal year to which they relate, or no later than December 31.

(3) Claims will be prepared on State of North Carolina, Department of Revenue Form GEN 19, Rev. 8/65, entitled Claim for Refund of Taxes. Forms may be obtained direct from Director of Revenue, State of North Carolina, Raleigh, N.C. 27602.

(4) Completed claims forms shall be submitted on original only to State of North Carolina together with a copy of the contractor's certified statement cited above. The original of the contractor's certified statement should be retained in the office which keeps records or payment in connection with the project to which the statements relate.

(d) *Contract clause.* The clause set forth below requires construction contractors, including vessel repair contractors, to submit to contracting officers by August 31 of each year certified statements covering North Carolina sales and use taxes paid during the 12-month period which ended the preceding June 30. It will be the responsibility of each contracting officer concerned to assure that contractors comply with this requirement and to obtain the annual refund of North Carolina sales and use taxes to which his activity may be entitled.

NORTH CAROLINA SALES AND USE TAX
(JANUARY 1969)

(a) As used throughout this clause, the term "materials" means building materials,

supplies, fixtures, and equipment which become a part of, or annexed to, any building or structure erected, altered, or repaired under this contract.

(b) If this is a fixed-price type contract as defined in the Federal Procurement Regulations, the contract price includes North Carolina sales and use taxes to be paid with respect to materials, notwithstanding any other provision of this contract. If this is a cost-reimbursement type contract as defined in such regulations, any North Carolina sales and use taxes paid by the contractor with respect to materials shall constitute an allowable cost under this contract.

(c) At the time specified in paragraph (d) of this clause: (1) The contractor shall furnish the contracting officer certified statements setting forth the cost of the materials purchased from each vendor and the amount of North Carolina sales and use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, such certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the North Carolina sales and use taxes paid thereon. Such statement shall also include the cost of tangible personal property withdrawn from the contractor's warehouse stock and the amount of North Carolina sales or use tax paid thereon by the contractor. The contractor shall furnish such additional information as the Commissioner of Revenue of the State of North Carolina may require to substantiate a refund claim for sales or use taxes.

(2) The contractor shall obtain and furnish to the contracting officer similar certified statements by subcontractors.

(d) If this contract is completed before the next July 1, the certified statements to be furnished pursuant to paragraph (c) above shall be submitted within 60 days after completion. If this contract is not completed before the next July 1, such certified statements shall be submitted on or before the 31st of August of each year and shall cover taxes paid during the twelve-month period which ended the preceding June 30.

(e) The certified statements to be furnished pursuant to paragraph (c) of this clause shall be in the following form:

(SAMPLE CERTIFICATE)

I hereby certify that during the period _____ to _____ (name of contractor or subcontractor) paid North Carolina sales and use taxes aggregating $_____ with respect to building materials, supplies, fixtures, and equipment which have become a part of, or annexed to, a building or structure erected, altered or repaired by (name of contractor) for the United States of America, and that the vendors from whom the property was purchased, the dates and numbers of the invoices covering the purchases, the total amount of the invoices of each vendor, the North Carolina sales and use taxes paid thereon, and the cost of property withdrawn from warehouse stock and North Carolina sales or use taxes paid thereon are as set forth in the attachments hereto.

(f) In ship repair contracts, change paragraph (a) to read as follows: As used throughout this clause, the term "materials" means materials, supplies, fixtures and equipment which become a part of or are annexed to any vessel altered or repaired under this contract.

§ 3–11.350–4 Iowa sales and use taxes.

(a) *General.* (1) The Code of Iowa, section 422–45, subsection 7, provides, in part, that "any tax certifying or tax levying body of the State of Iowa or governmental subdivision thereof * * * may make application to the department (of revenue) for the refund of any sales or use tax upon the gross receipts of all sales of goods, wares or merchandise or from services rendered, furnished, or performed and to any contractor, used in the fulfillment of any written contract with the State of Iowa or any political subdivision thereof * * * which property becomes an integral part of the project under contract and at the completion thereof becomes public property (with exceptions not here relevant)".

(2) In Mason and Hanger—Silas Mason Co. v. Iowa State Tax Commission, 258 Iowa 531, 138 N.W. 2d 437 (1966), the Iowa Supreme Court ruled that to tax sales to contractors with the United States while exempting sales to contractors with the State of Iowa and its governmental subdivisions would be unconstitutional. The United States is therefore entitled to recoup these taxes paid by its contractors.

(b) *Statement by contractor.* Each contractor who has paid sales or use taxes in the performance of contracts for the Department of Health, Education, and Welfare, shall submit to the contracting officer concerned the certified statement required under paragraph (d) of this § 3–11.350–4.

(c) *Filing of claims.* (1) Each operating agency or organizational element thereof, such as bureau or office, may file refund claims, separately or on a consolidated basis, directly with the Iowa State Tax Commission, State Office Building, Des Moines, Iowa 50319.

(2) Claims shall be filed not later than 6 months after final contract settlement.

(3) Claims shall be prepared on forms provided by the State of Iowa together with a copy of the contractor's certified statement.

(d) *Contract clause.* The clause set forth below, when made a part of the contract, requires the contractor to submit to the contracting officer not later than 60 days after completion of the contract a certified statement covering Iowa sales and use taxes paid in the performance of contract. It will be the responsibility of the contracting officer concerned to assure that the contractor complies with this requirement and to obtain any and all refunds of Iowa sales and use taxes to which his activity may be entitled.

IOWA SALES AND USE TAX (MARCH 1970)

(1) If this is a fixed-price type contract as defined in the Federal Procurement Regulations, the contract price includes Iowa sales and use taxes to be paid by the contractor. If this is a cost-reimbursement type contract as defined in such regulations, any Iowa sales and use taxes paid by the contractor shall constitute an allowable cost under this contract.

(2) Not later than 60 days after completion of the contract, the contractor shall furnish the contracting officer certified statements setting forth the cost of the materials or services purchased from each vendor and the amount of Iowa sales and use taxes paid thereon. If the contractor makes several purchases from the same vendor, the certified statement shall indicate the dates and number of the invoices, the total amount of the invoices and the Iowa sales and use taxes paid thereon. Such statements shall also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of Iowa sales or use tax paid thereon by the contractor.

(3) The contractor shall obtain and furnish to the contracting officer similar certified statements made by subcontractors.

(4) The certified statements to be furnished pursuant to paragraphs (2) and (3) of this clause shall be in the following form:

(SAMPLE CERTIFICATE)

I hereby certify that during the period _____ through _____ (name of contractor or subcontractor) paid Iowa sales and use taxes aggregating $_____ on goods, wares or merchandise, or upon services which are incorporated into a project under contract with the United States of America; and that the name of the vendor(s) from whom the property or services were purchased, the date and number of the invoice(s) covering the purchases, the total amount of the invoices of each vendor, the Iowa sales and use taxes paid thereon and the cost of property withdrawn from warehouse stock and Iowa sales and use taxes paid thereon are as set forth in the attachments hereto.

_____
(Signature of Contractor)

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

SOL ELSON,
Acting Deputy Assistant Secretary for Administration.

OCTOBER 26, 1970.

[F.R. Doc. 70-14733; Filed, Nov. 2, 1970; 8:47 a.m.]

PART 3–75—DELEGATIONS OF AUTHORITY

Chapter 3 is amended as follows:

Part 3–75 is added to read as follows:

Subpart 3–75.5—Establishment of Blood Donation Compensation Rates

Sec.
3–75.500 Scope of subpart.
3–75.501 Authority delegated.
3–75.502 Redelegation.

AUTHORITY: The provisions of this Part 3–75 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

§ 3–75.000 Scope of part.

This part delegates the authority of the Secretary to make purchases and contracts for property and services and to perform other actions relating to procurement.

§ 3–75.001 Redelegations.

Redelegations of the authority conferred by this part, as well as revisions thereof, shall be in writing over the signature of the person vested with redelegation authority; shall specify the authority delegated; and shall conform with Chapter 8–75 of the DHEW General Administration Manual.

Subpart 3–75.1—Procurement Authority

§ 3–75.100 Scope of subpart.

This subpart delegates the authority of the Secretary to make purchases and contracts for property and services and to appoint contracting officers.

§ 3–75.101 Head of the procuring activity.

The following officials of the Department are designated "Head of the procuring activity", as defined in § 1–1.206 of this title:

(a) Administrator, Environmental Health Service;

(b) Administrator, Health Services and Mental Health Administration;

(c) Administrator, Social and Rehabilitation Service;

(d) Commissioner of Education;

(e) Commissioner of Social Security;

(f) Director, National Institutes of Health;

(g) Directors, Regional Offices;

(h) Director of General Services, Office of the Secretary;

(i) Executive Officer, Office of the Secretary;

(j) Commissioner of Food and Drugs; and

(k) Director, Facilities Engineering and Construction Agency, Office of the Secretary.

§ 3–75.102 Authority delegated.

Heads of procuring activities are authorized to: (a) Enter into, modify, administer, and terminate contracts for property and services, and to make related determinations and findings; (b) settle termination claims; (c) appoint contracting officers; and (d) establish procurement policy and publish procurement regulations in conformance with: (1) Title III, Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251, et seq.); (2) implementing regulations of the Administrator, General Services Administration; (3) regulations of the Department; and (4) other applicable laws.

§ 3–75.103 Redelegation.

(a) Heads of procuring activities may redelegate, with or without power of redelegation, the authority delegated by § 3–75.102 subject to limitations stipulated in the Federal Procurement Regulations, and regulations of this Department.

(b) Personnel delegated responsibility for procurement functions must possess a level of experience, training, and ability commensurate with the complexity and magnitude of procurement actions involved.

(c) Copies of redelegations by the heads of the procuring activities shall be provided to the Division of Procurement and Materiel Management, GASA–OGS.

§ 3–75.104 Limitations.

§ 3–75.104–1 Determinations and findings.

(a) Determinations and findings required by § 1–3.2111 of this title for contracts in excess of $25,000 and by §§ 1–3.212 and 1–3.213 of this title shall be made by the Assistant Secretary for Health and Scientific Affairs (when health programs are involved); the Assistant Secretary for Education (when education programs are involved); the Assistant Secretary for Administration (where other programs are involved). Such determinations and findings shall be prepared and submitted as prescribed in Subpart 3–3.3 of this chapter.

(b) Determinations with respect to the application of the provisions of 10 U.S.C. 2353(b)(3) and 10 U.S.C. 2354 shall be made by the Assistant Secretary for Administration. Such determinations and findings shall be prepared and submitted as prescribed in Subpart 3–3.3 of this chapter.

(c) Determinations and findings required by § 1–3.302(d) of this title for advance payments shall be made by the Assistant Secretary for Administration. Such determinations and findings shall be prepared in accordance with Subpart 1–30.4 of this title (also see § 3–3.306 of this chapter).

(d) All other required determinations and findings shall be made by the head of the procuring activity or his designee(s) subject to and in accordance with Subpart 3–3.3 of this chapter.

§ 3–75.104–2 Fixed fee.

(a) Proposed feeds under cost-plus-a-fixed-fee contracts which exceed the following shall be approved only by the head of the procuring activity or a single designee, who shall not be below the level of an assistant head of the procuring activity:

(1) 10 percent of the estimated cost, exclusive of fee, of any cost-plus-a-fixed-fee contract for experimental, developmental, or research work.

(2) 7 percent of the estimated cost, exclusive of fee, of any other cost-plus-a-fixed-fee contract.

§ 3–75.104–3 [Reserved]

§ 3–75.104–4 Mistakes in bids.

(a) Authority is delegated to the Director, Division of Procurement and Materiel Management, OASA–OGS, to make the determinations specified in §§ 1–2.406–3 and 1–2.406–4 of this title in connection with mistakes in bids.

(b) This delegation of authority cannot be delegated.

(c) Each proposed determination shall be approved by the Assistant General Counsel, Division of Business and Administrative Law, Office of General Counsel.

Subpart 3–75.2—Sale of Government-owned Property

§ 3–75.200 Scope of subpart.

This subpart authorizes heads of the procuring activity designated in § 3–75.101 to sell Government-owned surplus property when authorized by law or regulation.

§ 3–75.201 Authority delegated.

Heads of the procuring activity designated in § 3–75.101 are authorized hereby to sell Government-owned surplus property in accordance with the requirements and conditions stipulated in section 203, Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484); implementing regulations of the Administrator, General Services Administration; and the procurement and property regulations of this Department.

§ 3–75.202 Redelegation.

Heads of the procuring activity may redelegate the authority conferred in § 3–75.201.

Subpart 3–75.3—Publication of Advertisements, Notices, or Proposals

§ 3–75.300 Scope of subpart.

This subpart authorizes heads of the procuring activity designated in § 3–75.101 to publish advertising, notices, and contract proposals in newspapers and periodicals.

§ 3–75.301 Authority delegated.

Heads of the procuring activity designated in § 3–75.101 are authorized hereby to publish advertisements, notices, and contract proposals in newspapers and periodicals in accordance with the requirements and conditions stipulated in 44 U.S.C., 321, 322, and 324; Title 7, Chapter 5200, General Accounting Office Policy and Procedure Manual for Guidance of Federal Agencies and HEWPR 3–4.51.

§ 3–75.302 Redelegation.

Heads of the procuring activity may redelegate the authority conferred by § 3–75.301.

Subpart 3–75.4—Alcohol and Narcotics

§ 3–75.400 Scope of subpart.

This subpart authorizes heads of certain procuring activities to sign applications to procure alcohol and appoint individuals to order narcotics in accordance with applicable laws and regulations.

§ 3–75.401 Authority delegated.

Heads of procuring activities designated in § 3–75.101 (a), (b), (f), (h), and (j) are authorized to (a) sign applications to procure tax-free and specially denatured alcohol, and (b) to appoint accredited officials to order narcotics, in accordance with laws and regulations of the Treasury Department, the Internal Revenue Service, the Department of Justice, and the requirements and conditions contained in Subpart 3–5.56 of this chapter.

§ 3–75.402 Redelegation.

Designated heads of procuring activities may redelegate the authority conferred by § 3–75.401. Redelegations should be made only to responsible officials whose functions require the procurement of alcohol or narcotics.

Subpart 3–75.5—Establishment of Blood Donation Compensation Rates

§ 3–75.500 Scope of subpart.

This subpart authorizes the Surgeon General, PHS, to establish compensation rates for blood donations for the Department.

§ 3–75.501 Authority delegated.

The authority to establish compensation rates for blood donations under the Act of February 9, 1927, 44 Stat. 1066, as amended (24 U.S.C. 30) is delegated to the Surgeon General, Public Health Service.

§ 3–75.502 Redelegation.

The authority delegated by § 3–75.501 may be redelegated as deemed appropriate.

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

SOL ELSON,
Acting Deputy Assistant Secretary for Administration.

OCTOBER 26, 1970.

[F.R. Doc. 70–14732; Filed, Nov. 2, 1970; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

Requirements Relating to Aircraft Radio Telephone Operator Authorizations

1. Since the former Aircraft Radiotelephone Operator Authorization has been combined with the present Restricted Radiotelephone Operators Permit, reference to that authorization should be deleted from Part 5.

2. The amendment is set forth in the attached Appendix.

3. Authority for this amendment is contained in sections 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d), and 303(r), and in § 0.261(a) of the rules and regulations, 47 CFR 0.261(a).

4. The deletion of the Aircraft Radiotelephone Operator Authorization is editorial in nature. Notice and public procedure are unnecessary and would be contrary to the public interest. The procedural and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are therefore inapplicable.

5. In view of the foregoing: *It is ordered*, Effective November 4, 1970, that Part 5 of the Commission's rules is amended as set forth in the Appendix hereto.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Adopted: October 26, 1970.

Released: October 27, 1970.

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

1. In § 5.155(b) of Part 5 of Chapter I of Title 47 of the Code of Federal Regulations, the introductory text and subparagraph (1) are revised to read as follows:

§ 5.155 Operator requirements.

* * * * *

(b) A person holding a radiotelephone or radiotelegraph first or second class operator license, as may be appropriate for the type of emission being used, shall be on duty and in charge of the transmitter during the normal rendition of service: *Provided, however,* That if the transmitter is so designed that none of the operations necessary to be performed during the normal rendition of service may cause off-frequency operation or result in any unauthorized radiation, an operator holding any class of commercial radio operator license except Temporary Limited Radiotelegraph Second Class Operator License shall be on duty and in charge of the transmitter except:

(1) Only a person holding a commercial radiotelegraph operator license of any class except Temporary Limited Radiotelegraph Second Class shall operate a station when transmitting radiotelegraphy by any type of Morse code: *Provided, however,* That a person holding a commercial radiotelephone operator license of any class may operate such station when telegraphy is transmitted by automatic means for identification, testing, or actuating an automatic signalling device.

* * * * *

[F.R. Doc. 70–14765; Filed, Nov. 2, 1970; 8:50 a.m.]

[FCC 70–1166]

PART 73—RADIO BROADCAST SERVICES

Noncommercial, Educational FM and Television Broadcast Service, and Related Matters; Order Postponing Effective Date of Rules

1. On May 6, 1970, released May 11 and published in the FEDERAL REGISTER May 15, 1970,[1] the Commission amended certain of the rules relating to FM and Television noncommercial educational stations (§§ 73.503 and 73.621), particularly with respect to the number and character of permissible announcements as to the parties furnishing program material, funds for the production of programs, or funds for station operation generally. The effective date of these rules was specified as June 17, 1970.

2. On June 3, 1970, the National Association of Educational Broadcasters (NAEB) filed a "Petition for Declaratory Ruling and/or Modification of Order", asking that certain clarifications and modifications be made in the rules as amended. Some of these appear appropriate and quite simple, but others require more extensive consideration. In order to permit such consideration, the effective date of these rules was postponed until August 4, 1970, and later until September 30, 1970, and October 31, 1970 (FCC 70–644, 70–830, and 70–1075 respectively).

3. Because of the pressure of other matters, and also because of the rather basic questions raised by some portions of the NAEB petition, the Commission and its staff have not yet completed their consideration of this matter. Accordingly, it appears that a further postponement of the effective date, for another month, is appropriate.

4. In view of the foregoing, and pursuant to authority contained in sections 4(i), and 303(r) of the Communications Act of 1934, as amended: *It is ordered*, That the changes in §§ 73.503 and 73.621, adopted May 6, 1970, and set forth in FCC 70–487 and published at 35 F.R. 7558, are effective November 30, 1970.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: October 28, 1970.

Released: October 29, 1970.

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

[F.R. Doc. 70–14766; Filed, Nov. 2, 1970; 8:50 a.m.]

[1] Commissioner Bartley absent.

Title 42—PUBLIC HEALTH

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

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

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

Metropolitan Sioux Falls Interstate Air Quality Control Region

On August 11, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 12726) to amend Part 81 by designating the Metropolitan Sioux Falls Interstate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on August 20, 1970. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.85, as set forth below, designating the Metropolitan Sioux Falls Interstate Air Quality Control Region, is adopted effective on publication.

§ 81.85 Metropolitan Sioux Falls Interstate Air Quality Control Region.

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

In the State of Iowa:

Lyon County.

In the State of Minnesota:

Rock County.

In the State of South Dakota:

Lincoln County. Minnehaha County.
McCook County. Turner County.

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

Dated: October 2, 1970.

JOHN T. MIDDLETON,
Commissioner, National Air Pollution Control Administration.

Approved: October 19, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70-14671; Filed, Nov. 2, 1970; 8:45 a.m.]

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

Metropolitan Boise Intrastate Air Quality Control Region

On August 15, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 13022) to amend Part 81 by designating the Metropolitan Boise Intrastate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on August 25, 1970. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.87, as set forth below, designating the Metropolitan Boise Intrastate Air Quality Control Region, is adopted effective on publication.

§ 81.87 Metropolitan Boise Intrastate Air Quality Control Region.

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

In the State of Idaho:

Ada County. Canyon County.

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

Dated: October 2, 1970.

JOHN T. MIDDLETON,
Commissioner, National Air Pollution Control Administration.

Approved: October 19, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70-14672; Filed, Nov. 2, 1970; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter V—National Highway Safety Bureau, Department of Transportation

[Docket No. 69-7; Notice 7]

PART 571—MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection in Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses

The purpose of this amendment to Standard 208 is to specify occupant crash protection requirements for passenger cars, multipurpose passenger vehicles, trucks, and buses, manufactured on or after July 1, 1973, with additional requirements coming into effect for certain of those vehicles manufactured on or after July 1, 1974. On May 7, 1970, a notice was published (35 F.R. 7187) proposing requirements for both active and passive occupant crash protection systems for motor vehicles. On September 25, 1970, another notice was published (35 F.R. 14941), proposing modified interim requirements for vehicles manufactured on or after January 1, 1972. An amendment evolving from the September 25 notice will be issued shortly to specify requirements for vehicles manufactured from January 1, 1972, to June 30, 1973.

The most significant requirement of the standard as amended is that protection from impacts that could cause death or serious injury must be provided to vehicle occupants in a 30-mile-per-hour barrier crash, equivalent to a head-on collision with an identical vehicle with both vehicles traveling 30 miles per hour, by passive means requiring no action by vehicle occupants such as fastening belts. Passive protection has become imperative, because of the widespread failure of the public to fasten seat belts furnished with their vehicles. It is anticipated that as crash protection technology advances, the test speeds at which protection must be offered will be raised by future amendments to 40 miles per hour (head-on or fixed barrier collision) or higher, and rear-impact tests will be added. Although manufacturers of passenger cars and multipurpose passenger vehicles, and of trucks of 10,000 pounds GVWR or less, will be authorized to use seat belt systems for protection in the interim period up to July 1, 1973 (and for some positions and types of vehicles, up to July 1, 1974), it is expected that they will introduce passive protection systems before those dates wherever it is feasible. It is requested that interested persons inform the Bureau of any of its rulemaking actions that may have the effect of delaying the introduction of passive protection systems, or of interfering with the development of improved systems.

Several comments on the May 7 notice reflected the impression that the Bureau, while proposing performance requirements in terms of injury criteria to simulated occupants, "favored" or expected the introduction of air bag systems to meet those requirements. While air bag systems are certainly one promising method of providing passive protection, it should be understood that other types of systems, such as fixed cushioning of the vehicle interior, self-fastening belt systems, and crash-deployed nets or blankets, used separately or in combination, are equally acceptable methods to the extent that they satisfy the requirements of the standard. Some comments, for example, objected to the side-impact requirements on grounds that air

bags may not be suitable for providing that type of protection. It is intended, however, that manufacturers will select whatever methods are found appropriate for the purpose, such as contoured seats and door cushioning.

Several comments recommended that the requirement for seat belts be retained, citing the benefits of keeping the driver in his seat during violent maneuvers, and the possibility of failure of a passive system. It is the Bureau's position that the possible benefits of required seat belts would not justify the costs to the manufacturers and to the public. Only a small percentage of the public uses the upper torso restraints that are presently furnished with passenger cars. At high impact speeds, seat belts have been shown to reduce the effectiveness of air cushions in some instances. Furthermore, some types of protection systems used to meet the requirements of the standard might be incompatible with seat belts. Under the standard as adopted manufacturers will be free to supply seat belts as optional or standard equipment, but may not use them to satsify the requirements of the standard. Standard No. 210 will continue to require seat belt anchorages to be installed by manufacturers, so that persons who wish to have seat belts installed in their vehicles, for their own use or for use with child seating systems, will be able to do so. Manufacturers may, and are encouraged to, meet the need to hold the driver in position by means such as contouring the seat structure. Manufacturers will not be required, therefore, to furnish seat belts in positions where they provide full passive protection.

Several manufacturers objected to the proposed effective dates on which passive protection would be mandatory: January 1, 1973, for passenger cars, and January 1, 1974, for trucks of 10,000 pounds or less GVWR and multipurpose passenger vehicles. Additional time was requested to conduct reliability and durability development programs for passive restraint systems, and to develop the necessary production tooling and techniques. The Bureau has carefully considered the arguments concerning effective dates, from both the manufacturers' and the public-interest points of view. Extensive information has been gathered from manufacturers concerning the possible dates and manner of introduction of passive protection systems. Leadtime to produce adequately tested systems in sufficient quantities is certainly necessary; but the importance of passive protection is such that it would not be in the public interest to introduce it at the pace preferred by the slowest. In accordance with these considerations, and with all the information available to the Bureau, the date for mandatory introduction of passive protection in passenger cars is extended from January 1, 1973, to July 1, 1973, and in trucks of 10,000 pounds GVWR or less and multipurpose passenger vehicles from January 1, 1974, to July 1, 1974. It should be noted in this regard that the seat belt requirements proposed for the interim period in the notice of September 25, 1970 (35 F.R. 14941), the injury criteria, and some of the test requirements, have been simplified or otherwise modified with respect to the requirements of the May 7, 1970, notice (35 F.R. 7187).

The May 7 notice proposed passive protection at all designated seating positions. Several comments objected to this on the basis that most of the development work to date has been on the front passenger positions, with much less work on the driver and rear passenger positions, and suggested that the standard initially require passive protection for the front passenger positions only. A delay in the requirement for passive rear-seat protection has been found to be justified, in view of the additional development time that may be needed, since the occupancy rate for those seats is much lower, and they tend to be safer in a crash, than the front seats. A delay in the introduction of passive protection for the driver, in contrast, is not justifiable. That position is of course the most frequently occupied, and the death and injury rates per accident are accordingly high. In some respects, furthermore, protecting the driver presents fewer technological problems than other positions. The driver is less likely than the passenger to be greatly out of position in a crash, and the steering wheel and column, under existing safety standards, are already passive crash protection devices, with significant possibilities for improvement. The standard as issued, therefore, requires passive protection to be provided for all front seating positions in passenger cars, beginning July 1, 1973. It also requires extension of protection to rear seats of passenger cars, to trucks of 10,000 pounds or less GVWR, and to multipurpose passenger vehicles, by July 1, 1974.

Exemption from the standard was requested by manufacturers of various types of vehicles, including forward control vehicles, walk-in vans, open-body vehicles, motor homes, chassis-mount campers, and trucks between 6,000 and 10,000 pounds GVWR. The need to protect occupants of these vehicles from crash impacts is, however, substantially as great as it is with other vehicles, and it has been determined, therefore, that exemptions from the standard for these vehicles are not in the public interest. The May 7 notice excepted open-body type vehicles from the rollover requirement, but a separate notice issued today (35 F.R. 16937) proposed to delete that exception. It should be noted, however, that the recently amended definition of "designated seating position", in 49 CFR § 571.3 (35 F.R. 15222, Sept. 30, 1970), issued in connection with a prior revision of Standard 208, limits the seating positions covered by the standard to those intended by the manufacturer for use while the vehicle is in motion.

It was suggested that the labeling requirements for an occupant protection system be limited to the recommended schedule for maintenance or replacement of crash-deployed systems, with further instructions furnished with the vehicle, as in the owner's manual. These suggestions have merit, since the inclusion of complete and detailed instructions may be hindered by the space limitations of a label, and the standard has been reworded accordingly.

The proposed requirement for a readiness indicator for crash-deployed systems brought forth several questions as to which system elements were required to be monitored. Obviously any deployable system will have some qualities, such as the condition of a fabric, that are not suitable for monitoring, and other aspects whose monitoring would be very difficult and costly. System monitoring of electrical circuitry and pressure vessels, two of the most critical elements where they exist, is, however, feasible with present technology. Therefore, although manufacturers are urged to provide monitoring for all system elements for which it is feasible, the specific requirements of the standard in this regard are that electrical circuitry and pressurized gases, if present, be monitored, and that the manufacturer's instructions list all the elements that are monitored.

The standard does not specify a range of environmental conditions over which the vehicle must perform as required. Because of the variety of systems, located in various parts of the vehicle, that may be used to satisfy the standard, it has been found inappropriate to anticipate the particular types of environmental conditions that might cause safety problems, while avoiding the imposition of overly stringent requirements. For similar reasons, an acceptable noise level for crash-actuated systems has not been specified. Manufacturers must take care to ensure that their systems operate satisfactorily and present no undue hazards to occupants, over the range of conditions encountered in use, in order to avoid liability for defective vehicles under the National Traffic and Motor Vehicle Safety Act. If significant hazards are found to exist with respect to aspects of performance that are not dealt with in the standard, either through testing or empirical studies, further regulatory action will be taken.

A number of comments to the May 7 notice objected to the proposed requirement that the vehicle meet the injury criteria when barrier-crashed at any angle up to 30° in either direction from the perpendicular. One reason given was that present air bag systems may not prevent occupants from impacting the sides of the vehicle, or each other, in angular crashes. Occupant protection in angular crashes is extremely important, however. Available data indicate that collisions occurring 30° from the directly frontal are not significantly less frequent than directly frontal ones. Fully effective protection, therefore, must include whatever combination of fixed or deployable components is necessary to prevent serious injury across this range. In recognition of the need for further development work in this area, the effective date of the requirement for frontal crash protection at angles other than directly frontal is July 1, 1974.

The objection that requiring protection across ranges of angles and speeds would require an infinite number of manufacturer tests is without merit. The

standard does not prescribe manufacturer tests, expressly or by implication, but requires each manufacturer to ensure by appropriate means that his vehicles meet the requirements when tested within the range of specified conditions.

Several comments objected to the proposed test procedure for lateral impacts, in which the vehicle would be impacted, moving laterally, into a fixed collision barrier. It was stated that the test lacked realism, that the mechanism for moving the vehicle laterally would be unduly cumbersome, and that the results would not be sufficiently repeatable. Also, many comments to the May 7 notice objected to the rollover test requirement, on grounds that existing test procedures did not produce repeatable results, and that present air bag systems do not provide protection in rollovers. On consideration of the docket comments and other available information, it has been determined that lateral impact and rollover protection should continue as part of the requirements. Specific test conditions for lateral moving barrier crash testing and for rollover testing are proposed in a separate notice published today (35 F.R. 16937). That notice also proposes a minimum vehicle speed of 15 miles per hour for deployment of crash-deployed systems.

The notice of proposed rulemaking published on September 25, 1970 (35 F.R. 14941), proposed injury criteria that are modified from the May 7 notice. These criteria would limit head accelerations to 67g except for cumulative periods of 3 milliseconds with a maximum of 90g, limit chest accelerations to 40g except for cumulative periods of 2 milliseconds, and limit the axial force through each upper leg to 1,400 pounds. Comments to the May 7 and the September 25 notices varied widely in their recommendations. Some advocated the use of severity indices, while others disputed the methods or the quantitative levels of the indices. The levels proposed in the September 25 notice are adopted in this standard, with the head acceleration changed from 67g to 70g, as the best available criteria for the quantities measured. Consideration will be given to adoption of a severity index or other criteria as further research results become known. Research results and comments related to the problem indicate, however, that human tolerances for lateral accelerations on the head and chest are significantly lower than for forward ones, and the separate notice issued today (35 F.R. 16937) proposes additional injury criteria with respect to the lateral component of head and chest accelerations.

Several of the injury criteria proposed in the May 7 notice have been omitted from the standard. The forces and pressures on the chest, abdominal, and pelvic regions were primarily related to the performance of belt-type systems, and it has been found that no accurate means of determining these values presently exists. They are not considered as critical as the acceleration values that are specified in the standard, and, as recommended by many of the comments, they have been omitted. Pelvic acceleration has also been determined to be redundant, since maximum loads transmitted to the pelvis through each femur are specified in the standard. The May 7 proposal set a maximum of 1,200 pounds transmitted through each femur. In accordance with further study and review of the comments, the requirement has been changed to specify a maximum axial load of 1,400 pounds transmitted through each femur.

The fact that some injury criteria, such as force and pressure, cannot be accurately measured by anthropomorphic test devices suggests that alternate steps must be taken to insure that these criteria are kept to tolerable levels. Prompt consideration will be given to rulemaking actions to increase the safety afforded by components of the vehicle such as seating systems, whose collapse in a crash can significantly increase the forces and pressures on occupants. Standard No. 207, Seating Systems, is one of the standards for which changes will be proposed.

A number of comments were directed at the proposed use of anthropomorphic test devices described in SAE Recommended Practice J963. Some comments were to the effect that the SAE dummy specifications were inadequate and insufficiently detailed. On consideration of all available data, it has been determined that dummies conforming to the SAE specifications are the most complete and satisfactory ones presently available. More complete specifications have been added for the configuration of the pelvis, the positioning of the dummies in the vehicle, and the instrumentation techniques. The positioning of instrumentation within the dummies is specified to insure more consistent and repeatable results. A requirement that acceleration data be filtered to exclude frequencies higher than 250 cycles per second has been added, in response to several comments, to eliminate sharp spikes due to electronic noise and dummy resonance that are not considered significant with respect to injury.

The position of adjustable seats has been set midway between the forwardmost and rearmost positions, to provide a more realistic test than the proposed one with the seat fully forward. For the same reason, and to assess more accurately the vehicle's protection performance, it is specified that the doors shall be unlocked for all tests, and adjustable steering controls shall be placed in the center of the driving adjustment range; these aspects were not covered in the proposal.

Effective date. Because of the extensive development work and preparation for production that this standard will require, it is found that an effective date later than 1 year from the date of issuance is in the public interest. As specified in the standard, certain provisions are effective July 1, 1973, and others are effective July 1, 1974.

(Secs. 103, 108, 112, 114, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1397, 1401, 1403, 1407; delegation of authority from Secretary of Transportation to Director of the National Highway Safety Bureau, 49 CFR 1.51, 35 F.R. 4955)

Issued on October 29, 1970.

DOUGLAS W. TOMS,
Director,
National Highway Safety Bureau.

§ 571.21 **Federal motor vehicle safety standards.**

* * * * *

MOTOR VEHICLE SAFETY STANDARD No. 208

OCCUPANT CRASH PROTECTION—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES

S1. *Purpose and scope.* This standard specifies performance requirements for the protection of vehicle occupants in crashes.

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

S3. *General requirements.*

S3.1 *Passenger cars.*

S3.1.1 Each passenger car manufactured from July 1, 1973, to June 30, 1974, inclusive, shall—

(a) Meet the frontal crash protection requirements of S4.1, in a perpendicular impact, by means that require no action by any vehicle occupant, except that an anthropomorphic test device shall be placed only in each front designated seating position;

(b) Meet the lateral crash protection requirements of S4.2 by means that require no action by any vehicle occupant, except that a test device shall be placed only at a front outboard designated seating position adjacent to the impacted side; and

(c) At each designated seating position other than the front positions, either meet the frontal crash protection requirements of S4.1, in a perpendicular impact, and the lateral crash protection requirements of S4.2, by means that require no action by any vehicle occupant, or have installed a Type 1 or Type 2 seat belt assembly that conforms to the requirements of S7 and to Federal Motor Vehicle Safety Standard No. 209.

S3.1.2 Each passenger car manufactured on or after July 1, 1974, shall meet all the occupant crash protection requirements of S4 by means that require no action by any vehicle occupant.

S3.2 *Trucks with gross vehicle weight ratings of 10,000 pounds or less and multipurpose passenger vehicles.*

S3.2.1 Each truck with a gross vehicle weight rating of 10,000 pounds or less and each multipurpose passenger vehicle, manufactured from July 1, 1973, to June 30, 1974, inclusive, shall at each designated seating position:

(a) Meet the frontal crash protection requirements of S4.1, in a perpendicular impact, and the lateral crash protection requirements of S4.2, by means that require no action by any vehicle occupant; or

(b) Have a seat belt assembly that conforms to Federal Motor Vehicle Safety Standard No. 209 installed as follows:

(1) A Type 1 seat belt assembly shall be installed for each designated seating position in open-body type vehicles and walk-in van-type trucks.

(2) In all vehicles except those for which requirements are specified in S3.2.1(b)(1), a Type 2 seat belt assembly shall be installed for each outboard designated seating position that includes the windshield header within the head impact area, and a Type 1 seat belt assembly shall be installed for each other designated seating position.

(3) A Type 2 seat belt assembly may be installed for any position where a Type 1 seat belt assembly is specified by S3.2.1 (b)(1) or (b)(2). A combination of a Type 2a shoulder belt and a Type 1 seat belt assembly may be installed where a Type 1 or Type 2 seat belt assembly is specified by S3.2.1 (b)(1) or (b)(2).

S3.2.2 Each truck with a gross vehicle weight rating of 10,000 pounds or less and each multipurpose passenger vehicle, manufactured on or after July 1, 1974, shall meet all the occupant crash protection requirements of S4 by means that require no action by any vehicle occupant. [A separate notice issued today (35 F.R. 16937) proposes to delete the exception of open-body type vehicles from the rollover requirement that was provided in the notice of May 7, 1970 (35 F.R. 7187).]

S3.3 *Trucks with gross vehicle weight ratings of more than 10,000 pounds.* Each truck with a gross vehicle weight rating of more than 10,000 pounds, manufactured on or after July 1, 1973, shall, at each designated seating position, either meet the frontal crash protection requirements of S4.1, in a perpendicular impact, and the lateral crash protection requirements of S4.2, by means that require no action by any vehicle occupant, or have installed a Type 1 or Type 2 seat belt assembly that comforms to Standard No. 209.

S3.4 *Buses.* Each bus manufactured on or after July 1, 1973, shall, at the driver's designated seating position, either meet the frontal crash protection requirements of S4.1, in a perpendicular impact, and the lateral crash protection requirements of S4.2, by means that require no action by any vehicle occupant, or have installed a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209.

S3.5 *Labeling and driver's manual information.* Each vehicle shall have a label setting forth the manufacturer's recommended schedule, specified by month and year, for the maintenance or replacement, necessary to retain the performance required by this standard, of any crash-deployed occupant protection system. The label shall be permanently affixed to the vehicle within the passenger compartment and lettered in English in block capitals and numerals not less than three thirty-seconds of an inch high. Instructions concerning maintenance or replacement of the system and a description of the functional operation of the system shall be provided with each vehicle, with an appropriate reference on the label. If a vehicle owner's manual is provided, this information shall be included in the manual.

S3.6 *Low velocity deployment.* [A requirement for an impact speed below which a crash-deployed system must not deploy is proposed in a separate notice published today (35 F.R. 16937).]

S3.7 *Readiness indicator.* An occupant protection system that deploys in the event of a crash shall have a monitoring system with a readiness indicator. The system components monitored shall include all electrical circuits and compressed gases, if present. The indicator shall monitor its own readiness and shall be clearly visible from the driver's designated seating position. A list of the elements of the system being monitored by the indicator shall be included with the information furnished in accordance with S3.5, but need not be referred to by the label.

S4. *Occupant protection requirements.*

S4.1 *Frontal barrier crash.* When the vehicle impacts a fixed collision barrier perpendicularly, or at any angle up to and including 30° in either direction from the perpendicular, under the applicable conditions of S6, while moving longitudinally forward at any speed up to and including 30 m.p.h., with test devices at each designated seating position, it shall meet the injury criteria of S5.

S4.2 *Lateral moving barrier crash.* When the vehicle is impacted laterally by a barrier moving at 20 m.p.h., with test devices at the outboard designated seating positions adjacent to the impacted side, under the applicable conditions of S6, it shall meet the injury criteria of S5.

S4.3 *Rollover.* When the vehicle is subjected to a rollover test at 30 m.p.h., with test devices in the outboard designated seating positions on its lower side as mounted on the test platform, under the applicable conditions of S6, it shall meet the injury criteria of S5.1.

S5. *Injury criteria.*

S5.1 The test device shall be contained by the outer surfaces of the vehicle passenger compartment.

S5.2 The resultant acceleration at the center of gravity of the head shall not exceed 90g, and shall not exceed 70g for a cumulative duration of more than 3 milliseconds. [Criteria for the lateral component of head acceleration are proposed in a separate notice published today (35 F.R. 16937).]

S5.3 The resultant acceleration at the center of gravity of the upper thorax shall not exceed 40g for a cumulative duration of more than 2 milliseconds. [Criteria for the lateral component of upper thorax acceleration are proposed in a separate notice published today (35 F.R. 16937).]

S5.4 The force transmitted axially through each upper leg shall not exceed 1,400 pounds.

S6. *Conditions.*

S6.1 *General conditions.* The following conditions apply to the frontal, lateral, and rollover tests.

S6.1.1 The vehicle, including test devices and instrumentation, is loaded to its gross vehicle weight rating, distributed as nearly as possible in proportion to its gross axle weight ratings.

S6.1.2 Adjustable seats are in the adjustment position midway between the forwardmost and rearmost positions, and if separately adjustable in a vertical direction, are at the lowest position.

S6.1.3 Adjustable seat backs are in the fully upright riding position.

S6.1.4 Adjustable steering controls are adjusted so that the steering wheel hub is at the geometric center of the locus it describes when it is moved through its full range of driving positions.

S6.1.5 Movable vehicle windows and vents are in the fully closed position.

S6.1.6 Convertibles and open-body type vehicles have the top, if any, in place in the closed passenger compartment configuration.

S6.1.7 Doors are fully closed and latched but not locked.

S6.1.8 Anthropomorphic test devices conform to the requirements of SAE Recommended Practice J963, June 1968, and have a pelvic structure that conforms to Figure 1. The weights, dimensions and centers of gravity specified in SAE J963 for the test device segments are determined with all instrumentation in place.

S6.1.9 Each test device is clothed in form-fitting cotton stretch garments.

S6.1.10 Limb joints are set at 1g, barely restraining the weight of the limb when extended horizontally. Leg joints are adjusted with the torso in the supine position. Articulated head, neck, and torso joints do not move at a horizontal acceleration load of 1g, in the test position, but move at a horizontal acceleration load of 2g.

S6.1.11 Each test device is firmly placed in a designated seating position in the following manner.

(a) The head is aligned by placing the test device on its back on a rigid, level surface and by adjusting the head so that it touches the level surface and is laterally centered with respect to the device's axis of symmetry.

(b) The test device is placed in the vehicle in the normal upright sitting posture, and a rigid roller, 6 inches in diameter and 24 inches long, is placed transversely as low as possible against the front of the torso.

(c) The roller is pressed horizontally against the torso with a force of 50 pounds.

(d) Force is applied at the shoulder level to bend the torso forward over the roller, flexing the lower back, and to return the test device to the upright sitting posture.

(e) The roller is slowly released.

S6.1.12 During impacts, the test devices are not restrained by any means that require occupant action.

S6.1.13 The hands of the test device in the driver's designated seating position are on the steering wheel rim at the horizontal centerline. The right foot is at 90° to the tibia and rests on the brake pedal with the longitudinal axis of the tibia directed at the geometric center of the brake pedal pad. The left leg is placed as in S6.1.14.

S6.1.14 The hands of each other test device are overlapping in its lap. Where possible, the legs are outstretched, with the thighs on the seat and the heels touching the floor with the foot at 90° to the tibia. Otherwise, the tibia are vertical with the feet resting on the floor. The left leg of a test device in the center front designated seating position is on the vehicle centerline, and the right leg is in the right footwell. The left and right legs of a test device in the center rear designated seating position are in the left and right footwells, respectively.

S6.1.15 A load sensing device is installed in each upper leg, 4.25 inches from the knee's axis of rotation, so that all force transmitted from the knee to the upper leg is measured.

S6.1.16 Acceleration sensing devices are installed in each test device to measure orthogonal accelerations at the centers of gravity of the head and upper thorax.

S6.1.17 The output of acceleration and load sensing devices is recorded in individual data channels that have a flat frequency response from 0.5 to 250 cycles per second. The output is filtered to exclude frequencies higher than 250 cycles per second.

S6.1.18 The sensing devices are rigidly attached to the test device by mountings that have no resonance frequency under 250 cycles per second.

S6.1.19 Instrumentation does not affect the motion of test devices during impact or rollover.

S6.2 *Lateral moving barrier crash test conditions.*

S6.3 *Rollover test conditions.* [Specific conditions for the lateral moving barrier crash test and the rollover test are proposed in a separate notice published today (35 F.R. 16937).]

S7. *Seat belt assemblies—passenger cars.*

S7.1 *Adjustment.*

S7.1.1 The pelvic restraint portion of any seat belt assembly furnished in accordance with S3.1 shall adjust automatically to fit vehicle occupants whose dimensions range from those of a 50th percentile 5-year-old female to those of a 95th percentile adult male, with the seat in any position and the seat back in any upright riding position, by means of either—

(a) An emergency-locking retractor that conforms to Standard No. 209, except that it shall not lock when subjected to an acceleration of 0.3g or less, and shall lock when subjected to an acceleration of 0.7g or more, in accordance with S5.2(j) of Standard No. 209; or

(b) An automatic-locking retractor that conforms to Standard No. 209.

S7.1.2 The upper torso restraint portion of a seat belt assembly furnished in accordance with S3.1 shall adjust to fit vehicle occupants whose dimensions range from those of a 5th percentile adult female to those of a 95th percentile adult male with the seat in any position and the seat back in any upright riding position, by means of either—

(a) An emergency-locking retractor that conforms to Standard No. 209, except that it shall not lock when subjected to an acceleration of 0.3g or less, and shall lock when subjected to an acceleration of 0.7g or more, in accordance with S5.2(j) of Standard No. 209; or

(b) A manual adjusting device that conforms to Standard No. 209.

S7.1.3 The intersection of the upper torso belt with the lap belt in any Type 2 seat belt assembly furnished in accordance with S3.1, adjusted in accordance with the manufacturer's recommendations, shall be at least 8 inches distant from the front vertical centerline of a 50th percentile adult male occupant, measured along the centerline of the lap belt, with the seat in its rearmost position and lowest vertical adjustment position, and with the seat back in any upright riding position.

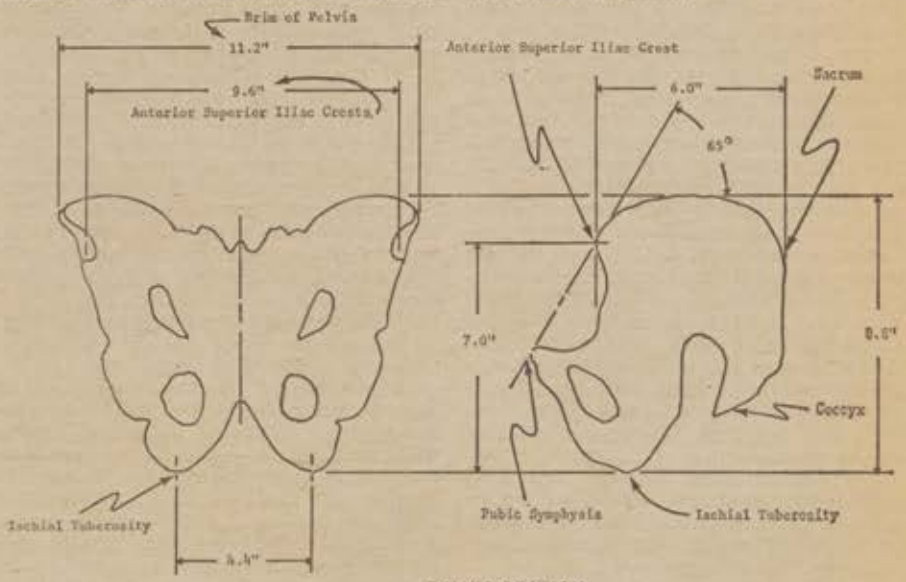
S7.2 *Latch mechanism.*

S7.2.1 A seat belt assembly furnished in accordance with S3.1 shall have a latch mechanism—

(a) Whose components are readily accessible to the occupant in both the stowed and operational positions;

(b) That releases the upper torso and lap belts simultaneously; and

(c) That releases at a single point by a pushbutton action.



PELVIC SECTION

50TH PERCENTILE MALE ANTHROPOMORPHIC TEST DEVICE

FIGURE I

[F.R. Doc. 70-14710; Filed, Nov. 2, 1970; 8:45 a.m.]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[3d Rev. S.O. 1009]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of October 1970.

It appearing, that there are acute shortages of freight cars throughout the country; that certain carriers are unable to furnish an adequate supply of freight cars to shippers located on their lines; that these shortages of freight cars are impeding the movement of agricultural, mineral, forest, and manufactured products, and other commodities; and that the existing car service rules, regulations and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of freight cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impractable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1009 **Railroad operating regulations for freight car movement.**

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Placing of cars.* (i) Loaded cars, which after placement will be subject to demurrage rules applicable to detention of cars awaiting unloading, shall be actually or constructively placed within 24 hours, exclusive of Sundays and holidays, following arrival at destination.

(ii) Empty cars, assigned to the exclusive use of a shipper, which after placement will be subject to demurrage rules applicable to cars awaiting loading, shall

be actually or constructively placed within 48 hours, exclusive of Sundays and holidays, following arrival at loading point. Exception: Empty cars of private ownership held pursuant to instructions of the car owner.

(iii) Actual placement means placing a car in an accessible position for loading or unloading or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other-than-public-delivery tracks serving the consignor or consignee, it shall be considered constructively placed without notice.

(iv) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange track or to an other-than-public-delivery track, cannot be made because of any condition attributable to the consignor or consignee, such car will be held at destination or, if it cannot reasonably be accommodated there, at an available hold point and constructive placement notice shall be sent or given the consignor or consignee within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point, except that notice on cars subject to subdivision (ii) of this subparagraph shall be sent or given within 48 hours, exclusive of Sundays and holidays, following arrival of car at destination or hold point.

(v) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(vi) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding for orders or inspection, shall be placed on unloading, hold, or inspection tracks, and proper notice given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at destination. On cars set off and held short of billed destination, or on cars held at destination and short of inspection tracks, a written notice shall be sent or given to consignee or other party entitled to receive such notice, within 24 hours of arrival, exclusive of Saturdays, Sundays, and holidays, at the hold point. Time and charges shall be computed following such notice and demurrage or detention charges assessed in accordance with provisions of governing tariffs.

(vii) (*a*) Cars assigned to the exclusive use of a shipper must be listed on assignment lists posted in the office of the Chief Transportation Officer of the serving carrier, the office of the Chief Transportation Officer of the car owner, and in the office designated to issue waybills and other shipping documents for loaded movements from the points of assignment. Assignment lists must specify initial and number of each assigned car, shipper to whom assigned, and date car assignment became effective.

(*b*) Requests for assignments of cars must be secured in writing, or confirmed in writing, by the carrier on whose lines the cars are assigned, not less than 10 days before the effective date of the car assignment. Freight cars in assigned service on October 31, 1970, shall be considered as having been in such assignments for 10 days or longer: *Provided*, That the assignment lists are prepared and posted, as required herein, not later than November 15, 1970.

(*c*) Freight cars so assigned may be removed from the provisions of this section, provided that assignee notifies in writing originating railroad and car owner (if different from originating railroad) 10 days in advance of his desire to release such cars from assignment on a permanent or temporary basis of not less than 15 days' duration. The carrier must remove cars from assignment in accordance with assignee's request.

(2) *Removal of cars.* (i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 24-hour period. Empty foreign cars not ordered for loading at point where made empty must be forwarded, set aside for cleaning or repairs, or delivered to connecting lines within 24 hours, following removal of empty cars.

(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following acceptance by carrier of the shipping instructions covering the cars. Such cars must be forwarded, set aside for repairs, or delivered to connecting lines within 24 hours, following release and removal.

(iii) Cars subject to subdivisions (i) and (ii) of this subparagraph not made accessible to the carrier shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(3) *Forwarding of Cars.* (i) Loaded cars, empty cars of foreign or private ownership, and empty system cars when the owning railroad is the beneficiary of car distribution directions or service orders issued by the Commission applicable to the kind of car held, shall be forwarded within 24 hours, except cars described in subdivisions (ii), (iii), (iv), and (v) of this subparagraph and in subdivision (ii) of subparagraph (1) of this paragraph.

(ii) Empty cars of private ownership when held pursuant to instructions of the car owner. Empty cars of railroad ownership listed in the Official Railway Equipment Register, ICC R.E.R. No. 376, issued by E. J. McFarland, agent, or reissues thereof, as having mechanical designations XT, AM, RCD, RPM, RSM, RSTM, FA, FC, and all Class S-Stock Car Types.

(iii) Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariff charges.

(iv) Cars held for repairs or cleaning. (See subparagraph (4) of this paragraph.)

(v) Cars held because no train or switch engine service is available between hold point and destination.

(4) *Cars held for repairs or cleaning.* (i) Loaded cars of system, foreign, or private ownership, empty cars of foreign or private ownership, and when the holding line is the beneficiary of car distribution directions or orders issued by this Commission applicable to the kind of car held, empty system freight cars which are held for light repairs or cleaning shall be placed on repair or cleaning tracks not later than the first 7 a.m., exclusive of Sundays and holidays, after time carded for repairs or cleaning, or after arrival at point where repairs or cleaning are performed. Light repairs or cleaning shall be accomplished on same calendar day, exclusive of Sundays and holidays, that cars are placed on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars, repairs to foreign or private cars held awaiting such material shall be completed prior to 11:59 p.m., of the calendar day which includes the first 7 a.m., inclusive of Sundays and holidays, after receipt of such material at the station at which the repair point is located. Exception: The provisions of this paragraph shall not apply to empty cars of railroad ownership listed in the Official Railway Equipment Register, ICC R.E.R. No. 376, issued by E. J. McFarland, Agent, or reissues thereof, as having mechanical designations XT, RAM, RCD, RPM, RSM, RSTM, FA, FC, and all Class S-Stock Car Types.

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(5) *Railroad operating regulations for the movement of freight cars.* (i) No common carrier by railroad subject to the Interstate Commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Cars shall not be set out between terminals except in cases of emergencies.

(iii) Backhauling cars for the purpose of increasing the time in transit is prohibited.

(iv) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(v) The use by any common carrier by railroad for the movement of cars over its line, of any route other than its usual and customary fast freight route from point of receipt of the car from consignor, or connecting line, to point of delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or reconsignment privilege) is hereby prohibited.

(b) Application: (1) The provisions of this section shall apply to intrastate, interstate, and foreign commerce.

(2) Holidays shall be those listed in Item 25 of Agent B. B. Maurer's Tariff ICC H-36, naming Car Demurrage Rules

and Charges, supplements thereto, or successive issues thereof.

(c) Rules and regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this section, is hereby suspended.

(d) Effective date: This section shall become effective at 11:59 p.m., October 31, 1970.

(e) Expiration date: This section shall expire at 11:59 p.m., December 31, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70–14755; Filed, Nov. 2, 1970; 8:49 a.m.]

[8th Rev. S.O. 1041]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of October 1970.

It appearing, that an acute shortage of certain plain boxcars exists on the railroads named in paragraph (a) of subparagraph (1) herein; that shippers located on the lines of these carriers are being deprived of such cars required for loading, resulting in a severe emergency and causing grain elevators to be unable to accept newly harvested grain, or to store grain on the ground, thus creating economic loss; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by these railroads are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1041 Distribution of boxcars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owners empty, except as otherwise authorized in subparagraphs (2) and (4) of this paragraph, all plain boxcars which are listed in the registration of the specific railroads named herein in the Official Railway Equipment Register, ICC R.E.R. 376, issued by E. J. McFarland, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9 feet wide and bearing the identification marks shown:

Burlington Northern Inc., Identification marks—BN, CBQ, GN, NP, SPS.
Chicago and North Western Railway Co., Identification marks—CNW, CMO, MSTL, CGW.
Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Identification marks—MILW.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, boxcars described in subparagraph (1) of this paragraph may be loaded to stations on the lines of the owning railroad, or to any other station which is closer to the owner than the station at which loaded. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(3) Boxcars described in subparagraph (1) of this paragraph shall not be back-hauled empty from a junction with the car owner.

(4) Boxcars described in subparagraph (1) of this paragraph located at a point other than a junction with the car owner shall not be back-hauled empty, except for the purpose of loading to a junction with the car owner or to a station on the lines of the car owner.

(5) The return to the owner of a boxcar described in subparagraph (1) of this paragraph shall be accomplished when it is delivered to the car owner, either empty, or loaded as authorized by subparagraph (2) or (4) of this paragraph, at a junction with the car owner.

(6) Junction points with the car owner shall be those listed by the car owner in its specific registration in the Official Railway Equipment Register, ICC RER No. 376, issued by E. J. McFarland, or successive issues thereof, under the heading "Freight Connections and Junction Points."

(7) In determining distances to the car owner from the points of loading or unloading, tariff distances applicable via the lines of the carriers obligated under Car Service Rules 1 and 2 to move the car shall be used.

(8) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraph (2) or (4) of this paragraph.

(b) Application: The provisions of this section shall apply to intrastate, interstate, and foreign commerce.

(c) Effective date: This section shall become effective at 12:01 a.m., November 1, 1970.

(d) Expiration date: This section shall expire at 11:59 p.m., November 30, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70–14758; Filed, Nov. 2, 1970; 8:49 a.m.]

[Rev. S.O. 1050]

PART 1033—CAR SERVICE

Demurrage and Detention Charges on Open-Top Hopper Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held at its office in Washington, D.C., on the 28th day of October 1970.

It appearing, that acute shortages of open-top hopper cars exist throughout the country; that certain carriers are unable to furnish an adequate supply of these cars to coal mines and other shippers located on their lines; that these shortages are impeding the movement of coal required by the Nation's electric power plants; that these shortages are also impeding the movements of ore, construction materials, sugar beets, and other commodities vital to the Nation's economy; that many open-top hopper cars are held by shippers for loading, unloading, or instructions for movement, in excess of the free time periods established by the applicable demurrage and detention tariffs; that such practices immobilize large numbers of open-top hopper cars needed by shippers for transportation of other freight; and that the existing demurrage and detention rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of open-top hopper cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that

notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That

§ 1033.1050 Demurrage and detention charges on open-top hopper cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations and practices with respect to its demurrage and detention rules, practices, and charges.

(b) Description of cars subject to this section. This section shall apply to open-top hopper cars listed in the Official Railway Equipment Register, ICC R.E.R. No. 376, issued by E. J. McFarland, or successive issues thereof, as having mechanical designations "HE," "HD," "HF," "HFA," "HFB," "HK," "HM," "HMA," "HT," or "HTA."

(c) Demurrage charges: All demurrage or detention charges, including charges due under average demurrage agreements, for the holding of open-top hopper cars described in paragraph (b) of this section, in excess of the free time periods described in applicable tariffs shall be increased 100 percent.

(d) Average demurrage agreements at ocean, lake or river ports: The provisions of this section shall apply to any average agreement demurrage or detention charges applicable to the holding of open-top hopper cars, described in paragraph (b) of this section, at any ocean, lake, or river port. Debits charged against cars held at Ocean, lake, or river ports for detention during the period this section is in effect may be offset only by credits earned during the period this section is in effect, provided that such offsetting of debits with credits is authorized in the applicable tariffs.

(e) Average demurrage agreements at other points: (1) Debits and credits on open-top hopper cars described in paragraph (b) of this section shall not be commingled with debits and credits on other types of freight cars and must be computed separately when such cars are subject to an average agreement as provided for in Item 940, Rule 9 of section 1 of Freight Tariff 4–I, I.C.C. H–36, issued by B. B. Maurer, supplements thereto or reissues thereof, or other average agreements authorized in applicable tariffs.

(2) Credits earned on cars subject to this section shall be used only for the purpose of offsetting or canceling debits accruing on such cars subject to the provisions of this section. Debits accruing on cars subject to the provisions of this order cancelable only by credits earned on such cars subject to this section.

(f) Application: The provisions of this section shall apply to intrastate, interstate, and foreign commerce.

(g) Regulations suspended—announcement required: The operation of all rules and regulations, insofar as they conflict with the provisions of this section, is hereby suspended; and each railroad subject to this section, or its agent, shall publish, file, and post a supplement to its tariffs affected hereby, in substantial accordance with the provisions of Rule 9(k) of the Commission's Tariff Circular No. 20, announcing such suspension.

(h) Effective date: This section shall become effective at 7 a.m., November 1, 1970.

(i) Expiration date: This section shall expire at 6:59 a.m., December 1, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interpreta or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-14756; Filed, Nov. 2, 1970; 8:49 a.m.]

[S.O. 1053]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of October 1970.

It appearing, that an acute shortage of certain plain boxcars exists on the railroads named in paragraph (a) of subparagraph (1) herein; that shippers located on the lines of these carriers are being deprived of such cars required for loading, resulting in a severe emergency and causing grain elevators to be unable to accept newly harvested grain, or to store grain on the ground, thus creating economic loss; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by these railroads are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1053 Distribution of boxcars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owners empty, except as otherwise authorized in subparagraphs (2) and (4) of this paragraph, all plain boxcars which are listed in the registration of the specific railroads named herein in the Official Railway Equipment Register, ICC R.E.R. 376, issued by E. J. McFarland, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9 feet wide and bearing the identification marks shown:

The Atchison, Topeka and Santa Fe Railway Co. Identification marks—ATSF.
Chicago & Eastern Illinois Railroad Co. Identification marks—C&EI, CEI.
Chicago, Rock Island and Pacific Railroad Co. Identification marks—RI.
Illinois Central Railroad Co. Identification marks—IC.
Missouri-Kansas-Texas Railroad Co. Identification marks—MKT.
Missouri-Illinois Railroad Co. Identification marks—MI.
Missouri Pacific Railroad Co. Identification marks—MP.
St. Louis Southwestern Railway Co. Identification marks—SSW.
The Texas and Pacific Railway Co. Identification marks—T&P, TP.

(2) Except as otherwise provided in subparagraph (4) or (5) of this paragraph, boxcars described in subparagraph (1) of this paragraph may be loaded to stations on the lines of the owning railroad, or to any other station which is closer to the owner than the station at which loaded. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(3) Boxcars described in subparagraph (1) of this paragraph shall not be backhauled empty from a junction with the car owner.

(4) Boxcars described in subparagraph (1) of this paragraph located at a point other than a junction with the car owner shall not be backhauled empty, except for the purpose of loading to a junction with the car owner or to a station on the lines of the car owner.

(5) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications of this section may be authorized by the Chief Transportation Officer of the car owner or by directions of this Commission. Modifications issued by the Chief Transportation Officer of the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to R. D. Pfahler, Director, Bureau of Operations, Interstate Commerce Commission.

(6) The return to the owner of a boxcar described in subparagraph (1) of this paragraph shall be accomplished when it is delivered to the car owner, either empty, or loaded as authorized by subparagraph (2) or (4) of this paragraph, at a junction with the car owner.

(7) Junction points with the car owner shall be those listed by the car owner in

its specific registration in the Official Railway Equipment Register, ICC R.E.R. No. 376, issued by E. J. McFarland, or successive issues thereof, under the heading "Freight Connections and Junction Points".

(8) In determining distances to the car owner from the points of loading or unloading, tariff distances applicable via the lines of the carriers obligated under Car Service Rules 1 and 2 to move the car shall be used.

(9) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraph (2) or (4) of this paragraph.

(b) Application: The provisions of this section shall apply to intrastate, interstate, and foreign commerce.

(c) Effective date: This section shall become effective at 12:01 a.m., November 1, 1970.

(d) Expiration date: This section shall expire at 11:59 p.m., November 30, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10-17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-14757; Filed, Nov. 2, 1970; 8:49 a.m.]

[Ex Parte No. MC-19 (Sub-No. 4)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Denial of Petition; Effective Date

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 21st day of October 1970.

Upon consideration of the record in this proceeding and of the petition, filed on February 16, 1970, by the Household Goods Forwarders Association of America, Inc., to show cause why modification of § 1056.4 of the general rules and regulations of Motor Carriers of Household Goods, as ordered by the Commission in its report and order (335 I.C.C. 698) of December 5, 1969, should not be allowed to take effect; the petition filed on February 20, 1970, by the Household Goods Forwarders Association of America, Inc.; Smyth Moving and Storage Co., Inc.; Smyth Van & Storage Co. of California, Inc.; Smyth Van & Storage Co.; and Reliance Van Co. for reconsideration of said report and order, and for further hearing; of the petition requesting leave to file supplementary information relative to the latter petition filed by the same parties on June 11, 1970; and of the replies to the petitions including a motion to reject the petition to show cause;

It is ordered, That the petitions and motion be, and they are hereby, denied for the reason that sufficient grounds have not been presented to warrant granting the action sought; and

It is further ordered, That the order entered in this proceeding on December 5, 1969, which order was modified by the order of February 20, 1970, to stay its effective date, be, and it is hereby, reinstated and modified so as to become effective on December 1, 1970, without change in the requirements of said order.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-14752; Filed, Nov. 2, 1970; 8:51 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 12—AREAS CLOSED TO HUNTING

Eufaula National Wildlife Refuge, Alabama and Georgia

Certain lands and waters in Barbour County, Ala., and Stewart and Quitman, Counties, Ga.: Designation of closed area under Migratory Bird Treaty Act.

On page 14845 of the FEDERAL REGISTER of September 24, 1970, there was published a notice of proposal to designate an area closed to the hunting of migratory birds, as set forth below. The purpose of this designation is to aid administration of the Eufaula National Wildlife Refuge and to improve the effectiveness of the refuge for the purposes for which it was established by the United States.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed designation. Since ample opportunity was given for public comment, suggestions, or objections by publishing a notice of proposed rule making, and none have been received; and since the date of the opening of the season requires the protection sought immediately, it is found and determined for the good cause stated that further notice and public procedure are impracticable, unnecessary and contrary to public interest. The proposed designation is hereby adopted without change and is effective upon publication in the FEDERAL REGISTER.

The text of the designation is as follows:

This action is taken by virtue of and pursuant to section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), as amended by the Act of June 20, 1936 (49 Stat. 1556), and by virtue of the reorganization Plan II (53 Stat. 1433), and in accordance with section 4(a) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238), as amended (5 U.S.C. 553).

Having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds, included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals, concluded February 7, 1936, I hereby designate as a closed area in or on which pursuing, hunting, taking, capturing or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted, all the water areas within the following-described boundary:

An area of water in Barbour County, Ala., and Stewart and Quitman Counties, Ga., comprising parts of the Eufaula National Wildlife Refuge and certain lands and waters adjacent thereto, embraced within the following boundary:

All of the area of the Chattahoochee River, lying within Walter F. George Reservoir, bank to bank, submerged or exposed, including the waters thereof, between river mile 104 and river mile 116. Included also are the waters of Cowikee Creek, Wylaunee Creek, and Barbour Creek, all in Barbour County, Ala.; Rood Creek and Grass Creek in Stewart County, Ga.; and Bustahatchee Creek and Soapstone Creek in Quitman County, Ga., as all the above waters lie within the boundary of the Eufaula National Wildlife Refuge.

A. V. TUNISON,
Acting Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 28, 1970.

[F.R. Doc. 70-14729; Filed, Nov. 2, 1970; 8:47 a.m.]

PART 12—AREAS CLOSED TO HUNTING

Wassaw National Wildlife Refuge, Georgia

Certain lands and waters in Chatham County, Ga.: Designation of closed area under Migratory Bird Treaty Act.

On page 14846 of the FEDERAL REGISTER of September 24, 1970, there was published a notice of proposal to designate

an area closed to the hunting of migratory birds, as set forth below. The purpose of this designation is to aid administration of the Wassaw National Wildlife Refuge and to improve the effectiveness of the refuge for the purpose for which it was established by the United States.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed designation. Since ample opportunity was given for public comment, suggestions, or objections by publishing a notice of proposed rulemaking, and none have been received; and since the date of the opening of the season requires the protection sought immediately, it is found and determined for the good cause stated that further notice and public procedure are impracticable, unnecessary and contrary to public interest. The proposed designation is hereby adopted without change and is effective upon publication in the FEDERAL REGISTER.

The text of the designation is as follows:

This action is taken by virtue of and pursuant to section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), as amended by the Act of June 20, 1936 (49 Stat. 1556) and by virtue of the reorganization Plan II (53 Stat. 1433), and in accordance with section 4(a) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238) as amended (5 U.S.C. 553).

Having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals, concluded February 7, 1936, I hereby designate as a closed area in or on which pursuing, hunting, taking, capturing, or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted, all the land, marsh, and water areas in Chatham County, Ga., within the following-described boundary:

An area of land and water in Chatham County, Ga., comprising all of the Wassaw National Wildlife Refuge and certain lands and waters adjacent thereto, embraced within the following boundary:

Beginning at a point in the low-water mark of Wassaw Island on the east bank of Odingsell River, approximately 100 feet due west of U.S. Coast and Geodetic survey marker, known as Wassaw No. 2; thence southerly with the low-water mark of Wassaw Island, a distance of approximately 2,500 feet to point where Odingsell River intersects Ossabaw Sound; thence southeasterly with the low-water mark of Wassaw Island and Ossabaw Sound, a distance of approximately 2,500 feet to a point where the low-water mark of Ossabaw Sound and the low-water mark of the Atlantic Ocean intersect, and being the southernmost point of Wassaw Island; thence in a northeasterly direction with the low-water mark of Wassaw Island and the Atlantic Ocean, a distance of approximately 25,000 feet to point where the low-water mark of Wassaw Sound intersects the low-water mark of the Atlantic Ocean, being the northeasternmost point of Wassaw Island; thence in a westerly direction with the low-water mark of Wassaw Island and Wassaw Sound, and Romerly Marah Creek, crossing several tidal creeks and guts, a distance of approximately 28,000 feet to point where the low-water mark of Habersham Creek intersects low-water mark of Romerly Marsh Creek; thence southerly with the low-water mark of the east bank of Habersham Creek, a distance of approximately 8,000 feet to point where low-water mark of Habersham Creek intersects the low-water mark of an unnamed tidal gut; thence southeasterly crossing the said tidal gut, a distance of approximately 175 feet to a point in the low-water mark of Wassaw Island; thence southerly with low-water mark of east bank of said unnamed gut and Wassaw Island, a distance of approximately 500 feet to point where the low-water mark of said unnamed gut intersects the low-water mark of Odingsell River; thence southwesterly, a distance of approximately 600 feet, crossing Odingsell River to a point in the low-water mark of the west bank of Odingsell River, on the shore of Little Wassaw Island; thence northwesterly and southwesterly with the low-water mark of Odingsell River and Adams Creek, respectively, crossing several tidal creeks and guts, a distance of approximately 22,000 feet to a point where low-water mark of Adams Creek intersects the low-water mark of Ossabaw Sound; thence in an easterly direction with the low-water mark of Ossabaw Sound, along the shore of Little Wassaw Island, crossing the mouths of several creeks and guts, a distance of approximately 10,000 feet to a point where the low-water mark of Curtis Creek intersects the low-water mark of Ossabaw Sound; thence in a southeasterly direction, crossing Curtis Creek, a distance of approximately 200 feet to a point in the low-water mark of the east bank of Curtis Creek, on the shore of Pine Island; thence easterly with the low-water mark of Pine Island and Ossabaw Sound, a distance of approximately 8,000 feet to point where the low-water mark of the west bank of Odingsell River intersects the low-water mark of Ossabaw Sound; thence southeasterly, a distance of approximately 900 feet, crossing Odingsell River to the point of beginning.

A. V. TUNISON,
Acting Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 70-14730; Filed, Nov. 2, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

USE OF IMPACT-RESISTANT LENSES IN EYEGLASSES AND SUNGLASSES

Extension of Time for Filing Comments on Proposed Statement of Policy

The notice published in the FEDERAL REGISTER of October 2, 1970 (35 F.R. 15402), proposing a statement of policy regarding use of impact-resistant lenses in eyeglasses and sunglasses, provided for the filing of comments within 30 days after said date.

The Commissioner of Food and Drugs has received requests for an extension of such time and, good reason therefor appearing, the time for filing comments on the subject proposal is hereby extended to January 30, 1971.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502(j), 701(a), 52 Stat. 1051, 1055; 21 U.S.C. 352(j), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 22, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-14742; Filed, Nov. 2, 1970; 8:48 a.m.]

[21 CFR Part 130]

CONTINUATION OF LONG-TERM STUDIES, RECORDS, AND REPORTS ON CERTAIN APPROVED NEW DRUGS

Proposed Listing of Levodopa; Extension of Time for Filing Comments

The notice published in the FEDERAL REGISTER of September 23, 1970 (35 F.R. 14784), proposing the addition to 21 CFR Part 130 of § 130.47 *Continuation of long-term studies, records, and reports on certain drugs for which new-drug applications have been approved* and § 130.48 *Drugs that are subjects of approved new-drug applications and that require special studies, records, and reports* (the latter lists levodopa as the first such drug), provided for the filing of comments within 30 days after said date.

The Commissioner of Food and Drugs has received a request to extend such time and, good reason therefor appearing, the time for filing comments regarding the subject proposal is hereby extended to November 22, 1970.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act. (secs. 505(j), 701(a), 52 Stat. 1053, as amended 76 Stat. 782–83, 1055; 21 U.S.C. 355(j), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 22, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-14743; Filed, Nov. 2, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 70-WE-33-AD]

McDONNELL DOUGLAS MODEL DC-9-10, -20, -30, and -40 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to McDonnell Douglas Aircraft Company Model DC-9-10, -20, -30, and -40 series airplanes.

There have been instances of the forward attendant's jump seat becoming separated from the floor tie-down and/or wall panel attachments on Douglas Model DC-9 series airplanes. Two such occurrences have resulted in personal injury; one, as the result of an emergency landing; and the second, during a turbulent air encounter. Other seat separations have occurred during normal, routine operations. The Administration has surveyed the operators; ALPA (Air Line Pilots Association), Steward and Stewardess Division; and ALSSA (Air Line Stewards and Stewardesses Association); and has examined many industry responses. This information indicates a mixed experience record as to the jump seat. The manufacturer has developed an approved modification; and several operators have initiated their own programs. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require modification of the seat structure and seat attach points in accordance with the manufacturer's instructions or FAA-approved equivalent modifications.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before December 5, 1970 will be considered by the Administration before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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

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

MCDONNELL DOUGLAS. Applies to Model DC-9 series airplanes certificated in all categories.

Compliance required within the next 500 hours time in service after the effective date of this AD unless already accomplished.

To prevent possible separation of the forward attendant's seat assembly from the wall panel and/or floor attachments, modify the forward attendant's seat assembly in accordance with:

(1) Paragraph 2, instructions of Douglas Service Bulletin 25-113, dated May 20, 1968, or later FAA-approved revisions, or other FAA-approved equivalent modifications, and

(2) Paragraph 2, instructions of Douglas Service Bulletin 25-146, dated September 10, 1969, or later FAA-approved revisions, or other FAA-approved equivalent modification.

Issued in Los Angeles, Calif., on October 23, 1970.

LEE E. WARREN,
Acting Director, FAA Western Region.

[F.R. Doc. 70-14749; Filed, Nov. 2, 1970; 8:48 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket 69-7; Notice 8]

OCCUPANT CRASH PROTECTION IN PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES

Notice of Proposed Rule Making

The purpose of this notice is to propose amendments to the revised Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, issued today (35

F.R. 16926), that would add additional injury criteria for lateral accelerations of the head and chest, specify test conditions for the lateral moving barrier crash test and the rollover test, omit the exception of openbody type vehicles from the rollover requirement that was proposed in the notice of May 7, 1970 (35 F.R. 7187), and establish a minimum vehicle speed for actuation of crash-deployed occupant protection systems.

The standard as issued provides that the resultant accelerations of the head of an anthropomorphic test device in the specified crashes shall be not more than 70g, except for a cumulative duration of 3 milliseconds, with an absolute maximum of 90g. It also provides that the resultant chest accelerations shall be not more than 40g, except for a cumulative duration of 2 milliseconds.

Biomechanical studies indicate that the lateral acceleration tolerance of the head and chest are significantly less than the frontal acceleration tolerance. It is accordingly proposed that in addition to the criteria described above for resultant accelerations, a requirement be added limiting the lateral component of head accelerations to 40g, except for a cumulative period of 3 milliseconds, and limiting the lateral component of chest accelerations to 20g, except for a cumulative period of 2 milliseconds.

The May 7, 1970, notice of proposed rulemaking on occupant crash protection proposed a test procedure for lateral impacts, in which the vehicle would be impacted, moving laterally, into a fixed collision barrier. Several comments stated that the test lacked realism, that the mechanism for moving the vehicle laterally would be unduly cumbersome, and that the results would not be sufficiently repeatable. In response to these comments, and to suggestions by some of the manufacturers, a moving barrier test is proposed in place of the fixed barrier collision. The moving barrier speed is set at 20 m.p.h., a speed calculated to approximate the impact of a 15-mile-per-hour fixed barrier impact, or a 30-mile-per-hour car-to-car side collision.

Many comments to the May 7 notice objected to the rollover test requirement, on grounds that the proposed test procedure did not produce repeatable results, and that present air bag systems do not provide protection in rollovers. On consideration of the docket comments and other available information, it has been determined that passive protection should be required in rollovers. This notice proposes a procedure for rollover testing whereby the vehicle is launched transversely with a specified deceleration pulse from a raised carriage-type platform onto a concrete surface. Such a procedure can be better controlled than a ground-level test with a forward vehicle velocity.

Several conditions and requirements applicable to the lateral impact test and rollover test have been adopted as part of the revised Standard No. 208, and the test procedures proposed by this notice should be considered in conjunction with the relevant parts of the standard. To avoid variable results from collisions between dummies, the standard provides that dummies are to be positioned only in the outboard positions on the side of the impact, for the lateral impact test, and only in the outboard positions on the lower side of the vehicles as mounted on the test platform, for the rollover test. The standard also recognizes the importance of glazing material as part of the crash protection system, and specifies that windows are to be closed during the tests. Of particular relevance to the rollover test is the language of S5.1 of the standard, which provides that test dummies shall be contained by the outer surfaces of the passenger compartment.

The May 7 proposal excepted openbody type trucks of 10,000 pounds or less GVWR and open-body type multipurpose passenger vehicles from its rollover protection requirements. In view of the hazards presented to occupants of this type vehicle, and the variety of possible methods of meeting the basic requirement for retaining occupants within the vehicle, this exception does not appear justified. It is proposed, therefore, that the standard not contain such an exception, and interested parties are hereby afforded the opportunity to present their views on the matter.

A final proposed amendment concerns the minimum vehicle speed for deployment of crash-deployed systems. Comments on the May 7 notice and other information indicate that fixed energy-absorption materials are capable of meeting the occupant protection requirements at low speeds. It is therefore proposed to raise the minimum deployment speed for crash-deployed systems to 15 miles per hour. It is proposed to retain the requirement that the minimum deployment speed be applicable at any angle of impact, since presently available sensors can provide the necessary directional-velocity discrimination, and it is important that crash-deployed systems not deploy except in crash situations for which they are designed.

No mandatory, or maximum, deployment speed is proposed. The decision as to the speed at which a system should deploy, above the specified minimum, should rest with the vehicle manufacturer in consideration of the vehicle's overall crash protection performance.

Proposed effective date. The proposed amendments to the injury criteria (S5.2, S5.3), the lateral impact test conditions (S6.2), and the low velocity deployment requirements (S3.6) would be effective July 1, 1973. The proposed amendment to the rollover test conditions (S6.3) would be effective July 1, 1974.

In consideration of the above, it is proposed that revised Standard No. 208 be amended as set forth below. Comments are specifically requested on the relative advantages of the lateral moving barrier test proposed herein and a lateral fixed barrier collision test as proposed in the notice of May 7, 1970 (35 F.R. 7187). Comments should identify the docket number and be submited to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted.

All comments received before the close of business on February 1, 1971, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on October 29, 1970.

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

§ 571.21 Federal motor vehicle safety standards.

* * * * *

OCCUPANT CRASH PROTECTION—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES

* * * * *

S3.6 *Low velocity deployment.* An occupant crash protection system that deploys in the event of a crash, in such a manner that it requires servicing or replacement to restore its precrash readiness, shall not deploy when the vehicle impacts a fixed collision barrier at any velocity less than 15 miles per hour, at any angle.

* * * * *

S5.2 The resultant acceleration at the center of gravity of the head shall not exceed 90g, and shall not exceed 70g for a cumulative duration of more than 3 milliseconds. The lateral (with respect to the head) component of head acceleration shall not exceed 40g for a cumulative duration of more than 3 milliseconds.

S5.3 The resultant acceleration at the center of gravity of the upper thorax shall not exceed 40g for a cumulative duration of more than 2 milliseconds. The lateral (with respect to the upper thorax) component of upper thorax acceleration shall not exceed 20g for a cumulative duration of more than 2 milliseconds.

* * * * *

S6.2 *Lateral moving barrier crash test conditions.* The following conditions apply to the lateral moving barrier crash test.

S6.2.1 The moving barrier, including the impact surface, supporting structure, and carriage, weighs 4,000 pounds.

S6.2.2 The impact surface of the barrier is a vertical, rigid, flat rectangle, 78 inches wide and 60 inches high, perpendicular to its direction of movement, with its lower edge horizontal and 5 inches above the ground surface.

S6.2.3 During the entire impact sequence the barrier undergoes no dynamic or static deformation, and absorbs no portion of the energy resulting from the impact, except for absorbed energy that results in translational rebound movement of the barrier.

S6.2.4 During the entire impact sequence the barrier is guided so that it travels in a straight line, with no lateral, vertical or rotational movement.

S6.2.5 The concrete surface upon which the vehicle is tested is level, rigid and of uniform construction, with a skid number of 75 when measured in accordance with American Society for Testing and Materials Method E-274-65T at 40 m.p.h., omitting water delivery as specified in paragraph 7.1 of that method.

S6.2.6 The tested vehicle's brakes are disengaged and the transmission is in neutral.

S6.2.7 The barrier and the test vehicle are positioned so that at impact—

(a) The vehicle is at rest in its normal attitude;

(b) The barrier is traveling in a direction perpendicular to the longitudinal axis of the vehicle at 20 m.p.m.; and

(c) A vertical plane through the geometric center of the barrier impact surface and perpendicular to that surface passes through the driver's seating reference point in the tested vehicle.

S6.3 *Rollover test conditions.* The following conditions apply to the rollover test.

S6.3.1 The tested vehicle's brakes are disengaged and the transmission is in neutral.

S6.3.2 The concrete surface on which the test is conducted is level, rigid, of uniform construction, and of a sufficient size that the vehicle remains on it throughout the entire rollover cycle. It has a skid number of 75 when measured in accordance with American Society of Testing and Materials Method E-274-65T at 40 m.p.h., omitting water delivery as specified in paragraph 7.1 of that method.

S6.3.3 The vehicle is placed on a device, similar to that illustrated in Figure 2, having a platform in the form of a flat, rigid plane at an angle of 23° from the horizontal. At the lower edge of the platform is an unyielding flange, perpendicular to the platform with a height of 4 inches and a length sufficient to hold in place the tires that rest against it. The intersection of the inner face of the flange with the upper face of the platform is 9 inches above the rollover surface. No other restraints are used to hold the vehicle in position.

S6.3.4 With the vehicle on the test platform, the test devices remain as nearly as possible in the posture specified in S6.1.

S6.3.5 Before the deceleration pulse, the platform is moving horizontally, and perpendicularly to the longitudinal axis of the vehicle, at a constant speed of 30 miles per hour for a sufficient period of time for the vehicle to become motionless relative to the platform.

S6.3.6 The platform is decelerated from 30 to 0 miles per hour in a distance of not more than 3 feet, without change of direction and without transverse or rotational movement of the platform throughout the deceleration and the disengagement of the vehicle. The deceleration rate is at least 20g for a minimum of 0.04 second.

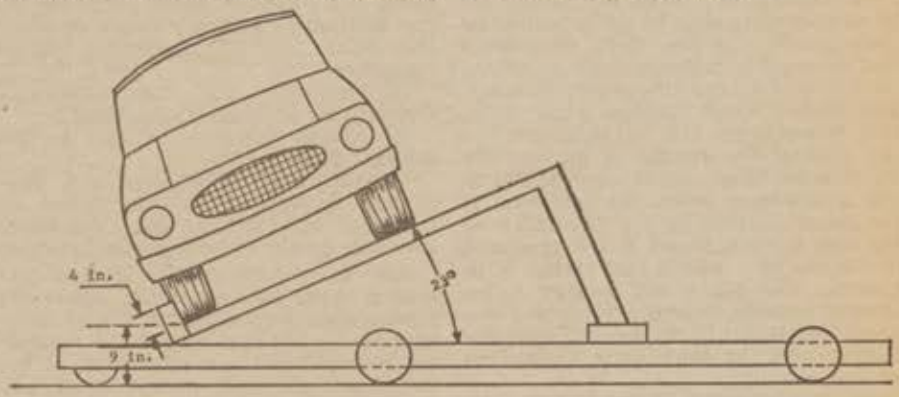


FIGURE 2 - TYPICAL DEVICE FOR ROLLOVER TEST

[F.R. Doc. 70-14709; Filed, Nov. 2, 1970; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

[Rev. 9]

SMALL BUSINESS SIZE STANDARDS

Formal Procedures To Govern Proceedings of Size Appeals Board

Notice is hereby given that the Administrator of the Small Business Administration proposes to amend Part 121, Chapter I, of Title 13 of the Code of Federal Regulations to provide formal rules of procedure to govern review proceedings of the Size Appeals Board.

Presently, no formal rules exist for the conduct of oral presentations. Moreover, although reconsiderations have been granted in proper situations in the past, the regulations have not contained any specific provisions on this subject.

It is proposed to amend the regulation to provide rules for the conduct of the Board's nonoral proceedings, to provide rules for the conduct of oral proceedings of the Board, to provide for reconsiderations after the initial decision by the Administrator, the nature and purpose of oral proceedings, the conditions under which reconsiderations shall be granted and rules governing such proceedings.

Interested persons may file with the Small Business Administration, within 15 days after publication of this notice in the FEDERAL REGISTER, written statements, opinions or arguments concerning the proposal.

All correspondence shall be addressed to:

Associate Administrator, Procurement and Management Assistance, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, Attention: Size Standards Staff.

Accordingly, it is proposed to amend Part 121 of Chapter I of Title 13 of the Code of Federal Regulations by amending § 121.3-6 as follows:

§ 121.3-6 Appeals.

(a) *Organization.* The Size Appeals Board shall review appeals from size determinations made pursuant to §§ 121.3-4 and 121.3-5 and from product classifications made pursuant to §§ 121.3-8 and 121.3-10 and shall make recommendations to the Administrator whether such determinations or classifications should be affirmed, reversed or modified. Size Appeals Board proceedings are essentially fact-finding and nonadversary in nature. The Size Appeals Board shall conduct such proceedings as it determines appropriate to enable it to discharge its duties.

* * * * *

(b) *Method of appeal*—(1) *Who may appeal.* An appeal may be filed by:

* * * * *

(iii) Any concern or other interested party which has been adversely affected by a decision of a Contracting Officer regarding product classification pursuant to § 121.3-8 or an Area Administrator or his delegatee pursuant to § 121.3-10; and

* * * * *

(c) *Notice to interested parties.* The Size Appeals Board shall promptly acknowledge receipt of the Notice of Appeal and shall send a copy of such Notice of Appeal to the appropriate Area Administrator or his delegatee and to the Contracting Officer (if a pending procurement is involved). If the appellant is not the concern whose size status is in question, the Board shall also send a copy of the notice to such concern. The Board shall notify all known interested parties that the appeal has been filed. The Board, in its discretion, may also provide any of such interested parties with copies of appellant's Notice of Appeal, or parts thereof, when the Board determines that this would be in the interest

of fairness or would assist it in the performance of its functions.

(d) *Statement of interested parties.* After an appeal has been filed, any other interested parties may file with the Board a signed statement, together with four legible copies thereof, as to why the appeal should or should not be denied. Such statement shall be accompanied by appropriate evidence. Such statements and supporting evidence shall be mailed or delivered to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416, within five (5) days of the receipt of appropriate notification of appeal or other action in the proceedings unless an extension is for cause granted by the Chairman of the Size Appeals Board. If the appellant is the concern whose size status is in question, the Board will provide copies of such statements and appropriate evidence submitted in connection with the appeal or a reconsideration thereof to such appellant.

(e) *Consideration by the Size Appeals Board.* (1) The Size Appeals Board shall consider the appeal on the written submissions of the parties. The Board may also, in its discretion, conduct an oral inquiry. The Board shall promptly recommend in writing to the Administrator a proposed decision which shall state the reasons for the recommendation.

(2) Procedures in oral inquiries. In considering size appeals, and in reconsidering size appeals decisions, the Size Appeals Board may hold an oral inquiry to assist it in arriving at facts necessary in deciding the appeal. The following rules shall govern such oral inquiries:

(i) Oral inquiries may be held by the Size Appeals Board upon the request of any party to a size appeal or by the Board on its own motion. The Board will, in its discretion, determine whether an oral inquiry will be of assistance in its determination of a size appeal. The Board shall inform the party making a request for oral inquiry whether its request is granted. If the Board grants the request for an oral inquiry, it will so notify all other interested parties.

(ii) Oral inquiries held by the Board are investigative in nature and not adversary. Such inquiries shall be conducted informally in a manner which will facilitate the Board's factfinding function and insure fairness to all participants.

(iii) Whenever the Board permits the appearance of two or more parties before it in an oral inquiry, cross-examination shall not be permitted between or among such parties; however, any party appearing in such oral inquiry may suggest questions for the Board to direct to other parties which may assist the Board in its determination of relevant facts.

* * * * *

(g) *Notification of decision.* * * *

(h) *Reconsiderations.* (1) Following any decision in a size appeals case, an interested party, within no more than five (5) business days following the decision, may petition the Board for reconsideration upon presentation of appropriate justification therefor. The petition for reconsideration to the Board may be in any form with an original and four copies. The Board will notify interested parties that a petition for reconsideration has been received.

(2) The Board shall consider the petition for reconsideration upon the statement and other evidence presented by the petitioners and any other evidence the Board, in its discretion, deems necessary.

(3) Grounds for reconsideration. Grounds for reconsideration shall be:

(i) A material error of fact in the original decision; or

(ii) Relevant information not previously considered by the Board or relevant information not previously available to any of the parties involved.

(iii) When a request for reconsideration is made by any of the interested parties, such requesting party must demonstrate to the Board that the grounds for reconsideration involve facts or information which were not previously presented to the Board through no fault or omission of such party.

(4) If the Administrator, upon considering the Board's recommendation, denies the request for reconsideration, the Board shall notify all parties. If the Administrator grants the request for reconsideration, the Board shall so notify all interested parties, setting forth a reasonable time within which the interested parties may, if appropriate, submit additional information. The Board, in its discretion, shall provide interested parties with copies of appropriate information submitted by other parties where it determines that this is necessary in the interests of fairness or to better assist the Board in performing its factfinding functions.

(5) Following its reconsideration of the matter, the Board will promptly make its recommendations to the Administrator for decision pursuant to paragraph (f) of this section.

Dated: October 22, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-14727; Filed, Nov. 2, 1970; 8:47 a.m.]

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Manufacturer of Refined Petroleum Products for Purpose of Government Procurements

Section 121.3-8(g) of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations currently provides that a petroleum refining concern which otherwise meets the requirements of the definition of a small petroleum refiner, may furnish, in the performance of a Government procurement set-aside for small business, the product of a refinery not qualified as small business, if such product is obtained pursuant to a bona fide exchange agreement which meets various requirements prescribed in such paragraph.

When this exemption from the § 121.3-8(c) definition of a small nonmanufacturer was proposed by the industry, and when it was adopted by the Small Business Administration (SBA) effective December 11, 1965 (30 F.R. 15323), it was not contemplated that bidders or offerors would utilize exchange agreements in connection with procurements calling for delivery beyond their normal marketing areas. However, it has come to the attention of the SBA that some concerns now are so utilizing exchange agreements, and it is the SBA's view that such use may be generally detrimental to the Small Business set-aside program relating to refined petroleum products.

Accordingly, the Administrator of the SBA proposes to amend Part 121 of Chapter I of Title 13 of the Code of Federal Regulations so as to provide that any product furnished pursuant to a bona fide exchange agreement must be for delivery in the same Petroleum Administration for Defense (PAD) District as that in which the small refinery is located.

Interested parties may file with the Small Business Administration within 30 days of publication of this proposal in the FEDERAL REGISTER, written statements of facts, opinions or arguments concerning the proposal.

All correspondence shall be addressed to:

Associate Administrator for Procurement and Management Assistance, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, Attention: Size Standards Staff.

It is proposed to amend the Regulation as follows:

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby further amended by:

1. Revising the final proviso in § 121.3-8(g) to read as follows:

§ 121.3-8 Definition of small business for Government procurement.

* * * * *

(g) *Refined petroleum products.* * * * *And provided further,* That the exchange of products for products to be delivered to the Government will be completed within 90 days after the expiration of the delivery period under the Government contract, and that any product furnished pursuant to a bona fide exchange agreement must be for delivery in the same Petroleum Administration for Defense (PAD) District pursuant to Schedule F of Part 121, as that in which the small refinery is located; * * *

2. Adding new Schedule F to read as follows:

SCHEDULE F—PETROLEUM ADMINISTRATION FOR DEFENSE (PAD) DISTRICTS AS UTILIZED BY THE DEFENSE FUEL SUPPLY CENTER IN THE PROCUREMENT OF REFINED PETROLEUM PRODUCTS

PAD district and States included in PAD district

1. Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, North

Carolina, South Carolina, Georgia, and Florida.

2. North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, and Tennessee.

3. New Mexico, Texas, Arkansas, Louisiana, Mississippi, and Alabama.

4. Montana, Idaho, Wyoming, Utah, and Colorado.

5. Alaska, Hawaii, Washington, Oregon, Nevada, California, and Arizona.

Dated: October 22, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-14726; Filed, Nov. 2, 1970; 8:46 a.m.]

Notices

DEPARTMENT OF STATE

Agency for International Development

[AIDPR Notice 70-2]

PROCURING ACTIVITIES

Examination of Records and Audit and Records

1. The clauses entitled "Examination of Records" and "Audit and Records" included in the General Provisions of cost reimbursement contract formats for Research and Development and for Technical Services Overseas and in the format for the Basic Ordering Agreement for Engineering Services have become outdated as a result of Amendment No. 55 to the Federal Procurement Regulations. Amendment 55 added a new Part 1-20—Retention Requirements for Contractor and Subcontractor Records.

Federal Procurement Regulation § 1-3.814-2(c) prescribes the revised Audit and Records clause. A/PROC has prepared an Examination of Records clause since the Federal Procurement Regulations do not include such a clause for cost reimbursement contracts. Accordingly, pending revision to the AIDPR prescribed clauses and revision of AID forms 1420-10, 1420-12 and 1420-14, AID procuring activities are to modify the General Provisions referenced above by using the attached clauses in lieu of those currently appearing in the General Provisions.

2. This AIDPR Notice should be filed in front of the cover page of Amendment No. 12.

3. This AIDPR Notice is issued pursuant to AIDPR 7-1.104-4 and is effective 15 days after the date below. It will be canceled upon publication of its contents in an amendment to the Agency for International Development Procurement Regulations.

Dated: October 26, 1970.

LANE DWINELL,
Assistant Administrator for Administration.

EXAMINATION OF RECORDS

(a) (1) The Contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this contract (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies, and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract.

(2) The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4) below any books, documents, papers, or records of the Contractor, that directly pertain to, and involve transactions relating to this contract or subcontracts hereunder for inspection, audit or reproduction by any authorized representative of the Comptroller General.

(3) In the event the Comptroller General or any of his duly authorized representatives determines that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within 2 years after reimbursement of charges covered by any such voucher, to such representative as may be designated for that purpose through the Contracting Officer, such documentary evidence in support of transportation costs as may be required by the Comptroller General or any of his duly authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available his records (i) until expiration of 3 years after final payment under this contract or of the time periods specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, and (ii) for such longer period, if any, as is required by applicable statute, by any other clause of this contract, or by (I) or (II) below.

(I) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available until expiration of 3 years from the date of any resulting final settlement or of the time periods specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier.

(II) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) cost and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims, or exceptions have been disposed of.

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in subparagraph (4)(II) above, the Contractor may in fulfillment of his obligation to retain his records as required by this clause substitute photographs, microphotographs, or other authentic reproductions of such records, after the expiration of 2 years following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Contracting Officer with the concurrence of the Comptroller General or his duly authorized representative.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material, or labor-hour basis.

(b) The Contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a)(6) above, a provision to the effect that the subcontractor agrees that the Comptroller General or any of his duly authorized representatives, shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor that directly pertain to, and involve transactions relating to the subcontract. The term "subcontract" as used in this paragraph (b) only, excludes (1) purchase orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

AUDIT AND RECORDS

(a) The Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The foregoing constitute "records" for the purposes of this clause.

(b) The Contractor's plants, or such part thereof as may be engaged in the performance of this contract, and his records shall be subject at all reasonable times to inspection and audit by the Contracting Officer or his authorized representatives. In addition, for purposes of verifying that cost or pricing data submitted, in conjunction with the negotiation of this contract or any contract change or other modification involving an amount in excess of $100,000, were accurate, complete, and current, the ontracting Officer, or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(c) The Contractor shall preserve and make available his records (1) until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in 41 CFR Part 1-20, whichever expires earlier, and (2) for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (i) or (ii) below.

(i) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(ii) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs and expenses of this contract as to which exception has been taken by the Contracting Officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

(d) (1) The Contractor shall insert the substance of this clause, including the whole of this paragraph (d), in each subcontract hereunder that is not firm fixed-price or fixed-price with escalation. When so inserted, changes shall be made to designate the

higher-tier subcontractor at the level involved in place of the Contractor; to add "of the Government prime contract" after "Contracting Officer"; and to substitute "the Government prime contract" in place of "this contract" in (B) of paragraph (c) above.

(2) The Contractor shall insert the substance of the following clause in each firm fixed-price or fixed-price with escalation subcontract hereunder which when entered into exceeds $100,000, except those subcontracts covered by subparagraph (3) below.

AUDIT

(a) For purposes of verifying that certified cost or pricing data submitted in conjunction with the negotiation of this contract or any contract change or other modification involving an amount in excess of $100,000, were accurate, complete, and current, the Contracting Officer of the Government prime contract, or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract, or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(b) The subcontractor agrees to insert this clause, including this paragraph (b), in all subcontracts hereunder which when entered into exceed $100,000 unless the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulations.

(3) The Contractor shall insert the following clause in each firm fixed-price or fixed-price with escalation subcontract hereunder which when entered into exceeds $100,000 where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulation.

AUDIT-PRICE ADJUSTMENTS

(a) This clause shall become operative only with respect to any change or other modification of this contract which involves a price adjustment in excess of $100,000, unless the price adjustment is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulation, provided, that such change or other modification to this contract must result from a change or other modification (1) to the Government prime contract or (2) authorized under the provisions of the Government prime contract.

(b) For purposes of verifying that any certified cost or pricing data submitted in conjunction with a contract change or other modification were accurate, complete, and current, the Contracting Officer of the Government prime contract, or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(c) The subcontractor agrees to insert the substance of this clause including this paragraph (c) in all subcontracts hereunder which when entered into exceed $100,000.

[F.R. Doc. 70–14741; Filed, Nov. 2, 1970; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I–2835]

IDAHO

Notice of Classification of Public Lands for Multiple-Use Management

Correction

In F.R. Doc. 70–13417 appearing at page 15851, in the issue of Thursday, October 8, 1970, the 5th line of the center column on page 15852 reading "Sec. 9, W¼NE¼, W½, and W½SE¼;" should read "Sec. 9, W½NE¼, W½, and W½ SE¼;".

IDAHO

Notice of Filing of Plats of Survey

OCTOBER 26, 1970.

1. Plats of survey of the following described lands, accepted July 30, 1970, will be officially filed in the Land Office, Boise, Idaho, effective at 10 a.m. on November 30, 1970:

BOISE MERIDIAN, IDAHO

T. 13 N., R. 20 E.,
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Secs. 9, 15, 16, 22, 26, 27, and 35.
T. 14 N., R. 20 E.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, E½W½;
Sec. 18, lots 1, 2, 3, 4, E½, E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, E½W½;
Secs. 20 and 29;
Sec. 30, lots 1 to 5, inclusive, E½, E½NW¼, NE¼SW¼;
Sec. 33, lots 1, 2, 3, 4, N½, N½S½.

The areas described aggregate 10,877.76 acres.

2. The SW¼SW¼, Sec. 29, SW¼SE¼, Sec. 30 and SE¼NE¼, Sec. 32 contain springs of sufficient size and value to the public to have created a reservation of a public water reserve. The lands are therefore withdrawn and reserved by the Executive order of April 17, 1926 under Public Water Reserve No. 107.

3. Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law, the lands, except those described in paragraph 2, are open to the operation of the public land laws generally. All valid applications received at or prior to 10 a.m. on November 30, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. Inquiries concerning the lands should be addressed to the Manager, Idaho Land Office, 550 West Fort Street, Boise, Idaho 83702.

CURTIS R. TAYLOR,
Acting Manager,
Land Office, Boise, Idaho.

[F.R. Doc. 70–14713; Filed, Nov. 2, 1970; 8:46 a.m.]

[Montana 10484]

MONTANA

Notice of Amendment to Final Classification of Public Lands for Multiple-Use Management and for Transfer Out of Federal Ownership

OCTOBER 22, 1970.

The notice appearing in F.R. Doc. 70–3639, pages 5126, 5127 and 5128, of the issue of March 26, 1970, is changed as follows:

Paragraph 2: Add the following described lands to provide for their segregation from the agricultural land laws (43 U.S.C. Parts 7 and 9, and 25 U.S.C. Sec. 334), from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), and from exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g). The lands added total approximately 440.05 acres.

FIFTH PRINCIPAL MERIDIAN

MOUNTRAIL COUNTY, N. DAK.

T. 152 N., R. 90 W.;
Sec. 5, SW¼SE¼.
T. 153 N., R. 90 W.;
Sec. 20, NE¼NE¼.
T. 154 N., R. 91 W.;
Sec. 4, lot 4, SW¼NE¼, NW¼SW¼.
T. 154 N., R. 94 W.;
Sec. 10, NE¼SW¼.
T. 155 N., R. 94 W.;
Sec. 15, SW¼NE¼;
Sec. 35, SW¼NW¼.

WILLIAMS COUNTY, N. DAK.

T. 154 N., R. 97 W.;
Sec. 17, SW¼NE¼.
T. 155 N., R. 97 W.;
Sec. 21, SE¼SE¼.
T. 154 N., R. 100 W.;
Sec. 33, SE¼SE¼.

All the above-described lands are found to have ecological values, aesthetic values, or potential dam site values and require the protection of the above segregations. Public comments and the record of public discussion on the added lands are of record in the Miles City District Office.

For a period of 30 days from the date of publication of this notice of amendment in the FEDERAL REGISTER, the classification amendment shall be subject to the exercise of administrative review and modification by the Secretary of the Interior.

EUGENE H. NEWELL,
Acting State Director.

[F.R. Doc. 70–14712; Filed, Nov. 2, 1970; 8:45 a.m.]

[Serial No. U5699]

UTAH

Notice of Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18), and to the regulations in Title 43 CFR, Group 2400, the public lands within the area described in paragraph 3 below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the described

lands from appropriation under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C., sec. 334), and from sales under section 2455 of the Revised Statutes as amended (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws, except as noted in paragraph 5 below. As used herein, "public lands" means any land withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Several comments were received following publication of a notice of proposed classification in the FEDERAL REGISTER of August 12, 1970 (35 F.R. 12783), and at the public hearings which were held at Kanab and Panguitch, Utah, on August 19, 1970, most of them favorable to the proposal. All comments were carefully considered in the light of the law and regulations, and as a result one modification was made in the classification: 880 acres in T. 36 S., R. 3 W., adjacent to Bryce Canyon National Park were omitted from the excluded lands in paragraph 4, and added to the total area hereby classified for retention.

3. The public domain lands hereby classified are those administered by the Bureau of Land Management in Kane and Garfield Counties, Utah, bounded on the east by the Escalante Rim, Straight Cliffs, and Lake Powell; on the south by the Utah-Arizona State line; on the west by the Kane-Washington County line, Zion National Park boundary, and the boundary between the Kanab and Cedar City BLM districts; and on the north by the Dixie National Forest boundary, Bryce Canyon National Park boundary, and the boundary between the Kanab and Cedar City BLM districts at the north end of the Panguitch Valley. The public domain lands here proposed to be classified aggregate approximately 1,837,400 acres. State and privately owned lands within the above-described area are not affected by this classification.

4. The following-described parcels of public domain lands that fall within this proposed classification area described in paragraph 3 above are excluded from this proposed classification:

SALT LAKE MERIDIAN, UTAH

T. 33 S., R. 5 W.,
Sec. 25, W½SW¼;
Sec. 26, SE¼NW¼, SE¼SE¼;
Sec. 35, E½E½.
T. 34 S., R. 5 W.,
Sec. 11, E½NE¼, S½S½.
T. 36 S., R. 5 W.,
Sec. 33, SW¼.
T. 37 S., R. 2 W.,
Sec. 18, lot 2, E½SW¼;
Sec. 30, S½NE¼;
Sec. 31, lot 1, SE¼NE¼, SE¼SE¼.
T. 37 S., R. 3 W.,
Sec. 13, SE¼NE¼, NE¼SE¼.
T. 37 S., R. 5 W.,
Sec. 4, lots 3 and 4, S½NW¼, N½SW¼;
Sec. 5, lot 1, S½NE¼, NW¼SE¼.
T. 38 S., R. 6 W.,
Sec. 25, NE¼SE¼, S½SE¼.
T. 39 S., R. 4 W.,
Sec. 30, lot 19;
Sec. 31, lot 2.
T. 39 S., R. 4½ W.,
Sec. 26, N½NE¼, SW¼;
Sec. 27, NW¼NE¼, NE¼NW¼, SE¼SW¼, SW¼SE¼;
Sec. 34, lot 4, E½NW¼;
Sec. 35, W½NE¼.
T. 39 S., R. 5 W.,
Sec. 18, NW¼NE¼, S½NE¼, E½NW¼, SE¼;
Sec. 19, lots 1, 2, 3, and 4, N½NE¼, SW¼NE¼, E½W½, NW¼SE¼;
Sec. 20, lots 2, 3, 4, 6, and 7;
Sec. 21, lots 3 and 4, SW¼NE¼, SE¼NW¼, SE¼SW¼;
Sec. 35, SE¼NE¼, E½SE¼.
T. 39 S., R. 6 W.,
Sec. 13, S½;
Sec. 14, S½NW¼, SW¼, S½SE¼;
Sec. 22, W½E½, SW¼;
Sec. 23, N½NW¼, N½SE¼;
Sec. 24, NW¼NE¼, N½SW¼, E½SE¼;
Sec. 26, S½SW¼, SW¼SE¼;
Sec. 27, W½NE¼, W½, SE¼;
Sec. 30, lot 1;
Sec. 34, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 35, NW¼NE¼, NW¼, N½SW¼, SE¼SW¼.
T. 39 S., R. 7 W.,
Sec. 19, lot 1, N½NE¼, SW¼NE¼, E½NW¼;
Sec. 25, NE¼NE¼, SW¼NE¼, SW¼, W½SE¼;
Sec. 28, NW¼, N½SW¼, SW¼SE¼;
Sec. 29, N½NE¼, SE¼NE¼, SW¼SW¼, NE¼SE¼;
Sec. 30, SW¼NE¼, SE¼SE¼;
Sec. 31, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 33, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 34, S½N½, SW¼SW¼;
Sec. 35, S½NE¼, NE¼NW¼.
T. 39 S., R. 8 W.,
Sec. 24, N½NE¼;
Sec. 34, S½NW¼, NW¼SE¼.
T. 40 S., R. 4½ W.,
Sec. 31, lots 2, 3, and 4, N½SE¼.
T. 40 S., R. 5 W.,
Sec. 1, NE¼SE¼.
T. 40 S., R. 6 W.,
Sec. 29, SW¼.
T. 40 S., R. 7 W.,
Sec. 1, lot 3, SW¼NE¼, SE¼NW¼;
Sec. 3, lots 3 and 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 4, lots 1, 2, and 3, S½NE¼, SE¼NW¼, N½SE¼;
Sec. 5, lots 1 and 5, SW¼SW¼;
Sec. 9, lots 1 to 10, inclusive, W½NW¼;
Sec. 10, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 11, NW¼NE¼, N½NW¼, SW¼NW¼, NW¼SW¼;
Secs. 19, 20, and 21, all;
Sec. 24, S½SW¼;
Sec. 25, NE¼NW¼, W½W½, NE¼SW¼, NW¼SE¼;
Sec. 26, lot 1, S½S½;
Secs. 28 and 29, all;
Sec. 30, lots 2, 3, 6, and 7;
Sec. 34, E½E½;
Sec. 35, N½, SW¼, N½SE¼, SW¼SE¼.
T. 40 S., R. 8 W.,
Sec. 1, lots 4 and 6;
Sec. 3, SE¼NW¼, NE¼SE¼;
Sec. 4, lots 1, 2, and 3;
Sec. 5, SE¼NE¼, E½SE¼;
Sec. 7, lots 1 and 2, W½NE¼;
Sec. 8, N½NE¼;
Sec. 11, NW¼NE¼, SE¼SE¼;
Sec. 13, W½;
Sec. 14, NE¼NE¼, S½NE¼, SE¼NW¼, S½;
Sec. 18, lots 1, 2, 3, and 4, W½E½;
Sec. 19, lot 1, NE¼;
Sec. 20, S½NE¼, SE¼, NW¼SW¼;
Sec. 21, SE¼SE¼;
Sec. 23, E½, NW¼, N½SW¼, SE¼SW¼;
Sec. 24, NW¼NW¼, S½NW¼, SW¼;
Sec. 25, W½;
Sec. 26, E½, NW¼, E½SW¼;
Sec. 27, NE¼NE¼, S½NW¼;
Sec. 28, S½N½, NW¼NW¼, N½S½, N½SE¼SW¼, S½SE¼;
Sec. 29, NE¼;
Sec. 30, SW¼SE¼;
Sec. 31, W½NE¼;
Sec. 33, E½NE¼, E½NW¼NE¼;
Secs. 34 and 35, all.
T. 40 S., R. 9 W.,
Sec. 11, S½N½;
Sec. 12, N½NW¼;
Sec. 13, NW¼SW¼;
Sec. 14, N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 15, N½, N½S½, S½SW¼;
Sec. 22, N½NW¼, NE¼SE¼;
Sec. 23, E½NW¼;
Sec. 25, SE¼SE¼.
T. 41 S., R. 7 W.,
Sec. 6, lots 4, 5, and 6;
Sec. 8, SE¼SE¼;
Sec. 9, S½SW¼;
Sec. 17, S½SW¼, NE¼SW¼, E½NE¼, NE¼SE¼;
Sec. 19, lots 2 and 3, SW¼SE¼.
T. 41 S., R. 8 W.,
Sec. 1, lots 1, 2, 3, 4, 5, and 8, S½NW¼, W½SW¼;
Sec. 3, lots 1, 2, 3, 6, 7, and 8, S½NE¼, SE¼NW¼, N½S½, SE¼SE¼;
Sec. 4, N½S½, SE¼SW¼, SW¼SE¼;
Sec. 5, lots 3, 6, and 8, S½N½, S½;
Sec. 6, lots 4, 5, 9, 10, and 11, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, all north of State highway 15;
Sec. 8, all north of State highway 15;
Sec. 10, NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 11, N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 13, S½S½, NE¼SW¼;
Sec. 14, NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 23, all north of State highway 15;
Sec. 24, all north of State highway 15;
Sec. 25, all north of State highway 15;
Sec. 26, all north of State highway 15.
T. 41 S., R. 9 W.,
Sec. 1, SW¼NE¼, S½NW¼, N½S½, SE¼SE¼;
Sec. 2, lot 1 and 2;
Sec. 3, S½SE¼;
Sec. 8, SW¼;
Sec. 10, NE¼, N½SE¼;
Sec. 11, NE¼NE¼, W½W½, SE¼SW¼;
Sec. 12, all north of State highway 15;
Sec. 13, all north of State highway 15;
Sec. 14, NE¼NW¼.
T. 42 S., R. 5 W.,
Sec. 10, E½NE¼, NE¼SE¼;
Sec. 15, lots 1, 2, 3, and 4, W½NW¼;
Sec. 22, E½SE¼;
Sec. 23, SW¼NW¼, SE¼SW¼;
Sec. 27, E½NE¼NE¼, S½SE¼;
Sec. 34, NE¼, E½NW¼, SW¼NW¼;
Sec. 35, NE¼NE¼.
T. 43 S., R. 4 W.,
Sec. 19, lots 6 and 7, S½N½;
Sec. 20, W½NW¼.
T. 43 S., R. 4½ W.,
Sec. 19, S½SE¼;
Sec. 20, S½S½SW¼;
Sec. 21, lots 3 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼;
Sec. 22, S½N½, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 29, S½NE¼, NW¼;
Sec. 30, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 31, lots 1 and 2, E½NW¼.
T. 43 S., R. 5 W.,
Sec. 26, NE¼NW¼, S½N½, SW¼, NW¼SE¼;
Sec. 27, lots 1, 2, 3, and 4, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 28, lots 2, 3, and 4, NE¼SW¼, N½SE¼;
Sec. 29, W½ of lot 1 and lot 4;

Sec. 30, lots 2 to 7, inclusive, SE¼NW¼, NE¼SW¼;
Sec. 31, N½NE¼, NE¼NW¼;
Sec. 33, N½NE¼, NW¼;
Sec. 34, N½NW¼.
T. 43 S., R. 6 W.,
Sec. 22, S½SW¼NE¼, W½SE¼NE¼, NE¼SE¼NW¼, S½SE¼NW¼, N½NW¼SE¼, N½SE¼SW¼, SW¼SE¼SW¼;
Sec. 25, S½SE¼, NE¼SE¼;
Sec. 26, lots 7 and 8, S½NE¼SW¼, E½SE¼;
Sec. 27, N½NE¼, NE¼NW¼.
T. 44 S., R. 5 W.,
Sec. 1, lot 1, SW¼NW¼;
Sec. 3, SE¼SW¼;
Sec. 4, SW¼SW¼;
Sec. 8, all;
Sec. 9, lot 8;
Sec. 10, lots 1, 2, 3, and 4, N½NW¼;
Sec. 11, all.
T. 44 S., R. 6 W.,
Sec. 8, lots 1 and 2, N½NE¼, NW¼NW¼;
Sec. 9, lot 1;
Sec. 10, all;
Sec. 11, lots 1 to 5, inclusive, NW¼NE¼.

The areas described excluded from this classification aggregate approximately 39,120 acres.

5. Publication of this notice also has the effect of segregating the proposed recreation areas described below from all forms of appropriation, location, entry, or selection under the public land laws, including the general mining laws, and from surface use and occupancy under the mineral leasing laws:

SALT LAKE MERIDIAN, UTAH

DIANA'S THRONE OVERNIGHT CAMPGROUND

T. 42 S., R. 7 W.,
Sec. 4, lots 5, 6, 11, and 12.

SAND SPRINGS OVERNIGHT CAMPGROUND

T. 43 S., R. 7 W.,
Sec. 17, NW¼.

SAND SPRINGS PICTOGRAPH SITE

T. 43 S., R. 7 W.,
Sec. 17, SE¼SE¼.

YELLOW JACKET PICNIC SITE

T. 43 S., R. 8 W.,
Sec. 13, NW¼NW¼;
Sec. 14, NE¼NE¼.

MOQUITH CLIFF DWELLINGS

T. 43 S., R. 7 W.,
Sec. 14, SE¼.

PONDEROSA GROVE CAMPGROUND

T. 43 S., R. 7 W.,
Sec. 7, NE¼.

PARIA CANYON OVERNIGHT CAMPGROUND

T. 42 S., R. 1 W.,
Sec. 29, W½SW¼;
Sec. 30, E½SE¼.

The areas described aggregate 900.05 acres.

6. Maps depicting these lands and the record showing the comments received and other information are on file and may be viewed at the Bureau of Land Management's District Office, 320 North First East, Kanab, Utah; and the State Office, Federal Building, 125 South State Street, Salt Lake City, Utah.

7. For a period of 30 days from date of publication of this notice of classification in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3. During this 30-day period, interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

R. D. NIELSON,
State Director.

[F.R. Doc. 70-14714; Filed, Nov. 2, 1970; 8:46 a.m.]

[Serial No. U-11730]

UTAH

Notice of Classification of Public Lands for Multiple-Use Management, and for Disposal

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18), and to the regulations in Title 43 CFR Part 2400, the public lands within the area described in paragraph 3 below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the described lands from appropriation under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C., sec. 334), and from sales under section 2455 of the Revised Statutes as amended (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws, except as noted in paragraphs 4 and 5 below. As used herein, "public lands" means any land withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Several comments were received following publication of a notice of proposed classification in the FEDERAL REGISTER of May 27, 1970 (35 F.R. 8294), and at the public hearing which was held at Manti, Utah, on June 5, 1970, all but one of them favorable to the proposal.

The lone objector commented that he favors multiple-use management, but is concerned about rigid restrictions on passage of title to certain public lands to private ownership. Even though he had reservations concerning the classification of the area proposed for retention in Federal ownership he indicated that he would cooperate if this were the final decision.

All comments were carefully considered in the light of the law and regulations, and it was determined that no change in the proposed classification is warranted.

3. The public lands affected are those administered by the Bureau of Land Management within the following described areas in Sanpete, Juab, Millard, and Sevier Counties, Utah:

SALT LAKE MERIDIAN, UTAH

T. 17 S., R. 5 W.,
Secs. 11 to 15, 21 to 23, 26 to 28, and 33 to 35, inclusive.
T. 18 S., R. 4 W.,
Secs. 7, 8, 17 to 22, inclusive, 28, and 29.
T. 18 S., R. 5 W.,
Secs. 1 to 4, and 9 to 12, inclusive.
T. 20 S., R. 3 W.,
Secs. 6 to 10, inclusive, 17, 18, and 21.
T. 20 S., R. 4 W.,
Sec. 12.
T. 22 S, R. 4 W.,
Secs. 7, 8, 18, and 19.
T. 22 S., R. 5 W.,
Secs. 13, 24, 25, and 26.

Also, all the public domain lands within the following described area:

Beginning at the northeast corner of sec. 34, T. 14 S., R. 3 W., thence south and west along the east and south boundary of the Fishlake National Forest to the northeast corner of the NW¼SW¼ sec. 12, T. 19 S., R. 4 W., thence south ½ mile, east ¼ mile, south 1 mile, east ¼ mile, south ½ mile, east ¼ mile, north ¼ mile, east 3 miles to the southwest corner of sec. 15, T. 19 S., R. 3 W., thence north, east and south along the Fishlake National Forest boundary to the northwest corner of the NE¼NW¼ sec. 23, T. 21 S., R. 2 W., thence southeasterly along the boundary line between the Fillmore and Richfield BLM districts (as modified by the Secretary of the Interior on May 2, 1944 and published in the FEDERAL REGISTER on May 13, 1944; page 5079) to the southeast corner of sec. 31, T. 21 S., R. 1 W., thence east 8 miles to the southeast corner of sec. 32, T. 21 S., R. 1 E., thence north and east along the west boundary of the Fishlake and Manti-LaSal National Forest boundaries to the northeast corner of sec. 1, T. 12 S., R. 4 E., thence west 9 miles to the northwest corner of sec. 3, T. 12 S., R. 3 E., thence south, west and north along the Uinta National Forest boundary to the northeast corner of sec. 6, T. 10 S., R. 2 E., thence west 13 miles, south 6 miles, east 6 miles, south 12 miles, west 7½ miles, south approximately 14 miles to the northeast corner of the SE¼SE¼, sec. 12, T. 15 S., R. 2 W., thence west ¼ mile, south ¼ mile, west approximately 4½ miles to the centerline of the Sevier River, thence northwesterly along the center thread of the river to a point where the river crosses the north boundary of sec. 35, T. 14 S., R. 3 W., thence approximately 1 mile west to point of beginning.

The public domain lands within the areas described hereby classified for multiple-use management aggregate approximately 310,600 acres.

4. The following described 18 parcels of land within areas described above are not segregated against public sale under R.S. 2455 (43 U.S.C. 1171):

SALT LAKE MERIDIAN, UTAH

T. 14 S., R. 3 W.,
Sec. 35, SE¼SE¼.
T. 17 S., R. 3 W.,
Sec. 35, NE¼NE¼, S½NE¼, SE¼.
T. 17 S., R. 5 W.,
Sec. 28, SW¼SW¼.
T. 18 S., R. 3 W.,
Sec. 2, lots 1, 2, SW¼NE¼, NW¼SE¼, N½S½SE¼.
T. 19 S., R. 2 W.,
Sec. 4, lot 2.
T. 12 S., R. 3 E.,
Sec. 1, lots 2, 3, 4, S½N½, NW¼SW¼, N½SE¼.
T. 13 S., R. 2 E.,
Sec. 3, lot 3;
Sec. 12, SW¼NE¼, N½SW¼;
Sec. 13, SE¼NW¼, NE¼SW¼.
T. 13 S., R. 3 E.,
Sec. 7, SW¼NE¼, SE¼NW¼;
Sec. 19, lot 4.
T. 14 S., R. 1 E.,
Sec. 14, SW¼NW¼.

T. 14 S., R. 2 E.,
Sec. 25, SE¼NW¼;
Sec. 35, lot 1.
T. 14 S., R. 5 E.,
Sec. 7, SE¼NE¼.
T. 16 S., R. 2 E.,
Sec. 1, lot 3, SE¼SW¼;
Sec. 12, E½W½;
Sec. 13, E½NW¼, N½SW¼.
T. 20 S., R. 2 E.,
Sec. 3, SE¼NE¼.

The areas described aggregate 1,975.49 acres of public domain lands.

5. Publication of this notice has the effect of segregating the proposed recreation areas described below from all forms of appropriation, entry, location, or selection under the public land laws, including the general mining laws, and from surfaee use and occupancy under the mineral leasing laws:

SALT LAKE MERIDIAN, UTAH

SEVIER BRIDGE RESERVOIR RECREATION SITES

T. 16 S., R. 1 W.,
Sec. 30, lots 38, 39;
Sec. 31, lots 5, 6, 7, 17, 18.
T. 16 S., R. 2 W.,
Sec. 24, SE¼SW¼, SW¼SE¼;
Sec. 25, N½NE¼.
T. 17 S., R. 1 W.,
Sec. 5, NE¼SW¼, NW¼SE¼.
T. 17 S., R. 2 W.,
Sec. 1, SE¼NE¼.

GUNNISON RESERVOIR RECREATION SITES

T. 18 S., R. 2 E.,
Sec. 21, SW¼NW¼, SW¼SW¼;
Sec. 28, W½NW¼.

LONE CEDAR RECREATION SITE

T. 19 S., R. 1½ W.,
Sec. 27, E½NW¼NE¼.

The recreation areas described aggregate 740 acres of public domain lands.

6. Maps depicting these lands and the record showing the comments received and other information are on file and may be viewed at the Bureau of Land Management District Office, 10 East Fifth North, Fillmore, Utah; and the State Office, Federal Building, 125 South State Street, Salt Lake City, Utah.

7. For a period of 30 days from date of publication of this notice of classification in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR, sec. 2461.3. During this 30-day period, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240.

R. D. NIELSON,
State Director.

[F.R. Doc. 70-14715; Filed, Nov. 2, 1970; 8:46 a.m.]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, or Corrections

By notice in the FEDERAL REGISTER of February 3, 1970, Part II (pp. 2476–2496), there was published a list of the properties included in the National Register of Historic Places. This list has been amended by notices in the FEDERAL REGISTER on March 3 (pp. 4013–4014), April 7 (pp. 5635–5636), May 5 (pp. 7086–7087), June 3 (pp. 8600–8602), July 8 (pp. 10964–10966), August 4 (pp. 12416–12417), September 1 (pp. 13851–13852), and October 6 (pp. 15653–15654). Further notice is hereby given that certain amendments or revisions, in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The properties listed below which are marked by an asterisk have been designated National Historic Landmarks by the Secretary of the Interior.

ALABAMA

Colbert County

Tuscumbia, *Ivy Green (Helen Keller Birthplace)*, 300 West North Common.

ARIZONA

Pinal County

Florence vicinity, *Adamsville Ruin*, 3.5 miles southwest of Florence on Arizona 287.

Yuma County

Ehrenberg vicinity, *Old La Paz (Laguna de La Paz)*, northeast of Ehrenberg on the Colorado River Indian Tribes Reservation.

ARKANSAS

Pulaski County

Little Rock, *The Little Rock*, on the south bank of the Arkansas River at the foot of Rock Street.

COLORADO

Denver County

Denver, *Grant-Humphreys House*, 770 Pennsylvania Street.

Weld County

Platteville vicinity, *Fort Vasquez*, on U.S. 85.

CONNECTICUT

Hartford County

Glastonbury, *Welles, Gideon, House*, 37 Hebron Avenue.
Hartford, *Cheney Building (G. Fox Building)*, 942 Main Street.
Hartford, *Stowe, Harriet Beecher, House*, 73 Forest Street.
Hartford, *Wadsworth Atheneum*, 25 Atheneum Square North.
Wethersfield, *Deane, Silas, House*, 203 Main Street.
Windsor, *Ellsworth, Oliver, Homestead (Elmwood)*, 778 Palisado Avenue.

Middlesex County

Middletown, *Alsop House (Davison Art Center)*, 301 High Street.
Middletown, *Russell House*, corner of Washington and High Streets.

New London County

East Lyme, *Lee, Thomas, House*, Southeast corner of Connecticut 156 and Giant's Neck Road.
Groton, *Fort Griswold*, bounded by Baker Avenue, Smith Street, Park Avenue, Monument Avenue, and the Thames River.
Lebanon, *War Office (Captain Joseph Trumble Store and Office)*, West Town Street.
Norwich, *Backus, Nathaniel, House*, 44 Rockwell Street.
Norwich, *Converse House and Barn*, 185 Washington Street.
Norwichtown, *Bradford-Huntington House*, 16 Huntington Lane.
Norwichtown, *Carpenter, Joseph, Silversmith Shop*, 71 East Town Street.
Norwichtown, *Huntington, General Jedidiah, House*, 23 East Town Street.
Norwichtown, *Huntington, Governor Samuel House*, 34 East Town Street.

Windham County

Canterbury, *Clark, Captain John, House (Dyer-Clark House)*, east side of Route 169.
Chaplin, *Witter House*, Chaplin Street.

DISTRICT OF COLUMBIA

Washington, **Lafayette Square Historic District*, includes those buildings fronting on H Street, Jackson Place, Madison Place, and Pennsylvania Avenue.

DELAWARE

New Castle County

Wilmington, *Dingee, Jacob, House*, 105 East Seventh Street.
Wilmington, *Ferris, Zachariah, House*, 414 West Second Street.
Wilmington, *Mendenhall, Captain Thomas, House*, 205 East Front Street.

FLORIDA

Alachua County

Cross Creek, *Rawlings, Marjorie Kinnan, House*, Florida 325, 0.25 mile south of the creek.

Citrus County

Crystal River vicinity, *Crystal River Indian Mounds*, northwest of Crystal River on U.S. 19–98.

Dade County

Miami, *Viscaya (James Deering Estate)*, 3251 South Miami Avenue.
Miami vicinity, *Cape Florida Lighthouse*, off U.S. 1 on Key Biscayne.

Duval County

Jacksonville, *Kingsley Plantation*, Florida AIA.
New Berlin, *Yellow Bluff Fort*, Florida 105.

Escambia County

Pensacola, *Pensacola Historic District*, the historic district is within the area bounded by the following streets: beginning at the intersection of Gimble Street and Pensacola Bay, west on Gimble to Barracks; north on Barracks to Main; west on Main to a point 82.5 feet west of Palafox, then north to Zarragossa; east on Zarragossa to Palafox; north on Palafox to Government; east on Government to Jefferson; north on Jefferson to a point 172 feet north of Government; east on this line to Tarragona; north on Tarragona to Romana; east on Romana to a point 224 feet west of Alcaniz; north on this line to Garden; east on Garden to Alcaniz; north on Alcaniz to Chase; east on Chase to Florida Blanca; south on Florida Blanca to Romana; east on Romana to Ninth Avenue; south on Ninth to Pensacola Bay and along the shoreline to the starting point.

Flagler County

Bunnell vicinity, *Bulow Plantation Ruins*, southeast of Bunnell off Florida S–5A.

Leon County

Woodville vicinity, *Natural Bridge Battlefield*, 6 miles east of Woodville on U.S. 319.

Volusia County

New Smyrna Beach vicinity, *Turtle Mound*, Florida AIA, 9 miles south of New Smyrna Beach.
Ormond Beach, *Ormond Garage*, 79 East Granada Avenue.

INDIANA

Vanderburgh County

Evansville, *Former Vanderburgh County Sheriff's Residence*, Fourth Street between Vine and Court Streets.

IOWA

Lyon County

Sioux Falls vicinity, **Blood Run Site*, south of Sioux Falls at the junction of Blood Run Creek and the Big Sioux River (also in Lincoln County, S. Dak.).

KENTUCKY

Jefferson County

Louisville, *Old Central High School Building (Medical Institute Building, University of Louisville)*, southwest corner of Eighth and Chestnut Streets.

MAINE

Hancock County

East Sullivan vicinity, **Wickyup (Admiral Richard E. Byrd Estate)*, 8 miles northeast of East Sullivan.

MASSACHUSETTS

Suffolk County

Boston harbor, **Fort Warren*, Georges Island.
South Boston, *Fort Independence*, Castle Island.

MINNESOTA

Jefferson County

Port Townsend, *Rothschild House*, Taylor and Franklin Streets.

Mille Lacs County

Vineland vicinity, *Cooper Site*, on the south bank of Ogechie Lake within Mille Lacs-Kathio State Park.
Vineland vicinity, *Petaga Point*, on the southeast shore of Ogechie Lake in Mille Lacs-Kathio State Park.
Vineland vicinity, *Saw Mill Site*, on the northwest side of Lake Ogechie in Mille Lacs-Kathio State Park.
Vineland vicinity, *Vineland Bay Site (Kathio School Site)*, southwest shore of Mille Lacs Lake above the Rum River outlet and within Mille Lacs-Kathio State Park.

Olmsted County

Stewartville vicinity, *Mayowood*, northwest of Stewartville on County Route D.

Redwood County

Redwood Falls vicinity, *Lower Sioux Agency*, 9 miles east of Redwood Falls off County Route N 2.

Rice County

Faribault, *Faribault, Alexander, House*, 12 Northeast First Avenue.

Winona County

Winona vicinity, *Pickwick Mill*, Hamlet of Pickwick.

MISSOURI

Caldwell County

Kingston vicinity, *Far West*, 5.5 miles west of Kingston via County Routes D and H.

Jackson County

Independence, *Temple Site*, corner of Lexington Avenue and River Boulevard.

Lafayette County

Lexington, *Lafayette County Courthouse*, Public Square.

NEW JERSEY

Bergen County

Hohokus, **The Hermitage*, 335 North Franklin Turnpike.

NEW MEXICO

Colfax County

Springer, *Mills House*, 509 First Street.

San Miguel County

Bell Ranch vicinity, *Bell Ranch Headquarters*, north and east of the Conchas Reservoir.

Santa Fe County

Santa Fe, *National Park Service Southwest Regional Office*, Old Santa Fe Trail.

Union County

Seneca vicinity, *McNees Crossing Site*, on the North Canandian River northeast of Seneca.

NORTH CAROLINA

Caldwell County

Lenoir vicinity, *Fort Defiance*, north of Lenoir on North Carolina 268.

Cumberland County

Fayetteville, *Market House*, Market Square.

Edgecombe County

Tarboro, *Tarboro Town Common*, bounded by Wilson Street, Albemarle Avenue, Park Avenue, and St. Patrick Street.

Hertford County

Murfreesboro, *Rea, William, Store*, East Williams Street.

Iredell County

Statesville vicinity, *Fort Dobbs*, Fort Dobbs Road.

McDowell County

Pleasant Gardens, *Carson House*, east of Pleasant Gardens on U.S. 70.

Orange County

Hillsborough, *Burwell School*, North Churton Street.

Rockingham County

Wentworth, *Wright Tavern*, North Carolina 65.

Wake County

Raleigh vicinity, *Midway Plantation*, 8 miles east of Raleigh on U.S. 64.

OKLAHOMA

Alfalfa County

Cleo Springs vicinity, *Sod House*, about 4 miles north of Cleo Springs.

Choctaw County

Fort Towson vicinity, *Fort Towson*, 1 mile northeast of Fort Towson.

Comanche County

Cache vicinity, *Quanah Parker's Star House*, Eagle Park.

McIntosh County (also in Muskogee County)

Rentiesville vicinity, *Honey Springs Battlefield*, north of Rentiesville.

Muskogee County

Honey Springs Battlefield (see McIntosh County).

Rogers County

Oologah vicinity, *Will Rogers Birthplace*, about 4 miles northeast of Oologah.

RHODE ISLAND

Providence County

Providence, *Moshassuck Square (American Screw Co. Factories)*, Stevens Street.

SOUTH DAKOTA

Lincoln County

**Blood Run Site*, reference—see Lyon County, Iowa.

UTAH

Beaver County

Beaver, *Beaver County Courthouse*, 90 East Center Street.

Millard County

Cove Fort vicinity, *Cove Fort*, 2 miles east of Interstate 15 on Utah 4.
Fillmore, *Utah Territorial Capitol*, Center Street between Main and First West Streets.

Salt Lake County

Salt Lake City, *St. Mark's Episcopal Cathedral*, 231 East First South Street.
Salt Lake City, *Z.C.M.I. Cast Iron Front (Zions Cooperative Merchantile Institute)*, 15 South Main Street.

Washington County

St. George, *Old Washington County Courthouse*, 85 East 100 North.

VIRGINIA

Louisa County

Gordonsville vicinity, *Hawkwood*, 0.5 mile west of the intersection of Routes 617 and 15.
Trevillians vicinity, *Westend*, 1.1 miles south of the intersection of Routes 638 and 22.

WASHINGTON

Jefferson County

Port Townsend, *Fowler, Captain Enoch S., House*, corner of Polk and Washington Streets.
Port Townsend, *James, Francis Wilcox, House*, corner of Washington and Harrison Streets.
Port Townsend, *Leader Building (Fowler Building)*, 226 Adams Street.
Port Townsend, *Manresa Hall (Eisenbeis Castle)*, Sheridan Street.
Port Townsend, *St. Paul's Episcopal Church*, corner of Jefferson and Tyler Streets.
Port Townsend, *Starrett House*, 744 Clay Street.

WEST VIRGINIA

Randolph County

Elkins, *Graceland (Henry Gassaway Davis Home)*, Davis and Elkins College.

ERNEST ALLEN CONNALLY,
Chief, Office of Archeology, and Historic Preservation.

[F.R. Doc. 70-14728; Filed, Nov. 2, 1970; 8:47 a.m.]

Office of the Secretary

MAXWELL S. McKNIGHT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28,

1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of October 26, 1970.

Dated: October 6, 1970.

MAXWELL S. MCKNIGHT.

[F.R. Doc. 70-14770; Filed, Nov. 2, 1970; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Docket No. SH-288]

SUGAR CANE IN PUERTO RICO

Notice of Hearing on Fair Prices and Designation of Presiding Officers

Correction

In F.R. Doc. 70-14336 appearing on page 16599 in the issue for Saturday, October 24, 1970, the last five lines of the first paragraph should read "a public hearing will be held in Santurce, P.R., in the Conference Room, Seventh Floor, Segarra Building, Stop 20, on November 12, 1970, beginning at 10:30 a.m."

DEPARTMENT OF COMMERCE

Bureau of Domestic Commerce

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00753-33-46040. Applicant: University of California, Irvine, California College of Medicine, Irvine, Calif. 92664. Article: Electron Microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for research projects investigating the regeneration, dedifferentiation, and migration of traumatized surface epithelial cells in fundic stomach of the rabbit; the metaplasia of connective cells following gastro-omentoplasty in the rabbit; the autoradiography of dandritic spines following induction of labeled amino acid (cat); and the mitochondrial response of cardiac muscle subjected to various periods of anoxia (dog). Graduate students and medical students will use the electron microscope as a training instrument.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is presently being supplied by the Forgflo Corp. The Model EMU-4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 25, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model EMU-4B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-14760; Filed, Nov. 2, 1970; 8:49 a.m.]

UNIVERSITY OF HAWAII

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulation issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00740-33-46040. Applicant: University of Hawaii School of Medicine, Department of Anatomy, 1951 East-West Road, Honolulu, Hawaii 96822. Article: Electron microscope, Model EM 300. Manufacturer: Phillips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for research on the morphology of the uterus; membrane formation and fusion phenomenon; differentiation of uterine stromal cells; and to study the morphology of membrane interaction between sperm and egg. Electron microscopy will be taught to graduate students and postdoctoral fellows.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 550,000 magnifications, without changing pole piece. The most closely comparable domestic instrument is the Model EMU-4B which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU-4B, with its standard pole piece, has a specified range from 1400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 400 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification pole piece should be used. Changing the pole piece on the Model EMU-4B requires a break in the vacuum of the column.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 22, 1970, that the applicant requires the capability of taking high quality micrographs at low magnifications in order to achieve the purposes for which the foreign article is intended to be used.

HEW further advices that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 220 to 550,000 magnifications without changing pole pieces, while at the same time providing high quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-14716; Filed, Nov. 2, 1970; 8:46 a.m.]

ILLINOIS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00751–33–46040. Applicant: Illinois Institute of Technology, Technology Center, Chicago, Ill. 60616. Article: Electron microscope, Model EM 9S. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used primarily for educational purposes for undergraduate and graduate students in courses in biology, cell physiology, and cell biology. Predissertation research concerns the characterization and changes in ultrastructure cells (rat liver mucosal cells of rat jejunum) correlated with changes in oxidative activity and the interactions of molecular aggregates of contractile proteins.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly being manufactured by the Radio Corp. of America (RCA), and which is currently being supplied by the Forgflo Corp. (Forgflo). The Model EMU–4B electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 25, 1970, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes.

We, therefore, find that the Model EMU–4B electron microscope is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70–14761; Filed, Nov. 2, 1970; 8:49 a.m.]

MOUNT SINAI HOSPITAL OF GREATER MIAMI, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00744–33–43780. Applicant: Mount Sinai Hospital of Greater Miami, Inc., 4300 Alton Road, Miami Beach, Fla. 33140. Article: Automatic isodose curve plotter, Model MRA–301. Manufacturer: Toshiba Ltd., Japan.

Intended use of article: The article will be used for radiation therapy dose distributions for the treatment of cancer and allied diseases. Also, medical radiology residents will be trained in radiation physics.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purpose as this article is intended to be used, is being manufactured in the United States.

Reasons: The article can be positioned in the radiation beam emerging from a teletherapy unit and is capable of automatically measuring the radiation dose distribution within a patient simulating phantom on the X–Y–Z axis.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 25, 1970, that the capability of dose measurement on the X–Y–Z axis is pertinent to the applicant's educational purposes.

HEW further advises that it knows of no comparable domestic instrument which provides this pertinent capability.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70–14762; Filed, Nov. 2, 1970; 8:49 a.m.]

SAINT LOUIS UNIVERSITY SCHOOL OF MEDICINE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No.: 70–00752–33–46040. Applicant: Saint Louis University School of Medicine, 1402 South Grand, St. Louis, Mo. 63117. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for diagnostic and investigational purposes on a variety of specimens from patients with disease and for studies of various experimental models of human disease as a means toward a better understanding of etiology, pathogenesis and control. Research concerns diagnostic studies of human renal and hepatic biopsies; studies of the incidence of viruses in human tumors; and studies of the ultrastructure of hybrid cells and the relationship of chromosomal content to structure and function.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 500,000 magnifications, without changing the pole piece. The most closely comparable domestic instrument is the Model EMU–4B which was formerly manufactured by the Radio Corp. of America, and which is presently being supplied by the Forgflo Corp. (Forgflo). The Model EMU–4B, with its standard pole piece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 400 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification pole piece should be used. Changing the pole piece on the Model EMU–4B requires a break in the vacuum of the column.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 25,

1970, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the foreign article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 220 to 500,000 magnifications without changing pole pieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic.

For these reasons, we find that the Model EMU-4B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-14763; Filed, Nov. 2, 1970; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ELANCO PRODUCTS CO.

Notice of Withdrawal of Petition for Food Additives Tylosin and Sulfamethazine

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Elanco Products Co., Division of Eli Lilly & Co., Indianapolis, Ind. 46206, has withdrawn its petition (P41-275V), for which notice of filing was published in the FEDERAL REGISTER of September 16, 1969 (34 F.R. 14444), proposing the issuance of a food additive regulation to provide for the safe use of tylosin and sulfamethazine in swine feed to reduce lung lesions and mortality in swine pneumonia caused by the bacterial pathogens *P. multocida* and/or *C. pyogenes*.

Dated: October 20, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-14744; Filed, Nov. 2, 1970; 8:48 a.m.]

ENRICHED NOODLE PRODUCTS DEVIATING FROM IDENTITY STANDARDS

Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits for market testing foods deviating from the requirements of standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Prince Macaroni Manufacturing Co., Prince Avenue, Lowell, Mass. 01853. This permit covers interstate marketing tests of an enriched noodle product deviating from its standard of identity (21 CFR 16.10) in that it contains butter, nonfat dry milk, and monosodium glutamate, ingredients not provided for by such standard.

The finished food will be labeled in part "seasoned enriched egg noodles."

This temporary permit expires October 14, 1971.

Dated: October 14, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-14746; Filed, Nov. 2, 1970; 8:48 a.m.]

R. T. VANDERBILT CO., INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), R. T. Vanderbilt Co., Inc., 230 Park Avenue, New York, N.Y. 10017, has withdrawn its petition (FAP 0B2439), notice of which was published in the FEDERAL REGISTER of September 4, 1969 (34 F.R. 14038), proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of zinc di(2-ethylhexoate) as a stabilizer for polyvinyl chloride film for food-contact use.

Dated: October 16, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-14745; Filed, Nov. 2, 1970; 8:48 a.m.]

[DESI 9048]

METHOXSALEN

Drugs for Human Use; Drug Efficacy Study Implementation

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

1. Oxsoralen Capsules and Lotion containing methoxsalen; marketed by Paul B. Elder Co., 705 East Mulberry Street, Post Office Box 31, Bryan, Ohio 43506 (NDA 9-048).

2. Meloxine Tablets containing methoxsalen; marketed by The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49001 (NDA 11-401).

These drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that the drugs are possibly effective for their labeled indications for use to protect against sunburn, enhance pigmentation, increase tolerance of the skin to sunlight, and facilitate repigmentation of vitiligo.

B. *Marketing status.* 1. Holders of previously approved new-drug applications and any person marketing any such drug without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and to submit in a supplemental or original new-drug application, data to provide substantial evidence of effectiveness for those indications for use for which these drugs have been classified as possibly effective. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and must include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

2. At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drugs will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug applications for such drugs, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drugs on the market to be new drugs for which an approval is not in effect.

The above-named holders of the new-drug applications for these drugs have been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of these reports by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 9048, directed to the attention of the appropriate office from the list which follows, and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Original new-drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.
Requests for NAS–NRC reports: Press Relations Office (CE–200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: October 8, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–14747; Filed, Nov. 2, 1970; 8:48 a.m.]

[DESI 12339]

CERTAIN COMBINATION DRUGS FOR INHALATION

Drugs for Human Use; Drug Efficacy Study Implementation

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

1. Bronkometer Aerosol containing isoetharine methanesulfonate, phenylephrine hydrochloride, and thenyldiamine hydrochloride; marketed by Breon Laboratories, Inc., subsidiary of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016 (NDA 12–339).

2. Bronkospray Solution containing isoetharine hydrochloride, phenylephrine hydrochloride, and thenyldiamine hydrochloride; marketed by Breon Laboratories, Inc., (NDA 12–339).

3. ProDecadron Respihaler containing dexamethasone sodium phosphate and isoproterenol sulfate; marketed by Merck Sharp & Dohme, Division of Merck & Co., West Point, Pa. 19846 (NDA 13–415).

The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that these drugs are effective as fixed combinations for their labeled claims relating to bronchopulmonary disorders.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the above-listed new-drug applications.

Prior to initiating such action, however, the Commissioner invites the holders of the new-drug applications for these drugs and any interested person who may be adversely affected by their removal from the market, to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 103.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action and implementation of the NAS–NRC reports for these drugs is made to give notice to persons who might be adversely affected by their withdrawal from the market. Promulgation of an order withdrawing approval of the new-drug application may cause any related drug on the market to be a new drug for which an approved new-drug application is not in effect and to be subject to regulatory action.

The above-named holders of the new-drug applications for these drugs have been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of these reports by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 12339, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration.

Requests for NAS–NRC reports: Press Relations Office, Food and Drug Administration, (CE–200), 200 C Street SW., Washington, D.C. 20204.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs, 5600 Fishers Lane, Rockville, Md. 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: October 2, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–14748; Filed, Nov. 2, 1970; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22360]

CHICAGO/ATLANTA-JAMAICA SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on December 1, 1970, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to Order 70–7–54, dated July 13, 1970; Order 70–9–30, dated September 4, 1970; the prehearing conference report, served October 2, 1970; Order 70–10–86, dated October 15, 1970; and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 28, 1970.

[SEAL] ROBERT L. PARK,
Hearing Examiner.

[F.R. Doc. 70–14771; Filed, Nov. 2, 1970; 8:50 a.m.]

[Docket No. 22693; Order 70–10–140]

WESTERN AIR LINES, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of October 1970.

By tariff revisions[1] variously posted or filed September 17 and 30, and marked to become effective November 1, 1970, Western Air Lines, Inc. (Western), proposes to establish rules and rates for the transport of small packages on a particular flight designated by the shipper. The proposed rates are similar to the existing rates of other carriers. Western will, however, accept shipments 15 minutes before flight time, as compared to a 30-minute rule for other carriers. Western has failed to make any provision for a refund in the event that a shipment is not delivered on the requested flight. All other participating carriers have such provisions.

Western does not present any justification as to why the carrier makes no provisions for a partial refund to shippers in the event of failure to transport on the designated flight.

[1] Revision to Airline Tariff Publishers, Inc., Agent's Tariff CAB No. 140.

Upon consideration of all relevant matters, the Board finds that the proposed rules and rates may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be suspended pending investigation.

The Board sees no reason why a carrier should be allowed to offer a special service at a premium rate, and then not provide for a refund to shippers in the event of nonperformance of that service.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof.

It is ordered, That:

1. An investigation is instituted to determine whether the charges and provisions described in Appendix A attached hereto, and rules, regulations, or practices affecting such charges and provisions, are or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful to determine and prescribe the lawful charges and provisions, and rules, regulations, and practices affecting such charges and provisions;

2. Pending hearing and decision by the Board, the charges and provisions described in Appendix A hereto [1] are suspended and their use deferred to and including January 29, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Western Air Lines, Inc., who is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-14772; Filed, Nov. 2, 1970; 8:50 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Congressional Liaison Officer, Office of the Secretary.

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

[F.R. Doc. 70-14781; Filed, Nov. 2, 1970; 8:51 a.m.]

[1] Filed as part of the original document.

DEPARTMENT OF THE TREASURY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Assistant to the Assistant Secretary, Office of Assistant Secretary (Economic Policy).

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

[F.R. Doc. 70-14786; Filed, Nov. 2, 1970; 8:51 a.m.]

DEPARTMENT OF THE TREASURY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Special Assistant to the Secretary (Congressional Relations), Office of the Secretary.

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

[F.R. Doc. 70-14787; Filed, Nov. 2, 1970; 8:51 a.m.]

FEDERAL HOME LOAN BANK BOARD

Notice of Title Change in Noncareer Executive Assignment

By notice of October 1, 1969, F.R. Doc. 69-11685, the Civil Service Commission authorized the Federal Home Loan Bank Board to fill by noncareer executive assignment the position of Director, Office of Research and Home Finance. This is notice that the title of this position is now being changed to Director, Office of Economic Research.

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

[F.R. Doc. 70-14780; Filed, Nov. 2, 1970; 8:51 a.m.]

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the National Credit Union Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Administrator, National Credit Union Administration.

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

[F.R. Doc. 70-14782; Filed, Nov. 2, 1970; 8:51 a.m.]

OFFICE OF MANAGEMENT AND BUDGET

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of Management and Budget to fill by noncareer executive assignment in the excepted service the position of Economist, Office of the Director.

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

[F.R. Doc. 70-14783; Filed, Nov. 2, 1970; 8:51 a.m.]

OFFICE OF THE VICE PRESIDENT

Notice of Grant of Authority To Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of the Vice President to fill by noncareer executive assignments in the excepted service the positions of Assistant to the Vice President for Domestic Affairs, Assistant to the Vice President for Foreign Affairs, and Assistant to the Vice President for Scheduling and Appointments.

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

[F.R. Doc. 70-14784; Filed, Nov. 2, 1970; 8:51 a.m.]

POST OFFICE DEPARTMENT

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Post Office Department to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Deputy Postmaster General.

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

[F.R. Doc. 70-14785; Filed, Nov. 2, 1970; 8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19067; FCC 70-1140]

CAPITAL CITY COMMUNICATIONS, INC.

Order Designating Application for Hearing on Stated Issues and Notice of Apparent Liability

In regard application of Capital City Communications, Inc., for renewal of license of radio station WLUX, Baton Rouge, La., Docket No. 19067, File No. BR-4266.

1. The Commission has before it for consideration (a) the captioned application and (b) its inquiries into the operations of Station WLUX.

2. Information before the Commission raises a number of serious questions bearing upon whether the applicant possesses the qualifications to be or to remain a licensee of the Commission. In view of these questions, the Commission is unable to find that a grant of the captioned application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned application is designated for hearing at Baton Rouge, La., at a time to be specified in a subsequent order, upon the following issues:

(1) To determine whether the license for Radio Station WLUX was transferred, assigned or disposed of, by transfer of control of applicant corporation, without a finding by the Commission that the public interest, convenience and necessity would be served thereby, in violation of section 310(b) of the Communications Act of 1934, as amended.

(2) To determine whether applicant filed with the Commission contracts relating to ownership or control of applicant corporation, as required by § 1.613 (b) of the Commission's rules.

(3) To determine whether applicant filed timely and accurate Ownership Reports (FCC Form 323) with the Commission, as required by § 1.615 of the Commission's rules.

(4) To determine whether the routine operation of the transmitter of Radio Station WLUX was performed by a person who held the radio operator license required by § 73.93 of the Commission's rules.

(5) To determine whether the operating logs for Radio Station WLUX were maintained by a person competent to do so, as required by §§ 73.111 and 73.113 of the Commission's rules.

(6) To determine whether applicant, through its officers, directors or employees, made misrepresentations to the Commission or was lacking in candor.

(7) To determine the financial arrangements under which Station WLUX has been and will be operated.

(8) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether applicant possesses the requisite qualifications to be and to remain a licensee of the Commission.

(9) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the grant of the captioned application would serve the public interest, convenience and necessity.

4. *It is further ordered,* That the Chief, Broadcast Bureau, is directed to serve upon the applicant within 30 days of the release of this order a bill of particulars setting forth the basis for adoption of hearing issues (1) through (6).

5. *It is further ordered,* That, if it is determined that the hearing record does not warrant an order denying the captioned application for renewal of license for Station WLUX, it shall also be determined whether the applicant has willfully or repeatedly violated section 310 (b) of the Communications Act or §§ 1.613, 1.615, 73.93, 73.111, or 73.113 of the Commission's rules[1] and, if so, whether an order of forfeiture pursuant to section 503(b) of the Communications Act, as amended, in the amount of $10,000 or some lesser amount, should be issued.

6. *It is further ordered,* That this document also constitutes a notice of apparent liability for violation of the Communications Act and the Commission's rules (i.e., section 310(b) of the Act and §§ 1.613, 1.615, 73.93, 73.111, or 73.113 of the rules). The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the 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 is, of course, to be made on the facts of each case.

7. *It is further ordered,* That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to Issues (1) through (6), and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its application would serve the public interest, convenience and necessity.

8. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall file with the Commission, within twenty (20) days of the mailing of this order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

[1] See bill of particulars for specific dates of each violation.

9. *It is further ordered,* That the applicant herein, pursuant to section 311 (a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall 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 rules.

10. *It is further ordered,* That the Secretary of the Commission send copies of this order by Certified Airmail—Return Receipt Requested to Capital City Communications, Inc.

Adopted: October 21, 1970.

Released: October 27, 1970.

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

[F.R. Doc. 70-14767; Filed, Nov. 2, 1970; 8:50 a.m.]

[Docket No. 15461 etc.; FCC 70R-364]

CHAPMAN RADIO AND TELEVISION CO. ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of William A. Chapman and George K. Chapman, doing business as Chapman Radio and Television Co., Homewood, Ala., Docket No. 15461, File No. BPCT-3282; Alabama Television, Inc., Birmingham, Ala., Docket No. 16760, File No. BPCT-3706; Birmingham Broadcasting Co., Birmingham, Ala., Docket No. 16761, File No. BPCT-3707; for construction permit for new television broadcast station, Birmingham Television Corporation (WBMG), Birmingham, Ala., for modification of construction permit, Docket No. 16758, File No. BPCT-3663.

1. The above-captioned mutually exclusive applications were designated for hearing by Commission Order, FCC 66-636, released July 20, 1966, to determine, among other things, which of the four proposals would best serve the public interest, convenience, and necessity (standard comparative issue). On August 28, 1969, the Review Board released a Decision[1] granting the application of Alabama Television, Inc. (Alabama Television) for a permit to construct a new television broadcast station to operate on Channel 21 at Birmingham, Ala. The competing applications of Chapman Radio and Television Co., Birmingham Broadcasting Co. (Birmingham Broadcasting), and Birmingham Television Corp. (WBMG) were denied.[2] Subse-

[1] 19 FCC 2d 157, 17 RR 2d 60, reconsideration denied 20 FCC 2d 624, 17 RR 2d 1028, released Nov. 25, 1969.

[2] Alabama Television and Birmingham Broadcasting request authority to construct a new television broadcast station to operate on Channel 21 at Birmingham. Chapman seeks the same authority for a station at nearby Homewood. Birmingham Television Corp. (hereinafter WBMG) is presently the permittee of Station WBMG(TV), Channel 42, Birmingham, and requests modification of its construction permit to specify operation on Channel 21 in lieu of Channel 42.

quently, pursuant to a petition to enlarge issues, filed by Birmingham Broadcasting, the record was reopened for further hearing by the Commission on two issues concerning Alabama Television and on one issue directed to all applicants. FCC 70–744, released July 13, 1970, 24 FCC 2d 282, 19 RR 2d 589.[3] Presently before the Review Board is a petition to enlarge issues, filed August 14, 1970, by WBMG,[4] requesting the addition of character qualifications and § 1.65 issues against Birmingham Broadcasting.

2. In support of its petition, WBMG alleges that on March 10, 1969, Oscar E. Hyde, an officer director, and 26.7 percent stockholder of Birmingham Broadcasting, was adjudged guilty as charged and convicted in a Federal district court on four counts of obstructing commerce by extortion, in violation of the Federal criminal code (18 U.S.C. § 1951).[5] WBMG submits that, to this day, Birmingham Broadcasting has not reported Hyde's conviction to the Commission, thus raising two "serious questions" about Birmingham Broadcasting's qualifications to be a broadcast licensee: (1) whether Hyde and Birmingham Broadcasting are qualified to own and operate a television station in light of the facts and circumstances surrounding Hyde's conviction; and (2) whether Birmingham Broadcasting has failed to keep its pending application currently accurate and complete as required by § 1.65 of the Commission's rules. Petitioner requests that appropriate issues inquiring into these matters be added by the Review Board. With respect to the first requested issue, WBMG points out that, in an earlier memorandum opinion and order in this proceeding, the Review Board acted upon a petition to enlarge issues concerning Hyde's indictment and stated that, "the alleged conduct underlying the indictments against Hyde would if established as true, raise serious questions regarding Hyde's and consequently [Birmingham Broadcasting's] qualifications to be a licensee." FCC 67R–87, released March 16, 1967, 7 FCC 2d 461, 9 RR 2d 727.[6] According to petitioner, "now is the time" to designate a disqualifying issue against Hyde and Birmingham Broadcasting. In regard to the § 1.65 question, WBMG maintains that the conviction is "unarguably" a matter of such importance that it should have been reported to the Commission pursuant to § 1.65, citing Kittyhawk Broadcasting Corp., 13 FCC 2d 928, 13 RR 2d 1058 (1968). Alabama Television supports WBMG's petition. The Broadcast Bureau, in its comment, submits that if Hyde's conviction is under appeal, and therefore not yet finalized, an inquiry into the circumstances surrounding it would not be warranted at this time. The request for a § 1.65 issue is fully supported by the Bureau.

3. Birmingham Broadcasting opposes WBMG's petition on the following grounds: first, notwithstanding the Hearing Examiner's denial in January 1967, of an amendment request to reflect Hyde's position with the corporate applicant, Hyde has not been an officer or director of Birmingham Broadcasting since November 26, 1966; second, steps have recently been taken to retire Hyde's stock and to transfer it, subject to Commission approval, to a black college in Birmingham; third, Hyde's conviction is on appeal to the United States Court of Appeals for the Fifth Circuit; fourth, WBMG's petition is untimely and no good cause has been shown for the delay; and, finally, the conviction did not have to be reported to the Commission pursuant to § 1.65 because "all the relative facts" were known to the Commission, and under the Commission's Report on Uniform Policy as to Violation by Applicants of Laws of United States,[7] "only a final decision is appropriate for the Commission to consider and there has been no final decision in the instant case."

4. Although WBMG's petition is late-filed by several months, the Board believes that it raises substantial public interest questions which require us to consider its merits.[8] Medford Broadcasters, Inc. (KDOV), 18 FCC 2d 699, 16 RR 2d 900 (1969); The Edgefield-Saluda Radio Co., 5 FCC 2d 148, 8 RR 2d 611 (1966). We agree with WBMG, Alabama Television and the Bureau that Hyde's conviction should have been timely reported by Birmingham Broadcasting to the Commission pursuant to § 1.65. Section 1.65 requires each applicant to be responsible for the continuing accuracy and completeness of its application, and an applicant must notify the Commission within 30 days of any event which may be of decisional significance. See the Commission's Report and Order in Docket No. 14867 (Reporting of Changed Circumstances), 29 F.R. 15516, 3 RR 2d 1622 (1964). By any standard, the conviction of a principal of a broadcast applicant of extortion and other federal crimes is a substantial matter of considerable significance to the Commission's public interest determination. The fact that the Board was aware of Hyde's indictment and conditioned a grant of Birmingham Broadcasting's application on the outcome of the criminal proceeding does not excuse the omission; nor does the fact that the conviction is now on appeal. Kittyhawk Broadcasting Corp., supra. Cf. Azalea Corp., 10 FCC 2d 364, 11 RR 2d 541 (1967). The crucial fact is that a principal stockholder of Birmingham Broadcasting was convicted by a federal jury of a very serious offense, that he was fined and sentenced to prison for his offense, and that these matters were not reported to the Commission. Hyde's belated attempt at this time to divest himself of his 26.7 percent stock interest does not cure Birmingham Broadcasting's violation of § 1.65, especially since the amendment to reflect the proposed change was denied by the Chief Hearing Examiner by memorandum opinion and order, FCC 70M–1411, released October 14, 1970. In view of the foregoing circumstances, then, we will add a § 1.65 issue against Birmingham Broadcasting. Pursuant to WBMG's express request in its petition, the burdens of proceeding and proof under this issue will be on Birmingham Broadcasting because the facts regarding its failure to notify are peculiarly within its knowledge. See Kittyhawk Broadcasting Corp., supra. An issue inquiring into the facts surrounding Hyde's conviction will not be added, however, because the conviction is not final. See our memorandum opinion and order, FCC 67R–87, supra, and cases cited therein.

5. *Accordingly, it is ordered*, That the motion to strike, filed October 7, 1970, by Birmingham Television Corporation (WBMG) is granted; that the answer to "reply to opposition to petition to enlarge issues," filed September 28, 1970, by Birmingham Broadcasting Co. is stricken; and

6. *It is further ordered*, That the petition to enlarge issues, filed August 14, 1970, by Birmingham Television Corp. (WBMG) is granted to the extent indicated herein and is denied in all other respects; and

7. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine whether Birmingham Broadcasting Co. has failed its responsibility to keep its pending application currently accurate and complete as

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[3] The Commission also dismissed as moot three applications for review of the Board's decision.

[4] Also before the Board are the following related pleadings: (a) Comment, filed Aug. 24, 1970, by Alabama Television; (b) comment, filed Aug. 27, 1970, by the Broadcast Bureau; (c) opposition, filed Sept. 14, 1970, by Birmingham Broadcasting; (d) reply, filed Sept. 21, 1970, by WBMG; (e) answer to (d), filed Sept. 28, 1970, by Birmingham Broadcasting; (f) motion to strike (e), filed Oct. 7, 1970, by WBMG; and (g) opposition to (f) and to correct title of pleadings, filed Oct. 14, 1970, by Birmingham Broadcasting. Birmingham Broadcasting's "answer" was filed in contravention of Commission rule 1.294(d) and is therefore an unauthorized pleading, subject to summary dismissal. No request has been made for its acceptance, and no reason has been shown for its consideration. Changing the title of the "answer" to "supplement," as Birmingham Broadcasting requests, would not change the essential nature of the unauthorized pleading, which is to respond to WBMG's reply pleading. Therefore, WBMG's motion to strike will be granted and the substantive matters raised in the "answer," motion to strike, and opposition to the motion, will not be considered by the Board in ruling on WBMG's petition.

[5] Attached to the petition is a true copy of the "Judgment and Commitment" of Oscar Hyde in the U.S. District Court for the Southern Division of the Northern District of Alabama (CR–68–317–S).

[6] In the aforementioned memorandum opinion and order, the Board declined to add an issue inquiring into Hyde's conduct, but conditioned a possible grant of Birmingham Broadcasting's application on the outcome of the criminal proceedings involving Hyde, 7 FCC 2d at 463, 9 RR 2d at 730.

[7] 1 RR, Part 3, 91:495 (1951).

[8] Although we are considering WBMG's petition on its merits, we wish to point out that the long delay in filing the petition is not to be condoned. In this connection, we note that WBMG has offered no reason whatsoever for the late-filing. In the future, we shall expect some explanation for failing to comply with the time requirements of § 1.229.

required by § 1.65 of the Commission's rules;

(b) To determine whether the facts adduced pursuant to the foregoing issue reflect adversely upon the basic or comparative qualifications of Birmingham Broadcasting Co.

8. *It is further ordered*, That the burden of proceeding with the introduction of evidence and burden of proof under the issues added herein shall be on Birmingham Broadcasting Co.

Adopted: October 26, 1970.

Released: October 28, 1970.

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

[F.R. Doc. 70-14769; Filed, Nov. 2, 1970; 8:50 a.m.]

[FCC 70-1138]

EQUAL OPPORTUNITY REPORTS AND APPLICATION REQUIREMENTS

Effective Date for Filing

OCTOBER 22, 1970.

The effective date of the annual employment reporting requirements called for in new § 1.612 of the rules and section VI of FCC Forms 301, 303, 309, 311, 314, 315, 340, and 342, adopted by the Commission in its report and order in Docket No. 18244, released June 3, 1970, was stayed pending clearance of the annual employment report form and the new section VI by the Bureau of the Budget under the Federal Reports Act. The Commission has now received the necessary clearance from the Bureau of the Budget.

Accordingly, each licensee or permittee of a commercial or noncommercial standard, FM, television or international broadcast station required to file, pursuant to § 1.612 of the rules, an Annual Employment Report on FCC Form 395 shall make the initial submission on or before May 31, 1971.

Applicants for construction permits for new broadcast stations who tender applications for filing on or after January 4, 1971, should file the information called for in the new section VI of FCC Form 301, 309, or 340, whichever is applicable. Applicants whose applications have been tendered before January 4, 1971, need not amend such applications to provide the new section VI, but must submit such section as a part of the application for license to cover construction permit, if and when such license application is filed.

Licensees who are required, pursuant to § 1.539 of the rules, to file application for renewal of license by or after January 4, 1971, should file the information called for in the new section VI of FCC Form 303, 311, or 342, whichever is applicable.

Applications for consent to the assignment of construction permit or license, or for consent to the transfer of control of a corporation holding such a construction permit or license, tendered for filing on or after January 4, 1971, should contain the information called for in the new section VI of FCC Form 314 or 315, whichever is applicable.

Any inquiries concerning the above should be directed to the Branch of the Commission's Broacast Bureau particularly involved.

Action by the Commission October 21, 1970. Commissioners Burch (Chairman), Robert E. Lee, Johnson, H. Rex Lee, and Wells, with Commissioner Bartley not participating.

Sent to all broadcast licensees.

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

[F.R. Doc. 70-14764; Filed, Nov. 2, 1970; 8:50 a.m.]

[Dockets Nos. 18901, 18902; FCC 70R-362]

JAY SADOW (WRIP) AND ROCK CITY BROADCASTING, INC.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Jay Sadow (WRIP), Chattanooga, Tenn., Docket No. 18901, File No. BP-17792; Rock City Broadcasting, Inc., Chattanooga, Tenn., Docket No. 18902, File No. BP-17993; for construction permits.

1. The mutually exclusive applications of Jay Sadow (WRIP)[1] and Rock City Broadcasting, Inc. (Rock City) for a new standard broadcast station at Chattanooga, Tenn., were designated by the Commission for consolidated hearing on various issues, including a Suburban issue directed to Sadow, by Memorandum Opinion and Order, FCC 70-705, 35 F.R. 11310, published July 15, 1970. Presently before the Review Board is a motion to enlarge issues, filed July 30, 1970, by Rock City,[2] requesting the addition of a comparative programing issue and an assurance of construction issue.[3]

Comparative programing issue. 2. In support of its request for a comparative programing issue, Rock City contends that its programing proposal differs substantially from the proposal set forth in the Sadow application, as amended on August 12, 1970. See FCC 70M-1118. Rock City points out that it allocates its total weekly broadcast time of 84 hours in the following manner: 40 percent to news offerings; 26.7 percent to public affairs presentation; and 13.3 percent to other programs, exclusive of entertainment and sports. In contrast, maintains petitioner, the revised programing proposal of Sadow reflects that news and public affairs programing comprise, respectively, 2.1 percent and 2.9 percent of the applicant's total broadcast time (89 hours each week), and that religious programs, the only other nonentertainment programing scheduled by Sadow, will be broadcast 55 percent of the time. It is claimed that Rock City's devotion of 66.7 percent of its total broadcast time to news and public affairs programing stems from the applicant's community surveys, which ascertained the public's need for greater awareness of matters pertaining to the governmental, educational, economic, environmental, social, and leisure spheres of community life, and from Rock City's belief that no station in the Chattanooga area presently specializes in coverage of news or public affairs.[4] Finally, Rock City argues that since both applicants propose differing specialized types of programing, Commission precedent (citing Rochester Radio Company, FCC 69-1027, released September 29, 1969) requires that a full comparison of programing be made and that the comparative programing issue should be added herein.[5]

3. Sadow opposes the addition of the requested issue, contending that the differences between programing proposals do not go beyond ordinary differences in judgment. Rock City's proposal with its emphasis on news and public affairs programs does not, in Sadow's view, demonstrate a superior devotion to public service, for Sadow's religious-oriented proposal, allegedly predicated upon the community's need for religious programing, similarly devotes a substantial portion of the applicant's total broadcast time to public service programs. Asserting that at the time of designation the Commission was cognizant of the specialized nature of the respective program proposals and that the Commission did not find the facts sufficient to permit a programing comparison, Sadow argues that the addition of a comparative programing issue would not be appropriate. In reply, Rock City maintains that since the Commission, in the designation Order, did not discuss the applicants' programing proposals, the Board is not precluded from adding the requested issue. In Rock City's opinion, the applicant's programing proposals

[1] Sadow, the licensee of standard broadcast Station WRIP, Rossville, Ga., seeks to relocate this daytime only station in nearby Chattanooga, to change WRIP's frequency from 980 kc. to 1190 kc., and to increase power to 50 kw.

[2] Also before the Board are: (a) Comments, filed Aug. 28, 1970, by the Broadcast Bureau; (b) opposition, filed Aug. 28, 1970, by Sadow; and (c) reply, filed Sept. 9, 1970, by Rock City.

[3] As an alternative to the latter requested issue, Rock City seeks the inclusion of an issue to permit the assessment of a comparative demerit against Sadow for his failure to construct television broadcast Station WRIP (Channel 61), Chattanooga, Tenn. Sadow is the sole stockholder of the corporate permittee of Station WRIP-TV.

[4] Alleging that similar needs were uncovered by Sadow's community surveys, Rock City also attacks the applicant's programing proposal as being unrelated to the results of its own surveys.

[5] The Broadcast Bureau supports the addition of a comparative programing issue, contending that, as required by Chapman Radio & Television Co., 7 FCC 2d 213, 9 RR 2d 635 (1967), Rock City has made a prima facie showing of significant differences in the programing proposed by the applicants herein and has related its claimed superiority in programing to its ascertainment of community needs.

differ fundamentally and, therefore, a comparative evaluation of programing is required in order to properly choose one over the other.

4. Except for a determination that Sadow's proposal did not comport with the Commission's Suburban requirements, the designation Order herein does not evidence a reasoned consideration of the applicants' programing proposals, and the Board will, therefore, treat Rock City's request for a programing issue on its merits. See Atlantic Broadcasting Co. (WUST), 5 FCC 2d 717, 8 RR 2d 991 (1966); cf. WPIX, Inc. (WPIX), 23 FCC 2d 245, 19 RR 2d 182, review denied FCC 70-785, released July 24, 1970. In essence, Rock City seeks the addition of an issue to determine the relative need for the applicant's respective program formats. See Azalea Corporation, 10 FCC 2d 212, 11 RR 2d 387 (1967); Salter Broadcasting Company (WBEL), 8 FCC 2d 1036, 10 RR 2d 606 (1967). It is uncontroverted that each applicant herein proposes a specialized program service: one offers a program format with a 66.7-percent concentration on news and public affairs presentations; the other a program format with a 55-percent emphasis on religious programing. No other material or significant distinction is proffered by Rock City with respect to the applicants' program proposals.[6] Where, as here, the substance of the requested programing issue relates primarily to the applicant's choice of a format—as is necessarily the situation where the proposal is designed to specialize in the presentation of a particular type(s) of programing—and to the need for such program format in the community, the Review Board, in the interests of preserving the record from a proliferation of insignificant detail and of expediting the hearing process, will specify a narrow issue pertaining only to the claimed superiority of the proposed program formats.[7] Under this issue, which we will add herein, the introduction of evidence regarding a comparative evaluation of individual programs is not contemplated; rather the adduction of evidence is limited to matters relating to a comparison of the need for the particular type of program format proposed by each applicant. See Azalea Corporation, 10 FCC 2d 212, 11 RR 2d 387, and 10 FCC 2d 918, 11 RR 2d 926 (1967).

Assurance of construction issue. 5. In view of Sadow's conduct with respect to the construction of television broadcast Station WRIP, Rock City asserts that a substantial question exists as to the bona fides of Sadow's intention to construct a standard broadcast station in Chattanooga, Tenn. Rock City contends that the Commission granted Sadow a construction permit for this UHF television facility on March 22, 1967; that the Commission's files do not reflect the permittee's commencement of construction; and that the protracted delay in construction has resulted not from factors beyond the permittee's control, but rather from Sadow's intermittent attempt to achieve economies through the erection of a joint AM–FM–TV studio. In the movant's opinion, Sadow's hesitancy in constructing Station WRIP–TV warrants the addition of "a potentially disqualifying issue" or, at least, a comparative issue concerning this matter.

6. The Broadcast Bureau and Sadow oppose the above request. Noting that on April 8, 1970, the Commission granted Sadow a 6-month extension of time within which to construct the UHF television facility, the Bureau contends that the Commission's action evidences a determination that the permittee has evidenced a good faith intention to construct and forecloses any action in this regard by the Review Board prior to the expiration date of the extension.[8] Sadow agrees that his intention to put Station WRIP–TV on the air is not suspect, alleging that substantial progress has been made in the construction of this facility. In support of this allegation, Sadow submits his affidavit of August 26, 1970, wherein he avers that erection of Station WRIP–TV's studio and transmitter buildings is scheduled for completion within three weeks; that the station's tower is being fabricated; that broadcast equipment has been ordered and will be shipped as soon as the buildings are completed; and that feature film and syndicated programs for Station WRIP–TV have been purchased. The applicant also submits a verified letter, dated August 6, 1970, from the contractor, who is erecting the Station WRIP–TV studio and transmitter buildings, and he supports Sadow's avowals concerning these structures. In light of the status of Station WRIP–TV's construction, Sadow maintains that there is no reason to question either the bona fides of the instant application or his intention to build the proposed standard broadcast station in Chattanooga, Tenn.[9]

7. It is the judgment of the Review Board that the allegations advanced by Rock City are not sufficient to support the addition of an assurance of construction issue. That the construction of Station WRIP–TV has not yet been completed, despite the passage of an extended period of time, does not, standing alone, suggest to the Board that Sadow will not construct the proposed standard broadcast station, if its application is granted.[10] See Seaboard Broadcasting Corporation, 24 FCC 2d 259, 19 RR 2d 538 (1970); Media, Inc., 22 FCC 2d 875, 18 RR 2d 1175, review denied FCC 70-986, released September 15, 1970. With respect to its alternative request (see note 3, supra), Rock City has made no showing that Sadow's conduct with respect to the construction of Station WRIP–TV should be explored in the comparative aspects of this proceeding.[11] There is no indication that Sadow, in his prior dealings with the Commission, misrepresented or was in any way less than candid concerning his intention to build Station WRIP–TV. Nor has it been shown that Sadow is insensitive to his responsibilities as a Commission permittee or licensee. Based upon the allegations before us, the Board believes that the addition of the requested comparative issue is not warranted.

8. *Accordingly, it is ordered,* That the motion to enlarge issues, filed July 30, 1970, by Rock City Broadcasting, Inc. is granted to the extent indicated below, and is denied in all other respects;

9. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issue: To determine, on a comparative basis, whether a greater need exists for the religious-oriented program service proposed by Jay Sadow (WRIP) or for the news-public affairs program service proposed by Rock City Broadcasting, Inc.

Adopted: October 22, 1970.

Released: October 27, 1970.

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

[F.R. Doc. 70-14768; Filed, Nov. 2, 1970; 8:50 a.m.]

[6] Rock City's allegations pertaining to the responsiveness of Sadow's proposal to Sadow's ascertained needs of Chattanooga and its environs (see note 4, supra), are not a valid predicate for the requested programing issue. Given material and significant differences in the programing proposed by the applicants, it is the relationship between the petitioner's ascertainment of community needs and the reflection of those needs in his programing proposal that supports the request for a comparative programing issue. See Chapman Radio & Television Co., supra.

[7] In its Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, 5 RR 2d 1901 (1965), the Commission indicated that specialized program proposals would be considered on a case-to-case basis and that where the question is presented, it would examine the need for the specialized proposal as against the need for the service offered by the competing applicant. Since the issue added herein by the Board will permit such inquiry and, at the same time, not burden the record with the immaterial clutter, which the Commission has sought by the adoption of the Policy Statement to exclude from the comparative hearing, we have declined to authorize a full comparison of the applicants' program proposals. See Radio KYNO, Inc., 14 FCC 2d 251, 253, 13 RR 2d 1126, 1129–30 (1968).

[8] On Oct. 5, 1970, the Commission further extended the permittee's period of time to construct until Dec. 15, 1970.

[9] Notwithstanding the Commission's actions extending the time within which Station WRIP–TV is to be constructed, Rock City, in its reply pleading, states that the facts underlying the delay in construction are relevant to the comparative aspects of this proceeding, "for they may bear upon Jay Sadow's ability and intention to construct an AM station in Chattanooga".

[10] Rock City's assertion that the delay in constructing Station WRIP–TV "may bear" upon Sadow's ability to build the proposed station is not only expressed for the first time in a reply pleading, but also unsupported by any factual allegations; accordingly, such conjecture is worthy of no further consideration by the Board.

[11] We note that the Commission has expressed an unwillingness to permit the hearing process to be converted into a search for an applicant's minor, insignificant blemishes. See Policy Statement, supra, 1 FCC 2d at 399, 5 RR 2d at 1913.

FEDERAL MARITIME COMMISSION

[Docket No. 70-42; Agreement 9905]

SEATRAIN LINES, INC., ET AL.

Order To Show Cause

On August 14, 1970, Moore-McCormack Lines, Inc. (Mormac) and American Export Isbrandtsen Lines, Inc. (AEIL) entered in an agreement of purchase and sale whereby, inter alia, AEIL agreed to purchase from Mormac four so-called ro/ro vessels, the "S.S. MORMACSEA," the "S.S. MORMACSKY," the "S.S. MORMACSTAR" and the "S.S. MORMACSUN." This agreement is before the Federal Maritime Commission for approval under section 15 of the Shipping Act, 1916 (46 U.S.C. 814). In response to notice published in the FEDERAL REGISTER on October 17, 1970, protests to the approval of Agreement 9905 have been filed by Seatrain Lines, Inc. and Sea-Land Service, Inc. Both protestants have requested a hearing.

The sale and purchase of the subject vessels was approved by the Maritime Administrator and the Maritime Subsidy Board on October 19, 1970, at which time Sea-Land's prior request for a hearing before the Maritime Subsidy Board was denied.

The protest of Seatrain appears to be concerned only with the use to which AEIL intends to put the newly-purchased ro/ro vessels, i.e. "The transfer by AEIL of any or all of these CDS [construction differential subsidy] built vessels for subsidized operation in the East Coast/Mediterranean trade to the North Atlantic/European service would increase the container capacity in an already seriously over-tonnaged trade and would provide unfair competition to the unsubsidized operators in that trade."

The gravamen of the protest of Sea-Land is somewhat more difficult to identify. In its request for hearing before the Maritime Subsidy Board (a copy of which was attached to Sea-Land's protest), Sea-Land explained its interest in the agreement:

> At the outset, it is appropriate to define Sea-Land's interest, isolating that interest from other aspects of the proposed transaction. In that regard, Sea-Land has no interest in (a) the sale and purchase of the subject vessels as such; (b) the disposition of the construction differential subsidy rights and obligations relating to these vessels; or (c) whether the parties seek requisite authority from this or other appropriate agencies—or whether the appropriate agencies grant the requisite authority—for the sale and purchase as such. Sea-Land does, however, have vital interest in—and asserts its right to be heard concerning—any use of these vessels by the buyer pursuant to an operating differential subsidy contract, under section 605(c) of the Merchant Marine Act of 1936, as amended.

In its present protest and request for hearing, Sea-Land now asserts that, "the operative effects of the agreement * * * indicate they may well be contrary to the interests of both shippers and consignees in the Northern Europe trade and the interests of competing carriers in the Mediterranean trade (including Sea-Land) as they constitute part of the public." Under the assumption that the only approvals required were those of the Maritime Subsidy Board and the Maritime Administrator, both Mormac and AEIL have made extensive commitments, both operational and financial.

Since both the protests center upon the use to which AEIL intends to put the newly-purchased ro/ro vessels, the Commission, for the purposes of this proceeding, is adopting the expedited procedure set forth below.

Therefore it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814, 821), Sea-Land Service, Inc. and Seatrain Lines, Inc., show cause why Agreement 9905 should not be approved pursuant to the standards of section 15 of the Shipping Act, 1916 (46 U.S.C. 814).

It is further ordered, That American Export Isbrandtsen Lines, Inc. file with the Commission on or before close of business November 6, 1970, an affidavit setting forth the future operational plans for the "S.S. MORMACSEA," the "S.S. MORMACSKY," the "S.S. MORMACSTAR" and the "S.S. MORMACSUN," together with such other operational data which would tend to demonstrate that Agreement 9905 should be approved under section 15. The affidavit may be accompanied by an appropriate memorandum of law.

It is further ordered, That Sea-Land Service, Inc. and Seatrain Lines, Inc. shall file, on or before close of business November 13, 1970, reply affidavits and memoranda of law to the affidavit and memorandum of American Export Isbrandtsen Lines. Should the replies include a request for an evidentiary hearing, the request must state with particularity the evidence to be adduced at such hearing together with a comprehensive statement of the relevance and materiality of that evidence to the issues in this proceeding. An original and 15 copies of all affidavits and memoranda are required to be filed with the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Copies of any papers filed with the Secretary shall be served on all parties, including the Commission's Office of Hearing Counsel.

It is further ordered, That American Export Isbrandtsen Lines, Inc., Sea-Land Service, Inc. and Seatrain Lines, Inc. are hereby made respondents in this proceeding.

It is further ordered, That persons other than respondents and Hearing Counsel who desire to become parties to this proceeding shall file a petition for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practice and procedure no later than November 4, 1970. For the purpose of this proceeding, intervenors shall be limited to the filing of reply affidavits and memoranda which shall be filed on or before close of business November 13, 1970.

By the Commission.[1]

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[F.R. Doc. 70-14826; Filed, Nov. 2, 1970; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI71-350 etc.]

CALIFORNIA CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

OCTOBER 23, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 14, 1970.

By the Commission.

[SEAL] KENNNETH F. PLUMB, *Acting Secretary.*

[1] Dissenting views of Commissioner George H. Hearn filed as part of the original document.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf * Rate in effect	Cents per Mcf * Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-350..	The California Co., a division of Chevron Oil Co.	56	14	Texas Eastern Transmission Corp. (Chevron Field, Kleberg County, Tex., RR. District No. 4).	$83,584	9-28-70	11- 1-70	4- 1-71	16.47175	17.074375	RI68-205.
RI71-351..	George R. Brown	19	5	Florida Gas Transmission Co. (North Monte Christo Field, Hidalgo County, Tex., RR. District No. 4).	6,026	9-28-70	10-29-70	3-29-71	15.0656	18.0787	RI70-484.
RI71-352..	Gulf Oil Corp	180	5	H. L. Hunt (North Lansing Field, Harrison County, Tex., RR. District No. 6).	808	9-25-70	11- 1-70	4- 1-71	[1] 15.1718	[1] 16.3778	RI64-231.
RI71-353..	Atlantic Richfield Co.	433	12	do	245	10- 1-70	11- 1-70	4- 1-71	[1] 16.37775	[1] 16.57875	RI70-326.
	do	11	[3] 14	El Paso Natural Gas Co. (Langlie Mattix Field; Lea County, N. Mex., Permian Basin Area).		9-24-70	10-25-70	Accepted	17.9023		
		11	[4] 15		135	9-24-70	10-25-70	3-25-71	[2] [4] 17.9023	[2] [4] 18.4138	RI70-67.
	do	15	[3] 14	do		9-24-70	10-25-70	Accepted	17.9023		
		15	15		197	9-24-70	10-25-70	3-25-71	[2] 17.9023	[2] [4] 18.4138	RI70-67.
	do	17	[3] 13	El Paso Natural Gas Co. (South Eunice Field; Lea County, N. Mex., Permian Basin Area).		9-24-70	10-25-70	Accepted	17.9023		
		17	14		334	9-24-70	10-25-70	3-25-71	[2] [4] 17.9023	[2] [4] 18.4138	RI70-67.
	do	18	[3] 15	El Paso Natural Gas (Justis Field, Lea County, N. Mex., Permian Basin Area).		9-24-70	10-25-70	Accepted	17.9023		
		18	16		27	9-24-70	10-25-70	3-25-71	[2] [4] 17.9023	[2] [4] 18.4138	RI70-67.
RI71-354..	Warren Petroleum Corp.	57	4	Natural Gas Pipeline Co./Am. (Vada Plant, Lea County, N. Mex., Permian Basin).	16,500	10- 1-70	11- 1-70	4- 1-70	14.5	14.65	
RI71-355..	Atlantic Richfield Co.	19	[3] 13	El Paso Natural Gas Co. (Langlie Mattix Field, Lea County, N. Mex.) (Permian Basin).		9-24-70	10-25-70	Accepted	17.9023		
		19	14		174	9-24-70	10-25-70	3-25-71	[4] 17.9023	[4] 18.4138	RI70-67.
	do	20	[3] 28	do		9-24-70	10-25-70	Accepted	17.9023		
		20	29		773	9-24-70	10-25-70	3-25-71	[4] [5] 17.9023	[4] [5] 18.4138	RI70-94.
	do	26	[3] 15	El Paso Natural Gas Co. (Slaughter Gas Plant, Hockley County, Tex.) (RR. District 8) (Permian Basin).		9-24-70	10-25-70	Accepted	19.1423		
		26	16		1,554	9-24-70	10-25-70	3-25-71	19.1423	19.6466	RI70-67.
	do	28	[3] 37	El Paso Natural Gas Co. (Spraberry Field, Midland, Glasscock, Upton, and Regan Counties, Tex.) (RR. District 8 and 7-C) (Permian Basin).		9-24-70	10-25-70	Accepted	19.3278		
		28	38		3,041	9-24-70	10-25-70	3-25-71	19.3278	19.8304	RI70-67.
	do	29	[3] 17	El Paso Natural Gas Co. (Payton-Devonion Field, Ward and Pecos Counties, Tex.) (Permian Basin).		9-24-70	10-25-70	Accepted	17.8019		
		29	18		162	9-24-70	10-25-70	3-25-71	17.8019	18.3105	RI70-67.
	do	140	[3] 14	El Paso Natural Gas Co. (University Block 9 Field, Andrews County, Tex., RR. District 8) (Permian Basin).		9-24-70	10-25-70	Accepted	16.2760		
		140	15		5,284	9-24-70	10-25-70	3-25-71	16.2760	16.7846	RI70-67.
	do	208	[3] 11	El Paso Natural Gas Co. (Headlee Plant, Ector County, Tex., RR. District No. 8) (Permian Basin).		9-24-70	10-25-70	Accepted	19.1639		
		208	12		(7)	9-24-70	10-25-70	3-25-71	19.1639	19.6682	
	do	240	[3] 10	El Paso Natural Gas (Spraberry Field, Upton et al., Texas RR. District 7-C) (Permian Basin).		9-24-70	10-25-70	Accepted	19.3278		
		240	11		10	9-24-70	10-25-70	3-25-71	19.3278	19.8304	RI70-67.
	do	243	[3] 17	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin).		9-24-70	10-25-70	Accepted	17.9023		
		243	18			9-24-70	10-25-70	3-25-71	[4] [6] 17.9023	[4] [6] 18.4138	RI70-67.
	do	245	[3] 10	El Paso Natural Gas (Drinkard Field, Lea County, N. Mex.) (Permian Basin).		9-24-70	10-25-70	Accepted	17.9023		
		245	11		213	9-24-70	10-25-70	3-25-71	[4] [6] 17.9023	[4] [6] 18.4138	RI70-67.
RI71-356..	Western States Producing Co.[10]	(8)	.....	Northern Natural Gas Co. (Ozona Gas Field, Crockette County, Tex., RR. District 7-C) (Permian Basin).	1,957	9-28-70	10-29-70	3-29-71	16.5	17.0638	

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Subject to a deduction for compression of 0.75 cent paid by seller to buyer.
[2] Amendatory agreement providing for a new pricing schedule is accepted as of the date set forth in the "Effective Date Unless Suspended" column, but not the proposed increased rate contained therein.
[3] Subject to 0.4467 cents per Mcf compression charge for low pressure gas.
[4] Includes partial reimbursement for full 2.55 percent New Mexico Emergency School Tax.
[5] Not applicable to acreage added by Supplement No. 11.
[6] Subject to 0.4467 cents per Mcf compression charge for low pressure gas.
[7] No sales at present.
[8] Subject to 0.4467 cents per Mcf compression charge for low pressure gas.
[9] No rate schedule on file—pertains to contract dated Aug. 7, 1963.
[10] Applicant issued a small producer certificate in Docket No. CS69-4.

Gulf under its FPC Gas Rate Schedule No. 180 and Atlantic under its FPC Gas Rate Schedule No. 433 propose rate increases for sales to Hunt. Hunt processes and resells the gas under its FPC Gas Rate Schedule No. 4. Hunt has previously filed for an increase from 16.8735 cents to 17.07438 cents per Mcf which was suspended in Docket No. RI71-306 for 5 months from November 1, 1970, the same effective date sought here by Gulf and Atlantic. It is therefore appropriate to also suspend the proposed increases filed by Gulf and Atlantic for 5 months.

With respect to its FPC Gas Rate Schedules Nos. 11, 15, 17, 18, 19, 20, 26, 28, 29, 140, 208, 240, 243, and 245, Atlantic has submitted renegotiated rate increases, together with related amendatory agreements. The amendatory agreements submitted by Atlantic contain future price escalation provisions which do not conform with section 154.93 (b-1) of the Commission's regulations and thus are subject to rejection. These provisions make no specific reference to any applicable price levels that may be established in an area rate proceeding. The agreements also fail to specify that any higher price levels which may be established in the areas involved need be related to the vintages and types of gas prescribed under the rate schedules involved here. The amendments therefore are accepted subject to the condition that the above provisions shall be interpreted consistent with § 154.93(b-1) and shall apply only upon the Commission's approval of a just and reasonable rate or settlement rate in an applicable area rate proceeding for gas of comparable quality and vintage.

Atlantic requests that its renegotiated rate increases be allowed to become effective without suspension citing the shortage in natural gas supply and the institution of proceedings in Docket No. AR70-1. In the alternative, Atlantic seeks a 1 day suspension period. The proposed rates exceed the applicable area increased rate ceilings. In accordance with our usual policy in these circumstances, we shall suspend the proposed rates for 5 months.

As indicated in the table, some of Atlantic's proposed rates include partial reimbursement for the full 2.55-percent New Mexico Emergency School tax. The buyer, El Paso, is expected to protest the tax reimbursement part of these proposed rates. In view of the contractual problem presented, the hearings provided with respect to these increased rate filings shall concern themselves with the contractual basis for such filings as well as the statutory lawfulness of the proposed rates.

Brown requests a September 1, 1970, effective date for its proposed increased rate. Good

cause has not been shown for waiving the 30-day statutory notice period and for granting a retroactive effective date, and Brown's request is therefore denied.

All of the proposed increased rates and charges exceed the applicable area increased rate ceilings set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 70-14642; Filed, Nov. 2, 1970; 8:45 a.m.]

[Docket No. RI71-361 etc.]

CITIES SERVICE OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 23, 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. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *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]

(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 December 14, 1970.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] 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.

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	
RI71-361	Cities Service Oil Co.	178	[1] 25	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Grand Isle Block 43 Field, Offshore Louisiana) (Disputed).	$1,660	9-28-70	9-28-70	9-29-70	19.5	[2] 20.0	
RI71-362	Continental Oil Co.	138	[1] 27	do	1,675	9-28-70	9-28-70	9-29-70	19.5	[2] 20.0	
RI71-363	Getty Oil Co.	56	[1] 27	do	1,675	9-30-70	9-30-70	10-1-70	19.5	[2] 20.0	
RI71-364	Newmont Oil Co.	3	[1] 17	Transcontinental Gas Pipe Line Corp. (West Cameron Block 110 Field, Offshore Louisiana) (Federal).	1,700	10-1-70	11-1-70	11-2-70	19.0	[3] 20.0	

* Pressure base is 15.025 p.s.i.a.
[1] Includes supporting documents required by Opinion No. 567.
[2] Applies only to gas well gas sales from the KD and J8 sand reservoirs.
[3] Pursuant to Opinion No. 567.
[4] Applies only to gas well gas sales from the L-4 and I-3 sand reservoirs.
[5] Pursuant to Opinion No. 546-A based on the determinations in Opinion No. 567.

The proposed increases filed by Cities, Continental, and Getty involve third vintage gas well gas produced from newly discovered reservoirs in the disputed zone, offshore Louisiana. The proposed 20-cent rates do not exceed the 20-cent area base rate established in Opinion No. 546 for third vintage gas well gas produced from within the State's taxing jurisdiction but exceed the 18.5-cent rate established in Opinion No. 546 for gas well gas produced in the Federal domain. Consistent with prior Commission action on similar filings, the increases shall be suspended for 1 day from the date of filing. Thereafter, the proposed rates may be collected subject to the refund of those amounts attributable to the difference in the onshore and offshore rate paid for gas well gas finally held to have been produced from the Federal domain.

The proposed rate of Newmont involving a sale in the Federal domain was submitted pursuant to paragraph (A) of Opinion No. 546-A with respect to gas well gas determined in accordance with Opinion No. 567 to qualify for a third vintage price. The proposed increase shall be suspended for 1 day from the expiration of the 30-day statutory notice period. Thereafter, the proposed rate may be collected, subject to refund, pending the outcome of Docket No. AR69-1.

Getty requests permission to collect its proposed increase as of November 1, 1969. Good cause has not been shown for granting such request and it is denied.

[F.R. Doc. 70-14641; Filed, Nov. 2, 1970; 8:45 a.m.]

[Docket No. RI71-360]

CITIES SERVICE CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate

OCTOBER 23, 1970.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge 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 a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date

shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension.

(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 December 14, 1970.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting 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	
RI71-360..	Cities Service Co.....	42		Arkansas Louisiana Gas Co. (Carthage Field (Deep), Panola County, Tex., R.R. No. 6).	$6,975 (6)	9-25-70 9-25-70	10-26-70 10-26-70	3-26-71 3-26-71	[1] 15.0 [3] 14.1	[4] 18.1 [4] 18.1	

*Pressure base is 14.65 p.s.i.a.
[1] Applicable to gas-well gas produced from Cotton Valley Formation underlying Carthage Field area.
[2] Initial service ceiling applicable to such sale pursuant to Opinion No. 567.
[3] Applicable to all other production, if any, except for gas-well gas produced from the Cotton Valley Formation underlying the Carthage Field area.
[4] No present production.

The proposed increased rate involved here exceeds the applicable area rate ceilings set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 70-14643; Filed, Nov. 2, 1970; 8:45 a.m.]

[Docket No. CP69-76]

CHANDELEUR PIPE LINE CO.

Order Remanding Proceeding to the Presiding Examiner for Additional Evidence and Prescribing Procedure

OCTOBER 21, 1970.

On July 2, 1969, the Commission issued Opinion No. 560 granting a certificate of public convenience and necessity to Chandeleur Pipe Line Co. to construct and operate additional pipeline facilities from offshore Louisiana gas reserves owned by its corporate affiliate, the California Company, a division of Chevron Oil Co., for transportation of natural gas approximately 80 miles to a refinery owned by another affiliate, Standard Oil Company of Kentucky, for use at its Pascagoula, Miss., refinery. Each of the corporations involved in the transaction are subsidiaries of Standard Oil Company of California.

Chandeleur proposes to transport additional gas through an existing 12-inch diameter pipeline and a proposed parallel 16-inch diameter pipeline at an estimated cost of $9.2 million. In its application, Chandeleur states that Kentucky Standard is increasing its refinery capacity such that its natural gas requirements will increase from 85,000 to 173,000 Mcf per average day. The price of the gas is to be 19.5 cents per Mcf (plus escalations) (15.025 p.s.i.a.) and the transportation charge is to be 2.85 cents per Mcf.

On March 11, 1969, the parties were convened for a prehearing conference before Presiding Examiner Allen C. Lande at which time statements of counsel and the application of the company were admitted into evidence in lieu of testimony. Briefs were filed by the parties and the initial decision was waived by order of the Commission issued April 14, 1969.

On July 2, 1969, the Commission issued Opinion No. 560 granting the certificate requested by Chandeleur over the opposition of the Public Service Commission of the State of New York.

On June 29, 1970, the U.S. Court of Appeals for the District of Columbia remanded this proceeding to the Commission for reconsideration in view of its Opinion issued that date.

Subsequent thereto on October 12, 1970, the Court of Appeals ordered that the Commission be directed on January 11, 1971, to set aside the certificate previously issued to Chandeleur and at that time to provide by appropriate order for the sale of natural gas now being transported pursuant to that certificate, to a party or parties other than an affiliate of the above named corporations. The Court of Appeals further: *Provided, however,* That if the Commission on or before January 11, 1971, made final and complete disposition of this case in accordance with the Court of Appeals' opinion, the Commission need not (but may) set aside Chandeleur's certificate and that the rights and obligations of parties in this proceeding would be governed by the terms of the Commission's final action, subject to any judicial review which might be sought by any party affected thereby.

The prior orders and opinions of the Court of Appeals and the Commission in this proceeding make it necessary that additional evidentiary hearings be conducted in this proceeding on the issues raised by the application of Chandeleur to transport large volumes of natural gas in interstate commerce for use under industrial boilers of its affiliate at its Mississippi refinery. The applicant, intervenor, and the staff of the Commission will be directed to prepare and submit evidence to support their respective positions to assist in the resolution of the disputed issues as set forth in the orders and opinions in this proceeding and as raised by the application. Other parties having an interest in this proceeding and desiring to participate are directed to file petitions to intervene within 10 days of the issuance of this order. In anticipation of being permitted to intervene these parties should submit their evidence within the time prescribed herein.

The remanded proceeding pursuant to this order is to be expedited so that the date set by the Court of Appeals for final decision by the Commission may be met.

The issues to be considered in the course of the remanded proceeding, but not limited thereto, are:

(1) The specific uses of natural gas by the Mississippi refinery of Standard Oil Company of Kentucky and the estimated cost thereof. The availability and costs of alternative fuels;

(2) The nature and extent of the incentives to applicants oil company affiliates to undertake exploration and development of natural gas reserves, because of the ability of its subsidiaries to utilize natural gas so discovered and produced;

(3) The interest and/or willingness of interstate pipeline companies to purchase directly from the California Company at Main Pass Block 41, or from Chandeleur at Pascagoula and the costs of facilities necessary to effectuate the purchase;

(4) The ability of existing offshore Louisiana gas gatherers and transporters to transport the subject gas supply onshore by use of existing joint facilities or the augmentation of joint facilities;

(5) Estimates of the comparative costs to interstate pipeline companies of gathering and transporting the subject gas supply from the field to its facilities or markets;

All parties may address themselves to all or any of the issues.

The Commission finds:

(1) Additional evidentiary hearings are required in this proceeding.

(2) A shortened period for interventions is required in order to expedite final decision in this proceeding.

(3) The service of prepared testimony prior to hearing wil expedite consideration of the application in this proceeding.

The Commission orders:

(A) The proceedings in Chandeleur Pipe Line Co., Docket No. CP69-76 are remanded to Presiding Examiner Allen C. Lande, or any other presiding officer of the Commission as may be assigned

by the Chief Hearing Examiner, to conduct a hearing in this proceeding for taking additional evidence.

(B) The parties to the proceeding are directed to file written prepared testimony and exhibits in support of their positions and to aid in evaluating the issues raised by the parties in the instant order and by the application in this proceeding. Said written prepared evidence shall be served on the Presiding Examiner, the Staff and all other parties to the proceeding on or before November 13, 1970.

(C) A hearing on the above prepared evidence shall commence in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. on November 23, 1970, at 10 a.m., e.s.t. The presiding examiner shall control the proceeding in his discretion upon issuance of this order consistent with the orders of the Court of Appeals referred to herein.

(D) Any person desiring to participate in this proceeding, as set forth in this order shall file a petition to intervene with the Secretary within 10 days of the issuance of this order. Petitioners shall be permitted to participate herein pending an order of the Commission pursuant to § 1.8(f)(2) of the rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 70-14759; Filed, Nov. 2, 1970; 8:49 a.m.]

FEDERAL RESERVE SYSTEM

GEORGIA RAILROAD BANK & TRUST CO.

Order Approving Merger of Banks

In the matter of the application of Georgia Railroad Bank & Trust Co. for approval of merger with Metropolitan State Bank.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Georgia Railroad Bank & Trust Co., Augusta, Ga. (Applicant), a member State bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and Metropolitan State Bank, Augusta, Ga. (Metropolitan Bank), under the charter and name of Georgia Railroad Bank & Trust Co. As an incident to the merger Metropolitan Bank would become a branch office of Applicant under Georgia law effective January 1, 1971. Notice of the proposed merger, in the form approved by the Board, has been published as required by said Act.

Pursuant to the Act, the Board requested reports on the competitive factors involved from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, with deposits of $133 million, is the fifth largest bank in Georgia, having about 2 percent of the commercial bank deposits in the State. (All banking data are as of Dec. 31, 1969.) Metropolitan Bank has deposits of about $4 million; consequently, consummation of the proposed merger would not increase substantially the concentration of banking resources in the State of Georgia.

Applicant maintains six offices, all located in or around Augusta in Richmond County. Metropolitan Bank maintains its sole office in Richmond County. Applicant and Metropolitan Bank hold, respectively, about 49 percent and 1.5 percent of Richmond County deposits. The closest office of Applicant to Metropolitan Bank is approximately 4 miles distant. There are, however, alternative banking facilities located in the area which intervenes between the offices of Applicant and Metropolitan Bank.

Applicant was instrumental in organizing Metropolitan Bank, which obtained its charter in 1963. The merging banks have been closely associated since that time by virtue of common shareholders. Applicant has provided Metropolitan Bank with various officers and employees, including chief executive officers, for the purpose of assisting Metropolitan Bank in providing services to its customers since it opened. Metropolitan Bank has relied to a substantial extent on Applicant in its operation. Applicant is Metropolitan Bank's principal correspondent bank; it assists Metropolitan Bank with investments, advises on loan applications, handles Metropolitan Bank's money supply and computer operations, and has solicited customers for Metropolitan Bank's credit card program. There is no indication that the close relationship which exists between Applicant and Metropolitan Bank is likely to change in the foreseeable future, regardless of the Board's action with respect to the present application. In view of the close relationship which has existed between Applicant and Metropolitan Bank, it may be reasonably concluded that present and potential competition would neither be foreclosed by approval of the application, nor encouraged by its denial. It does not appear that competition with and between other banks in Richmond County would be affected in any significant way.

The Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area. Consummation of the merger would provide customers of Metropolitan Bank with more convenient access to certain banking services which are not now being offered by Metropolitan Bank. Based upon the foregoing, it is the Board's judgment that consummation of the proposal would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the findings summarized above, that said application be and hereby is approved: *Provided,* That the merger so approved shall not be consummated (a) before January 1, 1971, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] October 27, 1970.

[SEAL] KENNETH A. KENYON, *Deputy Secretary.*

[F.R. Doc. 70-14719; Filed, Nov. 2, 1970; 8:46 a.m.]

GEORGIA RAILROAD BANK & TRUST CO.

Order Approving Merger of Banks

In the matter of the application of Georgia Railroad Bank & Trust Co. for approval of merger with Richmond County Bank.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Georgia Railroad Bank & Trust Co., Augusta, Ga. (Applicant), a member State bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and Richmond County Bank, Augusta, Ga. (Richmond Bank), under the charter and name of Georgia Railroad Bank & Trust Co. As an incident to the merger the two offices of Richmond Bank would become branches of Applicant under Georgia law effective January 1, 1971. Notice of the proposed merger, in the form approved by the Board, has been published as required by said Act.

Pursuant to the Act, the Board requested reports on the competitive factors involved from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, with deposits of $133 million, is the fifth largest bank in Georgia, having about 2 percent of the commercial bank deposits in the State. (All banking data are as of Dec. 31, 1969.) Richmond Bank has deposits of about $6 million; consequently, consummation of the proposed merger would not increase substantially the concentration of banking resources in the State of Georgia.

Applicant maintains six offices, all located in or around Augusta in Richmond County. Richmond Bank maintains its two offices in Richmond County. Applicant and Richmond Bank hold, respectively, about 49 percent and 2 percent of Richmond County deposits. The closest

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer and Sherrill.

offices of the merging banks are approximately 3 miles apart. There are, however, alternative banking facilities located in the areas which intervene between the offices of Applicant and Richmond Bank.

Applicant was instrumental in organizing Richmond Bank which obtained its charter in 1955. The merging banks have been affiliated by reason of common ownership since 1958. Applicant has provided Richmond Bank with various officers and employees, including chief executive officers, for the purpose of assisting Richmond Bank in providing services to its customers since it opened. Moreover, Richmond Bank has relied to a substantial extent on Applicant in its operation. Applicant is Richmond Bank's principal correspondent bank; it assists Richmond Bank with investments, advises on loan applications, handles Richmond Bank's money supply and computer operations, and has solicited customers for Richmond Bank's credit card program. There is no indication that the close relationship which exists between Applicant and Richmond Bank is likely to change in the foreseeable future, regardless of the Board's action with respect to the present application. In view of the close relationship which has existed between Applicant and Richmond Bank, it may be reasonably concluded that present and potential competition would neither be foreclosed by approval of the application, nor encouraged by its denial. It does not appear that competition with and between other banks in Richmond County would be affected in any significant way.

The Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area. Consummation of the merger would provide customers of Richmond Bank with more convenient access to certain banking services which are not now being offered by Richmond Bank. Based upon the foregoing, it is the Board's judgment that consummation of the proposal would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the findings summarized above, that said application be and hereby is approved: *Provided*, That the merger so approved shall not be consummated (a) before January 1, 1971, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] October 27, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-14720; Filed, Nov. 2, 1970; 8:46 a.m.]

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer and Sherrill.

SOCIETY CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Society Corp., Cleveland, Ohio, for approval of acquisition of 80 percent or more of the voting shares of Tri-County National Bank, Fostoria, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of Society Corp., Cleveland, Ohio (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Tri-County National Bank, Fostoria, Ohio (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 15, 1970 (35 F.R. 14485), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned and the convenience and needs of the communities to be served. Upon such consideration the Board finds that:

Applicant, the second largest bank holding company and the fourth largest banking organization in Ohio, controls eight banks with aggregate deposits of $985 million, representing 4.8 percent of the commercial bank deposits in the State. (All banking data are as of Dec. 31, 1969, and reflect holding company actions approved by the Board to date.) Upon acquisition of Bank ($40.1 million deposits), Applicant would control 5.0 percent of the commercial bank deposits in the State; its position relative to other banking organizations and holding companies would remain the same.

Bank is headquartered in Fostoria, 100 miles southwest of Cleveland, and operates nine offices in three counties: Five offices in Seneca, three offices in Wood, and one office in Hancock. Under Ohio law, a bank may branch in the county in which its main office is located. Since the corporate limits of Fostoria extend into three counties, Bank may establish branches in each of the counties. In that three county area, Bank is the third largest of 23 banks, and controls 10.1 percent of the area deposits. Applicant's closest subsidiary to Bank has a branch office in Sandusky County, 18 miles east of one of Bank's branches in Wood County, and neither it nor any other of Applicant's present subsidiaries compete with Bank to a significant extent. Nor does it appear likely that such competition would develop because of the distances between Applicant's present subsidiaries and Bank; furthermore, under Ohio law, none of Applicant's present subsidiaries can establish branches in any of the counties served by Bank.

Based upon the foregoing, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area. The banking factors, as they relate to Applicant, its subsidiaries, and Bank are regarded as consistent with approval. Considerations relating to the convenience and needs of the communities to be served lend weight in support of approval; Applicant proposes to expand many of Bank's present services and to make trust and international services available through Applicant's largest subsidiary, in Cleveland. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such time be extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] October 27, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-14718; Filed, Nov. 2, 1970; 8:46 a.m.]

FOREIGN-TRADE ZONES BOARD

[Order No. 84]

McALLEN, TEX.

Resolution Approving Application of McAllen Trade Zone, Inc., and Order Authorizing Issuance of Grant for a Foreign-Trade Zone

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and order. Pursuant to the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) the Foreign-Trade Zones Board has

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

adopted the following resolution and order:

The Board, having considered the matter hereby orders:

Upon examination, that part of the application and accompanying exhibits, filed May 18, 1970, with the Foreign-Trade Zones Board, by McAllen Trade Zone, Inc., a Texas corporation, for the privilege of establishing, operating, and maintaining a foreign-trade zone at McAllen, Tex., is found in compliance with the Foreign-Trade Zones Act, as amended, and the regulations of the Board issued thereunder. Now, therefore, the abovementioned part of the application for a grant is approved; and the Chairman and Executive Officer of the Board is hereby authorized and directed to sign and issue in favor of McAllen Trade Zone, Inc., a grant permitting the establishment, operation, and maintenance of a foreign-trade zone at McAllen, Tex., in conformance with the application and accompanying exhibits, subject to settlement locally by the District Director of Customs and the District Engineer with the applicant regarding their respective requirements for the protection of the revenue of the United States, and erection and installation of physical facilities of the zone within a reasonable time after issuance of the grant. In taking this action the Board notes and adopts the comments and conclusions of the Committee of Alternates in its Memorandum of October 23, 1970, to the Board on this matter.

Grant to establish, operate, and maintain a foreign-trade zone at McAllen, Tex. Whereas, by an Act of Congress approved June 18, 1934, an Act to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes, as amended (19 U.S.C. 81a–81u) (hereinafter referred to as the Act), the Foreign-Trade Zones Board (hereinafter referred to as the Board), is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, McAllen Trade Zone, Inc., a Texas corporation (hereinafter referred to as the Grantee), has made application in due and proper form to the Board which requests in part the establishment, operation, and maintenance of a foreign-trade zone at McAllen, Tex.;

Whereas, notice of said application for a foreign-trade zone at McAllen, Tex., has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that under the Act the proposed plans and location are suitable for the accomplishment of the purposes of a foreign-trade zone at McAllen, Tex., and that the facilities and appurtenances which in said application it is proposed to provide are sufficient;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 12, at the specific location mentioned above and more particularly described on the maps accompanying that part of the application requesting authority for a foreign-trade zone at McAllen, Tex., marked as Exhibits Nos. IX and No. X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations, to wit:

The Grantee shall make no deviation from the maps, plans, specifications, drawings, and blue prints accompanying the said application and marked as Exhibits Nos. I to XIII inclusive, before or after completion of the structures or work involved, unless such deviation has previously been submitted to and has received the approval of the Board.

The work of construction under this grant shall commence immediately following the date of the grant. Said work shall be diligently prosecuted to completion and the work of construction shall be completed and operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant. The Grantee shall notify the U.S. District Engineer in whose district said zone is located of the date upon which work will begin and as far in advance thereof as the District Engineer may reasonably specify, and shall notify him promptly in writing of any suspension of construction for a period of more than 1 week, and of its resumption and completion.

The Grantee shall fully comply with all applicable provisions of the laws relating to the protection and preservation of the navigable waters of the United States, and shall secure legally required authorization and approval for work in navigable waters of the United States. The Grantee shall also obtain all necessary construction permits from Federal, State, and municipal authorities. The grant herein made shall not be construed as conveying such approvals.

The Grantee shall allow officers and employees of the United States of America free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States of America be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer, Maurice H. Stans, at Washington, D.C., this 26th day of October 1970, pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
[SEAL] MAURICE H. STANS,
Chairman and Executive Officer.

Attest:

JOHN J. DA PONTE, JR.,
Acting Executive Secretary.

CERTIFICATE BY EXECUTIVE SECRETARY

I, John J. Da Ponte, Jr., Acting Executive Secretary of the Foreign-Trade Zones Board, hereby certify that the Resolution in the foregoing Board Order, No. 84, was adopted by the Foreign-Trade Zones Board on October 26, 1970.

[SEAL] JOHN J. DA PONTE, JR.,
Acting Executive Secretary.

[F.R. Doc. 70-14691; Filed, Nov. 2, 1970; 8:45 a.m.]

COMMITTEE OF ALTERNATES

Application of McAllen Trade Zone, Inc., Filed for a Foreign-Trade Zone at McAllen, Tex.

The Committee of Alternates of the Foreign-Trade Zones Board has given due consideration to that part of the application and accompanying exhibits, filed May 18, 1970, with the Board by McAllen Trade Zone, Inc., a Texas corporation, which requests the privilege of establishing a foreign-trade zone at McAllen, Tex., as well as pertinent related materials, including the favorable findings and conclusions set out in the report of the Examiners Committee.

The Committee of Alternates is satisfied that all statutory and regulatory criteria have been met, and that there are no legal or policy impediments to approval of the application.

In light of the foregoing, the Committee has unanimously adopted the following resolution, recommending approval of that part of the application requesting authority to establish a foreign-trade zone at McAllen, Tex.:

The Committee of Alternates, having examined the above described application and accompanying exhibits, filed May 18, 1970, with the Foreign-Trade Zones Board by McAllen Trade Zone, Inc., a Texas corporation, for the privilege of establishing, operating, and maintaining a foreign-trade zone at McAllen, Tex.

And, having considered relevant documentation, including the report and recommendation of the Examiners Committee:

Recommends approval of the application; and

Further recommends that the Foreign-Trade Zones Board adopt a Resolution and Order approving and making a Grant for the foregoing purposes.

The Resolution and Order proposed for adoption by the Board are attached hereto.[1]

[1] See F.R. Doc. 70-14691, supra.

The Committee of Alternates in making its recommendations notes that a separate application for financing this project has recently been approved by the Economic Development Administration, contingent upon the granting of the foreign-trade zone license.

Also, the Committee notes favorably the stress placed by the applicant on the export related operations in which the zone would be involved at the outset, and the potential for export and transshipment abroad which the zone will provide. In this connection the Committee urges that the export related operations of the zone be maximized.

It is further noted that under the Foreign-Trade Zones Act and regulations, the Foreign-Trade Zones Board has continuing authority to order the exclusion from a zone of any goods or process of treatment that in its judgment is detrimental to the public interest. Accordingly, the Board should be given prior notice as to any operations to be conducted within the zone which were not mentioned in the application or at the hearing held June 25, 1970.

Adopted at Washington, D.C., this 23d day of October 1970.

Committee of Alternates, Foreign-Trade Zones Board.

STANLEY NEHMER,
Acting Chairman,
Department of Commerce.

[SEAL] MATTHEW J. MARKS,
Department of the Treasury.

ROBERT E. JORDAN,
Department of the Army.

Attest: October 23, 1970.
JOHN J. DAPONTE, Jr.,
Acting Executive Secretary,
Foreign-Trade Zones Board.

[F.R. Doc. 70-14692; Filed, Nov. 2, 1970; 8:45 a.m.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

BLACK DIAMOND FUEL CO. ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.^{3}) have been accepted for consideration as follows:

(1) ICP Docket No. 10145, Black Diamond Fuel Co., Mine No. 8, USBM ID No. 44 00948 0, Conaway, Buchanan County, Va., Section ID No. 001 (West Main).

(2) ICP Docket No. 11575, Hanna Coal Co., Franklin Highwall Mine, USBM ID No. 33 01065 0, Cadiz, Harrison County, Ohio, Section ID No. 001 (Main East).

(3) ICP Docket No. 10471, Hanna Coal Co., Franklin No. 25 Mine, USBM ID No. 33 00963 0, Cadiz, Harrison County, Ohio, Section ID No. 050 (Main West).

(4) ICP Docket No. 10885, Broyles & Dotson Coal Co., Mine No. 6, USBM ID No. 44 01539 0, Hurley, Buchanan County, Va., Section ID No. 001 (Main).

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 28, 1970.

[F.R. Doc. 70-14731; Filed, Nov. 2, 1970; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2831]

BRIDGES INVESTMENT COUNSEL, INC. AND BRIDGES INVESTMENT FUND, INC.

Notice of Application for Temporary Exemption

OCTOBER 27, 1970.

Notice is hereby given that Bridges Investment Counsel, Inc. (Counsel), and Bridges Investment Fund, Inc. (Fund), 256 Swanson Building, 8401 West Dodge Road, Omaha, Nebr. 68114, referred to with Counsel as (Applicants) have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) requesting an exemption from section 15(a)(4) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Counsel, incorporated under Nebraska law on December 28, 1962, is registered as an investment adviser under the Investment Adviser's Act of 1940. As of June 30, 1970, Counsel managed investment portfolios totaling about $28 million at cost. Counsel has approximately 100 fee-paying clients, one of which is Fund, a registered, open-end, diversified, management investment company. In 1969, Counsel earned fees from Fund in the amount of $5,378.58 which amount approximated 6.2 percent of Applicant's total service income during 1969. Counsel and Fund initially entered into their investment advisory contract on April 17, 1963. Pursuant to their contract Counsel provides investment management, office space, personnel and other services to Fund and receives an annual investment advisory fee of one-half of one percent which is computed quarterly. As of September 25, 1970, Fund had 200 stockholders owning an aggregate of 89,417 shares. Total net assets of Fund on that date were $956,888.

From the beginning of Counsel's operations in 1962, Marvin W. Bridges was president and his son, Edson L. Bridges II was vice president. On August 21, 1970, Marvin Bridges owned 101 or approximately 57 percent of the 178 outstanding voting shares of Counsel. Edson Bridges owned 76 shares of Counsel and his wife owned 1 share for an approximate total of 43 percent of Counsel's outstanding voting securities. Marvin Bridges died on August 22, 1970, and by his will, admitted to probate on September 28, 1970, bequeathed his 101 shares of Counsel to Edson Bridges.

Applicants represent that during their entire existence, Edson Bridges has acted as principal managing officer, and has exercised the controlling influence in Counsel's management and policy-making decisions, although Marvin Bridges held the title of president.

The investment advisory contract between Applicants contain the provisions required by section 15 of the Act that the contract shall automatically terminate in the event of its "assignment," which, under the Act, includes any direct or indirect transfer of a controlling block of the outstanding voting securities of the investment adviser. At the time of Marvin Bridges death, a transfer of a controlling block of the Applicant's outstanding voting securities was effected within the meaning of section 2(a)(4) of the Act, thus constituting an assignment of the investment advisory contract, and a corresponding automatic termination of the contract pursuant to section 15(a)(4) of the Act.

On September 28, 1970, the unaffiliated members of Fund's board of directors readopted the investment advisory contract and recommended that Fund's shareholders readopt such contract at a special meeting of shareholders which was held on October 22, 1970, at which time the contract was adopted.

Section 15(a) of the Act provides, among other things, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company except pursuant to a written contract which provides in substance for its automatic termination in the event of its assignment by the investment adviser.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of

investors and the purposes fairly intended by the Act.

Applicants request an exemption from the provisions of section 15(a) of the Act during the period from September 29, 1970, the date of the filing of this application, until the final adjournment of the special stockholders' meeting.

Applicant proposes:

1. To waive its investment advisory fee due from the Fund for the period from August 22, 1970, to September 29, 1970; and

2. To render its investment advisory services to the Fund from September 29, 1970, through October 22, 1970, for compensation equal to either its actual costs incurred in connection with rendering such services or for the fee it normally would have received under its investment advisory contract with the Fund, whichever is less.

Notice is further given that any interested person may, not later than November 10, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-14737; Filed, Nov. 2, 1970; 8:47 a.m.]

[812-2550]

COMRESS, INC.

Notice of Application for Order of Temporary Exemption

OCTOBER 26, 1970.

Notice is hereby given that Comress, Inc. (applicant), 2 Research Court, 70S and Shady Grove Road, Rockville, Md. 20850, a Maryland corporation, has applied pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order of the Commission temporarily exempting it from the provisions of section 7 of the Act. Applicant, in requesting such temporary exemption, has agreed that applicant and other persons in their transactions and relations with it shall be subject to all other provisions of the Act and the respective rules and regulations promulgated under each of such provisions as though applicant were a registered investment company, other than the following: Section 8; subsections (f), (g), (h), and (i) of section 17; section 18 (except subsection (d) thereof); section 23; section 30 (except subsection (f) thereof); and section 31 of the Act and the rules and regulations thereunder. All interested persons are referred to the application which is on file with the Commission for a statement of applicant's representations, which are summarized below:

This request has been made as an amendment to an application filed by applicant pursuant to section 3(b)(2) of the Act for an order of the Commission declaring that it is not an investment company. Section 3(b)(2) provides that the filing of an application thereunder shall exempt the applicant for a period of 60 days from all provisions of the Act applicable to investment companies as such.

The 60-day period of exemption provided in section 3(b)(2) has expired in applicant's case on August 16, 1969. Applicant, which has not registered as an investment company under the Act, has asked that it be exempted as requested until the Commission has acted upon the application under section 3(b)(2) of the Act.

Notice is further given that, in respect to the application pursuant to section 6(c) of the Act for an order of temporary exemption, any interested person may, not later than November 16, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application for an order of temporary exemption may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-14738; Filed, Nov. 2, 1970; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 794]

COLORADO

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of September 1970, because of the effects of certain disasters, damage resulted to residences and business property located in La Plata County, Colo.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property, situated in the aforesaid County and adjacent areas, suffered damage or destruction resulting from heavy rains and flooding occurring on or about September 4, 1970.

OFFICE

Small Business Administration Regional Office, 721 19th Street, Denver, Colo. 80202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1971.

Dated: October 22, 1970.

HILARY SANDOVAL, Jr., *Administrator.*

[F.R. Doc. 70-14721; Filed, Nov. 2, 1970; 8:46 a.m.]

[Declaration of Disaster Loan Area 793]

FLORIDA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1970, because of the effects of certain disasters, damage resulted to residences and business property located in Panama City, Fla.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property, situated in the aforesaid City, suffered damage or destruction resulting from floods occurring on October 7 and 8, 1970.

OFFICE

Small Business Administration District Office, 400 West Bay Street, Jacksonville, Fla. 32202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1971.

Dated: October 21, 1970.

HILARY SANDOVAL, JR.,
Administrator.

[F.R. Doc. 70-14722; Filed, Nov. 2, 1970; 8:46 a.m.]

[License No. 02/02-5285]

VANGUARD CAPITAL CORP.

Notice of Issuance of Small Business Investment Company License

On September 23, 1970, a notice was published in the FEDERAL REGISTER (35 F.R. 14813) stating that Vanguard Capital Corp., 250 North Street, White Plains, N.Y. 10602, had filed an application with the Small Business Administration pursuant to § 107.102 of the SBA Regulations governing small business investment companies (13 CFR Part 107), for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business October 3, 1970, to submit written comments to SBA.

Comments were received and, after careful consideration of all pertinent information, SBA has determined to issue a license.

Accordingly, notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, SBA has issued License No. 02/02-5285 to Vanguard Capital Corp.

A. H. SINGER,
Associate Administrator for Investment.

OCTOBER 16, 1970.

[F.R. Doc. 70-14725; Filed, Nov. 2, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 608]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 29, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72241. By order of October 27, 1970, the Motor Carrier Board approved the transfer to Refrigerated Delivery Service, Inc., Tulsa, Okla., of the operating rights in certificates Nos. MC-96855 (Sub-No. 1) and MC-96855 (Sub-No. 4), issued June 3, 1965, and March 6, 1968, respectively, to John P. McGovern, doing business as Conner Delivery Service, Tulsa, Okla., authorizing the transportation of: Meats, and meat products, except commodities in bulk, between Tulsa, Okla., on the one hand, and, on the other, points in Oklahoma on and east of U.S. Highway 77, except Oklahoma City, Okla., and meats, meat products, and meat byproducts as defined by the Commission, except commodities in bulk, from Tulsa, Okla., to Fort Smith, Ark. John P. McGovern, President, Post Office Box 50293, Tulsa, Okla. 74150.

No. MC-FC-72243. By order of October 27, 1970, the Motor Carrier Board approved the transfer to James D. Shockey, Jr., doing business as Cedar Express, Philadelphia, Pa., of the operating rights in certificate No. MC-61632, issued January 1, 1943, to James Donald Shockey, doing business as Cedar Express, 6527 Woodland Avenue, Philadelphia, Pa. 19142, authorizing the transportation, over irregular routes, of household goods, between Philadelphia, Pa., on the one hand, and, on the other, points in Pennsylvania, New Jersey, New York, Delaware, Maryland, and the District of Columbia. John T. Mulligan, Esquire, 6750 Market Street, Upper Darby, Pa. 19082, attorney for transferee.

No. MC-FC-72384. By order of October 28, 1970, the Motor Carrier Board approved the transfer to North Central Van Lines, Inc., Lincoln, Nebr., of certificate No. MC-133285 issued to Conley Van Lines, Inc., Lincoln, Nebr., authorizing the transportation of household goods as defined by the Commission, between specified points in Nebraska, on the one hand, and, on the other, points in Iowa, South Dakota, Wyoming, and Colorado, and certificates Nos. MC-129947 and MC-129947 (Sub-No. 1) issued to Martin Van Lines, Inc., Lincoln, Nebr., authorizing the transportation of household goods as defined by the Commission, between specified counties in Missouri, on the one hand, and, on the other, points in Iowa, Kansas, Illinois, and Oklahoma, and between specified points in Indiana, on the one hand, and, on the other, points in Alabama, Florida, Massachusetts, Maryland, New York, North Carolina, New Jersey, Oklahoma, West Virginia, Tennessee, Texas, Virginia, South Carolina, Pennsylvania, and District of Columbia. Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105, attorney for applicants.

No. MC-FC-72433. By order of October 23, 1970, the Motor Carrier Board approved the transfer to A. C. Morris, Inc., Camden, N.J., of the operating rights in certificate No. MC-21474, issued March 29, 1949, to Theodore Burak, doing business as Strawberry Mansion Storage Co., Philadelphia, Pa., authorizing the transportation of household goods as defined in Practices of Motor Common Carriers of household goods, 17 M.C.C. 467, between Philadelphia, Pa., on the one hand, and, on the other, points and places in Delaware, the District of Columbia, Maryland, New Jersey, and New York. Leon Weinroth, 920 Lewis Tower Building, Philadelphia, Pa. 19102, attorney for applicants.

No. MC-FC-72459. By order of October 28, 1970, the Motor Carrier Board approved the transfer to Blackmon Trucking, Inc., Somers, Wis., of the operating rights in certificates Nos. MC-36556, MC-36556 (Sub-No. 4), MC-36556 (Sub-No. 5), MC-36556 (Sub-No. 6), MC-36556 (Sub-No. 10), MC-36556 (Sub-No. 14), MC-36556 (Sub-No. 17), MC-36556 (Sub-No. 19), and MC-36556 (Sub-No. 20) issued April 26, 1941, July 13, 1960, July 20, 1960, May 26, 1961, October 13, 1967, September 11, 1968, February 25, 1970, February 6, 1970, and July 24, 1970, respectively, to Howard E. Blackmon, doing business as Blackmon Truck Service, Somers, Wis., authorizing the transportation of agricultural commodities and livestock, fertilizer and fertilizer materials, lime and lime products, canned goods and canning factory supplies and equipment, shipping containers, box shooks, and pallets, feed, seed, meat and packinghouse products and supplies, animal and poultry feed, and animal and poultry feed ingredients (except liquid commodities, in bulk, and grain and grain products, in bulk), insulation materials and supplies and ground clay products, and empty containers and container parts, from and to/or between specified points in Wisconsin, Illinois, Indiana, Iowa, Minnesota, Michigan,

Missouri, and Ohio. McEvoy & Munger, 520–58th Street, Kenosha, Wis. 53140, attorneys for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70–14754; Filed, Nov. 2, 1970; 8:49 a.m.]

[Rev. S. O. 994; ICC Order N. 50]

SABINE RIVER & NORTHERN RAILWAY CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, agent, the Sabine River & Northern Railway Co., is unable to interchange traffic with The Atchison, Topeka and Santa Fe Railway Co. at Bessmay, Tex., The Kansas City Southern Railway Co. at Lemonville, Tex., and the Missouri Pacific Railroad Co., at Mauriceville, Tex., because of excessive rains and track damage.

It is ordered, That:

(a) The Sabine River & Northern Railway Co., being unable to interchange traffic with The Atchison, Topeka and Santa Fe Railway Co. at Bessmay, Tex., The Kansas City Southern Railway Co. at Lemonville, Tex., and the Missouri Pacific Railroad Co. at Mauriceville, Tex., because of excessive rains and track damage, these lines are hereby authorized to reroute and divert such traffic via any available route, to expedite the movement.

(b) Concurrence of receiving road to be obtained: The railroad diverting the traffic shall receive the concurrence of the lines over which the traffic is rerouted or diverted before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 2 p.m., October 28, 1970.

(g) Expiration date: This order shall expire at 11:59 p.m., November 15, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 28, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] ROBERT D. PFAHLER, *Agent.*

[F.R. Doc. 70–14753; Filed, Nov. 2, 1970; 8:49 a.m.]