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

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# Rules and Regulations

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

### PART 213—EXCEPTED SERVICE

#### Department of Agriculture

Section 213.3313 is amended to show that two positions of Confidential Assistant to the Administrator, Farmer Cooperative Service, are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (r) of § 213.3313 is added as set out below.

§ 213.3313 Department of Agriculture.

* * * * *

(r) *Farmer Cooperative Service.* (1) Two Confidential Assistants to the Administrator.

(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. 70–16334; Filed, Dec. 2, 1970; 9:49 a.m.]

### PART 213—EXCEPTED SERVICE

#### General Services Administration

Section 213.3337 is amended to show that an additional position of Confidential Assistant to the Commissioner, Property Management and Disposal Service, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (2) of paragraph (f) is amended as set out below.

§ 213.3337 General Services Administration.

* * * * *

(f) *Property Management and Disposal Service.* * * *

(2) Three Confidential Assistants to the Commissioner.

* * * * *

(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. 70–16335; Filed, Dec. 2, 1970; 9:49 a.m.]

### PART 213—EXCEPTED SERVICE

#### National Foundation on the Arts and the Humanities

Section 213.3382 is amended to show that two positions of Staff Assistant to the Chairman, National Endowment for the Arts, are excepted under Schedule C. The section is further amended to reflect the change in title from Secretary to the Chairman of the National Endowment for the Arts to Executive Secretary to the Chairman. Effective on publication in the FEDERAL REGISTER, paragraph (a) is amended and paragraph (c) is added to § 213.3382 as set out below.

§ 213.3382 National Foundation on the Arts and the Humanities.

(a) One Executive Secretary to the Chairman, National Endowment for the Arts.

* * * * *

(c) Two Staff Assistants to the Chairman, National Endowment for the Arts.

(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. 70–16336; Filed, Dec. 2, 1970; 9:49 a.m.]

## Title 12—BANKS AND BANKING

### Chapter II—Federal Reserve System

#### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

### PART 224—DISCOUNT RATES

#### Changes in Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, part 224 is amended as set forth below:

1. Section 224.2 is amended to read as follows:

§ 224.2 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

| Federal reserve bank of— | Rate | Effective |
|---|---|---|
| Boston | 5½ | Nov. 11, 1970 |
| New York | 5½ | Nov. 13, 1970 |
| Philadelphia | 5½ | Nov. 16, 1970 |
| Cleveland | 5½ | Nov. 13, 1970 |
| Richmond | 5½ | Nov. 11, 1970 |
| Atlanta | 5½ | Do. |
| Chicago | 5½ | Nov. 13, 1970 |
| St. Louis | 5½ | Nov. 11, 1970 |
| Minneapolis | 5½ | Do. |
| Kansas City | 5½ | Nov. 13, 1970 |
| Dallas | 5½ | Do. |
| San Francisco | 5½ | Nov. 11, 1970 |

2. Section 224.3 is amended to read as follows:

§ 224.3 Advances to member banks under section 10(b).

The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

| Federal reserve bank of— | Rate | Effective |
|---|---|---|
| Boston | 6¼ | Nov. 11, 1970 |
| New York | 6¼ | Nov. 13, 1970 |
| Philadelphia | 6¼ | Nov. 16, 1970 |
| Cleveland | 6¼ | Nov. 13, 1970 |
| Richmond | 6¼ | Nov. 11, 1970 |
| Atlanta | 6¼ | Do. |
| Chicago | 6¼ | Nov. 13, 1970 |
| St. Louis | 6¼ | Nov. 11, 1970 |
| Minneapolis | 6¼ | Do. |
| Kansas City | 6¼ | Nov. 13, 1970 |
| Dallas | 6¼ | Do. |
| San Francisco | 6¼ | Nov. 11, 1970 |

3. Section 224.4 is amended to read as follows:

§ 224.4 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States, or any agency thereof are:

| Federal reserve bank of— | Rate | Effective |
|---|---|---|
| Boston | 7¼ | Nov. 11, 1970 |
| New York | 7½ | Apr. 4, 1969 |
| Philadelphia | 7¼ | Nov. 16, 1970 |
| Cleveland | 7¼ | Nov. 13, 1970 |
| Richmond | 7¼ | Nov. 11, 1970 |
| Atlanta | 7½ | Feb. 16, 1970 |
| Chicago | 7½ | Mar. 4, 1970 |
| St. Louis | 7¼ | Nov. 11, 1970 |
| Minneapolis | 7¼ | Do. |
| Kansas City | 7¼ | Nov. 13, 1970 |
| Dallas | 7¼ | Do. |
| San Francisco | 7¼ | Nov. 11, 1970 |

For the reasons and good cause found as stated in § 224.7, there is no notice, public participation, of deferred effective date in connection with this action.

(12 U.S.C. 248(1). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, November 25, 1970.

[SEAL] KENNETH A. KENYON,
*Deputy Secretary.*

[F.R. Doc. 70–16172; Filed, Dec. 2, 1970; 8:46 a.m.]

## Title 19—CUSTOMS DUTIES

### Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70–250]

### PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

#### Supplies and Equipment for Aircraft

In accordance with section 309(d), Tariff Act of 1930, as amended (19 U.S.C. 1309(d)), the Department of Commerce has found and under date of October 8,

1970, has advised the Treasury Department that with respect to ground equipment, Jamaica also allows privileges to aircraft registered in the United States and engaged in foreign trade substantially reciprocal to those provided for in section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309). Corresponding privileges are accordingly hereby extended to aircraft registered in Jamaica and engaged in foreign trade effective on the date of such notification.

Accordingly, paragraph (f) of § 10.59, Customs Regulations, is amended by adding opposite "Jamaica" in the column headed Treasury Decision(s) the number of this Treasury decision and deleting "Not applicable to ground equipment" in the column headed "exception, if any, as noted" in the list of nations in that paragraph.

(Secs. 317, 624, 46 Stat. 696, as amended, 759; 19 U.S.C. 1317, 1624)

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

Approved: November 19, 1970.

EUGENE T. ROSSIDES,
*Assistant Secretary of the Treasury.*

[F.R. Doc. 70-16247; Filed, Dec. 2, 1970; 8:51 a.m.]

# Title 21—FOOD AND DRUGS

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

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

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

### PART 121—FOOD ADDITIVES

### Methanearsonic Acid

A petition (PP 9F0794) was filed with the Food and Drug Administration by the National Agricultural Chemicals Association, 1155 15th Street NW., Washington, DC 20005, proposing the establishment of a tolerance for residues of the herbicide methanearsonic acid (calculated as elemental arsenic) in or on the raw agricultural commodity cottonseed at 0.5 part per million resulting from application of the disodium and monosodium salts of methanearsonic acid in the production of cotton.

Subsequently the petitioner amended the petition by changing the tolerance level from 0.5 part per million (calculated as elemental arsenic) to propose a tolerance of 0.7 part per million (expressed as $As_2O_3$) in or on cottonseed from application of the disodium and monosodium salts of methanearsonic acid. The petitioner also proposed a food additive tolerance of 0.9 part per million (expressed as $As_2O_3$) for residues of methanearsonic acid concentrating in cottonseed hulls from the seed of treated cotton.

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

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

1. The tolerances established by this order are safe and will protect the public health.

2. Tolerances are unnecessary regarding meat, milk, poultry, and eggs since the proposed usage is not reasonably expected to result in residues of arsenic in these commodities from feeding byproducts of the cottonseed (cottonseed hulls and meal) bearing residues from the proposed use. This use is in the category specified in § 120.6(a)(3).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408(d)(2), 409(c)(1), 68 Stat. 512, 72 Stat. 1786; 21 U.S.C. 346a(d)(2), 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 120 and 121 are amended as follows:

1. Section 120.3(d)(4) is revised to read as follows:

**§ 120.3 Tolerances for related pesticide chemicals.**

* * * * * * *

(d) * * *

(4) Where a tolerance is established for more than one pesticide containing arsenic found in, or on a raw agricultural commodity, the total amount of such pesticide shall not exceed the highest established tolerance calculated as $As_2O_3$.

2. The following new section is added to Subpart C of Part 120:

**§ 120.289 Methanearsonic acid; tolerances for residues.**

A tolerance of 0.7 part per million (expressed as $As_2O_3$) is established for residues of the herbicide methanearsonic acid in, or on cottonseed, from application of the disodium and monosodium salts of methanearsonic acid in the production of cotton.

3. The following new section is added to Subpart C of Part 121:

**§ 121.334 Methanearsonic acid.**

A tolerance of 0.9 part per million (expressed as $As_2O_3$) is established for residues of the herbicide methanearsonic acid in, or on cottonseed hulls, from application of the disodium and monosodium salts of methanearsonic acid in the production of cotton.

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

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

(Secs. 408(d)(2), 409(c)(1), 68 Stat. 512, 72 Stat. 1786; 21 U.S.C. 346a(d)(2), 348(c)(1))

Dated: November 24, 1970.

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

[F.R. Doc. 70-16175; Filed, Dec. 2, 1970; 8:46 a.m.]

# Title 29—LABOR

## Chapter I—National Labor Relations Board

### PART 103—OTHER RULES

### Subpart A—Jurisdictional Standards

### COLLEGES AND UNIVERSITIES

By virtue of the authority vested in it by the National Labor Relations Act, approved July 5, 1935,[1] the National Labor Relations Board hereby issues the following rule which it finds necessary to carry out the provisions of said Act.

The rule is issued following proceedings conforming to the requirements of 5 U.S.C. section 553 in which notice was given that any rule adopted would be immediately applicable. The National Labor Relations Board finds for good cause that this rule shall be effective upon publication in the FEDERAL REGISTER and shall apply to all proceedings affected thereby which are pending at the time of such publication or which may arise thereafter.

*Jurisdictional standards applicable to private colleges and universities; notice of issuance of rule.* On July 14, 1970, the Board having determined in Cornell University, 183 NLRB No. 41, to assert jurisdiction over private nonprofit colleges and universities as a class published in the FEDERAL REGISTER, (35 F.R. 11270) a notice of proposed rule making which invited interested parties to submit views, data, and recommendations to assist the Board in formulating a standard to be applied in determining whether to assert jurisdiction over specific institutions within the class. Thirty-three responses to the notice were

[1] 49 Stat. 449; 29 U.S.C. secs. 151-166, as amended by act of June 23, 1947 (61 Stat. 136; 29 U.S.C. secs. 151-167), act of Oct. 22, 1951 (65 Stat. 601; 29 U.S.C. secs. 158, 159, 168), and act of Sept. 14, 1959 (73 Stat. 519; 29 U.S.C. secs. 141-168).

received containing proposals and information. After giving careful consideration to all the responses, the Board has concluded that it will best effectuate the purposes of the Act to apply a $1 million annual gross revenue standard to private, nonprofit colleges and universities. A rule establishing that standard has been issued concurrently with the publication of this notice.

Although it is well settled that the National Labor Relations Act gives to the Board a jurisdictional authority coextensive with the full reach of the commerce clause,[1] it is equally well established that the Board in its discretion may set boundaries on the exercise of that authority.[2] In exercising that discretion, the Board has consistently taken the position "that it would better effectuate the purposes of the Act, and promote the prompt handling of major cases, not to exercise its jurisdiction to the fullest extent possible under the authority delegated to it by Congress, but to limit that exercise to enterprises whose operations have, or at which labor disputes would have, a pronounced impact upon the flow of interstate commerce."[3]

In determining where to draw such a dividing line, the Board here, as in the past, must balance its statutory obligations to extend the rights and protections of the Act to those employers and employees whose labor disputes are likely to have a substantial impact on commerce against the need to confine its caseload to manageable proportions. We are satisfied that the standard announced above accommodates these considerations.

In arriving at a $1 million gross revenue figure,[4] the Board considered the nature of the impact upon commerce made by private, nonprofit colleges and universities, as well as the number of employers and employees potentially affected. Thus, statistical projections based on data submitted by responding parties disclosed that adoption of such a standard would bring some 80 percent of all private colleges and universities and approximately 95 percent of all full- and part-time nonprofessional personnel within the reach of the Act. It has been argued that because the current annual gross revenue standards set for other types of enterprises are all lower than $1 million the Board is thereby precluded from adopting, or ought not to adopt, any gross revenue standard higher than the highest current standard which is $500,000 per annum. However, this argument overlooks the interplay between the various relevant considerations.

For example, available data revealed that the $250,000 gross revenue standard established for the hospital industry extended the Board's jurisdiction to approximately 76 percent of the institutions in that field.[5] In adopting a $500,000 annual gross revenue standard for the hotel industry, the Board observed that only 3.5 percent of the employers, but over 60 percent of the hotel employees, would be covered.[6] The same gross revenue standard applied to the retail industry encompassed 6.5 percent of the retail store employees.[7] Thus, although the standard set for private, nonprofit colleges or universities is higher on its face than gross revenue standards currently existing for other enterprises, its practical effect is to extend the protections of the Act to a greater proportion of the employers and employees in the affected class. Further, the industries to which the Board applies gross revenue standards of $500,000 or less conduct their business through large numbers of relatively small units, a substantial number of which must be embraced by the relevant jurisdictional standard if the Board effectively is to regulate the labor relations of the industry. Here, in contrast, effective regulation of the labor relations of the industry can be achieved, in our opinion, under the higher standard. Finally, the Board has rejected contentions that a standard higher than $1 million should be adopted because the Board is satisfied that colleges and universities with gross revenues of $1 million have a substantial impact on commerce; and that the figure selected will not result in an unmanageable increase on the Board's caseload.

We recognize that there remains a small number of colleges and universities and their employees who will be excluded from the coverage of the Act. We are nevertheless satisfied that this standard will bring within the Board's jurisdiction those labor disputes in the industry which exert or tend to exert a pronounced impact on commerce. Moreover, adoption of a particular standard now in light of prevailing conditions does not foreclose future reevaluation and revision of that standard should subsequent circumstances make that appropriate.

There are, of course, criteria other than gross revenue by which to assess the impact of an institution on commerce. For example, responding parties suggested tests based on numbers of employees, numbers of students, or annual expenditures for commercial purposes. However, after considering all the various alternatives, the Board concludes that a gross revenue test is preferable, for it has the advantages of simplicity and ease of application. Board experience has demonstrated that such figures are readily available and relatively easy to produce, thereby reducing the amount of time, energy, and funds expended by the Board and staff as well as imposing less of a burden on the parties involved.

In light of the foregoing considerations, the Board is satisfied that the $1 million annual gross revenue standard announced today will bring uniform and effective regulation of labor relations to labor disputants at private, nonprofit colleges and universities, and at the same time enable the Board to function as a responsive forum for the resolution of those disputes.

**§ 103.1 Colleges and universities.**

The Board will assert its jurisdiction in any proceeding arising under sections 8, 9, and 10 of the Act involving any private nonprofit college or university which has a gross annual revenue from all sources (excluding only contributions which, because of limitation by the grantor, are not available for use for operating expenses) of not less than $1 million.

Dated, Washington, D.C., November 30, 1970.

By direction of the Board.

OGDEN W. FIELDS,
*Executive Secretary.*

[F.R. Doc. 70-16240; Filed, Dec. 2, 1970; 8:51 a.m.]

[1] See N.L.R.B. v. Fainblatt, et al., 306 U.S. 601.

[2] Office Employees International Union, Local No. 11 v. N.L.R.B., 353 U.S. 313; section 14(c)(1) of the Act.

[3] Hollow Tree Lumber Company, 91 NLRB 635, 636. See also, e.g., Floridan Hotel of Tampa, Inc., 124 NLRB 261, 264; Butte Medical Properties, d/b/a Medical Center Properties, 168 NLRB 266, 268.

[4] As reflected in the rule, this figure includes revenues from all sources, excepting only contributions which, because of limitations placed thereon by the grantor, are not available for operating expenses. These contributions encompassing, for example, contributions to an endowment fund or building fund, are excluded because of their generally nonrecurring nature (cf. Magic Mountain, Inc., 123 NLRB 1170). Income derived from investment of such funds will, however, be counted in determining whether the standard has been satisfied.

[5] Butte Medical Properties, 168 NLRB 266.

[6] Floridian Hotel of Tampa, Inc., 124 NLRB 261, 265.

[7] *Id.* at 265-266, footnote 19.

# Title 32—NATIONAL DEFENSE

## Chapter I—Office of the Secretary of Defense

### SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

## PART 52—SPECIAL ASSIGNMENT POLICIES FOR FAMILY MEMBERS

The Deputy Secretary of Defense approved the following revision to Part 52 on October 20, 1970:

Sec.
52.1 Purpose.
52.2 Applicability.
52.3 Definitions.
52.4 Policy.

AUTHORITY: The provisions of this Part 52 issued under sec. 301, 80 Stat. 379; 5 U.S.C. 301.

**§ 52.1 Purpose.**

This part prescribes uniform Department of Defense policies governing the assignment and discharge of sole surviving sons, as defined herein, and the assignment and reassignment of military personnel from the same immediate family to the same military unit or ship.

§ 52.2 Applicability.

The provisions of this part apply to the Military Departments.

§ 52.3 Definitions.

As used in this part, the following definitions will apply:

(a) "Sole surviving son" means the only remaining son in a family of which, because of hazards incident to service in the Armed Forces of the United States, the father, or one or more sons or daughters—

(1) Have been killed;

(2) Have died as a result of wounds, accident, or disease;

(3) Are in a captured or missing-in-action status; or

(4) Are permanently 100 percent physically disabled (to include 100 percent mental disability) as determined by the Veterans Administration or one of the military services, and are hospitalized on a continuing basis, and not gainfully employed by virtue of such disability.

Neither the acquisition or retention of sole surviving son status is dependent upon the existence of any other living family member (Supreme Court Decision, McKart v. U.S. (May 26, 1969, No. 403—October Term, 1968)).

(b) "Family members" include a husband and wife, or the father, mother, sons and daughters, and all sisters and brothers as defined in 37 U.S.C. 501(a)(2), (3) and (4).

(c) "Areas other than hostile fire": All areas except those designated in § 49.3 of this subchapter.

(d) "Armed Forces of the United States" denotes collectively all components of the Army, Navy, Air Force, Marine Corps and Coast Guard.

§ 52.4 Policy.

(a) *Sole surviving sons*—(1) *Assignments.* (i) A sole surviving son may not be assigned to duties normally involving actual combat with the enemy if he or one of his parents submits a request for noncombat duty. However, where the parent alone makes the request, it may be waived by the serviceman.

(ii) This policy will not be interpreted to mean that sole surviving sons will not be assigned to overseas commands where combat conditions are nonexistent.

(2) *Discharges.* (i) Enlisted personnel who become sole surviving sons subsequent to their enlistment or induction may apply for and be granted an administrative discharge, except in instances:

(*a*) Arising during the period of a war or national emergency hereafter declared by the Congress; or

(*b*) Where the individual qualifies as a sole surviving son on the basis of a captured or missing-in-action status of a father, brother, or sister (see § 52.3(a)(3)).

(ii) Sole surviving sons who qualify for discharge on the basis of the 100 percent disability status of the father, or one or more sons or daughters in a family (see § 52.3(a)(4)) shall be required to complete at least 6 months of active duty prior to discharge in order to qualify for a veteran's exemption under the provisions of 50 App. U.S.C. 456(b)(3) of this subchapter.

(iii) Commissioned officers (including warrant officers) will not be released from active duty based on their qualifications as sole surviving sons.

(b) *Family members*—(1) *Concurrent assignments*—(i) *All areas of assignment.* Where a military requirement exists, requests from members of the same immediate family for assignment to the same unit or ship shall not be prohibited.

(ii) *Within designated hostile fire areas.* The policies outlined in Part 49 of this subchapter will govern in approving requests for assignment to the same unit or ship in designated hostile fire areas.

(2) *Reassignments*—(i) *Areas other than hostile fire.* Except where overriding military needs prohibit, requests for reassignment to a different unit or ship will be approved for all but one (1) member of the same immediate family.

(ii) *Within designated hostile fire areas.* The policies outlined in Part 49 of this subchapter will govern in approving requests for reassignment from the same unit or ship in designated hostile fire areas.

All assignment and reassignment requests must be in writing and may be submitted only by the military member concerned.

MAURICE W. ROCHE,
*Director, Correspondence and Directives Division, OASD (Administration).*

[F.R. Doc. 70-16162; Filed, Dec. 2, 1970; 8:45 a.m.]

# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10039; Amdt. 39-1119]

## PART 39—AIRWORTHINESS DIRECTIVES

### Rolls-Royce Dart 542-4, 542-4K, 542-10, 542-10J, and 542-10K Engines

Amendment 39-913, 35 F.R. 145, AD 70-2-3, as amended by Amendment 39-1056, 35 F.R. 12270, required repetitive inspections of certain specified propeller shafts installed on Rolls-Royce Dart Models 542-4, 542-4K, 542-10, 542-10J, and 542-10K engines. After issuing Amendment 39-1056, it has been determined that the repetitive inspections of paragraph (c) and (d) of AD 70-2-3 are not necessary for the Rolls-Royce Dart 542-4 and 542-4K. These engines are presently installed only in Convair airplanes. It has come to the attention of the FAA that the Convair installations impose relatively low stresses on the shaft as compared to the installations incorporating the other engines in the series. Therefore, the AD is being superseded by a new AD that retains the current requirement for periodic inspections of the propeller shaft on Rolls-Royce Dart 542-4, 542-4K, 542-10, 542-10J, and 542-10K engines to determine whether the shaft contains material inclusions but excludes Rolls-Royce Dart Models 542-4 and 542-4K engines installed in Convair airplanes from repetitive inspections if the engines have propeller shafts which have been supplied by Rolls-Royce with "CU" marked on the front end of the shaft, or which have been overhauled (including ultrasonic inspection for cracks and material inclusions) in accordance with Rolls-Royce Dart Overhaul Manual O-DA.-10-AC, and identified with "CU" marked on the front end of the shaft. The AD also retains the current requirement for the installation of a placard on all airplanes having the affected Rolls-Royce Dart engines installed to require the feathering of the propeller in the event of abnormal, short duration r.p.m. increase accompanied by a drop in t.g.t. and torque pressure.

Since this amendment relieves a restriction for certain operators and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

ROLLS-ROYCE DART. Applies to Rolls-Royce Dart Models 542-4, 542-4K, 542-10, 542-10J, and 542-10K engines.

Compliance is required as indicated, unless already accomplished.

To prevent cracking and subsequent failure of the engine propeller shaft and damage to the coarse pitch oil line due to material inclusions in that part of the shaft between the annulus gear support diaphragms, accomplish the following:

(a) For all airplanes with Rolls-Royce Dart Models 542-4, 542-4K, 542-10, 542-10J, and 542-10K engines installed except those having engine propeller shafts installed which have been supplied by Rolls-Royce with "CU" marked on the front end of the shaft, or in which each engine propeller shaft has been overhauled (including ultrasonic inspection for cracks and material inclusions) in accordance with Rolls-Royce Dart Overhaul Manual O-DA.10-AC and identified with "CU" marked on the front end of the shaft, and which are not listed in paragraph (g) of this AD, within the next 50 hours' time in service after the effective date of this AD, install the following placard in clear view

of the pilot and as close to the R.P.M. indicators as practicable: "In the event of abnormal, short duration R.P.M. increase (500–600 R.P.M.) accompanied by a drop in TGT and torque pressure at a fixed power setting, immediately feather affected propeller per AFM feathering instructions."

(b) For engines which have been feathered in accordance with the placard in paragraph (a), overhaul the engine propeller shaft (including ultrasonic inspection) in accordance with Rolls-Royce Dart Overhaul Manual O–DA.10AC to determine whether material inclusions or cracks exist in that part of the engine propeller shaft between the annulus gear support diaphragms, and whether the propeller coarse pitch oil line has been damaged. If material inclusions or cracks in the propeller shaft or damage to the propeller coarse pitch oil line are found, before further flight replace the cracked propeller shaft and damaged propeller coarse pitch oil line with an approved serviceable part of the same part number.

(c) For all engines having propeller shafts with 1,200 or more hours' time in service on the effective date of this AD, within the next 450 hours' time in service and thereafter at intervals not to exceed 1,200 hours' time in service since the last inspection, inspect each engine propeller shaft (including ultrasonic inspection) in accordance with Rolls-Royce Dart Aero Engine Alert Service Bulletin Number Da 72–367, dated September 17, 1969, or later ARB-approved issue or an FAA-approved equivalent. If material inclusions or cracks are detected during any inspection, before further flight replace the engine propeller shaft with an approved serviceable part of the same part number.

(d) For all engines having propeller shafts with less than 1,200 hours' time in service on the effective date of this AD, within a total of 1,650 hours' time in service, and thereafter at intervals not to exceed 1,200 hours' time in service since the last inspection, inspect each engine propeller shaft (including ultrasonic inspection) in accordance with Rolls-Royce Dart Aero Engine Alert Service Bulletin No. Da 72–367, dated September 17, 1969, or later ARB-approved issue or an FAA-approved equivalent. If material inclusions or cracks are detected during any inspection, before further flight replace the engine propeller shaft with an approved serviceable part of the same part number.

(e) For Rolls-Royce Dart Models 542–4 and 542–4K engines installed in Convair airplanes, the repetitive inspections required by paragraphs (c) and (d) may be discontinued when propeller shafts are installed which have been supplied by Rolls-Royce with "CU" marked on the front end of the shaft, or which have been overhauled (including ultrasonic inspection for cracks and material inclusions) in accordance with Rolls-Royce Dart Overhaul Manual O–DA. 10–AC and identified with "CU" marked on the front end of the shaft.

(f) For all engines with propeller shafts installed bearing the serial numbers listed in paragraph (g), the placard required by paragraph (a) may not be removed until an FAA-approved inspection method has been developed to insure that the shafts are free from defects.

(g) For Rolls-Royce Dart Models 542–4 and 542–4K engine with propeller shafts installed bearing the serial numbers listed below and which are not installed in Convair airplanes and for all Rolls-Royce Models 542–10, 542–10J and 542–10K engines with propeller shafts installed bearing the serial numbers listed below, the repetitive inspection required by paragraphs (c) and (d) may not be discontinued until an FAA-approved inspection method has been developed to insure that the shafts are free from defects:

INSPECTION OF DART PROPELLER SHAFTS IN INSTALLED ENGINES—SHAFTS FROM TOP THREE INGOT POSITION

| Shaft Serial No. | Shaft Serial No. | Shaft Serial No. |
|---|---|---|
| HA. 275 | HE. 142 | HR. 447 |
| HA. 277 | HE. 143 | HR. 448 |
| HA. 281 | HG. 562 | HR. 511 |
| HB. 25 | HG. 563 | HR. 513 |
| HB. 29 | HG. 570 | HR. 520 |
| HB. 30 | HG. 571 | HR. 527 |
| HC. 846 | HG. 572 | HR. 528 |
| HC. 847 | HH. 699 | HR. 529 |
| HC. 849 | HH. 700 | HR. 532 |
| HC. 854 | HH. 714 | HR. 533 |
| HC. 856 | HH. 715 | HR. 535 |
| HC. 857 | HH. 716 | HR. 536 |
| HC. 858 | HH. 717 | HR. 547 |
| HC. 861 | HH. 719 | HR. 551 |
| HC. 862 | HH. 720 | HR. 552 |
| HD. 60 | HH. 721 | HR. 553 |
| HD. 61 | HJ. 135 | HR. 580 |
| HD. 62 | HJ. 138 | HR. 581 |
| HD. 67 | HJ. 143 | HR. 583 |
| HD. 69 | HJ. 151 | HR. 592 |
| HD. 71 | HJ. 153 | HR. 595 |
| HD. 73 | HJ. 157 | HR. 596 |
| HD. 74 | HJ. 165 | HR. 597 |
| HD. 86 | HJ. 167 | HR. 600 |
| HD. 88 | HJ. 168 | HR. 601 |
| HD. 94 | HJ. 173 | HR. 780 |
| HD. 95 | HJ. 176 | HR. 781 |
| HD. 97 | HJ. 178 | HR. 789 |
| HD. 103 | HJ. 180 | HR. 980 |
| HD. 105 | HJ. 189 | HR. 981 |
| HD. 107 | HJ. 190 | HR. 989 |
| HD. 110 | HJ. 196 | HR. 993 |
| HD. 117 | HJ. 197 | HR. 995 |
| HD. 119 | HJ. 199 | HS. 1 |
| HD. 373 | HJ. 201 | HS. 5 |
| HD. 376 | HJ. 207 | HS. 7 |
| HD. 377 | HJ. 212 | HS. 8 |
| HD. 391 | HJ. 218 | HS. 11 |
| HD. 392 | HJ. 219 | HS. 13 |
| HD. 394 | HJ. 223 | HS. 14 |
| HD. 399 | HM. 266 | HS. 16 |
| HD. 401 | HM. 267 | HS. 24 |
| HD. 404 | HM. 272 | HS. 25 |
| HD. 413 | HM. 288 | HS. 28 |
| HD. 414 | HM. 289 | HS. 29 |
| HD. 421 | HM. 294 | HS. 30 |
| HD. 425 | HM. 436 | HS. 129 |
| HD. 427 | HR. 315 | HS. 131 |
| HE. 111 | HR. 319 | HS. 139 |
| HE. 115 | HR. 326 | HS. 140 |
| HE. 121 | HR. 337 | HS. 142 |
| HE. 129 | HR. 345 | HS. 149 |
| HE. 135 | HR. 346 | HS. 150 |
| HE. 139 | HR. 439 | HS. 153 |
| HE. 141 | HR. 442 | HS. 156 |

INSPECTION OF DART PROPELLER SHAFTS IN INSTALLED ENGINES—SHAFTS FROM UNRECORDED INGOT POSITIONS

| Shaft Serial No. | Shaft Serial No. | Shaft Serial No. |
|---|---|---|
| HA. 28 | HA. 85 | HA. 957 |
| HA. 29 | HA. 86 | HA. 958 |
| HA. 30 | HA. 87 | HA. 959 |
| HA. 31 | HA. 88 | HA. 960 |
| HA. 32 | HA. 89 | HA. 961 |
| HA. 37 | HA. 90 | HA. 962 |
| HA. 70 | HA. 91 | HA. 963 |
| HA. 71 | HA. 92 | HA. 964 |
| HA. 72 | HA. 93 | HB. 35 |
| HA. 73 | HA. 94 | HB. 36 |
| HA. 74 | HA. 95 | HB. 37 |
| HA. 75 | HA. 96 | HB. 38 |
| HA. 76 | HA. 97 | HB. 39 |
| HA. 77 | HA. 592 | HB. 40 |
| HA. 78 | HA. 595 | HB. 41 |
| HA. 79 | HA. 690 | HB. 975 |
| HA. 80 | HA. 952 | HB. 976 |
| HA. 81 | HA. 953 | HB. 977 |
| HA. 82 | HA. 954 | HB. 978 |
| HA. 83 | HA. 955 | HB. 979 |
| HA. 84 | HA. 956 | HB. 980 |

INSPECTION OF DART PROPELLER SHAFTS IN INSTALLED ENGINES—SHAFTS FROM UNRECORDED INGOT POSITIONS—Continued

| Shaft Serial No. | Shaft Serial No. | Shaft Serial No. |
|---|---|---|
| HB. 981 | HD. 850 | HM. 355 |
| HB. 982 | HD. 851 | HM. 356 |
| HC. 539 | HD. 852 | HM. 357 |
| HC. 540 | HH. 638 | HM. 358 |
| HC. 541 | HH. 639 | HM. 359 |
| HC. 542 | HH. 640 | HM. 360 |
| HC. 543 | HH. 641 | HM. 361 |
| HC. 544 | HH. 642 | HM. 362 |
| HC. 545 | HH. 643 | HM. 363 |
| HC. 546 | HH. 644 | HM. 364 |
| HC. 547 | HH. 645 | HM. 365 |
| HC. 548 | HH. 646 | HM. 366 |
| HC. 549 | HH. 647 | HM. 367 |
| HC. 550 | HH. 648 | HM. 368 |
| HC. 558 | HH. 649 | HM. 369 |
| HC. 559 | HH. 650 | HM. 370 |
| HC. 560 | HH. 651 | HM. 371 |
| HC. 561 | HH. 652 | HM. 372 |
| HC. 562 | HH. 653 | HM. 373 |
| HC. 563 | HH. 654 | HM. 374 |
| HC. 564 | HH. 655 | HM. 375 |
| HC. 565 | HH. 656 | HM. 376 |
| HC. 566 | HH. 657 | HM. 377 |
| HC. 567 | HH. 658 | HM. 378 |
| HC. 568 | HH. 659 | HM. 379 |
| HC. 569 | HH. 660 | HM. 380 |
| HC. 576 | HH. 661 | HM. 381 |
| HC. 577 | HH. 662 | HM. 382 |
| HC. 578 | HH. 663 | HM. 383 |
| HC. 579 | HH. 664 | HM. 384 |
| HC. 580 | HH. 665 | HM. 385 |
| HC. 581 | HH. 666 | HM. 386 |
| HC. 582 | HH. 667 | HM. 387 |
| HC. 850 | HH. 668 | HM. 388 |
| HC. 852 | HH. 669 | HM. 389 |
| HC. 853 | HH. 670 | HM. 390 |
| HC. 855 | HH. 671 | HM. 391 |
| HC. 859 | HH. 672 | HM. 392 |
| HC. 996 | HH. 673 | HM. 393 |
| HD. 807 | HH. 674 | HM. 394 |
| HD. 808 | HH. 675 | HM. 395 |
| HD. 809 | HH. 676 | HM. 396 |
| HD. 810 | HH. 677 | HM. 397 |
| HD. 811 | HH. 678 | HM. 398 |
| HD. 812 | HH. 679 | HM. 399 |
| HD. 813 | HH. 680 | HM. 400 |
| HD. 814 | HH. 681 | HM. 401 |
| HD. 815 | HH. 682 | HM. 402 |
| HD. 816 | HH. 683 | HM. 403 |
| HD. 817 | HH. 684 | HM. 404 |
| HD. 818 | HH. 685 | HM. 405 |
| HD. 819 | HH. 686 | HM. 406 |
| HD. 820 | HH. 687 | HM. 407 |
| HD. 821 | HH. 688 | HM. 408 |
| HD. 822 | HH. 689 | HM. 409 |
| HD. 823 | HH. 690 | HM. 410 |
| HD. 824 | HH. 691 | HM. 411 |
| HD. 825 | HH. 692 | HM. 412 |
| HD. 826 | HH. 693 | HM. 413 |
| HD. 827 | HH. 694 | HM. 414 |
| HD. 828 | HH. 798 | HM. 415 |
| HD. 829 | HH. 799 | HM. 416 |
| HD. 830 | HH. 800 | HM. 417 |
| HD. 831 | HH. 801 | HM. 418 |
| HD. 832 | HH. 802 | HM. 419 |
| HD. 833 | HH. 803 | HM. 420 |
| HD. 834 | HH. 804 | HM. 421 |
| HD. 835 | HJ. 944 | HM. 422 |
| HD. 836 | HJ. 945 | HM. 423 |
| HD. 837 | HJ. 946 | HM. 424 |
| HD. 838 | HJ. 947 | HM. 425 |
| HD. 839 | HJ. 948 | HM. 426 |
| HD. 840 | HJ. 949 | HM. 427 |
| HD. 841 | HJ. 950 | HM. 428 |
| HD. 842 | HJ. 951 | HM. 429 |
| HD. 843 | HJ. 952 | HM. 430 |
| HD. 844 | HJ. 953 | HM. 431 |
| HD. 845 | HJ. 954 | HM. 432 |
| HD. 846 | HJ. 955 | HM. 433 |
| HD. 847 | HJ. 956 | HM. 434 |
| HD. 848 | HJ. 957 | HM. 435 |
| HD. 849 | HJ. 958 | HR. 355 |

These numbers are listed in Appendices A and B of Rolls-Royce Dart Aero Engine Service Bulletin No. Da 72-367, Revision 2, dated February 18, 1970.

This supersedes Amendment 39-913, 35 F.R. 145, AD 70-2-3, as amended by Amendment 39-1056, 35 F.R. 12270.

This amendment becomes effective December 7, 1970.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

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

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

[F.R. Doc. 70-16208; Filed, Dec. 2, 1970; 8:45 a.m.]

# Title 33—NAVIGATION AND NAVIGABLE WATERS

## Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER I—ANCHORAGES

[CGFR 70-86A]

## PART 110—ANCHORAGE REGULATIONS

### Subpart A—Special Anchorage Areas

STURGEON BAY, WIS.

1. The Commander, Ninth Coast Guard District, Cleveland, Ohio, by letter dated August 24, 1970, requested the establishment of a special anchorage area on Sturgeon Bay, at Sturgeon Bay, Wis. A public notice dated April 16, 1970, was issued by the Commander, Ninth Coast Guard District. In addition, a notice of proposed rule making was published in the FEDERAL REGISTER of August 19, 1970 (35 F.R. 13219). Two comments to the District's public notice were received in favor of the proposed special anchorage area. An additional comment from the Wisconsin Highway Commission objected on the ground that the special anchorage area would conflict with a proposed highway crossing of Sturgeon Bay. The Commander, Ninth Coast Guard District, responded that the establishment of a special anchorage area, does not preclude other uses of the area. If the construction of the bridge and the anchorage area are found to be incompatible, the Commandant may disestablish or modify the special anchorage area, if such action would be in the public interest. There was no response to the notice of proposed rule making published in the FEDERAL REGISTER. Therefore, the request to establish a special anchorage area on Sturgeon Bay, at Sturgeon Bay, Wis., is granted. In this special anchorage area, vessels not more than 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights. The area is southeasterly from the Wisconsin Routes 42 and 57 highway bridge that crosses Sturgeon Bay and north of the main ship channel.

2. Section 110.78 is amended by adding a new paragraph (b), to read as follows:

§ 110.78 Sturgeon Bay, Sturgeon Bay, Wis.

* * * * *

(b) *Area 2.* Beginning at a point 160 feet from the shoreline and on the east line of 15th Avenue extended; thence south 530 feet to a point 100 feet from the northern edge of the channel; thence southeasterly 2,350 feet along a line parallel to the northern edge of the channel to a point on the east line of 18th Avenue extended, using that portion of 18th Avenue that runs in a true north-south direction perpendicular to Utah Street; thence north 530 feet along this line of 18th Avenue extended to a point approximately 400 feet from the shoreline; thence northwesterly, 2,350 feet along a line parallel to the northern edge of the channel to the point of beginning.

(Rule 9, 28 Stat. 647, as amended, sec. 6(g)(1)(C), 80 Stat. 937; 33 U.S.C. 258; 49 U.S.C. 1655(g)(1)(C); 49 CFR 1.46(c)(3) (35 F.R. 4959), 33 CFR 1.05-1(c)(1), (35 F.R. 8279))

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

Dated: November 25, 1970.

R. E. HAMMOND,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.*

[F.R. Doc. 70-16245; Filed, Dec. 2, 1970; 8:51 a.m.]

# Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

## Chapter 5A—Federal Supply Service, General Services Administration

## PART 5A-73—FEDERAL SUPPLY SCHEDULE PROGRAM

### Use of Schedules by Government Contractors and Grantees

The table of contents for Part 5A-73 is amended to delete the following entry:

Sec.
5A-73.109-7 Use of schedules by contractors and grantees.

### Subpart 5A-73.1—Production and Maintenance

1. Section 5A-73.109-1 is amended by the revision of paragraph (b) and the addition of paragraph (c) to the Scope of Contract clause as follows:

§ 5A-73.109-1 Statement of scope.

* * * * *

SCOPE OF CONTRACT

* * * * *

(b) Activities, Other Than Those Named Above, including authorized non-appropriated fund activities, and for which General Services Administration is authorized by law to procure, may place orders under the contracts and Contractors are encouraged to honor such orders within the exceptions (1) through (3) in (a), above. In the event the Contractor is unwilling to accept such an order, the Contractor will return it by mailing or delivering it to the ordering office within 3 working days after receipt. Failure to return an order will constitute acceptance whereupon all provisions of the contract shall apply with respect to such order.

(c) Orders from Government contractors or Government grantees who may use this contract after being authorized in writing by a Federal agency in accordance with FPMR 101-26.7 may be accepted under the optional use provisions set forth in FPMR 101-26.706.

2. Section 5A-73.109-2 is amended by revising paragraphs (c), (d), and (f) as follows:

§ 5A-73.109-2 Determination of agency and geographic coverage.

* * * * *

(c) The Office of National Supply Policies and Programs as the representative of the Administration shall, either by exchanges of correspondence, personal contacts or appropriate interagency conferences, take whatever steps are necessary to effect proper coordination and achieve resolution of any problems, including necessary supporting documentation, with representatives of executive agencies and with the Executive Director, Procurement and Production, Defense Supply Agency, as the representative for the Department of Defense.

(d) The Procurement Operations Division shall advise the Office of National Supply Policies and Programs of any proposed action which will affect the concurrence function described in paragraph (b) of this section.

* * * * * *

(f) The agency or geographic coverage of a Schedule shall not be extended or reduced without the prior approval of the Director, Procurement Operations Division, in the case of national or zone Schedules or the Director, Procurement Programs Management Division, in the case of regional schedules.

3. Section 5A-73.109-6 is revised to read as follows:

§ 5A-73.109-6 Optional use.

Paragraph (b) of the clause prescribed in § 5A-73.109-1 provides, in general terms, that certain other ordering activities may place orders under the Schedule on an optional basis. Any question on whether GSA is authorized by law to procure for a particular activity shall be referred to assigned counsel.

§ 5A-73.109-7 [Deleted]

4. Section 5A-73.109-7 is deleted in its entirety.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

*Effective date.* This regulation is effective 30 days after the date shown below.

Dated: November 18, 1970.

H. A. ABERSFELLER,
*Commissioner,*
*Federal Supply Service.*

[F.R. Doc. 70-16174; Filed, Dec. 2, 1970; 8:46 a.m.]

## Chapter 8—Veterans Administration

### MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 8 is amended as follows:

### PART 8–3—PROCUREMENT BY NEGOTIATION

1. Section 8–3.607–50 is added to read as follows:

**§ 8–3.607–50 Intra-agency use of local term contracts.**

Where there is more than one Veterans Administration field station located in a community, or within a reasonable commuting distance, consideration shall be given to entering into a single contract for supplies or services not available from normal Veterans Administration supply channels. In determining whether such a single contract is both feasible and economical, the chiefs of the respective supply divisions concerned shall be guided by the provisions of FPR 1–3.607.

### PART 8–6—FOREIGN PURCHASES

2. Section 8–6.105 is revised to read as follows:

**§ 8–6.105 Excepted articles, materials, and supplies.**

Pursuant to the "Buy American Act," the Director, Supply Service has determined that the articles, materials, and supplies listed in this section may be acquired by the Veterans Administration without regard to source, except as provided in Subpart 8–6.53.

Acetylene, black.
Agar, bulk.
Anise.
Antimony, as metal or oxide.
Asbestos, amosite.
Bananas.
Beef, corned, canned.
Beef extract.
Bephenium hydroxynaphthoate.
Bismuth.
Books, trade, text, technical or scientific; newspapers; magazines; periodicals; printed briefs and films; not printed in the United States and for which domestic editions are not available.
Brazil nuts.
Cadmium ores and flue dust.
Calcium cyanamide.
Capers.
Cashew nuts.
Castor beans.
Chalk, English.
Chicle.
Chrome ore or chromite.
Cinchona bark.
Cobalt, in cathodes, rondelles, or other primary forms.
Cocoa beans.
Coconut and coconut meat in shredded, desiccated, or similarly prepared form.
Coffee, raw or green bean.
Colchicine alkaloid, raw.
Copra.
Cork, wood or bark and waste.
Dammar gum.
Diamonds, industrial.
Emetine, bulk.
l-Ephedrine.
Ergot, crude.
Erythrityl tetranitrate.
Fiber, coir, abaca, and agave.
Flax.
Goat and kid skins.
Graphite, natural, crystalline, crucible grade.
Hemp.
Hog bristles for brushes.
Hyoscine, bulk.
Iodine, crude.
Ipecac, root.
Jute and jute burlaps.
Kaurigum.
Lac.
Lavender oil.
Logs, veneer, and lumber from Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum vitae, mahogany, and teak.
Manganese.
Menthol, natural, bulk.
Mica.
Nickel, primary, in ingots, pigs, shot, cathodes, or similar forms; nickel oxide and nickel salts.
Nitroguanidine (also known as picrite).
Nux vomica, crude.
Oiticica oil.
Olive oil.
Olives, green; plain (unpitted) and stuffed, bulk.
Opium, crude.
Oranges, mandarin, canned.
Petroleum, crude oil; petroleum, finished products; and petroleum, unfinished oils.
Pine needle oil.
Platinum and platinum group metals refined, as sponge, powder, ingots, or cast bars.
Pyrethrum flowers.
Quartz crystals.
Quebracho.
Quinidine.
Quinine.
Radium salts.
Rubber, crude and latex.
Rutile.
Santonin, crude.
Secretin.
Shellac.
Silk, unmanufactured.
Sisal.
Sperm oil.
Spices and herbs.
Sugar.
Talc, block, steatite.
Tapioca, tapioca flour and cassava.
Tartar, crude, tartaric acid and cream of tartar.
Tea.
Thyme oil.
Tin, in bars, blocks, and pigs.
Triprolidine hydrochloride.
Tungsten.
Vanilla beans.
Wax, carnauba.

### PART 8–7—CONTRACT CLAUSES

3. Section 8–7.150–24 is revised to read as follows:

**§ 8–7.150–24 Purchase descriptions and "brand name or equal" descriptions.**

The following clauses will be included in all invitations for bids or requests for proposals for mechanical equipment utilizing purchase descriptions or "brand name or equal" descriptions.

(a) When the bid or proposal will result in a one-time field station purchase, the following clause will be used:

*Service data manual.* The contractor agrees to furnish two copies of a manual, handbook or brochure containing operating, installation, and maintenance instructions (including pictures or illustrations, as necessary). Where applicable, it will include electrical data and connection diagrams for all utilities. The instructions shall also contain a complete list of all replaceable parts showing part number, name, and quantity required.

(b) When the bid or proposal will result in the initial purchase (including each make and model) of a centrally procured item, the following clause will be used:

*Service data manual.* The contractor agrees, when requested by the contracting officer, to furnish not more than five copies of a manual, handbook or brochure containing operating, installation and maintenance instructions (including pictures or illustrations, as necessary) to the Service and Reclamation Division, VA Supply Depot, Hines, Ill. In addition, the contractor agrees to furnish two copies of the manual, handbook or brochure with each piece of equipment sold as a result of the invitation for bid or request for proposal. Where applicable, these manuals, handbooks or brochures will also include electrical data and connection diagrams for all utilities. They shall also contain a complete list of all replaceable parts showing part number, name, and quantity required.

(c) When the bid or proposal will result in any purchase, the following clause will be used:

*Guarantee.* The Contractor guarantees the equipment against defective material, workmanship and performance for a period of —,[1] said guarantee to run from date of acceptance of the equipment by the Government. The Contractor agrees to furnish, without cost to the Government, replacement of all parts and material which are found to be defective during the guarantee period. Replacement of material and parts will be furnished to the Government at the point of installation, if installation is within the continental United States, or f.o.b. the continental U.S. port to be designated by the purchasing officer if installation is outside of the continental United States. Cost of installation of replacement material and parts shall be borne by the Contractor.[2]

4. Section 8–7.650–11 is added to read as follows:

**§ 8–7.650–11 Affirmative action compliance program.**

Invitations for bids that will result in a construction contract of $50,000 or more will contain the following clause:

AFFIRMATIVE ACTION COMPLIANCE PROGRAM—EQUAL OPPORTUNITY PROGRAM

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

(b) Each affirmative action program shall be developed in conformity with the Rules and Regulations of the Office of Federal Contract Compliance, U.S. Department of Labor (Title 41, sec. 60–1.40, Chapter 60 of the Code of Federal Regulations). Each program

[1] Normally, insert 1 year. If industry policy covers a shorter or longer period, i.e., 90 days or for the life of the equipment, insert such period.

[2] The above clause will be modified to conform to standards of the industry involved. Where it is industry policy to furnish, but not install, replacement material and parts at the Contractor's expense, the last sentence will be changed to indicate that cost of installation shall be borne by the Government. Where it is industry policy to (i) guarantee components for the life of the equipment (i.e., crystals in tranmitters and receivers in radio communications systems) or (ii) require that highly technical equipment be returned to the factory (at Contractor's or Government's expense) for replacement of defective materials or parts, the clause used will be compatible with such policy.

shall be maintained at the local office responsible for personnel matters of the particular establishment and shall be made available for inspection by representatives of the Office of Federal Contract Compliance, or such agency as may be designated as the Compliance Agency, upon request.

(c) Clause 5 of Standard Form 19–B is amended to include the following:

The bidder (or offerer) represents that (1) he [ ] has developed and has on file [ ] has not developed and does not have on file at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor (41 CFR 60–1 and 60–2), or (2) he [ ] has not previously had contracts subject to the written affirmative action program requirement of the rules and regulations of the Secretary of Labor.

## PART 8–30—CONTRACT FINANCING

5. Section 8–30.419 is added to read as follows:

### § 8–30.419 Excluded advance payments.

This section specifies certain items for which advance payments may or may not be made.

(a) Lantern slides such as 35 mm. slides of X-rays, electrocardiograms, gross specimens and photomicrographs are properly classified as "publications" when they are used in conjunction with and are necessary for the effective use of printed matter as they may be viewed or read like newspapers. Advance payment for such lantern slides is authorized under 31 U.S.C. 530a. Phonograph records and tape recordings are made to be heard and are not "publications". Advance payment may not be made for such records or recordings.

(b) Advance payment may be made for services and supplies obtained from another Government agency. This includes items such as coupons from the Government Printing Office and Operator Permits, Civilian Defense Radio System, from the Federal Communications Commission.

(c) Advance payment may be made for all or any part of the necessary expenses for training Government employees in Government or nongovernment facilities. This includes the purchase or rental of books, materials, and supplies or services directly related to the training of a Government employee.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective immediately.

Approved: November 27, 1970.

By direction of the Administrator.

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

[F.R. Doc. 70-16210; Filed, Dec. 2, 1970; 8:48 a.m.]

# Title 43—PUBLIC LANDS: INTERIOR

## Subtitle A—Office of the Secretary of the Interior

## PART 18—RECREATION FEES

The Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964), as amended, authorizes the President to provide for the establishment of entrance, admission, and user fees at designated recreation areas. Executive Order 11200 provided for the designation of areas at which such fees shall be charged and directed the Secretary of the Interior to adopt such coordination measures as are necessary to carry out the purposes of sections 2(a) and 4(a) of the Act and the provisions of that order. A revised Part 18 providing for criteria for designation of Federal recreation areas, posting, and a schedule of fees applicable to Designated Fee Areas is published below. This revision shall become effective on January 1, 1971.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections to the Secretary, Department of the Interior, Washington, D.C., within 15 days of the publication of this notice in the FEDERAL REGISTER.

Part 18 of Subtitle A of Title 43 of the Code of Federal Regulations is revised to read as follows:

Sec.
18.1 Application.
18.2 Designation.
18.3 Posting.
18.4 Types of fees.
18.5 Fee for annual permit.
18.6 Fees for daily permits.
18.7 Validation and display of entrance permits.
18.8 User fees.
18.9 Effective dates of fees.
18.10 Period for collection of fees.
18.11 Enforcement.
18.12 Exceptions, exclusions, and exemptions.
18.13 Public notification.
18.14 Production, distribution and sale of entrance permits and revision or interpretation of this part.

AUTHORITY: The provisions of this Part 18 issued under sec. 2, 78 Stat. 897, as amended; sec. 210, 82 Stat. 739; and Executive Order 11200.

### § 18.1 Application.

(a) This part is promulgated pursuant to the Land and Water Conservation Fund Act of 1965, 78 Stat. 897, as amended, section 210 of the Flood Control Act of 1968, 82 Stat. 739, and Executive Order 11200. Any recreation fee which may be charged by the National Park Service, the Bureau of Land Management, the Bureau of Sport Fisheries and Wildlife, the Bureau of Reclamation, the Forest Service, the Corps of Engineers, the Tennessee Valley Authority, and the U.S. Section of the International Boundary and Water Commission (United States and Mexico) shall be selected from the schedule of fees according to the criteria set forth in this part.

### § 18.2 Designation.

(a) The heads of the administering agencies and departments listed in § 18.1 shall at least annually review all areas under their respective jurisdictions to determine:

(1) Whether any additional areas should, in accordance with the designation criteria prescribed in this section, be designated as areas at which recreation fees shall be charged;

(2) Whether the recreation fee for an area therefore designated should be increased or reduced; or

(3) Whether the designation of an area as one at which fees shall be charged should be eliminated.

(b) An area or closely related group of areas shall be designated as an area at which fees shall be charged (hereinafter referred to as Designated Fee Area) and fees shall be charged if the following conditions are found to exist concurrently:

(1) The area is administered by any of the eight agencies specified in § 18.1;

(2) The area is administered primarily for scenic, scientific, historical, cultural, or recreational purposes;

(3) The area has recreation facilities or services provided at Federal expense; and

(4) The nature of the area is such that fee collection is administratively and economically practical.

(c) In addition to the conditions listed in paragraph (b) of this section, the following conditions shall apply to designation of recreation fee areas under the direct administration of the Corps of Engineers:

(1) User fees shall be charged only for use of highly developed facilities requiring continuous presence of personnel for maintenance and supervision of the facilities.

(2) No fees shall be charged for entrance, or access to, or use of water areas, undeveloped or lightly developed shoreland, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical or hydraulic equipment is provided.

(3) The Secretary of the Army shall issue such regulations supplemental to this part as may be deemed necessary, subject to the conditions of § 18.14(b).

§ 18.3 Posting.

(a) The heads of the administering agencies and departments shall provide for the posting of designation signs as prescribed in this section at all entrances to Designated Fee Areas in a manner such that the visiting public will be clearly notified that recreation fees are charged therein.

(b) All Designated Fee Areas shall be prominently posted with at least one sign (of attractive design, easy readability, and suitable permanence) showing, where applicable, fee options for entrance or admission, whether user fees are charged, and similar appropriate information.

(c) All Designated Fee Areas where the annual permit prescribed in § 18.4(a) is valid shall be posted with an additional sign as indicated in the rendition below with the following characteristics:

(1) Be constructed of enameled steel, coated aluminum, silk screen reflective material attached to wood or metal, or other permanent materials;

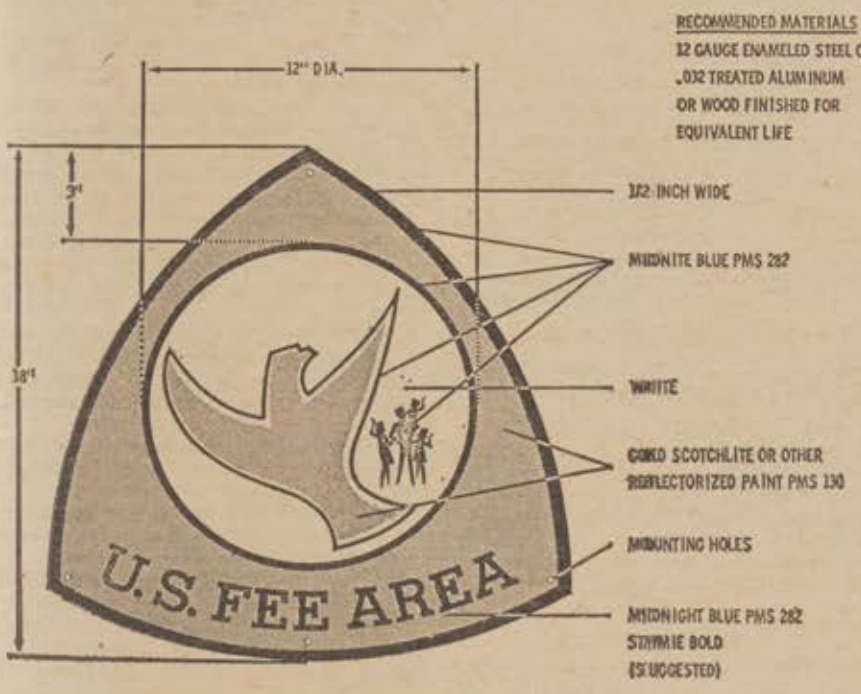
(2) Consist of the basic elements, proportion, and color as indicated below;

(3) The color midnight blue shall be Pantone Matching System 282; the color gold shall be Pantone Matching System 130;

(4) The rounded triangle shall be 18 inches in vertical height at all Designated Fee Areas, except that at those areas entered only by foot, the rounded triangle may be nine inches in vertical height;

(5) Contain the words "U.S. Fee Area" as indicated below.

SPECIFICATIONS FOR OFFICIAL DESIGNATION SIGN




DIMENSIONS FOR STANDARD SIGN


DIMENSIONS FOR OPTIONAL HALF-SIZE SIGN FOR WALK-IN AREAS

(d) An appropriate sized edition of the above-described sign may be used in conjunction with all signs erected by the administering agency or department which direct the public to a Designated Fee Area. Such signs also may be used in combination with other entrance signs or incorporated into larger entrance signs.

(e) No recreation fee established pursuant to this part shall be effective at any Designated Fee Area until that area has been posted.

§ 18.4 Types of fees.

There shall be two general types of fees: Entrance or admission fees and user fees. There shall be two types of entrance or admission fees: A fee for an annual permit and a fee for a daily permit.

§ 18.5 Fee for annual permit.

(a) The annual permit shall be valid on a calendar year basis at all Designated Fee Areas at which entrance or admission fees are charged. The fee for the annual permit shall be $10 for the calendar year 1971.

(b) The annual permit shall admit the purchaser, members of his immediate family (spouse and children), and all other persons accompanying the purchaser and/or members of his immediate family in one private, noncommercial vehicle to Designated Fee Areas commonly entered by such vehicles where entrance or admission fees are charged during the period for which the permit is valid. In addition, the annual permit shall admit the purchaser and/or members of his immediate family to Designated Fee Areas where their means of entry is other than by private, noncommercial vehicle.

(c) "Private, noncommercial vehicle," for the purposes of this part, shall include any passenger car, station wagon, pickup, camper truck, motorcycle, or other motor vehicle which is conventionally used for private recreation purposes by a family.

§ 18.6 Fees for daily permits.

(a) For those who choose not to purchase the annual permit, there shall be two fees for daily permits charged at Designated Fee Areas where entrance or admission fees are charged: One applicable to those entering by private, noncommercial vehicle and one applicable to those entering by any other means.

(b) The fee for a daily permit applicable to those entering by private, noncommercial vehicle shall be $1 to $3 per vehicle per day at the discretion of the heads of the administering agencies or departments. The daily permit shall be valid only at the one Designated Fee Area for which it is purchased. The daily permit shall admit, without further payment, the purchaser and all who accompany him in a private, noncommercial vehicle for a single visit or series of visits during its period of validity.

(c) The fee for a daily permit charged at Designated Fee Areas, applicable to those entering by any means other than private, noncommercial vehicle shall be $0.50 to $1.50 per person per day and shall be valid only at the one Designated Fee Area for which it is purchased.

(d) Any of the permits provided for in paragraphs (b) and (c) of this section shall be valid for a single visit or series of visits to the Designated Fee Area for which it was purchased during the same calendar day for which it was purchased. In addition, at areas in which overnight use is permitted, such permits shall be valid for departure only until noon of the day following purchase, except as otherwise posted.

**§ 18.7 Validation and display of entrance permits.**

(a) Every annual permit shall be validated by the signature of its owner on the face of the permit at the time of its receipt.

(b) All annual and daily permits shall be nontransferable, except that the annual permit and daily permits issued pursuant to § 18.6(b) may be used by members of the purchaser's immediate family (spouse and children).

(c) Every permit shall be kept on the person of its owner, except that, whenever a person enters a Designated Fee Area by private, noncommercial vehicle, and during the period that the vehicle used in such entry remains within the Designated Fee Area, the annual permit or daily permit shall be displayed on the sun visor or the dashboard on the left side of such vehicle in a manner to be readily visible to persons outside the vehicle unless a different manner of display is prescribed by instructions posted at the area.

**§ 18.8 User fees.**

(a) User fees are payable for the use of sites, facilities, equipment, or services provided by the United States, especially for recreationists in Designated Fee Areas which include, but are not limited to, well-developed campsites, picnic areas, bathhouses, lockers, boat-launching facilities, boats, other marine equipment, guide services, elevators, firewood, winter sport facilities, and special purpose recreational vehicle use privileges. User fees may be charged at Designated Fee Areas singly, or in addition to entrance or admission fees.

(b) User fees shall be selected from within the range of fees in accord with the criteria set forth below:

(1) The direct and indirect cost to the United States of establishing and maintaining the area;

(2) The quality and variety of recreation opportunities offered in the area;

(3) The amount charged for admission to or the use of comparable State, local, and private areas;

(4) The impact of the fee on potential development of other outdoor recreation areas and facilities in the locality by State and local governments and by private investors;

(5) The contributions of State and local governments and private contributions to the maintenance and development of the area.

(c) User fees may be charged for additional types of sites, facilities, equipment, and services not listed below in such amounts as are recommended by the Secretary of the Interior.

| SITES | RANGE OF USER FEES |
|---|---|
| Camp and trailer sites | $1 to $4 for overnight use. |
| Picnic sites | $0.50 to $1 per site per day. |
| Group camping and picnicking sites | $0.25 to $0.50 per person per day.[1] |
| Boat launching sites | $0.50 to $1.50 per day. |

[1] Heads of administering agencies or departments may select group use rates in lieu of the above "Camp and trailer sites" fee or the above "Picnic sites" fee or both, and may establish a minimum group use charge of at least $3 per day per group without regard to group size or other provisions of this part.

User fees may be charged if the site contains or is within a reasonable distance of the following facilities:

| Basic facility | Camp and trailer site requirements | Picnic site requirements | Boat launching site requirements |
|---|---|---|---|
| Access and circulatory roads[2] | X | X | X |
| Parking[2] | X | X | X |
| Drinking water | X | X | ---- |
| Toilet facilities | X | X | X |
| Refuse containers | X | X | X |
| Picnic tables[3] | X | X | ---- |
| Firegrates[3] or fireplaces | X | X | ---- |
| Adequate tent or trailer spaces | X | ---- | ---- |
| Boat launching ramps or facilities | ---- | ---- | X |

[2] Except at campsites accessible only by boat.
[3] Not applicable to trailer sites.

OTHER FACILITIES AND SERVICES

| | |
|---|---|
| Lockers | $0.25 per locker daily. |
| Boat storage and handling | To be established at a daily, weekly, monthly, or annual rate in accord with the criteria set forth in this section. |
| Vehicle and trailer parking | To be established at a daily, weekly, or monthly rate in accord with the criteria set forth in this section. |
| Elevators | At least $0.10 per person per round trip. |
| Ferries and other means of transportation. | To be established at a rate in accord with the criteria set forth in this section. |
| Bathhouses | $0.25 to $0.50 per day per person. |
| Swimming pools | To be established at a daily rate in accord with the criteria set forth in this section. |
| Overnight shelters | To be established at a daily rate in accord with the criteria set forth in this section. |
| Precut firewood | To be established at a rate in accord with the criteria set forth in this section. |
| Guided tours | To be established at a rate in accord with the criteria set forth in this section. |
| Special purpose vehicles | At least $1 per individual vehicle permit issued. |

EQUIPMENT FOR RENT

| | |
|---|---|
| Boats, row | A minimum of $1 per boat per day or fraction thereof. |
| Boats, motorized | A minimum of $5 per boat per day or fraction thereof. |

**§ 18.9 Effective dates of fees.**

Effective January 1, 1971, at least one of the fees provided for in this part shall be charged at every Designated Fee Area.

**§ 18.10 Period for collection of fees.**

(a) Fees shall be charged at all Designated Fee Areas on a yearlong basis, except at such times as the heads of the administering agencies may determine to not be administratively and economically practical.

(b) The heads of the administering agencies and departments shall provide for the collection of fees at every Designated Fee Area.

**§ 18.11 Enforcement.**

The heads of the administering agencies and departments shall use such legal means as are at their disposal to collect fees at Designated Fee Areas and to enforce the fee regulations in this part. The Director, Bureau of Outdoor Recreation, may issue from time to time to

heads of administering agencies and departments, guidelines with respect to enforcement.

§ 18.12 Exceptions, exclusions, and exemptions.

In the application of the provisions of this part, the following exceptions, exclusions, and exemptions shall apply:

(a) Nothing contained herein shall authorize Federal hunting or fishing licenses or fees;

(b) No fee shall be charged for the use of any waters;

(c) No fee shall be charged for travel by private, noncommercial vehicle over any National Parkway, any road or highway established as part of the national Federal-aid system, or any road within the National Forest System or a public land area, which, although it is part of a larger area, is commonly used by the public as a means of travel between two places, either or both of which are outside the area;

(d) No fee shall be charged any person in the exercise of a right of access to privately owned lands;

(e) No daily entrance or admission fee shall be charged at any area where more than 50 percent of the land within such area has been donated to the United States by a State, unless the Governor of such State or his designee has been advised of such fee at least 60 days prior to its establishment and unless any recommendation of such Governor and all legal and other obligations of the United States to such State with respect to such areas have been taken into consideration;

(f) No fee shall be charged for access to waters or shorelines by those classes of persons which have rights thereto under treaty or law;

(g) No fee shall be charged for commercial or other activities not related to recreation; or for organized tours or outings conducted for educational, scientific, and therapeutic purposes by bona fide institutions established for these purposes.

(h) No entrance or admission fee shall be charged any person conducting State, local, or Federal Government business;

(i) No entrance or admission fee shall be charged at any entrance to Great Smoky Mountains National Park unless such fees are charged at main highway and thoroughfare entrances;

(j) No Federal outdoor recreation fees shall be charged at Designated Fee Areas requiring such fees for persons who have not reached their sixteenth birthday.

§ 18.13 Public notification.

The administering agencies and departments shall notify the public of the specific recreation fees which will be charged for each Designated Fee Area under their respective jurisdictions. Such notification shall be accomplished by posting such information at each area and by local public announcements, press releases, and other suitable means.

§ 18.14 Production, distribution, and sale of permits and revision or interpretation of this part.

(a) The Director, Bureau of Outdoor Recreation, shall issue from time to time to the heads of the administering agencies and departments, as well as other concerned parties, instructions with respect to the production, distribution, and sale of permits.

(b) The Director, Bureau of Outdoor Recreation, shall be consulted prior to their issuance, with respect to agency-wide instructions implementing the regulations in this part. He shall also consider recommendations from the heads of the agencies and departments administering the Designated Fee Areas for revision of §§ 18.2, 18.3, 18.6, 18.8, 18.11, and 18.13 and, based upon justification received, make such revisions, interpretations, and supplements as he deems appropriate.

Dated: November 25, 1970.

WALTER J. HICKEL,
*Secretary of the Interior.*

[F.R. Doc 70-16230; Filed, Dec. 2, 1970; 8:50 a.m.]

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

### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4948]

[New Mexico 11734]

### NEW MEXICO

### Partial Revocation of Executive Orders Nos. 6143, 6276, and 6583

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Executive Orders No. 6143 of May 23, 1933, No. 6276 of September 8, 1933, and No. 6583 of February 3, 1934, withdrawing lands to enable the State of New Mexico to make exchange selections as provided by the Act of June 15, 1926, 44 Stat. 746–748, are hereby revoked so far as they affect the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 19 S., R. 8 W.,
Sec. 18, N½NE¼;
Sec. 19, lots 2, 3, 4, S½NE¼, SE¼NW¼, E½SW¼, N½SE¼, SW¼SE¼;
Sec. 20, NW¼SW¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 21, SW¼, N½SE¼, SE¼SE¼;
Sec. 22, SW¼, W½SE¼;
Sec. 23, E½NE¼;
Sec. 28, NE¼, N½NW¼, SE¼NW¼, N½S½, SW¼SW¼;
Sec. 29, N½, N½S½;
Sec. 30, lots 1, 2, 3, E½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 31, lots 1, 2, 3, 4, NE¼NE¼, E½SW¼, S½SE¼;
Sec. 33, NW¼NW¼, S½NW¼, NW¼SW¼;
Sec. 35, W½NE¼, W½, NW¼SE¼, SE¼SE¼.
T. 23 S., R. 17 W.,
Sec. 18, S½NE¼, SE¼;
Sec. 19, NE¼NE¼;
Sec. 20, N½N½;
Sec. 21, N½N½.

The areas described aggregate 4,314 acres of which 3,714 acres are privately owned in Hidalgo and Sierra Counties.

The public lands described in T. 23 S., R. 17 W., are located about 6 miles southeast of Lordsburg. Topography is nearly level with deep reddish, silty clay loam. Vegetative cover consists of snakeweed, mesquite and tobosa grasses.

2. At 10 a.m. on January 2, 1971, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 2, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The public lands have been and continue to be open to applications and offers under the mineral leasing laws and to location under the U.S. mining laws for metalliferous minerals. They will be open to location for nonmetalliferous minerals at 10 a.m. on January 2, 1971.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe, N. Mex.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16224; Filed, Dec. 2, 1970; 8:50 a.m.]

[Public Land Order 4949]

[Anchorage 5683]

### ALASKA

### Partial Revocation and Modification of Public Land Order No. 659 of August 24, 1950

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

1. Public Land Order No. 659 of August 24, 1950, which withdrew public lands for the joint use of the Civil Aeronautics Administration, Department of Commerce, now the Federal Aviation Administration, Department of Transportation, and the Fish and Wildlife Service, now the Bureau of Sport Fisheries and Wildlife, Department of the Interior, for the Lake Hood Seaplane Base, is hereby revoked so far as it affects the following described lands:

SEWARD MERIDIAN

T. 13 N., R. 4 W.,
From the corner common to secs. 26, 27, 34, and 35, T. 13 N., R. 4 W., S.M. running south 0°3' E., 840 feet along the section line common to sections 34 and 35; thence north 89°21' W., 1,830 feet to a point in the centerline of a ramp at the edge of Lake Hood, the true point of beginning; thence south 0°3' E., 285 feet along centerline of the ramp and the access road to International Airport to a point; thence north 89°21' W., approximately 290 feet to a point in the west boundary of the Lake Hood Seaplane Base established by PLO 659 of August 24, 1950 (15 F.R. 5912); thence north 0°3' W., approximately 285 feet along the west boundary of the seaplane base to a point on the shore of Lake Hood; thence south 89°21' E., approximately 290 feet along the shore of Lake Hood to the point of beginning.

Containing approximately 1.90 acres.

The land described above was conveyed to the State of Alaska on November 30, 1964, pursuant to section 6(e) of the Alaska Statehood Act of July 7, 1958, 72 Stat. 339.

2. Public Land Order No. 659 of August 24, 1950, is hereby amended so that the following described area is reserved under sole jurisdiction of the Bureau of Sport Fisheries and Wildlife, Department of the Interior, for use as the Lake Hood Seaplane Base:

SEWARD MERIDIAN

T. 13 N., R. 4 W.,
In sec. 34, beginning at the southeast corner of lot 7, as shown on the supplemented plat of survey approved July 5, 1960 (formerly lot 1), thence by metes and bounds, south 132 feet; west 792 feet; north 924 feet; east 792 feet; south 792 feet, to the point of beginning; excepting the land conveyed to the State of Alaska described in paragraph 1 above.

Containing approximately 10.04 acres of land area and approximately 4.86 acres of water area.

3. The amendment made by this order does not otherwise serve to change the status of the lands described above in paragraph 2 as withdrawn by Public Land Order No. 659.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16203; Filed, Dec. 2, 1970; 8:48 a.m.]

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[Public Land Order 4950]

[New Mexico 9506]

## NEW MEXICO

### Withdrawal for Pecos River Basin Water Salvage Project

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. sec. 416 (1964), it is ordered as follows:

Subject to valid existing rights, the following described public lands which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Pecos River Basin Water Salvage Project, New Mexico:

NEW MEXICO PRINCIPAL MERIDIAN

T. 21 S., R. 27 E.,
Sec. 33, SW¼SE¼NE¼.

The area described aggregates 10 acres in Eddy County.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16225; Filed, Dec. 2, 1970; 8:50 a.m.]

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[Public Land Order 4951]

[Idaho 3209, 3288]

## IDAHO

### Partial Revocation of Reclamation Project Withdrawals

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. sec. 416 (1964), it is ordered as follows:

1. The departmental orders of November 17, 1902, March 21, 1907, and October 7, 1908, and July 5, 1921, and any other orders withdrawing lands for the Minidoka Project, are hereby revoked so far as they affect the following described lands:

BOISE MERIDIAN

T. 7 S., R. 18 E.,
Sec. 16.
T. 8 S., R. 26 E.,
Sec. 4, lots 1 to 4, inclusive, S½N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, NE¼SW¼, N½SE¼;
Sec. 9, NE¼, N½NW¼, SW¼NW¼, W½SW¼, N½SE¼;
Sec. 16;
Sec. 25, N½S½.
T. 9 S., R. 27 E.,
Sec. 9, E½SE¼;
Sec. 15, N½S½;
Sec. 24, W½NW¼.
T. 4 S., R. 33 E.,
Sec. 30, SE¼NW¼.

The areas described aggregate 3,354.76 acres in Jerome, Blaine, Cassia, and Bingham Counties, of which 400 acres are public lands withdrawn for the Minidoka National Wildlife Refuge, 1,194.76 acres are patented lands, and 1,280 acres are State-owned lands. The remainder, which are described as follows, are unreserved public lands:

BOISE MERIDIAN

T. 8 S., R. 26 E.,
Sec. 4, NW¼SW¼, SE¼SE¼;
Sec. 5, lot 4, SW¼NW¼;
Sec. 9, NE¼NE¼, S½NE¼, N½SE¼.
T. 9 S., R. 27 E.,
Sec. 9, E½SE¼.
T. 4 S., R. 33 E.,
Sec. 30, SE¼NW¼.

The areas described aggregate 440 acres in Blaine County, and 40 acres in Bingham County.

The lands in Blaine County are located from 3 to 12 miles east of Minidoka, Idaho. Their surface is extremely rough and rolling with numerous rock outcrops. Vegetation is sagebrush and cheatgrass. The land in Bingham County is located about 2½ miles from Springfield, Idaho. The surface is rolling with scattered rock outcrops. Soils are silt loam. Vegetation is sagebrush, cheatgrass, and greasewood.

2. At 10 a.m. on January 2, 1971, the unreserved public lands described above will be open to the operation of the public land laws generally, including location under the U.S. mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 2, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. These lands have been and continue to be open to the filing of applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16226; Filed, Dec. 2, 1970; 8:50 a.m.]

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[Public Land Order 4952]

[Sacramento 3527]

## CALIFORNIA

### Withdrawal for National Forest Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

KLAMATH NATIONAL FOREST

MOUNT DIABLO MERIDIAN

*Shadow Creek Camping Site*

T. 39 N., R. 11 W.,
Sec. 36, that portion lying above the junction of Shadow Creek and the East Fork of the South Fork of the Salmon River and to Forest Highway 93.

HUMBOLT MERIDIAN

*Hotelling Gulch Camping Site*

T. 10 N., R. 8 E.,
Sec. 28, S½NE¼ lot 5, NW¼SE¼ lot 5.

The areas described contain approximately 21 acres in Siskiyou County.

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

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16204; Filed, Dec. 2, 1970; 8:48 a.m.]

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[Public Land Order 4953]

[Nevada 051787]

## NEVADA

### Revocation of Air Navigation Site Withdrawal

By virtue of the authority contained in section 4 of the Act of May 24, 1928,

45 Stat. 729, 49 U.S.C. sec. 214 (1964), it is ordered as follows:

1. The departmental order of October 13, 1950, withdrawing the following described public land as Air Navigation Site Withdrawal No. 266, is hereby revoked:

MOUNT DIABLO MERIDIAN

T. 23 S., R. 59 E.,
Sec. 31, NW¼SE¼SW¼SW¼.
T. 24 S., R. 59 E.,
Sec. 5, NW¼SW¼SE¼NW¼.

The areas described aggregate 5 acres in Clark County.

The land is located southwest of Las Vegas, near Goodsprings, Nev. Topography is rough and rocky.

2. At 10 a.m. on January 2, 1971, the land shall be open to operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 2, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nev.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16205; Filed, Dec. 2, 1970; 8:48 a.m.]

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[Public Land Order 4954]

[Oregon 4179, 3747 (Wash.)]

## WASHINGTON

### Withdrawal for Addition to Columbia National Wildlife Refuge; Partial Revocation of Reclamation Withdrawal

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. sec. 416 (1964), it is ordered as follows:

1. Subject to valid existing rights, the following described public land which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved as an addition to, and for use in conjunction with those lands withdrawn by Public Land Order No. 243 of September 6, 1944, for the Columbia National Wildlife Refuge:

WILLAMETTE MERIDIAN

T. 16 N., R. 28 E.,
Sec. 14, S½.

The area described contains 320 acres in Adams County.

2. The order of the Bureau of Reclamation of June 13, 1947, concurred in by the Bureau of Land Management on June 18, 1947, withdrawing lands for the Columbia Basin Project, is hereby revoked so far as it affects the following described lands:

WILLAMETTE MERIDIAN

T. 16 N., R. 28 E.,
Sec. 14, S½.
T. 10 N., R. 31 E.,
Sec. 2;
Sec. 4, lots 1 and 2, S½NE¼;
Sec. 8, W½E½;
Secs. 10, 12, 14, 22, 24.
T. 11 N., R. 31 E.,
Sec. 20;
Sec. 22, SW¼;
Secs. 24, 26, 28;
Sec. 30, NE¼;
Sec. 32, N½, SE¼;
Sec. 34.
T. 10 N., R. 32 E.,
Secs. 6, 8, 18.
T. 11 N., R. 32 E.,
Sec. 20, S½NE¼, NW¼, S½;
Secs. 28, 30, 32.

The areas described aggregate 12,783.93 acres in Adams and Franklin Counties.

3. At 10 a.m. on January 2, 1971, the lands, except the S½ sec. 14, T. 16 N., R. 28 E., withdrawn by paragraph 1 of this order, shall be open to operation of the public land laws, including the U.S. mining laws, subject to valid existing rights the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 2, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals Program Management and Land Office, Bureau of Land Management, Portland, Oreg.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16227; Filed, Dec. 2, 1970; 8:50 a.m.]

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[Public Land Order 4955]

[Oregon 3414]

## OREGON

### Powersite Cancellation No. 269; Partial Cancellation of Powersite Classification No. 162

By virtue of the authority contained in section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. sec. 818 (1964), and pursuant to the determination of the Federal Power Commission in DA-538-Oregon, it is ordered as follows:

1. The departmental order of January 20, 1927, creating Powersite Classification No. 162, Oregon No. 16, is hereby canceled so far as it affects the following-described lands:

WILLAMETTE MERIDIAN

UMPQUA NATIONAL FOREST

T. 26 S., R. 5 E. (unsurveyed),
All lands within one-fourth mile of North Umpqua River and Lake Creek not previously withdrawn in connection with a Federal waterpower project. Protraction of public land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 6, 11, 12, 13, 14, 24, 25, 36.
T. 27 S., R. 5 E. (unsurveyed),
All lands within one-fourth mile of Lake Creek and all lands within one-fourth mile of Clearwater River below the mouth of Lava Creek. Protraction of public land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 1, 5, 6, 7, 8, 12, 13, 24, 25.
T. 26 S., R. 6 E. (unsurveyed),
All lands within one-fourth mile of Lake Creek, and all lands within one-fourth mile of North Umpqua River. Protraction of public land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 14, 15, 16, 17, 18, 19, 20, 30, 31.
T. 27 S., R. 6 E. (partially surveyed),
All lands within one-fourth mile of Lake Creek. Protraction of public land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 6, 7, 18, 19; and, by Interpretation No. 105 of March 3, 1928, sec. 30, lots 1 to 5, inclusive, W½E½, E½NW¼, NE¼SW¼; sec. 31, lots 1, 2, 3.

The areas described aggregate approximately 8,356.12 acres in Douglas County.

2. At 10 a.m. on January 2, 1971, the lands shall be open to such forms of disposition as may by law be made of national forest lands, subject to the withdrawal of any of the lands that might be embraced in an application filed for a license for Power Project No. 1927.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16206; Filed, Dec. 2, 1970; 8:48 a.m.]

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[Public Land Order 4956]

[Sacramento 1212]

## CALIFORNIA

### Powersite Cancellation No. 293; Partial Cancellation of Powersite Classification No. 179; Opening of Land Subject to Section 24 of the Federal Power Act

By virtue of the authority contained in the Act of March 3, 1879, 20 Stat. 394, 43 U.S.C. sec. 31, and in section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. sec. 818 (1964), and pursuant to a determination of the Federal Power Commission in DA-1084-California, it is ordered as follows:

1. The departmental order of May 13, 1927, creating Powersite Classification No. 179 is hereby canceled in so far as it pertains to the following described lands:

MOUNT DIABLO MERIDIAN

T. 22 N., R. 9 E.,
Sec. 32, N½N½NW¼SW¼.

The area described contains approximately 10 acres in Butte County.

2. In DA-1084-California, the Federal Power Commission vacated the withdrawals created pursuant to the filing of applications on September 14, 1921, and July 20, 1925, for Power Project No. 249, so far as they pertain to the following described lands:

MOUNT DIABLO MERIDIAN

T. 22 N., R. 9 E.,
Sec. 31, NE¼SE¼.

The area described contains approximately 40 acres in Butte County.

3. The Federal Power Commission also determined in DA-1084-California, that the power values of the lands described above in paragraphs 1 and 2 and the following described lands, all of which are withdrawn for Power Project No. 2088, would not be injured or destroyed for power purposes by location, entry, or selection, under the public land laws subject to section 24 of the Federal Power Act and subject to the inclusion in any instrument of conveyance of a covenant binding upon the patentee, its successors or assigns, providing that the use of the land will not endanger health, create a nuisance or otherwise be incompatible to the overall operation of Power Project No. 2088:

MOUNT DIABLO MERIDIAN

T. 20 N., R. 8 E.,
Sec. 16, SW¼NW¼SW¼SW¼SW¼, SW¼SW¼SW¼SW¼SW¼.

The area described contains approximately 3 acres in Butte County.

4. At 10 a.m. on January 2, 1971, the land described in paragraphs 1, 2, and 3, of this order shall be open to such forms of disposition as may by law be made of national forest lands, subject to the provisions of existing withdrawals and any disposal of the lands described herein shall be subject to the provisions of section 24 of the Federal Power Act, supra, and to the conditions specified by the Federal Power Commission in its DA-1084-California.

All of the lands described aggregating approximately 53 acres, are in the Plumas National Forest and are withdrawn from location and entry under the U.S. mining laws, by Public Land Order No. 3065 of May 6, 1963, and Public Land Order No. 4496 of July 15, 1968, in the Little Grass Valley Reservoir Recreation Area and the Lost Creek Recreation Area.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, Calif.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16207; Filed, Dec. 2, 1970; 8:48 a.m.]

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[Public Land Order 4957]

[Sacramento 3741]

## CALIFORNIA

### Withdrawal for National Forest Botanical Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

MOUNT DIABLO MERIDIAN

LOS PADRES NATIONAL FOREST

*Cuesta Ridge Botanical Area*

T. 29 S., R. 12 E.,
Sec. 26, S½SW¼;
Sec. 27, lots 3, 4, 5, and 7 to 14 inclusive;
Sec. 28, S½NE¼ and SE¼;
Sec. 34, lots 1, 2, 7, 8, and 9;
Sec. 35, W½NE¼, NW¼, and N½SW¼.

The areas described contain approximately 1,334 acres in San Luis Obispo County.

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

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

NOVEMBER 27, 1970.

[F.R. Doc. 70-16228; Filed, Dec. 2, 1970; 8:50 a.m.]

# Title 49—TRANSPORTATION

## Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-22; Amdt. 171-9]

## PART 171—GENERAL INFORMATION AND REGULATIONS

### Matter Incorporated by Reference

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to make current the address of the Bureau of Explosives, Association of American Railroads.

Since this amendment is of an informative nature and does not impose a burden on any person, notice and public procedure thereon are unnecessary. Therefore, this amendment is effective on the date of its publication in the FEDERAL REGISTER.

In consideration of the foregoing, 49 CFR Part 171 is amended as follows:

In § 171.7, paragraph (c)(4) is amended to read as follows:

§ 171.7 Matter incorporated by reference.

(c) * * *

(4) Bureau of Explosives: Bureau of Explosives, Association of American Railroads, American Railroads Building, 1920 L Street NW., Washington, DC 20036.

* * * * *

(Secs. 831-835, title 18, United States Code; sec. 9, Department of Transportation Act (49 U.S.C. 1657))

Issued in Washington, D.C., on November 27, 1970.

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

CARL V. LYON,
*Acting Administrator, Federal Railroad Administration.*

KENNETH L. PIERSON,
*Acting Director, Bureau of Motor Carrier Safety, Federal Highway Administration.*

SAM SCHNEIDER,
*Board Member, for the Federal Aviation Administration.*

[F.R. Doc. 70-16201; Filed, Dec. 2, 1970; 8:48 a.m.]

# Title 7—AGRICULTURE

## Subtitle A—Office of the Secretary of Agriculture

## PART 15—NONDISCRIMINATION

### Subpart A—Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

MISCELLANEOUS AMENDMENTS

The following amendments to 7 CFR, Subtitle A, Part 15, Subpart A, primarily represent uniform revisions being jointly adopted by the various departments and agencies of the United States Government to put into effect clarifications to the regulations issued pursuant to title VI of the Civil Rights Act of 1964.

Title 7, CFR, Subtitle A, Part 15, Subpart A, is hereby amended as follows:

§ 15.1 [Amended]

1. Section 15.1(a) is amended by inserting the language "of an applicant or recipient" immediately following the words "under any program or activity" so that the phrase reads "under any program or activity of an applicant or recipient receiving Federal financial assistance from the Department of Agriculture or any Agency thereof."

2. Section 15.1(b) is amended to read as follows:

(b) The regulations in this part apply to any program or activity of an applicant or recipient for which Federal financial assistance is authorized under a law administered by the Department including, but not limited to, the Federal financial assistance listed in the appendix to this part. They apply to money paid, property transferred, or other Federal financial assistance extended to an applicant or recipient for its program or activity after the effective date of these regulations pursuant to an application approved or statutory or other provision made therefor prior to such effective date. The regulations in this part do not apply to (1) any Federal financial assistance by way of insurance or guaranty

contract, (2) money paid, property transferred, or other assistance extended prior to the effective date of the regulations in this part, (3) any assistance to an applicant or recipient who is an ultimate beneficiary under any such program, or (4) except as provided in § 15.3(c), any employment practice of any employer, employment agency or labor organization. The fact that a specific kind of Federal financial assistance is not listed in the appendix, shall not mean, if title VI of the Act is otherwise applicable, that such Federal financial assistance is not covered. Other Federal financial assistance under statutes now in force or hereinafter enacted may be added to this list by notice approved and issued by the Secretary and published in the FEDERAL REGISTER.

3. Section 15.2 (b) and (d) are amended to read as follows:

§ 15.2 Definitions.

* * * * *

(b) "Agency" means any service, bureau, agency, office, administration, instrumentality of or corporation within the U.S. Department of Agriculture extending Federal financial assistance to any program or activity, or any officer or employee of the Department to whom the Secretary delegates authority to carry out any of the functions or responsibilities of an agency under this part.

* * * * *

(d) "Hearing Officer" means a hearing examiner appointed pursuant to 5 U.S.C. 3105, and designated to hold hearings under the regulations in this part or any person authorized to hold a hearing and make a final decision under the regulations in this part.

* * * * *

§ 15.3 [Amended]

4. Section 15.3(a) is amended by inserting the language "or activity of the applicant or recipient" immediately following the language "under any program" so that the phrase reads "under any program or activity of the applicant or recipient to which the regulations in this part apply."

5. Section 15.3(b) is amended by inserting a new subparagraph (3) reading as follows:

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any of its activities or programs to which the regulations in this part apply, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and the regulations in this part.

6. In § 15.3(b), the present subparagraphs (3) and (4) are renumbered (4) and (5), respectively, and the renumbered subparagraph (4) is amended to read as follows:

(4) As used in this section, the services, financial aid, or other benefits provided under a program or activity of an applicant or recipient receiving Federal financial assistance shall be deemed to include any and all services, financial aid, or other benefit provided in or through a facility provided or improved in whole or part with the aid of Federal financial assistance.

7. Section 15.3(b) is further amended by adding the following new subparagraph (6) at the end thereof:

(6) The regulations in this part do not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity of the applicant or recipient receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity of the applicant or recipient to which the regulations in this part apply, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act and the regulations in this part.

8. Section 15.3(c) is amended by adding the following at the end thereof: "Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulations in this part, tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity of the applicant or recipient to which the regulations in this part apply, the foregoing provisions of this paragraph shall apply to the employment practices of the recipient or other persons subject to the regulations in this part, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries. The requirements applicable to construction employment under any program or activity of the applicant or recipient shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it."

§ 15.4 [Amended]

9. Section 15.4(a) (1) and (2) is amended to read as follows:

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which the regulations in this part apply, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility, shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the applicant's program or activity will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to the act and the regulations in this part. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property, or interest therein, or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The Agency shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors, and subcontractors, successors in interest and other participants. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired through Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision or similar services or benefits, or for as long as the recipient retains ownership or possession of the property, which ever is longer. Where no transfer of property is involved, but property is improved through Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant where, in the discretion of the Agency concerned, such a condition and right of reverter is appropriate to the purposes of the Federal financial assistance under which the real property is obtained and to the nature of the grant and the grantee. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Agency may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate,

to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

10. Section 15.4(b) is amended to read as follows:

(b) Every application by a State or a State Agency, including a State Extension Service, but not including an application for aid to an institution of higher education, to carry out its program or activity involving continuing Federal financial assistance to which the regulations in this part apply shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the Agency to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the regulations in this part: *Provided*, That where no application is required prior to payment, the State or State Agency, including a State Extension Service, shall, as a condition to the extension of any Federal financial assistance, submit an assurance complying with the requirements of subparagraphs (1) and (2) of this paragraph.

11. Section 15.4(e) is amended by substituting for the language "U.S. Commissioner of Education" and "Commissioner", where said language appears, the language "responsible official of the Department of Health, Education, and Welfare", and by inserting the phrase "within the earliest practical time" immediately following the language "determines is adequate to accomplish the purposes of the Act and this part" in the first sentence.

§ 15.9 [Amended]

12. Section 15.9(d) is amended by substituting for the language "Sections 5–8 of the Administrative Procedure Act", where said language appears, the language "5 U.S.C. 554–557".

13. Section 15.10 is amended by adding the following new paragraph (g) at the end thereof:

§ 15.10 Decisions and notices.

* * * * *

(g) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with the Act and the regulations in this part and provides reasonable assurance that it will fully comply therewith. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 15.4 (a), (b), or (d) shall be restored to full eligibility to receive Federal financial assistance if it complies with the requirements of § 15.4(e), and is otherwise in compliance with the Act and the regulations in this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the Secretary to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Secretary determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the Secretary denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes the denial to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure set forth in Subpart C of this part. The applicant or recipient will be restored to such eligibility if it proves at such a hearing, that it has satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 15.12 [Amended]

14. Section 15.12(a) is amended by substituting for the language "(1) Executive Orders 10925 and 11114" where such language appears, the language "(1) Executive Order 11246".

15. Section 15.12(c) is amended by adding the following new sentence at the end thereof: "Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting under this paragraph shall have the same effect as though such action had been taken by the Secretary or an Agency of this Department."

16. The introductory heading of the appendix to the regulations in this part is revised to read as follows: "Federal Financial Assistance of the Department of Agriculture Covered by Title VI of the Civil Rights Act of 1964".

(Sec. 602, 78 Stat. 252, 42 U.S.C. 2000d, and the laws referred to in the appendix)

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

Approved: November 28, 1970.

CLIFFORD M. HARDIN,
*Secretary of Agriculture.*

[F.R. Doc. 70-16234; Filed, Dec. 2, 1970; 8:50 a.m.]

[Amdt. 3]

## PART 20—LIMITATION ON IMPORTS OF MEAT

### Subpart—Section 204 Import Regulations

RESTRICTION ON IMPORTATION OF MEAT FROM COSTA RICA

Section 20.3 is amended by adding a new paragraph prohibiting the importation of meat in excess of 36.3 million pounds from Costa Rica during the calendar year 1970. This regulation is issued with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations to carry out a bilateral agreement negotiated with the Government of Costa Rica pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854). Since the action taken herewith has been determined to involve foreign affairs functions of the United States, this amendment and the request to the Commissioner of Customs, being necessary to the implementation of such action, fall within the foreign affairs exception to the notice and effective date provision of 5 U.S.C. 553 (Supp. V, 1970).

The subpart, Section 204 Import Regulations of Part 20, Subtitle A of Title 7 (35 F.R. 10837, 11613, 16398) is amended by adding to § 20.3 the following new paragraph:

§ 20.3 Restrictions.

* * * * *

(d) *Imports from Costa Rica.* No more than 36.3 million pounds of meat which is the product of Costa Rica may be entered, or withdrawn from warehouse, for consumption in the United States during the calendar year 1970. Appendix D hereto sets forth a letter to the Commissioner of Customs concurred in by the Secretary of State and Special Representative for Trade Negotiations requesting this limitation be placed in effect.

*Effective date.* The regulation contained in the amendment shall become effective upon publication in the FEDERAL REGISTER but meat released under the provisions of section 448(b) of the Tariff Act of 1930 (19 U.S.C. 1448(b)) prior to such date shall not be denied entry.

(Sec. 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854); E.O. 11539)

Issued at Washington, D.C., this 1st day of December 1970.

J. PHIL CAMPBELL,
*Acting Secretary of Agriculture.*

APPENDIX D

HONORABLE MYLES J. AMBROSE,
*Commissioner of Customs,*
*Department of the Treasury,*
*Washington, D.C. 20220.*

DEAR MR. AMBROSE: A bilateral agreement has been negotiated with the Government of Costa Rica pursuant to section 204 of the Agricultural Act of 1956, limiting the export from Costa Rica and the importation into the United States of fresh, chilled, or frozen cattle meat (item 106.10 of the Tariff Schedules of the United States) and fresh, chilled, or frozen meat of goats and sheep, except lambs (item 106.20 of the Tariff Schedules of the United States), during the calendar year 1970. In accordance with the authority delegated by E.O. 11539, dated June 30, 1970, the Secretary of Agriculture is, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, issuing a regulation to assist in carrying out this bilateral agreement.

This regulation provides that no more than 36.3 million pounds of meat of the above description, the product of Costa Rica, may be entered, or withdrawn from warehouse, for consumption in the United States during

the calendar year 1970. This regulation will constitute amendment 3 to the section 204 Import Regulation (35 F.R. 10637, 11613, 16398). A copy of this regulation, which will be published in the FEDERAL REGISTER, is enclosed.

In accordance with E.O. 11539, you are requested to take such action as is necessary to implement this regulation. This request is made with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations.

Sincerely,

RAYMOND A. IOANES,
*Administrator,*
*Foreign Agricultural Service.*

[F.R. Doc. 70-16291; Filed, Dec. 2, 1970; 8:52 a.m.]

## Chapter III—Agricultural Research Service, Department of Agriculture

## PART 319—FOREIGN QUARANTINE NOTICES

### Subpart—Fruits and Vegetables

PORTS OF ENTRY

Pursuant to the authority conferred by § 319.56-2 of the regulations (7 CFR 319.56-2) supplemental to the Fruit and Vegetable Quarantine (Notice of Quarantine No. 56, 7 CFR 319.56), under sections 5 and 9 of the Plant Quarantine Act of 1912 (7 U.S.C. 159, 162), § 319.56-2h(a)(1) is amended to read as follows:

**§ 319.56-2h Administrative instructions prescribing method of treatment of garlic from specified countries.**

(a) (1) Except as otherwise provided in these administrative instructions, fumigation with methyl bromide in vacuum fumigation chambers approved by the Director of the Plant Quarantine Division is a condition of entry under permit for all shipments of garlic (*Allium sativum*) from Algeria, Austria, Czechoslovakia, Egypt, France, Greece, Hungary, Iran, Israel, Italy, Morocco, Portugal, South Africa (Republic of), Spain, Switzerland, Syria, Turkey, Union of Soviet Socialist Republics, West Germany, and Yugoslavia. Fumigation is to be carried out under the supervision of a plant quarantine inspector and at the expense of the importer. While it is believed that the garlic will be unaffected by the fumigation, the treatment will be at the importer's risk. Such entry will be limited to ports named in the permits, where approved facilities for vacuum fumigation with methyl bromide are available.

* * * * *

(Secs. 5, 9, 37 Stat. 316, 318, 7 U.S.C. 159, 162; 29 F.R. 16210, as amended, and 33 F.R. 15485, as amended; 7 CFR 319.56-2)

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

The main purpose of this amendment is to remove Boston, Mass., from the list of ports that have approved vacuum fumigation facilities. Such facilities are no longer available in Boston. This action is necessary because Boston is currently listed as an entry port for garlic and vacuum fumigation is a condition of entry for the importation of garlic from the specified countries.

In addition to the deletion of Boston from the list of approved entry ports, the ports of Baltimore, Md., Los Angeles, Calif., New Orleans, La., New York, N.Y., Norfolk, Va., San Juan, P.R., San Francisco, Calif, and Seattle, Wash, are removed. Under present § 319.56-2, the authorized ports of entry are named in the permit and permits to import garlic from the specified countries are issued only for ports where vacuum fumigation facilities are available.

Commercial treatment facilities are subject to change and cessation of operation from time to time. Since the specific ports of entry are named in each permit under existing provisions, the naming of the ports in these instructions is unnecessary.

This amendment does not involve any substantive change in the effect of the regulations; therefore, under the administrative procedure provisions of 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 the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 30th day of November 1970.

[SEAL] H. S. SHIRAKAWA,
*Acting Director,*
*Plant Quarantine Division.*

[F.R. Doc. 70-16235; Filed, Dec. 2, 1970; 8:50 a.m.]

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

[Navel Orange Reg. 215]

## PART 907 — NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

**§ 907.515 Navel Orange Regulation 215.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 1, 1970.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 4, 1970, through December 10, 1970, are hereby fixed as follows:

(i) District 1: 990,000 cartons;

(ii) District 2: 76,014 cartons;

(iii) District 3: 110,000 cartons.

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

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

Dated: December 2, 1970.

ARTHUR E. BROWNE,
*Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[F.R. Doc. 70-16363; Filed, Dec. 2, 1970; 11:24 a.m.]

# Title 10—ATOMIC ENERGY

## Chapter I—Atomic Energy Commission

## PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

## PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

### Control of Releases of Radioactivity to the Environment

*Statement of considerations.* On April 1, 1970, the Atomic Energy Commission published in the FEDERAL REGISTER (35 F.R. 5414) proposed amendments to 10 CFR Parts 20 and 50 of its

regulations which would: (a) Improve the framework in Part 20 for assuring that reasonable efforts are made by all Commission licensees to continue to keep exposures to radiation, and releases of radioactivity in effluents as low as practicable, and (b) specify in Part 50 design and operating requirements to minimize quantities of radioactivity released in gaseous and liquid effluents from light-water-cooled nuclear power reactors. Interested persons were invited to submit written comments and suggestions for consideration within 60 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. After consideration of the comments and other factors involved, the Commission has adopted the proposed amendments with certain modifications discussed below.

The scope of the amendments to Part 50 has been expanded to include all nuclear power reactors rather than light-water-cooled power reactors only. The Commission is giving further consideration to appropriate amendments to its regulations to specify design and operating requirements to minimize radiation exposures from radioactivity released in effluents from other types of production and utilization facilities such as fuel reprocessing plants.

Several comments noted that at the time the application for a permit to construct a nuclear power reactor is submitted design has not progressed to the point where specific equipment to be installed for control of gaseous and liquid effluents can be described in detail. Accordingly, proposed § 50.34a (a) and (b) have been modified to require only a description of the preliminary design of equipment to be installed.

Some comments suggested that "curie quantities of radionuclides" required to be estimated in the application for a construction permit in proposed § 50.34a (b)(2) could be construed to mean either the total quantity of each potential radionuclide or the total number of curies of all radionuclides combined. This provision has been modified to require that an estimate of the quantity of each of the principal radionuclides expected to be released annually to unrestricted areas be included in each application for a permit to construct a nuclear power reactor. Section 50.34a(c) has been changed to require a description of the equipment and procedures for the control of effluents and for the maintenance and use of equipment installed in radioactive waste treatment systems, and revised estimates of the releases and exposures which would be expected if significantly different from those given in the application for a construction permit.

Section 50.36a(a)(2) has been revised to allow 60 days, rather than the proposed 30 days, after January 1 and July 1 of each year for filing reports by power reactor licensees on releases of radioactive materials in effluents. The provision of the proposed subparagraph that, if quantities of radioactive materials released during the reporting period are unusual for normal reactor operations, including expected operational occurences, the report shall cover this specifically, has been modified to substitute the words "significantly above design objectives" for "unusual for normal reactor operations". A number of comments suggested that this subparagraph be more specific with respect to the information that will be required by the Commission to enable it to estimate exposures to the public resulting from effluent releases. The Commission has developed and will publish in the near future specific details as to the information that must be included in the 6-month reports, required by the technical specifications in power reactor licenses, including the format for reporting the information. This information, including estimates of exposures to the public resulting from releases of radioactive materials in effluents from nuclear powerplants, will be published by the Commission on a systematic basis so that it will be readily available to all interested persons.

A substantial number of comments were received regarding the interpretation of various terms used in the proposed amendments such as "every reasonable effort" and "as low as practicable" and suggesting that the Commission develop more definitive criteria for keeping releases of radioactivity in nuclear power reactor effluents as low as practicable. Definition of factors that will be taken into account in determining that radioactivity in effluents is "as low as practicable" has been added to the amendments. The Commission recognizes the desirability of developing more definitive guidance in connection with these amendments, and is initiating discussions with the nuclear power industry and other competent groups to achieve this goal.

*Basis for AEC standards.* Releases of radioactive materials in effluents by Commission licensees are regulated under the provisions of 10 CFR 20.106 which apply to all uses of byproduct, source, and special nuclear material licensed by the Commission. These provisions are based on radiation protection guides recommended by the Federal Radiation Council (FRC) and approved by the President. The Commission maintains close consultation, and will continue to consult, with the National Council on Radiation Protection and Measurements, and the International Commission on Radiological Protection.

Since 1959 official guidance for control of exposures to radiation has been provided to Federal agencies through recommendations of the FRC, approved by the President. The FRC was established in 1959 by Executive order and by an amendment to the Atomic Energy Act of 1954 (42 U.S.C. 2021(h)). The FRC is directed to advise the President "* * * with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States." The basic recommendations of the FRC are generally consistent with those of the National Council on Radiation Protection and Measurements (NCRP) and the International Commission on Radiological Protection (ICRP). The FRC recommendations include a radiation protection guide for the genetic exposure of the entire population at a level not quite twice the average natural background radiation level and for a whole body exposure of individuals in the population at a level about five times the average natural background radiation. The guides are set well below the level at which detectable biological effects from exposure to radiation are expected to occur. The FRC states in Report No. 1 dated May 13, 1960, that the guides give appropriate consideration to the requirements of health protection and the beneficial uses of radiation and atomic energy.

*Guidance on low radiation doses.* The FRC added to the numerical guidance on maximum limits the further guidance that "every effort should be made to encourage the maintenance of radiation doses as far below this guide as practicable". Similar statements are also included in NCRP and ICRP recommendations.

The Commission has always subscribed to the general principle that, within radiation protection guides, radiation exposures to the public should be kept as low as practicable. This general principle has been a central one in the field of radiation protection for many years. Current reviews of reactor licensing applications include reviews of provisions to limit and control radioactive effluents from the plants.

Experience has shown that licensees have generally kept exposures to radiation and releases of radioactivity in effluents to levels well below the Part 20 limits. Specifically, experience with licensed nuclear power reactors to date shows that radioactivity in water and air effluents has been kept at low levels—for the most part small percentages of the limits specified in 10 CFR Part 20. Resultant exposures to the public living in the immediate vicinity of operating power reactors have usually been small percentages of FRC guides. The Commission believes that, in general, the releases of radioactivity in effluents from the nuclear power reactors now in operation have been within ranges that may be considered "as low as practicable." The Commission also believes that, as a result of advances in reactor technology, further reduction of those releases can be achieved. The results to date are attributable, in part, to steps to assure the integrity of the nuclear fuel, to the design of waste treatment systems to control and contain radioactivity, and to procedures and methods to limit releases of radioactive material to unrestricted areas in effluent water and air. The AEC's total regulatory program includes not only the standards and limits in 10 CFR Part 20, but other regulations as well, various restrictions on plant design and restrictions on operation included in indvidual operating licenses.

*Control of exposures from several different sources.* The Commission expects that releases of radioactive material in

effluents from nuclear power reactors under the present system of regulation will continue to be low. At the same time, the Commission recognizes that there will be a marked increase in the number and size of nuclear power reactors in operation in the future, and that other activities that contribute radiation exposure to the public can be expected to increase.

*Design objectives for nuclear power reactors.* The amendments to Part 50 set out below are intended to give appropriate regulatory effect, with respect to radioactivity in effluents from nuclear power reactors, to the guidance of the FRC that radiation doses should be kept as far below the radiation protection guides as practicable. As in the past, an application for a permit to construct a nuclear power reactor will be required to include a description of the preliminary design of equipment to be installed to maintain control over radioactive materials in effluents during normal reactor operations, including expected operational occurrences. In addition, in the case of an application filed on or after the effective date of the amendments, the application will be required to identify the design objectives, and the means to be employed, for keeping levels of radioactive material released in effluents as low as practicable. As in current practice the Commission will review the proposed design of the reactor, including the waste treatment equipment and the description of procedures for the maintenance and use of the equipment, to determine whether the required design objectives are met.

Each license authorizing operation of a nuclear power reactor will include technical specifications which require adherence to operating procedures for control of effluents and the maintenance and use of equipment installed in the waste treatment system, and the submission of semiannual reports containing information on quantities of radioactive material released. If quantities released during the reporting period are significantly above design objectives, the licensee will be required to cover this specifically in its report. The effluent release data submitted by licensees will be compiled by the Commission and made available to the public. The Commission will review in its inspection and enforcement program the effectiveness of the maintenance and operating procedures used by licensees in meeting the objective of minimizing, to the extent practicable, the quantities of radioactivity released in air and water effluents.

On the basis of existing technology and past operating experience the Commission expects that nuclear power reactor waste treatment systems designed and operated in accordance with the requirements set forth in the following amendments to Part 50 will help to assure that releases from nuclear power reactors will generally not exceed small percentages of the annual maximum limits specified in Part 20 and in license conditions, and that radiation exposures to the public resulting from the normal operations of nuclear power reactors will not exceed small percentages of exposures from natural background radiation.

*Need for flexibility of operation.* It is necessary that nuclear power reactors designed for generation of electricity have a very high degree of reliability. Operating flexibility is necessary to take into account some variation in the small quantities of radioactivtiy, as a result of expected operational occurrences, which may temporarily result in levels of radioactive effluents in excess of the low levels normally released, but still within the limits specified in § 20.106 of Part 20 and the operating license.

*Monitoring.* The Commission will continue to evaluate exposures to the public from releases of radioactivity in effluents from nuclear power reactors. Reactor licensees are presently required to carry out monitoring programs designed not only to determine levels of radioactivity in effluents released from the plant but also to detect significant increases in levels of radioactivity in the environment. The licensee is required to report these data to the Commission on a periodic basis. In addition, the Commission, the U.S. Public Health Service and several States carry out environmental surveillance programs. These programs are designed to detect and evaluate increases in environmental levels that may be significant to human exposure. The Atomic Energy Commission in cooperation with other participating agencies as appropriate will systematically publish these data so that they will be available to all interested persons.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 20 and 50, are published as a document subject to codification, to be effective thirty (30) days after publication in the FEDERAL REGISTER. The Commission invites all interested persons who desire to submit written comments or suggestions in connection with the amendments to send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Consideration will be given such submission with the view to possible further amendments. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

1. A new paragraph (c) is added to § 20.1 of 10 CFR Part 20 to read as follows:

**§ 20.1 Purpose.**

* * * * *

(c) In accordance with recommendations of the Federal Radiation Council, approved by the President, persons engaged in activities under licenses issued by the Atomic Energy Commission pursuant to the Atomic Energy Act of 1954, as amended, should, in addition to complying with the requirements set forth in this part, make every reasonable effort to maintain radiation exposures, and releases of radioactive materials in effluents to unrestricted areas, as far below the limits specified in this part as practicable. The term "as far below the limits specified in this part as practicable" means as low as is practicably achievable taking into account the state of technology, and the economics of improvements in relation to benefits to the public health and safety and in relation to the utilization of atomic energy in the public interest.

2. A new § 50.34a is added to 10 CFR Part 50 to read as follows:

**§ 50.34a Design objectives for equipment to control releases of radioactive material in effluents—nuclear power reactors.**

(a) An application for a permit to construct a nuclear power reactor shall include a description of the preliminary design of equipment to be installed to maintain control over radioactive materials in gaseous and liquid effluents produced during normal reactor operations, including expected operational occurrences. In the case of an application filed on or after January 2, 1971, the application shall also identify the design objectives, and the means to be employed, for keeping levels of radioactive material in effluents to unrestricted areas as low as practicable. The term "as low as practicable" as used in this part means as low as is practicably achievable taking into account the state of technology, and the economics of improvements in relation to benefits to the public health and safety and in relation to the utilization of atomic energy in the public interest.

(b) Each application for a permit to construct a nuclear power reactor shall include:

(1) A description of the preliminary design of equipment to be installed pursuant to paragraph (a) of this section;

(2) An estimate of:

(i) The quantity of each of the principal radio-nuclides expected to be released annually to unrestricted areas in liquid effluents produced during normal reactor operations; and

(ii) The quantity of each of the principal radio-nuclides of the gases, halides, and particulates expected to be released annually to unrestricted areas in gaseous effluents produced during normal reactor operations.

(3) A general description of the provisions for packaging, storage, and shipment offsite of solid waste containing radioactive materials resulting from treatment of gaseous and liquid effluents and from other sources.

(c) Each application for a license to operate a nuclear power reactor shall include (1) a description of the equipment and procedures for the control of gaseous and liquid effluents and for the maintenance and use of equipment installed in radioactive waste systems, pursuant to paragraph (a) of this section; and (2) a revised estimate of the information required in paragraph (b)(2) of this section if the expected releases and exposures differ significantly from the

estimates submitted in the application for a construction permit.

3. A new § 50.36a is added to 10 CFR Part 50 to read as follows:

**§ 50.36a Technical specifications on effluents from nuclear power reactors.**

(a) In order to keep releases of radioactive materials to unrestricted areas during normal reactor operations, including expected operational occurrences, as low as practicable, each license authorizing operation of a nuclear power reactor will include technical specifications that, in addition to requiring compliance with applicable provisions of § 20.106 of this chapter, require:

(1) That operating procedures developed pursuant to § 50.34a(c) for the control of effluents be established and followed and that equipment installed in the radioactive waste system, pursuant to § 50.34a(a) be maintained and used.

(2) The submission of a report to the Commission within 60 days after July 1 of 1971, and within 60 days after January 1 and July 1 of each year thereafter, specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 6 months of operation, and such other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. If quantities of radioactive materials released during the reporting period are significantly above design objectives, the report shall cover this specifically. On the basis of such reports and any additional information the Commission may obtain from the licensee or others, the Commission may from time to time require the licensee to take such action as the Commission deems appropriate.

(b) In establishing and implementing the operating procedures described in paragraph (a) of this section, the licensee shall be guided by the following considerations: Experience with the design, construction and operation of nuclear power reactors indicates that compliance with the technical specifications described in this section will keep average annual releases of radioactive material in effluents at small percentages of the limits specified in § 20.106 of this chapter and in the operating license. At the same time, the licensee is permitted the flexibility of operation, compatible with considerations of health and safety, to assure that the public is provided a dependable source of power even under unusual operating conditions which may temporarily result in releases higher than such small percentages, but still within the limits specified in § 20.106 of this chapter and the operating license. It is expected that in using this operational flexibility under unusual operating conditions, the licensee will exert his best efforts to keep levels of radioactive material in effluents as low as practicable.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 27th day of November 1970.

For the Atomic Energy Commission.

W. B. McCool,
*Secretary of the Commission.*

[F.R. Doc. 70-16213; Filed, Dec. 2, 1970; 8:49 a.m.]

# Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

## Chapter I—Veterans Administration

## PART 36—LOAN GUARANTY

### Maximum Interest Rate

1. In § 36.4311, paragraph (a) is amended to read as follows:

**§ 36.4311 Interest rates.**

(a) Excepting non-real-estate loans insured under 38 U.S.C. 1815 and loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 8 per centum per annum, effective December 2, 1970, the interest rate on any loan guaranteed or insured wholly or in part on or after such date may not exceed 8 per centum per annum on the unpaid principal balance.

* * * * *

2. In § 36.4503, paragraph (a) is amended to read as follows:

**§ 36.4503 Amount and amortization.**

(a) The original principal amount of any loan made on or after May 7, 1968, shall not exceed an amount which bears the same ratio to $21,000 (or to such increased maximum as the Administrator may from time to time specify for the area in which the loan is made pursuant to section 1811(d) of title 38, United States Code) as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $12,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Effective December 2, 1970, loans made by the Veterans Administration shall bear interest at the rate of 8 percent per annum.

* * * * *

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

These VA regulations are effective December 2, 1970.

Approved: December 1, 1970.

By direction of the Administrator.

[SEAL] Fred B. Rhodes,
*Deputy Administrator.*

[F.R. Doc. 70-16301; Filed, Dec. 2, 1970; 9:39 a.m.]

# Proposed Rule Making

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### [ 26 CFR Part 1 ]

### ELECTION RELATING TO CROP INSURANCE PROCEEDS

### Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 451(d) of the Internal Revenue Code of 1954 to section 215 of the Tax Reform Act of 1969 (83 Stat. 573), such regulations are amended as follows:

PARAGRAPH 1. Section 1.451 is amended by adding a new subsection (d) to section 451 and by revising the historical note. These amended and added provisions read as follows:

**§ 1.451 Statutory provisions; general rule for taxable year of inclusion.**

SEC. 451. *General rule for taxable year of inclusion.* * * *

(d) *Special rule for crop insurance proceeds.* In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such proceeds in income for the taxable year following the taxable year of destruction or damage, if he establishes that, under his practice, income from such crops would have been reported in a following taxable year. An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary or his delegate prescribes.

[Sec. 451 as amended by sec. 313(b), Social Security Amendments, 1965 (79 Stat. 382); by sec. 215, Tax Reform Act, 1969 (83 Stat. 573)]

PAR. 2. There is inserted immediately after § 1.451–4 the following new section:

**§ 1.451–5 Election to include crop insurance proceeds in gross income in the taxable year following the taxable year of destruction or damage.**

(a) *In general.* (1) For taxable years ending after December 30, 1969, a taxpayer reporting gross income on the cash receipts and disbursements method of accounting may elect to include insurance proceeds received as a result of the destruction of, or damage to, crops in gross income for the taxable year following the taxable year of such destruction or damage, if the taxpayer establishes that, under his normal business practice, the income from such crops would have been included in gross income for any taxable year following the taxable year of such destruction or damage. However, if the taxpayer receives such insurance proceeds in the taxable year following the taxable year of such destruction or damage, then he shall include such proceeds in gross income for the taxable year of receipt without having to make an election under section 451(d) and this section.

(2) In the case of a taxpayer who receives insurance proceeds as a result of the destruction of, or damage to, two or more specific crops, if such proceeds may, under section 451(d) and this section, be included in gross income for the taxable year following the taxable year of such destruction or damage, and if such taxpayer makes an election under section 451(d) and this section with respect to any portion of such proceeds, then such election will be deemed to cover all of such proceeds which are attributable to crops representing a single trade or business under section 446(d). A separate election must be made with respect to insurance proceeds attributable to each crop which represents a separate trade or business under section 446(d).

(b) *Time and manner of making election.* The election by a taxpayer to include in gross income insurance proceeds received as a result of destruction of, or damage to, the taxpayer's crops in the taxable year following the taxable year of such destruction or damage must be made at the time the taxpayer files his return for the taxable year of destruction or damage. The election shall be made by attaching to such return a separate statement signed by the taxpayer, which statement must contain the following information:

(1) A declaration that the taxpayer is making an election under section 451 (d) and this section;

(2) Identification of the specific crop or crops destroyed or damaged;

(3) A declaration that under the taxpayer's normal business practice the income derived from the crops which were destroyed or damaged would have been included in his gross income for a taxable year following the taxable year of such destruction or damage;

(4) The cause of destruction or damage of crops and the date or dates on which such destruction or damage occurred;

(5) The total amount of payments received from insurance carriers, itemized with respect to each specific crop and with respect to the date each payment was received;

(6) The name(s) of the insurance carrier or carriers from whom payments were received.

[F.R. Doc. 70-16211; Filed, Dec. 2, 1970; 8:48 a.m.]

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### [ 26 CFR Part 1 ]

### AVERAGE BASIS FOR REGULATED INVESTMENT COMPANY STOCK

### Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1955 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to provide an alternative method of determining the cost or other basis of certain regulated investment company stock, the Income Tax Regulations (26 CFR Part 1) under sections

1012 and 1091 of the Internal Revenue Code of 1954 are amended as follows:

PARAGRAPH 1. Section 1.1012–1 is amended by redesignating paragraph (e) as paragraph (f), and by inserting immediately after paragraph (d) a new paragraph (e). These redesignated and added provisions read as follows:

§ 1.1012–1 Basis of property.

* * * * *

(e) *Election as to certain regulated investment company stock*—(1) *In general.* (i) Notwithstanding paragraph (c) of this section, and except as provided in subdivision (ii) of this subparagraph, if—

(*a*) Shares of stock of a regulated investment company (as defined in subparagraph (5) of this paragraph) are left by a taxpayer in the custody of an agent in an account maintained for the periodic acquisition or redemption of shares of such company, and

(*b*) The taxpayer purchased or acquired shares of stock held in the account at different prices or bases,

the taxpayer may elect to determine the cost or other basis of shares of stock he sells or transfers from such account by using the method described in this paragraph. The cost or other basis determined in accordance with such method shall be known as the "average basis." For purposes of this paragraph, the term "share" or "shares" shall include fractions of a share.

(ii) This paragraph shall not apply to any account which contains shares which were acquired by the taxpayer by gift after December 31, 1920, if the basis of such shares (adjusted for the period before the date of the gift as provided in section 1016) in the hands of the donor or the last preceding owner by whom it was not acquired by gift was greater than the fair market value of such shares at the time of the gift. However, shares acquired by a taxpayer as a result of a taxable dividend or a capital gain distribution from such an account may be included in an account to which this paragraph applies.

(2) *Determination of average basis.* All shares in an account at the time of each sale or transfer shall be divided into two categories. The first category shall include all shares in such account having, at the time of the sale or transfer, a holding period of more than 6 months (the "more-than-6-months" category), and the second category shall include all shares in such account having, at such time, a holding period of 6 months or less (the "6-months-or-less" category). The cost or other basis of each share in the more-than-6-months category shall be an amount equal to the remaining aggregate cost or other basis of all shares in that category at the time of the sale or transfer divided by the aggregate number of shares in that category at such time, and the cost or other basis of each share in the 6-months-or-less category shall be similarly determined.

(3) *Order of disposition of shares sold or transferred.* Prior to a sale or transfer of shares from an account, the taxpayer may specify, to the agent having custody of the account, from which category (described in subparagraph (2) of this paragraph) the shares are to be sold or transferred. Shares shall be deemed sold or transferred from the category specified without regard to the stock certificates, if any, actually delivered if, within a reasonable time thereafter, confirmation of such specification is set forth in a written document from the agent having custody of the account. In the absence of such specification or confirmation, shares sold or transferred shall be charged against the more-than-6-months category. However, if the number of shares sold or transferred exceeds the number in such category, the additional shares sold or transferred shall be charged against the shares in the 6-months-or-less category. Any gain or loss attributable to a sale or transfer which is charged against shares in the more-than-6-months category shall constitute long-term gain or loss, and any gain or loss attributable to a sale or transfer which is charged against shares in the 6-months-or-less category shall constitute short-term gain or loss. As to adjustments from wash sales, see section 1091(d) and subparagraph (4) (iii) and (iv) of this paragraph.

(4) *Special rules with respect to shares from the 6-months-or-less category.* (i) After the taxpayer's holding period with respect to a share is more than 6 months, such share shall be changed from the 6-months-or-less category to the more-than-6-months category. For purposes of such change, the basis of a changed share shall be its actual cost or other basis to the taxpayer or its basis determined in accordance with the rules contained in subdivision (ii) (*b*) of this subparagraph if the rules of such subdivision are applicable.

(ii) If, during the period that shares are in the 6-months-or-less category some but not all of the shares in such category are sold or transferred, then—

(*a*) The shares sold or transferred (the basis of which was determined in the manner prescribed by subparagraph (2) of this paragraph) shall be assumed to be those shares in such category which were earliest purchased or acquired, and

(*b*) The basis of those shares which are not sold or transferred and which are changed from the 6-months-or-less category to the more-than-6-months category shall be the average basis of the shares in the 6-months-or-less category at the time of the most recent sale or transfer of shares from such category. For such purposes, the average basis shall be determined in the manner prescribed in subparagraph (2) of this paragraph.

(iii) Paragraph (a) of § 1.1091–2 contains examples which illustrate the general application of section 1091(d), relating to unadjusted basis in the case of a wash sale of stock. However, in the case of certain wash sales of stock from the 6-months-or-less category, the provisions of section 1091(d) shall be applied in the manner described in subdivision (iv) of this subparagraph.

(iv) In the case of a wash sale of stock (determined in accordance with the provisions of section 1091) from the 6-months-or-less category which occurs after the acquisition of shares of stock into such category, the aggregate cost or other basis of all shares remaining in the 6-months-or-less category after such sale shall be increased by the amount of the loss which is not deductible because of the provisions of section 1091 and the regulations thereunder. The provisions of this subdivision may be illustrated by the following example:

*Example.* Assume the following acquisitions to, and sale from, the 6-months-or-less category:

6-MONTHS-OR-LESS CATEGORY

| Date | Action | Number Shares | Price/ Share | Aggregate |
|---|---|---|---|---|
| 1-5-71 | Purchase | 10 | $110 | $1,100 |
| 2-5-71 | Purchase | 10 | 100 | 1,000 |
| 3-5-71 | Purchase | 10 | 90 | 900 |
| Average | | 30 | 100 | 3,000 |
| 3-15-71 | Sale | 10 | 90 | 900 |
| | Loss | 10 | 10 | 100 |

In this example, the unadjusted basis of the shares remaining in the account after the sale is $2,000 (aggregate basis of $3,000 before the sale, less $1,000, the aggregate basis of the shares sold after the averaging of costs). The adjusted basis of the shares remaining in the 6-months-or-less category after the sale and after adjustment is $2,100 (the unadjusted basis of $2,000, plus the $100 loss resulting from the sale).

(5) *Definition.* For purposes of this paragraph, a "regulated investment company" means any domestic corporation (other than a personal holding company as defined in section 542) which is registered at all times during the taxable year under the Investment Company Act of 1940, as amended (15 U.S.C. 80a–1 to 80b–2), as an open-end management company, and which meets the limitations of section 851(b) and § 1.851–2.

(6) *Election.* (i) An election to adopt the method described in this paragraph shall be made in an income tax return for the first taxable year ending on or after December 31, 1970, for which the taxpayer desires the election to apply. Such return must be filed within the time prescribed by law (including extensions thereof) for filing such return. If the election is made, the taxpayer shall clearly indicate on his income tax return for each year to which the election is applicable that an average basis has been used in reporting gain or loss from the sale or transfer of shares sold or transferred. A taxpayer making the election shall maintain records substantiating the average basis (or bases) used on his income tax return.

(ii) An election made with respect to some of the shares of a regulated investment company sold or transferred from an account described in subparagraph (1) (i) of this paragraph applies to all such shares in the account. Such election also applies to all shares of that regulated investment company held in other such accounts (i.e., those described in subparagraph (1) (i) of this paragraph) by the electing taxpayer for his

own benefit. Thus, the election shall apply to all shares of the regulated investment company held by the electing taxpayer (for his own benefit) in such accounts on or after the first day of the first taxable year for which the election is made. Such election does not apply to shares held in accounts described in subparagraph (1)(ii) of this paragraph. An election made pursuant to the provisions of this paragraph may not be revoked without the prior written permission of the Commissioner.

(7) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

*Example (1).* (i) On January 11, 1971, taxpayer A, who files his income tax return on a calendar year basis, enters into an agreement with the W Bank establishing an account for the periodic acquisition of shares of the Y Company, an open-end mutual fund. The agreement provides (1) that the bank, as A's agent, is to purchase shares of Y stock as A may from time to time direct, (2) that all shares in the account are to be left in the custody of the bank, and (3) that the bank is to reinvest any dividends paid by Y (including capital gain dividends) in additional shares of Y stock. Pursuant to the agreement, on January 11, 1971, February 1, 1971, and March 1, 1971, respectively, the bank purchases, at A's direction, 100 shares of Y stock for a total of $1,880, 20 shares of Y stock for a total of $400, and 20 shares of Y stock for a total of $410. On March 15, 1971, the bank reinvests a $1-per-share capital gain dividend (that is, a total of $140) in seven additional shares of Y stock. The acquisitions to A's account, are, therefore, as follows:

| Date | Number of shares | Basis |
|---|---|---|
| Jan. 11, 1971 | 100 | $1,880 |
| Feb. 1, 1971 | 20 | 400 |
| Mar. 1, 1971 | 20 | 410 |
| Mar. 15, 1971 | 7 | 140 |

On August 20, 1971, at A's direction, the bank redeems (i.e., sells) 40 shares of Y stock, and on September 20, 1971, 30 shares. A elects to determine the gain or loss from the sales of the stock by reference to its average basis. A did not specify from which category the sales were to take place, and therefore, each sale is deemed to have been made from the more-than-6-months category.

(ii) The average basis for the shares sold on August 20, 1971, is $19.00, and the total average basis for the 40 shares which are sold is $760.00, computed as follows:

| *Number of shares in the more-than-6-months category at the time of sale* | *Basis* |
|---|---|
| 100 | $1,880 |
| 20 | 400 |
| Total 120 | 2,280 |

Average cost or other basis: $2,280÷120=$19. 40 shares×$19 each=$760, total average basis.

Therefore, after the sale on August 20, 1971, 80 shares remain in the more-than-6-months category, and their remaining aggregate cost is $1,520.

(iii) The average basis for the shares sold on September 20, 1971, must reflect the sale which was made on August 20, 1971. Accordingly, such average basis would be $19.34, and may be computed as follows:

| *Number of shares in the more-than-6-months category at the time of sale* | *Basis* |
|---|---|
| 80 | $1,520 |
| 20 | 410 |
| 7 | 140 |
| Total 107 | 2,070 |

Average cost or other basis: $2,070÷107 shares=$19.34 (to the nearest cent).

*Example (2).* Taxpayer B, who files his income tax returns on a calendar year basis, enters into an agreement with the X Bank establishing an account for the periodic acquisition of shares of the Z Company. The shares and the account are of the type described in subparagraph (1)(i) of this paragraph. X, as agent for B, acquired for B's account shares of Z on the following dates in the designated amounts:

| | |
|---|---|
| January 15, 1971 | 50 shares. |
| February 16, 1971 | 30 shares. |
| March 15, 1971 | 25 shares. |

Pursuant to B's direction, the bank redeemed (i.e., sold) 25 shares from the account on February 1, 1971, and 20 shares on April 1, 1971, for a total of 45 shares. All of such shares had been held for less than 6 months. B elects to determine the gain or loss from the sales of the stock by reference to its average basis. Thus, the 45 shares which were sold are assumed to be from the 50 shares which were purchased on January 15, 1971. Accordingly, on June 16, 1971, only five shares from those shares which had been purchased on January 15, 1971, remain to be transferred from the 6-months-or-less category to the more-than-6-months category. The basis of such five shares for purposes of the change to the more-than-6-months category would be the average basis of the shares in the 6-months-or-less category at the time of the sale on April 1, 1971.

*Example (3).* Assume the same facts as in example (2), except that an additional sale of 18 shares was made on May 3, 1971. There were, therefore, a total of 63 shares sold during the 6-month period beginning on January 15, 1971, the date of the earliest purchase. Fifty of the shares which were sold during such period shall be assumed to be the shares purchased on January 15, 1971, and the remaining 13 shares shall be assumed to be from the shares which were purchased on February 16, 1971. Thus, none of the shares which were purchased on January 15, 1971, remain to be changed from the 6-months-or-less category to the more-than-6-months category. In the absence of further dispositions of shares during the 6-months holding period for the shares purchased on February 16, 1971, there would be 17 of such shares to be changed over after the expiration of that period since 13 of the shares sold on May 3, 1971, were assumed to be from the shares purchased on February 16, 1971. The basis of the 17 shares for purposes of the change to the more-than-6-months category would be the average basis of the shares in the 6-months-or-less category at the time of the sale on May 3, 1971.

*Example (4).* Taxpayer C owns four separate accounts (C–1, C–2, C–3, and C–4) for the periodic acquisition of shares of the Y Company, an open-end mutual fund. Account C–4 contains shares which C acquired by gift on April 15, 1970. These shares had an adjusted basis in the hands of the donor which was greater than the fair market value of the donated shares on such date. For his taxable year ending on December 31, 1971, C elects to use an average basis for shares sold from account C–1 during such year. Under the provisions of subdivision (1)(ii) of this paragraph, C may not elect to use an average basis for shares sold or transferred from account C–4. However, since C elected to use an average basis for shares sold from account C–1, he must also use an average basis for all shares sold or transferred from accounts C–2 and C–3 (as well as account C–1) for his taxable year ending on December 31, 1971, and for all subsequent years until he revokes (with the consent of the Commissioner) his election to use an average basis for such accounts.

(f) *Special rules.* * * *

PAR. 2. Section 1.1091–2(a) is amended by revising so much thereof as precedes example (1) and by adding a new paragraph (b). These amended and added provisions read as follows:

**§ 1.1091–2 Basis of stock or securities acquired in "wash sales."**

(a) *In general.* The application of section 1091(d) may be illustrated by the following examples:

* * * * *

(b) *Special rule.* For a special rule as to the adjustment to basis required under section 1091(d) in the case of wash sales involving certain regulated investment company stock for which there is an average basis, see paragraph (e)(4)(iii) and (iv) of § 1.1012–1.

[F.R. Doc. 70–16248; Filed, Dec. 2, 1970; 8:52 a.m.]

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## [ 26 CFR Parts 1, 13 ]

## INSTALLMENT METHOD

### Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments, or suggestions, pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 453 of the Internal Revenue Code of 1954, to section 916 of the Tax Reform Act of 1969 (83 Stat. 723), Temporary Treasury Regulations § 13.11, 35 F.R. 8823 (1970), are withdrawn, and the Income Tax Regulations under section 453 of the Internal Revenue Code of 1954 are amended as follows:

PARAGRAPH 1. Section 1.453 is amended by adding paragraphs (4) and (5) to section 453(c) and by revising the historical note. The amended and added provisions read as follows:

**§ 1.453 Statutory provisions; installment method.**

SEC. 453. *Installment method.* * * *

(c) *Change from accrual to installment basis.* * * *

(4) *Revocation of Election.* An election under paragraph (1) to report taxable income on the installment basis may be revoked by filing a notice of revocation, in such manner as the Secretary or his delegate prescribes by regulations, at any time before the expiration of 3 years following the date of the filing of the tax return for the year of change. If such notice of revocation is timely filed—

(A) The provisions of paragraph (1) and subsection (a) shall not apply to the year of change or for any subsequent year;

(B) The statutory period for the assessment of any deficiency for any taxable year ending before the filing of such notice, which is attributable to the revocation of the election to use the installment basis, shall not expire before the expiration of 2 years from the date of the filing of such notice, and such deficiency may be assessed before the expiration of such 2-year period notwithstanding the provisions of any law, or rule of law, which would otherwise prevent such assessment; and

(C) If refund or credit of any overpayment, resulting from the revocation of the election to use the installment basis, for any taxable year ending before the date of the filing of the notice of revocation is prevented on the date of such filing, or within 1 year from such date, by the operation of any law or rule of law (other than section 7121 or 7122), refund or credit of such overpayment may nevertheless be made or allowed if claim therefor is filed within 1 year from such date. No interest shall be allowed on the refund or credit of such overpayment for any period prior to the date of the filing of the notice of revocation.

(5) *Election after revocation.* If the taxpayer revokes under paragraph (4) an election under paragraph (1) to report taxable income on the installment basis, no election under paragraph (1) may be made, except with the consent of the Secretary or his delegate, for any subsequent taxable year before the fifth taxable year following the year of change with respect to which such revocation is made.

* * * * *

[Sec. 453 as amended by section 27, Technical Amendments Act 1958 (72 Stat. 1624); sec. 13(f)(5), Rev. Act 1962 (76 Stat. 1035); secs. 222(a) and 231(b)(5), Rev. Act 1964 (78 Stat. 75, 105); sec. 1(b)(2), Act of August 22, 1969 (Pub. Law 88-484, 78 Stat. 597); sec. 3, Act of August 31, 1964 (Pub. Law 88-539, 78 Stat. 746); sec. 916, Tax Reform Act 1969 (83 Stat. 723)]

PAR. 2. Section 1.453-8 is amended by revising paragraph (c) and by adding a new paragraph (d). These amended and added provisions read as follows:

**§ 1.453-8 Requirements for adoption of or change to installment method.**

* * * * *

(c) *Installment method and other accounting methods.* Notwithstanding the fact that, in general, a dealer in personal property may change to the installment method of accounting without permission, a dealer may not change from the installment method of accounting for sales on the installment plan to an accrual method of accounting or to any other method of accounting without the permission of the Commissioner, except as provided in paragraph (d) of this section.

(d) *Revocation of election to report income on the installment basis*—(1) *In general.* Under section 453(c)(4) taxpayers who are dealers in personal property and who have elected installment basis income reporting subject to the provisions of section 453(c)(1) (relating to change from accrual to installment basis) may revoke their previously made election.

(2) *Years to which applicable.* Under this paragraph a taxpayer may revoke an election to report income on the installment basis for any year of change (the first year for which income was computed using the installment basis) ending on or after December 30, 1969, and for any year of change which ended before such date if the 3-year statutory period under section 6501 (relating to limitation on assessment or collection), including extensions, for such years has not expired on December 30, 1969.

(3) *Time and manner of revoking election.* The revocation by a taxpayer may be made by filing an amended return on an appropriate form or forms, such as Form 1040X for an individual taxpayer, for the year of change (the first year for which income was computed using the installment basis) and for each subsequent year for which a return was filed using the installment basis. The taxpayer should indicate on such amended returns that he is revoking an election to report income on the installment basis. Such revocation must be made within 3 years from the last date prescribed for the filing of the return for the year of change including any extension of time granted the taxpayer. In reporting income on the amended returns described in this paragraph, the taxpayer shall use the accrual method of accounting.

(4) *Period for assessment of deficiency and for refund or credit.* (i) The statutory period for the assessment of any deficiency for any taxable year ending before the filing of a notice of revocation under this paragraph, which is attributable to the revocation of the election to use the installment basis, shall not expire before the expiration of 2 years from the date of the filing of such notice, and such deficiency may be assessed before the expiration of such 2-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

(ii) If refund or credit of any overpayment, resulting from a revocation of an election to use the installment basis, for any taxable year ending before the date of the filing of the notice of revocation is prevented on the date of such filing, or within 1 year from such date, by the operation of any law or rule of law (other than section 7121 (relating to closing agreements) or section 7122 (relating to compromises)), refund or credit of such overpayment may nevertheless be made or allowed if a claim for such credit or refund is filed within 1 year from the date the notice of revocation is filed. No interest shall be allowed on the refund or credit of such overpayment for any period prior to the date of the filing of the notice of revocation.

(5) *Elections after revocation.* If a taxpayer, pursuant to the provisions of section 453(c)(4) and this paragraph, revokes an election to report income on the installment basis, a subsequent election to report income on the installment basis under section 453(c)(1) may not be made, except with the consent of the Commissioner, with respect to any taxable year beginning before the fifth taxable year following the year of change with respect to which the revocation was made. A taxpayer who wishes to make a subsequent election to report income under section 453(a) with respect to any taxable year before the fifth taxable year following the year of change for the revoked election, must file an application to do so on Form 3115 with the Commissioner of Internal Revenue, Washington, D.C. 20224.

[F.R. Doc. 70-16212; Filed, Dec. 2, 1970; 8:48 a.m.]

# DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

## [ 25 CFR Part 15 ]

## DETERMINATION OF HEIRS AND APPROVAL OF WILLS, EXCEPT AS TO MEMBERS OF THE FIVE CIVILIZED TRIBES AND OSAGE INDIANS

### Notice of Proposed Rule Making

Notice is hereby given that under the authority of 5 U.S.C. 301 (1964 Ed., Supp. V), and secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022, 25 U.S.C. 372, 373, 374, 377, 373a, and 373b, and to implement procedures authorized by the Delegation of Authority to the Director, Office of Hearings and Appeals, and to the Board of Indian Appeals within the Office of Hearings and Appeals (Release No. 1213 of July 17, 1970, 211 DM 13, published on July 28, 1970, 35 F.R. 12081), it is proposed to revise the Indian probate regulations in Part 15 of Title 25 of the Code of Federal Regulations as set forth in tentative form below.

The proposed revision codifies for the first time many rules, practices and procedures heretofore contained only in memoranda and instructions, and is designed to bring all procedures into line

as far as practicable with the general philosophy of current court rules. Included are provisions for the approval of settlement of disputes by compromise, provisions for determination of nationality and non-Indian status, provisions for the taking of depositions and for discovery procedures, provisions for determination of escheat of estates, as well as procedures applicable to appeals proceedings before the Board of Indian Appeals.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed revised regulations to the Director, Office of Hearings and Appeals, Attention: Special Assistant to the Director (Regulations), 4015 Wilson Boulevard, Arlington, VA 22203, within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Dated: November 25, 1970.

WALTER J. HICKEL,
*Secretary of the Interior.*

Part 15 of Title 25 of the Code of Federal Regulations is revised to read as follows:

Subpart A—Scope of Regulations; Definitions; General Authority of Examiners

Sec.
15.00 Scope of regulations.
15.01 Definitions.
15.02 General authority of Examiners.

Subpart B—Commencement of Probate Proceedings

15.10 Commencement of probate.
15.11 Notice.
15.12 Contents of notice.

Subpart C—Depositions and Discovery

15.20 Production of documents for inspection and copying.
15.21 Depositions.
15.22 Written interrogatories; admission of facts and documents.
15.23 Objections to and limitations on production of documents, depositions, and interrogatories.
15.24 Failure to comply with orders.

Subpart D—Hearings

15.30 Examiner; authority and duties.
15.31 Hearings.
15.32 Evidence.
15.33 Witnesses, interpreters, and fees.
15.34 Supplemental hearings.
15.35 Record.

Subpart E—Decisions

15.40 Decision of Examiner.
15.41 Escheat.
15.42 Compromise settlement.
15.43 Nationality, status, and related adjudications.
15.44 Rehearing.
15.45 Reopening.
15.46 Appeals.

Subpart F—Claims

15.50 Filing and proof of claims; limitations.
15.51 Priority of claims.
15.52 Property subject to claims.

Subpart G—Wills

Sec.
15.60 Making of; approval of as to form; and revocation of.
15.61 Antilapse provisions.
15.62 Felonious taking of testator's life.

Subpart H—Custody and Distribution of Estates

15.70 Custody and control of trust estates.
15.71 Summary distribution.
15.72 Omitted property.
15.73 Improperly included property.
15.74 Distribution of estates.

Subpart I—Miscellaneous

15.80 Probate fees.
15.81 Claims for attorney fees.

Subpart J—Appeals to the Board of Indian Appeals

15.90 Who may appeal.
15.91 Appeals; how taken.
15.92 Appeal file.
15.93 Notice of transmittal of appeal file.
15.94 Docketing.
15.95 Pleadings.
15.96 Decisions.

AUTHORITY: The provisions of this Part 15 issued under secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; 25 U.S.C. 372, 373, 374, 377, 373a, 373b, and Release No. 1213 of July 17, 1970 (211 DM 13), 35 F.R. 12081 (July 28, 1970).

## Subpart A—Scope of Regulations; Definitions; General Authority of Examiners

### § 15.00 Scope of regulations.

The regulations in this part govern the procedures in settlement of estates of deceased Indians who die possessed of trust property, except deceased Indians of the Five Civilized Tribes, deceased Osage Indians, and the members of any tribe organized under section 16 of the Act of June 18, 1934 (48 Stat. 987), to the extent that the constitution, bylaws, or charter of such tribe may be inconsistent with this part.

### § 15.01 Definitions.

As used in this part:

(a) The term "Secretary" means the Secretary of the Interior or his authorized representative;

(b) The term "Board" means the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary, authorized by the Secretary to hear, consider, and determine finally for the Department appeals taken by aggrieved parties from actions by Examiners on petitions for rehearing or reopening, and allowance of attorneys' fees;

(c) The term "Commissioner" means the Commissioner of Indian Affairs or his authorized representative;

(d) The term "Superintendent" means the Superintendent or other officer having jurisdiction over an estate, including area field representatives;

(e) The terms "agency" and "Indian agency" mean the Indian agency or any other designated office in the Bureau of Indian Affairs having jurisdiction over trust property;

(f) "Hearing Examiner" (hereinafter called Examiner) means any employee of the Office of Hearings and Appeals upon whom authority has been conferred by the Secretary to conduct hearings in accordance with the regulations of this part;

(g) The term "Solicitor" means the Solicitor of the Department of the Interior or his authorized representative;

(h) The term "Department" means the Department of the Interior;

(i) The term "parties in interest" means any presumptive or actual heir, any beneficiary under a will, and any party asserting a claim against a deceased Indian's estate;

(j) The term "minor" means an individual who has not reached his majority as defined by the laws of the State where the deceased's property is situated;

(k) The words "child" or "children" include adopted child or children;

(l) The words "will" and "last will and testament" include codicils thereto;

(m) The term "trust property" means real or personal property title to which is in the United States for the benefit of an Indian. In this part "restricted property" (real or personal property held by an Indian which he may not alienate without the consent of the Secretary or his authorized representative) is treated as if it were trust property.

### § 15.02 General authority of Examiners.

(a) *Administration of estates.* The heirs of Indians who die intestate possessed of trust property shall be determined by Examiners, except as otherwise provided in §§ 15.41 and 15.71. The wills of deceased Indians disposing of trust property shall be approved or disapproved by Examiners. Claims against the estates of deceased Indians shall be allowed or disallowed by Examiners in accordance with this part.

(b) *Determinations as to nonexistent persons and other irregularities of allotments.* (1) An Examiner may hear and determine the question of whether a trust patent covering allotments of land was issued to a nonexistent person, and may hear and determine the question of whether more than one trust patent covering allotments of land had been issued to the same person under different names and numbers or through other errors in identification.

(2) If the Examiner determines under subparagraph (1) of this paragraph that a trust patent did issue to an existing person or that separate persons did receive the allotments under consideration and any one of them is deceased, without having had his estate probated, he shall proceed to administer and probate such estate.

(3) If the Examiner determines under subparagraph (1) of this paragraph that a person did not exist or that there was more than one allotment issued to the same person, he shall issue a decision to that effect, giving notice thereof to parties in interest as provided in § 15.40(b).

(c) *Presumption of death.* (1) An Examiner may receive evidence on and determine the issue of whether a person, by reason of his unexplained absence, is to be presumed dead.

(2) If the Examiner determines that an Indian person possessed of trust property is to be presumed dead, he shall proceed as provided in paragraph (a) of this section.

## Subpart B—Commencement of Probate Proceedings

### § 15.10 Commencement of probate.

(a) Within the first 7 days of each month each Superintendent shall prepare and furnish to the Examiner of the appropriate district, a list of the names of all Indians not previously reported by him who died leaving trust property under his jurisdiction.

(b) Within 30 days of receipt of notice of death of an Indian who died owning trust property, the Superintendent having jurisdiction thereof shall commence the probate of the trust estate by filing with the appropriate Examiner all data shown in the records relative to the family of the deceased and his property. The data shall include but is not limited to:

(1) A copy of the death certificate or its equivalent;

(2) Data on vital statistics certified by the Superintendent, on a form approved by the Director, Office of Hearings and Appeals;

(3) A certified inventory of the trust real and personal property wherever situated, in which the deceased had any right, title or interest at the time of his death (including all moneys and credits in a trust status whether in the form of bonds, undistributed judgment funds or any other form), showing both the total estimated value of the real property and the estimated value of the deceased's interest therein, and the amount and names and addresses of parties having an approved incumbrance against the estate;

(4) The original and copies of all wills in the Superintendent's custody, if any; the original and copies of codicils to and revocations of wills, if any; and any paper, instrument, or document that purports to be a will.

(c) The data for heirship findings and family history shall contain:

(1) The facts and alleged facts of deceased's marriages, separations, and divorces, with copies of necessary supporting documents;

(2) The names and last known addresses of probable heirs and other known parties in interest, including known possible creditors.

(3) Information on whether the relationship of the probable heirs to the deceased arose by marriage, blood, or adoption;

(4) The names, relationships to the deceased, and last known addresses of beneficiaries and attesting witnesses when a will or purported will is involved; and

(5) If will beneficiaries are not probable heirs to the deceased, the names of the tribes in which they are members.

(d) At the time of commencement of the proceedings, the Superintendent shall transmit to the Examiner those claims of creditors and other claimants which have been filed; and, he shall transmit immediately any claims subsequently filed against the estate.

### § 15.11 Notice.

(a) An Examiner may receive and hear proofs at a hearing to determine the heirs of a deceased Indian or probate his will only after he has caused notice of the time and place of the hearing to be posted at least 20 days in five or more conspicuous places in the vicinity of the proposed place of hearing, and he may cause postings in such other places as he deems appropriate.

(b) The Examiner shall serve a copy of the notice on each party in interest reported to the Examiner and on attesting witnesses if a will is offered:

(1) By personal service in sufficient time in advance of the date of the hearing to enable the person served to attend the hearing; or

(2) By mail, with postage prepaid, addressed to the person at his last known address, in sufficient time in advance of the date of the hearing to enable the addressee served to attend the hearing. The Examiner shall cause a notation as to the date and manner of service to be made on the record copy of the notice.

(c) All parties in interest, known and unknown, including creditors, shall be bound by the decision based on such hearing if they lived within the vicinity of any place of posting during the posting period, whether they had actual notice of the hearing or not. A presumption of actual notice shall arise upon the mailing of such notice at a reasonable time prior to the hearing, unless the said notice is returned by the postal service to the Examiner's office unclaimed by the addressee.

### § 15.12 Contents of notice.

In the notice of hearing, the Examiner shall specify that at the stated time and place he will take testimony to determine the heirs of the deceased person (naming him) and, if a will if offered for probate, testimony as to the validity of the will. The notice shall cite this part as the authority and jurisdiction for holding the hearing, and shall inform all persons having an interest in the estate of the decedent, including persons having claims or accounts against the estate, to be present at the hearing or their rights may be lost by default.

## Subpart C—Depositions and Discovery

### § 15.20 Production of documents for inspection and copying.

At any stage of the proceeding, prior to the conclusion of the hearing, upon application of a party in interest filed with the Examiner and upon a showing of good cause therefor, the Examiner may order any other party to the proceeding, or a custodian of records on Indians or their trust property, to produce for inspection and copying or photographing, any documents, papers, records, letters, photographs, or other tangible things not privileged, relevant to the issues which are in the other party's or custodian's possession, custody, or control. The Examiner upon his own motion may, at any time prior to closing the record, make a request on any interested party or custodian of records for the production of material or information not privileged, and relevant to the proceeding. Custodians of official records shall furnish and reproduce documents, or permit their reproduction, in accordance with the rules governing the custody and control thereof.

### § 15.21 Depositions.

(a) *Application for taking deposition.* When a party in interest files a written application, the Examiner may at any time thereafter order the taking of the sworn testimony of any person by deposition upon oral examination for the purpose of discovery or for use as evidence at a hearing. The application shall be in writing and shall set forth:

(1) The name and address of the proposed deponent;

(2) The name and address of that person, qualified under paragraph (c) of this section to take depositions, before whom the proposed examination is to be made;

(3) The proposed time and place of the examination, which shall be at least 20 days after the date of the filing of the application; and

(4) The reasons why such deposition should be taken.

(b) *Order for taking deposition.* If after examination of the application the Examiner determines that the deposition should be taken, he shall order its taking. The order shall be served upon all parties in interest and shall state:

(1) The name of the deponent;

(2) The time and place of the examination (which shall not be less than 15 days after the date of the order); and

(3) The name and address of the officer before whom the examination is to be made. The officer and the time and place need not be the same as those requested in the application.

(c) *Qualifications of officer.* The deponent shall appear before the Examiner or before an officer authorized to administer oaths by the law of the United States or by the law of the place of the examination.

(d) *Procedure on examination.* The deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or someone in his presence. An applicant whose request for the taking of a person's deposition is granted, shall make his own arrangements for payment of any costs incurred.

(e) *Submission to witness; changes; signing.* When the testimony is fully transcribed, the deposition shall be submitted to the deponent for examination and shall be read to or by him, unless such examination and reading are waived by the deponent or by all other parties in interest. Any changes in form

or substance which the deponent desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the deponent for making them. The deposition shall then be signed by the deponent, unless the parties in interest by stipulation waive the signing, or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the deponent, the officer shall sign it and state on the record the fact of the waiver, or of the illness or absence of the deponent or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless the Examiner holds that the reason given for refusal to sign requires rejection of the deposition in whole or in part.

(f) *Certification by officer.* The officer shall certify on the deposition that the deponent was duly sworn by him and that the deposition is a true record of the deponent's testimony. He shall then securely seal the deposition, together with two copies thereof, in an envelope and shall personally deliver or mail the same by certified or registered mail to the Examiner.

(g) *Use of depositions.* A deposition ordered and taken in accord with the provisions of this section may be used in a hearing if the Examiner finds that the witness is absent and his presence cannot be readily obtained, that the evidence is otherwise admissible, and that circumstances exists that make it desirable in the interests of fairness to allow the deposition to be used. If a deposition has been taken, and the party in interest on whose application it was taken refuses to offer the deposition, or any part thereof, in evidence, any other party in interest or the Examiner may introduce the deposition or any portion thereof on which he wishes to rely.

**§ 15.22 Written interrogatories; admission of facts and documents.**

At any time prior to a hearing and in sufficient time to permit answers to be filed before the hearing, a party in interest may serve upon any other party in interest written interrogatories and requests for admission of facts and documents by filing such application and requests with the Examiner, who shall thereupon transmit a copy to the party in interest for whom they are intended. Such interrogatories and requests for admissions shall be drawn with the purpose of defining the issues in dispute between the parties and to facilitate the presentation of evidence at the hearing. Answers shall be served upon the Examiner within the 15 days from the date of service of such interrogatories or within such other period of time as may be agreed upon by the parties or prescribed by the Examiner. A copy of the answers shall be transmitted by the Examiner to the party propounding the interrogatories. Within 30 days after service of written interrogatories are made upon him, a party in interest so served may serve cross-interrogatories upon the party in interest proposing to take the deposition by written interrogatories.

**§ 15.23 Objections to and limitations on production of documents, depositions, and interrogatories.**

The Examiner, upon motion timely made by any party in interest, proper notice, and good cause shown, or on his own initiative, may direct that proceedings under §§ 15.20, 15.21, and 15.22 shall be conducted only under, and in accordance with, such limitations as he deems necessary and appropriate as to documents, time, place and scope.

**§ 15.24 Failure to comply with orders.**

In the event of the failure of a party to comply with a request for the production of a document under § 15.20; or on the failure of a party to appear for examination under § 15.21; or on the failure of a party to respond to interrogatories or requests for admissions under § 15.22; or on the failure of a party to comply with an order of the Examiner issued under § 15.23; without, in any of such events, showing an excuse or explanation satisfactory to the Examiner for such failure, the Examiner may:

(a) Decide the fact or issue relating to the material requested to be produced, or the subject matter of the probable testimony, in accordance with the claims of the other party in interest or in accordance with other evidence available to the Examiner; or

(b) Make such other ruling as he determines just and proper.

## Subpart D—Hearings

**§ 15.30 Examiner; authority and duties.**

The authority of the Examiner in all hearings in estate proceedings includes, but is not limited to, authority:

(a) To administer oaths and affirmations:

(b) To issue subpenas under the provisions of 25 U.S.C. 374, upon his own initiative or within his discretion upon the request of any party in interest, to any person whose testimony he believes to be material to a hearing. Upon the failure or refusal of any person upon whom a subpena shall have been served to appear at a hearing or to testify, the Examiner may file a petition in the appropriate United States District Court for the issuance of an order requiring the appearance and testimony of the witness;

(c) To permit any party in interest to cross-examine any witness;

(d) To appoint a guardian ad litem to represent any minor or incompetent party in interest at hearings;

(e) To rule upon offers of proof and receive evidence;

(f) To take and cause depositions to be taken and to determine their scope; and

(g) To otherwise regulate the course of the hearings and the conduct of witnesses, parties in interest, and attorneys at law appearing therein.

**§ 15.31 Hearings.**

(a) All testimony in Indian probate hearings shall be under oath and shall be taken in public except in those circumstances which in the opinion of the Examiner justify all but parties in interest to be excluded from the hearing.

(b) The proceedings of hearings shall be recorded verbatim and transcribed and made a part of the record.

(c) The record shall include a showing of the names of all persons who attended the hearing.

**§ 15.32 Evidence.**

(a) Form and admissibility: Attorneys will be required to adhere to the rules of the state in which the evidence is taken, except that the Examiner may in his discretion permit such deviations and exceptions to such rules as he deems necessary and justified.

(b) Wills, validity attested: A prima facie case for the approval of a will in an uncontested will case may be made upon affidavits by one or both of the attesting witnesses, relating facts showing that the will was executed in all particulars as required by the regulations in this part (§ 15.60) and that the testator was of sound mind at the time of its execution. Signatures of the testator or of the attesting witnesses may be admitted or proof thereof waived, on the record, or in writing, by any of the heirs at law or other parties in interest.

(c) In contested will cases, if the attesting witnesses are not reasonably available, the will may be proved by other satisfactory evidence.

**§ 15.33 Witnesses, interpreters, and fees.**

Interested parties who desire a witness to testify or an interpreter to serve at a hearing shall make their own arrangements therefor. The Examiner may call a witness or an interpreter and order payment to him of per diem, mileage, and subsistence at the same rate as witnesses called to serve in the U.S. District Courts receive. The Examiner may allow such pay for witnesses and interpreters called by Indian parties. Upon receipt of such order, the Superintendent shall pay said sums immediately from the estate account; if such funds are insufficient, then, out of funds as they accrue to such account.

**§ 15.34 Supplemental hearings.**

After the matter has been submitted but prior to the time the Examiner has rendered his decision, the Examiner may upon his own motion or upon motion of any party schedule a supplemental hearing if he deems it necessary. The notice shall set forth the purpose of the supplemental hearing and shall be served upon all parties in the manner provided in § 15.11. Where the need for such supplemental hearing becomes apparent during any hearing, the Examiner may announce the time and place for such supplemental hearing to all those present and no further notice need be given to said persons. In that event the records shall clearly show who was present at the time of the announcement.

**§ 15.35 Record.**

(a) After the completion of the hearing, the Examiner shall make up the official record, containing:

(1) A copy of the posted public notice of hearing showing the posting certifications;

(2) A copy of each notice served on interested parties, showing the mailing certificate;

(3) The record of the evidence received at the hearing, including a transcript of testimony;

(4) Claims filed against the estate;

(5) Will and codicils, if any;

(6) Inventories and appraisements of the estate;

(7) Pleadings and briefs filed;

(8) Special or interim orders;

(9) Data for heirship finding and family history;

(10) The decision and the Examiner's notice thereof;

(11) Any other material or documents deemed material by the Examiner; and

(12) All proceedings incident to the filing and disposition of any petition for rehearing.

(b) The Examiner shall lodge the original record with the designated title plant in accordance with § 120.1 of this chapter, and a duplicate copy shall be lodged with the Superintendent originating the probate. A partial record may also be furnished to the Superintendents of other affected agencies.

## Subpart E—Decisions

### § 15.40 Decision of Examiner.

(a) The Examiner shall decide the issues of fact and law involved in the proceedings and shall incorporate in his decision:

(1) In all cases, the names, relationships to the decedent, and shares of heirs and citations of the law of descent and distribution in accordance with which the decision is made;

(2) In testate cases, he shall also include (i) the names of devisees and legatees and a description of the property which each is to receive, and (ii) construction of any ambiguous will provisions;

(3) Allowance or disallowance of claims against the estate;

(4) Whether heirs or devisees are non-Indians, exclusively alien Indians, or Indians not subject to Federal supervision.

(b) When the Examiner issues a decision, he shall also issue a notice thereof to all parties who have or claim any interest in the estate and shall mail a copy of said notice, together with a copy of the decision to the Superintendent and to each party simultaneously. The decision shall not become final and no distribution shall be made thereunder until the expiration of the 60 days allowed for the filing of a petition for rehearing by aggrieved parties. If no petition for rehearing is filed within such time, the Examiner shall notify the Superintendent in writing to make distribution.

### § 15.41 Escheat.

An Examiner may hear and decide the question of escheat of trust estates of Indians who have died intestate and without heirs. If the estate consists of land which falls within the provisions of section 2, 56 Stat. 1022, 25 U.S.C. 373b, the Board of Indian Appeals shall make a determination as to whether the trust character of the same shall continue or not.

### § 15.42 Compromise settlement.

(a) If during the course of the probate of an estate it shall develop that an issue between contending parties is of such nature as to be substantial, and it further appears that such issue may be settled to the advantage of the parties in interest and to the United States by a compromise agreement, such an agreement may be approved by the Examiner upon findings that:

(1) All parties to the compromise are fully advised as to all material facts;

(2) All parties to the compromise are fully cognizant of the effect of the compromise upon their rights; and

(3) It is to the best interest of the parties to settle rather than to continue litigation.

(b) In his determination as to the fairness of the proposed settlement, the Examiner may take and receive evidence as to the respective values of specific items of property. Superintendents and irrigation project engineers shall supply all necessary information concerning any liability or lien for payment of irrigation construction and of irrigation operation and maintenance charges.

(c) Upon an affirmative determination as to all three points specified, the Examiner shall issue such final order of distribution in the settlement of the estate as is necessary to accomplish the purpose and spirit of the settlement. Such order shall be construed as any other order of distribution establishing title in heirs and devisees and shall not be construed as a partition or sale transaction within the provisions of Part 121 of this chapter.

(d) Examiners are authorized hereunder to approve all deeds or conveyances necessary to accomplish a settlement under this section.

### § 15.43 Nationality, status, and related adjudications.

The Examiner shall determine the nationality and the Indian or non-Indian status of all heirs and devisees and shall determine what interests should have a patent in fee issued pursuant to § 121.2 (c) of this chapter.

(a) If, prior to the issuance of the final decision in any probate, it shall appear that one or more of the heirs or devisees is, or may be, one of that class not entitled to have its interests held in trust or restricted status by the United States for the reason that he or they are not of Indian ancestry, or not United States nationals, or for other reasons, a finding in regard thereto shall be made by the Examiner based on all available evidence. Upon an appropriate finding, a decision shall be rendered directing the issuance of a fee patent or patents to the heir or devisee.

(b) If it shall appear from the record, or if it shall become evident from other sources that one or more of the heirs or devisees in a completed probate shall have been one of those not entitled to have his interests held in trust or restricted status by the United States for the reason that he or they were not of Indian ancestry, or because he or they were not United States nationals, or for other reasons, then upon the filing of a petition for reopening of such probate wherein facts are alleged in support of the nontrust proposition and further showing that the final decision in such probate does not adjudicate the matter, the Examiner may reopen the probate notwithstanding the provisions of § 15.45. The Examiner shall issue an appropriate order of reopening for the specific and limited purpose of holding a hearing wherein the evidence may be fully presented, after notice given to all known parties in interest, as provided in § 15.11; and at the conclusion of such hearing, the Examiner shall adjudicate the matter and issue an appropriate order that the interests in question shall remain in trust or that fee patents shall issue therefor.

(c) As a rule of evidence in adjudicating the matter of racial status and nationality, the Examiner shall proceed under the presumption that the interest inherited or devised is to retain its trust or restricted status.

### § 15.44 Rehearing.

(a) Any person aggrieved by the decision of the Examiner may, within 60 days after the date on which notice of the decision is mailed to the interested parties, file with the Superintendent a written petition for rehearing. Such a petition must be under oath and must state specifically and concisely the grounds upon which it is based. If the petition is based upon newly-discovered evidence, it shall be accompanied by affidavits of witnesses stating fully what the new testimony is to be. It shall also state justifiable reasons for the failure to discover and present that evidence, tendered as new, at the hearings held prior to the issuance of the decision. The Superintendent, upon receiving a petition for rehearing, shall promptly forward it to the Examiner. The Superintendent shall not pay claims or distribute the estate while such petition is pending unless otherwise directed by the Examiner.

(b) If proper grounds are not shown, or if the petition is not filed within the time prescribed in paragraph (a) of this section, the Examiner shall issue a final decision denying the petition and shall set forth his reasons therefor. He shall furnish copies of such order to the petitioner, the Superintendent, and the parties in interest.

(c) If the petition appears to show merit, the Examiner shall cause copies of the petition and supporting papers to be served on those persons whose interest in the estate might be adversely affected by the granting of the petition. The Examiner shall allow all persons served a reasonable, specified time in which to submit answers or legal briefs in opposition to the petition. The Examiner shall then reconsider, with or without hearing as he may determine, the issues raised

in the petition, and he may adhere to the former decision, modify or vacate it, or make such further order as he deems warranted. No right of appeal shall lie from an interlocutory order of the Examiner.

(d) Upon entry of a final order the Examiner shall lodge the complete record relating to the petition with the title plant designated under § 15.35(b), and furnish a duplicate record thereof to the Superintendent.

(e) Successive petitions for rehearing are not permitted, and except for the issuance of necessary orders nunc pro tunc, to correct clerical errors in the decision, the Examiner's jurisdiction shall have terminated upon the issuance of a decision finally disposing of a petition for rehearing.

(f) At the time the final decision is entered following the filing of a petition for rehearing, the Examiner shall direct a notice of such action with a copy of the decision to the Superintendent and to the parties in interest and shall mail the same by regular mail to the said parties at their addresses of record.

(g) No distribution shall be made under such order for a period of 60 days or any extension thereof following the mailing of such notice, pending the filing of a notice of appeal by an aggrieved party as herein provided. If such notice is not filed, or not timely filed, the Examiner shall notify the Superintendent in writing to make distribution as ordered.

**§ 15.45 Reopening.**

(a) Within a period of 3 years from the date of a final decision issued by an Examiner under this subpart, or a final decision by the Board of Indian Appeals under Subpart J of this part, but not thereafter except as provided in § 15.43, any person claiming an interest in the estate who had no actual notice of the original proceedings and who was not on the reservation or otherwise in the vicinity at any time while the public notices of the hearing were posted may file a petition in writing for reopening of the case. Any such petition shall be addressed to the Examiner and filed at his headquarters. A copy of such petition shall be furnished also by the petitioner to the Superintendent. All grounds for the reopening must be set forth fully. If based on alleged errors of fact, all such allegations shall be under oath and supported by affidavits.

(b) If the Examiner finds that proper grounds are not shown, he shall issue an order denying the petition and setting forth the reasons for such denial. Copies of the order shall be furnished to the petitioner, the Superintendent, and to those persons who share in the estate.

(c) If the petition appears to show merit, the Examiner shall cause copies of the petition and all papers filed by the petitioner to be served on those persons whose interest in the estate might be adversely affected by the granting of the petition. Such persons may resist such petition by filing answers, cross-petitions, or briefs. Such filings shall be made within such reasonable time periods as the Examiner specifies. The Examiner shall then reconsider, with or without hearing as he may determine, prior actions taken in the case and may either adhere to the original decision or modify or vacate it. Copies of the Examiner's decision shall be furnished to the petitioner, to all persons who received copies of the petition, and to the Superintendent.

(d) An Examiner may on his own initiative, or on petition of an officer of the Bureau of Indian Affairs, reopen a case within a period of 3 years from the date of the final decision.

(e) The Examiner may order suspension of the distribution of the estate or the income therefrom during the pendency of reopening proceedings by order directed to the Superintendent.

(f) The Examiner shall lodge the record made in disposing of a reopening petition with the title plant designated under § 15.35(b).

**§ 15.46 Appeals.**

Any person aggrieved by the action taken by the Examiner on a petition for rehearing or a petition for reopening may file a written notice of appeal to the Board of Indian Appeals in accordance with the regulations set forth in Subpart J of this part.

## Subpart F—Claims

**§ 15.50 Filing and proof of claims; limitations.**

(a) All claims against the estate of a deceased Indian shall be filed with either the Superintendent or the Examiner prior to the first hearing. If a claim is not filed prior to the conclusion of the first hearing, it shall be forever barred.

(b The claims of non-Indians shall be filed in triplicate, itemized in detail as to dates and amounts of charges for purchases or services and dates and amounts of payments on account. Such claims shall show the names and addresses of all parties in addition to the decedent from whom payment might be sought. Each claim shall be supplemented by an affidavit, in triplicate, of the claimant or someone in his behalf that the amount claimed is justly due from the decedent, that no payments have been made on the account that are not credited thereon as shown by the itemized statement, and that there are no offsets to the knowledge of the claimant.

(c) Claims of individual Indians against the estate of a deceased Indian may be presented in the manner set forth in paragraph (b) of this section or by oral evidence at the hearing where the claimant shall be subject to examination under oath relative thereto.

(d) Claims for care may not be allowed except upon clear and convincing evidence that the care was given on a promise of compensation and that compensation was expected.

(e) A claim, whether that of an Indian or non-Indian, based on a written or oral contract, express or implied, where the claim for relief has existed for a period of 5 or more years at the date of decedent's death cannot be allowed.

(f) Claims sounding in tort not reduced to judgment in a court of competent jurisdiction and other unliquidated claims not properly within the jurisdiction of a probate forum, may be barred from consideration by an Examiner's interim order.

**§ 15.51 Priority of claims.**

After allowance of the costs of administration, including the probate fee:

(a) Claims shall be allowed priority in payment in the following order except as otherwise provided in paragraph (b) of this section:

(1) Claims for expenses for last illness not in excess of $500, and for funeral not in excess of $300;

(2) Claims of unsecured indebtedness to the United States or any of its agencies;

(3) Claims of unsecured indebtedness to the Tribe of which the decedent was a member or to any of its subsidiary organizations;

(4) Claims of general creditors, including that portion of expenses of last illness not previously authorized in excess of $500 and that portion of funeral charges not previously authorized in excess of $300.

(b) The preference of the probate fee and of other claims may be deferred, in the discretion of the Examiner, in making adjustments or compromises beneficial to the estate.

(c) No claims of general creditors shall be allowed if the value of the estate is $2,500 or less and the decedent is survived by a spouse or by one or more minor children. If the income of the estate is not sufficient to permit the payment of allowed claims of general creditors within 3 years from the date of allowance, the unpaid balance of such claims shall not be enforceable against the estate or any of its assets.

**§ 15.52 Property subject to claims.**

Claims are payable from income from the lands remaining in trust. Further, all trust moneys of the deceased on hand or accrued at time of death, including bonds, unpaid judgments, and accounts receivable may be used for the payment of claims, whether the right, title, or interest that is taken by an heir, devisee, or legatee remains in or passes out of trust.

## Subpart G—Wills

**§ 15.60 Making of; approval of as to form; and revocation of.**

(a) An Indian of the age of 21 years or over and of testamentary capacity, who has any right, title, or interest in trust property, may dispose of such property by a will executed in writing and attested by two disinterested adult witnesses.

(b) When an Indian executes a will at an Indian agency, the Superintendent shall forthwith transmit such will to the Solicitor. The Solicitor shall approve or disapprove the form of the will and then return it to the Superintendent with appropriate instructions and comments. A will shall be held in absolute confidence, and no person other than the testator shall admit its existence or divulge its

contents prior to the death of the testator.

(c) The testator may, at any time during his lifetime, revoke his will by a subsequent will or other writing executed with the same formalities as are required in the case of the execution of a will, or by physically destroying the will with the intention of revoking it. No will that is subject to the regulations of this part shall be deemed to be revoked by operation of the law of any State.

**§ 15.61 Antilapse provisions.**

When an Indian testator devises or bequeaths trust property to any of his lineal descendants, mother or father, brothers or sisters, either of the whole or half-blood or their issue, and the devisee or legatee dies before the testator, leaving lineal descendants, then they shall take the right, title, or interest so given by the will in the same manner as the devisee or legatee would have done had he survived the testator. Relationship by adoption shall be equivalent to relationship by blood.

**§ 15.62 Felonious taking of testator's life.**

No person who has been finally convicted of feloniously causing the death or taking the life of, or procuring another person to take the life of, the testator, shall take directly or indirectly any devise or legacy under deceased's will. All right, title, and interest existing in such a situation shall vest and be determined as if the person convicted never existed, nothwithstanding § 15.61.

## Subpart H—Custody and Distribution of Estates

**§ 15.70 Custody and control of trust estates.**

The Superintendent may assume custody or control of all trust personal property of a deceased Indian and he may take such action, including sale thereof as, in his judgment, is necessary for the benefit of the estate, the heirs, legatees, and devisees, pending entry of the decisions provided for in § 15.40, § 15.44, or § 15.96 or decisions in the settlement of the estate as provided for in § 15.71. All expenses, including expenses of roundup, branding, care, and feeding of livestock, shall be a proper charge against the estate and may be paid by the Superintendent from those funds of the deceased that are under his control, or from the proceeds of a sale of the property or a part thereof.

**§ 15.71 Summary distribution.**

When an Indian dies intestate leaving only trust personal property or cash of a value of less than $1,000, the Examiner may, or the Superintendent shall, assemble the apparent heirs and hold an informal hearing with a view to the proper distribution thereof. A memorandum covering the hearing shall be retained in the agency files showing the date of death of the decedent, the date of hearing, the persons notified and attending, the amount on hand, and the disposition thereof. In the disposition of such funds, the Examiner or Superintendent shall dispose of creditors' claims as provided in § 15.51. The Superintendent shall credit the balance, if any, to the legal heirs.

**§ 15.72 Omitted property.**

(a) When, subsequent to the issuance of a decision under § 15.40 or § 15.96, it is found that property belonging to a decedent has not been included in the inventory, the inventory can be modified administratively by the Bureau of Indian Affairs under the terms of such decision to include such omitted property. Copies of such modifications shall be furnished to the Superintendent and to all those persons who share in the estate where no judicial determination is required.

(b) When the property to be included takes a different line of descent from that shown in the original decision, the Bureau of Indian Affairs shall notify the Examiner who shall notice and hold a hearing when necessary to determine the heirs thereto, in accordance with this part, and shall issue a modification order which shall include a determination of heirs and, if an approved will is involved, distribution thereunder. The Examiner shall transmit his order, issued under this paragraph, by notice as provided in § 15.40(b) and lodge the record of such proceedings with the title plant designated under § 15.35(b).

**§ 15.73 Improperly included property.**

When, subsequent to a decision under § 15.40 or § 15.96, it is found that property has been improperly included in the inventory of an estate, the inventory shall be modified to eliminate the property improperly included therein. Copies of such modification may be furnished to the Superintendent and to all those persons who share in the estate. The record of any such proceeding shall be lodged with the title plant designated under § 15.35(b).

**§ 15.74 Distribution of estates.**

(a) Upon receipt of written authorization, order, or decision from the Examiner, the Superintendent shall pay allowed claims and distribute the estate and take all necessary action directed in the decision.

(b) The Superintendent may not pay claims nor make distribution of an estate during the pendency of proceedings under § 15.44 or § 15.45 unless the Examiner orders otherwise in writing. The Board may, at any time, authorize the Examiner to issue interim orders for payment of claims or for partial distribution during the pendency of proceedings instituted under Subpart J of this part.

## Subpart I—Miscellaneous

**§ 15.80 Probate fees.**

Upon a determination of the heirs to any trust or restricted Indian property of the value of $250 or more or to any allotment, or after approval of any will disposing of such trust or restricted property, the following fees shall be paid (a) by the heirs, or (b) by the beneficiaries under the will, or (c) from the estate of the decedent, or (d) from the proceeds of the sale of the allotment, or (e) from any trust funds belonging to the estate of the decedent:

| | |
|---|---|
| On estates appraised at: | |
| $250 and not exceeding $1,000 | $20 |
| Over $1,000 and less than $2,000 | 25 |
| $2,000 and not exceeding $3,000 | 30 |
| Over $3,000 and not exceeding $5,000 | 50 |
| Over $5,000 and not exceeding $7,500 | 65 |
| Over $7,500 | [1] 75 |

[1] (45 Stat. 992; 25 U.S.C. sec. 377 (1964))

**§ 15.81 Claims for attorney fees.**

Attorneys representing Indians under the regulations in this part shall be allowed compensation on a quantum meruit basis. In determining attorneys' fees, the Examiner shall give consideration to any fee contract with the attorney, to the fact that the property of the decedent is restricted or held in trust, that the rights of all interested parties must be evaluated, and that without adequate representation those rights may be endangered. Such fees as are allowed may be charged only against the interests of the attorneys' clients. They may, in the Examiner's discretion, be taxed as a cost of administration with the priority of payment as against other allowed claims to be fixed in the decision.

## Subpart J—Appeals to the Board of Indian Appeals

**§ 15.90 Who may appeal.**

Any party aggrieved by the action taken by an Examiner on a petition for rehearing, on a petition for reopening, or with respect to allowance of attorneys' fees, shall have a right of appeal to the Board of Indian Appeals, except as to actions of the Examiner which have been approved by the Secretary. No issue will be considered on appeal, however, which was not raised before the Examiner by petition or otherwise prior to the issuance of the Examiner's decision.

**§ 15.91 Appeals; how taken.**

(a) *Notice of appeal.* The appellant shall file a written notice of appeal, signed by him or by his attorney or other qualified representative, in the office of the Examiner who issued the decision being appealed, within 60 days (or any authorized extension of such period) after the date of the mailing of the notice of the decision being appealed. The notice of appeal shall indicate that an appeal is thereby intended and shall give a concise but complete statement of the reasons for the appeal. One amendment to the notice of appeal may be permitted if filed within 10 days of the original filing. Any amendment shall be signed also by the appellant or by his attorney or other qualified representative.

(b) *Service of copies of notice of appeal.* The appellant shall hand deliver, or forward by certified mail, the original notice of appeal and any amendment thereto, to the Examiner, and in a like manner, one copy of the notice and of any amendment to the Board. It is a jurisdictional requirement that at the time of filing the original notice he shall forward copies of the notice of appeal by regular mail or otherwise to all Superintendents named on the Examiner's notice of decision, to all parties who share in the estate under the decision being appealed, and to any other parties who have appeared of record. The notice of appeal shall have attached thereto a certificate if filed by an attorney of record, or an affidavit if filed by a non-attorney, setting forth the names of parties served and their last known address to which the notice was mailed. Any amendments to the notice of appeal shall be served on the same parties in like manner, and similar evidence of service must be filed with regard thereto.

(c) *Action by Examiner.* The Examiner receiving the notice of appeal shall forthwith advise the Board if the notice was not timely filed and shall file the original as a part of the record. He shall direct the title plant designated under § 15.35(b) to copy the same and forward the original to the Board promptly, in any event within 10 days.

**§ 15.92 Appeal file.**

The appeal file shall include the full record unless by stipulation filed with the notice, the parties shall specify only a part thereof.

**§ 15.93 Notice of transmittal of appeal file.**

At the time of the transmittal of the appeal file to the Board, the officer shall notify the appellant and afford him an opportunity to examine the same at the office of the transmitting officer, at the office of the Board, or at a suitable alternative Departmental office for the purpose of satisfying himself as to the contents, and furnishing or suggesting any additional documentation deemed by him to be material to the appeal. With his transmittal to the Board, the transmitting officer shall certify that the appellant has been provided with the above-described notice and a showing as to whether the appellant has availed himself of the opportunity provided.

**§ 15.94 Docketing.**

Following receipt by the Board of the appeal file it shall be promptly, and in any event within 10 days, docketed and all of the following parties advised of its docketing: The appellant, the Examiner whose decision is being appealed, and all interested parties as shown by the record on appeal. Said notice shall further advise the appellant and all other parties of the time limitations within which briefs may be filed as set forth herein.

**§ 15.95 Pleadings.**

(a) The appellant may file a brief or other written statement of his contentions and supporting authorities, all hereinafter called brief, within 30 days of the mailing of the notice of docketing. He shall serve a copy of said brief upon all other interested parties or their counsel and a certificate or an affidavit to that effect shall be filed with said brief. Opposing parties or their counsel shall have 30 days from the date of filing of appellant's brief with the Board in which to file any answer briefs, copies of which shall also be served upon the appellant or his counsel and a certificate or an affidavit to that effect shall be filed concurrently with the Board.

(b) Appellant shall have 15 days from the date of filing of answer briefs in which to reply to any issues raised, but he shall not raise any new issues therein. A certificate or an affidavit showing service of said briefs upon all opposing parties or their counsel shall be filed concurrently therewith. Except by special permission of the Board, no other briefs will be allowed on appeal.

**§ 15.96 Decisions.**

Decisions of the Board will be made in writing. Copies thereof will be forwarded simultaneously to all parties concerned, to the Examiner, the Superintendent, the Commissioner, the title plant designated under § 15.35(b), and to such other persons as the Board in its discretion deems appropriate. The Examiner shall issue any implementing or supplemental order which may be necessary in accordance with the Board's decision and shall notify the same parties who received the decision of the Board and the title plant designated under § 15.35(b).

[F.R. Doc. 70-16193; Filed, Dec. 2, 1970; 8:47 a.m.]

## Bureau of Land Management

## [ 43 CFR Part 2850 ]

## POWER TRANSMISSION LINES

### Description of Environmental Impact

The National Environmental Policy Act of 1969, 42 U.S.C. 4321, declares that Federal agencies are to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources for the protection and enhancement of environmental quality; requires the policies, regulations, and public laws of the United States to be interpreted and administered in accordance with the policy; and directs Federal agencies to include as part of any major Federal action significantly affecting the quality of the human environment a detailed environmental statement on

(i) The environmental impact of the proposed action,

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) Alternatives to the proposed action,

(iv) The relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity,

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Executive Order No. 11514 further directs Federal agencies to develop programs and measures to protect and enhance environmental quality and bring other policies into conformance with the intent, purpose, and procedures of the Act.

Because approval of a right-of-way over public lands and reservations for power transmission lines may be a major Federal action significantly affecting the environment, the granting agency must carefully assess its environmental impact. It is the purpose of the following amendment to the departmental regulations to require that this be done and that the preparation of an environmental statement be made when required by the Act and the regulation. The amendment also requires that approval of an application for right-of-way for a power transmission line be withheld if the beneficial purposes and effects of the project will be outweighed by an adverse environmental impact.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Bureau of Land Management, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, written comments, suggestions, or objections respecting the amendment. Comments, suggestions, or objections received will be given consideration in the preparation final rules.

WALTER J. HICKEL,
*Secretary of the Interior.*

NOVEMBER 25, 1970.

Part 2850 of Chapter II of Title 43 of the Code of Federal Regulations is amended by adding the following to § 2851.2-1(c):

**§ 2851.2-1 Applications.**

* * * * *

(c) *Required showings.* * * *

(6) A detailed description of the environmental impact of the project shall be included with the application. It shall provide, among other things, information about the impact of the project on air and water quality, scenic and esthetic features, historical and archeological features, and wildlife, fish, and marine life. It shall also indicate whether the proposed site, design, and construction of the project is consistent with such environmental criteria and guidelines as the Department shall from time to time prescribe. The application shall be approved only if it is determined that the beneficial purposes and effects of the project will not be outweighed by an adverse environmental impact.

[F.R. Doc. 70-16229; Filed, Dec. 2, 1970; 8:50 a.m.]

# DEPARTMENT OF AGRICULTURE

## Agricultural Stabilization and Conservation Service

[ 7 CFR Parts 723, 724 ]

## TOBACCO

### Notice of Determinations To Be Made With Respect to Marketing Quotas for 1971–72, 1972–73, and 1973–74 Marketing Years

Pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq., hereinafter referred to as the Act), the Secretary is preparing (1) with respect to Burley, Maryland, Virginia sun-cured, and Cigar-filler (type 41) tobacco, to proclaim national marketing quotas for the 1971–72, 1972–73, and 1973–74 marketing years, and to conduct within 30 days after the proclamation of such national marketing quotas referenda of farmers engaged in the 1970 production of each of such kinds of tobacco to determine whether they favor or oppose marketing quotas for such years; and (2) with respect to Fire-cured (type 21), Fire-cured (types 22–24), Burley, Maryland, dark air-cured, Virginia sun-cured, Cigar filler (type 41), cigar-binder (types 51 and 52), and Cigar-filler and binder (types 42–44, 53–55) tobacco, to determine and announce the national marketing quotas for the 1971–72 marketing year; to convert such marketing quotas into national acreage allotments and announce such allotments; to apportion such national acreage allotments, less reserves of not to exceed 1 percentum of each respectively, through the local committees among old farms; to apportion the aforementioned reserves for use in (a) establishing acreage allotments for new farms and (b) making corrections and adjusting inequities in old farm allotments.

The Act (7 U.S.C. 1312(a)) provides that the Secretary shall proclaim not later than February 1 of any marketing year, with respect to these kinds of tobacco, a national marketing quota for any of such kinds of tobacco for each of the next 3 succeeding marketing years whenever he determines with respect to such kind of tobacco—

(1) That a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) That such marketing year is the last year of 3 consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers: *Provided*, That if such producers have disapproved national marketing quotas for 3 successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the 3-year period for which national marketing quotas previously proclaimed were disapproved by producers, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he may prescribe, to proclaim a national marketing quota for each of the next 3 succeeding marketing years.

The Secretary has previously proclaimed quotas and conducted referenda for the various kinds of tobacco with results as follows: Fired-cured for the 1970–71, 1971–72, and 1972–73 marketing years, approved by growers (35 F.R. 4945); Burley for the 1968–69, 1969–70, and 1970–71 marketing years, approved by growers (33 F.R. 5038); Maryland for the 1968–69, 1969–70, and 1970–71 marketing years, disapproved by growers (33 F.R. 4787); Dark air-cured for the 1970–71, 1971–72, and 1972–73 marketing years, approved by growers (35 F.R. 4945); Virginia sun-cured for the 1968–69, 1969–70, and 1970–71 marketing years, approved by growers (33 F.R. 5038); Cigar-filler (type 41) for the 1968–69, 1969–70, and 1970–71 marketing years, disapproved by growers (33 F.R. 4787); Cigar-binder (types 51 and 52) for the 1969–70, 1970–71, and 1971–72 marketing years, approved by growers (34 F.R. 5903); and Cigar-filler and binder (types 42–44, 53–55) for the 1969–70, 1970–71, and 1971–72 marketing years, approved by growers (34 F.R. 5903).

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, and 14;
Fire-cured tobacco, comprising type 21;
Fire-cured tobacco, comprising types 22, 23, and 24;
Dark air-cured tobacco, comprising types 35 and 36;
Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco, comprising type 32;
Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55; and Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has determined (15 F.R. 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Pursuant to such authority, the Secretary has also determined (22 F.R. 367) that Cigar-binder (types 51 and 52) tobacco, beginning with the 1957–58 marketing year, shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Type 45 tobacco is no longer grown.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1971 with respect to kinds other than flue-cured tobacco, the amount of the national marketing quota which will be in effect for the 1971–72 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of the 1971–72 national marketing quota (determined pursuant to such section) may, not later than March 1, 1971, be increased by not more than 20 percentum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The Act (7 U.S.C. 1301(b)) defines the "total supply" of tobacco for any marketing year as the carryover at the beginning of the marketing year (on January 1 of such marketing year in the case of Maryland tobacco), plus the estimated production in the United States during the calendar year in which such marketing year begins. "Reserve supply level" is defined as the normal supply plus 5 per centum thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 percentum of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The Act (7 U.S.C. 1312(c)) requires that within 30 days after national marketing quotas are proclaimed under section 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kind of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to quotas for the next 3

succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no way affect or limit the subsequent submission to a referendum, as otherwise provided in section 312 of the Act (7 U.S.C. 1312), of national marketing quotas.

The Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment on the basis of the national average yield for the 5 years immediately preceding the year in which the national marketing quota is proclaimed, and to apportion the national acreage allotment (less a reserve of not to exceed 1 percentum thereof for new farms and for making corrections and adjusting inequities in old farm allotments) among old farms.

The Act (7 U.S.C. 1313(g)) also provides that any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1955 or any subsequent crop shall not be taken into account in establishing * * * farm acreage allotments.

The Act (7 U.S.C. 1313(i)) provides that notwithstanding any other provision of the Act, whenever after investigation the Secretary determines with respect to any kind of tobacco that a substantial difference exists in the usage or market outlets for any one or more of the types comprising such kind of tobacco and that the quantity of tobacco of such type or types to be produced under marketing quotas and acreage allotments established pursuant to this section would not be sufficient to provide an adequate supply for estimated market demands and carryover requirements for such type or types of tobacco, the Secretary shall increase the marketing quotas and acreage allotments for farms producing such type or types of tobacco in the preceding year to the extent necessary to make available a supply of such type or types of tobacco adequate to meet such demands and carryover requirements; the increases in farm marketing quotas and acreage allotments shall be made on the basis of the production of such type or types of tobacco during the period of years considered in establishing farm marketing quotas and acreage allotments for such kind of tobacco; the additional production authorized by section 313(i) shall be in addition to the national marketing quota established pursuant to section 312 of the Act; and the increase in acreage under section 313(i) shall not be considered in establishing future * * * farm acreage allotments.

The Secretary, may, under section 317(c) of the Act, in his discretion, offer acreage-poundage quotas on Fire-cured, Dark air-cured, Cigar binder (types 51 and 52) or Cigar-filler and binder (types 42–44, 53–55) tobacco for the 1971–72 marketing year if he determines that acreage-poundage quotas would result in more effective marketing quotas than the program on an acreage basis. Should the making of such a determination be considered probable for this kind of tobacco, public hearings will be conducted in the areas where such tobacco is produced for the purpose of ascertaining and taking into consideration the attitudes of producers and other interested persons with respect to acreage-poundage quotas. There is no provision under which acreage-poundage quotas may be offered on burley, Maryland, Virginia sun-cured, or Cigar-filler (type 41) tobacco for the 1971–72 marketing year.

The subjects and issues involved in making the determinations described in this notice are:

1. The amount of the national marketing quota for each kind of tobacco for the 1971–72 marketing year.

2. The conversion of the national marketing quotas into national acreage allotments and apportionment of same, less reserve of not to exceed 1 percent thereof, among old farms.

3. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments.

4. The date(s) or period(s) of the four referenda on quotas for the 1971–72, 1972–73, and 1973–74 marketing years for Burley, Maryland, Virginia sun-cured, and Cigar-filler (type 41) tobacco, and whether any or all of the referenda should be conducted at polling places rather than by mail ballot (31 F.R. 12011).

5. Whether the Secretary should determine that any one or more of the types comprising a kind of tobacco should be treated as a separate kind of tobacco under section 301(b)(15) of the Act.

6. Whether the Secretary should take any action under section 313(i) of the Act.

7. Whether the Secretary should offer acreage-poundage quotas on any kind or kinds of tobacco.

Consideration will be given to data, views, and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to the notice will be made available for public inspection at such time and in a manner convenient to the public business (7 CFR 1.27(b)). All submissions must, in order to be considered, be postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 1, 1970.

KENNETH E. FRICK,
*Administrator, Agricultural Stabilization and Conservation Service.*

[F.R. Doc. 70-16276; Filed, Dec. 1, 1970; 12:40 p.m.]

## Consumer and Marketing Service

## [7 CFR Part 1040]

## MILK IN SOUTHERN MICHIGAN MARKETING AREA

### Notice of Proposed Suspension of Certain Provision of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a certain provision of the order regulating the handling of milk in the Southern Michigan marketing area is being considered for the months of January through June 1971.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, DC 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be suspended is the word "yogurt" in § 1040.12. This section defines a "fluid milk product."

The suspension would result in yogurt being classified during the January–June 1971 period as a Class III product rather than as a Class I product. A similar suspension now in effect will expire on December 31, 1970.

Handlers who distribute a major portion of the producer milk on the Southern Michigan market have requested that the present suspension be continued for several months beyond the December expiration date. It is the position of these parties that the marketing conditions prompting the earlier suspension action have not changed materially. They maintain that without continuation of the suspension Southern Michigan handlers would be unable to compete for yogurt sales on a comparable cost basis with handlers in neighboring markets who are required to pay substantially less than the Class I price for milk used in yogurt.

A hearing was held recently on the classification of yogurt and other products in some of the markets in which Michigan handlers are distributing yogurt. Action on this hearing is still pending. In the request for suspension, it was urged that a similar hearing for the Southern Michigan market not be held until the outcome of the earlier hearing is known.

Signed at Washington, D.C., on November 30, 1970.

JOHN C. BLUM,
*Deputy Administrator, Regulatory Programs.*

[F.R. Doc. 70-16238; Filed, Dec. 2, 1970; 8:51 a.m.]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Social and Rehabilitation Service

[ 45 CFR Part 206 ]

## PUBLIC ASSISTANCE PROGRAMS

### Application, Determination of Eligibility and Furnishing Assistance

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations relate to application, determination of eligibility, and furnishing assistance under title I, IV-A, X, XIV, XVI, or XIX of the Social Security Act, with respect to the requirement that each individual wishing to do so will have the opportunity to apply for assistance. A provision is added to specify that the applicant may be assisted by other individuals of his choice if he so desires.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within a period of 30 days from date of publication of this notice in the FEDERAL REGISTER.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Dated: November 7, 1970.

JOHN D. TWINAME,
*Administrator, Social and Rehabilitation Service.*

Approved: November 25, 1970.

ELLIOT L. RICHARDSON,
*Secretary.*

Section 206.10(a)(1) is revised to read as follows:

**§ 206.10 Application, determination of eligibility and furnishing of assistance.**

* * * * *

(a) * * *

(1) Each individual wishing to do so will have the opportunity to apply for assistance without delay. Under this requirement the agency accepts application from the applicant himself or from someone acting responsibly for him, in person, by mail, or by telephone. An applicant or recipient may be assisted if he so desires by other individuals of his choice in the various aspects of the application process and the redetermination of eligibility; he may be accompanied by such individuals in contacts with the agency, and when so accompanied, may also be represented by them. Individuals eligible for financial assistance are eligible for medical assistance without a separate application.

* * * * *

[F.R. Doc. 70-16215; Filed, Dec. 2, 1970; 8:49 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

[ 14 CFR Part 75 ]

[Airspace Docket No. 70-WA-31]

## AREA HIGH ROUTES

### Proposed Designation

*Correction*

In F.R. Doc. 70-15977 appearing at page 18125 in the issue of Thursday, November 26, 1970, the route designation "J801R:" should be inserted above the entry for "Peach Springs, Ariz." in the first column on page 18126.

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## National Highway Safety Bureau

[ 49 CFR Part 571 ]

[Docket No. 2-15, Notice 6]

## CHILD SEATING SYSTEMS

### Extension of Time for Comments

*Correction*

In F.R. Doc. 70-16008 appearing on page 18206 in the issue for Saturday, November 28, 1970, the word "Both" at the beginning of the third sentence should read "Bolt".

# FEDERAL POWER COMMISSION

[ 18 CFR Parts 2, 157 ]

[Docket No. R-405]

## RELIABILITY OF ELECTRIC AND GAS SERVICE

### Notice of Extension of Time

NOVEMBER 30, 1970.

There have been filed several requests for extension of time to file comments to the "Policy Statement, Notice of Investigation and Proposed Rule Making with Respect to Developing Emergency Plans" issued on November 4, 1970 (35 F.R. 17428), in the above-designated proceeding.

Upon consideration, the times for filing comments, data and information as set forth in paragraphs 3A, 3B, 5A, and 10 of the "Policy Statement, Notice of Investigation and Proposed Rule Making with Respect to Developing Emergency Plans" issued November 4, 1970 are hereby extended from December 1, 1970 to December 15, 1970. Paragraphs 3A, 3B, 5A, and 10 are amended accordingly.

By direction of the Commission.

GORDON M. GRANT,
*Secretary.*

[F.R. Doc. 70-16271; Filed, Dec. 2, 1970; 8:52 a.m.]

# INTERSTATE COMMERCE COMMISSION

[ 49 CFR Part 1249 ]

[No. 35345]

## QUARTERLY REPORT OF FREIGHT LOSS AND DAMAGE CLAIMS

### Notice of Proposed Rule Making

SEPTEMBER 14, 1970.

Notice is hereby given, pursuant to the provisions of section 553 of the Administrative Procedure Act, that the Commission has under consideration adoption of a requirement for filing of quarterly reports of freight loss and damage claims by all motor common and contract carriers of property having average annual operating revenues (including interstate and intrastate) of $1 million or more from property motor carrier operations, effective with the first quarter period ending March 31, 1971. Average annual operating revenues will be determined according to the provisions of 49 CFR 1240.5(b).

The reports under consideration call for reporting of the number and dollar amounts of freight claims paid by types of commodities, causes of claims and by location of theft, and for an analysis of claims received and processed. The quarterly reports will be filed in duplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, within 30 days after the close of the quarter, prepared in accordance with the instructions and format of the proposed report, Form QL&D. Copies of the proposed report are available from the Office of the Secretary, Interstate Commerce Commission.

It is intended that the reports provide the Commission, other governmental agencies, shippers, and the general public essential information with respect to the loss and damage of commodities transported by motor carriers, especially with respect to those articles lost or presumed lost because of theft. Benefits to the motor transportation industry and the shipping public should more than compensate for the reporting burden imposed by the systematic reporting of the data. To minimize the reporting burden, the Commission will consider making arrangements for carrier reporting of the claims data on magnetic tape or card decks suitable for computer processing as an alternate reporting procedure.

Any party desiring to make representations in favor of or against the proposed reporting may do so through submission of written data, views or comments for consideration. The original and fifteen copies of such representations should be filed with the Secretary of the Interstate Commerce Commission, Washington, D.C., 20423, within 30 days after publication of this notice in the FEDERAL REGISTER.

Notice shall be given motor carriers hereby affected subject to the provisions of Part II of the Interstate Commerce Act and the general public by depositing a copy of this notice in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register. Copies of the proposed reporting forms may be procured from the Commission by any interested parties.

(Sec. 204, 220, 49 Stat. 546, as amended, 563; 49 U.S.C. 304, 220)

By the Commission.

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

[F.R. Doc. 70-16239; Filed, Dec. 2, 1970; 8:51 a.m.]

# Notices

## POST OFFICE DEPARTMENT

### NEW ORGANIZATIONAL TITLES

The names of Headquarters Bureaus and Offices are redesignated as follows:

| *From—* | *To—* |
|---|---|
| Bureau of Operations | Operations Department. |
| Bureau of Finance and Administration. | Finance and Administration Department. |
| Bureau of Facilities | Facilities Department. |
| Bureau of Personnel | Personnel Department. |
| Bureau of Research and Engineering. | Research & Engineering Department. |
| Bureau of Planning and Marketing. | Planning & Marketing Department. |
| Office of the General Counsel. | General Counsel Department. |
| Bureau of Chief Postal Inspector. | Chief Inspector Department. |

(5 U.S.C. 301; 39 U.S.C. 501)

DAVID A. NELSON,
*General Counsel.*

[F.R. Doc. 70-16308; Filed, Dec. 2, 1970; 8:52 a.m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Serial No. I-3639]

### IDAHO

### Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 25, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2460, the public land described below is hereby classified for multiple-use management. Publication of this notice has the effect of segregating the described land from all forms of appropriation and entry under the public land laws, including mining but not the mineral leasing laws. As used herein, "public land" means 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. This tract is located about 30 miles north of Emmett, Idaho, in the Crane Creek Area. This partially developed site provides a temporary headquarters for necessary field work and a 3-man initial attack fire crew.

3. Maps showing the location of this tract described below and data supporting this proposal are on file and available for inspection at Bureau of Land Management offices—the Boise District, 230 Collins Road and the State Office, 334 Federal Building, 550 West Fort Street, Boise, ID.

BOISE MERIDIAN, IDAHO

T. 11 N., R. 1 W.,
Sec. 7, N½SW¼SE¼=20 acres.

4. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior, as provided for in 43 CFR 2461.3. For this period interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, DC 20240.

WILLIAM L. MATHEWS,
*State Director.*

[F.R. Doc. 70-16183; Filed, Dec. 2, 1970; 8:46 a.m.]

[Serial No. I-3651]

### IDAHO

### Notice of Classification of Public Lands for Multiple-Use Management

*Correction*

In F.R. Doc. 70-15280 appearing at page 17438 in the issue of Friday, November 13, 1970, the entry "Sec. 30" should be inserted in sequence under "T. 9 S., R. 35 E.," for Power County.

### IDAHO

### Notice of Filing of Plat of Survey; Filing Date Suspended

NOVEMBER 25, 1970.

F.R. Doc. 70-14215, appearing on page 16481 of the issue for October 22, 1970, prescribed that certain plats of survey for lands in T. 7 N., R. 40 E., and T. 8 N., R. 41 E., Boise Meridian, Idaho, would be officially filed in the Land Office, Boise, Idaho, effective at 10 a.m. on November 25, 1970.

The official filing date is herewith suspended until further notice.

CURTIS R. TAYLOR,
*Acting Manager, Land Office.*

[F.R. Doc. 70-16184; Filed, Dec. 2, 1970; 8:46 a.m.]

[Montana 10816]

### MONTANA

### Notice of Classification of Public Lands for Multiple-Use Management

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

2. No adverse comments were received following publication of the notice of proposed classification (35 F.R. 14857) on September 24, 1970. The record is on file and can be examined in the Malta District Office, Malta, Mont.

The public lands were acquired by exchange for the benefit of multiple-use management programs. The lands are intermingled with lands previously classified for retention and multiple-use management under serial number M 073705.

3. The public lands affected by this classification are located within the following described area and are shown on maps on file in the Malta District Office, Bureau of Land Management, Malta, MT 59538, and in the Land Office, Bureau of Land Management, Federal Building, 316 North 26th Street, Billings, MT 59101.

PRINCIPAL MERIDIAN, MONTANA

VALLEY COUNTY

T. 25 N., R. 38 E.,
Sec. 7, lots 1, 2, 3, and 4, and E½W½.

The public lands described above aggregate approximately 313.96 acres.

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

EUGENE H. NEWELL,
*Acting State Director.*

[F.R. Doc. 70-16185; Filed, Dec. 2, 1970; 8:46 a.m.]

[Montana 16584]

### MONTANA

### Order Providing for Opening of Public Lands

NOVEMBER 23, 1970.

1. In exchanges of lands made under the provisions of section 8 of the Act of

June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following described lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 37 N., R. 23 E.,
Sec. 1, lots 9, 10, 11, and 12, S½NW¼, and S½;
Sec. 12, N½.
T. 37 N., R. 24 E.,
Sec. 2, SW¼;
Sec. 3, lots 9, 10, and 11, S½NW¼, and SW¼;
Sec. 4, lots 9, 10, and 11, and S½N½;
Sec. 5, lots 9, 10, 11, and 12, S½N½, and NE¼SE¼;
Sec. 6, lot 15, SE¼NE¼, and NE¼SE¼;
Sec. 7, SE¼NE¼ and SE¼;
Sec. 8, NE¼, NE¼NW¼, S½NW¼, and S½;
Sec. 9, W½;
Sec. 10, NW¼NW¼, S½NW¼, and SW¼;
Sec. 15, NE¼NW¼, S½NW¼, and SW¼;
Sec. 17, All;
Sec. 18, E½NE¼ and NE¼SE¼;
Sec. 22, N½NW¼.
T. 37 N., R. 25 E.,
Sec. 13, N½NW¼.

The areas described aggregate 4,586.62 acres.

2. The lands are located in Blaine County. They are grazing lands and are not suitable for cultivation. The lands have been acquired to further Federal programs. Public lands in this area have been classified for multiple-use management under serial number M 12993.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location, and selection, except for 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 (43 U.S.C. 1171). All valid applications received at or prior to 10 a.m., December 30, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged and their status is not affected by this order.

5. Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals Program Management and Land Office, Bureau of Land Management, 316 North 26th Street, Billings, MT 59101.

EUGENE H. NEWELL,
*Land Office Manager.*

[F.R. Doc. 70-16186; Filed, Dec. 2, 1970; 8:46 a.m.]

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[Montana 16260]

## MONTANA

### Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 24, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2400 and 2460, the public lands within the area described below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the described lands from all forms of appropriation, selection, location, and entry under the public land laws, including the general mining laws, and from surface use and occupancy under the mineral leasing laws. These public lands are believed to contain Dorypterid Fish, a rare fossil fish fauna. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Two comments were received following publication of the notice of proposed classification (35 F.R. 14007–14008). One comment was from an individual who has unpatented mining claims in this general area. The classification has no effect on valid existing rights. The second comment suggests that if any part of the area is later shown, by competent researchers, to be relatively devoid of fossils, these areas then be opened to quarrying. This request is reasonable and can be accomplished when the research is complete. In view of these comments, no change has been made in the list of lands included in this classification. The record showing comments received and other information is on file and can be examined in the Lewistown District Office, Lewistown, Mont.

3. As provided in paragraph 1 above, the public lands effected by this classification are located within the following described area and are shown on a map designated by serial number M 16260 in the Lewistown District Office, Bureau of Land Management, Bank Electric Building, Lewistown, Mont. 59457, and in the Land Office, Bureau of Land Management, Federal Building, 316 North 26th Street, Billings, MT 59101.

PRINCIPAL MERIDIAN, MONTANA

FERGUS COUNTY

*Blacktail Creek Paleontological Site*

T. 13 N., R. 22 E.,
Sec. 6, W½SE¼;
Sec. 8, SW¼NW¼.
T. 14 N., R. 22 E.,
Sec. 33, N½SE¼;
Sec. 34, N½SW¼ and SE¼NE¼.

The public lands described above aggregate approximately 320 acres.

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

EUGENE H. NEWELL,
*Acting State Director.*

[F.R. Doc. 70-16187; Filed, Dec. 2, 1970; 8:46 a.m.]

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[Serial No. N-2474]

## NEVADA

### Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 24, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2420 and 2460, the public lands within the area described below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing or material sale laws, with the exception contained in paragraph 4. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. The notice of proposed classification published in the FEDERAL REGISTER on June 18, 1970, F.R. Doc. 70-7686, inadvertently stated that the lands proposed for classification would be segregated from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands described are not to be segregated from sale under the authority and the segregation afforded by the notice of proposed classification is hereby terminated.

Objection was raised to the segregation from appropriation under the general mining laws of the 40 acres described in paragraph 3 of the notice of proposed classification. The objection was that the lands are valuable for their mineral potential and should not be closed to further mineral exploration and development. This objection was considered and found to be a legitimate point of concern. In evaluating the relative values of mining and recreation development of the subject site, it has been decided that the scarcity of potential recreation sites in the Roberts Creek area is such that the recreation value of the site outweighs the mineral potential and that the segregation should continue.

Objection was also raised as to the minimal acreage proposed to be segregated for recreation use. A 75,000 acre portion of the Roberts Mountains was suggested to be set aside as a primitive area. This suggestion will be evaluated as time and manpower availability permit.

3. The public lands located within the following described area are shown on maps designated N-2474 on file in the Battle Mountain District Office, Bureau of Land Management, Post Office Box 194, Battle Mountain, NV 89820, or the Nevada Land Office, Bureau of Land Management, Room 3104, Federal Building, 300 Booth Street, Reno, NV 89502.

The overall description of the area is as follows:

MOUNT DIABLO MERIDIAN, NEVADA

EUREKA COUNTY

The public lands to be classified are wholly located within Eureka County, Nev.

The area described aggregates approximately 1,980,000 acres of public land.

4. The public lands listed below are further segregated from all forms of appropriation under the public land laws, including the general mining laws, but not the Recreation and Public Purposes Act (44 Stat. 741, 68 Stat. 173; 43 U.S.C. 869) or the mineral leasing and material sale laws:

MOUNT DIABLO MERIDIAN, NEVADA

ROBERTS CREEK RECREATION SITE

T. 22 N., R. 50 E. (unsurveyed),
Sec. 2, N½NE¼NE¼ (20 acres).
T. 23 N., R. 50 E. (unsurveyed),
Sec. 35, S½SE¼SE¼ (20 acres).

The area described above aggregates approximately 40 acres of public land.

5. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3.

NOLAN F. KEIL,
*State Director, Nevada.*

[F.R. Doc. 70-16189; Filed, Dec. 2, 1970; 8:47 a.m.]

[Montana 16435(ND)]

## NORTH DAKOTA

### Notice of Classification of Lands for Multiple-Use Management

NOVEMBER 25, 1970.

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

2. No adverse comments were received following publication of the notice of proposed classification in the FEDERAL REGISTER on September 24, 1970 (35 F.R. 14857 and 14858). The record is on file and can be examined in the Miles City District Office, Miles City, Mont.

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

FIFTH PRINCIPAL, MERIDIAN

MOUNTRAIL COUNTY, NORTH DAKOTA

T. 157 N., R. 91 W.,
Sec. 13, SE¼NW¼.

The lands described above aggregate 40.00 acres.

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

EUGENE H. NEWELL,
*Acting State Director.*

[F.R. Doc. 70-16188; Filed, Dec. 2, 1970; 8:47 a.m.]

[Montana 16463(SD)]

## SOUTH DAKOTA

### Notice of Classification of Lands for Multiple-Use Management

NOVEMBER 25, 1970.

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

2. No adverse comments were received following publication of the notice of proposed classification in the FEDERAL REGISTER on September 24, 1970 (35 F.R. 14858 and 14859). The record showing the comments received and other information is on file and can be examined in the Miles City District Office, Miles City, Mont.

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

BLACK HILLS MERIDIAN

HAAKON COUNTY, S. DAK.

T. 7 N., R. 20 E.,
Sec. 24, NE¼SE¼.

The lands described aggregate 40.00 acres.

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

EUGENE H. NEWELL,
*Acting State Director.*

[F.R. Doc. 70-16190; Filed, Dec. 2, 1970; 8:47 a.m.]

[Utah 12486]

## UTAH

### Notice of Offering of Land for Sale

Notice is hereby given that, under the provisions of the act of September 19, 1964 (78 Stat. 988) and pursuant to an application from Juab County, Utah, the Secretary of the Interior intends to offer the following lands for sale:

SALT LAKE MERIDIAN, UTAH

T. 11 S., R. 17 W.,
Sec. 11, E½SE¼NE¼NW¼.
T. 13 S., R. 18 W.,
Sec. 15, W½NW¼NW¼SW¼.

The lands described aggregate 10 acres.

The land has been classified by Bureau motion as suitable for transfer from Federal ownership to facilitate the waste disposal program in the remote areas of western Juab County. The proposed use of the land is for two sanitary land fill disposal sites. The county zoning ordinance regulates waste disposal sites and the county is now considering an ordinance to prohibit dumping of waste in areas not designated for that use. The Utah State Division of Health also regulates the use of sanitary land fills. One tract is located at Callao and the other is at Trout Creek, Utah.

It is the intention of the Secretary of the Interior to enter into an agreement with authorized county officials to permit Juab County to purchase the land at the appraised fair market value.

Any patent resulting from the sale of this land will be issued under the act of September 19, 1964, supra and shall contain a reservation to the United States of rights-of-way for ditches and canals under the act of August 30, 1890 (43 U.S.C. sec. 945), and of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws, including the mining and mineral leasing laws. The land will be sold subject to all valid existing rights and reservations for rights-of-way.

J. E. KEOGH,
*Acting State Director.*

[F.R. Doc. 70-16191; Filed, Dec. 2, 1970; 8:47 a.m.]

[OR 6923 (Wash)]

## WASHINGTON

### Notice of Offering of Land for Sale

NOVEMBER 27, 1970.

Notice is hereby given that under the provisions of the act of September 19, 1964 (78 Stat. 988), and pursuant to an application from the State of Washington, Department of Game, the Secretary of the Interior will offer for sale, lot 3 of section 8 and lot 3 of section 20, T. 9 N., R. 27 E., W.M., Washington.

The lands are situated within Benton County, Wash., adjacent to the Yakima River and are needed for public recreational purposes. Action is now pending to zone lot 3 of section 8 for parks and recreation, and lot 3 of section 20 is zoned for general use.

It is the intention of the Secretary to enter into an agreement with the State of Washington, Department of Game, to permit the State to purchase the lands at the appraised fair market value.

Patent to the lands issued under the act of September 19, 1964, supra, shall contain a reservation to the United States of rights-of-way for ditches and canals under the act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945); and of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws, including the mining and mineral leasing laws.

VIRGIL O. SEISER,
*Chief, Branch of Lands.*

[F.R. Doc. 70-16192; Filed, Dec. 2, 1970; 8:47 a.m.]

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## 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), October 6 (pp. 15653–15654), and November 3 (pp. 16946–16947). 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 following properties have been added since November 3:

ALABAMA

*Barbour County*

Eufaula, *The Tavern (River Tavern)*, 105 Riverside Drive.

ALASKA

*Interior District*

Eagle, *Eagle Historic District*, left bank of the Yukon River at the mouth of Mission Creek; secs. 24, 25, 36, T. 1 S., R. 32 E., secs. 19, 30, 31, T. 1 S., R. 33 E., sec. 1, T. 2 S., R. 32 E., secs. 4, 5, 6, T. 2 S., R. 33 E.

*South Central District*

Kodiak vicinity, *Fort Abercrombie State Historic Site*, Kodiak Island.

*Southeastern District*

Ketchikan vicinity, *Totem Bight State Historic Site*, west coast of Revillagigedo Island.

Wrangell, *Chief Shakes State Historic Site*, Shakes Island.

CALIFORNIA

*Lake County*

Lakeport, *Lake County Courthouse*, 255 North Main Street.

CONNECTICUT

*Fairfield County*

Bridgeport, *Brooks, Captain John, Senior, House*, 199 Pembroke Street.

Norwalk, *Lockwood-Mathews Mansion*, 295 West Avenue.

*Hartford County*

East Granby, *Old Newgate Prison*, Newgate Road.

Hartford, *Bushnell Park*, bounded by Elm, Jewell, and Trinity Streets.

*New Haven County*

New Haven, *Fort Nathan Hale*, at the southern end of Woodward Avenue.

*New London County*

New London, *Deshon-Allyn House*, 613 Williams Street.

New London, *Hempsted, Joshua, House*, 11 Hemptead Street.

New London, *New London County Courthouse (State Courthouse)*, 70 Huntington Street.

New London, *New London Customhouse*, 150 Bank Street.

New London, *New London Public Library*, 63 Huntington Street.

Norwich, *East District School*, 365 Washington Street.

Norwich, *Little Plain Historic District*, the east and west sides of Broadway and Union Street to the rear property lines extending from Otis Street on the northwest to 161 Broadway and 71 Union Street on the south; the south side of Otis Street to the northeast boundary of the sixth property on that street; includes all residences around Little Plain Park and Huntington Place.

Norwichtown, *Carpenter House (Red House)*, 55 East Town Street.

Norwichtown, *Charlton, Captain Richard, House*, 12 Mediterranean Lane.

Norwichtown, *Turner, Dr. Philip, House*, 29 West Town Street.

*Tolland County*

Coventry, *Hale, Nathan, Homestead (Deacon Richard Hale House)*, South Street.

*Windham County*

Brooklyn, *Trinity Church*, east side of Church Street.

Canterbury, *Payne, Elisha, House (Prudence Crandall House)*, southwest corner of the intersection of Connecticut 14 and 169.

DELAWARE

*New Castle County*

Wilmington, *Dingee, Obadiah, House*, 107 East Seventh Street.

GEORGIA

*White County*

Cleveland, *Old White County Courthouse*.

ILLINOIS

*Cook County*

Chicago, *Madlener, Albert F., House*, 4 West Burton.

Chicago, *Reliance Building*, 32 North State Street.

MAINE

*Cumberland County*

Freeport, *Pettengill House (Captain Greenfield Pote House)*, Wolf Neck Road.

*Kennebec County*

Hallowell, *Hallowell Historic District*, bounded on the west by a line running north 3,465 feet from the intersection of Litchfield Road and Middle Street to a point 93 feet north of Winthrop Street; then by a line running directly east for 1,563 feet; thence southwest from a point 120 feet west of U.S. 201 for a distance of 750 feet to a point on Water Street; thence south along Water Street to a point 62 feet north of the intersection with Winthrop Street; thence southeast toward the Kennebec River for 186 feet; thence southwest 580 feet; thence northwest along an extension of Union Street to Water Street; thence southwest on Water to Temple Street; northwest on Temple to a point 165 feet east of Second Street; then parallel to Second in a southwesterly direction for 1,600 feet to a point 90 feet east of the corner of Second and Litchfield Road; thence west 562 feet to the starting point.

Hallowell, *Vaughn Homestead*, Middle Street off Litchfield Road.

*Sagadahoc County*

Bath, *U.S. Customhouse and Post Office*, 25 Front Street.

MICHIGAN

*Emmet County*

Petosky, *Chesapeake and Ohio Railway Station (Chicago and West Michigan Railway Station, Pere Marquette Railway Station)*, Pioneer Park, West Lake Street.

*Jackson County*

Concord, *Mann House*, 205 Hanover Street.

*St. Clair County*

Port Huron, *St. Clair River Tunnel*, St. Clair River between Port Huron, Mich., and Sarnia, Ontario.

*Washtenaw County*

Ann Arbor, *President's House, University of Michigan*, 815 South University, University of Michigan campus.

*Wayne County*

Dearborn, *Commandant's Quarters*, 21950 Michigan Avenue.

MINNESOTA

*Chisago County*

Taylors Falls, *Taylors Falls Public Library*, 417 Bench Street.

*Cottonwood County*

Jeffers vicinity, *Jeffers Petroglyph Site*, N½NW¼ sec. 9, T. 107 N., R. 35 W.

*Goodhue County*

Red Wing vicinity, *Bartron Site*, NW¼NW¼ sec. 9, T. 113 N., R. 15 W.

*Hennepin County*

Edina, *Cahill School*, corner of Eden Avenue and Minnesota 100.

Edina, *Grange Hall*, corner of Eden Avenue and Minnesota 100.

*Ramsey County*

St. Paul, *Burbank-Livingston-Griggs House*, 432 Summit Avenue.

*Rice County*

Northfield, *Nutting House*, 217 Union Street.

*Yellow Medicine County*

Granite Falls vicinity, *Upper Sioux Agency*, secs. 29, 30, 32, T. 115 N, R. 38 W.

MISSOURI

*Atchison County*

Tarkio, *Mule Barn Theatre (David Rankin Mule Barn)*, 10th and Park Streets.

*Cooper County*

Boonville, *Harley Park Archeological Site*, SE¼NE¼ sec. 34, T. 49 N, R. 16 W.

*Moniteau County*

California, *Moniteau County Courthouse Square*, Public Square.

MONTANA

*Big Horn County*

Pryor vicinity, *Chief Plenty Coups Memorial*, 1 mile west of Pryor on Montana 416.

*Blaine County*

Chinook vicinity, *Chief Joseph Battleground of the Bear's Paw (Bearpaw Mountain Fight)*, about 15 miles south of Chinook.

*Pondera County*

Browning vicinity, *Two Medicine Fight Site*, about 25 miles southeast of Browning.

*Ravalli County*

Hamilton vicinity, *Canyon Creek Laboratory of the U.S. Public Health Service*, 0.75 mile west of the Hamilton city limits.

Stevensville, *St. Mary's Mission Church and Pharmacy*, North Avenue.

Stevensville vicinity, *Fort Owen*, about 0.5 mile northwest of Stevensville.

*Silver Bow County*

Butte, *Clark, W. A., Mansion*, 219 West Granite.

NEBRASKA

*Deuel County*

Big Springs, *Phelps Hotel*, northeast corner, Second and Pine Streets.

*Keith County*

Brule vicinity, *Diamond Springs Stage Station*, 1 mile west of Brule exit on Interstate 80.

*Lancaster County*

Lincoln, *Nebraska State Capitol*, 1445 K Street.

*Nance County*

Genoa vicinity, *Genoa Site*, 1 mile south of Genoa on Nebraska 39.

*Sarpy County*

Bellevue, *Burlington Depot (Omaha & Southern Railroad Station)*, Haworth Park.

Bellevue, *Old Log Cabin*, 1805 Hancock Street.

Bellevue, *Presbyterian Church*, 2002 Franklin Street.

NEW MEXICO

*Socorro County*

Socorro vicinity, *Fort Craig*, 37 miles south of Socorro.

NEW YORK

*New York County*

New York City, *Central Synagogue, (Congregation Ahawath Chesed-Shaar Hashomayim)*, 646–652 Lexington Avenue.

NORTH CAROLINA

*Polk County*

Tryon vicinity, *Block House Site*, 0.5 mile east of U.S. 176 on the boundary between North and South Carolina.

*Warren County*

Vaughan vicinity, *Buck Spring Plantation (Nathaniel Macon House)*, north of Vaughan on County Route 1348.

*Yadkin County*

Richmond Hill vicinity, *Richmond Hill Law School*, north of Richmond Hill on County Route 1530.

OKLAHOMA

*Garvin County (also in Murray County)*

Davis vicinity, *Initial Point*, about 7.5 miles west of Davis on Garvin-Murray County line.

*Murray County*

*Initial Point* (see Garvin County).

RHODE ISLAND

*Newport County*

Newport, *King, Edward, House*, Aquidneck Park, Spring Street.

SOUTH CAROLINA

*Beaufort County*

Laurel Bay vicinity, *Chester Field Site*, south of Laurel Bay on Port Royal Island.

*Charleston County*

Awendaw vicinity, *Sewee Mound (The Old Fort)*, 2.8 miles south of Awendaw.

Charleston, *Branford-Horry House*, 59 Meeting Street.

Charleston, *Rose, Thomas, House*, 57–59 Church Street.

Mount Pleasant vicinity, *Auld Mound*, northeast of Mount Pleasant, 1.2 miles southeast of U.S. 17.

Mount Pleasant vicinity, *Buzzard's Island Site*, northeast of Mount Pleasant 1.3 miles south of U.S. 17.

Rockville vicinity, *Fig Island Site*, 2 miles southwest of Rockville on Edisto Island on the north bank of Ocella Creek.

Rockville vicinity, *Hanckel Mound*, 2 miles northwest of Rockville on Wadmalaw Island.

*Williamsburg County*

Kingstree, *Thorntree (Witherspoon House)*, Fluitt-Nelson Memorial Park.

TEXAS

*Cherokee County*

Alto vicinity, *George C. Davis Site*, about 6 miles southwest of Alto on Texas 21.

*Gillespie County*

Fredericksburg, *Fredericksburg Historic District*, bounded by a line running southeast six blocks from the corner of Acorn and Schubert along Schubert to Adams; northeast one block on Adams to Travis; southeast on Travis one block to Llano; southwest on Llano two blocks to Austin; southeast on Austin three blocks to Elk; southwest two blocks on Elk to San Antonio; northwest on San Antonio three blocks to Llano; southwest one block on Llano to Barons Creek; northwest along the creek one block behind Creek Street to Adams; southwest one-half block on Adams to the rear property line of lots facing Creek Street; then northwest six blocks to Acorn; northeast four and one-half blocks to the corner of Acorn and Schubert.

*Jefferson County*

Beaumont, *French Home Trading Post*, 2995 French Road.

*McLennan County*

Waco, *Fort House*, 503 East Fourth Street.

*Robertson County*

Calvert, *Hammond House*, bounded by Burnet, China, Elm, and Hanna Streets.

*Tarrant County*

Fort Worth, *Gulf, Colorado & Santa Fe Railroad Passenger Station*, 1601 Jones Street.

Fort Worth, *Tarrant County Courthouse*, bounded by Houston, Belknap, Weatherford, and Commerce Streets.

*Val Verde County*

Langtry vicinity, *Mile Canyon (Eagle Nest Canyon)*, northeast of Langtry off U.S. 90.

*Washington County*

Brenham, *Pampell-Day House*, 409 West Alamo Street.

Independence, *Houston, Mrs. Sam, Home*, FM 390, one block east of the intersection with FM 50.

*Williamson County*

Old Round Rock, *Inn at Brushy Creek (Cole House)*, Taylor Exit of U.S. 79, off Interstate Highway 35, west side.

Round Rock vicinity, *Merrell, Captain Nelson, House*, northeast of Round Rock on U.S. 79.

UTAH

*Millard County*

Deseret vicinity, *Fort Deseret*, 2 miles south of Deseret on Utah 257.

VIRGINIA

*Northampton County*

Bridgetown, *Hungars Church*, 0.2 mile east of the intersection of Routes 619 and 622.

*Richmond (independent city)*

*Main Street Station*, 1520 East Main Street.

WEST VIRGINIA

*Berkeley County*

Martinsburg, *Boydville*, 601 South Queen Street.

Martinsburg, *Stephen, Adam, House*, 309 East John Street.

*Brooke County*

Bethany vicinity, *Campbell, Alexander, Mansion*, east of Bethany on West Virginia 67.

*Kanawha County*

South Charleston, *South Charleston Mound (Criel Mound)*, in a triangle formed by Oakes, MacCorkle, and Seventh Avenues.

*Monongalia County*

Cheat Neck vicinity, *Henry Clay Furnace*, southeast of Cheat Neck in Cooper's Rock State Forest.

WISCONSIN

*Brown County*

Green Bay, *Baird Law Office*, 2630 South Webster Avenue.

*Columbia County*

Portage vicinity, *Fort Winnebago Surgeon's Quarters*, 0.1 mile east of the corporate city limits on Wisconsin 33.

*Dane County*

Madison, *Wisconsin State Capitol*, Capitol Square.

*Door County*

Fish Creek vicinity, *Eagle Bluff Lighthouse*, 3.5 miles north of Fish Creek on Shore Road, in Peninsula State Park.

*Douglas County*

Solon Springs vicinity, *Brule-St. Croix Portage*, about 3 miles northeast of Solon Springs in Brule River State Forest.

*Jefferson County*

Fort Atkinson, *Panther Intaglio Effigy Mound*, on Wisconsin 106 at west corporate city limits.

*Marinette County*

Peshtigo, *Peshtigo Fire Cemetery*, Oconto Avenue between Peck and Ellis Avenues.

*Rock County*

Janesville, *Lincoln-Tallman House*, 440 North Jackson Street.

*Washington County*

West Bend vicinity, *Lizard Mound State Park*, 3 miles northeast of West Bend on Wisconsin 144, then 0.33 mile east on County Route A.

ERNEST ALLEN CONNALLY,
*Chief, Office of Archeology and Historic Preservation.*

[F.R. Doc. 70-16080; Filed, Dec. 2, 1970; 8:45 a.m.]

## Office of the Secretary

## DIRECTOR, BUREAU OF LAND MANAGEMENT

### Delegation of Authority

The general delegation of authority to the Director, Bureau of Land Management (235 DM 1) published in the FEDERAL REGISTER (30 F.R. 4643) is amended by the addition of paragraph 235 DM 1.1C.

The delegation is a part of the Departmental Manual and the numbering system is that of the Manual.

PART 235—BUREAU OF LAND MANAGEMENT

CHAPTER 1—GENERAL PROGRAM DELEGATION

DIRECTOR, BUREAU OF LAND MANAGEMENT

235.1.1 *Delegation.* • • •

C. The Director, Bureau of Land Management, is authorized pursuant to the Act of September 25, 1970 (84 Stat. 870) to establish and collect use or royalty fees under criteria determined by him for the manufacture, reproduction, or use of the character "Johnny Horizon" which is the official symbol of a public service antilitter program to maintain the beauty and utility of the Nation's public lands, and to enter into contracts authorizing such manufacture, reproduction or use.

WALTER J. HICKEL,
*Secretary of the Interior.*

NOVEMBER 25, 1970.

[F.R. Doc. 70-16223; Filed, Dec. 2, 1970; 8:49 a.m.]

# DEPARTMENT OF AGRICULTURE

## Agricultural Research Service

## MERCURIAL PESTICIDES

### Request for Submission of Views With Respect to Uses

Data is accumulating on environmental contamination through the use of mercury and its compounds. Recent surveys reveal mercury residues in water and in aquatic life. Use of mercury which results in water contamination is potentially injurious to man and his environment.

Current information on levels in the environment has warranted the discontinuation of certain mercurial pesticide uses. Accordingly, this Division issued notices of cancellation and suspension of registration of alkyl mercury compounds with directions for use as seed treatment and recently issued notices of cancellation of registration of mercurials with directions for use as algaecides or slimicides and in laundries.

In view of the foregoing facts, all other pesticidal uses of mercury are being reviewed on a use by use basis to determine what action is in the public interest with respect to their registration under the Federal Insecticide, Fungicide, and Rodenticide Act. (7 U.S.C. 135 et seq.) Areas of particular concern involve the following uses: (1) On hospital, household, institutional, and restaurant surfaces, (2) in interior paints, (3) on ornamental shrubs, trees, and turf, (4) on freshly sawed lumber. All other mercury uses likewise are being reviewed including those for the treatment of fabrics, hides, leather fabrics, paper, plastic, other paint uses, etc.

This notice is to afford interested persons an opportunity within 60 days of publication to submit their views on uses of mercury compounds subject to registration under the Federal Insecticide, Fungicide, and Rodenticide Act. This refers to uses for which notices of cancellation or suspension of registration have not been previously issued. When preparing and submitting views or comments, the following items should be covered in the submission: (1) Use pattern, i.e., crops or articles treated and formulations and rates of application, (2) the pest control achieved including expected damage without the use of mercurials, (3) substitutes that are available with comments on the safety and effectiveness of use, (4) data in relation to hospital or environment contamination or other hazards of use.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same in triplicate with the Director, Pesticides Regulation Division, Agricultural Research Service, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after the date of publication of this notice in the FEDERAL REGISTER. Please make reference in any submission to "F.R. Mercurial Notice."

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 27th day of November 1970.

G. G. ROHWER,
*Acting Director, Pesticides Regulation Division.*

[F.R. Doc. 70-16236; Filed, Dec. 2, 1970; 8:51 a.m.]

## Commodity Credit Corporation

## LIVESTOCK FEED PROGRAM

### Notice of Designation of Emergency Areas

Notice is hereby given that, pursuant to the provisions of section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1472, 63 Stat. 1055), and the Act of September 21, 1959, as amended (sections 1-4, 73 Stat. 574), the Secretary of Agriculture has designated the counties specified in this notice as emergency areas for purposes of the Livestock Feed Program (7 CFR Part 1475, as amended). Feed grains will be made available for sale to livestock owners in such counties in accordance with the terms and conditions in the regulations for such program. The designated counties are as follows:

FLORIDA

| | |
|---|---|
| Alachua. | Lafayette. |
| Baker. | Leon. |
| Bay. | Levy. |
| Bradford. | Liberty. |
| Calhoun. | Madison. |
| Clay. | Marion. |
| Columbia. | Nassau. |
| Dixie. | Okaloosa. |
| Duval. | Putnam. |
| Escambia. | Santa Rosa. |
| Flagler. | St. Johns. |
| Gadsden. | Suwannee. |
| Gilchrist. | Taylor. |
| Gulf. | Union. |
| Hamilton. | Wakulla. |
| Holmes. | Walton. |
| Jackson. | Washington. |
| Jefferson. | |

NEW MEXICO

San Miguel.

Signed at Washington, D.C., on November 13, 1970.

GEORGE V. HANSEN,
*Deputy Vice President, Commodity Credit Corporation.*

[F.R. Doc. 70-16237; Filed Dec. 2, 1970; 8:51 a.m.]

## Consumer and Marketing Service

### MEAT INSPECTION

### Notice of Designation of New Jersey

Paragraph 301(c) of the Federal Meat Inspection Act (21 U.S.C. 661(c)) requires the Secretary of Agriculture to designate promptly after December 15, 1969, any State as one in which the requirements of Titles I and IV of said Act shall apply to intrastate operations and transactions, and to persons, firms and corporations engaged therein, with respect to meat products and other articles and animals subject to the Act, if he determines after consultation with the Governor of State, or his representative, that the State involved has not developed and activated requirements, at least equal to those under titles I and IV, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered, or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State. However, if the Secretary has reason to believe that the State will activate the necessary requirements within an additional year, he may allow the State 1 additional year in which to activate such requirements.

The Secretary had reason to believe, after consultation with the Governor of the State of New Jersey, that the State would develop and activate the prescribed requirements by December 15, 1970, and accordingly allowed the State the additional period of time for this purpose. However, the Governor of the State of New Jersey has now advised the Secretary that the State will not be in a position to enforce such requirements after December 31, 1970. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under paragraph 301(c) of the Act. Upon the expiration of 30 days after publication of this notice in the FEDERAL REGISTER, the provisions of titles I and IV of said Act shall apply to intrastate operations and transactions in said State and persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce" within the meaning of the Act, and any establishment in New Jersey which conducts any slaughtering or preparation of carcasses or parts or products thereof as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under paragraph 23(a) or 301(c) of the Act. The exemption provisions of the Act are very limited.

Therefore, the operator of each such establishment who desires to continue such operations after designation of the State becomes effective should immediately communicate with the Northeastern Regional Director for meat and poultry inspection, C. F. Diehl, U.S. Department of Agriculture, Seventh Floor, Federal Building, 1421 Cherry Street, Philadelphia, PA 19102 (Telephone: Area Code 215-597-4216) for information concerning the requirements and exemptions under the Act and application for inspection and a survey of the establishment.

Done at Washington, D.C., on November 30, 1970.

RICHARD E. LYNG,
*Assistant Secretary.*

[F.R. Doc. 70-16278; Filed, Dec. 2, 1970; 8:52 a.m.]

### POULTRY AND POULTRY PRODUCTS INSPECTION

### Notice of Designation of Certain States

Notice of designation of the States of Arkansas, Colorado, Georgia, Idaho, Maine, Michigan, Minnesota, Montana, New Jersey, North Dakota, Oregon, South Dakota, Utah, and West Virginia, under the Poultry Products Inspection Act.

Subsection 5(c) of the Poultry Products Inspection Act (21 U.S.C. 454(c)) requires the Secretary of Agriculture to designate promptly after August 18, 1970, any State as one in which the requirements of sections 1-4, 6-10, and 12-22 of said Act shall apply to intrastate operations and transactions, and to persons engaged therein, with respect to poultry, poultry products, and other articles subject to the Act, if he determines after consultation with the Governor of the State, or his representative, that the State[1] involved has not developed and activated requirements, at least equal to those under sections 1-4, 6-10, and 12-22, with respect to establishments within the State (except those that would be exempted from Federal inspection under paragraph 5(c)(2) of the Act) at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and the products of such establishments. However, if the Secretary has reason to believe that the State will activate the necessary requirements within an additional year, he may allow the State the additional year in which to activate such requirements.

The Secretary has determined, after consultation with the Governors (or their representatives) of the States of Arkansas, Colorado, Georgia, Idaho, Maine, Michigan, Minnesota, Montana, New Jersey, North Dakota, Oregon, South Dakota, Utah, and West Virginia, that each of such States has not developed and activated the prescribed requirements, and the Secretary does not have reason to believe that any of these States will activate such requirements if the State is allowed an additional year in accordance with the Act. Therefore, notice is hereby given that the Secretary of Agriculture designates the States of Arkansas, Colorado, Georgia, Idaho, Maine, Michigan, Minnesota, Montana, New Jersey, North Dakota, Oregon, South Dakota, Utah, and West Virginia, under paragraph 5(c) of the Act. Upon the expiration of 30 days after publication of this notice in the FEDERAL REGISTER, the provisions of sections 1-4, 6-10, and 12-22 of the Act shall apply to intrastate operations and transactions and persons engaged therein, in said States to the same extent and in the same manner as if such operations and transactions were conducted in, or for "commerce", within the meaning of the Act, and any establishment in any of said States which conducts any slaughtering of poultry or processing of poultry products as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under paragraph 5(c)(2) or section 15 of the Act.

Therefore, the operator of each such establishment in any of said States who desires to continue such operations after designation of the State becomes effective should immediately communicate with the appropriate Regional Director, as listed below:

Dr. E. M. Christopherson, Director Western Region, Room 822, Appraisers Building, 630 Sansome Street, San Francisco, CA 94111.

Dr. Willis H. Irvin, Director Southwestern Region, Room 376, Merchandise Mart Building, 500 South Ervay Street, Dallas, TX 75201.

Dr. L. H. Burkert, Director Northern Region, Room 638, Federal Building and U.S. Courthouse, 316 Robert Street, St. Paul, MN 55101.

Dr. L. J. Rafoth, Director North Central Region, Room 514, 226 West Jackson Boulevard, Chicago, IL 60606.

Dr. M. J. Hatter, Director Southeastern Region, Room 206, 1795 Peachtree Road NE., Atlanta, GA 30309.

Dr. G. Harner, Director Mid-Atlantic Region, Post Office Box 25231, Raleigh, NC 27611.

Dr. C. F. Diehl, Director Northeastern Region, Seventh Floor, 1421 Cherry Street, Philadelphia, PA 19102.

Done at Washington, D.C., on November 30, 1970.

KENNETH M. MCENROE,
*Deputy Administrator, Consumer Protection.*

[F.R. Doc. 70-16279; Filed, Dec. 2, 1970; 8:52 a.m.]

[1] As used in subsection 5(c) of the Act, the term "State" includes the Commonwealth of Puerto Rico and any organized territory of the United States.

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

### AMERICAN CYANAMID CO.

### Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1040) has been filed by the American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances (21 CFR Part 120) for combined residues of the insecticide dimethoate (*O,O*-dimethyl-*S*

(*N*-methylcarbamoylmethyl) phos-phorodithioate and its oxygen analog *O,O*-dimethyl - *S*-(*N*-methylcarbamoylmethyl) phosphorothioate in or on the raw agricultural commodities grapefruits and tangerines at 2 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide and its oxygen analog is the total phosphorus method of W. A. Steller and A. N. Curry, "*Journal of the Association of Official Agricultural Chemists*," 47:645 (1964).

Dated: November 23, 1970.

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

[F.R. Doc. 70-16176; Filed, Dec. 2, 1970; 8:46 a.m.]

## E. I. DU PONT DE NEMOURS & CO.

### Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1045) has been filed by E. I. du Pont de Nemours & Co., Wilmington, Del. 19898, proposing the establishment of tolerances (21 CFR Part 120) for residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) in or on the raw agricultural commodities cucumbers, melons, pumpkins, summer squash, and winter squash at 1 part per million.

The analytical method proposed in the petition for determining residues of the fungicide is the method of H. L. Pease and J. A. Gardiner, "Journal of Agricultural and Food Chemistry," 17:267-70 (1969).

Dated: November 23, 1970.

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

[F.R. Doc. 70-16177; Filed, Dec. 2, 1970; 8:46 a.m.]

[Docket No. FDC-D-111; NDA No. 14-241]

## UNIMED, INC.

### Serc Tablets; Notice of Action on Petition

A notice withdrawing approval of new-drug application No. 14-241 for Serc Tablets and all amendments and supplements thereto and a notice denying a petition of Unimed, Inc., Morristown, N.J. 07960, to hold the proceeding in abeyance were published in the FEDERAL REGISTER of November 14, 1970 (35 F.R. 17563-4).

On November 18, 1970, Unimed, Inc., filed with the Commissioner of Food and Drugs a petition requesting that the order signed by the Commissioner on November 6, 1970, withdrawing approval of new-drug application 14-241 be stayed pending a filing of Respondent's petition for review in the U.S. Court of Appeals and decision thereon, and in the absence of that relief a stay for 30 days to permit a Court of Appeals decision on an application for stay that would be promptly filed with that court.

The Commissioner of Food and Drugs has considered the Respondent's petition and concludes, good reason appearing therefor, that the order withdrawing the application signed on November 6, 1970, and published in the FEDERAL REGISTER of November 14, 1970, is hereby stayed until December 18, 1970, to permit Unimed, Inc., to file a petition for review in the Court of Appeals.

If such petition is filed on or before December 18, 1970, the order signed November 6, 1970, withdrawing approval of new-drug application 14-241, is hereby stayed until a final judicial determination on the merits of the appeal by the Court of Appeals.

Dated: November 23, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-16179; Filed, Dec. 2, 1970; 8:46 a.m.]

## ISOPROPYL 4,4'-DIBROMOBENZILATE

### Notice of Extension of Temporary Tolerance

At the request of The Geigy Chemical Corp., Ardsley, N.Y. 10502, a temporary tolerance was established for residues of the insecticide isopropyl 4,4'-dibromobenzilate in or on the raw agricultural commodity group citrus fruits at 5 parts per million on May 21, 1969, for a period of 1 year. (Notice was published in the FEDERAL REGISTER of May 30, 1969; 34 F.R. 8373.)

The firm has requested that the temporary tolerance be extended for another year starting on October 1, 1970, in order to obtain additional data on the performance of this insecticide on a larger scale. The Commissioner of Food and Drugs concludes that such extension will protect the public health. A condition under which the temporary tolerance is extended is that the insecticide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under The Geigy Chemical Corp. name.

As extended, this temporary tolerance expires on October 1, 1971.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 23, 1970.

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

[F.R. Doc. 70-16178; Filed, Dec. 2, 1970; 8:46 a.m.]

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## CERTAIN HUD EMPLOYEES IN REGION II (NEW YORK, N.Y.)

### Redelegation of Authority To Administer Oaths Under Title VIII (Fair Housing) of Civil Rights Act of 1968

Each of the following named employees in the Department of Housing and Urban Development, Region II (New York, N.Y.), is hereby authorized to administer oaths under section 811(a) of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a):

1. James O. Wyatt.
2. Vivian M. Braxton.
3. Eli M. S. Forman.
4. Max Magner.
5. Charles F. Booker.
6. R. Hazelwood.
7. J. Moore.
8. Pasquale Barilla.
9. Martha D. Smudski.
10. Charles A. Seel.

This redelegation supersedes the redelegation effective October 14, 1969 (34 F.R. 15818).

(Redelegation by Regional Administrator effective 10/14/69 (34 F.R. 15818))

*Effective date.* This redelegation is effective upon publication in the FEDERAL REGISTER.

IRA GISSEN,
*Assistant Regional Administrator for Equal Opportunity, Region II.*

[F.R. Doc. 70-16241; Filed, Dec. 2, 1970; 8:51 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Coast Guard

[CGFR 70-148]

## DELAWARE RIVER

### Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), sec. 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b) and the redelegation of authority to Chief, Office of Operations, U.S. Coast Guard, as contained in the FEDERAL REGISTER of May 27, 1970 (35 F.R. 8279), I hereby affirm for publication in the FEDERAL REGISTER the order of B. F. Engel, Rear Admiral, U.S. Coast Guard, Commander, Third Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

DELAWARE RIVER SECURITY ZONE

Under the present authority of section 1 of title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191,

and Executive Order 10173, as amended, I declare that from 2:45 p.m., e.s.t., on Tuesday, December 15, 1970, until 4:15 p.m., e.s.t., on Tuesday, December 15, 1970, the following area is a security zone and I order it be closed to any person or vessel due to launching of the "S.S. American Aquarius."

The waters of the Delaware River, Chester, Pa., within the coordinates of latitude 39°50'36" N., longitude 75°21'22" W, at the shoreline of Chester, Pa., thence southeast to latitude 39°50'16" N., longtitude 75°21'07" W., thence northeast to latitude 39°50'45" N., longitude 75°19'29" W., thence north to latitude 39°51'22" N., longitude 75°19'32" W.

No person or vessel shall remain in or enter this security zone without permission of the Captain of the Port.

The Captain of the Port, Philadelphia, Pa., shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel and facilities of any other Federal agency, or or any State or political subdivision thereof.

For violation of this order, section 2 of title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

"If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulations or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years, and may, in the discretion of the court, be fined not more than $10,000.

"(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000."

Dated: November 30, 1970.

R. E. HAMMOND,
*Rear Admiral, U.S. Coast Guard,*
*Chief, Office of Operations.*

[F.R. Doc. 70-16246; Filed, Dec. 2, 1970; 8:51 a.m.]

## Office of the Secretary

## CHIEF COUNSELS

### Redelegation of Authority To Approve Sufficiency of Title to Land

Section 355 of the Revised Statutes, as amended by Public Law 91-393, 84 Stat. 835 (40 U.S.C. 255) authorizes the Attorney General to delegate to other departments and agencies his authority to give written approval of the sufficiency of the title to land being acquired by the United States. The Attorney General has delegated to the Assistant Attorney General in charge of the Land and Natural Resources Division the authority to make delegations under that law to other Federal departments and agencies (35 F.R. 16084; 28 CFR 0.66). The Assistant Attorney General, Land and Natural Resources Division, has further delegated certain responsibilities in connection with the approval of the sufficiency of the title to land to the Department of Transportation as follows:

DELEGATION TO THE DEPARTMENT OF TRANSPORTATION FOR THE APPROVAL OF THE TITLE TO LANDS BEING ACQUIRED FOR FEDERAL PUBLIC PURPOSES

Pursuant to the provision of Public Law 91-393, approved September 1, 1970, 84 Stat. 835, amending R.S. 355 (40 U.S.C. 255), and acting under the provisions of Order No. 440-70 of the Attorney General, dated October 2, 1970, the responsibility for the approval of the sufficiency of the title to land for the purpose for which the property is being acquired by purchase or condemnation by the United States for the use of your Department is, subject to the general supervision of the Attorney General and to the following conditions, hereby delegated to your Department.

This delegation of authority is further subject to:

1. Compliance with the regulations issued by the Assistant Attorney General on October 2, 1970, a copy of which is enclosed.

2. This delegation is limited to:

(a) The acquisition of land for which the title evidence, prepared in compliance with these regulations, consists of a certificate of title, title insurance policy, or an owner's duplicate Torrens certificate of title.

(b) The acquisition of lands valued at $100,000 or less, for which the title evidence consists of abstracts of title or other types of title evidence prepared in compliance with said regulations.

As stated in the above-mentioned act, any Federal department or agency which has been delegated the responsibility to approve land titles under the Act may request the Attorney General to render his opinion as to the validity of the title to any real property or interest therein, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.

This 2d day of October 1970.

SHIRO KASHIWA,
*Assistant Attorney General, Land and Natural Resources Division.*

The above authority was delegated to the General Counsel of the Department of Transportation by Amendment 1-41 to Part 1 of Title 49, Code of Federal Regulations, 35 F.R. 17658, November 17, 1970.

In consideration of the foregoing and pursuant to the authority delegated to the General Counsel of the Department of Transportation by § 1.59(k) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.59 (k)), the Chief Counsels of the Federal Aviation Administration, Federal Highway Administration, National Highway Safety Bureau, U.S. Coast Guard, Federal Railroad Administration, Urban Mass Transportation Administration, and the St. Lawrence Seaway Development Corporation are hereby authorized to approve the sufficiency of the title to land being acquired by purchase or condemnation by the United States for the use of their respective organizations. This delegation is subject to the limitations imposed by the Assistant Attorney General, Land and Natural Resources Division, in his delegation to the Department of Transportation. Redelegations of this authority may only be made by the Chief Counsels to attorneys within their respective organizations.

If his organization does not have an attorney experienced and capable in the examination of title evidence, a Chief Counsel may, with the concurrence of my office, request the Attorney General to (1) furnish an opinion as to the validity of a title to real property or interest therein, or (2) provide advice or assistance in connection with determining the sufficiency of a title.

Issued in Washington, D.C., on November 27, 1970.

JAMES A. WASHINGTON, Jr.,
*General Counsel.*

[F.R. Doc. 70-16202; Filed, Dec. 2, 1970; 8:48 a.m.]

# CIVIL AERONAUTICS BOARD

[Dockets Nos. 21866, 22816; Order 70-11-134]

## AMERICAN AIRLINES, INC.

### Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of November 1970.

Fare increases in eight short-haul markets proposed by American Airlines, Inc.; Docket 21866, 22816.

By tariff revisions marked to become effective December 4, 1970,[1] American Airlines, Inc. (American), proposes to increase regular fares in eight short-haul markets. The present and proposed coach fares before tax are as follows:

| City pair | Present coach fare | Proposed coach fare[1] |
|---|---|---|
| Boston-Washington | $33.33 | $35.19 |
| Chicago-Detroit | 23.15 | 23.93 |
| Chicago-St. Louis | 24.07 | 26.85 |
| New York-Boston | 20.37 | 24.07 |
| New York-Buffalo | 26.85 | 29.63 |
| New York-Rochester | 24.07 | 26.85 |
| New York-Syracuse | 21.30 | 25.00 |
| New York-Washington | 22.22 | 25.00 |

[1] First-class fares would be set at 125 percent of coach; Youth-standby and military-reservation fare discounts have been reduced from 40 percent to 33⅓ percent and from 33⅓ percent to 25 percent, respectively.

American states that its purpose is to bring revenues more into line with costs in the eight high-density, short-haul markets selected, and to test the effect on traffic of fare increases in such markets. It alleges that each of the markets selected is characterized by high load factors (which negates the claim that passengers are being required to pay for unneeded capacity), and involves operation to and from large hub airports where the cost of doing business is substantially higher than at other airports it serves. American adds that it has had losses in these markets for each month of 1970, totaling over $5.7 million for the first 9 months. Assuming no loss of traffic, it further estimates that the fare increases will add about $8 million to its revenues for the full year 1971.

[1] Revisions to Airline Traffic Publishers, Inc., Agent, Traffic CAB No. 136.

Complaints have been filed by certain Members of Congress, and the Department of Defense. The complaint of the Members of Congress alleges that the higher cost of operations in the markets in question is the result of (a) the carrier's use of aircraft which are less economical and efficient than others, and (b) the congestion at hub-point airports resulting from the operation of an excessive number of long-haul flights in major dense markets at below average load factors. The complaint asserts that the traveling public in the eight markets in question is now being asked to pay for uneconomical and inefficient service conducted in other markets.

The complaint of the Department of Defense asserts that there is no valid reason for considering the selected increases proposed outside the scope of the Domestic Passenger-Fare Investigation, Docket 21866.

American's instant proposals to increase certain coach fares come within the scope of the Domestic Passenger-Fare Investigation now actively in process and their lawfulness will be determined in that proceeding. It is anticipated that a decision on the fare level and directly related issues will be reached by about April 1, 1971. The issue now before us is whether to permit to become effective or suspend these proposed fares pending a final determination of their lawfulness in that investigation.

American's coach-fare filing involves only eight markets out of its entire domestic system and purports to be justified on facts and circumstances peculiar to operations at and between these particular points. As such, this filing does not involve an evaluation of basic costs of service, including load factors, now underway in the passenger fare investigation to the same degree as the earlier tariff proposals to increase all or most coach fares which were suspended pending investigation.[3]

The relatively high cost of operating into congested airport areas is generally acknowledged. Moreover, American has submitted data which indicate that, despite high passenger load factors during the sample period selected,[3] it nevertheless operated at a loss in each market. The allegation regarding the cause of the congestion set forth in the complaint of certain Members of Congress has not been supported, nor does the complaint indicate to what extent costs could be reduced assuming arguendo a reduction in the number of long-haul flights operated.[4] In any event, suffice it to say that congestion with its attendant higher operating cost does exist and cannot be rectified overnight, whatever the root cause. On this basis, and in view of this carrier's and the trunklines' substandard earnings, we believe the proposed coach fares, with one exception,[5] should be permitted to become effective pending a final determination of their lawfulness in the current fare investigation in the light of the particular circumstances encountered in these markets which create costs not generally typical of the overall air transport system. We will suspend the proposed first-class fares and military-standby fares in these markets since they reflect rounding techniques inconsistent with Order 70-10-145.[6]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

*It is ordered*, That:

1. An investigation be instituted to determine whether the M class (Military Standby) fares described in Appendix A attached hereto,[7] and rules, regulations, and practices affecting such fares, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares, and rules, regulations, or practices affecting such fares;

2. Pending hearing and decision by the Board, the fares described in Appendix A attached hereto[8] are suspended and their use deferred to and including March 3, 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. A copy of this order will be filed with the aforesaid tariffs and be served upon all parties in Docket 21866; and

4. Except to the extent granted herein, the complaints in Dockets 22706 and 22708 are hereby dismissed insofar as they apply to the filing considered herein.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[9]

[SEAL] HARRY J. ZINK,
*Secretary.*

[F.R. Doc. 70-16219; Filed, Dec. 2, 1970; 8:49 a.m.]

[Docket No. 22815; Order 70-11-137]

## AMERICAN AIRLINES, INC., AND FLYING TIGER LINE INC.

### Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of November 1970.

By tariff revision[1] filed October 30, 1970, for effectiveness November 30, 1970, the Flying Tiger Line Inc. (Flying Tiger) proposes to extend to November 30, 1971, the present expiry date on general commodity shipments in five or more Type A containers (multicontainer rates). By a similar tariff filing to be effective December 1, 1970, American Airlines, Inc. (American) proposes to eliminate its present expiry date on such multicontainer rates. These rates are in effect in 21 markets, namely, westbound from Boston, New York, and Newark to Los Angeles, Oakland, and San Francisco, and eastbound from such California points to Boston, Chicago, New York, and Newark.

In support of its proposal, Flying Tiger acknowledges that these volume discounts are not supported by cost differentials, but that there are significant price policy considerations which require continuation of multicontainer rates, at least on a further temporary basis, and that "on balance, * * * further extension of multicontainer rates at their present level is essential."

Flying Tiger asserts, inter alia, that the present multicontainer rates should remain in effect until the Board resolves certain basic competitive questions that revolve about discount pricing for volume shipments.[2] Flying Tiger further states that the scheduled air cargo system must retain the large volume shipper; that without the economies of scale reflected in volume discounts there would be no recourse but to further burden small shipments with price increases; and that if volume shippers can obtain reduced rates outside the scheduled system, i.e., charter, they will tend to leave the system.

A complaint requesting suspension and investigation of Flying Tiger's proposal was filed by American, and the latter's tariff filing eliminating the expiration date on its multicontainer rates is a defensive action only. The complaint asserts, inter alia, that multicontainer

[3] Order 70-9-123.

[3] For the month of July 1970 American indicates that it experienced an aggregate load factor in the eight markets of 67 percent. Data submitted in Phase 6 of the Domestic Passenger-Fare Investigation indicate that in these same markets American experienced very similar load-factor levels for the months of February, May, August, and November 1969.

[4] American states in its answer to the complaint of Members of Congress that transcontinental flights comprise only 7 percent of the total number of domestic flights serving New York and a reduction of 10 percent in these flights would result in a decrease of less than one percent in total flight operations at New York.

[5] It is not clear from the manner in which the coach fares are constructed whether or not they pose a rounding problem from a technical standpoint. However, in only one case does the resulting fare exceed the level which would be derived from taking the pre-July 1 fare as a base and applying rounding techniques consistent with the Board's decision in Order 70-10-145. The one exception is the Buffalo-New York fare which is higher than the level produced by this construction, and we are herein suspending that fare.

[6] American's proposed family and children's fares were suspended by Order 70-10-145 and its proposed youth-standby and military-reservation fares were suspended by Order 70-11-93.

[7] Filed as part of the original document.

[8] Concurring and dissenting statements of Vice Chairman Gilliland and Member Minetti filed as part of original document.

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 131.

[2] Docket 22057—Airlift-Shulman Charter Agreement, Shulman—WTC Joint Loading Agreement; Docket 22098—Universal Charter Tariff Investigation; and Docket 22409—NACA Petition for Rule-Making (EDR-183).

rates do not meet Flying Tiger's revenue need, and that multicontainer rates are discriminatory in that they afford some shippers rate reductions without justification. American further states that these rates have been extended repeatedly since October 21, 1968, notwithstanding the fact that the Board has continually expressed concern with their economic validity. While Flying Tiger contends that the current rates cover costs, American states that when revenues are adjusted to reflect the lower eastbound rates costs are not covered.

Upon consideration of the complaint and other relevant matters, the Board finds that the proposed elimination and extension of the expiry dates on the multicontainer rates may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be suspended pending investigation. On several previous occasions, the Board has questioned the economic validity of multicontainer rates, and has generally permitted extensions thereof in transcontinental markets only because the rates were increased as a step toward elimination of such rates.

The Board recognized in Order 69-12-111, "that a termination of these rates at this time without a reasonable lead time may effect hardship on shippers who had made plans on the basis of the reduced rates." Effective April 1, 1970, the carriers were permitted to increase their multicontainer rates by approximately 7 percent and to extend the expiration date of September 30, 1970.[3] The current disparity between the current multicontainer rates and the current single container rates is approximately 5 to 7 percent in the minimum charges, and from 36 to 48 percent in the excess rates (the excess rates apply above the pivot-weight of 3,200 pounds in all markets). Based on the average weight of a container the suspension of the current multicontainer rates will result in a rate increase of approximately 10 to 12 percent. The carriers have therefore been permitted to retain the current rates for 8 months and now propose to further extend the rates at the same level. The carriers, however, have made no showing that the rates will cover costs or that further extensions of the current rates will not discriminate against the single-container shipper.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

*It is ordered*, That:

1. An investigation be instituted to determine whether the rates and charges described in Appendix A attached hereto,[4] and rules, regulations, or practices affecting such rates and charges, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates and charges, and rules, regulations, or practices affecting such rates and charges;

2. Pending hearing and decision by the Board, the rates and charges described in Appendix A hereto[4] are suspended and their use deferred to and including February 27, 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 tariff named above and shall be served upon American Airlines, Inc., and The Flying Tiger Line, Inc., which are hereby made parties 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. 70-16218; Filed, Dec. 2, 1970; 8:49 a.m.]

[Dockets Nos. 21866, 22817; Order 70-11-133]

## BRANIFF AIRWAYS, INC.

### Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of November 1970.

By tariff revisions[1] marked to become effective December 7 and December 21, 1970, Braniff Airways, Inc. (Braniff) proposes to increase normal coach fares and to increase the percentage relationships of various discount fares to coach fares. The December 7 proposal would increase normal coach fares in markets under 500 miles by increasing pre-July 1, 1970 fares $2, then rounding-up for the tax adjustment. First-class and promotional fares were recalculated on the basis of the proposed coach fares.

The December 21 proposal would increase normal coach fares in markets above 500 miles by 3 percent. Braniff also proposes, effective December 21, to increase children's fares and fares for minors accompanied by a family member (children ages 2 to 12) from 50 to 66⅔ percent of the normal adult fare; military standby fares from 50 to 66⅔ percent of the coach fare; military-reservation fares from 66⅔ to 75 percent of the coach fare; and youth-standby fares from 60 to 66⅔ percent of coach fare.

In support of the proposed increases in markets under 500 miles, Braniff alleges that short-haul services are more costly despite load factors which are generally higher than its system average. In support of the increases proposed in markets over 500 miles, Braniff cites rising cost levels and its cost-control efforts, and alleges that in view of the industry's poor earnings it is neither realistic nor lawful for the Board to reject its proposal on the grounds that carriers have not demonstrated that a fare increase is essential to preserve the economic viability of the industry. Braniff further alleges that the financial decline of the industry has been rapid and severe; that an immediate reversal of recent adverse results is essential if Braniff is to maintain its services and credit, and fulfill its contractual commitments; and that the pendency of the Domestic Passenger—Fare Investigation cannot warrant a delay of urgently needed fare adjustments.

The Department of Defense (DOD) has filed a complaint against the proposed increases, alleging that there has been no showing of need nor any justification whatsoever for increasing these fares. The complaint is directed essentially at the increases in military fares, and alleges that DOD has an extreme interest in the continuation of military fares at the present level to preserve morale in the armed services.

Braniff's proposals to increase normal coach fares and youth-standby fares come within the scope of the ongoing Domestic Passenger—Fare Investigation and their lawfulness will be determined in that proceeding. We expect to issue a decision on the fare level and directly related issues by approximately the first of April 1971. A final decision concerning discount fares, including the youth-standby fares, should be reached soon thereafter. The immediate question then is whether to permit the increases to become effective or to suspend them pending investigation. The proposals with respect to military, children's, and minors' fares are not within the general investigation.

In Order 70-11-93, the Board suspended and ordered investigated proposed increases in military-reservation fares filed by other trunklines and we shall take the same action here as regards the Braniff filing for the same reasons. Similarly, we shall suspend and investigate the proposed increases in military-standby fares. Both fares have had wide usage by military personnel on furlough and as such are invested with broad public interest and national defense considerations which should be carefully explored before significant increases are permitted.

In the same order, the Board decided it would permit to become effective pending investigation proposals to reduce the youth-standby discount from 40 to 33⅓ percent.[2] We reach the same conclusions here with respect to the Braniff filing for the same reasons but will suspend the fares filed because they are based on coach fares we are herein suspending. We will also permit to become effective without investigation the proposed increase to 66⅔ percent of coach fares for children and minors accompanied by a family member, since a one-third discount does not appear unreasonable for traffic traveling on a reservation basis.

[3] Order 70-9-145 dated Sept. 28, 1970, further extended such expiration date to Nov. 30, 1970.

[4] Filed as part of the original document.

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariffs C.A.B. Nos. 136 and 142.

[2] The proposed fares were suspended solely because the construction reflected multiple and upward-only roundings.

This action is consistent with Order 70–11–93, in which we premitted other discount fares to be increased as a means of increasing revenues in this period of adverse industry earnings.

Braniff's proposals to increase normal coach fares would, in two steps, involve its entire domestic system. These increases necessarily involve an evaluation of basic costs of service, including passenger load factors, now under review in the general fare investigation. By Order 70–9–123, September 24, 1970, we suspended, pending investigation, a series of tariff filings by various domestic trunklines which would have effected broad across-the-board increases in coach fares. For similar reasons, we have decided to suspend Braniff's coach tariff filing.[2] We will also suspend, pending investigation, the fare proposals which are based on these coach fares notwithstanding the merits of same as discussed above. We are aware of the continuing adverse financial position of Braniff and the industry in general and have indicated we will permit prompt increases in various discount and first-class fares designed to improve carrier revenues and earnings pending completion of the Domestic Passenger-Fare Investigation.[4] However, we remain of the view that general increases in the level of normal coach fares should not be permitted at this time for the reasons stated in Order 70–9–123, particularly since we anticipate reaching a decision as to fare level in the relatively near future.

Upon consideration of the tariff proposals, the Board finds that the proposed military-standby and reservation fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. For the reasons stated above, we find that all fares encompassed in the proposal[5] should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof:

*It is ordered*, That:

1. An investigation be instituted to determine whether the increased M (military standby) and YM (military reservation) fares described in appendix A attached hereto,[6] and rules, regulations, and practices affecting such fares, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares, and rules, regulations, or practices affecting such fares;

2. Pending hearing and decision by the Board, the fares described in appendix A attached hereto[6] are suspended and their use deferred to and including March 6, 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. A copy of this order will be filed with aforesaid tariffs and be served upon all parties in Docket 21866;

4. Braniff Airways, Inc., and the complainant in Docket 22708, are hereby made parties to the investigation ordered in paragraph 1 above which will be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. Except to the extent granted herein, the complaint in Docket 22708 is hereby dismissed insofar as it applies to filings considered herein.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

[SEAL] HARRY J. ZINK,
*Secretary.*

[F.R. Doc. 70–16220; Filed, Dec. 2, 1970; 8:49 a.m.]

[2] Braniff has filed to amend its proposed coach fares to reflect upward and downward roundings in their construction in lieu of the upward-only roundings used in the original filing. However, as indicated, the proposed coach fares are being suspended on other grounds.

[4] Order 70–11–93.

[5] Except children's fares and fares for minors accompanied by a family member which are published by rule.

[6] Filed as part of the original document.

[7] Concurring and dissenting statements of Vice Chairman Gillilland and Members Adams, Murphy and Minetti filed as part of the original document.

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[Docket Nos. 21866, 22813; Order 70–11–136]

## MOHAWK AIRLINES, INC., AND NORTHEAST AIRLINES, INC.

### Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of November 1970.

By tariff revisions[1] marked to become effective December 1, 1970, Mohawk Airlines, Inc. (Mohawk) proposes to increase its present regional class fares in markets under 500 miles by $1 plus 3 percent, and rounding up for the tax adjustment. Northeast Airlines, Inc. (Northeast) proposes to increase its coach fares effective December 12, 1970 by adding $2 to the fare in effect June 30, 1970 and rounding up for the tax adjustment—the mileage cutoff likewise being 500 miles.

In support of its proposal, Mohawk asserts that its recent losses have been so severe as to result in a negative retained surplus of nearly $10 million. The carrier asserts that its revenue need is more urgent than other carriers, and indicates that for the 12 months ended August 1970 it needed an additional $6.5 million to cover total expenses. It is further alleged that a significant part of Mohawk's cost difficulties stems from the fact that it operates largely in highly congested areas—58 percent of its available seat miles being operated to, from, or through the New York air traffic control system. The carrier states that it has been working closely with the FAA to bring about some relief in the air traffic control area, but estimates that recent efforts in this area should result in operating cost savings of no more than $200,000 annually. Mohawk has also reduced the total number of its flight schedules and has reallocated some schedules to more profitable routes, but it indicates that these changes will not appreciably decrease its current annual break-even need.

In support of its proposal, Northeast asserts that it has sustained all of the cost increases common to the industry, certain of which (e.g., wages, rents, and landing fees) it has incurred to a greater degree than any other trunkline carrier. It further alleges that its needs are greater than the industry's generally, because of problems related to its size, length of haul, and its area of operation. Both Mohawk and Northeast assert that revenue increases are needed now, and cannot await conclusion of the Domestic Passenger-Fare Investigation.

The Department of Defense (DOD) has filed a complaint against Mohawk's proposal. DOD asserts generally that it does not believe the increases can be justified and that no valid reason exists for considering these selective increases outside the pending Domestic Pasenger-Fare Investigation, Docket 21866.

The instant proposals are automatically within the scope of the Domestic Passenger-Fare Investigation now actively being processed and their lawfulness will be determined in that proceeding. At this juncture we anticipate that a decision on the fare level and directly related issues will be reached by about the first of April 1971. The issue now before the Board is whether to suspend or allow these fare increases pending a final determination of their lawfulness in the passenger-fare investigation.

Both proposals involve the basic normal fares charged by these carriers over a very substantial portion of their respective systems. The carriers justify their filings in terms of circumstances generally applicable to the bulk of their routes. As such, these proposals necessarily involve an evaluation of basic costs of service, including passenger load factors, now under review in the general investigation. In this respect these filings are similar to the tariffs filed by various domestic air carriers for effectiveness on October 15, 1970,[2] and suspended by the Board pending investigation. For similar reasons, we have decided to suspend the Mohawk and Northeast filings except as set forth below.[3]

However, the Mohawk and Northeast filings include fare increases for various short-haul markets involving New York, Boston, Washington, and Chicago which appear to stem from cost levels, due to airway and airport congestion and high costs of operating at those points, not typical of the industry as a whole. By Order 70–11–134, we have decided to permit American Airlines to effect fare increases in a limited number of short-haul markets involving these four points, pending investigation, on the basis of the atypical costs of operation in these markets. For similar reasons, we would permit these fare increases, i.e., fares

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff, CAB No. 136.

[2] Order 70–9–123.

[3] Cf. Order 70–11–133.

to or from Boston, New York, Washington, and Chicago in markets of up to 500 miles to become effective pending investigation. However, the fares as filed reflect multiple roundings or upward-only roundings and must be suspended on that ground alone. We are also ordering investigated, and suspending Mohawk's proposed military-standby fares, since they are based on the increased regional fares.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

*It is ordered*, That:

1. An investigation be instituted to determine whether the M class (Military Standby) fares described in Appendix A attached hereto,[4] and rules, regulations, and practices affecting such fares, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares, and rules, regulations, or practices affecting such fares;

2. Pending hearing and decision by the Board, the fares described in Appendix A attached hereto,[4] are suspended and their use deferred to and including February 28, 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. A copy of this order will be filed with the aforesaid tariffs and be served upon all parties in Docket 21866;

4. Mohawk Airlines, Inc., and the complainant in Docket 22708 are hereby made parties to the investigation ordered in paragraph 1 above, which will be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. Except to the extent granted herein, the complaint in Docket 22708 insofar as it applies to the filings considered herein is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-16221; Filed, Dec. 2, 1970; 8:49 a.m.]

[Docket No. 22098]

## UNIVERSAL AIRLINES, INC.

### Notice of Postponement of Prehearing Conference

Cargo charter charges established by Universal Airlines, Inc.

Notice is hereby given that the prehearing conference in the above-entitled proceeding now assigned to be held on December 2, 1970 is postponed to December 9, 1970 at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Statements of proposed issues, proposed procedural dates, and requests for information and evidence now due to be filed November 27, 1970, shall be filed with the Examiner, Bureau Counsel, and the parties named in Order 70-4-51 on or before December 4, 1970.

Dated at Washington, D.C., November 27, 1970.

[SEAL] JOHN E. FAULK, *Hearing Examiner.*

[F.R. Doc. 70-16217; Filed, Dec. 2, 1970; 8:49 a.m.]

[Docket No. 22617]

## WTC AIR FREIGHT

### Notice of Hearing

Aggregate rates proposed by WTC Air Freight.

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 will be held on January 5, 1971, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Report of Prehearing Conference, served November 16, 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., November 25, 1970.

[SEAL] EDWARD T. STODOLA, *Hearing Examiner.*

[F.R. Doc. 70-16216; Filed, Dec. 2, 1970; 8:49 a.m.]

# FEDERAL HOME LOAN BANK BOARD

[No. 70-441]

## GREAT WESTERN FINANCIAL CORP.

### Notice of Intention To Acquire LFC Financial Corp.

NOVEMBER 27, 1970.

Resolved that the Secretary to the Federal Savings and Loan Insurance Corporation is hereby directed to file the following notice for publication in the FEDERAL REGISTER and with the Savings and Loan Commissioner, State of California.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Great Western Financial Corp., a multiple savings and loan holding company, Beverly Hills, Calif., for approval of acquisition of control of the LFC Financial Corp., Los Angeles, Calif., a multiple savings and loan holding company, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for Savings and Loan Holding Companies. The proposed acquisitions would be effected by an exchange of stock of said holding companies. The plan of acquisition contemplates that Equitable Savings and Loan Association and Equitable Savings and Loan Association of California, insured subsidiaries of LFC Financial Corp., and Santa Rosa Savings and Loan Association, an insured subsidiary of Great Western Financial Corp., will be merged into Great Western Savings and Loan Association, also an insured subsidiary of Great Western Financial Corp. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, DC 20552, within 10 days of the date this notice appears in the FEDERAL REGISTER.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 70-16244; Filed, Dec. 2, 1970; 8:51 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Report 520]

## COMMON CARRIER SERVICES INFORMATION [1]

### Domestic Public Radio Services Applications Accepted for Filing [2]

NOVEMBER 30, 1970.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will

[4] Filed as part of the original document.

[5] Concurring statement of Vice Chairman Gilliland and concurring and dissenting statement of member Minetti filed as part of the original document.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

2685–C2–TC–71—General Telephone Co. of Georgia, Consent to transfer of control from General Telephone Co. of Georgia, Transferor, to General Telephone Co. of the Southeast, Transferee KIY396—Dalton, Ga.

2686–C2–P–(4)71—The Southern New England Telephone Co. (New), C.P. for new 1-way facilities to operate on frequency 158.100 MHz at location No. 1: 126 Court Street, New Haven, CT; location No. 2: 942 Main Street, Branford, CT; location No. 3: 89 North Main Street, Wallingford, CT; and location No. 4: 74 High Street, Milford, CT.

2690–C2–P–71—Longview Mobilfone Service (KKN282), C.P. to change the antenna system and relocate facilities operating on 152.03 and 152.15 MHz to East Mountain, 8 miles northwest of Longview, Tex.

2691–C2–P–71—Longview Mobilfone Service (KQZ761), Same as above, except, frequency 152.24 MHz (1-way).

2692–C2–P–71—The Ohio Bell Telephone Co. (KQD612), C.P. to replace the transmitters operating on 454.700 MHz base and 454.675 MHz signaling and change the antenna system at 6340 Schull Road, 9 miles northeast of Dayton, Ohio (air-ground).

2720–C2–P–71—Radio Telephone Co. of Gainesville (KFL822), C.P. to change the antenna system and relocate facilities at location No. 1 to: State Highway No. 346, 4.5 miles east-southeast of Archer, Fla. Frequency 152.18 MHz.

2721–C2–P–71—RAM Broadcasting of Massachusetts, Inc. (KCC263), C.P. to add frequency 454.100 MHz at location No. 3: 50 Bear Hill Road, Waltham, MA.

2735–C2–AL–71—Murray Cohen, Consent to assignment of license from Murray Cohen, Assignor, to Aircall New York Corp., Assignee KCI299—New Haven, Conn.

*Major Amendment*

1473–C2–P–(3)–70—General Communications Service, Inc. (KIG296), Amended to add frequencies 454.200 and 454.300 MHz. All other particulars same as reported on Public Notice dated Sept. 29, 1969, Report No. 459.

*Correction*

801–C2–P–69—Instant Communications, Inc. (New), Correct to read: Major amendment to 763–C2–P–69 to add frequency 152.24 MHz at the same location. Refer to Public Notice dated Aug. 28, 1968, Report No. 402–1.

RURAL RADIO SERVICE

2725–C1–P–71—Louisiana Offshore Telephone Co., Inc. (KKT89), C.P. to add frequency 459.55 MHz to operate on existing (55 units), In any temporary fixed location within the Gulf of Mexico, vicinity of Central Office of the licensee.

2726–C1–P–71—Louisiana Offshore Telephone Co., Inc. (KKT88), C.P. to relocate facilities operating on 454.50 MHz to West Delta Area, Block 73, Platform D, Gulf of Mexico.

2727–C1–P–71—Louisiana Offshore Telephone Co., Inc. (New), C.P. for a new Central Office fixed station to be located at Salt Point Landing, 35 miles from Burns, La., to operate on frequency 454.55 MHz.

RURAL RADIO SERVICE—continued

2728–C1–P–71—Louisiana Offshore Telephone Co., Inc. (New), Same as above, except, to be located at South Timbalier Area, Block 54, Platform A, Gulf of Mexico.

*Major Amendment*

2006–C1–P/L–70—RCA Alaska Communications, Inc., Amend to add frequency 75.86 MHz. All other particulars same as reported on Public Notice dated Oct. 27, 1969.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

American Telephone & Telegraph Co., 11 C.P. applications to install Western Electric Type TH–3 equipment at the radio relay stations between Jasper, Ala., and Dahlonega, Ga., to provide the initial TH–3 channels on the presently authorized TD–2 route.

2693–C1–P–71—American Telephone & Telegraph Co. (KRS91), Add frequencies 5974.8, 6034.2, and 6152.8 MHz toward Warrior, Ala. Station location: 3.5 miles southwest of Jasper, Ala.

2694–C1–P–71—American Telephone & Telegraph Co. (KIS34), Add frequencies 6226.9, 6286.2, and 6404.8 MHz toward Jasper and Nectar, Ala. Station location: 4.5 miles northwest of Warrior, Ala.

2695–C1–P–71—American Telephone & Telegraph Co. (KRS92), Add frequencies 5974.8, 6034.2, and 6152.8 MHz toward Warrior and Douglas, Ala. Station location: 2.9 miles north-northwest of Nectar, Ala.

2696–C1–P–71—American Telephone & Telegraph Co. (KRR79), Add frequencies 6226.9, 6286.2, and 6404.8 MHz toward Nectar and Crossville, Ala. Station location: 0.5 mile northwest of Douglas, Ala.

2697–C1–P–71—American Telephone & Telegraph Co. (KRR78), Add frequencies 5974.8, 6034.2, and 6152.8 MHz toward Douglas and Fort Payne, Ala. Station location: 1 mile south of Crossville, Ala.

2698–C1–P–71—American Telephone & Telegraph Co. (KRS89), Add frequencies 6226.9, 6286.2, and 6404.8 MHz toward Crossville, Ala., and Summerville, Ga. Station location: 2 miles east of Fort Payne, Ala.

2699–C1–P–71—American Telephone & Telegraph Co. (KRT23), Add frequencies 5974.8, 6034.2, and 6152.8 MHz toward Fort Payne, Ala., and Shannon, Ga. Station location: 2.2 miles east of Summerville, Ga.

2700–C1–P–71—American Telephone & Telegraph Co. (KRT21), Add frequencies 6226.9, 6286.2, and 6404.8 MHz toward Summerville and Fairmount, Ga. Station location: 2 miles east of Shannon, Ga.

2703–C1–P–71—American Telephone & Telegraph Co. (KRS93), Add frequencies 5974.8, 6034.2, and 6152.8 MHz toward Shannon and Emma, Ga. Station location: 1.8 miles northeast of Fairmount, Ga.

2702–C1–P–71—American Telephone & Telegraph Co. (KRS95), Add frequencies 6226.9, 6286.2, and 6404.8 MHz toward Fairmount and Dahlonega, Ga. Station location: 6.8 miles northwest of Emma, Ga.

2703–C1–P–71—American Telephone & Telegraph Co. (KRS93), Add frequencies 5974.8, 6034.2, and 6152.8 MHz toward Emma, Ga. Station location: 5 miles east-southeast of Dahlonega, Ga.

2706–C1–P–71—Pacific Northwest Bell Telephone Co. (KOT50), C.P. to add frequencies 2179 and 4198 MHz toward Hyak, Wash. Station location: Rattlesnake Lodge, 2.8 miles southwest of North Bend, Wash.

2707–C1–P–71—Pacific Northwest Bell Telephone Co. (KPE26), C.P. to add frequencies 2111.0 and 4190.0 MHz toward Cle Elum, Wash., and 2129.0 and 4190.0 MHz toward Rattlesnake Lodge, Wash. Station location: 5 miles southeast of Hyak, Wash.

2708–C1–P–71—Pacific Northwest Bell Telephone Co. (KPE27), C.P. to add frequencies 2161.0 and 4198.0 MHz toward Hyak, Wash., and 2179.0 and 4198.0 MHz toward Kittitas, Wash. Station location: 5 miles southeast of Cle Elum, Wash.

2709–C1–P–71—Pacific Northwest Bell Telephone Co. (KPE28), C.P. to add frequencies 2129.0 and 4190.0 MHz toward Cle Elum, Wash., and 2111.0 and 4190.0 MHz toward Moses Lake, Wash. Station location: 10 miles east of Kittitas, Wash.

2710–C1–P–71—Pacific Northwest Bell Telephone Co. (KPE29), C.P. to add frequencies 2161.0 and 4198.0 MHz toward Kittitas, Wash., and 2179.0 and 4198.0 MHz toward Ritzville, Wash. Station location: 2.7 miles southeast of Moses Lake, Wash.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

2711-C1-P-71—Pacific Northwest Bell Telephone Co. (KPE30), C.P. to add frequencies 2129.0 and 4190.0 MHz toward Moses Lake, Wash., and 11,385 and 11,625 MHz toward Sprague, Wash. Station location: 8.7 miles west-southwest of Ritzville, Wash.

2712-C1-P-71—Pacific Northwest Bell Telephone Co. (KOJ96), C.P. to add frequencies 10,735 and 10,975 MHz toward Ritzville, Wash. Station location: 1 mile northwest of Sprague, Wash.

743-C1-R-71—American Telephone & Telegraph Co. (KEF72), Renewal of developmental license expiring Nov. 1, 1970. Term: Nov. 1, 1970, to Nov. 1, 1971.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

2713-C1-P-71—Mountain Microwave Corp. (New), C.P. for a new station 4.5 miles southeast of Crandall, S. Dak. at latitude 45°06'32" N., longitude 97°53'30" W. Frequency 6260.0 MHz on azimuth 310°09'. (Applicant proposes to provide the television signal of station KORN-TV of Mitchell, S. Dak. to Aberdeen Cable TV Service, Inc., in Aberdeen, S. Dak.)

2687-C1-P-71—United Video, Inc. (New), C.P. for a new station 1.5 miles east-southeast of Philadelphia, Mo., at latitude 39°49'51.6" N., longitude 91°42'46.2" W. Frequency 11,135 MHz on azimuth 31°12'.

2688-C1-P-71—United Video, Inc. (New), C.P. for a new station 3.75 miles southwest of Sutter, Ill., at latitude 40°15'23" N., longitude 91°22'34.5" W. Frequency 11,485 MHz on azimuth 26°54'.

2689-C1-P-71—United Video, Inc. (KXQ33), C.P. to add frequency 11,135 MHz on azimuth 318°58' toward a new point of communications. Location: 2 miles east-southeast of the center of Dallas City, Ill., at latitude 40°37'24" N., longitude 91°07'53" W.

2714-C1-P-71—United Video, Inc. (New), C.P. for a new station 0.2 mile northeast of Mount Pleasant, Iowa, at latitude 40°58'19" N., longitude 91°31'57" W. Frequencies: 11,265, 11,345, and 11,425 MHz on azimuth 279°28'.

2715-C1-P-71—United Video, Inc. (New), C.P. for a new station 2 miles northeast of Fairfield, Iowa, at latitude 41°01'15" N., longitude 91°55'30" W. Frequencies: 10,735, 10,895, and 11,135 MHz on azimuth 262°20'.

2716-C1-P-71—United Video, Inc. (New), C.P. for a new station 1.5 miles south of Ottumwa at latitude 40°58'09" N., longitude 92°25'15" W. Frequencies 11,265, 11,345, and 11,425 MHz on azimuth 282°22'.

2717-C1-P-71—United Video, Inc. (New), C.P. for a new station 0.5 mile east of Albia, Iowa, at latitude 41°01'44" N., longitude 92°47'03" W. Frequencies 10,735, 10,895, and 11,135 MHz on azimuth 267°37'.

2718-C1-P-71—United Video, Inc. (New), C.P. for a new station 1.5 miles east of Chariton, Iowa, at latitude 41°00'46" N., longitude 93°15'51" W. Frequencies 11,265, 11,345, and 11,425 MHz on azimuth 264°19'.

2719-C1-P-71—United Video, Inc. (New), C.P. for a new station 2 miles north of Leslie, Iowa, at latitude 40°58'15" N., longitude 93°48'11" W. Frequencies 10,735, 10,895, and 11,135 MHz on azimuth 284°18'.

(Informative: Applicant proposes to provide the television signals of stations KPLR-TV of St. Louis, Mo. and WFLD(TV) and WGN-TV of Chicago, Ill., to Ottumwa TV FM Inc., in Ottumwa, Iowa, and to True Vue, Inc., in Creston, Iowa.)

[F.R. Doc. 70-16209; Filed, Dec. 2, 1970; 8:48 a.m.]

# FEDERAL MARITIME COMMISSION

## AMERICAN WEST AFRICAN FREIGHT CONFERENCE

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, NY 10004.

Agreement No. 7680-29, between the member lines of the American West African Freight Conference, modifies the basic agreement by substituting therein a new subparagraph (g) under Article 16 dealing with the Neutral Body to provide that the failure of an agent, sub-agent, and/or the subsidiary, associated or affiliated companies over whom such agents and/or sub-agents exercise control, to make accessible its books, records and documents which the Neutral Body shall deem relevant to the conduct of an investigation, shall constitute a violation of the conference agreement by the member line furnishing the requisite commitment to furnish such books, records and documents pursuant to the terms and conditions of said agreement.

Dated: November 30, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[F.R. Doc. 70-16231; Filed, Dec. 2, 1970; 8:50 a.m.]

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[Docket No. 70-46; Independent Ocean Freight Forwarder License 1132]

## MARIO J. MACCHIONE

### Order of Investigation

Section 510.23(a) of Federal Maritime Commission General Order 4, 46 CFR 510.23(a), provides in part, that "No licensee shall permit his license or name to be used by any person not employed by him for the performance of any freight forwarder service. No licensee may provide freight forwarding services through an unlicensed branch office or other separate establishment without written approval of the Federal Maritime Commission."

It appears that during the period October 1969 through February 1970, Mario J. Macchione, 156 State Street, Boston, MA 02109, Independent Ocean Freight Forwarder License No. 1132, violated said § 510.23(a), General Order 4, by permitting John R. Crowley, former President, Door-to-Door International, Inc., to use his facilities and license number on ocean bills of lading, pending the licensing of Door-to-Door International, Inc. by the Federal Maritime Commission. It further appears that Mario J. Macchione violated § 510.24(e), General Order 4 by receiving compensation (brokerage) for freight forwarder services performed by said John R. Crowley

during the period October 1969 through February 1970.

Section 44(d) of the Shipping Act, 1916 (46 U.S.C. 841(d)), provides that licenses may, after notice and hearing, be suspended or revoked for willful failure to comply with any provision of the Act, or with any lawful rule of the Commission promulgated thereunder.

Section 510.9, General Order 4, 46 CFR 510.9 provides that a license may be revoked, suspended, or modified, after notice and hearing for: "* * * (b) Failure to respond to any lawful inquiries, or to comply with any lawful rules, regulations or others of the Commission"; or "* * * (e) Such conduct as the Commission shall find renders the licensee unfit or unable to carry on the business of forwarding."

*Now therefore it is ordered*, That pursuant to sections 22 and 44(d) of the Shipping Act, 1916 (46 U.S.C. 821, and 841(b), and § 510.9 of the Commission's General Order 4 (Rev.) 46 CFR 510.9, a proceeding is hereby instituted to determine whether Mario J. Macchione, Independent Ocean Freight Forwarder License No. 1132, has engaged in activity in violation of §§ 510.23(a) and 510.24(e) of Federal Maritime Commission General Order 4 by permitting his license or name to be used by another person and by receiving compensation (brokerage) for freight forwarder services performed by such person and providing freight forwarder services through a separate establishment without written approval of the Federal Maritime Commission and to determine whether because of such activity the freight forwarder license of Mario J. Macchione should be suspended or revoked pursuant to the provisions of section 44(d) of the Shipping Act, 1916, and § 510.9 of General Order 4.

*It is further ordered*, That Mario J. Macchione be made a respondent in this proceeding and that the matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be announced by the Presiding Examiner.

*It is further ordered*, That notice of this Order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondents.

*It is further ordered*, That any person, other than respondents, who desire to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, DC 20573, with copies to respondents.

*It is further ordered*, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
*Secretary.*

[F.R. Doc. 70-16232; Filed, Dec. 2, 1970; 8:50 a.m.]

# CIVIL SERVICE COMMISSION

## FIREFIGHTER POSITIONS IN CERTAIN AREAS OF CALIFORNIA

### Notice of Establishment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates and rate ranges in California as follows:

GS-081 FIRE PROTECTION AND PREVENTION SERIES

Geographic coverage: (1) San Diego County; (2) Ventura County; (3) City of Stockton (includes Sharpe Army Depot and Defense Depot, Tracy).

Effective date: First day of the first pay period beginning on or after November 15, 1970.

All new employees in the specified occupational level will be hired at the new minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3-2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723 of new appointees to positions cited.

| Occupational series coverage | Geographic coverage | Grade | 1st [1] step rate | 10th step rate | Within-grade increase | Effective date |
|---|---|---|---|---|---|---|
| GS-081 Fire protection and prevention series. | San Diego County, Calif. | GS-3 | $6,778 | $8,344 | 174 | Nov. 15, 1970 |
| | | GS-4 | 7,608 | 9,303 | 195 | |
| | | GS-5 | 8,674 | 10,036 | 218 | |
| | | GS-6 | 8,509 | 10,696 | 243 | |
| | | GS-7 | 9,178 | 11,608 | 270 | |
| | | GS-8 | 9,853 | 12,544 | 299 | |
| | | GS-9 | 10,539 | 13,500 | 329 | |
| | | GS-10 | 11,231 | 14,489 | 362 | |
| | | GS-11 | 12,302 | 15,875 | 397 | |
| Table 004 | | | | | | |
| GS-081 Fire protection and prevention series. | Ventura County, Calif. | GS-3 | 6,430 | 7,996 | 174 | Nov. 15, 1970 |
| | | GS-4 | 6,828 | 8,883 | 195 | |
| | | GS-5 | 7,420 | 9,382 | 218 | |
| | | GS-6 | 8,023 | 10,210 | 243 | |
| | | GS-7 | 8,638 | 11,068 | 270 | |
| | | GS-8 | 9,255 | 11,946 | 299 | |
| Table 005 | | | | | | |
| GS-081 Fire protection and prevention series. | City of Stockton including Sharpe Army Depot and Defense Depot, Tracy. | GS-3 | 6,082 | 7,648 | 174 | Nov. 15, 1970 |
| | | GS-4 | 6,633 | 8,388 | 195 | |
| | | GS-5 | 7,202 | 9,164 | 218 | |
| | | GS-6 | 7,780 | 9,967 | 243 | |
| | | GS-7 | 8,368 | 10,798 | 270 | |
| Table 006 | | | | | | |

[1] NOTE: A full 10-step special rate range is authorized for the occupation and grade levels specified. The full range of special rates for each grade can be derived by successively adding the amount of the within-grade increase shown.

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

[F.R. Doc. 70-16129; Filed, Dec. 2, 1970; 8:45 a.m.]

## NURSES, NEW ORLEANS, LA.

### Notice of Adjustment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates and rate ranges as follows:

GS-610 NURSE SERIES

Geographic coverage: New Orleans, La.

Effective date: First day of the first pay period beginning on or after November 29, 1970.

PER ANNUM RATES

| Grade | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| GS-4 | $6,828 | $7,023 | $7,218 | $7,413 | $7,608 | $7,803 | $7,998 | $8,193 | $8,388 | $8,583 |
| GS-5 | 7,202 | 7,420 | 7,638 | 7,856 | 8,074 | 8,292 | 8,510 | 8,728 | 8,946 | 9,164 |

All new employees in the specified occupational level will be hired at the new minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the

affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after each date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3–2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723, of new appointees to positions cited.

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

[F.R. Doc. 70–16130; Filed, Dec. 2, 1970; 8:45 a.m.]

# FEDERAL POWER COMMISSION

[Docket No. RI71–410, etc.]

## TERRA RESOURCES, INC., 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]

NOVEMBER 20, 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, DC 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37 (f)) on or before January 11, 1971.

By the Commission.

[SEAL] GORDON M. GRANT,
*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 | |
| RI71–138 | Terra Resources, Inc. | 5 | [12] 1 to 13 | Mountain Fuel Supply Co. (Nitchie Gulch Field, Sweetwater County, Wyo.). | $1,987 | 10–29–70 | [3] 1–23–71 | [4] 1–23–71 | [1] 15.384 | 16.12 | |
| RI69–484 | do | 5 | 14 | do | 3,657 | 10–28–70 | 10–28–70 | [12] Accepted | 16.0 | 16.12 | RI69–484. |
| RI71–417 | do | 6 | 3 | do | 311 | 10–27–70 | 10–27–70 | 10–28–70 | 15.0 | 15.1125 | |
| RI71–410 | Skelly Oil Co. | 131 | [5] 15 | El Paso Natural Gas Co. (Rio Arriba County, N. Mex., San Juan Basin). | 15 | 10–30–70 | 11–30–70 | 12–1–71 | 13.0 | 13.0551 | |
| RI71–411 | The Louisiana Land and Exploration Co. | 3 | [6] 2 | Sea Robin Pipeline Co. | 13,500 | 10–26–70 | 11–26–70 | [6] 11–27–70 | [6] 18.5 | [6] [13] 20.0 | |
| | | 4 | [6] 2 | Sea Robin Pipeline Co. (Block 16 South Marsh Island Area, Offshore Louisiana). | (7) | 10–26–70 | 11–26–70 | [6] 11–27–70 | [6] 18.5 | [6] [13] 20.0 | |
| RI71–412 | Atlantic Richfield Co. | 158 | [10] [11] 42 | Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Grand Isle Block 43 Field, Offshore Louisiana) (Disputed). | 1,675 | 10–26–70 | 10–26–70 | [6] 10–27–70 | 19.5 | 20.0 | RI70–349. |

* Unless otherwise stated, the pressure base is 15.025.
[1] Prior increase to 16 cents suspended in Docket No. RI71–138 until Jan. 23, 1971.
[2] Expiration date of suspension period for prior increase to 16 cents.
[3] Covers sales under Supplements Nos. 11 and 13 only.
[4] Subject to quality adjustments.
[5] Pursuant to Paragraph (A) of Opinion No. 546–A.
[6] Or 1 day from date of initial delivery, whichever is later.
[7] Not used.
[8] Increase pertains only to gas well gas.
[9] No deliveries at present.
[10] Includes supporting documents required by Opinion No. 567.
[11] Applies only to gas well gas sales from the KO and J8 Reservoirs from acreage added by Supplement No. 10 (Amendment dated Aug. 31, 1964).
[12] Proposed rate increase is accepted as of Oct. 28, 1970, subject to refund in Docket No. RI69–484.
[13] Cover sales from Nitchie Gulch Well No. 11–9 only. All other sales under rate schedule are covered by Supplement No. 14.

The proposed increase of Terra Resources, Inc., from 15.384 cents to 16.12 cents per Mcf corrects a prior filing to 16.0 cents which was suspended in Docket No. RI71–138 until January 23, 1971. Partial reimbursement for the Wyoming severance tax erroneously omitted from the original filing is included in the corrective filing. The proposed increase will be accepted subject to suspension until January 23, 1971 in Docket No. RI71–138 in lieu of previously suspended increase.

The other proposed increases filed by Terra also reflect partial reimbursement of the Wyoming severance tax. The proposed increase from 16 cents to 16.12 cents per Mcf shall be accepted for filing as of the date of filing subject to refund in Docket No. RI69–484. The proposed increase from 15 cents to 15.1125 cents per Mcf shall be suspended for 1 day from the date of filing.

The proposed increase of Skelly Oil Co. (Skelly) reflects partial reimbursement of New Mexico tax and exceeds the 13 cents increased rate ceiling for the San Juan Basin Area by only the amount of tax. Accordingly, Skelly's proposed rate is suspended for 1 day from the date of expiration of the statutory notice period.

The proposed rates of the Louisiana Land and Exploration Co. involve sales of third vintage gas-well gas from Offshore Louisiana (Federal Domain) and were filed pursuant

to Opinion No. 546–A. Consistent with Commission action on similar increases, the proposed increases are suspended for 1 day from either the date of expiration of statutory notice or for 1 day from the date of initial delivery, whichever is later. Thereafter, the proposed rate may be placed in effect subject to refund pending the outcome of Docket No. AR69–1.

Atlantic's proposed increase involves gas well gas produced from newly discovered reservoirs in the Disputed Zone, Offshore Louisiana. The gas qualifies as third vintage gas pursuant to Opinion No. 567. The proposed 20-cent rate is equal to the base rate ceiling established in Opinion No. 546 for third vintage gas well gas produced from within the state's taxing jurisdiction, but exceeds the 18.5-cent rate for gas well gas produced from the Federal Domain. The proposed rate shall be suspended for 1 day from the date of filing or 1 day from the date of initial delivery, whichever is later. Thereafter, Atlantic may collect the increased rate subject to 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.

[F.R. Doc. 70–16127; Filed, Dec. 2, 1970; 8:45 a.m.]

[Docket No. RP71–30]

## BACA GAS GATHERING SYSTEM, INC.

### Order Permitting Rate Increase Filing To Become Effective Without Suspension

NOVEMBER 25, 1970.

On October 28, 1970, Baca Gas Gathering System, Inc. (Baca), filed Original Sheet No. 3–A to its FPC Gas Tariff, Original Volume No. 1, proposed to increase its rate to its only jurisdictional customer, Panhandle Eastern Pipe Line Co., by 1 cent per Mcf, from 16 cents to 17 cents. Baca requests an effective date of November 1, 1970, and requests waiver of the 30-day notice requirements.

In support of its filing Baca states that the filing is in accordance with its contract and certificate authorizations and is solely to defray increased purchased gas costs.

Notice of the proposed change was issued by the Commission on November 9, 1970, and no protests or petitions to intervene have been received.

We find that the aforementioned filing should be accepted and should be made effective as hereinafter provided.

The Commission orders:

(A) Original Sheet No. 3–A to Baca's FPC Gas Tariff, Original Volume No. 1, is hereby accepted for filing to be effective as of November 1, 1970, subject to the terms and conditions of this order.

(B) This order is without prejudice to any findings or orders which have been or may hereafter be made by this Commission in any proceeding now pending or hereafter instituted by or against Baca or any persons affected by the change in rates hereby permitted to be effective.

(C) Nothing contained in this order shall be construed as a waiver of the requirements of section 7 of the Natural Gas Act, nor shall this order be construed as constituting approval by this Commission of any service, rate, charge, or classification, or any rule, regulation or practice affecting them, nor shall this order be deemed as recognition of any claimed contractual right or obligation affecting or relating to any service, rate, charge or classification.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70–16168; Filed, Dec. 2, 1970; 8:45 a.m.]

[Docket No. CP71–147]

## CUMBERLAND AND ALLEGHENY GAS CO.

### Notice of Application

NOVEMBER 25, 1970.

Take notice that on November 18, 1970, Cumberland and Allegheny Gas Co. (applicant), 800 Union Trust Building, Pittsburgh, PA 15219, filed in Docket No. CP71–147 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of additional volumes of natural gas to an existing wholesale customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks authorization to increase peak day sales and deliveries to its existing jurisdictional customer, Columbia Gas of West Virginia, Inc. (Columbia of W. Va.), from 18,900 Mcf to 19,800 Mcf, effective December 1, 1970.

Applicant states that the proposed increased sales and deliveries, required to serve Columbia of W. Va.'s 1970–71 market requirements, will be made at existing delivery points. No additional facilities are required by applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 14, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70–16166; Filed, Dec. 2, 1970; 8:45 a.m.]

[Dockets Nos. RP71–13, RP71–14]

## EL PASO NATURAL GAS CO.

### Notice of Extension of Time

NOVEMBER 30, 1970.

Upon consideration of the motion filed on November 16, 1970, by El Paso Natural Gas Co. to reschedule prehearing conference now set for December 8, 1970, in the above-designated proceeding (35 F.R. 17150), Notice is hereby given that the aforementioned prehearing conference shall commence on December 7, 1970.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70–16272; Filed, Dec. 2, 1970; 8:52 a.m.]

[Docket No. CP71–143]

## KANSAS-NEBRASKA NATURAL GAS CO.

### Notice of Application

NOVEMBER 20, 1970.

Take notice that on November 16, 1970, Kansas-Nebraska Natural Gas Co., Inc. (applicant), Hastings, Nebr. 68901, filed in Docket No. CP71–143 a budget-type application pursuant to section 7 of the Natural Gas Act and § 157.7 of the regulations for authorization, during the calendar year 1971, to construct various facilities and to abandon various services and facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks authorization:

A. To construct gas purchase facilities at a total cost not to exceed $2 million, with no single project to exceed $500,000;

B. To construct certain gas-sales or transportation facilities, at a total cost of not to exceed $300,000; and

C. To abandon service and to remove certain direct sales facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 14, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act

(18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT,
*Secretary.*

[F.R. Doc. 70-16167; Filed, Dec. 2, 1970; 8:45 a.m.]

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[Dockets Nos. CP65-352, CP70-311, CP71-20]

## TENNESSEE GAS PIPELINE CO.

### Order Granting Interventions, Consolidating Proceedings for Hearing and Prescribing Procedure

NOVEMBER 25, 1970.

On June 19, 1970, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee) filed an application in Docket No. CP70-311 for authorization under section 7(b) of the Natural Gas Act to abandon certain liquified natural gas (LNG) services and facilities located near Hopkinton, Mass., which were authorized by the the Commission's order issued July 26, 1965, in Docket No. CP65-352 (34 FPC 115). The application in the latter docket proposed cryogenic in-ground LNG storage facilities and liquefaction facilities at Compressor Station No. 267, at an estimated cost of $14,950,000, which included $13,924,000 for the LNG plant and storage facilities, $690,000 for lateral enlargements and replacements, $236,000 for meter stations, and $100,000 for administrative expenses, in order to liquify pipeline-supplied gas at a rate of 12,500 Mcfd and redeliver gas, on a firm basis, to 18 general service distribution customers which had contracted for LNG service. Tennessee obtained contract commitments and obligated itself for the full service of 121,454 Mcf maximum daily LNG quantity and 3,032,176 Mcf maximum winter LNG contract quantity.

On July 26, 1965, Tennessee commenced construction of LNG facilities. On July 12, 1968, the Commission issued an order extending to July 26, 1969, as the time within which Tennessee was to complete construction and place into operation the LNG facility.

On October 18, 1968, Tennessee filed an amendment to its application in Docket No. CP65-352 seeking authorization to construct and operate above-ground LNG storage tanks in lieu of below-ground storage reservoirs authorized by the Commission's original order in this proceeding, said above-ground storage tanks to cost an estimated $10 million. Subsequent thereto on June 19, 1970, Tennessee filed a notice requesting permission to withdraw its petition to amend its application relating to the construction of above-ground storage tanks at the LNG facility.

In its application in Docket No. CP70-311 Tennessee submits that the following developments form the basis for its proposal whereby the LNG facility, as it presently exists, should be abandoned by sale to other persons, and Tennessee's net unrecovered costs of $8,841,744 should be charged to Account 930, research and development costs, to be amortized over a 10-year period.

In the early 1960's, the distributors of natural gas in New England suggested to Tennessee that an LNG facility could provide a needed peaking service at an economical cost, and after a number of studies by technical and economic experts, Tennessee concluded that a small pilot LNG plant should be constructed as a research project. After numerous further studies and consultations, however, Tennessee decided to proceed directly with the construction of a full scale cascade-cycle liquefaction process and cryogenic below-ground storage reservoir.

In May 1963 Tennessee commissioned a research study on a proposal for storing 1 million Mcf of natural gas in liquid form on lands adjoining Tennessee's existing Compressor Station No. 267.

Subsequent thereto Tennessee was authorized by the Commission on July 26, 1965, to construct and operate the proposed LNG facility, and was further authorized to sell and deliver natural gas to the New England distributors.

Tennessee has advised that the liquefaction facilities operated at near capacity during the year 1967 until approximately August 1, 1967, at which time it became apparent that the high boil-off rate of approximately three times the predicated rate, and the temperature of the boil-off vapor and reservoir differed substantially from the predicted values. Thereupon, Tennessee initiated a number of investigations to determine the cause of heat gain and insulation required to reduce conductivity, and an instrumentation analysis of the plant in-ground storage reservoirs. However, no practical solution is said to have been found to allow effective operation of the in-ground storage reservoirs.

On October 18, 1968, Tennessee proposed, after further study, to amend its certificate to allow substitution of above-ground tanks at an estimated cost of $10,067,160, based on 1968 price information and purchasing experience. Tennessee stated a willingness to proceed with the expenditure of the capital necessary to construct above-ground tanks provided that the customers would be willing to pay a higher rate for the LNG service. Due to the unwillingness of some customers to pay higher rates for LNG service, Tennessee determined that the LNG service was not economically feasible and the LNG plant was said to be shut down.

On April 1, 1970, the New England Gas and Electric Association and Air Products and Chemicals, Inc., entered into an agreement with Tennessee to purchase the entire existing LNG facility and lands for $4,200,000. Tennessee also reached a settlement agreement with the insurance underwriters for the LNG facility whereby Tennessee received $4,970,000 with respect to the inoperative in-ground reservoirs.

In Docket No. CP71-20, Tennessee seeks to sell to Worcester Gas Co., 4.72 miles of 6-inch O.D. line from the LNG plant to Framingham, Mass., for $94,275.

The related nature of the applications in Dockets Nos. CP70-311 and CP71-20, and the notice requesting withdrawal of the amendment to the application in Docket No. CP65-352 is apparent (as also set forth in Exhibit T to the application in CP70-311), and pursuant to the Commission's rules and regulations, the pending matters in these dockets will be disposed of on the basis of a consolidated record.

On August 25, 1970, Tennessee filed a supplement to its application submitting its insurance settlement, tax treatment, cost of service study and statement supporting proposed charge of unrecovered costs of $8,841,744 related to the LNG project.

Petitions to intervene were filed in Docket No. CP65-352 by the Manufacturers Light and Heat Co., United Fuel Gas Co., and the Ohio Fuel Gas Co., and by the Bridgeport Gas Co. et al.[1] In Docket No. CP70-311, petitions to intervene were filed by the Tennessee Valley Municipal Gas Association,[2] Berkshire

[1] Bridgeport et al. consists of Bridgeport Gas Co.; Central Massachusetts Gas Co.; Connecticut Gas Co.; Fitchburg Gas and Electric Co.; Gas Service, Inc.; The Greenwich Gas Co.; Hartford Electric Light Co.; Haverhill Gas Co.; City of Holyoke, Mass., Gas and Electric Department; Lynn Gas Co.; Lawrence Gas Co.; Mystic Valley Gas Co.; New Britain Gas Light Co.; North Shore Gas Co.; Northampton Gas Light Co.; Springfield Gas Light Co.; Valley Gas Co.; and Worcester Gas Light Co.

[2] The Tennessee Valley Municipal Gas Association consists of the municipalities of Athens, Decatur, Florence, Huntsville, Russellville, Sheffield, and Tuscumbia, Ala.; Corinth and Iuka, Miss.; and Selmer, Tenn.

Gas Co. et al.,[3] Pennsylvania Gas and Water Co., and Brooklyn Union Gas Co.

On November 21, 1968, Tennessee reported to the Commission, as of September 30, 1968, the cost of the in-ground reservoirs was $7,428,000, including $700,000 interest during construction, insurance recovery of $4,956,000 and a reduction in Federal income tax of $468,000, leaving a net cost of the in-ground reservoirs of $2,004,000.

On July 27, 1970, in CP70-311, Tennessee requested the Commission to issue authorization for Tennessee to abandon the LNG facility and to authorize Tennessee to abandon the services that were to be rendered from the LNG facility. Tennessee further requested the Commission grant the above request in Phase I of the proceeding and to set the proposed accounting treatment by which $8,841,744 would be assigned to Account No. 930, as research and development costs, for hearing and disposition in Phase II of the proceeding. Penn Gas, which requested formal hearing, stated that it had no objection to the proposed separation of the proceeding into phases.

On July 22, 1970, Tennessee notified the New England Gas and Electric Systems gas subsidiaries that Tennessee may use the LNG plant in 1970-71 winter to peak shave the Worcester system (Docket No. R-386).

On June 19, 1970, Tennessee filed a notice of withdrawal of its amendment in Docket No. CP65-352 (dated Oct. 18, 1968), asserting that the proposal to install three above-ground tanks was no longer a viable economic project in the absence of customer willingness to purchase LNG at a higher rate ($1.99 vs. $1.25 per Mcf avg.) and in sufficient quantities (500,000 Mcf vs. 3,000,000 Mcf) to support the above-ground storage project estimated to cost in excess of $10 million.

Berkshire Gas Co. et al. stated in their petition to intervene (page 8) that they do not request a formal hearing but that they do not excuse Tennessee's failure to provide LNG service and expressly reserved their rights to sue for damages that they may have as a result of Tennessee's failure to provide LNG service, nor would they endorse Tennessee's proposed accounting procedure.

Pennsylvania Gas in its petition to intervene requested the Commission to provide that any authorization entered in these proceedings respecting accounting entries shall be without prejudice to and shall not be binding for ratemaking purposes. The Tennessee Valley Municipal Gas Association in its petition to intervene (pages 2-3) stated that the rate impact of the proposal on the customers would be $884,174 annually, that it would not appear that the loss was a justifiable charge against the rate payers, and stated that the proposal of Tennessee should be subject of hearing.

On August 19, 1970, Valley Gas Co. advised the Commission that it continued to object to Tennessee's proposed abandonment of LNG service and maintained that Tennessee was obligated to render such service, and that Tennessee, in its view, was liable for damages for breach of contract on the LNG service agreement.

In its petition to amend its certificate, filed October 16, 1968, Tennessee stated that the maximum liquid level in the existing underground reservoirs was equivalent to 475,000 Mcf. Tennessee further stated that it was imperative that an amended certificate be issued at the earliest possible date in order to enable Tennessee to render the authorized LNG service of 121,450 Mcf per day commencing with the 1970-71 winter heating season. Tennessee also stated that it intended to continue to render interim I.G.-6 service to New England customers until the above-ground facilities were complete and the LNG project placed in operation.

Subsequently in Docket No. CP70-185 et al., order issued June 22, 1970, Tennessee supplied 37,075 Mcf additional contract quantity services and terminated the interim gas services to New England customers, and has indicated that substitute services of pipeline-supplied gas, in lieu of the LNG services, cannot be supplied by Tennessee. Since 1965, some reliance has been placed on the LNG service of Tennessee by the New England customers.

In view of the competing interests evident by the pending matters in these dockets and the overriding importance of assuring an adequate supply of natural gas to consumers in the New England states dependent upon Tennessee for their supply, the application and petitions should be disposed of only after formal hearing thereof, and an evaluation of the factors bearing on the public interest relevant to the proposed abandonment of services and facilities.

In order to expedite decision in these matters the Commission will direct that the proceeding be divided into two phases as suggested by the parties, the first phase to consider the question of whether abandonment of facilities and services by Tennessee should be permitted, and the second phase to consist of a determination of the question of the accounting treatment to be afforded the net losses resulting if the project is to be permitted to be abandoned. In this regard Tennessee's proposed method of accounting for any net losses should be examined in justaposition to, among other things, the conditioning ordering paragraphs cited below, which were contained in the Commission's initial authorization in Docket No. CP65-352 (34 FPC 116-117):

(F) In any rate proceeding instituted after the liquefied natural gas facilities certificated have been transferred to gas plant in service, should the "test period" (as presently defined in the Commission's regulations) or any part thereof fall prior to the commencement of the full service of 121,454 Mcf per day authorized herein, applicant shall nevertheless reflect revenues and costs based upon such full service.

(G) Applicant shall not, in any rate proceeding, attempt to assess against any other class of service any deficiency in revenues for rendering the service certificated herein below the cost of service associated with the certificated LNG plant and storage facilities, prepared in the manner shown by Exhibits N and P, Schedule 1 of the application in this proceeding.

The customers of Tennessee should be prepared to state their positions at the prehearing conference herein called for, setting forth the volumes of LNG they are willing to purchase.

The Commission will direct that the proceeding in Phase I herein be conducted so that a final decision may be entered upon at the earliest possible date.

Tennessee's cost of service study submitted in its abandonment application which appeared to show an uneconomic forecast for correction of boil-off problems by construction of above-ground steel tanks, was based on assumptions of a $35 million plant cost and a 9 percent rate of return. Tennessee also reported capital expenditures and cost to October 1, 1971, of $28.5 million rather than the estimated $15 million in its original application. The economics of the operation of the LNG plant or some modification thereof, by Tennessee and the cost allowances as proposed in the amendment to Docket No. CP65-352, should be established in Phase I of the proceeding.

The Commission finds:

(1) The above-named parties should be permitted to intervene and participate in this proceeding.

(2) A prehearing conference before a presiding examiner of the Commission will expedite consideration of the matters pending in these dockets.

(3) Disposition of the pending matters in these dockets should be considered on a consolidated record as they involve common questions of fact and law.

The Commission orders:

(A) The applications of Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), in Dockets Nos. CP70-311 and CP71-20, and the petition and notice of Tennessee in Docket No. CP65-352 are hereby consolidated for the purpose of hearing and decision.

(B) Pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference shall be held before a hearing examiner of the Commission, to be designated by the Chief Examiner, in order to consider the means by which the conduct of the consolidated proceedings may be facilitated and dates set for further hearings, in a hearing room of the Federal Power Commission, 441 G Street

[3] Berkshire et al. consists of Berkshire Gas Co.; Central Massachusetts Gas Co.; Concord Natural Gas Corp.; The Connecticut Gas Co.; Connecticut Natural Gas Corp.; Fitchburg Gas and Electric Light Co.; The Greenwich Gas Co.; The Hartford Electric Light Co.; Haverhill Gas Co.; City of Holyoke, Mass., Gas & Electric Department; Lawrence Gas Co.; Lowell Gas Co.; Lynn Gas Co.; Manchester Gas Co.; Mystic Valley Gas Co.; Northampton Gas Light Co.; North Shore Gas Co.; The Southern Connecticut Gas Co.; Springfield Gas Light Co.; Valley Gas Co.; Wachusett Gas Co.; and City of Westfield Gas and Electric Light Department.

NW., Washington, DC, commencing at 10 a.m., e.s.t., on December 21, 1970.

(C) Each of the above-mentioned petitioners is permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *And provided further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any order or orders entered in these proceedings.

(D) Tennessee shall submit to the Presiding Examiner, and all other participants in this proceeding on or before December 9, 1970, an outline or summary of the evidence it proposes to tender in support of its applications and petition in these dockets. The participants other than Tennessee shall be prepared to submit at the prehearing conference called for in paragraph (B) above their view of the issues in these proceedings and the data or evidence required of Tennessee and the evidence that they will submit in this proceeding, such that the Phase I proceeding shall be concluded as rapidly as possible.

(E) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Power Commission by sections 4, 5, 7, 8, and 15 of the Natural Gas Act, and the Commission's rules and regulations, separate Phase I and Phase II hearings will be held following the conclusion of the aforeordered prehearing conference in a hearing room of the Federal Power Commission concerning the matters involved in and the issues presented in the consolidated dockets.

(F) The petition of Tennessee to divide the proceeding into two phases, dated July 27, 1970, is granted.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-16169; Filed, Dec. 2, 1970; 8:45 a.m.]

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[Docket No. RP71-42]

## UNITED GAS PIPE LINE CO.

### Notice of Petition for Permission To Use Liberalized Depreciation With Normalization for Accounting and Rate Purposes

NOVEMBER 25, 1970.

Take notice that United Gas Pipe Line Co. (United) on November 12, 1970, tendered for filing a petition requesting authorization to use liberalized depreciation with normalization for accounting and rate purposes on all utility property effective May 16, 1970.

United states that it has elected the normalized method of accounting for rate and tax purposes with respect to its post-1969 expansion property pursuant to the provisions of the Tax Reform Act and the Commission's Order No. 404. United further states that the Commission's rationale underlying the decision in Texas Gas Transmission Corp., Opinion No. 578 (June 3, 1970), is equally applicable to United and that the Commission should enter its order authorizing and permitting United to discontinue flow-through accounting on all utility property effective May 16, 1970 (the date the rates United is currently collecting became effective, as authorized by Commission order issued May 15, 1970, Docket No. RP70-13).

Copies of the petition were served on jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or make any protest with reference to said application should on or before December 28, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petition to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-16171; Filed, Dec. 2, 1970; 8:45 a.m.]

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[Docket No. CP61-79]

## UNITED GAS PIPE LINE CO. AND TEXAS GAS TRANSMISSION CORP.

### Notice of Petition To Amend

NOVEMBER 20, 1970.

Take notice that on November 10, 1970, United Gas Pipe Line Co. (United), 1525 Fairfield Avenue, Shreveport, LA 71102, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, KY 42301, jointly filed in Docket No. CP61-79 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act so as to modify the certificate of public convenience and necessity heretofore issued in this docket so as to authorize the construction and operation of certain facilities to interconnect applicants' existing transmission facilities at an additional exchange point near Lucas in Caddo Parish, La., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that this additional delivery point will permit United to receive natural gas as needed to reinforce a portion of United's Shreveport, La., market area.

Applicants estimate that the total cost of the proposed facilities is approximately $66,000, which will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 14, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-16170; Filed, Dec. 2, 1970; 8:45 a.m.]

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# INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

## CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

### Entry or Withdrawal From Warehouse for Consumption

NOVEMBER 30, 1970.

On December 11, 1967, the Government of the United States, in furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a bilateral cotton textile agreement with the Republic of Korea, concerning exports of cotton textiles and cotton textile products from the Republic of Korea. Under the agreement, the Republic of Korea has undertaken to limit its exports to the United States of certain cotton textiles and cotton textile products to specified annual amounts. One of the provisions of that agreement provides that exports of cotton textile products in Categories 39, 53, 55, and 63 shall be subject to certain limitations for the year which began on January 1, 1970. Entries into the United States for consumption and withdrawals from warehouse for consumption of cotton textile products in these categories have exceeded the levels provided for in the agreement. Consultations with the Government of the Republic of Korea concerning exports are now in progress. A subject of such consultations will be provision for the entry of goods affected by the directive published below.

Accordingly, there is published below a letter of November 30, 1970, from the Chairman of the President's Cabinet

Textile Advisory Committee to the Commissioner of Customs, directing that, effective as soon as possible and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 39, 53, 55, and 63 produced or manufactured in the Republic of Korea and exported during the period beginning January 1, 1970, and extending through December 31, 1970, be prohibited.

STANLEY NEHMER,
*Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.*

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
*Department of the Treasury, Washington, D.C. 20226.*

NOVEMBER 30, 1970.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of December 11, 1967, between the United States and the Republic of Korea, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textile products in Categories 39, 53, 55, and 63 produced or manufactured in the Republic of Korea and which have been exported from the Republic of Korea during the period beginning January 1, 1970, and extending through December 31, 1970.

Cotton textile products which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be subject to this directive.

A detailed description of Categories 39, 53, 55, and 63 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textile products from the Republic of Korea have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V, 1965–69). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

MAURICE H. STANS,
*Secretary of Commerce, Chairman President's Cabinet Textile Advisory Committee.*

[F.R. Doc. 70-16233; Filed, Dec. 2, 1970; 8:50 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

[Files Nos. 7-3565—7-3573]

## ABBOTT LABORATORIES, INC., ET AL.

### Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 24, 1970.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

| | File No. |
|---|---|
| Abbott Laboratories, Inc. | 7-3565 |
| Arkansas-Louisiana Gas Co. | 7-3566 |
| Austral Oil Co., Inc. | 7-3567 |
| The Bank of New York Co., Inc. | 7-3568 |
| CNA Financial Corp. | 7-3569 |
| California Computer Products, Inc. | 7-3570 |
| Central Illinois Public Service Co. | 7-3571 |
| Chemical New York Corp. | 7-3572 |
| Consolidated Freightways, Inc. | 7-3573 |

Upon receipt of a request, on or before December 9, 1970, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70-16196; Filed, Dec. 2, 1970; 8:47 a.m.]

[Files Nos. 7-3574—7-3582]

## DELMARVA POWER & LIGHT CO. ET AL.

### Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 24, 1970.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

| | File No. |
|---|---|
| Delmarva Power & Light Co. | 7-3574 |
| Kellogg Co. | 7-3575 |
| Levin-Townsend Computer Corp. | 7-3576 |
| Manufacturer's Hanover Corp. | 7-3577 |
| Northern States Power Co. (Minn.) | 7-3578 |
| Norton Simon, Inc. | 7-3579 |
| Peoples Gas Co. | 7-3580 |
| Perkin-Elmer Corp. | 7-3581 |
| Potter Instrument Co., Inc. | 7-3582 |

Upon receipt of a request, on or before December 9, 1970, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70-16195; Filed, Dec. 2, 1970; 8:47 a.m.]

[24FW-1448]

## FIRST GENERAL CORP.

### Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

NOVEMBER 25, 1970.

I. First General Corp., a Delaware corporation incorporated on January 3, 1969, located at 325 Harvard Tower Building, 4815 South Harvard, Tulsa, OK 74135, filed with the Commission on April 21, 1969, a notification on Form 1-A with attached exhibits, including an offering circular, relating to an offering of 320,000 shares of its 10 cents par value common stock at an offering price of 30 cents per share for an aggregate offering price to the public of $96,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section

3(b) and Regulation A promulgated thereunder.

II. The Commission on the basis of information reported by the staff has reason to believe that:

The terms and conditions of Regulation A have not been complied with in that:

A. The offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made in the light of the circumstances under which they are made, not misleading, particularly with respect to:

1. The issuer's intention to engage as principal in active trading in securities in the normal course of its business and to maintain inventories in connection therewith;

2. The issuer's stated intent to dispose of all securities which it owns as principal at the close of each week;

3. The maintenance by the issuer of an inventory in securities for an indefinite period of time;

4. The percentage of the gross commissions to be paid to its salesmen and the percentage to be retained by the company;

5. The limitation on purchases in this offering to a maximum of 10,000 shares by any one individual;

6. The percentage of ownership which the public and principals of the issuer were to own upon completion of the offering;

7. The failure to disclose the names of all underwriters and the method of distribution for 10,000 shares of the stock offered under the regulation;

8. The market-making activities by the issuer in various publicly held corporations on behalf of control persons of these corporations;

9. The failure to disclose that issuer's change in trading policy was to act as a principal in the trading and securities of publicly held corporations on behalf of control persons of these corporations in violation of sections 5 and 17 of the Securities Act of 1933 and section 10(b) of the Securities Exchange Act of 1934.

10. The manner in which it intends to maintain its records in accordance with the requirements and regulations of various agencies;

11. The information in issuer's Form 2-A report of sales with respect to the date the offering was sold out; and

12. The background of the President of the issuer.

B. The offering was made in violation of section 17 of the Securities Act of 1933, as amended.

C. The terms and conditions of Regulation A have not been complied with, in that sales of the issuer's stock were made prior to the completion of the offering without tendering an offering circular to the persons to whom these securities were sold, as required by Rule 256, and in violation of section 5(a) of the Securities Act of 1933, since no exemption was available therefor.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended:

*It is ordered*, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, temporarily suspended.

*It is further ordered*, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in the order for proceedings within 30 days of the entry thereof. If any party fails to file the directed answer or fails to appear at a hearing after being duly notified, such party shall be deemed in default and the proceedings may be determined against such party upon consideration of the order for proceedings, the allegations of which may be deemed to be true.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for such hearing will be promptly given by the Commission.

By the Commission.

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

[F.R. Doc. 70-16200; Filed, Dec. 2, 1970; 8:47 a.m.]

[File No. 7-3587]

## INTERNATIONAL TELEPHONE & TELEGRAPH CORP.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 24, 1970.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which, security is listed and registered on one or more other national securities exchange:

International Telephone & Telegraph Corp., $2.25 cumulative convertible preferred stock, Series N, no par value, File No. 7-3587.

Upon receipt of a request, on or before December 9, 1970, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25 D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70-16194; Filed, Dec. 2, 1970; 8:47 a.m.]

[812-2772]

## NEW ENGLAND MUTUAL LIFE INSURANCE CO. ET AL.

### Notice of Application for Exemptions

NOVEMBER 25, 1970.

Notice is hereby given that New England Mutual Life Insurance Co. (Insurance Company), New England Life Variable Annuity Fund I (Fund), and NEL Equity Services Corp. (Nelesco) (hereinafter collectively called Applicants), 501 Boylston Street, Boston, MA 02117, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting applicants from sections 17(f), 22(d), and 27(c)(2) of the Act and Rule 17f-2 thereunder to the extent specified therein. The Insurance Company is a Massachusetts mutual life insurance company. The Fund, an open-end diversified management company registered under the Act, was established by the Insurance Company in connection with the proposed offering to the public of individual variable annuity contracts (contracts) exclusively for use in connection with plans meeting the requirements of the Internal Revenue Code for tax-benefited treatment. Nelesco, a wholly-owned subsidiary of the Insurance Company, is the principal underwriter for the Fund.

All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Section 17(f) provides, in pertinent part, that a registered management investment company may maintain its securities and similar investments in its

own custody in accordance with such rules, regulations, and orders as may be adopted by the Commission for the protection of investors. Rule 17f–2 requires, among other things, that such assets be deposited with a bank or other company whose functions and facilities are supervised by Federal or State authority and limits the persons who shall have access to such assets to certain specified individuals. Applicants request an exemption from the provisions of section 17(f) and Rule 17f–2 thereunder to the extent necessary to permit the Insurance Company to act as safekeeping agent for the Fund in the manner and on the terms described in the application and also to permit a maximum of 20 duly authorized officers or employees of the Insurance Company as well as the insurance commissioners of the jurisdictions in which the Insurance Company does business (or their duly authorized representatives) to have access to the Fund's securities and similar investments. Applicants state that the Insurance Company is subject to the supervision of the Massachusetts Commissioner of Insurance, that its vault is comparable to the vaults of large commercial banks, and that its safekeeping agreement with the Fund and other procedures regarding access to its vault assures adequate protection to the contractholders.

Section 22(d) provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus.

The deferred contracts provide that on the death during the accumulation period of the person on whose life a contract is issued, if the contractholder has made no election as to the method in which the death proceeds are to be paid to the beneficiary, the latter may elect to have such proceeds applied to effect a variable annuity without a deduction for sales expense. Under such circumstances the beneficiary may elect a variable annuity option within 90 days after the Insurance Company receives notice of the decedent's death. Applicants state that if the choice of a variable annuity option were to involve the payment of an additional charge for sales expense that choice would be severely discouraged. No significant sales expenses are anticipated, and all beneficiaries will be treated uniformly because the variable annuity option will be available without a deduction for sales expense to each beneficiary.

Applications also request exemption from section 22(d) to permit the Insurance Company to apportion part of its surplus, if any, to the contracts without a deduction for sales expense. The Insurance Company's board of directors will decide annually what portion of such surplus, if any, may prudently be so apportioned. Applicants also state that no unfair discrimination would result from elimination of an additional charge because a charge for sales expense is deducted with respect to the payments giving rise to such surplus.

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian and held under an indenture or agreement containing, in substance, the provisions required by sections 26(a) (2) and (3) for a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the trust and places certain restrictions on charges which may be made against the trust income and corpus and excludes from expenses which the trustee or custodian may charge against the trust any payments to the depositor or principal underwriter, other than a fee not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services delegated to them by the trustee or custodian. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign. Applicants request an exemption from these requirements to permit the proceeds of all payments under the contracts to be held by the Insurance Company on the grounds that its status as a regulated insurance company, and its obligations as an insurance company to the contractholders, provide substantially the protection contemplated by these requirements.

Applicants have consented that the requested exemption may be made subject to the conditions (1) that the deductions under the contracts for administrative expenses shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) that the payment of sums and charges out of the assets of the Fund shall not be deemed to be exempted from regulation by the Commission by reason of the requested order: *Provided*, That the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services and Applicants reserve the right in any proceeding before the Commission, or in any suit, or action in any court to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transactions from any provision or provisions of the Act, 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 policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 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 shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 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 information stated 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 the 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. 70–16198; Filed, Dec. 2, 1970; 8:47 a.m.]

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[812–2773]

## NEW ENGLAND MUTUAL LIFE INSURANCE CO. ET AL.

### Notice of Application for Exemptions

NOVEMBER 25, 1970.

Notice is hereby given that New England Mutual Life Insurance Co. (Insurance Company), New England Life Variable Annuity Fund II (Fund), and NEL Equity Services Corp. (Nelesco) (hereinafter collectively called Applicants), 501 Boylston Street, Boston, MA 02117, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicants from sections 17(f), 22(d), and 27(c)(2) of the Act and Rule 17f–2 thereunder to the extent specified therein. The Insurance Company is a Massachusetts mutual life insurance company. The Fund, an open-end diversified management company registered under the Act, was established by the Insurance Company in connection with the proposed offering to the public of individual variable annuity contracts (contracts) exclusively for personal use by purchasers and for use in connection with plans and trusts not qualifying under the Internal Revenue Code for tax-benefited treatment. Nelesco, a wholly owned subsidiary of the Insurance Company, is the principal underwriter for the Fund. All interested persons are referred to the application on

file with the Commission for a statement of the representations therein, which are summarized below.

Section 17(f) provides, in pertinent part, that a registered management investment company may maintain its securities and similar investments in its own custody in accordance with such rules, regulations, and orders as may be adopted by the Commission for the protection of investors. Rule 17f-2 requires, among other things, that such assets be deposited with a bank or other company whose functions and facilities are supervised by Federal or State authority and limits the persons who shall have access to such assets to certain specified individuals. Applicants request an exemption from the provisions of section 17(f) and Rule 17f-2 thereunder to the extent necessary to permit the Insurance Company to act as safekeeping agent for the Fund in the manner and on the terms described in the application and also to permit a maximum of 20 duly authorized officers or employees of the Insurance Company as well as the insurance commissioners of the jurisdictions in which the Insurance Company does business (or their duly authorized representatives) to have access to the Fund's securities and similar investments. Applicants state that the Insurance Company is subject to the supervision of the Massachusetts Commissioner of Insurance, that its vault is comparable to the vaults of large commercial banks, and that its safekeeping agreement with the Fund and other procedures regarding access to its vault assure adequate protection to the contractholders.

Section 22(d) provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus.

The deferred contracts provide that on the death during the accumulation period of the person on whose life a contract is issued, if the contractholder has made no election as to the method in which the death proceeds are to be paid to the beneficiary, the latter may elect to have such proceeds applied to effect a variable annuity without a deduction for sales expense. Under such circumstances the beneficiary may elect a variable annuity option 90 days after the Insurance Company receives notice of the decedent's death. Applicants state that if the choice of a variable annuity option were to involve the payment of an additional charge for sales expense its choice would be severely discouraged. No significant sales expenses are anticipated, and all beneficiaries will be treated uniformly because the variable annuity option will be available without a deduction for sales expense to each beneficiary.

Applicants also request exemption from section 22(d) to permit the Insurance Company to apportion part of its surplus, if any, to the contracts without a deduction for sales expense. The Insurance Company's board of directors will decide annually what portion of such surplus, if any, may prudently be so apportioned. Applicants also state that no unfair discrimination would result from elimination of an additional charge because a charge for sales expense is deducted with respect to the payments giving rise to such surplus.

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian and held under an indenture or agreement containing, in substance, the provisions required by sections 26(a)(2) and (3) for a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the trust and places certain restrictions on charges which may be made against the trust income and corpus and excludes from expenses which the trustee or custodian may charge against the trust any payments to the depositor or principal underwriter, other than a fee not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services delegated to them by the trustee or custodian. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign. Applicants request an exemption from these requirements to permit the proceeds of all payments under the contracts to be held by the Insurance Company on the grounds that its status as a regulated insurance company, and its obligations as an insurance company to the contractholders, provide substantially the protection contemplated by these requirements.

Applicants have consented that the requested exemption may be made subject to the conditions (1) that the deductions under the contracts for administrative expenses shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) that the payment of sums and charges out of the assets of the Fund shall not be deemed to be exempted from regulation by the Commission by reason of the requested order: *Provided*, That the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services and Applicants reserve the right in any proceeding before the Commission, or in any suit, or action in any court to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transactions from any provision or provisions of the Act, 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 policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 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 shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon 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 information stated 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 the 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. 70-16199; Filed, Dec. 2, 1970; 8:47 a.m.]

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[Files Nos. 7-3583—7-3586]

## RALSTON PURINA CO. ET AL.

### Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 24, 1970.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchange:

| | *File No.* |
|---|---|
| Ralston Purina Company | 7-3583 |
| Utah Power & Light Company | 7-3584 |
| Jim Walter Corporation | 7-3585 |
| Wells Fargo & Company | 7-3586 |

Upon receipt of a request, on or before December 9, 1970, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request

should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, DC 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70-16197; Filed, Dec. 2, 1970; 8:47 a.m.]

# INTERSTATE COMMERCE COMMISSION

[Notice 110]

## MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 27, 1970.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the Special Rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 2421 (Sub-No. 9), filed November 12, 1970. Applicant: NEWTON TRANSPORTATION COMPANY, INC., Box 678, Lenoir, NC 28645. Applicant's representative: Francis J. Ortman, 1700 Pennsylvania Avenue NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products and plastic byproducts*, except in bulk, from the plantsite of Polymer Processing, Inc., a subsidiary of Broyhill Furniture Industries, Inc., at or near Lenoir, N.C., in Caldwell County to Washington, D.C.; Baltimore, Md.; points in New York, N.Y., commercial zone as defined by the Commission in 1 M.C.C. 665, and 2 M.C.C. 199; points in Kentucky, New Jersey, Ohio, Pennsylvania, Indiana, Illinois; points in that part of Virginia east of U.S. Highway 1 and south of U.S. Highway 60; and points in that part of West Virginia north of the Kanawha River and west of U.S. Highway 19, including points on the indicated portions of the highways specified, and (2) *materials, equipment, and supplies* used in the manufacture of plastic products and plastic byproducts, from the destination points in (1) above to the origin point in (1) above. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC. 16334 (Sub-No. 9); filed November 6, 1970. Applicant: ARNOLD E. DEBRICK, doing business as DEBRICK TRUCK LINE, R.F.D. No. 2, Paola, KS 66071. Applicant's representative: Erle W. Francis, 719 Capitol Federal Building, 700 Kansas Avenue, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and offal*, from Mankato, Kans., and points within 3 miles of Mankato, Kans., to Sioux City, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Kansas City, Mo.

No. MC 16682 (Sub-No. 81), filed November 12, 1970. Applicant: MURAL TRANSPORT, INC., 2900 Review Avenue, Long Island City, NY 11101. Applicant's representative: S. S. Eisen, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial and institutional furniture, fixtures, and equipment*, between points in Nebraska on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr., or Washington, D.C.

No. MC 19227 (Sub-No. 148), filed November 9, 1970. Applicant: LEONARD BROS. TRUCKING CO., INC., Post Office Box 602, 2595 Northwest 20th Street, Miami, FL 33152. Applicant's representative: J. F. Dewhurst (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portable cement batching plants, and related parts and supplies*, from points in Dallas County, Tex., to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Miami, Fla.

No. MC 19227 (Sub-No. 149), filed November 10, 1970. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, FL 33152. Applicant's representative: J. F. Dewhurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Apitong/Keruing lumber*, from points in Mobile County, Ala., to all points in the United States except (Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala., or Miami, Fla.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

No. MC 19227 (Sub-No. 150), filed November 10, 1970. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, FL 33152. Applicant's representative: J. F. Dewhurst (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rollers, road*, self-propelled, *rollers, road*, other than self-propelled, and *related parts and accessories and refuse bodies*, from San Antonio, Tex., to points in the United States (except Hawaii and Alaska). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Antonio, Tex., or Miami, Fla.

No. MC 22254 (Sub-No. 55), filed November 10, 1970. Applicant: TRANS-AMERICAN VAN SERVICE, INC., 7540 South Western Avenue, Chicago, IL 60620. Applicant's representatives: John C. Bradley and Elliott Bunce, 618 Perpetual Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pianos, organs, phonographs, musical instruments, vending machines, and parts and accessories thereof*, between the plantsites of the Wurlitzer Co. at or near Logan, Utah, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Salt Lake City, Utah.

No. MC 29120 (Sub-No. 123), filed November 12, 1970. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Post Office Box 769, Sioux Falls, SD 57101. Applicant's representative: Mead Bailey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Kansas City, Mo. and Omaha, Nebr.: From Kansas City over Interstate Highway 29 to junction with U.S. Highway 59, near Mound City, Mo., thence over U.S. Highway 59 to junction with Iowa Highway 92, thence over Iowa Highway 92 to Council Bluffs, Iowa, and thence over city street to Omaha, Nebr., and return over the same route, serving the intermediate point of St. Joseph, Mo., the off-route point of Atchison, Kans., and points within the Kansas City, Mo.-Kansas City, Kans., commercial zone as defined by the Interstate Commerce Commission in 111 M.C.C. 131. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at (1) Sioux Falls, S. Dak., (2) Sioux City, Iowa, or (3) Omaha, Nebr.

No. MC 30844 (Sub-No. 334), filed November 6, 1970. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., 2125 Commercial, Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cocoa, cocoa powder, and cocoa press cake meal*, (1) from warehouses and port facilities utilized by Continental Baking Co., Division of ITT and (2) from warehouses and port facilities utilized by DeZaan, Inc., at New York City, N.Y.; Philadelphia, Pa., and Baltimore, Md., and their respective commercial zones, to points in Colorado, Illinois (except Chicago and commercial zone), Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, Missouri, and Lexington, Ky. NOTE: Common control may be involved. Applicant states that the requested authority will be tacked from points in Ohio, to points in Oklahoma, Kansas, Arkansas, and Texas as found in applicant's lead certificate. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 30844 (Sub-No. 335), filed November 9, 1970. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dubuque, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating in Dubuque, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 30844 (Sub-No. 336), filed November 9, 1970. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial, Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from Waterloo, Red Creek, Rushville, Egypt, Fairport, Newark, and Lyons, N.Y., to points in Arkansas, Kansas, Louisiana, Oklahoma, and Texas. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y., or Washington, D.C.

No. MC 35628 (Sub-No. 315), filed November 6, 1970. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville SW., Grand Rapids, MI 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, MI 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite of Bradford White Corp. at Middleville, Mich., as an off-route point in connection with its regular-route operations over U.S. Highway 131, between Grand Rapids and Kalamazoo, Mich., as authorized under No. MC 35628 (Sub-No. 2). NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 41406 (Sub-No. 28), filed November 2, 1970. Applicant: AMTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Applicant's representatives: Ferdinand Born and Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, building accessories, and prefabricated buildings, including parts, and accessories* thereto, from Milwaukee, Wis., to New York, Pennsylvania, West Virginia, Kentucky, Ohio, Missouri, Michigan, Illinois, and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 42261 (Sub-No. 108), filed November 5, 1970. Applicant: LANGER TRANSPORT CORP., Route 1 and Danforth Avenue, Jersey City, NJ 07303. Applicant's representative: W. C. Mitchell, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Athletic goods, games, sporting equipment, toys, and plastic or rubber parts and products*, from Sandusky, Ohio, to points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, and (2) *returned shipments, and materials and supplies* (except commodities in bulk) used in the manufacture and shipping of the commodities in (1) above, from points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, to Sandusky, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Columbus, Ohio.

No. MC 51146 (Sub-No. 189), filed November 9, 1970. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, WI 54306. Applicant's representatives: D. F. Martin (same address as applicant), and Charles

W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the plant and warehouse sites of Nekoosa Edwards Paper Co., Inc., located at or near Potsdam, N.Y. (St. Lawrence County), to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, and (2) *materials and supplies* (except commodities in bulk) used in the manufacture and distribution of paper and paper products, from the above destination territory to the plant and warehouse sites of Nekoosa Edwards Paper Co. at or near Potsdam, N.Y. (St. Lawrence County). NOTE: Applicant states that the requested authority could be tacked with various Subs of MC 51146 where feasible. Applicant further states that no duplicating authority is being sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 59752 (Sub-No. 2), filed November 4, 1970. Applicant: H. F. FRIESE, Friedheim, Mo. 63747. Applicant's representative: Paul A. Mueller, Jr., Jackson, Mo. 63755. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Livestock, feed, fertilizer, and farm products* (not in bulk), from Cape Girardeau, Mo., to National Stock Yards, Ill., over U.S. Highway 61, or Interstate Highway 55, serving the intermediate points of Jackson, Fruitland, Shawneetown, Perryville, and St. Louis, Mo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cape Girardeau or St. Louis, Mo.

No. MC 61592 (Sub-No. 191), filed November 12, 1970. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed matter, magazines, printed materials of all types, material, and supplies* used in the manufacture and distribution by printing houses (1) from Glasgow, Ky., to points in the United States (except Hawaii), and (2) from points in the United States (except Hawaii) to Glasgow, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 61592 (Sub-No. 192), filed November 9, 1970. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movement, from Marion, Iowa, to points in Minnesota, Illinois, Nebraska, Wisconsin, North Dakota, South Dakota, Kansas, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 73165 (Sub-No. 287), filed November 10, 1970. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe or tubing*, other than oilfield, from Bossier City, La., and Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 78687 (Sub-No. 30), filed November 13, 1970. Applicant: LOTT MOTOR LINES, INC., 118 Monell Street, Penn Yan, NY 14527. Applicant's representative: E. Stephen Heisley, 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt products*, from the plantsite of Cayuga Rock Salt Co. at or near Myers, N.Y., to points in Bradford, Clinton, Columbia, Lackawanna, Luzerne, Lycoming, Montour, Northumberland, Porter, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, and Wyoming Counties, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 2505, therefore, dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 82735 (Sub-No. 3), filed November 3, 1970. Applicant: HUDSON-BERGEN TRUCKING CO., a corporation, 200 Central Avenue, Teterboro, NJ 07608. Applicant's representative: Bernard F. Flynn, Jr., York Flynn Building, East Blackwell Street, Dover, NJ 07801. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail grocery stores, from the site of Marschall Warehouse Co., Teterboro, NJ, to points in New York, New Jersey, Pennsylvania, Connecticut, Rhode Island, and Massachusetts, under a continuing contract with Marschall Warehouse Co. NOTE: Applicant states that it holds authority to this application under MC 82735 (Sub-No. 2) and will surrender for cancellation if this application is granted. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 83835 (Sub-No 74), filed November 5, 1970. Applicant: WALES TRANSPORTATION, INC., Post Office Box 6186, Dallas, TX 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Sprinkler systems and parts thereof*, from points in Pulaski County, Ark., to points in Alabama, Colorado, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 89723 (Sub-No. 60), filed November 4, 1970. Applicant: MISSOURI PACIFIC TRUCKLINES, INC., 210 North 13th Street, St. Louis, MO 63103. Applicant's representative: Robt. S. Davis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between points in Texas as presently authorized in applicant's certificate MC 89723 (Sub-No. 4) by removal solely of Palestine, Tex., as a key-point from said certificate, but subject to the remaining key points of Houston, San Antonio, Fort Worth, Laredo, and Hearne-Valley Junction, Tex., and all other restriction in said certificate. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 94350 (Sub-No. 281), filed November 12, 1970. Applicant: TRANSIT HOMES, INC., Haywood Road, Post Office Box 1628, Greenville, SC 29602. Applicant's representatives: Mitchell King, Jr. (same address as above) and Ames, Hill & Ames, Suite 705, McLachlen Bank Building, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, from Tippah County, Miss., to points in Alabama, Arkansas, Georgia, Louisiana, Kentucky, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 98542 (Sub-No. 7), filed November 4, 1970. Applicant: COLLINS & SIMMONS, INC., Box 134, Wolcott, NY 14590. Applicant's representative: Raymond A. Richards, 23 West Main Street, Wolcott, NY 14590. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Groceries*, (a) between points in Monroe, Onondaga, and Wayne Counties, N.Y., on the one hand, and, on the other, points in Hudson, Essex, Middlesex, Union, and Monmouth Counties,

N.J., (b) from points in Orleans County, N.Y., to points in Hudson, Essex, Middlesex, Union, and Monmouth Counties, N.J., (2) *Canned goods*, except as set forth in (1) above, from points in Wayne County, N.Y., to points in Hudson, Essex, Middlesex, Union, and Monmouth Counties, N.J., (3) *Sugar*, except as set forth in (1) above, from points in Hudson, Essex, Middlesex, Union, and Monmouth Counties, N.J., to all points in Genesee, Ontario, and Wayne Counties, N.Y., and (4) *Baby supplies* from plantsite of Gerber Products, Rochester, N.Y., to points in Hudson, Essex, Middlesex, Union, and Monmouth Counties, N.J. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Rochester, N.Y.

No. MC 103993 (Sub-No. 572), filed November 12, 1970. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Campers, caps, tops, and accessories*, from Chemung County, N.Y., to all points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Binghamton, N.Y.

No. MC 103993 (Sub-No. 573), filed November 12, 1970. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Cherokee County, S.C., to all points in the United States (except Alaska and Hawaii); and (2) *Buildings and sections* of buildings, from Laurens County and Cherokee County, S.C., to all points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Greenville, S.C.

No. MC 103993 (Sub-No. 574), filed November 12, 1970. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Tippah County, Miss., to all points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 103993 (Sub-No. 575), filed November 12, 1970. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Holmes County, Ohio, to all points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 103993 (Sub-No. 576), filed November 12, 1970. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and sections of buildings, and trailers*, designed to be drawn by passenger automobiles in initial movements, from Orangeburg County, S.C., to all points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C.

No. MC 106398 (Sub-No. 514), filed November 3, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Box 51096, Dawson Station, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as applicant), and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service and buildings in sections, transported on wheeled undercarriages from points of manufacture; from points in Nelson County, N. Dak., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Grand Forks, N. Dak.

No. MC 106497 (Sub-No. 51), filed October 30, 1970. Applicant: PARKHILL TRUCK COMPANY, a corporation, Post Office Box 912, Joplin, MO 64801. Applicant's representatives: A. N. Jacobs, Post Office Box 912, Joplin, MO 64801 and Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pollution control systems, and pollution control system parts;* (2) *machinery, equipment, materials, and supplies*, incidental to, used in, or in connection with, the manufacture, installation, removal, operation, repair, servicing, and maintenance of pollution control systems, and pollution control system parts, between points in the United States (except Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Chicago, Ill., Dallas, Tex., or San Francisco, Calif.

No. MC 106497 (Sub-No. 53), filed November 9, 1970. Applicant: PARKHILL TRUCK COMPANY, a corporation, Post Office Box 912, Joplin, MO 64801. Applicant's representatives: A. N. Jacobs (same address as above), and Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating units, storage units, and heating and storage units combined*, between Albuquerque, N. Mex., on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing "size or weight" authority but indicates that it has no present intention to tack, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Dallas, Tex.

No. MC 106497 (Sub-No. 54), filed November 9, 1970. Applicant: PARKHILL TRUCK COMPANY, a corporation, Post Office Box 912, Joplin, MO 64801. Applicant's representatives: A. N. Jacobs (same address as applicant), and Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tubing*, other than oilfield tubing, from Houston, Tex., to all points in the United States (except Hawaii). NOTE: Applicant states that tacking is possible with its Sub-No. 4 where "size or weight" commodities are involved, but tacking is presently not practical. Persons interested in such tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Houston, or Dallas, Tex.

No. MC 109324 (Sub-No. 23), filed November 12, 1970. Applicant: GARRISON MOTOR FREIGHT, INC., Post Office Box 969, Harrison, AR 72601. Applicant's representative: Louis Tariowski, 914 Pyramid Life Building, Little Rock, AR 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those

of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and those requiring special equipment), between Berryville, Ark., and Gateway, Ark., over U.S. Highway 62, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrison, Ark., or Little Rock, Ark.

No. MC 109397 (Sub-No. 243), filed November 2, 1970. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, East on Interstate Business Route 44, Joplin, MO 64801. Applicant's representatives: A. N. Jacobs (same address as applicant), and Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution control equipment*, including but not limited to dust collecting machinery and parts thereof, scrubbers and pneumatic conveying systems and related parts, from Essex, Mass., to points in the United States (excluding Alaska and Hawaii). NOTE: Applicant states tacking possibilities with its Sub-No. 195 on the commodities sought in this application, which because of size or weight require special equipment or handling. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 111302 (Sub-No. 62), filed November 12, 1970. Applicant: HIGHWAY TRANSPORT, INC., Post Office Box 79, Powell, TN 37849. Applicant's representative: George W. Clapp, Post Office Box 10188, Greenville, SC 29603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat packinghouse products*, in bulk, in tank vehicles, from points in Knox County, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Kentucky, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn.

No. MC 111375 (Sub-No. 41), filed November 12, 1970. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., Post Office Box 3358, Madison, WI 53704. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from Green Bay and La Crosse, Wis., to points in South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111375 (Sub-No. 42), filed November 16, 1970. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., Post Office Box 3358, Madison, WI 53704. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from Fredericksburg and Preston, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 111397 (Sub-No. 92), filed November 5, 1970. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth Street, Paducah, KY 42001. Applicant's representative: H. S. Melton, Jr., Box 1407, Paducah, KY 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uranium hexafluoride*, in radioactive material containers, in specialized trailers, from plantsite of Allied Chemical Corp., at Metropolis, Ill., to Atomic Energy Commission plantsite in McCracken County, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 112617 (Sub-No. 282), filed November 4, 1970. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, KY 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities, in bulk, from disabled motor vehicles, rail cars, and barges*, between points in the following States: Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Mississippi, Missouri, North Carolina, Ohio, Tennessee, Virginia, and West Virginia. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 112696 (Sub-No. 43), filed November 9, 1970. Applicant: HARTMANS, INCORPORATED, Post Office Box 898, Harrisonburg, VA 22801. Applicant's representative: James E. Wilson, 1735 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite of Kitchens of Sara Lee, Deerfield, Ill., to points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113158 (Sub-No. 16), filed November 10, 1970. Applicant: TODD TRANSPORT COMPANY, INC., Secretary, MD 21664. Applicant's representative: V. Baker Smith, 2107 The Fidelity Building, Philadelphia, PA 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, chain grocery stores, and food business houses, and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), from Hurlock, Md., to points in Delaware, Maryland, New Jersey, New York, the District of Columbia, and that part of Pennsylvania on and east of U.S. Highway 15 and the city of Johnstown, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113434 (Sub-No. 38) (Amendment), filed October 13, 1970, published in the FEDERAL REGISTER issue of November 13, 1970, and republished as amended, this issue. Applicant: GRABELL TRUCK LINE, INC., 679 Lincoln, Holland, MI 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, products, and supplies* used in or produced by the food processing industry, (except in bulk), from Fennville, South Haven, and Benton Harbor, Mich., and the distribution center of Michigan Fruit Canners located approximately 2 miles west of Coloma, Mich., to points in Indiana, Kentucky and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to include the destination State of West Virginia in the territorial description. If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 113678 (Sub-No. 406), filed November 10, 1970. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, Denver, CO 80216. Applicant's representatives: Duane W. Acklie, Post Office Box 806, Lincoln, NE 68501, and Richard Peterson. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products and advertising equipment, materials, and supplies*, when shipped therewith (except commodities in bulk), from points in Massachusetts to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan,

Minnesota, Missouri, Nebraska, Ohio, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 114273 (Sub-No. 76), filed November 4, 1970. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, 3930 16th Avenue SW., Cedar Rapids, IA 52406. Applicant's representatives: Gene R. Prokuski (same address as applicant), and Robert E. Koncar, 315 Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Deerfield, Ill., to points in Misouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115162 (Sub-No. 209), filed November 6, 1970. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, vehicle body sealer, and sound deadening compounds, in packages or containers*, from points in Hancock County, W. Va.; Venango County, Pa.; McKean County, Pa.; Butler County, Pa.; Beaver County, Pa.; and Hamilton County, Ohio, to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115162 (Sub-No. 210), filed November 9, 1970. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, lumber byproducts, fuel wood, panels composition board, cabinets and accessories* used in the installation thereof, between points in Mississippi, Tennessee, and Cairo, Ill., on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority at Mississippi or Tennessee but applicant has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 115162 (Sub-No. 211), filed November 9, 1970. Applicant: POOLE TRUCK LINE, INC., Post Office Box 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate, Post Office Box 500, Evergreen, AL 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, composition board, panels, cabinets, molding, and accessories*, from Chesapeake, Va., to Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115295 (Sub-No. 14), filed November 9, 1970. Applicant: BOB UTGARD, doing business as UTGARD TRUCKING, Route 3, New Richmond, WI 54017. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and manufactured feed ingredients, including concentrates, supplements, and minerals*, from (1) New Richmond, Wis., to points in Allamakee, Clayton, Dubuque, Delaware, Jackson, Jones, Linn, Clinton, Tama, Marshall, Story, Grundy, Hardin, Hamilton, Wright, and Hancock Counties, Iowa; and points in Winona County, Minn., north of U.S. Highway 14, and (2) from Ames, Iowa and Albert Lea, Minn., to New Richmond, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 115651 (Sub-No. 21), filed November 10, 1970. Applicant: KANEY TRANSPORTATION, INC., 7222 Cummingham Road, Rockford, IL 61102. Applicant's representative: Michael V. Kaney (same address as above). Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, from Mount Carmel, Ill., to points in Illinois, Indiana, Kentucky, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 116073 (Sub-No. 144), filed November 9, 1970. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Post Office Box 919, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frames and undercarriages*, from points in Brown County, Minn., to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 116763 (Sub-No. 180), filed November 3, 1970. Applicant: CARL SUBLER TRUCKING, INC., 115 North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lighting and electrical fixtures, parts, equipment, and supplies*, from Atlanta and Conyers, Ga., to points in Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 116763 (Sub-No. 181), filed November 5, 1970. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters, North West Street, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rugs, carpeting, textiles, patterns, and piece goods*, and (2) *equipment, materials, and supplies* used in the installation and manufacturing of items named in (1) above, from points in California, to points in the United States in and east of Minnesota, Iowa, Missouri, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary applicant requests it be held at Los Angeles, Calif.

No. MC 117416 (Sub-No. 39), filed November 2, 1970. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue NW., Knoxville, TN 37921. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal litter and cleaning compounds*, in containers, from Atlanta, Ga., to Evansville, Ind., Williamson, W. Va., Bristol Va., and points in Kentucky and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118130 (Sub-No. 65), filed November 12, 1970. Applicant: BEN HAMRICK, INC., 2000 Chelsea Drive W., Fort Worth, TX 76134. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, TX 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, from points in Texas to points in Louisiana, Mississippi, Alabama, Georgia, Florida, Arkansas, Tennessee, North Carolina, South Carolina, Virginia, and Kentucky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fort Worth, Tex.

No. MC 118263 (Sub-No. 38), filed November 12, 1970. Applicant: COLDWAY CARRIERS, INC., Post Office Box 38, Clarksville, IN 47131. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (excluding commodities in bulk, in tank vehicles), from the

plantsite and warehouse facilities of Hanscom Bros., Inc., Division of Stouffer Foods Corp., located at King of Prussia and Philadelphia, Pa., to points in Ohio, Indiana, Kentucky, Missouri, and Illinois (excluding the Chicago commercial zone), restricted to traffic originating at the plantsites and warehouse facilities of Hanscom Bros., Inc., Division of Stouffer Foods Corp., at King of Prussia and Philadelphia, Pa., and destined to the destination points above. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 119632 (Sub-No. 41), filed November 2, 1970. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer material, fertilizer ingredients, fungicides, herbicides and insecticides* (except commodities in bulk) between Orrville, Ohio, on the one hand, and, on the other, points in New York, Pennsylvania, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123048 (Sub-No. 183), filed November 12, 1970. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703 and Paul L. Martinson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Tractors* (except those with vehicle beds, bed frames, and fifth wheels), (b) *equipment* designed for use in conjunction with tractors, (c) *agricultural, industrial and construction machinery and equipment*, (d) *tractors* designed for the transportation of the above-described commodities (except those designed to be drawn by passenger automobiles), (e) *attachments* for the above-described commodities, (f) *internal combustion engines*, and (g) *parts* of the above-described commodities when moving in mixed loads with such commodities, from the plants, warehouse sites, and experimental farms of Deere & Co. in Rock Island County, Ill., to points in Indiana, Kentucky, Michigan (Lower Peninsula), Ohio, and West Virginia; and (2) *Returned, or rejected shipments*, from the destination States named above to the named plants, warehouse sites and experimental farms in Rock Island County, Ill. Restriction: The authority in (1) above is restricted to traffic originating at the plants, warehouse sites and experimental farms of Deere & Co., and the authority in (2) above is restricted to traffic destined to such facilities of Deere & Co. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123294 (Sub-No. 20) (correction), filed October 1, 1970, published in the FEDERAL REGISTER issues of October 29, 1970, and November 5, 1970, corrected and republished as corrected, this issue. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona Avenue, Post Office Box 784, Warsaw, IN. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper mill products*, from points in Miami, Champaign, Montgomery, Warren, Butler, and Hamilton Counties, Ohio, to Racine, Milwaukee, and Beloit, Wis.; St. Louis, Mo.; points in Michigan on and south of Michigan Highway 21; that part of Illinois on and north of U.S. Highway 40; and that part of Indiana on and north of U.S. Highway 40; and (2) *materials and supplies* used in the manufacture of paper mill products, from Milwaukee, Racine, and Beloit, Wis.; St. Louis, Mo.; points in Michigan on and south of Michigan Highway 21; that part of Illinois on and north of U.S. Highway 40; and that part of Indiana on and north of U.S. Highway 40 to points in Miami, Champaign, Montgomery, Warren, Butler, and Hamilton Counties, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to include portions of the authority that were inadvertently omitted from previous publications, namely, Butler and Hamilton Counties, Ohio in (1) and (2). If a hearing is deemed necessary, applicant requests it be held in Washington, D.C.

No. MC 123821 (Sub-No. 11), filed November 2, 1970. Applicant: LESTER R. SUMMERS, INC., Post Office Box 239, Rural Delivery No. 1, Ephrata, PA 17522. Applicant's representative: John M. Musselman, Post Office Box 1146, 400 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Purified springwater*, in containers, from Ephrata, Pa., to Laurel, Md. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 124078 (Sub-No. 463), filed November 6, 1970. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire retardant compound*, from Spencerville, Ohio, to points in Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New York, Pennsylvania, Rhode Island, South Dakota, Tennessee, Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 125254 (Sub-No. 8), filed November 10, 1970. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., Post Office Box 714, Muscatine, IA 52761. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages* from Omaha, Nebr., to Davenport, Iowa; and (2) *empty malt beverage containers*, from Davenport, Iowa, to Omaha, Nebr., on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 126102 (Sub-No. 6) (amendment), filed March 30, 1970, published in the FEDERAL REGISTER issue of May 21, 1970, and republished as amended, this issue. Applicant: ANDERSON MOTOR LINES, INC., 37 Woodruff Road, Walpole, MA 02181. Applicant's representative: Sanford A. Kowal, 73 Tremont Street, Boston, MA 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold in retail stores by manufacturers of electrical appliances, including equipment and parts thereof, and other appurtanences used in connection therewith, between warehouses of Allied Radio Shack, a division of Tandy Corp., and retail stores of Allied Radio Shack, a division of Tandy Corp., located in the following States: Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia, under contract with Radio Shack, a division of Tandy Corp. The purpose of this republication is to clarify the authority sought as set forth. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Boston, Mass.

No. MC 126537 (Sub-No. 23), filed November 2, 1970. Applicant: KENT I. TURNER, KENNETH E. TURNER & ERVIN L. TURNER, a partnership, doing business as TURNER EXPEDITING SERVICE, Post Office Box 21333, Standiford Station, Louisville, KY 40221. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives,

household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between Tri-Cities Airport, Sullivan County, Tenn., McGhee-Tyson Airport, Knoxville, Tenn., and Douglas Municipal Airport, Charlotte, N.C., on the one hand, and, on the other, points in Grayson, Carroll, Pulaski, Giles, Bland, Tazewell, Mercer, McDowell, Buchanan, Dickenson, Wise and Scott Counties, Va., (2) between Tri-Cities Airport, Sullivan County, Tenn., and Atlanta Municipal Airport, Hapeville, Ga., (3) between O'Hare Field, Chicago, Ill., on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, (4) between London-Corbin Airport, Laurel County, Ky., on the one hand, and, on the other, points in Rockcastle, Jackson, Clay, Madison, Knox, Pulaski, Whitley, and Bell Counties, Ky., (5) between London-Corbin Airport, Laurel County, Ky., and McGhee-Tyson Airport, Knoxville, Tenn., and (6) between McGhee-Tyson Airport, Knoxville, Tenn., on the one hand, and, on the other, points in Knox and Laurel Counties, Ky. Restricted in paragraphs (1), (2), (4), (5), and (6) next above to traffic having a prior or subsequent movement by air NOTE: Applicant states it intends to tack the requested authority with its existing authority, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant presently holds contract carrier authority under its Docket No. MC 129652, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville or Lexington, Ky.

No. MC 126844 (Sub-No. 7), filed November 9, 1970. Applicant: R. D. S. TRUCKING CO., INC., 583 North Main Road, Vineland, NJ 08360. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, except frozen, from points in Cumberland County, N.J., to points in Arkansas, Texas, Oklahoma, Minnesota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 127304 (Sub-No. 6), filed November 9, 1970. Applicant: CLEAR WATER TRUCK COMPANY, INC., 9101 Northwest Street, Valley Center, KS 67147. Applicant's representative: Duane W. Acklie, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products, and commodities* used by packinghouses, between Wichita, Kans., on the one hand, and, on the other, points in Virginia, North Carolina, South Carolina, Tennessee, Kentucky, West Virginia, Georgia, Florida, and Alabama under continuing contract with Kansas Beef Industries, Inc., and its subsidiaries and affiliates. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 127580 (Sub-No. 4), filed November 6, 1970. Applicant: H. P. HALE, Post Office Box 177, Roswell, NM 88201. Applicant's representative: Edwin E. Piper, Jr., 715 Simms Building, Albuquerque, NM 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Particle board*, (1) from Flagstaff, Ariz., to Roswell, N. Mex., and (2) from Flagstaff, Ariz., and Roswell, N. Mex., to points in that part of Oklahoma on and west of a line beginning at the Oklahoma-Kansas State line and extending south along U.S. Highway 69 to Durant, Okla., thence along U.S. Highway 75 to the Oklahoma-Texas State line, and points in that part of Texas on, west, and north of a line beginning at the Texas-Oklahoma State line and extending south along U.S. Highway 75 to Dallas, Tex., thence southward along U.S. Highway 77 to junction U.S. Highway 81 at or near Hillsboro, Tex., thence southward along U.S. Highway 81 (also Interstate Highway 35) to San Antonio, Tex., thence westward along U.S. Highway 90 to Van Horn, Tex., thence west-northwestward along U.S. Highway 80 to the Texas-New Mexico State line at El Paso, Tex., including El Paso, Tex., with the operations authorized to be performed under a continuing contract or contracts with Dodson Wholesale Lumber Co. of Roswell, N. Mex. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 127834 (Sub-No. 57) (Amendment), filed September 28, 1970, published in the FEDERAL REGISTER issue October 22, 1970 and republished as amended this issue. Applicant: CHEROKEE HAULING & RIGGING, INC., 540–42 Merritt Avenue, Nashville, TN 37203. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Water heaters, water heater accessories*, (a) from Kankakee, Ill., to points in Maryland and Delaware, and (b) from Erie, Pa., to points in the United States (except Alaska and Hawaii), (B) *materials and supplies* used in the manufacture of water heaters (except commodities in bulk) from points in the United States (except Alaska and Hawaii), to Erie, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to delete the destination States of Maine, Vermont, New Hampshire, Rhode Island, Connecticut, and Massachusetts, as previously published in (A)(a) and reflect in lieu therefor Maryland and Delaware. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 128381 (Sub-No. 3), filed November 4, 1970. Applicant: BLUE EAGLE TRUCK LINES, INC., Post Office Box 446–Box 183, Highland Park, IL 60035. Applicant's representative: Stephen L. Jennings, 111 West Jackson Boulevard, Chicago, IL 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Firefighting equipment and parts, and equipment materials and supplies* used in the manufacture, installation, and repair thereof, (1) between Northbrook, Ill., on the one hand, and, on the other, Fort Lauderdale, Fla., and Miami, Fla., and (2) between Atlanta, Ga., on the one hand, and, on the other, Fort Lauderdale, Fla., and Miami, Fla., all under contract with General Fire Extinguisher Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128771 (Sub-No. 2), filed November 9, 1970. Applicant: MOTLEY TRANSFER, INC., 205 North Green Street, Glasgow, KY 42141. Applicant's representative: Robert H. Kinker, Box 464, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Glasgow, Ky., on the one hand, and, on the other, points in Taylor, Green, and Edmondson Counties, Ky., restricted to the transportation of traffic having an immediate prior or immediate subsequent movement by rail. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 128772 (Sub-No. 5), filed November 2, 1970. Applicant: STAR BULK TRANSPORT, INC., 821 North Front Street, New Ulm, MN 56073. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, from Alma, Wis., and Clarkfield, New Ulm, Owatonna, and Rochester, Minn., to Jersey City, and Secaucus, N.J., Salem, Ohio, Grand Rapids, Mich., and Monroe, Green Bay, and Plymouth, Wis., and (2) *dairy equipment, dairy supplies, and dairy materials*, from Jersey City, and Secaucus, N.J., Salem, Ohio, Grand Rapids, Mich., and Monroe, Green Bay, and Plymouth, Wis., to Clarkfield, New Ulm, Owatonna, and Rochester, Minn., and Alma, Wis., under contract with Associated Milk Producers, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 128879 (Sub-No. 13), filed November 9, 1970. Applicant: C–B TRUCK LINES, INC., 1034 Humble Place (for mail, Post Office Box 26276), El Paso, TX 79915. Applicant's representative: Jerry R. Murphy, 709 LaVeta NE., Albuquerque, NM 87108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feeds and feedstuffs*,

*dry*, except edible and nonedible meats, in bulk and in bags, from and to all points embraced in the area described as follows: Lubbock, Tex., commercial zone; points in Texas on or west of Interstate Highway 10 between Fort Hancock, Tex., and the Texas-New Mexico State line; points in New Mexico on or south of Interstate Highway 10; points in Arizona on or south of U.S. Highway 70, including Phoenix, Ariz., commercial zone; points in Colorado on or south of U.S. Highway 40 between the Kansas-Colorado State line and Denver, Colo., and on or south of U.S. Highway 6 between Denver and the Utah-Colorado State line, including the Denver commercial zone. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant also states that no duplicating authority is sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at El Paso, Tex.

No. MC 128944 (Sub-No. 8), filed October 26, 1970. Applicant: RELIABLE TRUCK LINES, INC., 402 Maplewood Avenue, Nashville, TN 37210. Applicant's representative: Clarence Evans, 1800 Third National Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, dangerous explosives and commodities requiring special equipment), between Memphis, Tenn., and that part of its commercial zone within Tennessee, and Birmingham, Ala., from Memphis over Interstate Highway 40 to intersection U.S. Highway 64, thence over U.S. Highway 64 to Savannah, Tenn., thence over Tennessee Highway 69 to the Tennessee-Alabama State line, thence over Alabama Highway 20 to Florence, Ala., thence over U.S. Highway 43 to junction alternate of U.S. Highway 72, thence over Alternate U.S. Highway 72, to junction Alabama Highway 157, thence over Alabama Highway 157 to junction Interstate Highway 65 north of Cullman, thence over Interstate Highway 65 to Birmingham and return over the same route; with closed doors between Memphis and Birmingham. NOTE: Applicant also seeks an alternate route over U.S. Highway 78 for operating convenience only between Birmingham, Ala., and Memphis, Tenn. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 129307 (Sub-No. 42), filed November 2, 1970. Applicant: McKEE LINES, INC., 664 54th Avenue, Mattawan, MI 49071. Applicant's representative: Leonard R. McKee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or cold storage facilities utilized by Wilson-Sinclair Co., at Cedar Rapids, Iowa, to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. Restricted to the transportation of traffic originating at the above specified plantsite and/or cold storage facilities and destined to the above specified destinations. NOTE: Applicant holds contract carrier authority in MC 119394, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129645 (Sub-No. 29), filed November 2, 1970. Applicant: BASIL J. SMEESTER and JOSEPH G. SMEESTER, a partnership, doing business as SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, MI 49801. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products, composition roofing products, and materials, composition boards, urethane and urethane products, insulating materials, and related materials and accessories* used in the installation of said products (except commodities in bulk); (1) from the plantsite and/or warehouse facilities of the Celotex Corp., located in Chicago and Matteson, Ill., to points in Wisconsin and the Upper Peninsula of Michigan, and (2) from the plantsite and/or warehouse facilities of the Celotex Corp., at or near Dubuque, Iowa, to points in Illinois, Indiana, Kentucky, Ohio, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract temporary authority under Docket No. MC 127093 Sub-No. 11. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 129905 (Sub-No. 3), filed November 6, 1970. Applicant: ALL STATES MOVING AND STORAGE CO., INC., 2800 Navy Boulevard, Pensacola, FL 32505. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission and *unaccompanied baggage and personal effects*, between points in Bay, Escambia, Okaloosa, Santa Rosa, Walton, and Washington Counties, Fla., and Baldwin, Covington, Escambia, Geneva, and Mobile Counties, Ala. Restriction: Said operations are restricted to the transportation of traffic having a prior or subsequent movement in containers (except as to unaccompanied baggage and personal effects) beyond the points authorized. Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization; or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pensacola or Jacksonville, Fla., or Washington, D.C.

No. MC 133192 (Sub-No. 3), filed November 12, 1970. Applicant: LARRY TREBINO CONSTRUCTION COMPANY, INC., 5 Cypress Drive, Burlington, MA 01803. Applicant's representative: Arthur A. Wentzell, Post Office Box 764, Worcester, MA 01613. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Concrete products*, blocks, bricks, channel planks, lintels, floor and roof beams, from plantsites and warehouse facilities of Plasticrete Corp., at Hamden, Hartford, North Haven, and Danbury, Conn., to Acton, Medford, and Springfield, Mass.; and from plantsites and warehouse facilities of Plasticrete Corp., at Acton, Medford, and Springfield, Mass., to points in Connecticut, Maine, New Hampshire, Rhode Island, and Vermont; and (2) *expanded shale*, in bulk, from plantsites of Masslite Co., Plainville, Mass., to points in Connecticut, Maine, New Hampshire, Rhode Island, and Vermont, under bilateral contracts with (1) Plasticrete Corp., and (2) Masslite Co., a division of Bevis Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 133566 (Sub-No. 7), filed November 9, 1970. Applicant: ROBERT GANGLOFF and ROBERT DOWNHAM, a partnership, doing business as GANGLOFF & DOWNHAM, Post Office Box 676, Logansport, IN 46947. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and/or 766 (except hides and commodities in bulk), from the plantsite and/or cold storage facilities utilized by Wilson Sinclair Co., at Logansport, Ind., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and the District of Columbia, restricted to traffic originating at the above named origin and destined to the above named destinations. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 133655 (Sub-No. 41) (Correction), filed October 28, 1970, published in the FEDERAL REGISTER issue of November 19, 1970, and republished, as corrected, this issue. Applicant: TRANS-NATIONAL TRUCK, INC., Post Office Box 4168, Amarillo, TX 79105. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, IL

60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, from Lubbock and Dallas, Tex., to points in Ohio, Arizona, California, and Nevada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. The purpose of this republication is to redescribe the commodity description as set forth in the application. If a hearing is deemed necessary, applicant requests it be held at (1) Amarillo, Tex.; (2) Dallas, Tex.; or (3) Washington, D.C.

No. MC 134082 (Sub-No. 4), filed November 12, 1970. Applicant: K. H. TRANSPORT, INC., 3330 Rosemary Lane, Ellicott City, MD 21043. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Suite 634, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles, equipped with mechanical refrigeration, from the plants, warehouses, and storage facilities of Kitchens of Sara Lee, located at Chicago and Deerfield, Ill., to points in Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Delaware, Maryland, Virginia, and the District of Columbia. Restriction: Restricted to traffic originating at the plants, warehouses and storage facilities of Kitchens of Sara Lee at Chicago and Deerfield, Ill., and destined to the above-named destination States. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 134631 (Sub-No. 4), filed November 12, 1970. Applicant: SCHULTZ TRANSIT, INC., Post Office Box 503, Winona, MN 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy*, from Winona, Minn., to Atlanta, Ga.; Boston, Mass.; Charlotte, N.C.; and points in Illinois, Indiana, Kentucky, Michigan, New Jersey, New York, Ohio, and Pennsylvania, under contract with Schuler Chocolates, Inc. NOTE: Applicant holds common carrier authority under MC 118202 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134809 (Sub-No. 1), filed November 12, 1970. Applicant: LYELL HINTZ, doing business as HINTZ TRUCKING, 1674 Grand Teton Drive, Milpitas, CA 95035. Applicant's representative: Eldon M. Johnson, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail discount stores, on a continuing contract with Ames Mercantile Co., Inc., from Brisbane, Calif., to points in Clark County, Nev. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 134823 (Sub-No. 2), filed November 12, 1970. Applicant: GEORGE BRUCE BROWN, 20 Willowmount Drive, Scarborough, ON Canada. Applicant's representative: William J. Hirsch, 43 Niagara Street, Buffalo, NY 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from ports of entry on the international boundary line between the United States and Canada located on the Niagara River, to points in New York, and returned shipments on return, under continuing contract with Toronto Brick Co., division of United Ceramics, Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 134945 (Sub-No. 1), filed November 2, 1970. Applicant: WESTERN TRANSFER & STORAGE, INC., 1140 Longpoint Street, Dallas, TX 75247. Applicant's representative: Warren A. Goff, 2111 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copy duplicating, or reproducing machines, and attachments therefor*, uncrated between Memphis, Tenn., on the one hand, and, on the other, points in Crittenden, Cross, Poinsett, Mississippi, St. Francis, Woodruff, Lee, Monroe, Phillips, Randolph, Sharp, Lawrence, Craighead, Green, and Clay Counties, Ark.; Coahoma, Quitman, Panola, Lafayette, Pontotoc, Lee, Itawamba, Tunica, Tate, Marshall, De Soto, Benton, Tippah, Alcorn, Prentiss, Tishomingo, Union, Tallahatchie, Yalobusha, Grenada, Calhoun, and Chickasaw Counties, Miss.; Shelby, Fayette, Hardin, Decatur, Benton, Henry, Weakley, Obion, Lake, Dyer, Crockett, Lauderdale, Haywood, Tipton, Chester, McNairy, Henderson, Madison, Carroll, Gibson, and Hardeman Counties, Tenn., and Dunklin and Pemiscot, Mo., under a contract with Xerox Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, or Fort Worth, Tex.

No. MC 135016, filed October 12, 1970. Applicant: LYNN TOWING, INC., 1125 Montgomery Street, St. Louis, MO 63106. Applicant's representative: R. W. Burgess, 8514 Midland Boulevard, St. Louis, MO 63114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled vehicles and replacements thereof*, between St. Louis, Mo., on the one hand, and, on the other, points in Wisconsin bounded by that part of Wisconsin on and south of Wisconsin Highways 23 and 83 and Interstate Highway 90: From Sheboygan along Wisconsin Highway 23 to its junction with Wisconsin Highway 82, thence along Wisconsin Highway 82 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Wisconsin-Minnesota line; that part of Minnesota on and south of U.S. Highway 16 and on and east of U.S. Highway 69: From the Wisconsin-Minnesota line along U.S. Highway 16 to its junction with U.S. Highway 69, thence along U.S. Highway 69 to the Minnesota-Iowa line; that part of Iowa on, south and east of U.S. Highways 69 and 18, and Iowa Highway 60: From the Minnesota-Iowa line along U.S. Highway 69 to its junction with U.S. Highway 18, thence along U.S. Highway 18 to its junction with Iowa Highway 60, thence along Iowa Highway 60 to the Iowa-Nebraska line; that part of Nebraska on, south, and east of U.S. Highways 20 and 81: From the Iowa-Nebraska line along U.S. Highway 20 to its junction with U.S. Highway 81, thence along U.S. Highway 81 to the Nebraska-Kansas line; that part of Kansas on, south and east of U.S. Highways 81, 36, and 77:

From the Iowa-Kansas line along U.S. Highway 81 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Oklahoma line; that part of Oklahoma east and north of U.S. Highways 77, 60, 75, and 270: From the Kansas-Oklahoma line along U.S. Highway 77 to its junction with U.S. Highway 60, thence along U.S. Highway 60 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to its junction with U.S. Highway 270, thence along U.S. Highway 270 to the Oklahoma-Arkansas line; that part of Arkansas on and north of U.S. Highways 270, 65, and 82: From the Oklahoma-Arkansas line along U.S. Highway 270 to its junction with U.S. Highway 65, thence along U.S. Highway 65 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to the Arkansas-Mississippi line; that part of Mississippi on and north of U.S. Highway 82: From the Arkansas-Mississippi line along U.S. Highway 82 to the Mississippi-Alabama line; that part of Alabama on, north and west of U.S. Highway 82 and Interstate Highway 59: From the Mississippi-Alabama line along U.S. Highway 82 to its junction with Interstate Highway 59, thence along Interstate Highway 59 to the Alabama-Georgia line; that part of Georgia on and northwest of Interstate Highway 59: From the Alabama-Georgia line along Interstate Highway 59 to the Georgia-Tennessee line; that part of Tennessee on, west and north of U.S. Highway 11 and Interstate Highway 75: From the Georgia-Tennessee line along U.S. Highway 11 to the junction of Interstate Highway 75, thence along Interstate Highway 75 to the Tennessee-Kentucky line; that part of Kentucky on and west of Interstate Highway 75: From the Tennessee-Kentucky line along Interstate Highway 75 to the Kentucky-Ohio line; that part of Ohio on and west of Interstate Highway 75 and Ohio Highway 109: From the Kentucky-Ohio line along Interstate Highway 75 to its junction with Ohio Highway 109 at or near Lima, Ohio, thence along Ohio Highway 109 to the Ohio-Michigan line; that part of Michigan on, west and south of U.S. Highway 127 and Interstate Highway 96: From the Ohio-Michigan line along U.S.

Highway 127 to its junction with Interstate Highway 96, thence along Interstate Highway 96 to Muskegon, Mich., thence south, west, and north from Muskegon, Mich., using the Lake Michigan shore line as a boundary to the point of beginning at Sheboygan, Wis. NOTE: Applicant states it does not desire to conduct dual operations and will surrender its permit issued in MC 128756, if this application is granted. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 135027 (Correction), filed October 15, 1970, published in the FEDERAL REGISTER issue of November 13, 1970, and republished as corrected, this issue. Applicant: OVERNIGHT EXPRESS, INC., Post Office Box 534, 4112½ Warrington Road, Vicksburg, MS 39180. Applicant's representative: John A. Crawford, 700 Petroleum Building, Post Office Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value), classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between Memphis, Tenn., and Natchez, Miss.; from Memphis over U.S. Highway 61, and return over the same route, serving all intermediate points on U.S. Highway 61 between Vicksburg, and Natchez, Miss., including Vicksburg and Natchez. NOTE: Common control may be involved. The purpose of this republication is (1) to designate U.S. Highway 61 in lieu of U.S. Highway 1, and (2) to include the statement that common control may be involved which was inadvertently omitted in the previous publication. If a hearing is deemed necessary applicant requests it be held at Vicksburg or Jackson, Miss.

No. MC 135062 (Sub-No. 1), filed November 4, 1970. Applicant: MIKE MERCURE TRUCKING, INC., Rural Delivery No. 1, New Waterford, OH 44445. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay*, in dump vehicles, from Middleton Township to points in Columbiana County, Ohio, to points in Beaver, Allegheny, and Westmoreland Counties, Pa.; and Weirton, W. Va., under continuing contract with Metropolitan Industries, Inc., and (2) *coal*, in bulk in dump vehicles, from Elkrun and Middleton Townships and points in Columbiana County, Ohio, to points in Beaver County, Pa., under continuing contract with Ferris Coal Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 135067 (Sub-No. 1), filed November 9, 1970. Applicant: HANS L. SANDBERG, doing business as SANDBERG TRUCKING COMPANY, 405 South McCoy, Granville, IL 61326. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from South Bend, Ind., to Freeport, Peru, and Rockford, Ill., under contract with Lassandro Distributing Co., Defay & Son Beverage Co., and Rutgens Distributors, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135082, filed November 6, 1970. Applicant: BURSCH TRUCKING, INC., 415 Rankin Road, Albuquerque, NM 87107. Applicant's representative: Wayne C. Wolf, 820 Simms Building, Albuquerque, NM 87101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, (a) between Albuquerque, N. Mex., and Winslow, Ariz., on the one hand, and, on the other, points in Arizona, Utah, Colorado, New Mexico, and those in Texas, Oklahoma, and Kansas on and west of U.S. Highway 77, and (b) between Albuquerque, N. Mex., on the one hand, and, on the other, points in that part of Kansas, Oklahoma, and Texas, east of U.S. Highway 77, (2) *lumber and molding*, (a) from points in New Mexico, to points in Arizona, Arkansas, Colorado, Kansas, Missouri, Oklahoma, Texas, and Utah, and (b) from points in Las Animas, Rio Grande, Conejos, Archuleta, La Plata, Costilla, and Montezuma Counties, Colo.; and Navajo, and Coconino Counties, Ariz., to points in Arkansas, Kansas, Missouri, New Mexico, Oklahoma, Texas, and Utah, and (3) *livestock feed, farm implements, and supplies and equipment* incidental to the raising of livestock, between points in New Mexico, on the one hand, and, on the other, points in Texas, Oklahoma, Colorado, and Kansas. NOTE: Filed simultaneously herewith is a petition for consolidation, which seeks the consolidation of existing contract carrier application under MC 115524, Sub-14, with instant application. If a hearing is deemed necessary, applicant requests it be held at Albuquerque or Santa Fe, N. Mex.

No. MC 135083, filed November 9, 1970. Applicant: BRADBURY'S TRUCKING CO., a corporation, 405 St. Marks Avenue, Westfield, NJ 07090. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Garden, patio, household, automobile supplies, and merchandising supplies*, between the warehouse and facilities of Atlantic Marketing Service, Inc., at Edison, N.J., on the one hand, and, on the other, points in New York, New Jersey, Connecticut, Pennsylvania, Massachusetts, Maryland, New Hampshire, Vermont, Maine, Ohio, West Virginia, Virginia, Delaware, Rhode Island, and the District of Columbia, under contract with Atlantic Marketing Service, Inc., Edison, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 135088, filed November 5, 1970. Applicant: STREETER MOVING & STORAGE CO., INC., 1051 Market Road, Columbia, SC 29201. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission and *unaccompanied baggage and personal effects*, between points in South Carolina, North Carolina, and Rabun, Habersham, Stephens, Franklin, Hart, Elbert, Lincoln, Columbia, Richmond, Burke, Screven, Effingham, and Chatham Counties, Ga.; Polk, Monroe, Blount, Sevier, Cocke, Greene, Unicot, Carter, and Johnson Counties, Tenn.; and Norfolk, Nansemond, South Hampton, Greenville, Brunswick, Mechlenburg, Halifax, Pittsylvania, Henley, Patrick, Carroll, Grayson, and Washington Counties, Va., restricted to the transportation of traffic having a prior or subsequent movement, in containers, except as to the unaccompanied baggage and personal effects, beyond the points authorized. Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C.

No. MC 135089, filed October 10, 1970. Applicant: RASOR-WEST DISTRIBUTING CO., INC., 502 East Central, Miami, OK 74354. Applicant's representative: Dean Williamson, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Miami, Okla., to points within the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City and Tulsa, Okla.

No. MC 135092, filed November 9, 1970. Applicant: LEON F. WANGENSTEIN, doing business as LYNWAY EQUIPMENT LEASING, 92 Main Street, Farmingdale, NJ 07727. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Men's and boys' outerwear*, from Corinth, Miss., Waycross, Comer, and Rutledge, Ga., and Dover, Pa., to Farmingdale, N.J.; and (2) *Materials* used in the manufacture of men's and boys' outerwear, from Farmingdale, N.J., and New York, N.Y., to Corinth, Miss., Waycross, Comer, and Rutledge, Ga., Dover, Pa., Farmingdale, and Avenel, N.J. Restriction: Under contract with United Pioneer Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 135104, filed November 12, 1970. Applicant: A. J. (ARCHIE) GOODALE LIMITED, a corporation 2559 Barton Street E., Hamilton, ON Canada. Applicant's representative: Robert D. Gunderman, 1708 Statler Hilton, Delaware Avenue, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Commodities* which because of size or weight require special equipment: (1) between ports of entry on the international boundary line between the United States and Canada on the Niagara River, on the one hand, and, on the other, Buffalo, Niagara Falls and Lewiston, N.Y., and (2) between ports of entry on the international boundary line between the United States and Canada on the Detroit and St. Clair Rivers, on the one hand, and, on the other, Detroit and Port Huron, Mich. NOTE: Applicant states the purpose of instant application is solely for interchange of equipment and interline of traffic. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Sub-No. 159), filed November 6, 1970. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, OH 44113. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in one-way and round trip special operations, beginning at all points in the following named counties and places on Groundhound Lines, Inc.'s regular routes as authorized in certificates of public convenience and necessity issued in Docket No. MC 1515 and subs, and at all points in Alamance, Beaufort, Bertie, Cabarrus, Camden, Caswell, Chowan, Cumberland, Currituck, Davidson, Durham, Edgecombe, Franklin, Gates, Greene, Guilford, Halifax, Harnett, Hertford, Johnston, Lee, Lenoir, Martin, Mecklenberg, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pasquotank, Pender, Perquimans, Pitt, Rowan, Stanly, Tyrrell, Wake, Warren, Washington, and Wilson Counties, N.C.; Accomack, Chesterfield, Greensville, Isle of Wight, Nansemond, Northampton, Prince George, Southampton, Surry, and Sussex Counties, Va.; Caroline, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester Counties, Md.; Kent and Sussex Counties, and the cities of Chesapeake, Colonial Heights, Danville, Emporia, Franklin, Hopewell, Norfolk, Petersburg, Portsmouth, Richmond, Suffolk, and Virginia Beach, Va.; and extending to all points in the United States, including Alaska, but excluding Hawaii. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Charlotte, or Raleigh, N.C., or Richmond, Va.

No. MC 115891 (Sub-No. 4), filed September 28, 1970. Applicant: INTERCOUNTY MOTOR COACH, INC., 243 Deer Park Avenue, Babylon, NY 11702. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in one-way and round trip special operations, beginning and ending at points in Nassau and Suffolk Counties, N.Y., and extending to points in the United States (including Alaska but excepting Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 113463 (Sub-No. 7), filed November 2, 1970. Applicant: CONTRACT CARRIERS, INC., 830 Broadway NE., Albuquerque, NM 87102. Applicant's representatives: Virgil L. Brown, Suite 724, Bank of New Mexico Building, Fourth and Gold SW., Albuquerque, NM 87101, and Jerry R. Murphy, 708 LaVeta NE., Albuquerque, NM 87108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages* from Golden, Colo., to Silver City, N. Mex., and (2) *empty malt beverage containers* from Silver City, N. Mex., to Golden, Colo., under contract with Phillip F. Maloof and Co.

No. MC 128774 (Sub-No. 4), filed October 26, 1970. Applicant: RICE TRUCKING, INC., 151 St. James Street, Mansfield, PA 16933. Applicant's representative: John D. Lewis, 19 Central Avenue, Wellsboro, PA 16901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel article, and pipe* (except iron and steel) and/or *accessories, connections, couplings, and fittings therefor*, between the plantsite of Armco Steel Corp., in Mansfield, Tioga County, Pa., and points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, under contract with Armco Steel Corp.

No. MC 134888 (Sub-No. 1), filed November 2, 1970. Applicant: MOROSA BROS. TRANSPORTATION CO., a corporation, 3831 Pierce Road, Bakersfield, CA 93308. Applicant's representative: Donald Murchinson, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pozzolan*, in bulk, between points in California, restricted to traffic having an immediate prior movement by railroad. NOTE: Applicant holds a pending contract carrier application under MC 134914.

APPLICATION FOR FREIGHT FORWARDER

No. FF-269 (Sub-No. 2) (ALOHA CONSOLIDATORS AND FREIGHT FORWARDERS EXTENSION—CALIFORNIA), filed November 1, 1970. Applicant: ALOHA CONSOLIDATORS AND FREIGHT FORWARDERS, 2350 Dominguez Street, Post Office Box 20039, Long Beach, CA 90801. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to extend operation as a *freight forwarder*, in interstate or foreign commerce, through use of the facilities of common carriers by water, motor, and rail common carrier in the transportation of *general commodities*, except household goods as defined by the Commission, unaccompanied baggage and used automobiles, between points in California and Hawaii, restricted to shipments moving to or from territories or possessions of the United States, insofar as transportation takes place within the United States.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130131, filed November 2, 1970. Applicant: BETTY BARAN, 82 North Fulton Court, Hazleton, PA. Applicant's representative: James S. Palermo, 700 Northeastern Bank Building, Hazleton, PA 18201. For a license (BMC-5) to engage in operations as a *broker* at Hazleton, Pa., in arranging for the transportation in interstate or foreign commerce of *passengers and their baggage*, both as individuals and in groups, in special and charter operations, beginning and ending at points in Pennsylvania and extending to points in the United States.

No. MC 130045 (Sub-No. 2), filed November 6, 1970. Applicant: WM. A. GROUX TOURS INC., 15 Maple Hill Road, Clifton, NJ 07013. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. For a license (BMC 5), to engage in operations as a *broker* at Clifton, N.J., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, both as individuals and in groups, in all expense special and charter operations, beginning and ending at points in New York, N.Y., points in Nassau, Suffolk, and Westchester Counties, N.Y., and points in Bergen, Hudson, Union, Essex, Morris, and Passaic Counties, N.J., and extending to Washington, D.C. NOTE: Applicant states it is restricted to all expense sightseeing and religious tours of overnight or longer duration, involving pilgrimages to the National Shrine of the Immaculate Conception for participation is special prearranged religious services.

By the Commission.

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

[F.R. Doc. 70-16151; Filed, Dec. 2, 1970; 8:45 a.m.]

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[Notice 201]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 30, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days

after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 116073 (Sub-No. 142 TA) (Amendment), filed October 27, 1970, published FEDERAL REGISTER issue of November 4, 1970, and republished as corrected this issue. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, Post Office Box 919, Moorhead, MN 56560. NOTE: The purpose of this republication is to include the destination State of Florida, which was inadvertently omitted from previous publication, the rest of the notice remains as previously published.

No. MC 124078 (Sub-No. 464 TA), filed November 23, 1970. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in tank vehicles, from Albany, Ga., to points in Alabama and Florida, for 150 days. Supporting shipper: USS Agri-Chemicals Division of United States Steel Corp., Post Office Box 1685, Atlanta, GA 30301 (Bruce N. Maney). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 127030 (Sub-No. 4 TA), filed November 23, 1970. Applicant: MATTHEW J. DEPALMA, INC., 1700 Orthodox Street, Philadelphia, PA 19124. Applicant's representative: Leonard W. Becker (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vermiculite ore*, in bulk, in dump vehicles, from Newark, N.J., to Southampton, Pa., for 150 days. Supporting shipper: American Vermiculite Corp., 527 Madison Avenue, New York, NY 10022. Send protests to: District Supervisor F. W. Doyle, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600 Philadelphia, PA 19102.

No. MC 135105 (Sub-No. 1 TA), filed November 23, 1970. Applicant: BREWER'S LEASING, INC., 5718 Russell Street, Detroit, MI 48211. applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and advertising, and sales promotion materials* when moving in the same vehicle with malt beverages, from Newark, N.J., to Detroit, Mich., under a continuing contract with United Beverage Wholesalers, Inc., for 150 days. Supporting shipper: United Beverage Wholesalers, Inc. 5718 Russell Street, Detroit, MI 48211. Send protests to: Melvin F. Kersch, District Supervisor, Interstate Commerce Commission, Bureau of Opeartions, 1110 Broderick Tower, 10 Witherell, Detroit, MI 48226.

By the Commission.

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

[F.R. Doc. 70-16222; Filed, Dec. 2, 1970; 8:49 a.m.]

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